



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

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Related Documents

Policy Framework Document

Version control and history

Title	Application Management Operational Directive – Failure to decide application
Policy Area	Application management
Version number and history	1.0
Applies to	Application Lodgement and Assessment processes
Audience	All AHPRA staff, including managers, directors, officers responsible for processing, assessing and deciding applications for registration or endorsement.
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Purpose

The Executive Director Regulatory Operations is issuing this operational directive to AHPRA staff responsible for the processing of applications for registration and endorsement.

State and Territory 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.

1. Objective of process

The 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 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, in order to ensure operational staff are consistently managing applications for registration.

1.1 Legislative requirements

The 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 states:

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.

1.2 Implication for application processing

Under the National Law, an application becomes an application as at the date of receipt when it is in the form approved by the National Board (whether received by hard copy or electronic means). Therefore, the date on which the 90 day period commences for the purposes of section 85 and 106 is the date on which the original application form is received by AHPRA whether or not it contains all of the accompanying information required by subsection 77(2) or 99(2).

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. Such 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.

1.2.1 Application oversight

At regular intervals (e.g. when sending correspondence, prior to setting a reminder or if no current reminder) at least every 14 days during the processing of an application, consideration must be given to the likelihood, or otherwise, of deciding the application within 90 days from receipt.

Factors to consider include:

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

1.2.2 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, at least 14 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 is acceptable, or the offer of extension may be included in other formal correspondence. Agreement on extension reached

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

1.2.3 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 or 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.)