

Consultation on the review of the Criminal history registration standard

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 10 specific questions we'd like you to consider below. All questions are optional, and you are welcome to respond to any you find relevant, or that you have a view on.

This consultation discusses criminal behaviour and criminal offending. This may be emotionally challenging or distressing for some people.

Information about [support services](#) for both the public and for registered health practitioners is available on the Ahpra website.

Information for people who have a [concern](#) that a health practitioner may be putting public safety at risk is also available on the Ahpra website.

Your feedback will form part of the consideration in drafting the final version of the revised criminal history standard.

Please email your submission to AhpraConsultation@ahpra.gov.au

The submission deadline is close of business **COB 30 July 2024**

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 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 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

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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.

Initial questions:

To help us better understand your situation and the context of your feedback, please provide us with some details about you.

Question A

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

☒ Organisation

Name of organisation: Australian Psychological Society

Contact email: z.burgess@psychology.org.au

☐ Individual

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

Name of organisation: [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 consumer / patient?

☐ Other – please describe: [Click or tap here to enter text.](#)

☐ Prefer not to say

Question C

Do you give permission for your submission to be published?

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

☐ Yes, publish my submission **without** my name

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

☐ Yes, publish my submission **without** both my name and organisation name

☐ No – **do not** publish my submission

Questions for consideration – The Criminal history registration standard

The National Boards are inviting general comments on the draft revised criminal history standard, and the draft supporting material, as well as feedback on the following questions.

Question 1:

Is the content, language, and structure of the proposed revised criminal history standard clear, relevant and workable? Why/why not?

Your answer:

Overall, the content, language and structure of the proposed revised criminal history standard appears clear, relevant and workable.

Question 2:

Is the standard clear that practitioners must not have a criminal history that's inconsistent with being a registered health practitioner? Why/why not?

Your answer:

From a high-level perspective, it is clear in principle that practitioners must not have a criminal history that's inconsistent with being a registered health practitioner.

Question 3:

Is it a reasonable approach for the criminal history standard to remain as a set of high-level principles with separate information about how the standard is applied? Why/why not?

Your answer:

The current approach is appropriate, in terms of the criminal history standard setting out high-level principles, with the explanatory information providing further detail on how the standard is applied. This approach has the potential to achieve the intended objective and purpose of the criminal history standard.

Question 4:

Do you support the approach to emphasise there are some offences that are usually incompatible with registration rather than including a list of 'disqualifying offences'? Why/why not?

Your answer:

In our initial submission to the *public consultation: Review of the Criminal history registration standard and other work to improve public safety in health regulation* in September 2023, we outlined that the criminal history standard would benefit from providing a list of the types of crimes that are considered relevant to different types of health practice. We note that the development of the explanatory information appears to address these concerns. The explanatory information provides more specific information about the types of crimes and how the decision makers are likely to weight the seriousness of crimes and patterns of behaviour, when considering whether the criminal history should prevent someone from registering or reregistering as a health practitioner.

Question 5:

Does the additional information in the draft criminal history adequately explain how and when the criminal history standard applies and what the requirements of the criminal history standard are? Why/why not?

Your answer:

Whilst additional information has been provided in the draft criminal history standard, this information ultimately remains at a high level. However, this is appropriate given the development of the explanatory information. When considering the criminal history standard and explanatory information in conjunction, there is further clarity around 'what' factors are included and 'how' they are likely to be considered, weighted and applied. Overall, these two documents appear to provide an appropriate level of clarity and address the concerns raised by the APS in our initial submission to the *public consultation: Review of the Criminal history registration standard and other work to improve public safety in health regulation* in September 2023.

We note that the draft revised criminal history standard provides greater clarity around its applicability to students. However, this appears to highlight some inconsistency in that the criminal history standard will only be applied if a student receives a criminal charge or conviction whilst studying (as set out in the standard), whereas the criminal history standard does not apply to students who have a historical criminal charge or conviction. This will result in the relevant Board acting against the person who received the criminal charge or conviction whilst registered as a student, but not the person whose criminal charge or conviction predates their registration as a student.

In the context of post graduate psychology students, we acknowledge that the criminal history registration standard will apply. That is, it is a requirement of approved psychology post graduate courses that students register as provisional psychologists. Therefore, for professions such as psychology which do not require student registration, a person could undertake four years of study before having their criminal history checked for registration. Where there is a criminal history incompatible with health practitioner registration it would preclude them from progressing with post graduate studies in order to become a fully registered psychologist. It is important to note this in the standard for psychology and any other health professions where this applies.

Another concern with how the standard may be applied relates to the potential for inconsistency within the decision-making process itself. It is therefore important to ensure that inter-rater inconsistency is minimised as part of the decision-making process.

Questions for consideration – Explanatory material

Question 6:

Is the content, language, and structure of the additional explanatory material to support the draft revised criminal history standard clear, relevant and useful? Why/Why not?

Your answer:

We note that the structure of the explanatory material is largely consistent with the criminal history standard. The explanatory material effectively represents a more detailed version of the criminal history standard. Overall, the content, language and structure of this additional information appears clear, relevant and useful.

Question 7:

Is there any content that needs to be changed, added or removed in the additional explanatory material? If so, please describe.

Your answer:

Overall, the content in the additional explanatory material appears appropriate.

Question 8:

Should the guidance include more information about the types of criminal offences and their potential impacts on registration?

Your answer:

As outlined in our response to Question 4, we note that in our initial submission to the *public consultation: Review of the Criminal history registration standard and other work to improve public safety in health regulation* in September 2023, that the criminal history standard would benefit from providing a list of the types of crimes that are considered relevant to different types of health practice. However, the development of the explanatory information addresses the initial concerns raised in our submission. The explanatory information provides more specific information about how the type of crime and its seriousness is considered by the decision makers to prevent someone from registering as a health professional. This information is helpful to understand the factors that are considered relevant by the decision-makers.

Questions for consideration – Both criminal history registration standard and explanatory material**Question 9:**

Would the proposed revised criminal history standard and/or the new draft explanatory material result in any potential negative or unintended effects for Aboriginal and Torres Strait Islander peoples? If so, please describe.

Your answer:

We are pleased that the criminal history standard has introduced specific considerations of the experiences of racism and inequity for Aboriginal and Torres Strait Islander peoples. As with the nature of the standard, the key concern with the standard remains the potential for inconsistency within the decision-making process itself. It is therefore important to ensure the decision-making process minimises potential negative or unintended effects for Aboriginal and Torres Strait Islander peoples.

Question 10:

Would the proposed revised criminal history standard and/or the new draft explanatory material result in any potential negative or unintended effects for people experiencing vulnerability or disadvantage? If so, please describe.

Your answer:

It may be the case that some people experiencing vulnerability and/or disadvantage are also subject to factors such as racism and discrimination. For this reason, specific considerations may need to be applied to practitioners in these circumstances. Again, it is important to ensure inter-rater consistency during the decision-making process is maintained to minimise potential negative or unintended effects for people experiencing vulnerability or disadvantage.