

## 2 Criminal History Standard

To ensure that PACFA's Register meets its regulatory obligation for supporting public safety, this registration standard sets out the requirement for the declaring of your criminal history.

This standard also outlines the factors PACFA will consider in deciding the relevance of a counsellor's, psychotherapist's, or Indigenous Healing Practitioner's criminal history to the practice of the profession, and the likelihood of the practitioner's criminal history bringing PACFA or the profession into disrepute.

### Does this standard apply to me?

This standard applies to all applicants for registration and all registered counsellors, psychotherapists and Indigenous Healing Practitioners.

### When you apply for registration

The provision of a current [Nationally Coordinated Criminal History Check](#) (formerly National Police Check) is required as part of your application.

For identification purposes, the Nationally Coordinated Criminal History Check must have the same name and date of birth as you are using in your application and the Nationally Coordinated Criminal History Check must be dated no earlier than three months prior to your application.

As PACFA does not support practitioners working with children and young people (up to the age of 18 years) without having gained a valid Working With Children Check clearance, applicants who work with children should upload evidence of their Working With Children Check into their Member Records section in the PACFA Member Portal.

### While you hold registration

If a variation in your criminal history occurs whilst you are registered, you are to advise PACFA within 30 days.

If you commence working with children and young people whilst registered, you should upload evidence of your valid Working With Children Check clearance into your Member Records section in the PACFA Member Portal.

If your Working With Children Check expires and you are continuing to work with children and young people, evidence of your renewed Working With Children Check should be uploaded into your Member Records section in the PACFA Member Portal.

## At renewal of registration

When renewing your registration, you are required to provide details and copies of relevant documentation if, in the previous 12 months, you have had a criminal conviction recorded against you, or you are currently under investigation by state, territory, federal or international police.

## Factors to be considered

While every case will be decided on an individual basis, PACFA will be guided by 10 defined factors outlined in the *AHPRA Registration standard: Criminal history (2015)* to ascertain whether or not an applicant or practitioner's criminal history is relevant to the practice of our profession, and the likelihood of the practitioner's criminal history bringing PACFA or the profession into disrepute.

**1. The nature and gravity of the offence or alleged offence and its relevance to health practice**

The more serious the offence or alleged offence and the greater its relevance to health practice, the more weight the Board will assign to it.

**2. The period of time since the health practitioner committed, or allegedly committed, the offence**

The Board will generally place greater weight on more recent offences.

**3. Whether a finding of guilt or a conviction was recorded for the offence or a charge for the offence is still pending**

In considering the relevance of the criminal history information, the Board is to have regard to the type of criminal history information provided. The following types of criminal history information are to be considered, in descending order of relevance:

- a. convictions
- b. findings of guilt
- c. pending charges
- d. non-conviction charges; that is, charges that have been resolved otherwise than by a conviction or finding of guilt, taking into account the availability and source of contextual information which may explain why a non-conviction charge did not result in a conviction or finding of guilt.

**4. The sentence imposed for the offence**

The weight the Board will place on the sentence will generally increase as the significance of the sentence increases, including any custodial period imposed. The Board will also consider any mitigating factors raised in sentencing, where available, including rehabilitation.

**5. The age of the health practitioner and of any victim at the time the health practitioner committed, or allegedly committed, the offence**

The Board may place less weight on offences committed when the applicant is younger, and particularly under 18 years of age. The Board may place more weight on offences involving victims under 18 years of age or other vulnerable persons.

6. **Whether or not the conduct that constituted the offence, or to which the charge relates, has been decriminalised since the health practitioner committed, or allegedly committed, the offence**  
The Board will generally place less or no weight on offences that have been decriminalised since the health practitioner committed, or allegedly committed, the offence.
7. **The health practitioner's behaviour since committing or allegedly committing the offence**  
Indications that the offence was an aberration and evidence of good conduct or rehabilitation since the commission, or alleged commission, of the offence will tend to be a mitigating factor. However, indications that the offence is part of a pattern of behaviour will tend to have the opposite effect.
8. **The likelihood of future threat to a patient of the health practitioner**  
The Board is likely to place significant weight on the likelihood of future threat to a patient or client of the health practitioner.
9. **Any information given by the health practitioner**  
Any information provided by the health practitioner such as an explanation or mitigating factors will be reviewed by the Board and taken into account in considering the health practitioner's criminal history.
10. **Any other matter that the Board considers relevant**  
The Board may take into account any other matter that it considers relevant to the application or notification. A Board will not require an applicant or registered health practitioner to provide further information that may prejudice their personal situation pending charges and the Board must not draw any adverse inference as a result of the fact that information has not been provided.

**Note:** the above factors have been numbered for ease of reference only. The numbering does not indicate a priority order of application.

## Definitions

**Criminal history** is defined in the National Law as:

- › every conviction of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law;
- › every plea of guilty or finding of guilt by a court of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law and whether or not a conviction is recorded for the offence;
- › every charge made against the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law.

Under the National Law, spent convictions legislation does not apply to criminal history disclosure requirements. This means that when making a declaration about criminal history, applicants and registered health practitioners must declare their entire criminal history, from Australia and any other country, including any spent convictions. *AHPRA Registration standard: Criminal history (2015)*.

## Data security

Data security is taken seriously by PACFA. The platform PACFA uses for our membership database and website incorporates the highest-level data security measures.

PACFA's member platform, iMIS EMS, has been certified under the International Organisation for Standardisation's (ISO) global standards for information security management systems.

Advanced Solutions International (ASI), the company that owns iMIS, has had our iMIS version certified against the standard which 'specifies the requirements for establishing, implementing, maintaining and continually improving an information security management system within the context of the organisation.'

The standard also includes requirements for the assessment and treatment of information security risks tailored to the needs of the organisation.

[ASI believes that iMIS is the only platform of its kind to have achieved this benchmark,](#) representing the highest standard for information security.

While ASI meets the highest standard of information and data security, it is important that registrants take their own steps to protect their personal information, by not sharing their login and password.

## Review

This registration standard will be reviewed at least every 3 years.

Next review date: March 2026

This standard is effective from March 2023.