

Application Management Operational Directive – Failure to decide application (within 90 days)

April 2023

Related documents

Policy Framework Document

Document details

Title	Application Management Operational Directive – Failure to decide application
Policy Area	Application management
Version number and history	2.0
Applies to	Application lodgement and assessment processes
Audience	All Ahpra staff, including directors, managers, advisors, and officers responsible for processing, assessing and deciding applications for registration or endorsement.
Date of effect	
Review date	
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Policy Author	National Director, Registration
Policy Area Sponsor	Executive Director, Regulatory Operations

Purpose

The Executive Director Regulatory Operations is issuing this operational directive to Ahpra staff responsible for assessing applications for registration and endorsement.

National Managers are accountable for ensuring that the responsible staff adhere to the operational directive and business rules. The business rules define how Ahpra will work in supporting the National Boards and their delegates to make decisions about health practitioners in an effective, efficient, transparent and fair way.

Objective of directive

The *Health Practitioner Regulation National Law* (National Law) requirement to decide an application for registration or endorsement within 90-days of receipt is in place to protect the rights of the applicant and to

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ensure we are managing applications in an effective, efficient, transparent and fair way. This document sets out the requirement for oversight of applications which may not be decided within the 90-day period, and the process for seeking an agreed new finalisation date, to make sure operational staff are consistently managing applications for registration.

Legislative requirements

A National Board is required, under section 85 (application for registration) and section 106 (application for endorsement) of the National Law, to make a decision on an application within 90-days after receipt or as agreed with the applicant.

Sections 85 and 106 require that in order for the 90-day period to be extended it must be with the agreement of the applicant. The agreement must be positively indicated by the applicant. Failure on the part of the applicant to respond does not indicate their agreement to the extension and does not constitute a deemed extension.

Sections 85 and 106 state:

If a National Board fails to decide an application for [registration/endorsement] within 90 days after its receipt, or the longer period agreed between the Board and the applicant, the failure by the Board to make a decision is taken to be a decision to refuse to [register/endorse] the applicant.

Sections 77(2) and 99(2) of the National Law outlines what is required when an application for registration or endorsement is submitted.

Section 77(2) states:

An application must –

- (a) be in the form approved by the National Board; and*
- (b) be accompanied by the relevant fee; and*
- (c) be accompanied by proof of the applicant's identity; and*
- (d) be accompanied by any other information reasonably required by the Board.*

Section 99(2) states:

The application must –

- (a) be in the form approved by the National Board; and*
- (b) be accompanied by the relevant fee; and*
- (c) be accompanied by any other information reasonably required by the Board.*

Implication for application assessment

Under the National Law, an application becomes an application when:

- it is received by Ahpra
- the form is determined to be valid and current, and
- it is accompanied by
 - the relevant fee,
 - proof of the applicant's identity (for applications for initial registration only), and
 - any other information reasonably required by the Board as stated on the application form.

When all of the above requirements are met, the application is called a complete application and is taken to be received. This is when the 90-day period to decide the outcome of the application starts.

Monitoring applications in relation to the 90-day period

At regular intervals (e.g. when sending correspondence, prior to setting a reminder), consideration must be given to the likelihood, or otherwise, of deciding the application within 90-days from receipt of the complete application.

Factors to consider include:

- If suitability issues have already been identified.
- The number of days since receipt of the complete application.
- Whether the application will require consideration by Committee/Board.

Seeking agreement to extension

If an extension is required, contact must be made with the applicant, and the applicant provided with an opportunity to respond. This contact must be made at least 21 calendar days prior to the expiry of the 90-days. A suggested new date for final consideration must be proposed. The extension period proposed should be a minimum of 40 days from the current 90-day expiry date but is dependent on the particular case and the further actions required in order to have a decision made on the application (e.g. taking into consideration board/committee meeting dates, health assessment appointments, other relevant events). It may be necessary to negotiate a new date more than once during the management of complex applications.

Contact must be made in writing via email.

Agreement on extension reached

If the applicant agrees to a new date a record must be kept of the correspondence and the newly agreed date within the application record.

Agreement on extension not reached

If the applicant refuses the extension or fails to respond, the applicant must be contacted to confirm that they understand that their application will be taken to be refused if they do not agree to an extension. A record of the attempts to contact the applicant by phone or email must be recorded.

Once the 90-days has expired, the decision must be recorded, and a notice of refusal must be sent to the applicant. The notice must include the applicant's appeal rights. All efforts must be made to have a decision on the application prior to the expiry of the 90-days.