



Information for practitioners applying for a variation to immediate registration action or prohibition order

The variation application form is to assist health practitioners applying to the Health Ombudsman for a variation to their immediate registration action or prohibition order (“the existing action”).

Material change

A practitioner may apply for a variation to the existing action only if a ‘material change’ exists in relation to the matter giving rise to the existing action.

A material change is a change that is:

- significant or pertinent to the decision to take the existing action;
- a fact which must objectively exist;
and
- a significant change in the matters outlined in the decision notice issued to the practitioner about the existing action, addressing serious risk to persons, reasons for taking the action and/or public interest.

Some examples of ‘material change’ include/may include (but are not limited to):

- the finalisation of a criminal matter in court proceedings, if the existing action was taken (all or in part) on the grounds of the criminal charges;
- a registered practitioner has surrendered their registration to Ahpra and are no longer able to practise in the registered profession the existing action relates to;
- evidence directly related to the matter giving rise to the existing action, that was not considered by the Health Ombudsman prior to taking the action.

Examples of evidence a practitioner may provide in support of their variation application to demonstrate material change include:

- a Verdict and Judgment Record at the conclusion of criminal proceedings;
- certificate of completion of educational courses addressing the matter giving rise to the existing action;
- any professional intervention addressing the matter giving rise to the action;

- any other information or documentation addressing a material change to the reasons for the decision to take the existing action.

All applications must:

- be in the approved form; and
- be accompanied by any other information reasonably required by the Health Ombudsman.

The existing action may **only** be varied if the Health Ombudsman reasonably believes the material change justifies varying the decision made and the variation is on grounds of serious risk and/or public interest.

Finalisation of criminal charges

While the finalisation of criminal charges constitutes a material change, in deciding whether that change **justifies** varying the existing action the Health Ombudsman may consider it necessary and appropriate to request and consider relevant material from the criminal proceedings – for example, when criminal charges against a practitioner are discontinued. In these circumstances there may be some unavoidable delays; however, you will be updated as to the progress of your application and advised in writing once the Health Ombudsman has made a decision or proposed decision.

Support Services

If you find yourself feeling overwhelmed or require additional wellbeing support during this process, a list of specialist health practitioner support services are detailed on our website.

Click this link: [A complaint has been made about me - Office of the Health Ombudsman \(oho.qld.gov.au\)](https://www.oho.qld.gov.au)

Right of review

If the Health Ombudsman decides not to vary the existing action, or to vary in a way different to what you requested, you may be able to apply for a review of the decision to the Queensland Civil and Administrative Tribunal (QCAT) as provided under the *QCAT Act 2009*.