



Submission to the preliminary consultation paper on international criminal history checks.

The Office of the Health Services Commissioner (OHSC) was created by the *Health Services (Conciliation and Review) Act 1987* (Vic) (HSCRA).

The OHSC is established to:

- Deal with user's complaints; and
- Suggest ways in which the guiding principles may be carried out; and
- Help service providers to improve the quality of health care.

The Guiding Principles promote:

- Quality health care, given as promptly as circumstances permit; and
- Considerate health care; and
- Respect for the privacy and dignity of persons being given health care; and
- The provision of adequate information on services provided or treatment available, in terms which are understandable; and
- Participation in decision making affecting individual health care; and
- An environment of informed choice in accepting or refusing treatment or participation in education or research programmes.

The OHSC also administers the health privacy legislation in Victoria, the *Health Records Act 2001* (Vic) (HRA). The HRA does this by promoting fair and responsible handling of health information by –

- (a) protecting the privacy of an individual's health information that is held in the public and private sectors; and
- (b) providing individuals with a right of access to their health information; and
- (c) providing an accessible framework for the resolution of complaints regarding the handling of health information.

The OHSC promotes the parties to a grievance resolving the complaint between them by mediation and conciliation.

Introduction:

Thank you for the opportunity to comment on the preliminary consultation paper on international criminal history checks. HSC is cognisant of the need to protect the public by ensuring health practitioners are suitably trained and qualified to practice medicine in competent and ethical ways. At the same time it is necessary to ensure we have an adequate workforce which is not unnecessarily burdened with costs and administrative burdens. These considerations and the difficulties involved in processing and receiving all relevant information mean it is necessary for some compromises to be made.

In an ideal world all applicants, wherever they come from, would be thoroughly and accurately screened and audited however there are complexities and barriers that need to be taken into account. There are inconsistencies in approaches to criminal record checking between jurisdictions in Australia and across international regulatory authorities, which pose some real challenges. Some jurisdictions will only provide CCC's



to the applicant rather than to the agencies; some do not have accurate information and in some registrants may have practised in several overseas countries with checks required from different agencies. AHPRA will be unable to obtain CCC's from some countries and a balance needs to be struck in protecting the public and not penalising applicants by imposing unnecessary administrative burdens on them. There is little point in insisting that applicants obtain criminal check clearances from countries where they are simply not available. I note also there are different kinds of checks with a distinction in Australia between police checks (generally ten years) and criminal history checks which are much more detailed.

Option 4 (applicant declaration and random audit) is tentatively supported by HSC as being the most workable option given the numbers of registrants and the difficulties noted above. Option 4 is also the most cost effective approach but is not without risks, especially risks to patients. (Risk to patients should be incorporated into the risk analysis for all of the options.) It is unclear from the preliminary consultation paper whether it is intended to have a separate scheme for Australian applicants from that for international applicants. This requires clarification.

It will be necessary for AHPRA to continue working within Australia and with overseas jurisdictions to ensure criminal records checking processes are improved as time goes by. AHPRA will doubtless also be continuing to improve the efficiency and accuracy of information exchanges between itself and other overseas agencies, particularly international registration boards, to ensure new information is available as it comes to light.

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Health Services Commissioner
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