

Health Professional Councils Authority

Prequalification List:

Council directed health assessments

List Conditions

Prequalified Health Assessors

Part One: Prequalification List Conditions for Health Assessors	4
1. Definitions and Interpretation	4
2. Confidentiality	4
3. New South Wales Government Requirements.....	5
4. Applications for Prequalification.....	5
5. Prequalification Process.....	6
6. Assessment Criteria.....	6
7. Notification of Outcome.....	6
8. Request for Review of the Decision – Admission to the List.....	7
9 Assessor Reporting Obligations	7
10 Performance Monitoring and Reporting.....	8
11 Performance Management	8
12 Upgrading of Prequalification.....	8
13 Temporary Suspension.....	8
14 Removal from the List.....	9
15 Request for Review of the Decision – Membership status	10
16 Publicity	10
17 Applicant’s Acknowledgment	10
18 Disclaimer.....	10
19 Prequalification No Guarantee of Work	10
20 Circumstances in which Assessors may decline engagements	11
21 Review and Development of the Prequalification List.....	11
Part Two: Standard Form of Agreement - Terms and Conditions.....	12
Prequalification List: Health Assessors	12
1. Definitions and Interpretation	12
2. Engagement	14
3. Conflict of Interest.....	14
4. Assessor’s Obligations.....	14
5. HPCA’s Obligations.....	17
6. Protected Reports.....	18
7. Indemnity	18
8. Intellectual Property	19
9. Goods and Services Tax.....	19
10. Termination	19

11. Notices	20
12. Waiver	21
13. Severability.....	21
14. Entire Understanding	21
SCHEDULE A – Application	22
SCHEDULE B – Letter of Engagement	23
SCHEDULE C – Services statement.....	25
SCHEDULE D – Maximum pricing framework	27
SCHEDULE E – Appointment details letter.....	28
SCHEDULE F – assessment report guide.....	29

Part One: Prequalification List Conditions for Health Assessors

Health Assessors (Assessors) are appointed under sections 145E, 152B and 152C of the Health Practitioner Regulation National Law (NSW) (the National Law) to undertake health assessments of registered practitioners and registered students on behalf of the relevant Health Profession Council. In order to be engaged as an Assessor a person must themselves be a registered health practitioner.

Health Assessors must also be available to speak to their report before relevant regulatory decision making bodies up to and including giving expert evidence and being cross-examined in the Civil and Administrative Tribunal and Courts.

This List sets out the prequalification process for appointment to the HPCA's Health Assessor Panel.

1. Definitions and Interpretation

Applicant means a person who has submitted an Application for admission to the List and includes an existing Assessor who has applied for inclusion on an additional sub-panel under the List.

Application means an application submitted for admission to the List in the form prescribed in Schedule A

List means the *Prequalification List: Council directed health assessments* as administered by the Health Professional Councils Authority.

List Conditions means the definitions and conditions (and includes all annexures and schedules) set out in Part One and Part Two of the List.

Serious Offence means a criminal offence whether committed in NSW or elsewhere which may, if committed in NSW, attract a penalty of 12 months imprisonment or more.

Except where the context otherwise requires, words or expressions which are defined in the Standard Form of Agreement – Terms and Conditions have the same meaning in these List Conditions.

The interpretive provisions set out in section 1.2 of the Standard Form of Agreement – Terms and Conditions apply to the interpretation of these List Conditions.

2. Confidentiality

2.1 Information submitted with an Application will be treated as confidential by the HPCA unless otherwise required by law.

2.2 Information submitted with an Application may be subject to investigation, reference checking, searches, interview, enquiries, and confirmation. By submitting an Application all Applicants are deemed to have authorised the HPCA to take any such action.

3. New South Wales Government Requirements

3.1 Applicants agree to adhere to any rules of conduct applicable to Assessors, whether by law or otherwise, regarding the professions and professional bodies to which they belong.

4. Applications for Prequalification

4.1 Applications must be complete and substantially in the form in Schedule A.

4.2 Only those Applications:

- a. which fully satisfy all requirements set out in these List Conditions;
- b. are substantially in the form in Schedule A; and
- c. are accompanied by all relevant supporting documentary evidence required by Schedule A will be assessed by the HPCA.

4.3 Applicants agree that:

- a. if prequalified under this List, the terms and conditions of any engagement made under the List will be those of the Standard Form of Agreement – Terms and Conditions attached to these List Conditions;
- b. it is not necessary to sign the Standard Form of Agreement – Terms and Conditions for each or any engagement; and
- c. acceptance by an Assessor of a referral will constitute an engagement on the List Terms and Conditions for each such referral.

4.4 Applicants agree that:

- a. an Application for inclusion on the Psychiatry and Neuropsychology sub-panels established under the List is made on the basis that the Applicant agrees to accept the HPCA's fee schedule in *Schedule D – maximum pricing framework* for all Services provided from that sub-panel. However, Applicants who have previously provided Assessor Services to the HPCA in these specialty areas may apply to maintain any previously agreed fee arrangements on the understanding that the HPCA will periodically review those fees and may ask that they are brought into line with the *maximum pricing framework*; and

- b. an Application for inclusion on any other sub-panel is to be accompanied by the Applicant's fee schedule for Services from each relevant sub-panel, and in the event that no fee schedule is specified for a sub-panel the HPCA's fee schedule for the Psychiatry sub-panel will apply.

4.5 Except as provided in clause 4.4(a) the fees specified in an Application will remain fixed for an initial three-year period. After three years the HPCA will review its fee framework and an Application may be made by an Assessor to update their fees including by adopting or abandoning the fee framework.

5. Prequalification Process

- 5.1 Applications may be made at any time during the life of the List and the HPCA may solicit Applications at any time in its absolute discretion.
- 5.2 Applications include new Applications, or Applications by existing List participants for inclusion on additional sub-panels. Applications will be assessed periodically at the discretion of the HPCA.
- 5.3 The HPCA will only assess Applications submitted in via the NSW Procurement website and in accordance with these List Conditions.
- 5.4 The HPCA may investigate an Application as per clause 2.2.

6. Assessment Criteria

6.1 Applications will be assessed according to the following criteria:

Criteria	Weighting
Demonstrated skills, qualification and previous experience in assessing professionals for fitness for duty	40%
Demonstrated eminence within specialty	20%
Currently in active clinical practice	10%
Ability to meet or exceed timeframes for appointments	10%
Availability to provide services in regional and interstate locations	10%
Availability to provide services via telehealth / videoconference	10%

7. Notification of Outcome

- 7.1 The HPCA will assess the Application and the Applicant will be notified in writing of the outcome.

8. Request for Review of the Decision – Admission to the List

8.1 Where the HPCA refuses an Application for admission to the List the Applicant may apply for a review of the decision where the Applicant can demonstrate that substantial grounds exist for the review.

8.2 An application for review of the decision must be made in writing and provide full details of the reasons for the request, enclosing all relevant documents in support.

Applications are to be forwarded to:

*Director, Health Professional Councils Authority
Locked Mail Bag 20
HAYMARKET NSW 1238*

8.3 The Director of the HPCA may appoint a panel to advise him/her on the review application.

9 Assessor Reporting Obligations

9.1 An Assessor must immediately notify the HPCA in writing of any:

- change to their professional registration status, whether in Australia or elsewhere, such as practice conditions, enforceable undertakings, a reprimand, suspension and/or deregistration, or a lapsing of registration for failure to renew;
- complaint (however described) about them to the Health Care Complaints Commission, or any registration or professional body (however described) whether in Australia or elsewhere;
- charge or finding of guilt (whether accompanied by a conviction or not) for any criminal offence, whether in Australia or elsewhere;
- other reason or occurrence that could affect their ability to perform their responsibilities as an Assessor.

The written notice is to be sent to:

*Director, Health Professional Councils Authority
Locked Mail Bag 20
HAYMARKET 1238*

9.2 An Assessor authorises the HPCA to seek information regarding their registration or membership status from any professional or registration body.

10 Performance Monitoring and Reporting

- 10.1 Monitoring performance and ensuring compliance with the List is the responsibility of the HPCA.
- a. a performance report will be submitted to the Assessor where the performance of the Assessor is considered by the HPCA to be unsatisfactory.
- 10.2 Performance monitoring and reporting will be conducted having regard to the following:
- a. timely delivery of professional services by Assessors;
 - b. any identified performance issues being promptly addressed; and
 - c. accountability in the expenditure of public monies in accordance with Treasurer's Directions and the *Public Finance and Audit Act 1983*.

11 Performance Management

- 11.1 HPCA will manage any unsatisfactory performance by an Assessor by:
- a. providing oral and written feedback;
 - b. applying a sanction, such as temporary suspension from the List, where performance is considered by HPCA to be unsatisfactory;
 - c. revoking a Assessor's admission to the List, following due consideration of the circumstances, where performance is determined to remain unsatisfactory; and
 - d. providing the opportunity for an Assessor to request a review of the decisions referred to in Clauses 11.1a, 11.1b and 11.1c.

12 Upgrading of Prequalification

- 12.1 HPCA may extend the List by creating additional sub-panels and may, following an Application, include a suitably qualified Assessor on additional sub-panels. Where an Assessor seeks inclusion on additional sub-panels the Assessor must submit a further Application in the form prescribed at Schedule A including documentation and other Material in support of their request in accordance with Clause 4. Such Applications will be evaluated in accordance with Clauses 5 – 8 of these List Conditions.

13 Temporary Suspension

- 13.1 HPCA may suspend an Assessor from the List for a period of three months, if the HPCA considers that the Assessor:
- a. has not complied with the List Conditions;

- b. has demonstrated unsatisfactory performance;
 - c. can no longer comply with the List Conditions; or
 - d. is the subject of a notification (as set out in sub-clause 9.1) the nature and circumstances of which are considered by the HPCA to have the potential to compromise the integrity of the List.
- 13.2 The HPCA will advise the Assessor of the reasons for the suspension and of any actions required of the Assessor to lift the suspension. An Assessor suspended from the List must inform the HPCA if and when the actions required to lift the suspension have been completed.
- 13.3 The HPCA will regularly review the status of Assessors who have been suspended under Clause 13.1. If the action taken by the Assessor is considered by the HPCA to be insufficient, the suspension period may be extended for a further period of three months and the Assessor will be notified accordingly. HPCA may revoke the suspension if it is satisfied that the Assessor has taken appropriate action to address the reasons for the suspension.

14 Removal from the List

- 14.1 HPCA may revoke an Assessor's membership of the List if the HPCA considers that the Assessor has:
- a. breached the List Conditions;
 - b. been the subject of one or more substantiated reports of unsatisfactory performance;
 - c. been the subject of one or more professional complaints (however described) whether in Australia or elsewhere;
 - d. been found guilty (whether or not a conviction is recorded and however described) of a Serious Offence whether in Australia or elsewhere;
 - e. failed to adequately address the reasons for a temporary suspension from the List under Clause 13; or
 - f. otherwise failed to meet the standards of the List in terms of the completion of the Services.
- 14.2 Before an Assessor's admission to the List is revoked under sub-clause 14.1, the HPCA will advise the Assessor of the matters prompting the proposed action and will give the Assessor the opportunity to provide reasons as to why the revocation should not occur.
- 14.3 If an Assessor's admission to the List is revoked under sub-clause 14.1, the HPCA will notify the Assessor in writing and provide reasons for the decision.

- 14.4 Removal from the List does not preclude an Assessor from applying for re-admission to the List at a later date.

15 Request for Review of the Decision – Membership status

- 15.1 Where an Assessor considers that there are substantive grounds for the HPCA to reconsider its decisions under clauses 11, 12, 13 or 14, the Assessor may request a review of the decision in writing, providing full details of the reasons for the request and enclosing all relevant documents in support. Applications are to be forwarded to:

*Director, Health Professional Councils Authority
Locked Mail Bag 20
HAYMARKET NSW 1238*

- 15.2 The Director of the HPCA may appoint a panel to advise him/her on the review application.
- 15.3 The HPCA will notify the Assessor in writing of the outcome of the review.

16 Publicity

- 16.1 Assessors must not advertise, promote or publicise in any form their admission to the List.

17 Applicant's Acknowledgment

- 17.1 In applying for admission to the List, the Applicant agrees that they accept these List Conditions.

18 Disclaimer

- 18.1 HPCA reserves the absolute discretion to:
- a. accept an Application with or without limitations or conditions;
 - b. reject an Application;
 - c. suspend an Assessor's admission to the List;
 - d. revoke an Assessor's admission to the List.

19 Prequalification No Guarantee of Work

- 19.1 The receipt of prequalification by an Assessor does not guarantee:
- a. continuity of prequalification for the duration of the List; or
 - b. that engagements of any type, value or quantity will be offered.

- 19.2 The HPCA may take the fees charged by an Assessor into account when selecting an Assessor for an engagement.
- 19.3 The HPCA may take into account geographic location when selecting an Assessor for an engagement.

20 Circumstances in which Assessors may decline engagements

- 20.1 The Assessor may decline an engagement where he or she has a conflict of interest with the Subject Practitioner.
- 20.2 The Assessor may not decline an engagement due to the profession of the Subject Practitioner.

21 Review and Development of the Prequalification List

- 21.1 The List will be monitored by the HPCA to assess whether the objectives and intent of the List are being met. Modifications may be made at the discretion of the HPCA during the life of the List and will take effect on notification to Assessors.

Part Two: Standard Form of Agreement - Terms and Conditions Prequalification List: Health Assessors

1. Definitions and Interpretation

1.1 In this Agreement:

Agreement means this document together with the List Conditions including schedules

Appointment Details means the information contained in Schedule E.

Assessor means a person who has applied for, and has been granted admission to, the List by the HPCA.

Business Day means any day which is not a Saturday, Sunday, or a declared public holiday in New South Wales.

Confidential Information means any information disclosed (by any means) to the Assessor by the HPCA in respect of a Subject Practitioner or otherwise acquired by the Assessor in performing the Services.

Contact Officer means the officer of the HPCA who is identified on the Assessor's Letter of Engagement as the Contact Officer.

Court means any of the Local Court, District Court or the Supreme Court in New South Wales.

GST has the meaning given to this term in the GST Law.

GST Law means *A New Tax System (Goods & Services Tax) Act 1999*, related legislation and any delegated legislation made pursuant to such legislation.

Health Profession Council or **Council** means a Council established under s.41B of the National Law.

HPCA means the Health Professional Councils Authority an Executive Office of the NSW Ministry of Health, established by Part 2 of Schedule 1 of the *Government Sector Employment Act 2013 (NSW)*.

Incidental or Related Services includes, but is not limited to, providing evidence relevant regulatory decision making bodies up to and including giving expert evidence and being cross-examined in the Civil and Administrative Tribunal and Courts.

Intellectual Property means all rights in copyright, patents, registered and unregistered trademarks, registered designs, trade secrets, and all other rights of intellectual property.

Letter of Engagement means a letter in substantially the form set out in Schedule B engaging an Assessor to undertake an Assessment.

Material includes, but is not limited to, items, records, documents, and information stored by any means.

National Board means a National Health Practitioner Board established under s.31 of the National Law

National Law means the *Health Practitioner Regulation National Law (NSW)*.

Personal Information means information or an opinion (including information or an opinion forming part of a database) whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

Protected Report has the same meaning as in section 138 of the National Law.

Schedule of Fees means the fee or fees agreed between an Assessor and the HPCA for Services under this Agreement.

Services means the services set out in the Letter of Engagement and Appointment Details consistent with the service requirements set out in Schedule C, and any Incidental or Related Services requested in writing by the HPCA.

Subject Practitioner means the registered health practitioner or student referred to the Assessor for an Assessment.

1.2 Except where the context otherwise requires, a reference to:

- a. Words or expressions which are defined in the List Conditions have the same meaning in this Agreement
- b. One gender includes the other
- c. The singular includes the plural and the plural includes the singular
- d. A person includes a body corporate
- e. A party includes the HPCA and the Assessor
- f. A thing includes the whole and each part of it separately
- g. A statute, regulation code or other law or a provision of any of them includes:
- h. any amendment or replacement of it, and
- i. another regulation or other statutory instrument made under it, or made under it as amended or replaced,
- j. dollars means Australian dollars unless otherwise stated
- k. "Including" and similar expressions are not words of limitation
- l. Other parts of speech and grammatical forms of a defined word or expression have corresponding meanings.

NOTE: Headings are inserted for ease of reference and must be disregarded in construing the List Conditions.

2. Engagement

2.1 The HPCA engages the Assessor to provide the Services in accordance with this Agreement.

3. Conflict of Interest

3.1 The Assessor undertakes that at the date of this Agreement, no conflict of interest with the Subject Practitioner exists, or is likely to arise. The Assessor must notify the HPCA, in writing, immediately upon becoming aware of the existence of any such conflict of interest.

4. Assessor's Obligations

4.1 Warranties

In accepting the engagement, the Assessor warrants that:

- a. there are no circumstances of any kind known, or which ought reasonably be known by the Assessor, including any conflict of interest, that will affect the ability of the Assessor to effectively carry out the Services under the engagement;
- b. the Services will be undertaken in an efficient, cost effective and professional manner;
- c. the Assessor is registered under the GST Law and any invoice rendered under this Agreement which seeks to recover an amount of GST payable will conform to the requirements for a tax invoice (As that term is defined in the GST Law)
- d. the Assessor will act professionally and in good faith in relation to the Services provided under the engagement; and
- e. as soon as practicable after becoming aware of any matter which is likely to affect their ability to comply with a warranty in this Clause the Assessor must give notice to the HPCA in writing detailing the matter and its likely impact on compliance with these warranties.

4.2 Professional Standard of Care and Due Diligence

The Assessor must perform the Services in a diligent manner and to the standard of skill and care expected of an Assessor qualified, competent and experienced in the provision of the Services.

4.3 Communication Requirements

- a. The Assessor must regularly consult and co-operate with the HPCA, or any other person nominated by the HPCA, as reasonably directed by the HPCA, in relation to carrying out the Services.
- b. The Assessor must use all reasonable efforts to inform themselves of the detailed requirements of the HPCA.
- c. The Assessor must immediately notify, and provide details, to the HPCA of any attempt by any person to hinder, obstruct or delay the Assessor in the exercise of their duties under the engagement.
- d. The Assessor must notify the HPCA immediately if the Subject Practitioner fails to attend as directed by the HPCA or a Council.
- e. The Assessor must provide to the HPCA all information in relation to the Services which the HPCA requires to comply with its legal obligations and its obligations in relation to the engagement. The HPCA will make any such request for information in writing.

4.4 Timeliness of provision of Services

- a. The Assessor is required to provide a report substantially in the form described at Schedule F within 14 calendar days of assessing the Subject Practitioner.
- b. In the event that the Assessor concludes the Subject Practitioner represents an immediate risk to the public the Assessor is to provide that information in writing to the Contact Officer within 1 Business Day of reaching that conclusion.

4.5 Fitness for Purpose

The Assessor acknowledges and agrees that the HPCA relies upon the skill and knowledge of the Assessor in providing the Services. The Assessor must ensure that all work, documents and other deliverables produced are reasonably suitable in all respects for the purposes required by this Agreement.

4.6 Confidentiality

- a. The Assessor agrees to use Confidential Information solely for the purposes of the Services.

- b. The Assessor must:
 - i. not disclose any Confidential Information to any person without the prior written consent of the HPCA; and
 - ii. take reasonable steps to ensure that Confidential Information in their possession is kept confidential and protected against unauthorised use and access.
- c. Confidential Information must not be copied or reproduced by the Assessor except in connection with delivering the Services.
- d. The Assessor acknowledges that the HPCA may be required to release information concerning the engagement in accordance with the *Government Information (Public Access) Act 2009*.

4.7 Privacy and Disclosure of Personal Information

- a. The Assessor acknowledges their obligations under the *Health Records and Information Privacy Act 2002 (NSW)*.
- b. The Assessor agree to immediately notify the HPCA if:
 - i. the Subject Practitioner authorises the Assessor to use their Personal Information for purposes other than provision of the Services;
 - ii. the Subject Practitioner consents to the Assessor disclosing their Personal Information for purposes other than provision of the Services; or
 - iii. they become aware that a disclosure of Personal Information for purposes other than provision of the Services is, or may be required or authorised by law.
- c. The Assessor will immediately notify the HPCA upon becoming aware of any breach of this Clause 4.7.

4.8 Subcontracting and Assignment

The Assessor acknowledges that they are engaged in a personal capacity to provide a professional service. No subcontracting or assignment of the service is permitted, with the exception of diagnostic services, such as pathology, imaging and other specialised testing services, ordinarily obtained in connection with services of this type.

4.9 Insurance

The Assessor must maintain professional indemnity insurance as required by the relevant National Board.

4.10 Health Records

The Assessor must maintain professional records as required by the relevant National Board.

4.11 Financial Records

a. Keeping of Records

The Assessor must, during the period of this Agreement, keep proper accounts, records (including information stored on computer and other devices) and time sheets in accordance with accounting principles generally applied in commercial practice in respect of their billing under this Agreement and maintain those records for a period of 7 years.

b. Access to Records

The Assessor must within a reasonable time of any request by the HPCA, give the HPCA access to, or verified copies of, any information which may be reasonably required to substantiate a claim for payment by the Assessor or is otherwise reasonably required by the HPCA, a regulator, any external auditor or advisor or any of their authorised representatives.

5. HPCA's Obligations

5.1 Provision of Information

The HPCA will make available to the Assessor all relevant Material and information within the HPCA's possession or control, give necessary instructions, and answer any queries made by the Assessor to enable the Assessor to perform the Services in accordance with the HPCA's requirements.

5.2 HPCA's Representative

The person named as Contact Officer, or any alternative person the HPCA nominates in writing, will act as the HPCA's representative and will have authority to act on behalf of the HPCA for all purposes in connection with this Agreement.

5.3 Payment

- a. In consideration of the provision of the Services in accordance with this Agreement, the HPCA will pay the Assessor in accordance with the Assessor's agreed Schedule of Fees.
- b. Payment of any part of the fees does not constitute an acceptance by the HPCA of the Services and does not amount to a waiver of any right or action which the HPCA may have at any time against the Assessor.
- c. If the Assessor has obtained the HPCA's prior written approval to incur or pay any costs, expenses, fees or charges, the HPCA will reimburse the Assessor for those costs, expenses, fees or charges.
- d. Subject to clause 5.3e, the HPCA will make a payment within 20 Business Days following the rendering of a tax invoice by the Assessor. However, if the HPCA has, within a reasonable period of time after receiving a tax invoice, requested access to information under clause 4.11b, the time for payment will be extended by the number of days elapsing between the date of the HPCA's request for access and the date when access is granted.
- e. The HPCA will not be obliged to make any payment to the Assessor under this Agreement until the Assessor has submitted a written report as required by clause 4.4b.

6. Protected Reports

- 6.1 Both Parties acknowledge that a report produced by an Assessor is a Protected Report and may not be used in civil proceedings before a Court without the consent of the Subject Practitioner and the Assessor.
- 6.2 Both Parties acknowledge that they cannot be compelled to produce a Protected Report or give evidence as to its contents in civil proceedings before a Court.

7. Indemnity

- 7.1 The Assessor agrees to indemnify and keep indemnified the HPCA and its officers, employees and agents ("those indemnified") against any liability or loss (including reasonable legal costs and expenses) incurred or suffered by those indemnified, where such liability or loss is incurred by reason of, or in connection with, any unlawful, wrongful, wilful or negligent act or omission of the Assessor in connection with this Agreement.

- 7.2 The Assessor's liability to indemnify those indemnified under this Agreement will be reduced proportionally to the extent that any unlawful, wrongful, wilful or negligent act or omission of those indemnified caused or contributed to the liability or loss.
- 7.3 The indemnity contained in this clause is a continuing obligation of the Assessor separate and independent of any other responsibilities of the Assessor and will continue beyond the period of this Agreement.

8. Intellectual Property

- 8.1 The Assessor hereby grants the HPCA, without additional cost an irrevocable and transferable licence to use, reproduce, and adapt for the HPCA's own purposes all Intellectual Property rights in the Assessor's report.

9. Goods and Services Tax

- 9.1 All fees quoted and charged by the Assessor are to be inclusive of GST.
- 9.2 If, for any reason, the Assessor becomes liable to a further payment of GST in relation to a Service provided under this Agreement the Assessor is solely responsible for that GST liability.

10. Termination

- 10.1 Completion of the Services
This Agreement will terminate when the Services are fully performed or otherwise terminated under this clause.
- 10.2 Termination by the HPCA
- a. Where the Assessor:
 - i. fails to carry out the Services with due diligence and competence;
 - ii. without reasonable cause suspends the carrying out of the Services;
 - iii. commits a substantial breach of this Agreement;
 - iv. in the opinion of the HPCA has a conflict of interest in performing the Services, then
 - b. The HPCA may, without prejudice to its right to terminate this Agreement under sub-clause 9.1:
 - i. In the case of any other circumstance specified in sub-clause 9.2a give notice to the Assessor specifying the circumstance and requiring the Assessor to remedy it; and

- ii. If the Assessor fails to remedy the circumstance within a period specified by the HPCA under sub-clause 10.2(b)(i), terminate this Agreement by a further notice to the Assessor.

10.3 Termination by the Assessor

- a. The Assessor may only terminate this Agreement where the Assessor's ability to provide the Services becomes adversely affected such that they can no longer comply with this Agreement, including due to a conflict of interest with the Subject Practitioner.
- b. Should these circumstances arise, the Assessor may provide a written notice to the HPCA to terminate the engagement. The notice must include the reason for the termination.

10.4 Effect of Termination on Accrued Rights and Remedies

Termination of this Agreement by either Party is without prejudice to any accrued rights or remedies of either Party. The HPCA may, following termination, engage another Assessor to provide the Services.

10.5 Adjustment of the Fee on Termination

Upon termination of this Agreement, the HPCA will pay the Assessor for the Services completed by the Assessor up to the date of termination.

10.6 Further Services After Termination

If the HPCA requests the Assessor to provide further services or undertake any additional work of a minor, incidental or ancillary nature in connection with the Services after termination under sub-clause 10.1, and the Assessor agrees to perform the work, then notwithstanding such termination, all such work or services will be deemed to be part of the Services and subject to the terms of this Agreement.

10.7 Continuing obligations after Termination

Clauses in this Agreement dealing with access to records, licences and consents, confidentiality, Intellectual Property, insurance, consequences of termination, dispute resolution and any other provision of this Agreement which by its nature should survive termination will survive termination, expiry or repudiation of this Agreement.

11. Notices

11.1 Any notice given under this Agreement

- a. must be in writing, addressed to the intended recipient at the address shown for the parties in the Appointment Details or, the last known address notified by the intended recipient;
- b. must be signed by an authorised officer of the sender;
- c. will be taken to have been delivered:
 - i. in the case of delivery in person – when delivered to the recipient’s address for service and a signature is obtained as evidence of delivery;
 - ii. in the case of delivery by post – within three Business Days of posting; and
 - iii. in the case of delivery by email – on receipt of confirmation by the sender that the recipient has received the email.

11.2 If delivery or receipt of a notice occurs on a day which is not a Business Day, or occurs later than 4:00 pm (local time of the sender) on a Business Day, it will be taken to have occurred at the commencement of the next Business Day.

12. Waiver

- 12.1 A Party’s failure or delay to exercise a power or right does not operate as a waiver of that power or right.
- 12.2 The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.
- 12.3 A waiver is not effective unless it is in writing.
- 12.4 Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

13. Severability

If any provision in this Agreement is unenforceable, illegal or void or makes any one, or any part, of the former unenforceable, illegal or void, that provision is severed and the rest of this Agreement remains in force.

14. Entire Understanding

The terms and conditions in the List and all Schedules to the List are the entire Agreement and understanding between the parties on everything connected with the subject matter of the List, and supersede any prior agreement or understanding on anything connected with that subject matter.

SCHEDULE A – Application

All applications must be submitted online via the Health Professional Councils Authority website, www.hpca.nsw.gov.au

Applications submitted by email will not be accepted.

SCHEDULE B – Letter of Engagement

Date
Confidential

Our Ref: TRIMRECNUM
AHPRA Reg. No.: «AHPRARegNo»

Name

Address

Email

Dear

Independent health assessment for «DrFullName»

You have been selected by the Health Professional Councils Authority to see (name of practitioner) under the prequalification list, 'Council Directed Health Assessors'. The details are as follows:

Date:

Time:

«DrSurname»'s phone number:

Report due date:

Any special requirements: (eg hair drug screen)

(Name of practitioner) was referred to you for assessment because (insert brief reasons).

I have enclosed documents relevant to this matter, which have also been sent to the practitioner.

The (Council) looks forward to receiving your report.

If you have any questions, please contact, {Name} (the Contact Officer) on 9219 02XX or toll-free on 1300 197 177, or email {email address}.

Yours sincerely

for
«ExecOfficer»
Executive Officer

Exhibit list of documents
(name of practitioner, AHPRA registration number)

No	Our ref (TRIM ref)	Document title/description	Date
1			
2			
3			
4			
5			
6			

SCHEDULE C – Services statement

At a minimum Assessors should be capable of meeting the following requirements.

Contact and availability

An Assessor will provide HPCA with:

- their practice address and contact details
- an email address
- an email or postal address for receiving assessment documents
- their current availability

Based on this information and the referrals to health assessments provided by Health Profession Councils in NSW, HPCA may refer an assessment to an Assessor. This will largely be done via phone with the Assessor's practice office.

The Assessor's office may be asked to respond to an email confirming the appointment.

Initial health assessments

Registered health practitioners may be directed by a Health Profession Council to provide advice:

- about whether a health practitioner is impaired under the *Health Practitioner Regulation National Law (NSW)*
- if a practitioner is impaired, what types of restrictions on their registration may be appropriate.

As part of the referral, a Council will provide the Assessor with:

- a letter signed by a duly authorised person containing the basis for referral of the Subject Practitioner and contact details for the Subject Practitioner's case manager or monitoring officer
- relevant written background materials to assist the Assessor in preparing for the Assessment.

The Assessor will meet with the Subject Practitioner as required. This meeting may include administering or referring the Subject Practitioner to testing (neuropsychological testing, hair drug screen etc). While the nature of an Assessment can be challenging, the Assessor should allow sufficient time to understand the matter and ensure the Subject Practitioner has had an adequate opportunity to participate in the Assessment.

The Assessor is asked to provide a written report to the referring Council within 14 days of the Assessment. A written guide (Schedule F) and other resources may be provided to Assessors to assist them in ensuring their reports meet the requirements of Health Profession Councils.

Review health assessment

The service for a follow-up appointment is the same as above. However, Assessors may find that less time is required to complete pre-reading, the appointment and/or the report.

Other services

An experienced Assessor may be asked to provide professional advice to newly appointed Assessors. All Assessors may be required to participate in induction or other educational activities.

An Assessor may be required to provide:

- information to a committee or hearing organised by the HPCA
- evidence to the NSW Civil and Administrative Tribunal.

An officer of the HPCA may contact the Assessor to:

- discuss the Assessment
- seek clarification on the report or its recommendations and/or
- follow-up on recommendations that are not clear.

A supplementary report, which provides further written advice or clarification, may be sought by a Council, and must be provided within 7 calendar days.

If a report contains an error, the HPCA may request that the Assessor clarify and correct the report at no extra cost. This must be provided within 7 calendar days.

SCHEDULE D – Maximum pricing framework

For sub-panels other than Neuropsychology and Psychiatry the Applicant must provide a detailed breakdown in the form below of proposed rates and charges (Schedule of Fees) for the Services.

Failure to provide a breakdown substantially in the form below constitutes an acceptance of the psychiatry rates specified below.

SUBPANEL	ASSESSMENT	HOURLY RATE		HOURS	TOTAL	
		ex GST	inc GST		ex GST	inc GST
Psychiatry	Standard assessment	\$410	\$451	Max 4	\$1, 640	\$1, 804
	Complex assessment	\$410	\$451	Min 4	\$2, 050	\$2, 255
Neuropsychology	Standard assessment	\$410	\$451	Max 8	\$3280	\$3, 608
	Complex assessment	\$410	\$451	Min 8	\$4, 100	\$4, 510
All assessments	Supplementary report	N/A		N/A	\$410	\$451
	Non-attendance and cancellation fee (less than 48 hours)	N/A		N/A	\$820	\$902
	Providing additional information or evidence to a hearing	N/A		N/A	\$410/hour	\$451/hour

SCHEDULE E – Appointment details letter

Date
Confidential

Our Ref: TRIMRECNUM

Name

Address

Email

Dear

Appointment to the Council directed health assessments list

Thank you for applying to the prequalification list, 'Council Directed Health Assessments', you have now been appointed to this list. Your appointment is governed by the terms and conditions to which you have previously agreed. The details are as follows:

Commencement date:

Agreed maximum pricing:

Assessment	Hourly rate (inc GST)	Hours	Total (inc GST)
Standard assessment			
Complex assessment			
Supplementary report			
Non-attendance and cancellation fee (less than 48 hours)			
Providing additional information or evidence to a hearing			

Report deadlines: 14 days from appointment

Payment terms: 20 business days from date of the invoice

We are organising an induction webinar to welcome new appointees to the list and will send you details separately.

Our staff may contact your office at any time to discuss referring you a health assessment. However, please note that your appointment to this list is not a guarantee of work.

If you have any questions, please contact, Heidi Meade, Principal - Assessment, Intake, Inspections and Monitoring (AIIM) on (02) 9219 0272 or heidi.meade@health.nsw.gov.au

Yours sincerely

Ameer Tadros
Director
Health Professional Councils Authority

SCHEDULE F – assessment report guide

Introduction

Health professional Councils manage complaints about practitioners and students (practitioner) to protect public health and safety. If Councils are concerned about the health of a practitioner, they can require them to attend a health assessment under the Health Practitioner Regulation National Law (NSW) (National Law (NSW)). The aim of the assessment is to determine:

- the current health status of a practitioner.
- if a practitioner has an impairment under the Law.
- any further action we need to take to ensure public safety.

You may be referred an assessment by the HPCA to:

- conduct an independent (initial or review) assessment of a practitioner.
- provide us with a report of your findings and recommendations.

Under section 176F of the National Law (NSW), the report is protected, which means it will only be disclosed to third parties for the purpose of managing a complaint or further investigation by the Health Care Complaints Commission.

You will need to determine whether a practitioner has an ‘impairment’ as defined in section 5 of the *National Law (NSW)*. The practitioner will only be impaired if they have a health issue, which is likely to affect or does affect the safe practice of their profession or (for students) clinical training.

A health issue can be a physical or mental condition, disability, or disorder, including substance abuse or dependence.

If a practitioner has a health issue, which is stable and well managed by medical, professional and personal support, they may not have an impairment.

A Council will review your report and any information the practitioner provides to decide what further action is needed to protect the public. We will also send a copy of the report to the practitioner, unless they are particularly vulnerable. In this case, we may seek your permission to send your report to their treating practitioner instead, so they can explain its contents to the practitioner.

Following your assessment, we may:

- close the matter and take no further action, if there is no evidence of an impairment and we have no further concerns
- counsel the practitioner to work within the limitations of any impairment
- refer the matter to an Impaired Registrants Panel to consider whether conditions or suspension of registration are needed to protect public safety
- take other action, such as referring the matter for further assessment or investigation
- take immediate interim action if we believe the health and safety of the public is immediately at risk or it is otherwise in the public interest.

If conditions are placed on a practitioner’s registration, we will monitor the practitioner’s compliance, which may include specific testing and regular review assessments.

Part 1: How to structure your report

Your report should address the following sections and issues:

1. Findings

Does the practitioner have an impairment?

2. Recommendations and reasons

For public safety, should the practitioner stop working while seeking treatment?

What practice restrictions are required (if any) to maintain patient safety, such as:

- supervision
- restriction to drug access and/or withdrawal of drug authority (as applicable to the practitioner's profession)
- limited hours of work per week
- not to work night or weekend shifts

Does the practitioner need health conditions to ensure they work safely, such as:

- regularly attending appropriate treating practitioner/s
- regular alcohol / drug screening in line with Council protocol/s

If the practitioner is particularly vulnerable should your report be provided to the practitioner's GP directly, rather than the practitioner?

3. Introduction

Confirm that the practitioner was informed of the purpose of the assessment

Confirm that the practitioner has consented to the assessment

Confirm that you do not have a conflict of interest in providing this assessment

4. Documents reviewed

List all documents reviewed to assess the practitioner

5. Health issues

Current health issue(s) and diagnosis of the practitioner

Background of health issues, including cause or stressors / recent hospitalisations

Changes and progress since last assessment

Any criminal history

6. Influence of health issues

Is the health issue likely to or does it affect safe practice or clinical training? Consider:

- critical thinking
- judgment
- problem solving
- organisation skills

Does the practitioner understand their health issue and its effects?

Is the practitioner taking appropriate medication (if applicable)?

Does the practitioner have appropriate support networks?

Is the practitioner well engaged with appropriate treating practitioner/s?

Is the practitioner complying with current conditions (including commentary on any test results)?

Are there other factors which may impact on the health of the practitioner?

What is the future vulnerability / risk of relapse of the practitioner?

Part 2: How to think about the assessment

Application of decision parameters at critical decision points

1. Complaint received about health impairment	2. Easing conditions, approving employment	3. Breaches of conditions	4. Approval of exit from the Health Pathway
Nature of the possible impairment			
<ul style="list-style-type: none"> Is there agreement about the presence and nature of the illness? Does the practitioner's illness constitute an impairment within the meaning of the National Law (NSW)? Does the practitioner have sufficient information and understanding of their condition? Is the practitioner likely to benefit from inclusion in the pathway? How can public protection best be assured (conditions/suspension)? 	<ul style="list-style-type: none"> How can public protection best be assured, given the history of the illness? Are the conditions serving a useful purpose in terms of public protection and/or the wellbeing of the practitioner? 	<ul style="list-style-type: none"> Is the breach an expected manifestation of the illness at an early stage of involvement in the Council's health pathway? Is public safety compromised by the breach? How can public protection be assured, given the history of the illness? 	<ul style="list-style-type: none"> How can public protection be assured if the practitioner exits the pathway given the history of their illness? Is the practitioner willing to exit the pathway? Has the practitioner recovered from their illness? Has the practitioner accomplished the treatment goals articulated on or subsequent to entry to the pathway?
Compliance with conditions			
N/A	<ul style="list-style-type: none"> Has the practitioner been fully compliant with all? 	<ul style="list-style-type: none"> Is the breach isolated, or repeated? Are other conditions being strictly adhered to? 	<ul style="list-style-type: none"> Has the practitioner been fully compliant with all conditions?
Support from friends, family and colleagues			
<ul style="list-style-type: none"> Has the practitioner spoken to key work associates about their condition, or do they intend to do so? Has the practitioner spoken to family and friends about their condition, or do they intend to do so? 	<ul style="list-style-type: none"> Who has the practitioner confided in? Will a suitable level of professional support be available to the practitioner? Will the practitioner 	<ul style="list-style-type: none"> Who has the practitioner confided in? Is the practitioner well supported in their professional life? 	<ul style="list-style-type: none"> Who has the practitioner confided in? Will a suitable level of professional support be available to the practitioner? Will the practitioner have sufficient support from colleagues?

1. Complaint received about health impairment	2. Easing conditions, approving employment	3. Breaches of conditions	4. Approval of exit from the Health Pathway
	have sufficient support from colleagues to cope in the position?		

Understanding of the illness and its effects

<ul style="list-style-type: none"> Is there agreement about the effect their illness is having on the practitioner's work and professional life, and what needs to be done? 	<ul style="list-style-type: none"> Is there agreement about the effect their illness is having on the practitioner's work and professional life? What progress has the practitioner made in their understanding of their illness? Has the practitioner made detailed and realistic plans? 	<ul style="list-style-type: none"> Is there agreement about the effect their illness is having on the practitioner's work and professional life? What progress had the practitioner made in their understanding of their illness? 	<ul style="list-style-type: none"> Is there agreement about the effect their illness has had on the practitioner's work and professional life? What progress has the practitioner made in their understanding of their illness? Has the practitioner made detailed and realistic plans about their future?
--	--	---	---

Motivation to change

<ul style="list-style-type: none"> What does the practitioner think can be done? What is the practitioner thinking of doing/changing? What are likely barriers? How is the practitioner planning to deal with these barriers?

5. Referral to the Conduct pathway Referral to the Conduct Pathway may occur when there have been repeated breaches of agreed conditions, with no prospect of resolution.	6. Conditions for allowing return to work following suspension What conditions are required to ensure the public remains protected?	7. Applications to the NSW Civil and Administrative Tribunal from suspended or deregistered impaired practitioners requesting restoration to the National Register
---	---	---

Nature of the possible impairment

<ul style="list-style-type: none"> • How can public protection best be assured, given the history of the illness? 	<ul style="list-style-type: none"> • Can public protection be assured if the practitioner returns to work? • What treatment plan is in place? 	<ul style="list-style-type: none"> • Can public protection be assured if the applicant returns to work? • What treatment plan is in place? • Has there been improvement in the practitioner's health and wellbeing? • Can the applicant demonstrate control and self-management of their impairment e.g. a period of negative drug testing, positive reports from treating and CAPs, etc?
--	---	---

Compliance with conditions

<ul style="list-style-type: none"> • Are breaches serious and/or repeated? • Are breaches wilful, or a manifestation of the practitioner's illness? • Can the Council rely on conditions to ensure public protection? 	N/A	N/A
--	-----	-----

Support from friends, family and colleagues

N/A	<ul style="list-style-type: none"> • Who has the practitioner confided in? • Is the practitioner well supported in their professional life? 	<ul style="list-style-type: none"> • What is the applicant's attitude to advising work associates about their condition? • Does the applicant have the support of family and friends in their application?
-----	---	--

Understanding of the illness and its effects

<ul style="list-style-type: none"> • Is there agreement about the effect their illness is having on the practitioner's work and professional life? • What progress had the practitioner made in their understanding of their illness? 	<ul style="list-style-type: none"> • Is there agreement about the effect their illness is having on the practitioner's work and professional life? • What progress had the practitioner made in their understanding of their illness? 	<ul style="list-style-type: none"> • What is the applicant's attitude to the circumstances of their suspension or deregistration?
---	---	--