



Our reference: 13/001311

Dr Juanita Fernando
Chair, Health Sub Committee
Australian Privacy Foundation
By email: juanita.fernando@med.monash.edu.au

Dear Dr Fernando

Privacy and the PCEHR system

Thank you for your letter of 21 February 2014 to the Australian Privacy Commissioner, Timothy Pilgrim, raising concerns about privacy aspects of the Personally Controlled Electronic Health Record (PCEHR) system. Mr Pilgrim has asked me to respond on his behalf.

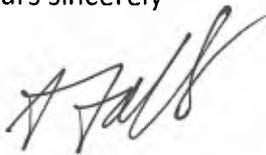
You have outlined a number of concerns expressed to the Australian Privacy Foundation by an individual. I appreciate your feedback that this individual did not feel she received an adequate response from the Office of the Information Commissioner (OAIC) about her concerns. Some of the issues she has raised may be addressed in our consumer factsheets on the PCEHR system, particularly those relating to *Consent and the handling of personal information in your eHealth record*, *How to manage your eHealth record* and *Emergency access and your eHealth record*. These are available at www.oaic.gov.au/privacy/privacy-resources/privacy-fact-sheets/health-and-ehealth/.

However, a number of the concerns raised in your letter relate to the overall design and legislative framework for the PCEHR system. The OAIC regulates the privacy aspects of the PCEHR system, but our regulatory functions take place within the legislative and policy framework established by the *Personally Controlled Electronic Health Records Act 2012* (PCEHR Act) and related rules and regulations. We are not responsible for the policy decisions underpinning the operation of the system, including matters you have raised such as the length of retention of personal information, retention of personal information following cancellation of a PCEHR, permitted uses of information in the PCEHR system and healthcare provider participation arrangements. These matters are set out in the PCEHR Act and associated instruments.

I recommend that you address your questions on these issues to the Department of Health, which is responsible for the policy and operational aspects of the PCEHR system. With your permission, I would be happy to provide a copy of your letter to the Department of Health and ask them to respond to you directly on these matters.

If you would like to discuss the issues raised in your letter in more detail, please contact Jacob Suidgeest, Director, Health and Audit, at jacob.suidgeest@oaic.gov.au or 02 9284 9809.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A Falk', written in a cursive style.

Angelene Falk
Assistant Commissioner
Regulation and Strategy

7 March 2014