

**A submission to the Australian Health Practitioner
Regulation Agency on the**

**Review of
Criminal History Registration Standard &
English Language Skills Registration
Standard**

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Introduction

The Australian Psychological Society (APS) thanks the Australian Health Practitioner Regulation Agency (AHPRA) for the opportunity to comment on the public consultation paper (the Paper) on the review of the criminal history and English language skills registration standards. Responses to the review of both standards are included in this submission.

Criminal History Registration Standard

The APS made previous submissions to AHPRA about criminal history checking for health practitioners in the consultation period preceding the introduction to the National Registration and Accreditation Scheme (NRAS). The position of the Society has remained unchanged. The APS argues that renewing registrants should have to sign a declaration that they have no criminal history *or* provide information that specifies that history. Only new registrants should undergo a criminal history check.

The APS strongly supports the practice of criminal history checks for practitioners working with the most vulnerable members of the community. While the National Boards' preferred option is to maintain the status quo, the APS suggests there are several issues with the current standard that should be considered in this review. The APS has consistently raised these issues in our previous submissions.

One of the most serious concerns of the APS in relation to criminal history checks pertains to charges. Charges are not the same as convictions. It is concerning that charges can be considered in regard to a practitioner's criminal history. The notion that acquittal may not be accepted by a Registration Board is a perversion of justice.

The Boards are not a judicial body and to consider charges is unsound. It is concerning that a Board can act in place of or above the law in judging an applicant's fitness to practise on the basis of untried charges or minor convictions. Proper consideration of valid evidence with appropriate legal safeguards as found in a court of law is essential. The right of the accused to a fair trial must not be violated under the guise of protection of the public.

Recommendation

Consistent with previous APS submissions, and taking into account the 10 current criminal history check registration standards, the APS make

several recommendations in order to ensure a just and robust criminal history checking process.

In line with the argument put forward in the preceding paragraph, the APS recommends:

1. Non-weighting for charges or non-convictions in assessment of criminal history.

Additionally, in order to provide greater clarity to the 10 factors in the current standard, the APS recommends the following inclusions:

2. Consideration of the class of offence in ascending order of seriousness:
 - a) Serious indictable offences
 - b) Indictable offences heard summarily
 - c) Summary offences
3. Consideration of exclusions for the following circumstances:
 - a) Infringements not heard in the Magistrates Court
 - b) Charges for infringements to be heard in the Magistrates Courts
 - c) Offences committed under Acts which have since been repealed
4. Weighting for convictions and findings of guilt based on classes of offences committed, time lapsed and sentences imposed.

English language standards

The purpose of these standards is to ensure that the public is protected and that appropriate verbally competent health practitioners are delivering services. The APS is not aware of any pertinent limitations to the current registration standard. While it is important for these standards to be high, there are additional elements pertaining to psychology that were not present at the time of the drafting of this standard. These need to be considered in this review:

- The minimum period of provisional registration required of most overseas trained applicants
- The National Psychology Exam.

Since July 2010 when the National Registration and Accreditation Scheme (NRAS) commenced, the Psychology Board of Australia's processes for the registration for overseas trained psychologists have slowly been developed. As it currently stands, overseas trained applicants are usually required to apply for provisional registration to enable them to complete a period of supervised practice (usually a 3-month program) and this forms one step in the process to be deemed eligible to apply for general registration.

The other step towards general registration is the successful completion of the National Psychology Exam which must be undertaken by all applicants whose qualifications are from outside Australia. The examination assesses applied psychological knowledge which forms a significant basis of competence in the profession.

Both of these elements have been introduced to ensure consistent national professional standards for psychologists. These elements also form a method of 'checks and balances' for English language skills. That is, it is unlikely that an individual could successfully complete the exam or internship without a competent level of English language proficiency. While the APS still supports an English Language Skills Standard, it must now be considered in the context of other requirements of overseas trained psychologists.

The APS recommends that the Board consider how factors such as the National Psychology Exam contribute to ensuring that overseas trained practitioners are sufficiently 'vetted' before being deemed suitable to practise. The requirement that applicants from outside Australia undertake 3 months compulsory supervised practice in addition to sitting the National Psychology Exam is likely to ensure that any applicant to the Psychology Board will possess English language proficiency at a level that can ensure public safety.