

## Equality Impact Assessment Accredited Registers safeguarding project

### 1. Activity

<b>Title of activity</b>	Accredited Registers Safeguarding Project	<b>Date of ELT</b>	26.06.2023
<b>Service area</b>	Accredited Registers	<b>EIA lead officer</b>	Melanie Venables, Head of Accreditation
<b>Approved by</b>	Senior Management Team	<b>Date of approval</b>	26 June 2023
<b>Description of activity</b>			
<p>This EIA has been completed to primarily support decision making on the Accredited Registers safeguarding project and inform next steps with Recommendations as set out to the Board in July 2023. Since the Recommendations refer to broader areas of work, and a project team has been suggested for the next phase, it is envisaged that the EIA will be 'owned' by this group going forward. Whilst key impacts for these broader recommendations have been identified for now, more in-depth consideration will be required.</p>			

### 2. Relevance Test

Relevance statements	Yes	No
1. The outcomes of the activity directly and significantly impact on people e.g. staff, board, regulators.	x	
2. The activity could/does affect one or more groups of people who share protected characteristics.	x	
3. The activity could/does affect groups who share protected characteristics differently.	x	
4. People who share one or multiple protected characteristics could be disadvantaged, adversely affected or are at risk of discrimination as a result of the activity.	x	
5. The activity relates to an area where there are known inequalities.	x	
6. The activity sets out proposals for significant changes to policies.	x	
7. The activity relates to one or more of the three parts of PSA's equality duty.	x	
8. The activity relates to PSA's strategic plan objectives, is a significant activity and/or presents a high risk to PSA's public reputation.	x	

9. The activity relates to the Welsh Language Standard (standards 42-50)	x	
A. An equality impact assessment of this activity is required.	x	
B. An equality impact assessment is not required. This activity has no relevance to the Professional Standards Authority's duty to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations.		
<b>Explanation why an equality impact assessment is not needed.</b> N/A		

### 3. Scope of EIA

<b>Who is impacted?</b>	
Who is/will be impacted by the activity's aims, application and outcomes?	Accredited Registers (ARs), AR practitioners, users of AR services. Subject to the agreement of Recommendations at July 2023 Board, the statutory regulators, registrants, and users of their services may be affected.
Which groups of people with protected characteristics are likely to/will be affected?	The introduction of criminal records checks is likely to affect people with a criminal record. Studies have shown that certain groups are overrepresented in the criminal justice system. The Lammy Review <sup>1</sup> (2017) found that people who identified as being from a 'Black', 'Asian', 'Mixed' or 'Chinese and other' background are overrepresented as defendants in the criminal justice system. This means there could be potential for requirements for Accredited Registers (and the statutory regulators) to access criminal records checks to exacerbate the effects of disproportionality in the criminal justice system.  The introduction of these checks is also likely to affect children and vulnerable groups. Recommendations from the Independent Inquiry into Child Sexual Abuse (IICSA) <sup>2</sup> include relevant findings, such as greater use of the barred list. The Savile Inquiry and David Fuller Inquiry also highlight the need for robust safeguarding arrangements within healthcare settings.

<sup>1</sup> [The Lammy Review \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

<sup>2</sup> [The Report of the Independent Inquiry into Child Sexual Abuse | IICSA Independent Inquiry into Child Sexual Abuse](#)

<b>General Equality Duty</b>	
Which part(s) of the general equality duty are the aims and outcomes of the activity relevant to?	
Eliminate discrimination, harassment and victimisation	Yes – in terms of making sure registrants are suitable to be working with children and vulnerable adults.
Advance equality of opportunity	Yes – in terms of making sure people are not unnecessarily restricted from practice and recognising the rights of previous offenders.
Foster good relations	

<b>Welsh Language Scheme</b>	
How are the Welsh Language Standards relevant?	It is assumed that any future updates to our Standards for Accredited Registers would need regarding safeguarding would need to be accessible in Welsh.

<b>Human Rights Act</b>	
Which Article(s) of the Human Rights Act are relevant?	Article 2 – Right to life Article 8 – Respect for family life, home, and correspondence Article 9 - Right to freedom of thought, belief and religion Article 14 – Protection from discrimination.

#### **4. Evidence, data, information and consultation**

What evidence have you used to assess the impact on equality?	Public consultation as set out below, and desk-based review to identify relevant studies and evidence such as the Lammy Review.
What consultation or stakeholder engagement have you carried out to identify the impact on equality?	Public consultation on Strengthening Safeguarding for Accredited Registers, Nov 2022-Feb 2023. This included engagement with Unlock, a charity representing the rights of people with previous criminal records.
What does this evidence tell you about groups of people who share protected	There are two main competing impacts. The first is the fear of potential unfairness and discrimination arising from the need to disclose spent convictions through a criminal

<p>characteristics and other disadvantaged groups?</p>	<p>records check. Some respondents to the consultation highlighted that this may prevent people who have committed offences in the past and are now using their experience to help others, from practising. This could create a barrier to rehabilitation for both service users, and the practitioner.</p> <p>The second, is the need to protect children and other vulnerable people from the potential harms of being treated by people whose previous criminal records may mean they pose greater risk. The consultation highlighted that many may assume criminal records checks are already in place for AR practitioners (and potentially, for regulated professionals although since the consultation was aimed at ARs, this was not conclusive).</p>
<p>What further evidence do you need to fill any gaps in your understanding of the potential or known effects of the activity?</p>	<p>Most of the respondents to the AR safeguarding consultation were practitioners. Further engagement would be needed with members of the public to assess their expectations about registrants having had criminal records checks.</p> <p>There is an apparent knowledge gap in relation to the level of risk that the current lack of checks by most of the ARs and statutory regulators represents (Chamberlain, 2018<sup>3</sup>).</p> <p>We will further need to consider the Government’s response to the findings of the Independent Review of the Disclosure and Barring Regime (“the Bailey Review”)<sup>4</sup>. The Bailey Review sets out recommendations that could change eligibility, and the legislative framework, for barred list criminal records checks.</p>

## 5. Impact by characteristic

Characteristic	Equality impact			Explanation of potential/actual impact	What actions to mitigate adverse impact can/have been taken?
	Positive	Adverse	None		

<sup>3</sup> John Martyn Chamberlain, Doctoring With Conviction: Criminal Records and the Medical Profession, *The British Journal of Criminology*, Volume 58, Issue 2, March 2018, Pages 394–413, <https://doi.org/10.1093/bjc/azx016>

<sup>4</sup> [6.8338 HO Independent review of the disclosure and barring regime \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/68338/Independent-review-of-the-disclosure-and-barring-regime.pdf)

Cross-cutting					
Age (1)	X			Strengthening safeguarding checks could help protect children. The IICSA Inquiry highlighted the need for this, and recommendations included greater use of the Childrens' barred list.	1. Recommendation 6 to the Board is to 'Widen our checks of how the ARs and regulators implement the professional Duty of Candour within their requirements to mandatory duties for safeguarding reporting.' This could include the proposed new, mandatory duty for people who work with children to report child sexual abuse <sup>5</sup> .
Age (2)	X			ONS data (2022) <sup>6</sup> showed that a higher proportion of adults aged 16 to 24 years were victims of sexual assault in the last year compared with those aged 25 years and over.	
Disability					
Gender reassignment					
Pregnancy and maternity					
Race (1)		X		The Lammy Review <sup>7</sup> (2017) found that people who identified as being from a 'Black', 'Asian', 'Mixed' or 'Chinese and other' background are overrepresented as defendants in the criminal justice system. This means there could be potential for requirements for Accredited Registers (and the statutory regulators) to	If criminal records checks become a requirement, regulatory bodies have transparent and fair processes for making decisions about suitability for registration.

<sup>5</sup> [New measures to tackle child sexual abuse - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

<sup>6</sup> [Sexual offences victim characteristics, England and Wales - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk). No similar source for other types of offences has been identified within this review.

<sup>7</sup> [The Lammy Review \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

				access criminal records checks to exacerbate the effects of disproportionality in the criminal justice system.	
Race (2)	X			ONS data (2022) shows that those in the Black or Black British and Mixed ethnic groups were significantly more likely than those in the White, Asian or Other ethnic groups to experience sexual assault.	
Religion or belief					
Sex	X			ONS data (2022) shows that women were the victims of sexual assault in 86% of offences.	
Sexual orientation					
Marriage / civil partnership NI: Marital status	X			ONS data (2022) shows that single adults are more likely to experience sexual assault.	
Neurodiversity					
Intersectionality				Hubbard <sup>8</sup> (2014) and others have argued that the rehabilitation of ex-offenders is essential to civic society.	
Other: Low income, carers NI: person with dependants					

<sup>8</sup> Hubbard, W. (2014), 'Remarks on Collateral Consequences of Mass Incarceration', *Criminal Law Practice*, 2: 10-1.

NI: Political opinion					
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## 6. Commissioned services

What measures will be included in contracts to help meet the three parts of the general equality duty?	No commissioned services are planned at this point.
What steps will be taken throughout the commissioning cycle to meet the different needs of people who share protected characteristics?	No commissioned services are planned at this point.

## 7. Actions

<b>What will be done?</b>	<b>What will be the (measurable) outcome?</b>	<b>By when?</b>	<b>By who?</b>
Recommendation 1 (Board July 2023): Commit to exploring with the HO and MoJ whether the AR programme (and potentially statutory regulators) could be used to pilot arrangements for self-employed workers to have higher level DBS checks as part of the Government's response to the Bailey Review recommendations.	We would be able to measure the number of registrants having criminal records checks. An increase would suggest greater protections for groups more likely to be victims of offences such as sexual assault. The pilot arrangements would need to include measures to ensure fair and transparent decision making about individual cases to avoid exacerbating existing inequalities in the criminal justice system.	TBC – depending on Government timing.	Cross-organisational project team TBC, Home Office, Ministry of Justice
Recommendation 2: Advocate for the definition of RA for children and adults being risk-based, and to consider all Accredited Register roles involving patient or service-user contact whether supervised, or not.	A greater number, or all AR practitioners would be eligible for higher level checks, which would offer greater safeguards.	TBC – depending on Government timing.	Cross-organisational project team TBC, DHSC

Recommendation 3: Gather or commission further evidence about the risks, and public perception of the current position of ARs and statutory regulators.	A body of evidence that gives greater insight into how different groups are likely to perceive and be affected by expanding criminal records checks – especially the public and patients/service users.	Dependent on Board July decision.	Cross-organisational project team TBC
Recommendation 4: Develop clearer requirements for ARs on broader safeguarding measures, such as ensuring that all registrants have appropriate and up to date safeguarding training.	Revised <i>Standards for Accredited Registers</i> that include a greater number of specific safeguarding minimum requirements.	2023/24 TBC.	Accreditation Team
Recommendation 5: Strengthen reporting of concerns between the ARs and statutory regulators, and other relevant bodies such as the police.	Protocols in place that require sharing of relevant safeguarding information to reduce the risk of regulatory bodies not being aware of concerns about practitioners.	Dependent on Board July decision.	Cross-organisational project team TBC
Recommendation 6: Widen our checks of how the ARs and regulators implement the professional Duty of Candour within their requirements to mandatory duties for safeguarding reporting.	Checks on how the ARs and regulators are checking that registrants comply with relevant mandatory duties, such as that of reporting FGM, and (when introduced) reporting child sexual abuse. The first step with the latter would be to respond to the Government's consultation.	Dependent on Board July decision.	Cross-organisational project team TBC

## 8. EIA Findings

<b>Concluding decision</b>	<b>Summary and findings</b>
	In preparing this report, due consideration has been given to the Professional Standards Authority's statutory equality duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations (Section 149(1) of the Equality Act 2010); to promote equality of opportunity and promote good relations (Section 75 of the Northern Ireland Act 1998); and the Welsh Language Standards Regulations 2022.
No major change required to the activity	x There are competing public interests (as also outlined in the Bailey Review) of the rights of ex-offenders, with the protection of the public against people whose past record suggests that there may be unacceptable risks in appointing them to certain occupations.



		These interests must be balanced throughout the project and are particularly associated with Recommendations 1-3 which focus on criminal records checks. At this stage, we are not proposing to immediately introduce criminal records checks for ARs or statutory regulators, but to commit to exploring this further with the Government. This will enable further evidence and data about impacts to be gathered, before any final decisions are made. In the meantime, other safeguarding arrangements are proposed (Recommendations 4-6) that should strengthen the overall framework.
Adjustments required to the activity		
Justification to continue the activity		
Stop the activity		

<b>Review date</b>	
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### Document Control

### Version Control

Version	Description of Version	Date Completed
1.0	EIA for AR safeguarding work	June 2023

### Associated documentation

Version	Description of documentation
1.0	EIA Template Notes