



Criminal History Policy

This policy outlines the factors that the Board of Audiology Australia will consider in deciding whether an audiologist's criminal history is relevant to the practice of audiologyⁱ. While every case will be considered on an individual basis, the following ten factors will provide the basis for the Board's considerations.

Does this Policy apply to me?

This policy applies to all audiologists who are a member of Audiology Australia or who are clinically certified by Audiology Australia (i.e. awarded a Certificate of Clinical Practice or Audiology Australia Accredited Audiologist®).

Mandatory declarations regarding criminal history is a membership requirement of the National Alliance of Self-Regulating Health Professions (NASRHP). This means that in order to be a member of NASRHP, Audiology Australia must ask all audiologists to declare their criminal history upon application or renewal of clinical certification.

Declaring your criminal history

Upon applying for, or renewing, his/her clinical certification and/or membership the audiologist is asked to declare whether or not he/she has been:

- charged with an offence punishable by 12 months imprisonment or more, or
- convicted or found guilty of an offence punishable by imprisonment in Australia and/or overseas.

Furthermore, throughout the membership and clinical certification cycle, audiologists are required to notify Audiology Australia of any changes to their criminal history.

If an audiologist declares that they have been charged, convicted or found guilty of any of the abovementioned offences, they are asked to provide details of all relevant criminal history to Audiology Australia. They may also choose to submit other supporting documentation. The Board may request an audiologist to provide, at the audiologist's expense, a criminal record check.

The Board will decide whether any matters declared by an audiologist are relevant to the practice of audiology. The declared information is considered by the Board of Audiology Australia using the ten factors described in this policy.

If you fail to declare relevant criminal history to Audiology Australia, you will be in breach of the declaration made upon membership and/or clinical certification that the information you had provided was true and correct. The Board of Audiology Australia would therefore explore possible outcomes according to the Disciplinary Process.

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Date approved:	01/06/2017	
Approved by:	Board of AudA	

What if I have previously declared relevant criminal offences to Audiology Australia?

Any information regarding criminal offences that has been previously declared to Audiology Australia and where a decision has been made by Audiology Australia's Board relating to those criminal offences does not need to be re-declared at subsequent membership and/or clinical certification renewal times.

Performing criminal history checks remains the responsibility of the employer

Audiology Australia does not perform criminal history or working with children checks on its members or clinically certified audiologists, or require that audiologists submit such checks. This responsibility remains that of the employer.

Factors that form basis of Board's consideration of criminal history

In deciding whether an audiologist's criminal history is relevant to the practice of their profession, the Board will consider the following factorsⁱⁱ:

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

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

2. The period of time since the audiologist 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 ages of the audiologist and of any victim at the time the audiologist committed, or allegedly committed, the offence.

The Board may place less weight on offences committed when the audiologist was 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 audiologist committed, or allegedly committed, the offence.

7. The audiologist's behaviour since he or she committed, or allegedly committed, 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 audiologist.

The Board is likely to place significant weight on the likelihood of future threat to a patient or client of the audiologist.

9. Any information given by the audiologist.

Any information provided by the audiologist such as an explanation or mitigating factors will be reviewed by the Board and taken into account in considering the audiologist'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 audiologist 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.

Possible outcomes following Board's consideration of criminal history

After considering the information on the audiologist's criminal history according to the ten factors described above, the Board will decide whether any matters declared by an audiologist are relevant to the practice of audiology. The Board will also decide whether or not any disciplinary action is required as according to Audiology Australia's Disciplinary Process.

Right to appeal

The audiologist has a right to appeal the decision of the Board if:

- Further evidence or information has become available that they feel might be relevant to the Board's consideration of their criminal history, or;
- The audiologist believes that the Board did not follow the correct process when determining whether their criminal history was relevant to the practice of audiology (i.e. the ten factors described above were not duly considered).

The audiologist must submit further information to the Board of Audiology Australia in support of the appeal and clearly detail why they consider that there are grounds for appeal. The Board of Audiology Australia may seek legal advice.

The Board of Audiology Australia will then reconsider the audiologist's criminal history in light of the further information and/or legal advice received. Following this reconsideration, the Board's decision is final and there are no further rights to appeal.

Definitions

Board refers to the Board of Audiology Australia.

Criminal history is defined in this policy as:

- every conviction of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this policy;
- 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 policy 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 policy.

Under this policy, spent convictions legislation does not apply to criminal history disclosure requirements. This means that when making a declaration about criminal history, applicants must declare their entire criminal history, from Australia and any other country, including any spent convictions.

If you require further information send an email to info@audiology.asn.au or phone +61 3 9877 2727

ⁱ This policy is based on the Registration Standard: Criminal history, effective from 1 July 2015 of the Australian Health Practitioner Regulation Agency (AHPRA). The AHPRA Registration Standard: Criminal history is the same across all of the professions registered under the National Registration and Accreditation Scheme (NRAS).

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