

# Consultation form

This form will assist you to make a submission to the National Health Practitioner Ombudsman (the Ombudsman) regarding her own motion investigation into delay and procedural safeguards for health practitioners subject to immediate action.

## Completing this form

We have designed this form to be accessible for as many people as possible. Where the form offers a choice between multiple options, indicate your selection with an 'x'.

Space is provided to respond to the questions listed.

**Please return your completed form by 5.00pm on Monday 31 March 2025 via email or post to:**

**Email:** <submission@nhpo.gov.au>

**Mail:** National Health Practitioner Ombudsman, GPO Box 2630, Melbourne, VIC 3001

You can also contact us by phone if you have any questions or to make a verbal submission: 1300 795 265 (interpreter services: 131 450).

## How will information I provide in this form be used?

Your submission will help the Ombudsman's investigation to understand more about how immediate action-related processes are working, and whether improvements are needed.

We will not disclose your personal information without your consent, except where required to do so by law. Your submission will not be published, and we will not share your submission with the Australian Health Practitioner Regulation Agency (Ahpra) or the National Boards.

You are not required to provide any personal information in order to make a submission to the Ombudsman. Where you choose to provide personal information, we may use it to seek clarification on your submission, or to request your consent to reproduce information contained in your submission as part of the Ombudsman's final report.

If you provide your contact details, we will provide an update when the investigation's report is published (based on your communication preferences) and if relevant, at other key progress points.

Our office is dedicated to ensuring appropriate protection of personal information. For more information about how we collect and handle personal information please review our [privacy policy](http://www.nhpo.gov.au/privacy-and-confidentiality) on our website: <www.nhpo.gov.au/privacy-and-confidentiality>.

If you have a question regarding the submissions process or your privacy, or if you would like to request alternative arrangements to provide a submission, please contact us using the details outlined above.

## About you

### Do you wish to remain anonymous?

You can make a submission anonymously. However, this means that we will not be able to contact you about your submission. Please note that if you choose to make your submission by email, we may be able to identify you from your email address. To remain anonymous, please post your submission.

Yes		No	X
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If **Yes**, please go to [‘Your submission’](#).

If **No**, please continue below.

### Are you making a submission on behalf of an organisation/someone else?

I am making a submission on behalf of an organisation	X
I am making a submission on behalf of another person	

If you selected one of these options, please continue below.

If none of these are applicable to you, please go to [‘Your contact details’](#).

Please fill out the details of the organisation or person on whose behalf you are making a submission

Organisation/Individual's name	Royal Australian College of General Practitioners (RACGP)
Please provide their contact details (if relevant)	<a href="mailto:healthreform@racgp.org.au">healthreform@racgp.org.au</a>

**If you are making a submission on behalf of an individual, what is the nature of the relationship between you?**

Please specify	N/A
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### Your contact details

This section is for your own contact details.

What is your full name?

Samantha Smorgon
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How would you prefer us to contact you?

Phone		Email	X	Post		Other	
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Please provide your contact details based on your preference/s for communication (for example, your email address and/or phone number).

[healthreform@racgp.org.au](mailto:healthreform@racgp.org.au)

## Are you, or have you been, a registered health practitioner?

Please select 'N/A' if you are making a submission on behalf of an organisation or individual.

Yes		No		Prefer not to say		N/A	X
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If you selected 'Yes', please continue below.

If you selected an option other than 'Yes', please go to ['Your submission'](#).

## Have you ever been subject to immediate action?

Yes		No	
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## Your submission

The Ombudsman welcomes submissions from all individuals and organisations. In particular, the Ombudsman seeks to understand how immediate action-related processes are working in practice, and your experience or knowledge about:

- timeliness in the management of matters following immediate action being taken
- safeguards to ensure practitioners are treated fairly when immediate action is in place.

Where possible, please include relevant examples or data in your responses.

## Please provide your responses to the following consultation questions.

### General comments

The Royal Australian College of General Practitioners (RACGP) welcomes the opportunity to provide a submission to the National Health Practitioner Ombudsman (NHPO) on practitioners who are subject to immediate action.

The RACGP is the voice of specialist general practitioners (GPs) representing more than 50,000 members in our growing cities and throughout rural and remote Australia. For more than 60 years, we have supported Australia's health system by setting the standards for education and practice and advocating for better health and wellbeing for all Australians.

Our core commitment is to support GPs from across the entirety of general practice to address the primary healthcare needs of the Australian population. The RACGP trains more than 90% of Australia's GPs including those in rural and remote areas.

The RACGP supports the National Registration and Accreditation Scheme's (NRAS) core objective of providing for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered. We recognise that in some cases, the Australian Health Practitioner Regulation Agency (Ahpra) and National Boards will be required to

take immediate action in relation to a registered health practitioner's registration while an investigation is on foot in relation to that health practitioner.

The RACGP's submission outlines suggestions to increase transparency in regulatory decision-making and ensure that public protection is appropriately balanced with affording procedural fairness to registered health practitioners that are the subject of immediate action.

## 1. Do you think Ahpra and the National Boards handle matters where a health practitioner is subject to immediate action in a timely way?

Please explain your answer. You may wish to explain what your expectations for timeliness are, and whether your expectations have been met.

The RACGP has concerns about the timeliness of investigations about registered health practitioners where immediate action has been taken in relation to those health practitioners. While immediate action itself is often implemented swiftly, the subsequent investigation and resolution of these matters often extends far beyond what could reasonably be considered 'as quickly as practicable' under section 162 of the Health Practitioner Regulation National Law (as in force in each state and territory) (National Law).

A guiding principle of the NRAS under s 3A(2)(a) of the National Law is that the scheme is to operate in a transparent, accountable, efficient, effective and fair way. It appears Ahpra is allowed overly generous timeframes to determine how to respond to concerns raised about a practitioner. While the RACGP fully acknowledges the complexity of some investigations, current timeframes exceed reasonable expectations and appear inconsistent with the National Law's requirements. Delays in progressing investigations also impact a practitioner's ability to demonstrate recency of clinical practice to maintain their registration.

## 2. Are you aware of any barriers to the timely finalisation of a matter where a practitioner is subject to immediate action?

Please explain your answer. If you identify any barriers, please describe whether you think these barriers relate to Ahpra and the National Boards' processes or are outside their control.

- **Investigative delays:** Delays in timely finalisation of matters are experienced as a result of delays in Ahpra collecting relevant information in the course of an investigation. These delays are often experienced due to Ahpra's inability to source expert opinions in a timely manner. This can have a significant impact on practitioners and their patients, with appointments needing to be moved to accommodate these changes.
- **Investigative inefficiencies:** It appears that Ahpra does not prioritise investigations that relate to health practitioners that are the subject of immediate action restrictions. Ahpra's resources appear stretched, with investigators managing large caseloads across varying complexity levels. Cases involving immediate action should receive priority resourcing.
- **Multi-agency coordination challenges:** When investigations require information from third parties (hospitals, health services, police, coroners etc), significant delays frequently occur. These entities operate under different timeframes and priorities, creating coordination difficulties.
- **Concurrent investigations:** The RACGP appreciates that the Ombudsman is not investigating the immediate action processes undertaken by the Office of the Health Ombudsman in Queensland (OHO) and bodies in New South Wales, including the Health Professional Councils Authority (HPCA) and Health Professional Councils, as part of this consultation. However, there are

co-regulatory arrangements in place in these jurisdictions and it is possible that practitioners may have been subject to Ahpra's immediate action processes. Any concurrent investigative processes should be coordinated and aligned where possible to ensure a more streamlined pathway.

### 3. Do you think improvements are needed to ensure matters are handled more quickly when a practitioner is subject to immediate action?

Please explain your answer. If you think improvements are needed, please describe the improvements you think would be beneficial.

Yes, improvements are needed to ensure immediate action cases are prioritised. Possible changes for consideration include:

- **Establish maximum timeframes for investigations:** Implement mandatory timeframes for investigation progression when immediate action is in place, with accountability mechanisms imposed by the NHPO when these are not met. Ahpra should be clearer on estimated timeframes for investigations to be resolved, with practitioners kept informed of how their case is tracking and any delays. Under s 161(3) of the National Law, the National Board must, at not less than three-monthly intervals, give written notice of the progress of the investigation.
- **Expedited investigation pathways:** Create dedicated, fast-tracked investigation pathways for cases involving immediate action, with specialised Ahpra resources to ensure prompt resolution of investigations.
- **Interim review mechanisms:** Implement structured, regular review points during investigations to assess whether immediate action remains necessary based on information gathered to date. This may include automatic review requirements of immediate action restrictions after predetermined periods (eg three, six and 12 months). Ahpra and the National Boards should develop more nuanced approaches to assessing what immediate action remains necessary throughout a longstanding investigation of a health practitioner. Each matter should be regularly reviewed on a case-by-case basis having regard to the information available in the course of the investigation.
- **Clinical handover arrangements:** Consideration must be given to ensuring there are appropriate clinical handover arrangements in place when a practitioner is subject to immediate action. Patient care may be disrupted when a practitioner has their registration suspended or cancelled, particularly when there is a lack of alternative practitioners located close by. Ahpra and the National Boards must prioritise patient safety and care coordination to minimise disruptions and ensure patients can continue to access the care they need.

#### 4. Do you think health practitioners are treated fairly when they are subject to immediate action?

Please explain your answer. You may wish to consider what you think it means to be treated fairly and whether this occurs/occurred.

While the RACGP acknowledges the necessity of immediate action in some cases, we do have some concerns about procedural fairness in immediate action matters.

- **Communication deficiencies:** Practitioners frequently report inadequate communication about investigation progress, leaving them in prolonged uncertainty. This communication gap undermines trust in the regulatory system. Practitioners subject to immediate action restrictions do not appear to receive regular updates or have any stages of the regulatory process clearly communicated to them. If this were addressed, practitioners would be able to engage legal representation and expert witnesses sooner.
- **Stigmatisation:** For practitioners with pre-existing mental health conditions, the regulatory process can be deeply stigmatising.
- **Insufficient recognition of consequences:** The system appears poorly equipped to respond to the severe impacts of prolonged restrictions on practitioners' mental health, careers, and livelihoods. The impact of the regulatory system on practitioner wellbeing has been well documented, with several cases of notifications leading to suicide by those under investigation. Practitioners must be referred to appropriate support services and provided with resources to assist them during this process.
- **Financial implications:** An inability to practise for an extended period, without a timely resolution to their case, has a significant impact on a practitioner's livelihood. The RACGP accepts that it may be necessary to take immediate action to suspend a practitioner's registration in exceptional cases, however reaching a final outcome must be a priority to give the practitioner and their patients certainty.

#### 5. Do you think there are sufficient procedural safeguards for health practitioners who have had immediate action taken against them?

Please explain your answer. Existing procedural safeguards include the 'show cause' process and the ability to appeal a decision to take immediate action to a Tribunal. You may wish to consider whether certain procedural safeguards are effective.

The RACGP has no feedback in relation to this question.

## 6. Do you think reforms or additional procedural safeguards are needed for practitioners subject to immediate action?

Please explain your answer. If you answered 'Yes', please describe what reforms or additional procedural safeguards you think are necessary and why.

Additional procedural safeguards are needed, particularly for practitioners with health-related issues. The following suggestions have been raised:

- **Separation of health and professional conduct pathways:** Implement distinct processes for health-related and conduct-related concerns, with health matters managed through therapeutic frameworks where appropriate.
- **Structured periodic reviews:** Implement mandatory periodic reviews of immediate action decisions to ensure restrictions remain necessary as new information emerges.

## 7. Please share any other information you think would be helpful to the investigation.

No further comments.

Thank you for completing this form and your contribution to this investigation.

## Access to support services

We recognise that responding to these questions may be challenging, particularly for practitioners who have been the subject of regulatory action. We encourage you to seek support if needed, including from your general practitioner or other relevant health practitioners. Further details for some available support services, including those designed to support health practitioners specifically, are provided below.

### Lifeline

Call: 13 11 14 or visit: [www.lifeline.org.au](http://www.lifeline.org.au)

### Black Dog Institute

Designed by health professionals, for health professionals, The Essential Network (TEN) makes accessing support quick, easy and confidential.

Visit: [www.blackdoginstitute.org.au/the-essential-network/about-ten](http://www.blackdoginstitute.org.au/the-essential-network/about-ten)

### Drs4Drs

Drs4Drs has been established by the medical profession for the medical profession. Through a network of doctors' health advisory and referral services, independent, free, safe, supportive and confidential services are available across Australia.

Visit: [www.drs4drs.com.au](http://www.drs4drs.com.au)

To receive this document in another format phone 1300 795 265, using the National Relay Service 13 36 77 if required, or [email us](mailto:submission@nhpo.gov.au) <submission@nhpo.gov.au>.

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