



**Office of the Information Commissioner
Queensland**

18 September 2018

Senator Rachel Siewert
Chair, Senate Community Affairs References Committee
Parliament House
CANBERRA ACT 2600

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Dear Senator Siewert

Inquiry into My Health Record system

The Office of the Information Commissioner (OIC) welcomes the opportunity to contribute to the Committee's consideration of the My Health Record (MHR) system.

The OIC's role with respect to the My Health Record system relates to the participation of the 16 Hospital and Health Systems across Queensland who will be uploading and accessing information through the MHR system, and the Queenslanders for whom a MHR has been, or will be, created. This will generate significant information flows in Queensland, involving thousands of health professionals and millions of Queenslanders.

As the Committee is aware, the Office of the Australian Information Commissioner (OAIC) is the independent regulator of the privacy aspect of the MHR system.

The Queensland OIC endorses the views of the OAIC, both in terms of its submission to the Inquiry into the My Health Record system and the Inquiry into the My Health Records Amendment (Strengthening Privacy) Bill 2018. The OIC notes the efforts made by Australian Government and the Australian Digital Health Agency (ADHA) to address some of the privacy concerns that have garnered public attention in recent months, and acknowledges that the amendments in the Strengthening Privacy Bill will go some way to alleviating privacy concerns for the public.

With respect to the OAIC's submission on the MHR system, OIC endorses the OAIC's calls for further consideration of the –

- default privacy settings of an automatically generated MHR
- impact on privacy needs of young people
- automatic uploading of Medicare information
- need for rigorous protections for victims of domestic and family violence, and
- desirability of access history and audit log requirements at an individual rather than organisational level.

The OIC also endorses the OAIC's position that the communications campaign should enable individuals to make a proactive decision about whether to opt-out of the MHR, and that individuals should be made aware of how to exercise the privacy and security controls of their MHR.

The Office of the Information Commissioner is an independent statutory authority.

The statutory functions of the OIC under the Information Privacy Act 2009 (Qld) (IP Act) include commenting on the administration of privacy in the Queensland public sector environment.

This submission does not represent the views or opinions of the Queensland Government.

The OIC also notes continuing community concerns relating to the security of the MHR system given the broad surface through which it can be accessed. While acknowledging the intention that the legitimate authority to access a record stems from the provision of healthcare to that individual, the perception persists that any individual's record could be accessed by any of the reported 900,000 access points. Further, a person whose record has been accessed inappropriately (either maliciously or out of curiosity) may never know of that privacy intrusion. Therefore, the OIC suggests that further barriers to unauthorised or inappropriate access be investigated with the aim of providing greater assurance to individuals that their personal information is safe from inappropriate access, and access is limited.

The secondary use of data also continues to garner community concern. While the *Framework to guide the secondary use of My Health Record system data* of May 2018 outlines appropriate principles for secondary use, this appears to be a policy document that could be modified without Parliamentary scrutiny. The community may require stronger assurances that principles prohibiting the sale of data or use of data for commercial purposes cannot be changed via an administrative change to the Framework. Requiring the Framework to be a legislative instrument, which is subject to Parliamentary scrutiny prior to any changes to principles or governance arrangements, may provide the requisite assurance.

Community concerns over privacy intrusions and secondary use of data, whether real or merely perceived risks, have potential to undermine community trust and confidence in MHR and inhibit the realisation of the benefits of this tool to improve healthcare.

Yours sincerely

Rachael Rangihaeata
Information Commissioner