



## Attachment D – Submissions template

### Public consultation: Review of the Criminal history registration standard and other work to improve public safety in health regulation

The Australian Health Practitioner Regulation Agency (Ahpra) and the National Boards are inviting stakeholders to have their say as part of our review of the *Criminal history registration standard* (the criminal history standard). There are 19 specific questions we'd like you to consider below (with an additional question 20 most relevant for jurisdictional stakeholders). All questions are optional, and you are welcome to respond to any you find relevant, or that you have a view on.

Your feedback will help us to understand what changes should be made to the criminal history standard and will provide information to improve our other work.

Please email your submission to [AhpraConsultation@ahpra.gov.au](mailto:AhpraConsultation@ahpra.gov.au)

The submission deadline is close of business **14 September 2023**

#### How do we use the information you provide?

The survey is voluntary. All survey information collected will be treated confidentially and anonymously. Data collected will only be used for the purposes described above.

We may publish data from this survey in all internal documents and any published reports. When we do this, we ensure that any personal or identifiable information is removed.

We do not share your personal information associated with our surveys with any party outside of Ahpra except as required by law.

The information you provide will be handled in accordance with [Ahpra's privacy policy](#).

If you have any questions, you can contact [AhpraConsultation@ahpra.gov.au](mailto:AhpraConsultation@ahpra.gov.au) or telephone us on **1300 419 495**.

#### Publication of submissions

We publish submissions at our discretion. We generally [publish submissions on our website](#) to encourage discussion and inform the community and stakeholders about consultation responses. Please let us know if you do not want your submission published.

We will not publish on our website, or make available to the public, submissions that contain offensive or defamatory comments or which are outside the scope of the subject of the consultation. Before publication, we may remove personally identifying information from submissions, including contact details.

We can accept submissions made in confidence. These submissions will not be published on the website or elsewhere. Submissions may be confidential because they include personal experiences or other sensitive information. A request for access to a confidential submission will be determined in accordance with the *Freedom of Information Act 1982* (Cth), which has provisions designed to protect personal information and information given in confidence. Please let us know if you do not want us to publish your submission or if you want us to treat all or part of it as confidential.

**Published submissions will include the names of the individuals and/or the organisations that made the submission unless confidentiality is expressly requested.**

Australian Health Practitioner Regulation Agency  
National Boards

GPO Box 9958 Melbourne VIC 3001 [Ahpra.gov.au](http://Ahpra.gov.au) 1300 419 495

Ahpra and the National Boards regulate these registered health professions: Aboriginal and Torres Strait Islander health practice, Chinese medicine, chiropractic, dental, medical, medical radiation practice, midwifery, nursing, occupational therapy, optometry, osteopathy, paramedicine, pharmacy, physiotherapy, podiatry and psychology.

## Initial questions

*To help us better understand your situation and the context of your feedback please provide us with some details about you. These details will not be published in any summary of the collated feedback from this consultation.*

### Question A

Are you completing this submission on behalf of an organisation or as an individual?

#### Your answer:

Organisation

Name of organisation: Australian Psychological Society

Contact email: [REDACTED]

Myself

Name: [Click or tap here to enter text.](#)

Contact email: [Click or tap here to enter text.](#)

### Question B

If you are completing this submission as an individual, are you:

A registered health practitioner?

Profession: [Click or tap here to enter text.](#)

A member of the public?

Other: [Click or tap here to enter text.](#)

### Question C

Would you like your submission to be published?

Yes, publish my submission **with** my name/organisation name

Yes, publish my submission **without** my name/ organisation name

No – **do not** publish my submission

## Focus area one – The Criminal history registration standard

### Question 1

The *Criminal history registration standard (Attachment A)* outlines the things decision-makers need to balance when deciding whether someone with a criminal history should be or stay registered such as the relevance of the offence to practice, the time elapsed and any positive actions taken by the individual since the offence or alleged offence. All decisions are aimed at ensuring only registered health practitioners who are safe and suitable people are registered to practise in the health profession.

Do you think the criminal history standard gets this balance right?

If you think the *Criminal history registration standard* does not get this balance right, what do you think should change to fix this?

### Your answer:

The decision-makers and the process to ensure that there is inter-rater consistency is not clearly defined. Without this, there appears to be room for inconsistency.

More specific information about what type of crime is considered serious would be helpful if, in plain language, it was clearly evident which particular crimes would prevent someone from registering as a health professional. For example, if someone has been found guilty of murder, can they register as a health professional? Under what conditions would this be possible? Some clear boundaries, especially with more extreme criminal offences, would make it easier for the public and prospective health professionals to have a sense of Ahpra's decision-making around this.

The standard notes, "the factors considered relevant for practice might sometimes be given different weight, depending on the profession. For example, a decision-maker may decide that a criminal history regarding driving offences is irrelevant to a registered nurse working in an operating theatre, but the same criminal history could be very relevant to a paramedic whose work requires them to drive an ambulance".

This highlights how decision-making can be significantly flawed depending on the decision-makers understanding and considerations at the time. Community nurses, for example, may drive at a similar rate as a paramedic drives. Once registered, will the regulator continue to monitor work roles with consideration to the position and the offence? That is, if a nurse were to change from a theatre role to a community role which required driving, would the relevance of the offence be considered, and outcome potentially be altered?

### Question 2

Do you think the information in the current *Criminal history registration standard* is appropriate when deciding if an applicant or registered health practitioner's criminal history is relevant to their practice? If not, what would you change?

### Your answer:

The standard does not clearly define when the criminal history would be relevant therefore does not create a standardised approach. More detailed information would be helpful so that the public and health professionals understand what is considered relevant. If a person has domestic violence charges against them, does this impact their work as a health professional? Some clear guidance and specific examples would be helpful for practitioners and the public alike.

### Question 3

Do you think the information in the current *Criminal history registration standard* is clear about how decisions on whether an applicant or registered health practitioner's criminal history is relevant to their practice are made? If you think it is not clear, what aspects need further explanation?

<b>Your answer:</b>
A list of the types of crimes that are considered relevant to different types of health practice would be useful; as would a clear definition of “serious crime” – specifically information about the types of offences and specific types of sentences, etc.
<b>Question 4</b>
Is there anything you think should be removed from the current <i>Criminal history registration standard</i> ? If so, what do you think should be removed?
<b>Your answer:</b>
The period of time since the offence is not a mitigating factor alone. What has occurred in that time is more relevant – has the person had access to vulnerable people, opportunities for offending, rehabilitation, etc is arguably more relevant. If the offence was committed against a child or vulnerable person, then the period of time since the offence is of less relevance.
<b>Question 5</b>
Is there anything you think is missing from the 10 factors outlined in the current <i>Criminal history registration standard</i> ? If so, what do you think should be added?
<b>Your answer:</b>
Information to clearly describe the decision-making process should be added. For example, is there a panel, if so, who is on the panel? Is there a time frame for making decisions? Is there an appeals process if people are unhappy with the finding/outcome? A clear, explicit process and definite time frames would increase transparency and clarity.
<b>Question 6</b>
Is there anything else you would like to tell us about the <i>Criminal history registration standard</i> ?
<b>Your answer:</b>
Clarity around whether this applies to students is required, as students of a Master of Psychology program need to apply for provisional registration. The guide states it does not apply to students, however, it seems it could apply to students who require provisional registration to complete their course.

Focus area two – More information about decision-making about serious misconduct and/or an applicant or registered health practitioner’s criminal history

**Question 7**

Do you support Ahpra and National Boards publishing information to explain more about the factors in the *Criminal history registration standard* and how decision-makers might consider them when making decisions? Please refer to the example in **Attachment B**. If not, please explain why?

**Your answer:**

Yes. In order for the public to have confidence in health professionals, they need to understand the limits that are set by Ahpra. Clarity around what kind of criminal history is accepted and what is not accepted will give people greater confidence in the limits that are being set by Ahpra.

**Question 8**

Is the information in **Attachment B** enough information about how decisions are made about practitioners or applicants with a criminal history? If not, what is missing?

**Your answer:**

The relevance to health practice could be more clearly defined. The definition of a serious criminal offence should also be more clearly articulated. A table with specific offences listed and how these are considered “serious” or “not serious” and what specific professions these offences are most relevant to would be a helpful addition.

**Question 9**

Is there anything else you would like to tell us about the information set out in **Attachment B**?

**Your answer:**

The consideration of Aboriginal and Torres Strait Islander people is a positive addition.

**Question 10**

Thinking about the examples of categories of offences in **Attachment C**, do you think this is a good way to approach decision-making about applicants and registered health practitioners with criminal history? If you think this is a good approach, please explain why. If you do not agree with this approach, please explain why not.

**Your answer:**

Overall, this is a very useful approach and offers a great deal more clarity for health professionals and the public. Generally, these categories are helpful and represent a positive addition.

It could be viewed as problematic to weigh the offences in such a way, particularly given the impact of these serious crimes. Clearly defined criteria for how crimes might result in exclusion from registration is still a much-needed addition.

**Question 11**

Do you think there are some offences that should stop anyone practising as a registered health practitioner, regardless of the circumstances of the offence, the time since the offence, and any remorse, rehabilitation, or other actions the individual has taken since the time of the offence? Please provide a brief explanation of your answer. If you answered yes, please explain what you think the offences are.

**Your answer:**

Yes.

However, it could be problematic because it may not allow for consideration of the possibility of rehabilitation and growth in the person now seeking registration as a health professional. In addition, practitioners who have a criminal history may have unique empathy and insight to offer emotionally and physically unwell clients who have committed crimes or had contact with the criminal justice system.

Having said that, serious sexual assault offences, serious assault, murder, and exploitation of vulnerable people should preclude someone from registering as a health professional.

**Question 12**

Is there anything else you would like to tell us about the possible approach to categorising offences set out in **Attachment C**?

**Your answer:**

No further comments

Focus area three – Publishing more information about decisions that are made about serious misconduct by registered health practitioners

**Question 13**

Were you aware that disciplinary decisions by tribunals about registered practitioners were published to Ahpra and National Board websites and are linked to an individual practitioner's listing on the public register?

**Your answer:**

Yes

**Question 14**

Do you think decisions made to return a practitioner to practice after their registration has been cancelled or suspended (reinstatement decisions) for serious misconduct should be published where the law allows? Please explain your answer.

**Your answer:**

If the decision to reinstate registration has occurred, then yes, this does serve a purpose.

It may also be useful to consider whether the decision to continue publishing the criminal history of a practitioner whose registration has been cancelled offers further protection for the public. This is an invasion of the practitioner's privacy and could hinder their attempts to rehabilitate themselves and pursue other careers outside of health.

**Question 15**

Is there anything else you would like to tell us about the approach to publishing information about registered health practitioners with a history of serious misconduct?

**Your answer:**

Publishing decisions need to consider the impact on practitioners.

Fear of public shaming may contribute to the difficulties practitioners experience when they require or seek help regarding conduct that could be viewed as criminal. Ahpra could consider taking a proactive approach to supporting practitioners to understand the implications of their behaviour by encouraging contact to seek information and advice.

**Focus area four – Support for people who experience professional misconduct by a registered health practitioner**

**Question 16**

What do you think Ahpra and National Boards can do to support individuals involved in the regulatory process who are affected by sexual misconduct by a registered health practitioner? (For examples, see paragraph 47 of the consultation paper.)

**Your answer:**

Reduce the time frame for the assessment of complaints and associated processes to reach a conclusion.

**Question 17**

Is there anything else you would like to tell us about how we can support individuals affected by a registered health practitioner's professional misconduct?

**Your answer:**

No further comments

Focus area five – Related work under the blueprint for reform, including research about professional misconduct

**Question 18**

Are the areas of research outlined appropriate?

**Your answer:**

Yes, there are many appropriate areas of research suggested.

**Question 19**

Are there any other areas of research that could help inform the review? If so, what areas would you suggest?

**Your answer**

It would be interesting to know what percentage of complaints about sexual misconduct are upheld. The complaints process is very stressful and difficult for health professionals. The needs of the health practitioners should also be considered here. Unfounded complaints can be distressing and cause significant losses (both reputational and financial) for health professionals who may be found innocent of any wrongdoing. This can greatly impact the mental health and well-being of health professionals.

**Additional question**

*This question is most relevant to jurisdictional stakeholders:*

**Question 20**

Are there opportunities to improve how Ahpra and relevant bodies in each jurisdiction share data about criminal conduct to help strengthen public safety

**Your answer:**

Research will determine if changes are needed in how data is shared.