

Accredited Registers: Strengthening safeguarding

Analysis of public consultation on introducing requirements to access criminal records checks in future

8 August 2023

About the Professional Standards Authority

The Professional Standards Authority for Health and Social Care promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and voluntary registration of people working in health and care. We are an independent body, accountable to the UK Parliament.

We oversee the work of 10 statutory bodies that regulate health professionals in the UK and social workers in England. We review the regulators' performance and audit and scrutinise their decisions about whether people on their registers are fit to practise.

We also set standards for organisations holding voluntary registers for people in unregulated health and care occupations and accredit those organisations that meet our standards.

To encourage improvement we share good practice and knowledge, conduct research and introduce new ideas including our concept of right-touch regulation. We monitor policy developments in the UK and internationally and provide advice to governments and others on matters relating to people working in health and care. We also undertake some international commissions to extend our understanding of regulation and to promote safety in the mobility of the health and care workforce.

Our organisational values are: integrity, transparency, respect, fairness and teamwork. We strive to ensure that our values are at the core of our work. More information about our work and the approach we take is available at www.professionalstandards.org.uk.

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1. Introduction

Purpose of the consultation

- 1.1 This consultation gathers views and information about the potential to revise the Standards for Accredited Registers to include clearer requirements on safeguarding.

Our role and about Accredited Registers

- 1.2 The Professional Standards Authority helps to protect the public through our work with organisations that register and regulate people working in health and social care. We are an independent UK body. Our role and duties are set out in the Health and Social Care Act 2002 (as amended).
- 1.3 There are three main areas to our work:
- We oversee the work of the ten statutory bodies that regulate health and social care professionals in the UK
 - We accredit registers held by non-statutory registering bodies of health and care professionals
 - We aim to improve regulation by providing advice to UK government and others, conducting/commissioning research and promoting the principles of right-touch regulation.
- 1.4 The Accredited Registers programme was developed following the publication of the Government's Command Paper *Enabling Excellence*¹ in 2011. This paper sets out the rationale for a proportionate system of assured voluntary registration for professionals occupational groups which are not currently subject to statutory professional regulation.
- 1.5 The Health and Social Care Act sets out our functions and duties to accredit voluntary registers, these are:
- 1) to promote the interests of users of health care, users of social care in England, users of social work services in England and other members of the public in relation to the performance of voluntary registration functions,
 - 2) to promote best practice in the performance of voluntary registration functions, and
 - 3) to formulate principles of good governance in the performance of voluntary registration functions and to encourage persons who maintain or operate accredited voluntary registers to conform to those principles.
- 1.6 Section 25G of the Act sets out that to accredit a voluntary register, the Authority may assess it against criteria that it sets and publishes. A voluntary register

¹ [Enabling Excellence: Autonomy and Accountability for Health and Social Care Staff - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

under this definition is a register of people working in health care roles in the UK, and social care in England, who do not have to be regulated to work.

Changes in 2021 following a strategic review

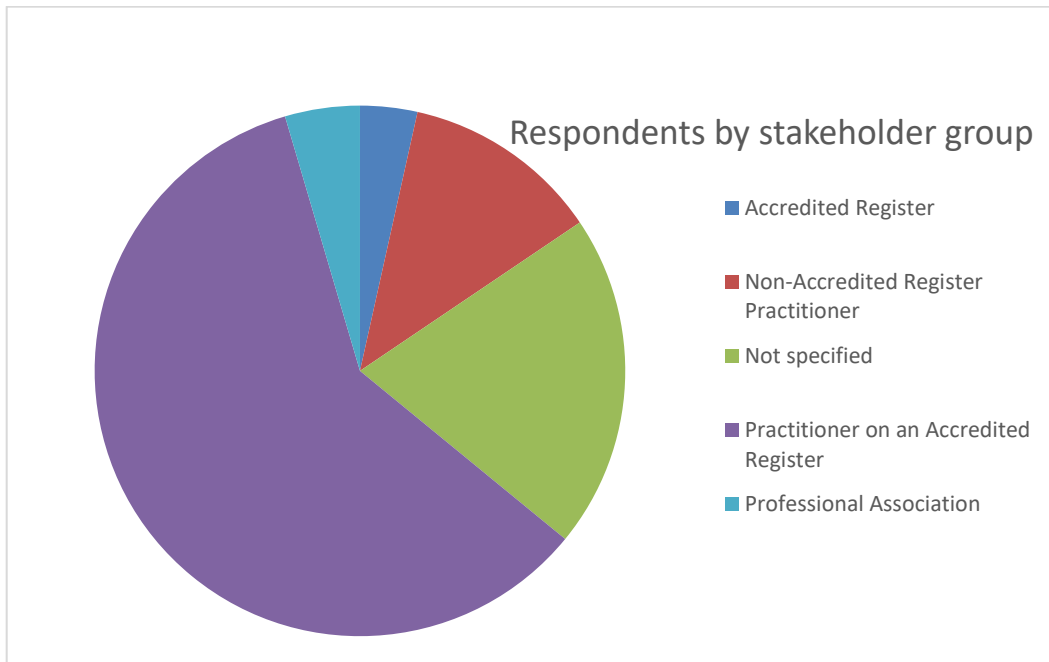
- 1.7 In July 2021, we introduced a new assessment approach, with a full assessment against the Standards once every three years, and an annual check in intervening years. We introduced a revised fees model that better reflects the varying sizes of registrant bases. We also introduced a new 'public interest test' (Standard 1b), that allows us to weigh up whether the risks of the main activities offered by registrants outweigh the benefits.
- 1.8 We introduced our revised Standards in July 2021 with an evidence framework detailing the minimum requirements for each Standard.
- 1.9 A longer-term key objective arising from the strategic review of the programme was to address a safeguarding gap in terms of criminal records checks. To date, Accredited Registers have experienced barriers in accessing enhanced criminal records checks, because they are not classed as employers. This has meant that self-employed registrants have not been subject to checks in many cases.
- 1.10 Balanced against this, accreditation is voluntary and the requirement for a criminal record check is not a legal requirement, even where someone is eligible. We are seeking views through this consultation to help us establish how to make sure that people can have confidence in the checks Accredited Registers practitioners have been subject to, whilst not adding unnecessary or duplicative burden. Added to this, the rationale for requesting information about spent convictions to be disclosed must be clear, underpinned by policies to ensure the fair treatment of people with a criminal record.

2. The consultation findings

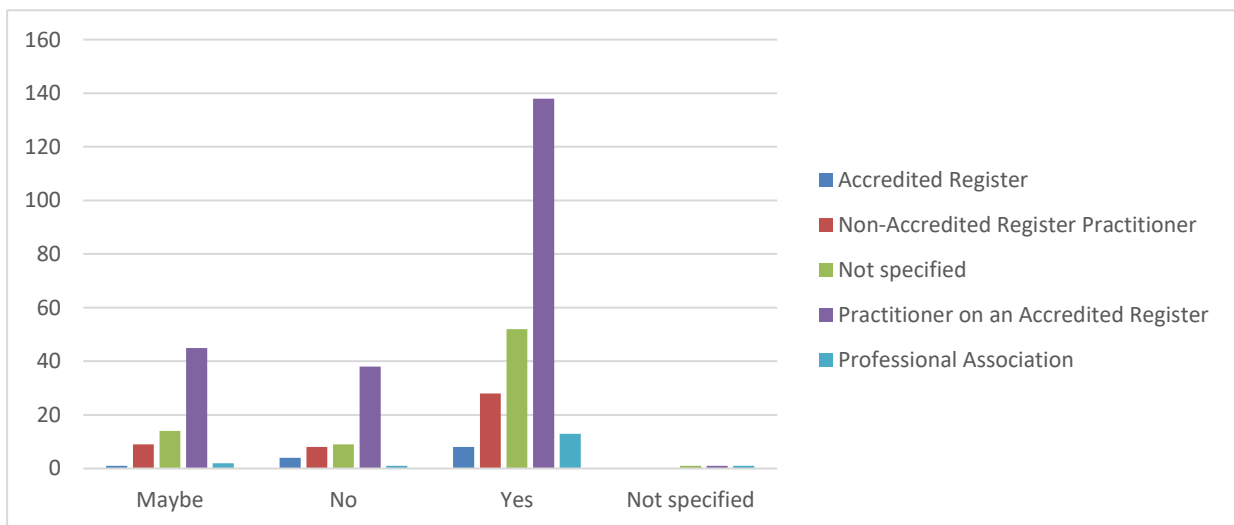
Who responded?

- 2.1 We received 374 responses to the consultation, which is a higher number than usual. The chart below shows the breakdown of responses, by stakeholder group. Most respondents, 59%, were practitioners on an Accredited Register. Of these, 70% were from the British Association of Counsellors and Psychotherapy. Although only 3% of responses overall were from Accredited Registers, 13² out of a total of 25 Accredited Registers responded (52%); 21% of respondents did not specify which group they belonged to, and this group may include members of the public. Where possible, a breakdown of responses by the different stakeholder groups has been provided for each question.

² This is lower than the 18 reported to the Board in May 2023, due to some responses being removed following further analysis as they appeared to be from different stakeholder groups.



Do you agree that having a clearer requirement for Accredited Registers to request the highest level of criminal records check that a registrant is eligible for, is important to ensure protection of the public?



2.2 Most respondents (64%) indicated that they agree with the statement while 19% of respondents indicated 'maybe' and 16% indicated that they disagreed, meaning that a third of respondents do not necessarily agree with the premise.

Themes amongst those who agreed

2.3 The most frequent reason given by those who answered yes concerned the vulnerability of patients and service users. Some also highlighted that a criminal records check appears to be a common requirement for those working with children and vulnerable adults in other sectors. Some respondents believed that

the statutory regulators already accessed criminal records checks for the healthcare professionals they register.

- 2.4 The next most popular reason given was about upholding public trust and confidence in ARs, and in the professions themselves. The comments about safeguarding the reputation of the profession appeared to echo this sentiment.
- 2.5 Some respondents mentioned that criminal records checks would improve safety for patients, and some also expressed surprise that this was not already a requirement. Many stated that this requirement would seem reasonable as it is already standard for employed registrants, and that the protocol should be uniform across the profession.
- 2.6 One of the respondents was Unlock, a national independent advocacy charity that supports people facing stigma, prejudice, and discrimination because of their criminal record. Unlock's response was informed by the views the members it surveyed. Whilst Unlock agreed that greater clarity for Accredited Registers would be helpful, caution was needed when requiring the highest level of check, which only some practitioners are eligible for under the current legislative frameworks. It highlighted the need to comply with data protection, since it is unlawful to knowingly request an ineligible check.
- 2.7 Unlock also commented that: "Checks are only a small part of safeguarding, and any over-reliance on criminal record checks can mean that other important aspects of safeguarding are ignored."

Themes amongst those who answered 'maybe'

- 2.8 Among those who answered 'maybe', there was one issue that dominated responses – that was the fact that criminal records checks only make a representation of a person at one point in time and only show who has already been caught. The general theme seemed to be apprehension over the prospect of providing a false sense of security for the public or employers using criminal records checks which only reflect the past. This may be due to a lack of awareness about processes such as the DBS' Updates System, which provides regular updates on changes to DBS status once a user is registered.
- 2.9 Then came the many procedural issues with criminal records checks. Most common was the fact that registrants across the practice areas already undergo criminal records checks from their employers when they are appointed. The difference in the need for criminal records checks to be conducted between those who are employed and those who are self-employed was often mentioned, especially that it would be harder for self-employed registrants to conduct criminal records checks. Cost was also a concern for this reason.
- 2.10 Another key concern was how the information from criminal records checks might be used. A high number of respondents felt that criminal records checks should only be relevant for abusive behaviour of other people, not for minor offences like shoplifting or drug offences, and some went further to say that even then, they should only be relevant to those who come into direct contact with clients. As with the 'no' responses, the reminder was made that using criminal records checks in

a blanket way could limit the social diversity of the professions. There were concerns raised about potential discrimination and racial bias.

- 2.11 Some respondents said that they might support this proposal depending on who carries out the check, and what the bar might be, i.e., exactly how criminal records information is applied to registrants.
- 2.12 Some registrants highlighted that their clients have never asked for this information. The reminder was made that not all registrants are based in the UK and may have committed crimes in other jurisdictions, which would not necessarily be picked up through a criminal records check.

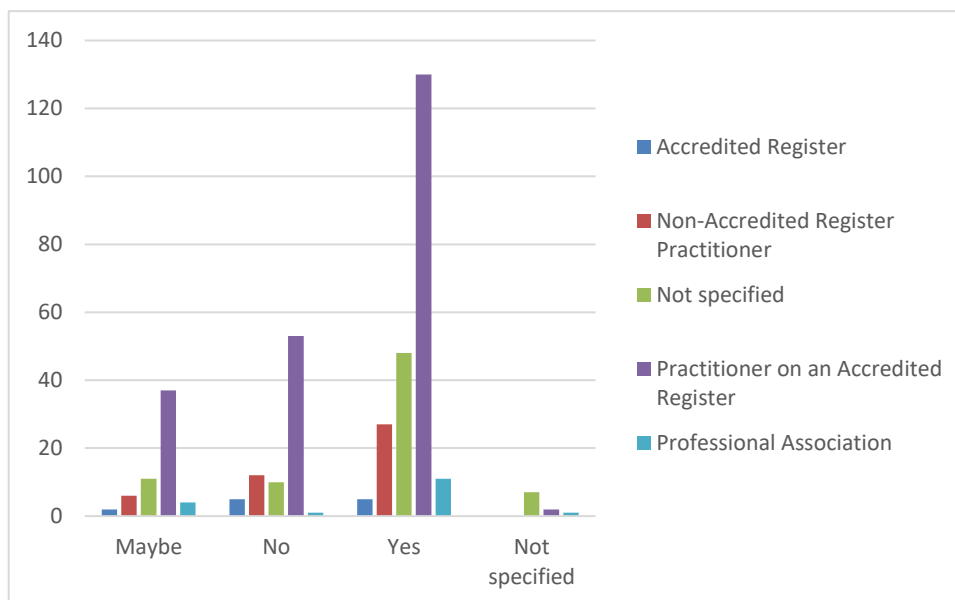
Themes amongst those who answered 'no'

- 2.13 Among those who answered 'no' a common theme given was the disproportionately negative effect of how a criminal records check requirement might affect those who have criminal convictions. This was often combined with the view that such a requirement may impede the practice of registrants who have committed crimes in the past but have reformed.
- 2.14 Another theme in responses was that criminal records checks may impede the diversity of registrants and deter otherwise qualified prospective registrants from applying to accredited registers or even the profession entirely. One respondent remarked that having a criminal record itself, and having since reformed might be an enhancement to one's professional practice in that it is something that may provide a bridge of connection between a patient and a professional.
- 2.15 The additional cost of a criminal records check was another frequently stated objection from 'no' respondents. There was concern as to who would bear that cost and the cost of administrating the check results at the ARs. This reason was almost always mentioned in conjunction with one or more other reasons rather than as a singular answer. Some respondents questioned the need for what they perceived as additional bureaucracy and administration.
- 2.16 Many respondents answered that they did not think the requirement for criminal records checks solves any existing problem, or that they were not aware of the problem that the checks would solve. Others used different language, saying instead that a criminal records check would have 'no extra value'. Some respondents said that the requirement would not be useful as such checks don't protect the public, because there are lots of other types of checks on registrants already. Temporality was another reason cited, with people commenting that criminal records checks only show who has been offended, not necessarily who poses a future risk or who has a deficient practice.
- 2.17 Two registrants responding commented that the criminal records check arrangements in Scotland appear to be sufficient; that The Disclosure (Scotland) Act 2020 aims to make the disclosure process in Scotland simpler and easier to understand. This highlights a valuable point about the importance of consistency about criminal records checks across the UK.
- 2.18 Other reasons why people did not agree with introducing criminal records checks included being perceived as irrelevant to registrants' practice, other practitioners (both those not members of an AR, and those on statutory registers) not being

required to do the same, and that prospective registrants may decide to just leave registers or professions which require such checks.

- 2.19 Overall, although some of the responses appeared to be polarised, we also observed that not all respondents appeared to interpret the question in the same way. It seems that there were different interpretations of how criminal records checks might be applied, and respondents answered based on that interpretation. This suggests that there may not be as much disagreement here as first appears, if more detail is provided on next steps.

Do you agree that having a clearer requirement for Accredited Registers to request the highest level of criminal records check that a registrant is eligible for, is important to ensure confidence in the accreditation Quality Mark?



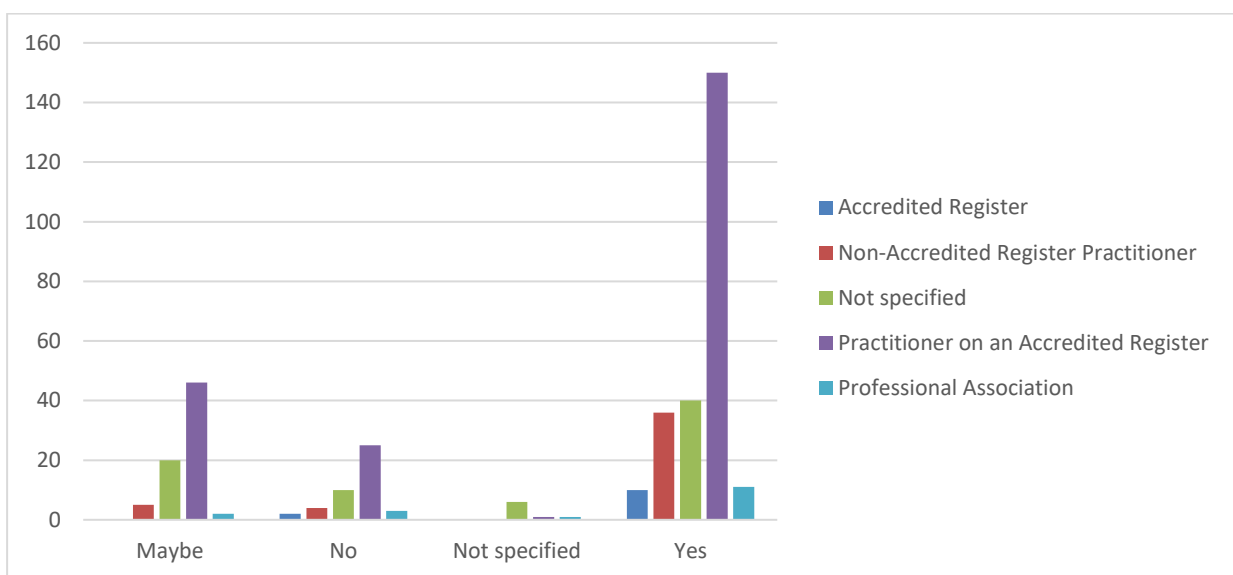
- 2.20 Responses to this question generally reflected the answers to the previous question. Out of all the responses, there was no respondent who answered no to question 2 and yes to question 3 or vice versa.
- 2.21 The specific concerns which were raised in this question mostly referred to criminal records checks not being a catch-all device for discovering criminality and unethical behaviour. There were some who mentioned the lack of awareness about the PSA which means that the PSA Quality Mark is not as strong as it could be. Some went further to say that they did not think the public would not be concerned about criminal records checks one way or another.

Do you agree that if a registrant has already been subject to an appropriate level of criminal records check by an employer, then an Accredited Register should not need to do so providing they can see evidence of this?

- 2.22 The majority (66%) of respondents agreed that if a registrant has already been subject to an appropriate level of criminal records check by an employer, then an

Accredited Register should not need to do so, providing they can see evidence of this.

- 2.23 NHS Employers, who published its response³, answered ‘maybe’ to this question. It highlighted instances in which it may not be appropriate to accept a disclosure certificate, including if it was obtained some time ago. It also recommends that since DBS disclosure certificates have no specific term of validity, ‘the most reliable way of ensuring access to the most up to date information about a person’s criminal record status and therefore enabling portability, is by encouraging them to subscribe to the DBS update service.’



Are you aware of any examples in which risk of harm to a member of the public seeking the services of an Accredited Register practitioner could have been potentially avoided, by a criminal records check?

- 2.24 Most respondents (80%) responded were not aware of any examples of harm. 2% did not answer this question, 8% responded ‘yes’, and 10% responded ‘maybe’.
- 2.25 We asked people who answered ‘maybe’ or ‘yes’ to provide examples, but not to provide sensitive personal information in their response to avoid any risk that people could be identified. None of the examples have been verified, and it is important to note that all are self-reported.
- 2.26 Most respondents (59%) who answered ‘yes’ to this question were also practitioners, although there were also two Accredited Registers. 13 respondents referred to specific examples involving one or more individuals. Where specific offences were mentioned, these were most frequently cases of sexual misconduct, fraud, and drug abuse.
- 2.27 The types of environments mentioned in the examples included two instances of training courses or placements, one person offering treatment as part of an Employee Assistance Programme (EAP) scheme, and other situations in which

³ [NHS Employers' responses to recent PSA consultations | NHS Employers](#)

people were self-employed. One referred to a practitioner on a training course accredited by an Accredited Register, whose previous offences they believed made them unsuitable for working alone with members of the public. The individual had been removed from the course, but not due to a criminal records check. One respondent, a non-Accredited Register practitioner, commented that 'I work forensically with sexual offenders, I know of several cases where a criminal record check would have prevented what was first unprofessional conduct turning into offending behaviour.'

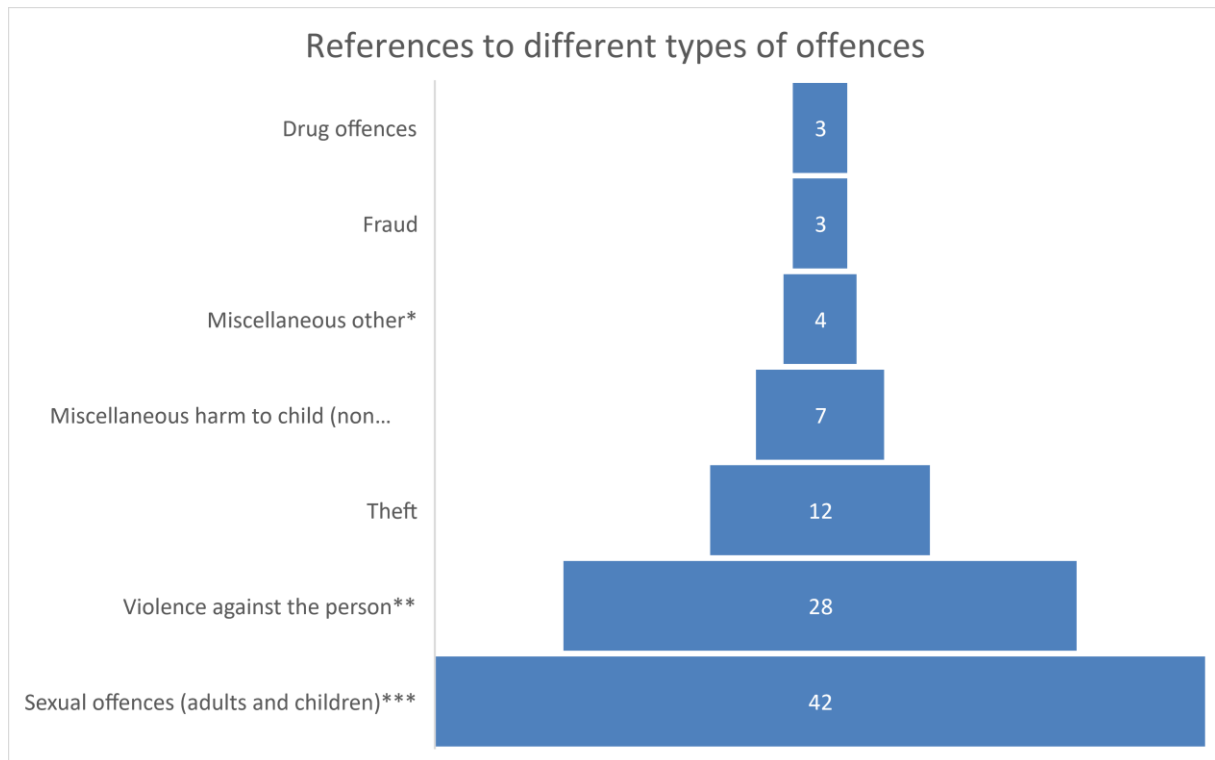
- 2.28 Of the 10% who responded 'maybe' and expanded on their answers, there were ten cases that respondents were aware of which they mentioned in relation to the question. There were other responses, but respondents either referenced cases they had heard about from others or in the past or couldn't comment further due to a confidentiality agreement that was in place at the time. Most respondents who answered 'maybe' (89%) were practitioners. One Accredited Register also selected this answer although they did not provide further details.
- 2.29 Many respondents indicated that they had answered 'maybe' due to the theoretical risks of harm, based on cases highlighted in the media or otherwise, although some gave specific examples. One practitioner who answered 'maybe' commented that they knew of a case where a convicted sex offender had changed their name by deed poll after their sentence had expired, and then worked as a self-employed tutor. It was not clear from their answer, whether they were referring to health and care or another sector. One practitioner said that clients had described 'inappropriate and predatory behaviour' by other therapists.

In cases where Accredited Registers could access enhanced criminal records checks for applicants or registrants, and detail of spent and unspent convictions, what factors do you think are important to consider in decisions by the Accredited Register about suitability to be on the Register?

- 2.30 270 respondents (73%) answered this question. Most responses focused on the types of offences that had led to a conviction, mitigating factors for when people had convictions, and the processes a Register should have in place for making decisions about suitability for registration.
- 2.31 Views about criminal convictions varied with some people suggesting that there is no conviction at all, whatever their severity, that are relevant. At the other end of the spectrum, some said that any type of conviction at all, even spent, would make someone unsuitable. Most responses fell in the middle, highlighted some types of offences that they thought were serious, but noting not all convictions would be relevant.
- 2.32 The table below shows the frequency of themes mentioned specifically by respondents as being important to consider in decisions about suitability for registration. These have been grouped into the classifications used for court proceedings in the UK.⁴ However, it should be noted that respondents weren't asked to select from these, or other categories in the consultation. The results are derived from free text comments and matched to the apparent category, by

⁴ [offence-group-classification.xls \(live.com\)](#)

the PSA. They are therefore provided as indicative of the types of offences that are likely to be considered by stakeholders as relevant to suitability decisions.



*Included five references to dishonesty, three references to abuse of a position of power or trust, and one to discrimination.

**Included four references to domestic violence and three to coercive control.

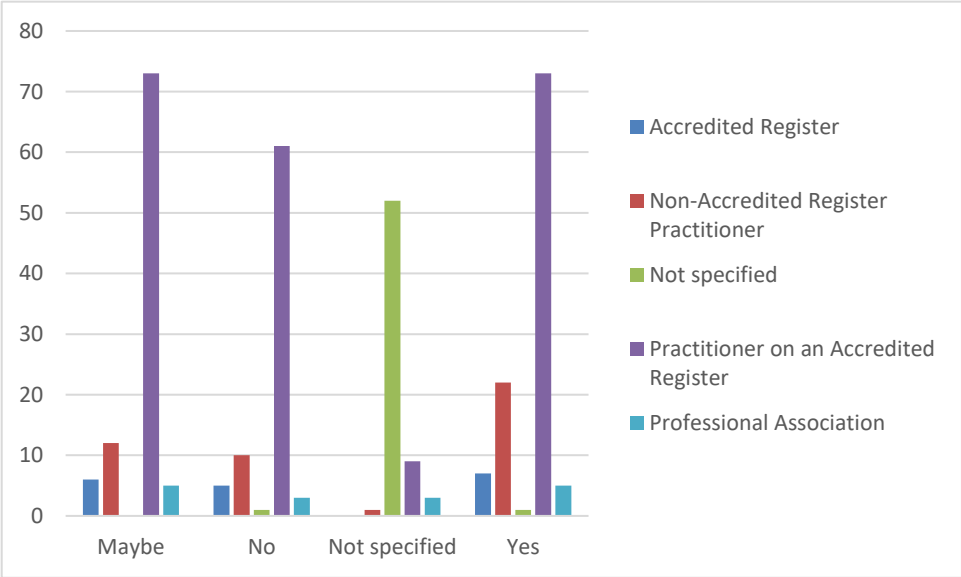
***Sexual offences in relation to children specifically were referenced seven times.

- 2.33 Generally, respondents highlighted the relevance of offences which might mean a practitioner is a risk to service users, but some also referenced the need to consider the need to maintain confidence in their profession.
- 2.34 The type of offence that people highlighted most frequently as being potentially unsuitable for being on an Accredited Register were those of a physically violent, sexual or financial nature. Within these categories and overall, offences against children and vulnerable adults were highlighted as particular considerations. Other themes which occurred frequently were dishonesty, domestic abuse, and theft. Some respondents referred to the definition of regulated activity, recognising that the current legislative framework sets out the types of work which someone on a barred list is not allowed to by law.
- 2.35 Many respondents highlighted factors that they thought should be considered when people had criminal convictions. The context of the offence was seen as important, as was the severity of the offence itself. The time elapsed since the offence, and whether the person was a minor at the time, were also highlighted. One respondent suggested that whether someone had already joined a particular profession or not, should also be considered. Whether the person had demonstrated awareness, insight and reflection and taken steps to rehabilitate into society (for the most serious offences) was also highlighted.

- 2.36 Several respondents highlighted that being able to share learnings from rehabilitation might be important in both reducing the risk of the person themselves re-offending, and in helping others through their work on an Accredited Register.
- 2.37 The importance of having fair and transparent processes for making decisions about suitability for registration when a disclosure certificate shows a previous conviction, was highlighted by many respondents. Some respondents highlighted that these decisions should be based on risk to the public. Many suggested that both the context for the offence and other mitigating factors as set out above, should be balanced against the nature of the work, such as whether a practitioner is likely to be alone with a client. This was seen as particularly important for offences that had been of a sexual or violent nature.
- 2.38 Two respondents referred to the statutory regulators, noting there should be a consistent approach and that the regulators may be a useful source of existing guidance about how such decisions are made. One response suggested the assumption that similar checks were undertaken for statutorily regulated healthcare professionals upon registration: “If there is any risk to clients from reoccurring spent convictions then the application would be denied as it would for nurses and doctors.”

Do you think that basic levels of criminal records checks, which may be accessed by anyone, should be considered for those not eligible for standard or enhanced levels of checks? (Applies to England, NI and Wales only).

- 2.39 Overall, responses to this question were split fairly evenly. 27% answered ‘maybe’, 24% answered ‘no’, 18% did not specify and 32% answered ‘yes’. The chart below shows how different stakeholders answered this question.



- 2.40 For those who provided comments, a recurring theme was the need to be clear about why a basic level check would be required, rather than introducing as a blanket, minimum requirement. Unlock commented that ‘our advice team often

hear from people who are put off applying for a job or accreditation when it is indicated that Basic checks are being carried out, as they assume it means they will be automatically excluded if they have unspent convictions’.

- 2.41 One Accredited Register raised a concern that despite a basic level check being less costly than a higher-level check, it could also be a disincentive to renew registration. They commented that ‘practitioners with something to hide are not going to apply for voluntary registration if they know a criminal record check is required.’

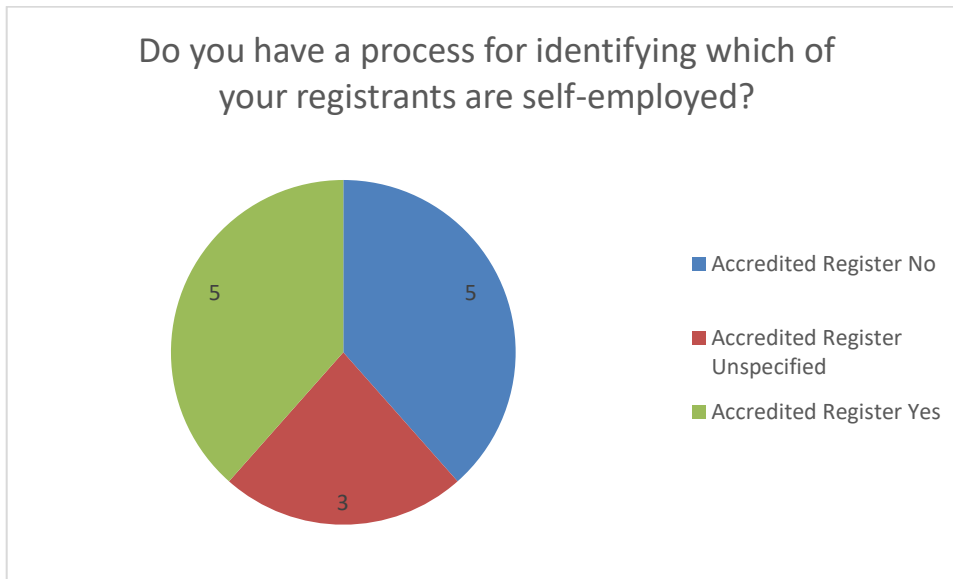
Are there any other actions you think we should take to strengthen safeguarding for users of Accredited Registers?

- 2.42 From those who responded to this question, many highlighted the need to see criminal records checks as part of the broader safeguarding framework.
- 2.43 The need to raise awareness of the programme amongst members of the public was raised most frequently. It was suggested that this would better protect the public through the existing safeguarding mechanisms that Accredited Registers have in place, such as policies for reporting concerns and raising complaints.
- 2.44 Raising awareness of the safeguarding arrangements themselves was also mentioned frequently. Some respondents suggested that the PSA and Accredited Registers should have a role in making people aware of how to report safeguarding concerns, including when appropriate to inform the police.
- 2.45 The second most frequent theme was training and Continued Professional Development (CPD) to ensure consistency of safeguarding knowledge and skills across all registrants. Many respondents suggested that this should be mandatory. Although many practitioners appear to complete this with employers such as the NHS, self-employed practitioners may not. One respondent noted that it would be important this training encompasses differences in safeguarding frameworks and legislation across the four UK countries.
- 2.46 The third highest theme was to make better use of Accredited Registers’ reporting mechanisms to share concerns about practitioners. One Accredited Register suggested there should be recognition and agreement with the relevant criminal and law enforcement agencies such as the police, when a practitioner receives a caution/conviction.
- 2.47 Three respondents suggested that statutory regulation, or protection of title, would be needed to strengthen safeguarding.

Question for Accredited Registers (ARs)

Do you have a process for identifying which of your registrants are self-employed?

- 2.48 The chart below shows how the ARs who responded to the consultation, answered this question.



If you answered ‘no’ for Question 9, would you expect any difficulties in putting a process in place to identify which registrants are self-employed?

- 2.49 The responses indicated options for new processes to identify which registrants are self-employed, such as extracting from existing registrants’ employment records, or adapting existing membership databases, would be available.
- 2.50 However, most of the responses to this question highlighted challenges with doing so. Using existing databases would require an initial communications exercise, systems changes, and the need to consider the General Data Protection Regulations (GDPR) and UK data protection laws. There would be ongoing work associated with keeping the database up to date. One Accredited Register described the potential costs of this (combined with the requirement to access criminal records checks) as an ‘existential threat’ to it as an organisation.
- 2.51 One Accredited Register thought that collecting data about employment status may be viewed by its registrants as intrusive. They highlighted potential indirect tensions about distinguishing between those who are paid, and those who volunteer their services.

If you answered ‘yes’ to Question 9, please provide the information below as at, or as near to, 1 October 2022. If you can only complete the UK-wide total, please provide that.

- 2.52 Not all Accredited Registers who told us they did have a process in place for identifying self-employed registrants answered this question, and only two were able to provide a full breakdown by UK country.
- 2.53 Of the two counselling and psychotherapy Registers who responded, one told us that 34% of its registrants were self-employed and the second 75%, based on survey findings extrapolated to its wider membership. Considering the combined size of these Registers (approximately 42% of overall registrants) and that the type of work means a significant proportion are likely to be working in regulated activity, this means that many registrants are likely to be eligible for an enhanced

check with a check of the relevant barred list, but that this is not currently being undertaken.

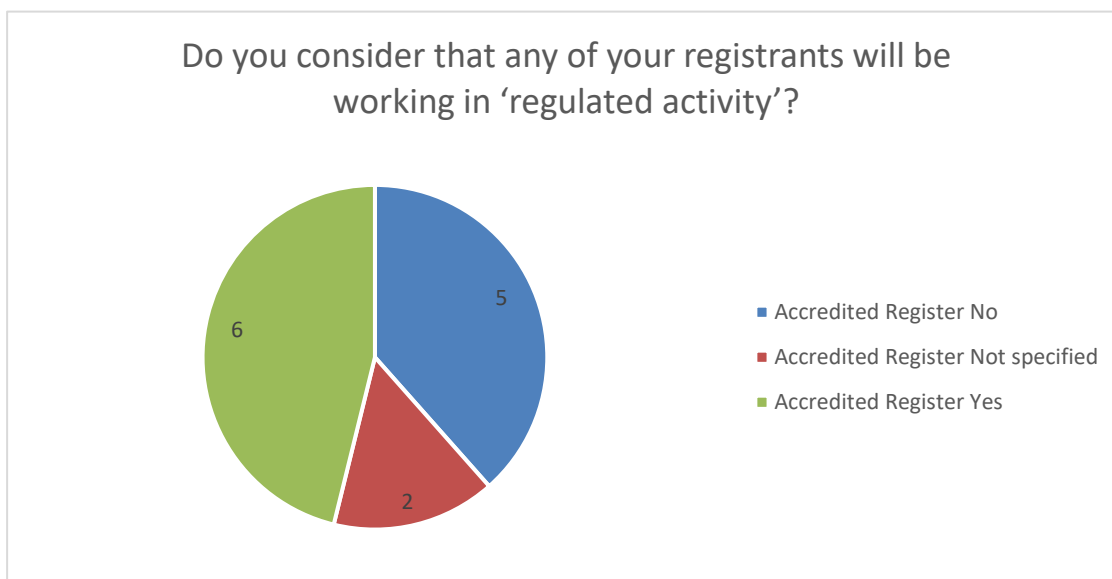
- 2.54 One Register estimated that based on the type of role, up to 88% could be self-employed, but that the actual percentage was likely to be lower in practice.

Do you currently undertake any form of criminal records checks as part of registration processes?

- 2.55 Seven (54%) Accredited Registers who responded to the consultation told us that they did undertake some form of criminal record check, as part of their registration processes. Three responded 'no', and the remaining two did not specify.

Do you consider that any of your registrants will be working in 'regulated activity' (England, NI or Wales) or 'regulated work' (Scotland)? Annexe A sets out our estimate of eligibility based on guidance from the DBS, AccessNI and Disclosure Scotland.

- 2.56 The chart below shows how the ARs who responded to the consultation, answered this question.



If you do not think that your Accredited Register is eligible to access enhanced criminal records checks under current legislation, would you be supportive of changes to enable this? Please explain your answer.

- 2.57 The Accredited Register that did not think they were eligible to access enhanced criminal records checks responded 'yes' to this question. Of the two who thought they may be who responded, one commented that 'It may be difficult for us to access enhanced criminal records in light of current legislation. However, given the importance of ensuring safeguarding and public protection, we would be supportive of any changes that would equip us with the means to carry out this function more effectively.'

Questions for practitioners

What impact would it have on you if you were required to provide evidence of a criminal records check?

- 2.58 Most of the registrants who responded to the consultation answered this question. Many respondents said that a requirement to have a criminal records check would have no, or minimal impact on them since there were already required to have one by an employer. Several referred to the DBS updates service making it easier to share certificates with different organisations.
- 2.59 One registrant responded that: 'It would have a positive impact generally. It would help assure my patients they are in safe hands. I would hope that it would not be too expensive. I work part time, so it is important it is not too expensive to undertake.'
- 2.60 Some respondents referred to Scotland's Protecting Vulnerable Groups (PVG) Scheme, noting this placed the emphasis on the client or employer undertaking the check which removed the cost and administrative burden from the practitioner.
- 2.61 The additional administration, time and costs were highlighted by many respondents including some who were overall positive about introducing criminal records checks. Several respondents highlighted that they mostly undertake voluntary work; although they may have been unaware that there are discounts or no charges for people working as volunteers available from the agencies operating criminal records checks in the UK. Some respondents highlighted the wider administrative costs associated with practice, such as insurance, and questioned whether additional costs would lead to some leaving Accredited Registers or ceasing to practice completely. One respondent referred to the potential for additional regulation in some areas of practice in future such as the recent Welsh Government consultation on Mandatory Licensing of Special Procedures in Wales.⁵
- 2.62 Three respondents highlighted that they thought their previous convictions might be an issue if required to undergo an enhanced criminal records check. This might cause shame, as well as the loss of employment. Other respondents highlighted that those working in the drugs and alcohol fields might be particularly affected if they were using their previous experiences to help others.
- 2.63 There were also several respondents who said they would feel that the requirement would be an unwelcome intrusion, even though they did not have any conviction or police records history.
- 2.64 One registrant responded that: 'I would feel judged and would most probably avoid registration out of principle, whether my DBS was clean or not', another that 'None to the extent that I have never had a criminal record, conviction, prison sentence, caution or run in with the police. However, I believe that we should have more right to have our past be confidential, and to develop, with opportunities that make life worth living.'

⁵ Our response to this consultation: [PSA consultation response | Response to Welsh Government consultation on Licensing \(professionalstandards.org.uk\)](https://www.professionalstandards.org.uk/psa-consultation-response)

What do you consider would be the advantages/disadvantages for you as a practitioner in relation to providing an enhanced criminal record check to your Accredited Register?

Advantages

- 2.65 Approximately half of those who responded to this question said that they saw no, or little advantages or disadvantages to them as a practitioner of having an enhanced criminal records check.
- 2.66 Amongst those that did, common themes highlighted were the greater reassurances, protections and transparency for the public. Some said they thought it might enhance their professional status.
- 2.67 One respondent said that 'knowing that I belong to an organisation that is committed to ensuring high standards and safety, it also provides a level of assurance for other healthcare professionals who may refer their clients to me'.
- 2.68 Several others referred to the potential employment opportunities this may bring as self-employed practitioners. Employee Assistance Programmes and working with children and vulnerable adults were highlighted as areas this might help with.

Disadvantages

- 2.69 Many of the disadvantages highlighted aligned with those from the previous question, on costs and administrative burden. Some thought it was likely there would be delays in obtaining checks, which could lead to a loss of income and worsen access to care. The need to have confidence in the data security arrangements of the AR was also highlighted.
- 2.70 Several respondents highlighted the risk of discrimination and stigma, especially if there wasn't transparency about the processes for making decisions on the basis of spent convictions. Some thought that this would exclude therapists who have had convictions in the past but now reformed. This in turn, could prevent rehabilitation and loss of income, which may exacerbate existing inequalities.
- 2.71 A minority said they would stop practising altogether if required to do an enhanced criminal record check.

What do you consider would be the advantages/disadvantages to your clients in relation to providing an enhanced criminal record check to your Accredited Register?

Advantages

- 2.72 Many respondents referred to the enhanced trust, transparency, and reassurance that members of the public might derive from knowing the checks had been undertaken.
- 2.73 Some referenced the fact that no client had ever asked them about their convictions history or to see evidence of a criminal records check. However, an equal number said they thought the public may assume these checks to have already been undertaken by the AR.

Disadvantages

- 2.74 Many highlighted the costs of accessing criminal records as the main disadvantage, highlighting that if passed on by the AR to registrants, might lead to people choosing services of unregistered practitioners. The same might be achieved if the requirement led to practitioners de-registering, decreasing access to practitioners.
- 2.75 Several registrants thought there was a risk it may provide a false sense of security and highlighted the additional ethical codes that ARs require. One respondent thought it may put clients off being open about their own convictions history.
- 2.76 One respondent said that ‘If the nature and time of offence is not considered in relation to risk, clients may not be able to access practitioners who have lived experience of rehabilitation.’

How do you envisage being able to access an enhanced criminal record check?

- 2.77 Responses to this question were generally split across anticipating accessing a check through an employer, and from an Accredited Register or professional body. A significant number of respondents did not think they would be able to access a check now, with Accredited Registers not being employers as the main reason cited for this.

Please set out any impacts that the proposals set out in this paper would be likely to have on your organisation or considerations that we should take into account when assessing the impact of the proposals. Are there any aspects of these proposals that you feel could result in differential treatment of, or impact on, groups or individuals based on the following characteristics as defined under the Equality Act 2010?

- 2.78 The consultation highlighted that there are competing public interests associated with introducing criminal records checks as a requirement for Accredited Registers.
- 2.79 From one perspective, is the need to protect the rights of people with a criminal record. Introducing criminal records checks for AR practitioners could present a barrier to employment. This could have wider ramifications since it is in the public interest for people with a criminal record to be able to rehabilitate. People with criminal records may also draw on their experience, to support others – particularly in areas such as drug addiction.
- 2.80 This must be balanced against the need to protect the public against people whose past record suggests that there may be unacceptable risks in appointing them to certain occupations. This is particularly important for children and vulnerable adults, who may be accessing services from AR practitioners.
- 2.81 We have used responses to this question to explore these issues further through an Equalities Impact Assessment, which is available [here](#).

3. Next steps

- 3.1 The PSA's Board considered the full findings of the consultation, and the EIA at its meeting on 19 July 2023.
- 3.2 Both the findings of our AR consultation, and those of the Bailey Review, raise issues that are relevant for the registration of all healthcare professionals. The Government's response to the Bailey Review recommendations will be a key factor in future decisions about criminal records checks.
- 3.3 In the meantime, there are inconsistencies in terms of eligibility, and access of criminal records checks across both the ARs, and the statutory regulators. We will now widen our work on safeguarding beyond ARs to the wider regulatory landscape, so we can gain a better understanding of the risks this may present. Our focus will be on arrangements for self-employed registrants. We will also explore what other steps we can take to strengthen safeguarding checks for ARs, for example through training and CPD.
- 3.4 This work will be taken forward through a cross-organisational project team, to be established in September 2023. We will publish an update in November 2023 about its scope. In the meantime, we will continue to engage with relevant bodies including the UK Government, and the agencies overseeing criminal records checks in the UK (Access NI, the DBS, and Disclosure Scotland) to work towards a risk-based and consistent approach.

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