



National Health
Practitioner
Ombudsman

Submission

Public consultation on the English Language
Skills Registration Standard

7 September 2022

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Executive summary

Public consultation on the common English Language Skills Registration Standard for 10 of the registered health professions (the Standard) has come at a particularly important time. The office of the National Health Practitioner Ombudsman (NHPO) has regularly received complaints related to the Standard and provided multiple suggestions for improvement to the Australian Health Practitioner Regulation Agency (Ahpra) regarding its operation. The NHPO recognises the increasing demand in Australia for health practitioners, and the implications that revisions to the Standard may have on the eligibility of health practitioners to become registered in Australia (particularly if they obtained their qualifications overseas). When responding to this changing environment, the Standard must support and enhance public protection and confidence in the National Registration and Accreditation Scheme (the National Scheme).

The NHPO welcomes change to clarify the pathways to satisfy the Standard and their requirements by using plain language and new titles.

However, the NHPO is concerned that the revised Standard does not address the ongoing issues the office has raised with Ahpra and the National Health Practitioner Boards (the Boards), and concerns raised throughout the Senate Community Affairs References Committee's inquiry in September 2021.¹ The NHPO acknowledges that the English language test pathway provides an opportunity for applicants who do not meet the other available pathways' requirements to demonstrate they met the Standard. However, complainants regularly say it is unfair that this is the only pathway available to them given their education in, or experience speaking, English. This includes complainants who completed their Board-approved qualifications in Australia. It also includes complainants who completed their primary and secondary education in English, but not in a 'recognised' country. These complainants' belief that the Standard is unjust and discriminatory is then compounded by concerns about the cost, time and effort associated with taking the test. These costs are particularly concerning for more financially vulnerable applicants, including unemployed applicants seeking registration to join the workforce.

It is essential that the concerns identified in this submission and the Senate inquiry are addressed to ensure those who have adequate English language skills are not subject to unnecessary or unfair processes. To achieve this, the Standard must have a strong empirical basis and articulate a clear rationale for the ways applicants can demonstrate their English language skills. The NHPO suggests that a comprehensive review is necessary to determine the most appropriate way to define and recognise whether practitioners have the necessary skills to communicate in English at a level safe to practise their profession. This review should then inform the relevant criteria to determine eligibility requirements.

¹ Senate Community Affairs References Committee, Administration of Registration and Notifications by the Australian Health Practitioner Regulation Agency and Related Entities Under the National Law, April 2022

The NHPO also reiterates its previous suggestions for improvement, based largely on the Nursing and Midwifery Board of Australia’s English Language Skills Registration Standard (the NMBA Standard), including the need for:

- further review of the criteria and eligibility requirements for ‘recognised countries’
- greater discretion and flexibility for the Boards to apply the Standard
- greater detail and clarity around how key terms will be applied when assessing education under the Standard.

The table below summarises the NHPO’s suggestions for improvement to ensure the Standard is fair, consistent, and accessible to those seeking registration in Australia.

Summary of suggestions for improvement

Area	NHPO suggestions for improvement
Pathway requirements	<ul style="list-style-type: none"> • Ahpra and the Boards undertake a comprehensive review to determine the most appropriate way to define and recognise whether practitioners have the necessary skills to communicate in English at a level safe to practise their profession. The review should include undertaking research to determine the: <ul style="list-style-type: none"> – current level of English language proficiency of registered practitioners – current level of English language proficiency of people who have recently completed the qualifications for their profession – standard of English required for each profession – acceptability of considering evidence of work experience to demonstrate English language proficiency, including relevant evidence requirements – approach of other comparative regulators to determining English language requirements – approach of other regulated professions to determining English language requirements. • Ahpra and the Boards consider reviewing whether approved programs of study, particularly those including internships or placements in health care settings, are sufficiently assessing students.
Recognised countries	<ul style="list-style-type: none"> • Ahpra and the Boards review and assess the principles and criteria used to determine recognition requirements, including: <ul style="list-style-type: none"> – consideration of the interaction between the assessment of international qualifications and the Standards – whether the recognised countries list should be set aside for a ‘recognised institutions/courses’ list which is based on the

	<p>minimum English requirements to undertake the program of study required for the profession.</p> <ul style="list-style-type: none"> • following this, Ahpra and the Boards should use the new agreed principles and criteria to determine relevant recognition.
Discretion and flexibility	<ul style="list-style-type: none"> • The Boards be provided with the necessary discretion to grant exemptions from meeting the requirements of the Standard to practitioners based on their individual circumstances. To support this, the NHPO suggests that: <ul style="list-style-type: none"> – Ahpra develop a robust process to accept applications for an exemption from the requirement to meet the Standards – training is provided to Ahpra staff to assist with identifying and escalating more complex registration applications.
Accessibility	<ul style="list-style-type: none"> • Ahpra and the Boards review relevant policies alongside the Standards to ensure consistency. • Ahpra and the Boards consider the NHPO’s recommendations for further clarifying the pathways and relevant definitions to reduce confusion and ambiguity. • Ahpra and the Boards consider whether all Boards should adopt a shared policy and include a review of the policy alongside this consultation process. • The Boards determine as soon as possible whether acceptance of three new types of English language tests will be ongoing and update the Standard accordingly.

Submission

The NHPO welcomes the opportunity to take part in this consultation on the Standard. It is essential that registered health practitioners have the necessary skills to communicate in English at a level safe to practise their profession.

The NHPO supports Ahpra and the Boards' commitment to clarify the Standard and ensure the application of the pathways is consistent.

However, the NHPO suggests that a comprehensive review of the pathways in the Standard is necessary to better articulate how the various pathways demonstrate that practitioners have the necessary English language skills.

The NHPO is concerned that several of the issues raised in this submission have been reiterated since the former Acting Ombudsman and Commissioner's submission to Ahpra and the NMBA in 2014. Unless more substantial action is taken to address the concerns detailed in this submission, dissatisfaction with the Standard will continue, and likely increase. There is a clear need for:

- further review of the recognised pathways and list of recognised countries
- greater discretion and flexibility for the Boards to apply the Standard
- greater detail and clarity around how key terms will be applied.

About the NHPO

The NHPO strives for fair and positive change in the regulation of registered health practitioners for the Australian community. The NHPO champions fairness through investigating complaints, facilitating resolutions and making recommendations to improve the regulation of Australia's registered health practitioners. The office's primary role is to provide oversight of bodies in the National Scheme, including Ahpra and the Boards. The office accepts:

- complaints to the National Health Practitioner Ombudsman (the Ombudsman)
- privacy complaints to the National Health Practitioner Privacy Commissioner (the Commissioner)
- applications for a review of Ahpra's Freedom of Information (FOI) decisions.

About this submission

This submission is based on the NHPO's unique perspective as an oversight entity within the National Scheme. The submission generally applies an administrative lens to issues because the office most regularly responds to complaints about the administration of the National Scheme, and the administrative actions and decisions of entities such as Ahpra and the Boards.

The submission is based on four key areas:

- Pathway requirements
- Recognised countries

- Discretion and flexibility
- Accessibility.

For each of these areas, the NHPO outlines common concerns the office has heard and identified in relation to the Standard. The NHPO then offers its suggestions for improvement based on its analysis of this information.

The NHPO notes that this public consultation refers to two English Language Skills Registration Standards – the common Standard for 10 of the registered health professions, and the NMBA Standard. This submission refers to the common Standard as the ‘Standard’ and specifies when it refers to the ‘NMBA Standard.’

This submission frequently refers to the research report commissioned by Ahpra and the Boards by the Language Testing Research Centre at the University of Melbourne titled *Research to inform the Review of English language skills registration standards for 15 health care professions*. This report was published in August 2022 and is referred to in this submission as the ‘Language Testing Research Centre report.’

Previous suggestions for improvement

The NHPO has provided informal and formal feedback to Ahpra and the NMBA in relation to the Standards prior to this consultation process. The NHPO mainly receives complaints related to the NMBA Standard and feedback is therefore generally based on these complaints.

The NHPO’s suggestions for improvement have previously been provided through:

- a submission in April 2014 by former Acting Ombudsman and Commissioner Pauline Ireland in response to the review of the NMBA Standard
- discussions between the NMBA and Ahpra staff with the Ombudsman and Commissioner and NHPO staff about how to improve the Standard and its application
- formal comments and suggestions for improvement provided by the Ombudsman and Commissioner to the CEO of Ahpra following findings of investigations into complaints related to the Standards.

Complaints

The NHPO’s submission is based on complaints related to an English Language Skills Registration Standard received by the office between 1 July 2020 and 1 July 2022.² This type of concern was the second most common registration-related issue recorded by the NHPO in the 2020–21 and 2021–22 financial years. The NHPO recorded 53 issues related to the application of an English Language Skills Registration Standard during this time. Sixty-two per cent of the issues recorded related to the NMBA Standard (33 of the 53 issues recorded during this time).³ The NHPO’s observations are therefore

² This time period aligns with the introduction of the NHPO’s new case management system to take advantage of its enhanced reporting capacity.

³ The NHPO records issues on complaints that relate to a range of different aspects of registration processes, and multiple issues can be recorded for each complaint.

based mainly on the NMBA Standard. However, due to the similarity between the Standards, these observations are also applicable to this consultation.

Workforce needs

As outlined by the National Medical Workforce Strategy, the demand for health care services in Australia is “growing faster than the population and the economy.”⁴ Workforce demand is multifaceted and is largely driven by an ageing population and the associated increase in multiple chronic conditions.⁵ Concerns related to health practitioner demand and workforce shortages have only increased with the COVID-19 pandemic. Nurses are particularly in demand with Health Workforce Australia estimating Australia will face a shortage of over 100,000 nurses by 2025.⁶ It has also been widely acknowledged that the aged care sector is currently facing many challenges, with the Commonwealth Department of Health estimating that an extra 14,000 nurses are needed to deliver the Labor government’s commitment to require aged care homes to have a registered nurse on site for 16 hours a day by October 2023.⁷ During the 2022 election, now Prime Minister Anthony Albanese said that his government would need to recruit overseas health workers as a ‘stopgap measure’.⁸ It is clear that increased workforce demand is an important consideration in Australia’s approach to the registration of health practitioners.

The NHPO acknowledges that workforce planning is complex in Australia. It involves many state and federal entities, such as governments, regulators, universities, public and private health providers and consumers. Ahpra and the Boards’ role in health practitioner registration is therefore one piece of a much larger puzzle. However, the increasing demand for health practitioners, including internationally qualified practitioners, highlights the importance of ensuring there is a robust but efficient registration process. It also suggests a greater impetus to ensure that those applicants who are able and qualified to practise safely in Australia are not unfairly prevented from doing so.

⁴ Department of Health, National Medical Workforce Strategy 2021–2031. Accessed August 2022: www.health.gov.au/sites/default/files/documents/2022/03/national-medical-workforce-strategy-2021-2031.pdf

⁵ Ibid.

⁶ Marilyn Harrington and Dr Rhonda Jolly, ‘The crisis in the caring workforce,’ Parliamentary Library Briefing Book. Accessed August 2022: www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BriefingBook44p/CaringWorkforce

⁷ Daniel, Dana, ‘Overseas nurse recruitment drive needed to ‘plug gaps’ in aged care,’ Sydney Morning Herald, 26 April 2022

⁸ Ibid.

Pathway requirements

The revised Standard outlines four pathways through which applicants can demonstrate they have the necessary English language skills to practise their profession:

1. Combined education pathway – for applicants who have completed at least two years of secondary education in English in a ‘recognised country’ (Australia, Canada, New Zealand, Republic of Ireland, United Kingdom and the United States of America) and have completed their qualifications in English in a recognised country.
2. School education pathway – for applicants whose main language is English and they have completed at least 10 years of primary and secondary education in English in a recognised country and their qualification was completed in English but not in a recognised country.
3. Advanced education pathway – for applicants who have completed at least six years of education in English in a recognised country, including their qualification and other advanced education (without more than a two year break between the qualifications and the advanced education).
4. Test pathway – for applicants who have achieved the required minimum scores in an English language test.

Complainant concerns

The NHPO commonly receives complaints that an applicant believes they should meet the English language skills requirement without having to sit an English language test because they completed an approved program of study for their profession in Australia. Between July 2020 and June 2022, almost 70 per cent of complaints made to the NHPO about English language issues were from applicants who had completed their Board-approved qualifications in Australia.⁹

For example, one complainant had successfully completed a Bachelor of Paramedicine in Australia but was required to sit an English language test to be eligible to register as a paramedic. This is because the Bachelor of Paramedicine course totalled four years of advanced education in Australia but the relevant pathway in the Standard required six years of advanced education.

Another complainant who had lived in Australia for several decades said they had successfully obtained their qualification but was required to take the English language test. Again, this was because they had not completed the required number of years of advanced education in Australia. The complainant said this seemed unfair because they had successfully passed an English language test to obtain a Higher Education Contribution Scheme (HECS) loan to complete their qualification.

⁹ Please note that this does not include complainants where it was unknown where they completed their qualification. The NHPO can record multiple issues on each complaint it receives.

The cost and effort associated with completing a qualification in Australia, only to find that it did not ensure the applicant met the relevant Standard, was mentioned by several complainants. For example, one complainant said:

"I have become a victim of subtle discrimination... I spent my money, time and effort to study Bachelor of Nursing (Advanced Studies) and Master of Nursing (Professional studies) in order to serve my country...

I have not been sleeping well for many days and weeks because of this problem and thinking about my future as well as the student loan that I have borrowed... in order to complete my nursing degrees."

Similarly, another complainant said:

"...I have huge amount of HECS [debt] to pay, but I do not know how I will do it if I have not registered through AHPRA."

Another concern applicants commonly raised was that they should meet the English language skills requirements without taking an English language test because of their experience speaking English. For some complainants, this was based on their extensive work experience. One complainant, for example, said that they had worked as a nursing assistant in aged care for many years and then completed an approved program of study to obtain a nursing qualification. The complainant said that Ahpra had advised them to undertake an English language test to be eligible for registration, but the complainant did not meet the required score for one of the four areas. The complainant found the idea of retaking the test "very stressful" and decided not to retake it or pursue becoming a registered nurse.

Other complainants believed that greater weight should be given to higher education completed in Australia. One complainant, for example, said that they had been living in Australia for 17 years, during which time they had published a journal article, completed a Bachelor Degree and a Master's Degree, and completed the approved program of study for the profession in which they were seeking registration. Given this history, the complainant did not think it was fair that they were required to complete an English language test. However, this was required under the Standard because the complainant did not complete their primary or most of their secondary education in Australia, and did not complete their higher education within the required period.

Similarly, concerns were raised by complainants that the Standards are unfair because they give unfair preference to those who completed their primary and secondary schooling in Australia. For example, one complainant had grown up in another country where English was the predominant language spoken and then completed a total of 11 years of non-continuous study in Australia, including a Master's Degree. Ahpra assessed that the only way the complainant could satisfy the Standard was by taking an English language test. The complainant had previously sat and passed an English language test, but Ahpra would not recognise the results because they had been obtained too long ago. The complainant felt that this was an unfair outcome.

Aisha's story

Aisha completed her nursing qualification as a mature-age student and applied to Ahpra for registration. Ahpra advised Aisha that she was required to complete an English language test to satisfy the NMBA Standard.

Aisha believed this was not fair because it did not recognise her particular circumstances. Aisha explained to the NHPO that she was 12 years old when she moved to Australia. After completing one year of language school within an Australian primary school, Aisha completed secondary, vocational and tertiary education in Australia. Aisha emphasised that she had lived in Australia for more than 30 years and, though she is multilingual, the primary language she speaks at home is English.

After hearing Aisha's concerns, the NHPO made enquiries with Ahpra about Aisha's application. Ahpra advised that it had agreed to present Aisha's application to the NMBA for a decision. After taking into consideration Aisha's application, the original assessment and the enquiries from our office, Ahpra decided to seek legal advice in preparation for the NMBA meeting.

The NMBA considered the matter soon after and decided to grant Aisha registration without requiring her to sit an English language test.

Aisha was pleased with the quick and professional assistance provided by the NHPO.¹⁰

Review of necessary English skills to practise safely

Taking into consideration the examples outlined above, the NHPO is concerned that the Standards are not based on strong evidence about the necessary English skills required to safely practise a health profession. The NHPO's concerns are detailed further in this section in relation to recognising:

- approved programs of study
- advanced education
- work experience considerations
- profession-specific diversity.

The NHPO suggests standard-setting empirical data is necessary to determine the most appropriate way to define and recognise whether practitioners have the necessary skills to communicate in English at a level safe to practise their profession. Further research is necessary to determine the:

- current level of English language proficiency of registered practitioners
- current level of English language proficiency of people who have recently completed the qualifications for their profession
- standard of English required based on each profession.

¹⁰ This case study was originally published in the NHPO's 2018–19 annual report. It has been edited to reflect the terminology used in this submission.

The NHPO notes that this suggestion supports the Language Testing Research Centre report's recommendation for conducting an empirical standard-setting session in the Australian context.¹¹

Approved programs of study

Currently, the Standards assume that practitioners can complete a qualification to become a registered health practitioner without having a safe level of English language skills to practise the profession. Most approved programs of study for health professions, including the largest professions of medicine and nursing, require students to undertake clinical training or internships to meet course requirements. The NHPO suggests that it is not unreasonable for applicants who have completed a program of study in Australia to believe that they would meet the required Standard without having to undertake an English language test.

This issue was raised by health practitioner representative bodies in submissions to the Senate Community Affairs References Committee's inquiry.¹² The Australian Nursing and Midwifery Federation, for example, recommended that student registration be brought into line with practitioner registration. The Federation posited that this would avoid situations where students undertake a lengthy and costly course, only to discover they are ineligible for registration because they do not meet all requirements, such as the Standard.¹³

The NHPO accepts the consultation paper's argument that "language requirements for education are different to language requirements for practising safely as a health practitioner." However, the NHPO suggests that if the Boards believe practitioners are obtaining approved qualifications without the necessary English language skills, the Boards have a broader responsibility to review whether approved programs of study are sufficiently assessing students. The NHPO understands, for example, that qualifications in registered professions generally involve comprehensive examinations and require some practical experience, such as a student placement. A failure of students to adequately use English language skills in this context is therefore a larger issue that should be raised with the relevant education providers.

It appears that comparative regulators are more open to accepting that applicants who have completed an approved program of study have acceptable English language skills. For example, medical practitioners in New Zealand must meet one of the available eight English language pathways. The first pathway is for applicants who can demonstrate they have a primary medical qualification from a New Zealand medical school.¹⁴ The second pathway is for applicants who can provide evidence that they speak English as a first language and have an acceptable medical qualification from Australia, the United Kingdom, the Republic of Ireland, the United States of America, Canada or South Africa where English is the sole language of instruction of that medical

¹¹ See Recommendation 4. Language Testing Research Centre, University of Melbourne *Research to inform the Review of English language skills registration standards for 15 health care professions*, August 2022

¹² Senate Community Affairs References Committee, Administration of Registration and Notifications by the Australian Health Practitioner Regulation Agency and Related Entities Under the National Law, April 2022

¹³ Ibid.

¹⁴ Medical Council of New Zealand, Policy on English language requirements, October 2020

school.¹⁵ Similarly, the General Medical Council (GMC) in the United Kingdom outlines that it may accept primary medical qualifications from an acceptable institution as evidence of knowledge of English, provided the qualification is less than two years old and was taught and examined solely in English.¹⁶

In terms of other industry standards, teachers in Queensland and Victoria can provide evidence of English language proficiency through completing the full four years of higher education required for registration as a teacher in English in a recognised country (Australia, New Zealand, the United Kingdom, the United States of America, Canada or the Republic of Ireland). This suggests that further research is needed to understand the approaches of other comparative regulators and regulated professions in Australia to determining English language requirements.

Advanced education

The NHPO suggests it is not surprising that complainants raise concerns about why their English language skills are not recognised as sufficient when compared with the requirements of some of the pathways outlined in the Standard. The NHPO is concerned with three assumptions currently made by the Standard. These assumptions are that:

- completing higher levels of education does not indicate greater competency in English. For example, it is not sufficient for a practitioner to have completed a tertiary qualification to indicate their competency, instead, they must also demonstrate earlier education in education (for example, at a primary school level)
- where other education is required in addition to obtaining a qualification, completing two years of secondary education (as required by the combined education pathway) is equivalent to completing the same period of advanced education at a Bachelor Degree level (as required by the advanced education pathway, assuming that the relevant qualification takes four years to complete)
- completing education in English earlier in life (for example, in primary or secondary school in a recognised country) demonstrates English language competency more effectively than working in another profession where English skills are required or undertaking vocational education or other education below the Bachelor Degree level. For example, a practitioner may have undertaken up to 10 years of education below the Bachelor Degree level in a recognised country but would not meet the Standard.

The NHPO suggests that these assumptions are problematic because there does not appear to be a clearly articulated rationale for why the requirements of each pathway exist.

¹⁵ Ibid.

¹⁶ GMC, 'Using your primary medical qualification.' Accessed August 2020: <https://www.gmc-uk.org/registration-and-licensing/join-the-register/before-you-apply/evidence-of-your-knowledge-of-english/using-your-primary-medical-qualification>. Please note that applicants must also supply a letter or certificate from the university or medical college confirming other certain requirements were met.

Work experience considerations

The NHPO is also concerned that some of the Language Testing Research Centre report's findings regarding work experience do not appear to have been incorporated into, or recognised, in the revised Standards. The report found that many jurisdictions accept work experience as a pathway for registration.¹⁷ The GMC, for example, provides a pathway for applicants to supply a reference from their employer as evidence of their knowledge of English. The GMC's website states that it may accept confirmation from an employer if the applicant has "worked in a medical capacity for a least the past two years, in a country where English is the first and native language."¹⁸

While the Language Testing Research Centre report expressed concern about difficulties in verifying work experience, it recommended that Ahpra and the Boards consider accepting work experience in conjunction with a previous language test.¹⁹

Again, it is unclear whether Ahpra and the Boards have considered this recommendation further. The NHPO suggests that the inclusion of work experience is considered as soon as possible to ensure that the revised Standard reflects any necessary changes.

Profession-specific diversity

Finally, the Language Testing Research Centre report suggested that setting a uniform standard across all professions and skills is not supported by the small number of empirical standard-setting studies that were available for review. Instead, the report found the available evidence suggests "minimum standards should probably differ for different professions" and that "some sub-skills are deemed more important than others."²⁰ For example, the research outlines that lower standards may be acceptable on reading, listening and writing for the nursing profession, while one study recommended medicine required higher standards.²¹

The NHPO is concerned with the report's finding that:

"...there is little evidence that the current standards in Australia, which are the same across profession and sub-skills, are based on sufficient empirical evidence."

The NHPO suggests that empirical standard setting research would assist Ahpra and the Boards in determining whether it is necessary to consider different language requirements for the different professions.

¹⁷ Language Testing Research Centre, University of Melbourne Research to inform the Review of English language skills registration standards for 15 health care professions, August 2022

¹⁸ GMC website, 'Providing a reference from your employer.' Accessed August 2022: <https://www.gmc-uk.org/registration-and-licensing/join-the-register/before-you-apply/evidence-of-your-knowledge-of-english/using-confirmation-from-your-employer>

¹⁹ See Recommendation 10. Language Testing Research Centre, University of Melbourne Research to inform the Review of English language skills registration standards for 15 health care professions, August 2022

²⁰ Ibid

²¹ Ibid

Moreover, while the Language Testing Research Centre report found that the standard English language testing requirement of achieving a IELTS score of 7 in Australia is broadly in the middle when compared with other regulators abroad,²² it also commented that it was “often not clear how the minimum levels were originally arrived at.”²³ It is suggested that some countries have attempted to arrive at the registration standard empirically while others may have adopted standards from other countries or arrived at decisions based on testing developer or publisher’s advice. The NHPO suggests that Australian-specific research is needed to better understand how the Standards are applied and to ensure that the registration standards keep pace with changes in how English is spoken around the world.

The NHPO cautions against further delaying the consideration of the appropriateness of the Standards’ pathways as outlined above. The consultation’s ‘Literature review report’ recognises that some of the research proposals may require “longer term work and consideration” or “have not been adopted but will continue to be considered as part of our ongoing reviews.” The NHPO notes, however, that some of the concerns outlined in this paper were reflected in the NHPO’s submission on the Standards in 2014. The review of the Standards is the opportune time to consider all available evidence and undertake further research if necessary.

Suggestion for improvement

The NHPO suggests that:

- Ahpra and the Boards undertake a comprehensive review to determine the most appropriate way to define and recognise whether practitioners have the necessary skills to communicate in English at a level safe to practise their profession. The review should include undertaking research to determine the:
 - current level of English language proficiency of registered practitioners
 - current level of English language proficiency of people who have recently completed the qualifications for their profession
 - standard of English required for each profession
 - acceptability of considering evidence of work experience to demonstrate English language proficiency, including relevant evidence requirements
 - approach of other comparative regulators to determining English language requirements
 - approach of other regulated professions to determining English language requirements.
- Ahpra and the Boards consider reviewing whether approved programs of study, particularly those including internships or placement in health care settings, are sufficiently assessing students.

²² Ibid

²³ Ibid

Recognised countries

The consultation's 'Frequently asked questions' document states that the "countries that are recognised in the standards have health and education systems largely equivalent to those in Australia." It posits that due to these circumstances, the Boards can be confident that applicants from these countries possess the level of English that is safe to practise.

The revised Standard makes one major change in relation to the recognised countries list: it removes South Africa to align the list of recognised countries with the Department of Home Affairs (DoHA) and the provided literature review. The consultation paper also suggests that the Language Testing Research Centre research report found insufficient evidence that additional countries, such as Singapore or Hong Kong, should be added to the list.

Complainant concerns

Complainants have regularly raised concerns with the NHPO about why the country they completed their education in (including primary, secondary and tertiary education) is not included as a 'recognised country' for the purpose of the Standards.

At the core of complainant concerns is that the recognised country list is unfair and discriminatory because it preferences some countries above others. One complainant, for example, submitted to the NHPO:

"The fact that the 7 recognised countries all happen to be of Anglo-saxon origin appears discriminatory towards applicants from Asian countries that also have English as an official medium in schools."

Another complainant raised concerns about the Standard in the context of the process for overseas qualified health practitioners to become registered in Australia. The complainant said they felt "unwelcome" in Australia and that it was unfair that people from some countries did not need to go through the same processes.

A similar concern was captured by the NHPO's submission about the Standard in 2014:

"An individual who complained to my office feels that the current standard creates different rules for "insiders" and "outsiders" and that the selection of countries listed in the standard reflects an outdated view of what constitutes the English-speaking world."

The Senate Committee also reported that it had received evidence that the 'current English requirements may be perceived as discriminatory and do not recognise practical experience in English-speaking countries.'²⁴

²⁴ Ibid.

Complainants regularly expressed their frustration and anger to the NHPO that they did not meet the requirements of the Standards, even though English is the primary language they speak at home, and/or the language that they completed their education in.

The NHPO has received complaints from applicants who were concerned that their education was not recognised under the Standard even though their relevant experiences were in countries where English is an official language (including Singapore, Fiji, Rhodesia and the Philippines).

Finally, some complainants brought up differences in how their English skills had been considered in Australia. One complainant, for example, said that they had been invited to Australia under a Distinguished Talent Visa (Subclass 124), which could be obtained with an IELTS score of 5. The complainant expressed dismay that the Standard (which requires an IELTS score of 7) differs from the requirements of the Visa and they were concerned that they would not be able to use the skills which led to their receiving a Visa.

Tamar's story

Tamar was a provisionally registered psychologist when Ahpra informed her that she must complete an English language test before she could apply for general registration.

She made a complaint to the NHPO because she thought the decision was unreasonable.

Tamar was born in England to an English-speaking family. She completed her primary education in English before moving to Rhodesia, a former British colony now known as Zimbabwe, where she completed her secondary education in English. Tamar completed her tertiary education in Australia.

Tamar advised the NHPO that English is her primary language and the only language she can speak. She believed the Board's application of the Standard to her specific circumstances was inappropriate and inconsistent with the intent of the Standard.

The NHPO initiated an investigation into Tamar's complaint. Initially, Ahpra advised the office that because Rhodesia is not a 'recognised country' under the Standard, Tamar would need to sit an English language test.

Later, the Board reconsidered its decision requiring Tamar to complete an English language test. The Board recognised that Rhodesia was a British colony at the time Tamar undertook her secondary schooling and therefore falls within the definition of a 'recognised country' in accordance with the Standard. This meant Tamar was able to demonstrate her English language competency because she was viewed as having completed her primary and secondary education in a recognised country.²⁵

²⁵ This case study was published in the NHPO's 2019–20 annual report. It has been edited to reflect the terminology used in this submission.

Review of criteria for recognition

The NHPO recognises the importance of ensuring that practitioners can communicate in English at a level safe to practise their profession. However, the NHPO is not convinced that sufficient analysis has been undertaken, or relevant principles or criteria used, to determine which countries should be recognised as producing applicants who satisfy this requirement.

The NHPO reiterates its view that the criteria used to determine the list of 'recognised countries' should be reviewed to determine the relevant requirements and to support consideration of whether an alternative approach is advisable. The NHPO posits that there is merit in considering a 'recognised institutions/courses' list as an alternative.

Rationale for aligning the recognised countries with DoHA

There is no clear articulation in the consultation paper about the rationale for the decision to align the Standard's recognised countries list with DoHA's recognised countries list. The DoHA website does not indicate why particular countries are recognised, and current Ahpra and Board communications also do not articulate this. Further, no rationale is provided for why the Boards rely on the DoHA list of recognised countries which meet 'functional English', 'vocational English' and 'competent English' requirements to determine if a practitioner meets the Standards. This is confusing because according to the DoHA website, to demonstrate 'proficient English' or 'superior English', an English language test must be undertaken. While it is outside of the NHPO's scope to comment on the detail surrounding DoHA's definitions, from an administrative perspective, it is important that a rationale for the decision to recognise certain countries is sound and is also shared publicly. This is particularly important because practitioners need to have confidence in the National Scheme, and if they believe their engagement with the National Scheme is discriminatory, that confidence is undermined.

Approach to recognition

The NHPO suggests that the scope of the Language Testing Research Centre research report was narrow and does not necessarily support Ahpra and the Board's decision to remove South Africa as a recognised country, or to decide not to include Singapore, Hong Kong or Malaysia as recognised countries in the revised Standard. Instead, it could be argued that the research posits an alternative approach to recognition, because it suggests that recognition for a country should be granted based on the minimum language requirements for entry to qualifying Degrees.

The Language Testing Research Centre research report was based on Ahpra's request that University of Melbourne researchers answer the question:

... is there any evidence from the review of approaches of other regulators, or review of information published by the D[o]HA in relation to its English language assessment processes, to support any of the following changes to the list of recognised countries at this time: (a) South Africa to be removed as a recognized country, and/or (b) Singapore, Hong Kong or Malaysia be added as a recognized country?

The research report sought to address the question through determining the minimum language requirements for entry to qualifying Degrees in each country. The research suggested that entry requirements are a “key consideration for the combined education and extended education pathways, which hinge upon applicants having obtained the relevant professional qualification in a recognised country.” The report recommended that ‘recognition’ should be based on whether the minimum English language requirements for entry to qualifying Degrees are comparable to English language requirements for entry to Australian qualifying Degrees for the relevant profession.

Based on this assessment, the paper determined that:

“recognition of South Africa does not appear to be equally applicable across all of the health professions because entry requirements for qualifying degrees vary for the different professions.”

However, the research found that “continued recognition is warranted” in the case of nine of the 15 professions provided the course completed met the minimum English language standard.²⁶

The report’s findings clearly indicate that the Boards cannot universally accept all applicants from South Africa, Malaysia, Singapore or Hong Kong as meeting the English language requirements.

However, the report’s findings suggest applicants would meet the requirements of the Standard for some professions. The research paper suggested this would be the case for applicants from South Africa applying for registration in the largest health professions of Australia, medicine and nursing. The research paper similarly suggests that applicants from 10 professions in Malaysia, six professions in Singapore, and two professions in Hong Kong would meet the Standard’s requirements. If these research findings are accepted, it appears that many applicants are eligible to meet the Standard without having to undertake an English language test, but the current pathways do not recognise this because the country they undertook their education in is not ‘recognised.’ This does not appear to be a fair outcome for these applicants.

The NHPO therefore suggests that the review of recognition criteria should consider whether the recognised countries list should be set aside for a ‘recognised institutions/courses’ list which is based on the minimum English requirements to undertake the program of study required for the profession. The NHPO notes that this approach appears to be used by comparable regulators, including the GMC. The GMC’s website states that it will sometimes accept an applicants’ primary medical qualification as evidence of their knowledge of English.²⁷ The website provides a list of qualifications for institutions which cannot be used as evidence of their knowledge of English.²⁸

²⁶ It was suggested that recognition was warranted for the dental, medicine, nursing, occupational therapy, pharmacy, physiotherapy, chiropractic, paramedicine and psychology professions

²⁷ GMC website, ‘Using your primary medical qualification.’ Accessed August 2022: <https://www.gmc-uk.org/registration-and-licensing/join-the-register/before-you-apply/evidence-of-your-knowledge-of-english/using-your-primary-medical-qualification>

²⁸ The website also lists a range of additional requirements that must be met if an applicant has received their qualification from a recognised institution, such as it being completed with two years of their application for registration and that it was taught and examined solely in English).

Assessment of international qualifications

The NHPO recognises that there is likely an increased workload for the regulator if it is determined that more complex criteria should be used to determine whether applicants meet the Standard.

One mechanism the NHPO suggests could assist in simplifying this process is Ahpra and the Boards undertaking more proactive efforts to understand how the assessment of international qualifications interacts with the Standards.

Overseas-qualified applicants must, like all applicants, meet the registration standards of their health profession, including the English Language Skills Registration Standard. Overseas-qualified applicants need their qualifications assessed and, in some cases, their professional knowledge and skills assessed through examinations. These applicants also likely engage with many other entities as part of their move to Australia, including the Australian Department of Immigration and Border Protection, state and territory governments, Medicare, and potential employers.

The NHPO suggests that a more comprehensive approach to the assessment of overseas qualifications and the English language skills requirements could assist with reducing confusion and complexity for applicants. This in turn could have positive benefits for overseas qualified practitioners.

Addressing complainant concerns about discrimination

The NHPO is concerned about the current perception, raised both by complainants and as witnessed by the Senate Inquiry, that the Standard unnecessarily discriminates based on national or ethnic origin or immigrant status. The NHPO reiterates the importance of Ahpra acknowledging and addressing applicants' concerns that a Standard is discriminatory. The NHPO suggests that Ahpra and the Boards have a broader responsibility to increase communication to address the perception that a Standard is discriminatory and why the Standard exists, as this perception has the potential to undermine trust in the National Scheme.

Suggestions for improvement:

The NHPO suggests that:

- Ahpra and the Boards review and assess the principles and criteria used to determine recognition requirements, including:
 - consideration of the interaction between the assessment of internationally qualified practitioners and the Standards
 - whether the recognised countries list should be set aside for a 'recognised institutions/courses' list which is based on the minimum English requirements to undertake the program of study required for the profession.
- following this, Ahpra and the Boards should use the new agreed principles and criteria to determine relevant recognition.

Discretion and flexibility

The revised Standard provides some possible scenarios where there may be flexibility in its application. It outlines that the Board may grant an exemption to the Standard for those applying for limited registration in the following circumstances, to:

- perform a demonstration in clinical techniques
- carry out research that involves limited or no patient contact
- carry out a period of postgraduate study, examination or assessment, or supervised practice.

Complainant concerns

Complainants often raised concerns with the NHPO that Ahpra's assessment of their education under the Standard was unfair given their individual circumstances and that there should be greater flexibility to recognise their unique situation. For example, one complainant said it was unfair that they were assessed as having completed 5.5 years of secondary schooling in Australia (and not the required 6 years of primary or secondary schooling).

As case studies throughout this submission have demonstrated, the diversity of English language use across the world and movement between countries means that a myriad of different circumstances exist for applicants.

Accepting applications for exemption

The NHPO reiterates its suggestion that, due to the diversity of experiences with the use of English across the world, it is vital that Boards have the necessary discretion to grant a practitioner an exemption from meeting the requirements of the Standards. The Standard serves an undoubtably important purpose, but it is not reasonable to expect that there will not be some situations which require special consideration to determine whether exceptional circumstances exist.

The Language Testing Research Centre research report found that general academic language tests are accepted as evidence of English language proficiency by regulators of law, teaching and engineering professions. In relation to exceptional circumstances, the research report noted:

"...some of the regulatory bodies have adopted policy provisions for exceptional circumstances within a language testing pathway. For teaching (WA only), older test scores may be accepted in cases where the applicant is considered to be highly fluent in English. In law, national guidelines allow for test scores from multiple sittings to be accepted, and/or additional evidence of language proficiency (such as from relevant employment experience), if the minimum score on a single component was narrowly missed. In engineering (QLD), test scores from multiple sittings may be considered on a case-by-case basis."

It is important that Boards are empowered to make decisions on a case-by-case basis where necessary because applicants who currently have concerns about the Standards may have limited appeal options available to them. Generally, where an application has been assessed to not meet the

registration requirements, it is considered 'incomplete' and is not considered by the relevant Board. This means a decision has not been formally made by the Board and it is not appealable to the relevant state or territory tribunal. This reduces the appeal pathways for practitioners because while the NHPO can assist with process-related complaints, it cannot compel Ahpra or a Board to reassess whether an applicant meets the requirements of the Standard. There is therefore a greater onus on Ahpra and the Boards to ensure that applicants are afforded the opportunity to have their individual circumstances heard.

A robust process

The NHPO suggests that a robust process would be required to accept applications for an exemption from the requirements of the Standards. This would facilitate Boards receiving the necessary information to determine whether there are sufficient grounds to grant an exemption.

This process should include creating a framework to guide the exercise of the discretion, including guiding principles for the consideration of individual matters. Additional staff training in the assessment of applications to determine which applications are complex and may require Board discretion would also likely assist in reducing an unnecessary burden on staff associated with any increased flexibility in the Standards.

Suggestion for improvement

- The Boards are provided with the necessary discretion to grant exemptions from meeting the requirements of the Standard to applicants based on their individual circumstances. To support this, the NHPO suggests that:
 - Ahpra develop a robust process to accept applications for an exemption from the requirement to meet the Standards
 - training is provided to Ahpra staff to assist with identifying and escalating more complex registration applications.

Accessibility

According to the consultation paper, some of the main changes to the Standard are to:

- create clearer naming pathways, such as renaming the current ‘primary pathway’ and the extended education pathway
- reorganise content to make the sequence more logical
- make minor changes to improve wording and expression
- include more active and personal language to speak to practitioners directly where appropriate.

These changes are largely based on increasing the readability of the Standards, making them more accessible and easier to understand for health practitioners.

The NHPO is aware that another mechanism to support better understanding and articulation of the NMBA Standard is the NMBA’s English language skills registration standard policy (the NMBA policy), published in May 2019. The NMBA policy operates alongside the NMBA Standard and outlines further information about:

- demonstrating English language proficiency at least equivalent to the other pathways in the NMBA Standard
- exemptions with respect to limited registration
- determining full-time equivalence of education.

The NHPO notes that the issue of test availability is also recognised in the consultation paper which acknowledges that due to the COVID-19 pandemic, some test providers began to deliver tests fully or partially via remote proctoring. The paper suggests that the Boards “will continue to assess whether to accept these tests.” From 21 February 2022 the National Boards approved a temporary position to accept three new types of English language tests.²⁹ This was in response to accessibility issues during the pandemic.

Complainant concerns

Complainants regularly express frustration to the NHPO that the requirements of the Standards are difficult to understand due to inconsistencies in information they have accessed.

The NHPO has found that complaints related to the NMBA Standard often stem from inconsistent application of the NMBA policy.

Complainants regularly share concerns that it is difficult to understand why Ahpra decided that they did not meet the requirements of one of the Standard’s pathways. It appears that the application of the (now named) ‘Advanced education pathway’ is most confusing for applicants.

²⁹ The OET computer-based test and the OET@home test for applications received until 21 February 2022 and the TOEFL iBT@Home Edition for applications received until 1 June 2022. Please note that these tests are accessible to all applicants (not solely overseas-trained applicants).

Gabriel's story

Gabriel made a complaint to the NHPO about Ahpra's handling of his application for general registration as a registered nurse. He was concerned that Ahpra had completed an incorrect assessment of his education against the extended education pathway of the NMBA Standard.

The NHPO investigated Gabriel's concerns and confirmed that his education did not meet the requirements of the extended education pathway of the NMBA Standard.

The NHPO provided an explanation to Gabriel about how failed subjects affected the assessment of his education. The office also informed him that his vocational education had not been assessed to have an Australian Qualifications Framework equivalency of Certificate III or above and therefore could not be counted towards recognised study in the extended education pathway.

The NHPO's investigation confirmed that Gabriel had received inconsistent assessments of his education from Ahpra and that gaps within public-facing information most likely led to his mistaken belief that he could satisfy the requirements of the extended education pathway.

The office noted that many of these issues had since been addressed by Ahpra's release of a new suite of public-facing information and changes in how Ahpra manages English language assessments.

The NHPO provided feedback to Ahpra about ongoing gaps that required attention, which led to further updates to public-facing information.³⁰

Complainants regularly raised the issue of financial and personal cost when they must take the test pathway because they do not meet the other available pathways. Many complainants raised concerns about how expensive it was to take the English language test (particularly if it needed to be retaken, including due to delay in Ahpra's processing of their application for registration).

These concerns appear to compound complainants' previously discussed belief that the Standard is unfair or discriminatory. For example, one complainant was concerned about how expensive the English language test was and explained that they felt "humiliated" when required to sit the test when they had lived in Australia for 20 years and completed many years of study (but not consecutively). Another complaint said they had completed the required qualification for their profession in English and the cost of the test was prohibitive due to financial difficulties, including unemployment, writing:

"I felt belittled, ridiculed and unsupported and not treated equal like other Australia[n] citizens."

During the COVID-19 pandemic, the NHPO also heard from complainants about concerns regarding the accessibility of English language tests, and Ahpra's acceptance of tests delivered remotely. For example, some complainants raised concerns about the availability or accessibility of English language tests because testing centres were not open or were not offering many opportunities to sit

³⁰ This case study was published in the NHPO's 2019–20 annual report. It has been edited to reflect the terminology used in this submission.

the test. Complainants also expressed frustration with inconsistent advice about whether Ahpra would accept at-home test results (delivered in part or in full by remote proctoring).

Consistent information

Due to continued confusion about the application of the Standard, the NHPO reiterates the importance of ensuring that complainants are provided with consistent and easy to understand information about the Standard.

Policy alignment

The NHPO suggests the revised Standard should include any additional requirements or definitions outlined in the NMBA policy and any relevant policies should be updated as part of this consultation process to align with the revised Standards. The NHPO is not aware of a specific policy to support the Standard of the remaining Boards. The NHPO suggests that the role of a shared policy should be considered given it is preferred that there is consistent application of the Standards across the registered professions. Consistency between the Standard and any associated policies would likely reduce confusion for applicants and reduce complexity for Ahpra staff.

As suggested in relation to the NMBA Standard, the NHPO reiterates that:

- an automatic internal review process should apply for applications that are assessed to meet the Standard but not the relevant policy that sits alongside it
- staff are provided with appropriate training on how to assess and identify when an applicant meets the Standard. In particular, staff must understand when it is appropriate to refer an application to the relevant Board for consideration.

Pathway information

The NHPO broadly supports naming the pathways to ensure that practitioners can more easily understand which pathways are likely to be relevant to them. The NHPO agrees that changes to the wording of these pathways will also assist in making the requirements for each pathway clearer for practitioners.

Combined education pathway

The NHPO suggests that the description of this pathway could be improved by clarifying that the term 'qualifications' relates to the practitioner's profession. For example, 'To qualify for this pathway, you must have a combination of secondary education and tertiary qualifications for your profession...'

Test pathway

The NHPO suggests that the description of this pathway could be improved by including reference to requirements for when the test must be taken in the summary section (and not solely in the appendix). The NHPO has received several complaints that relate to expired test scores. The test pathway could also be improved by clarifying the term 'qualifications' as outlined above.

Advanced education pathway

The consultation paper acknowledges that the extended education pathway was “relatively difficult for applicants to understand and staff to apply.” The NHPO welcomes changes to clarify the requirements for advanced education undertaken by applicants.

However, the NHPO is concerned that the alternative explanation of the pathway may lead to continued confusion about this pathway. The pathway includes requirements that:

- a maximum of two years is allowed between the applicant gaining their qualifications and the advanced education
- an application for registration must be made no more than two years after the applicant completed their last period of education.

The NHPO notes that there is a lack of clarity about the rationale for these changes or detail about their application. For example, does ‘last period of education’ refer to the applicant completing their qualification? Is there a maximum time limit for when the applicant must have completed the relevant qualification? Without clearer definition of these timeframes and requirements, application of the Standard is likely to remain complex and confusing for both applicants and Ahpra staff.

The NHPO notes that there is also little information available about why it appears that the requirement for applicants to demonstrate ‘continuous’ education has been removed. In addition, it is unclear whether the NMBA also intends to remove this requirement from the NMBA Standard. The NHPO suggests that the lack of clarity about the rationale for these changes reiterates the importance of a broader review of the existing criteria for recognition. This issue is also further examined below in relation to the definition of ‘full-time equivalent.’

Definitions

Based on specific issues identified by the NHPO, it is clear that some of the definitions currently outlined in the Standards should be updated to include relevant information to account for differing individual circumstances. The NHPO suggests that the following definitions are updated to reflect requirements in relation to the issues posed.

Full-time equivalent

In relation to the ‘Advanced education pathway’ the NHPO suggests that further information should be included in relation to what ‘full-time equivalent’ means. This was previously recommended by the NHPO regarding the NMBA Standard. Based on common concerns the NHPO hears, this should be updated to clarify:

- whether additional courses completed over a summer semester can be counted as an additional period of time (in addition to the standard semesters in a year)
- whether failed subjects or semesters can be counted towards the education required for the Standards, and also what impact completing the same subject again (to pass the subject) will have

- how periods of study are calculated. For example, whether study must be active or passive (that is, where a student is enrolled in a course but has deferred a subject or subjects) or whether a course is complete or incomplete.

The NHPO suggests that removal of the word ‘continuous’ from this pathway does not alleviate the definitional issues outlined above given the issues relate to the calculation of relevant time periods.

The NHPO notes that the NMBA policy provides several further restrictions on how the NMBA Standard is applied. These are generally in relation to the ‘determining full time equivalence’ definition, and include that:

- the study can be completed either part-time or full-time; however, the evidence of combined studies completed must be equal to what a full-time student would complete in a five-year period
- concurrent education may be taken into account but must not be counted for more than one full-time equivalent load. For example, where an applicant has studied two programs over a year concurrently, one at half full-time equivalent and the other at three quarters full-time equivalent, this would equal one full-time equivalent for one year
- the education provided must have been undertaken primarily face to face and required students to use English language speaking, writing, reading and listening skills
- failed subjects and ‘recognised prior learning’ are not counted towards a full-time course load.

The NHPO notes the consultation paper states the NMBA will align “definitions where workable” and adopt “minor changes to refine and clarify wording and expression.” The NHPO suggests that these definitional issues should be addressed and considered when updating the NMBA Standard and its policy.

Providing explanations

The NHPO reiterates its previous suggestions that Ahpra and the Boards focus on providing a clearer explanation to applicants about why they did not meet the relevant Standard. This is particularly needed in circumstances where the applicant did not meet a pathway due to issues with the assessment of credits for completed education or the interpretation of full-time equivalency requirements. For example, Ahpra could provide a breakdown of how education was assessed and calculated, and its procedure for doing so.

Providing appropriate reasons for a decision is an essential component of a fair process for applicants. When practitioners are informed about why a decision was made, it can help them to:

- understand what facts or reasoning were used to come to the decision
- see whether the information they provided or arguments they put forward were understood, and whether they were appropriately considered
- decide whether to make a complaint.

The NHPO also supports a focus on providing comprehensive information to practitioners about any revisions to the Standards. The NHPO particularly supports the creation of:

- flowcharts to guide applicants in determining which pathway is best for them

- guides which set out the specific requirements by pathway. The NHPO suggests that a focus on providing case studies and examples of the pathways in action would be very beneficial.

English language test costs

The NHPO reiterates its previous suggestion that Ahpra and the NMBA provide clear and easy to understand information to applicants about the accepted English language tests and accepted test providers.

The NHPO also highlights its previous suggestion that Ahpra consider providing compensation to practitioners who are required to re-sit an English language test because their previous result expired while their application was being assessed if there was significant delay on Ahpra's part.

English language test availability

The NHPO suggests that Ahpra and the Boards take account of the unique situation created by the pandemic when revising the Standard. The pandemic resulted in English language test providers increasing the availability of different test types, including 'at home tests' for the Pearson PTE Academic test, IELTS test, TOEFL iBT test and OET test.

The NHPO notes that the Boards have approved a temporary position to accept three new types of English language tests. In February 2022 Ahpra announced that the Boards would accept the TOEFL iBT@Home Edition test for applications received until June 2022 (later updated to June 2023) and the OET computer-based test and the OET@home test for applications received until 1 June 2023. When the temporary position was published, the OET computer-based test and OET@home test had been available worldwide for approximately 16 months. The GMC accepted the OET@Home test from July 2020 and the Nursing and Midwifery Council from September 2020 for practitioners in those professions seeking registration in the United Kingdom. It appears that there was a significant delay in Ahpra and the Board's consideration of the adequacy of these tests, particularly given the unique challenges for travel and accessing testing sites during the pandemic.

The NHPO is concerned that the proposed revised Standard does not mention or account for these changes in the delivery of English language tests or indicate whether the Boards' temporary position will be made permanent. Instead, the consultation paper suggests that the Boards "will continue to assess whether to accept these tests." This appears to be at odds with the current situation whereby the Boards have:

- already accepted applications based on these testing types for approximately six months
- decided to continue accepting applications based on these testing types until June 2023.

The NHPO suggests that, if the Boards have a sufficient evidentiary basis for determining that these new test formats are acceptable on a temporary basis, then the relevant assessment criteria and rationale for the tests' acceptance should be shared, and the Standard updated to reflect this.

Suggestions for improvement

- Ahpra and the Boards review relevant policies alongside the Standards to ensure consistency.
- Ahpra and the Boards consider the NHPO's recommendations for further clarifying the pathways and relevant definitions to reduce confusion and ambiguity.
- Ahpra and the Boards consider whether all Boards should adopt a shared policy and include a review of this policy alongside this consultation process.
- The Boards determine as soon as possible whether acceptance of three new types of English language tests will be ongoing and update the Standard accordingly.

Broader registration-related concerns

The NHPO notes that complaints related to the Standards often raise similar issues to other registration-related complaints. This includes complainants raising concerns about delay in Ahpra's management of a registration matter and Ahpra not providing adequate communication or responding to them.

Complainants often raised concerns about delay and its knock-on effects in relation to the Standards, including concerns that they had lost an opportunity (such as a job or graduate offer) because of a delay in becoming registered. For example, a complainant shared with the NHPO that they had not been notified that their assigned registration officer was no longer employed by Ahpra (which contributed to a delay in processing their application).

Although not specifically discussed in this submission, it is important to recognise that the Ombudsman and Commissioner has also previously provided suggestions for improvement in relation to these areas which require ongoing improvement.

Contact details

The NHPO has welcomed the opportunity to provide this submission on the proposed revised Standards.

Please contact the NHPO for further information about this response.

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