

MY HEALTH RECORD – PRIVACY CONSIDERATIONS

[Privacy & My Health Record System – Office of the Australian Information Commissioner](#)

What is a My Health Record?

My Health Record is an online summary of your health information, such as medicines you are taking, any allergies you may have and treatments you have received. It was previously known as a Personally Controlled Electronic Health Record (PCEHR) or eHealth record.

My Health Record allows your doctors, hospitals and other healthcare providers (such as physiotherapists) to view your health information, in accordance with your access controls. You are also able to access it online yourself.

The OAIC's role in the *My Health Record* system

The Office of the Australian Information Commissioner (OAIC) regulates the handling of personal information under the *My Health Record* system by individuals, Australian Government agencies, private sector organisations and some state and territory agencies (in particular circumstances).

The OAIC's role includes investigating complaints about the mishandling of health information in an individual's *My Health Record*. The OAIC can also conduct 'Commissioner initiated investigations'.

The functions and enforcement powers available to the OAIC under the My Health Records Act and [Privacy Act 1988](#) include:

- investigating and conciliating complaints
- accepting enforceable undertakings
- making determinations
- seeking an injunction to prohibit or require particular conduct
- seeking a civil penalty from the Courts
- accepting mandatory data breach notifications from the System Operator, health care provider organisations, repository operators and portal operators

What are you consenting to?

When you register for *My Health Record*, you are required to give a standing, or ongoing, consent to records containing your health information being uploaded to your record by healthcare providers involved in your care.

This is subject to two important exceptions:

- where you have told your healthcare provider that a particular record, all records, or a specific class of records must not be uploaded
- where certain laws of a State or Territory require that consent to upload particular health information be given expressly or in a particular way.

When registering for *My Health Record*, you will also be asked whether you consent to the inclusion of certain types of Medicare information. For more information, please see the OAIC's [Privacy fact sheet 22: Medicare and your My Health Record](#).

If you want to restrict a particular record, all records or a specified class of records from being included in your record, you should discuss this issue with your healthcare provider.

You can exercise further control over your record, such as controlling which healthcare providers have access to your *My Health Record*, by changing your privacy settings, known as 'access controls' — for more information please see the OAIC's [Privacy fact sheet 19: How to manage your My Health Record](#).

Providing consent

When you register for a *My Health Record*, you are required to give a standing consent for the upload of documents to your record as a condition of registration. For your consent to be valid, four key elements should be satisfied:

- you must be adequately informed before giving consent
- it must be provided voluntarily
- it must be current and specific
- you must have the capacity to understand and communicate your consent.

If you are considering whether or not to register for a *My Health Record* you should consider what it means to 'consent' to information being uploaded to your record.

It is important for you to educate yourself about the *My Health Record* system, including what sort of personal information may be stored on a record and who can access it. If there are specific records that you do not want uploaded to your record, you should tell your healthcare provider not to upload the records, and they must not do so. If you do not say otherwise, you are considered to have consented to the inclusion of information in your *My Health Record*.

If you change your mind and don't want a document that has been uploaded to your *My Health Record* to be included in your record, you can:

- restrict access to the document using the advanced access control settings on your record
- ask the healthcare provider who uploaded the document to edit or delete it, or
- remove the document yourself by logging in to your record.

***My Health Record* privacy fact sheets for consumers**

The OAIC has developed fact sheets for individuals about the *My Health Record* system. Fact sheets 46 and 47 only apply to individuals whose registered Medicare address is in Northern Queensland or the Nepean Blue Mountains areas, while fact sheets 20 and 21 apply to individuals that live in parts of Australia that do not include Northern Queensland and the Nepean Blue Mountains.

Fact sheets 15, 18, 19, 22 and 23 apply to everyone who has a *My Health Record* or is considering whether to register for one.

- [Privacy fact sheet 15: Ten tips for protecting the personal information in your *My Health Record*](#)
- [Privacy fact sheet 18: The OAIC and the *My Health Record* system](#)
- [Privacy fact sheet 19: How to manage your *My Health Record*](#)
- [Privacy fact sheet 20: Consent and the handling of personal information in your *My Health Record*](#) (this fact sheet does not apply to people living in the Northern Queensland and Nepean Blue Mountains areas)
- [Privacy fact sheet 21: Young people and the *My Health Record* system](#) (this fact sheet does not apply to people living in the Northern Queensland and Nepean Blue Mountains areas)
- [Privacy fact sheet 22: Medicare and your *My Health Record*](#)
- [Privacy fact sheet 23: Emergency access and your *My Health Record*](#)
- [Privacy fact sheet 46: *My Health Record* system – What to expect in Northern Queensland and Nepean Blue Mountains](#)
- [Privacy fact sheet 47: Young people and the *My Health Record* system \(Northern Queensland and Nepean Blue Mountains\)](#)