Australian Multicultural Health Collaborative

Our cultures
Our languages
Our health

Remaking the My Health Records (Information Commissioner Enforcement Powers) Guidelines 2026

Joint FECCA and THE COLLABORATIVE Submission to the Office of the Australian Information Commissioner

February 2026

About

FECCA

The Federation of Ethnic Communities' Councils of Australia (FECCA) is the national peak body representing people from culturally and linguistically diverse (CALD) communities and their organisations across Australia. Through the membership of state, territory and regional ethnic communities' councils and their networks, FECCA represents the interests of more than 1,500 multicultural community organisations nationwide. FECCA provides a collective national voice on issues affecting Australia's multicultural communities, including migration, settlement, workforce participation, skills recognition, human rights, social cohesion and equity.

The Australian Multicultural Health Collaborative (the Collaborative) is the national multicultural health peak body.

> ***Vision Statement:*** *In a truly multicultural Australia, our health and social care system is committed to health equity, and works proactively towards sustained improvement in the physical, mental and spiritual health and wellbeing of our multicultural communities.*

The Collaborative

The Collaborative is an initiative of the FECCA. We provide a national voice, leadership and advice on policy, research, data, and practice to improve access and equity, address systemic racism, and achieve better health and wellbeing outcomes for Australians from multicultural backgrounds.

The Collaborative is representative, and membership based. Members include consumers and carers; health services and wellbeing/social care services; practitioners; and researchers. The Collaborative also welcomes as affiliates other national health peak organisations.

Introduction

The FECCA and the Collaborative welcomes the opportunity to comment on the *Exposure Draft of the My Health Records (Information Commissioner Enforcement Powers) Guidelines 2026* and the accompanying Consultation Paper.

We support the overall intent of the Guidelines. Strong, transparent and proportionate enforcement of privacy obligations is essential to maintaining public trust in My Health Record and, by extension, to the success of Australia's digital health system.

However, from a multicultural health perspective, we are concerned that the Exposure Draft and Consultation Paper remain largely regulator-facing and legally framed, with limited consideration of how enforcement processes are understood, accessed and experienced by multicultural communities.

Trust, agency and accessibility are not abstract principles for multicultural communities. They are practical determinants of whether people opt in to digital systems, whether they exercise their rights, and whether privacy protections are meaningful in real-world settings.

Transparency for multicultural Australians

The Exposure Draft clearly outlines how the Information Commissioner will exercise investigative and enforcement powers. This improves transparency within the regulatory system, particularly for regulated entities and legal practitioners. What is missing, however, is transparency for health consumers, especially those from multicultural backgrounds.

Across our consultations and prior work, community members frequently tell us that they do not know who to contact when something goes wrong with My Health Record; are unclear about the difference between Services Australia, the System Operator and the OAIC; and, assume that complaints processes are complex, legalistic and not designed for them.

In previous consultations and roundtables conducted by FECCA and the Collaborative some bilingual community leaders expressed perceptions that My Health Record feels more oriented toward government visibility than consumer protection. This perception persists despite the existence of strong enforcement powers.

The Guidelines currently do not require or encourage plain-language explanations of enforcement outcomes; consumer-facing summaries of what action has been taken and why; and, communication that is accessible to people with limited English or legal literacy.

Without visible, understandable accountability, enforcement risks becoming symbolically strong but practically invisible to the communities most concerned about misuse of their data.

Recommendation: Include consumer-facing transparency measures, including plain-language summaries and translated public explanations of enforcement outcomes.

Having rights vs. being able to use them

The Guidelines assume that individuals can identify a privacy breach, understand the appropriate pathway, and engage with complaint processes. While legally sound, this assumption does not reflect the lived experience of many multicultural consumers.

Our engagement with the multicultural community and previous submissions and consultations consistently highlight that people with limited English proficiency are reluctant to lodge complaints directly with service providers and migrants with insecure visa status may fear negative consequences from engaging with government processes. Many individuals also rely on family members or community workers to navigate health and legal systems, reducing privacy and autonomy.

Multicultural consumers often experience overlapping forms of disadvantage that compound barriers to asserting privacy rights. These may include older age, disability, low literacy, trauma histories, insecure migration status or socioeconomic vulnerability.

In earlier the Collaborative consultations, concerns were raised about people discovering information in their My Health Record that they did not recall consenting to or fully understanding. In some cases, participants indicated they chose not to pursue a complaint due to fears of causing trouble or uncertainty about whether raising concerns might affect their access to services.

These intersecting factors increase the likelihood that individuals will experience privacy harms yet reduce their capacity to navigate complaint mechanisms or challenge misuse of their health information. Without recognising intersectionality in enforcement pathways, the Guidelines risk treating multicultural consumers as a single homogenous group rather than acknowledging the diverse, layered vulnerabilities that shape their engagement with My Health Record and their ability to seek redress.

While section 5.5 of the Exposure Draft allows the Commissioner to decide it is not reasonable for an individual to lodge a complaint with a participant, this discretion is not framed through a cultural or vulnerability lens. There is no explicit recognition that systemic barriers, not individual reluctance, often prevent people from exercising their rights.

Agency, in this context, requires more than legal pathways. It requires recognition of power imbalances, fear, and dependence on intermediaries.

Recommendation: Embed cultural and linguistic vulnerability into the Commissioner's discretion under s 5.5 when determining whether it is reasonable for individuals to complain directly to participants.

Simplification is not inclusion

The Consultation Paper emphasises that the Guidelines have been streamlined and simplified to improve accessibility. While we welcome this effort, we note that accessibility has been interpreted narrowly.

Simpler English does not resolve barriers faced by people who do not read English confidently, have limited literacy in their first language, prefer oral or relational modes of communication or lack confidence using digital systems

Our work during the COVID-19 response demonstrated that translated documents alone were often ineffective. Trust and understanding were built through community-led explanations, bilingual educators and opportunities to ask questions in safe, familiar settings.

The Guidelines do not reference translation or interpreter support for complaints or enforcement processes, alternative formats or oral pathways, or the role of community organisations in supporting consumer understanding. As a result, the system risks remaining formally accessible but practically unreachable for many multicultural Australians.

Recommendation: Mandate interpreter access, translation options, oral complaint pathways, and culturally appropriate communication methods.

Enforcement and proportionality: unintended consequences

We support robust enforcement where privacy breaches cause harm. At the same time, our work with community and multicultural organisations highlights the risk of unintended consequences.

Smaller organisations often operate with limited compliance resources, part-time staff and heavy reliance on volunteers or bicultural workers. Without clear signals about proportionality, education and remediation, enforcement actions may discourage participation in My Health Record by providers serving multicultural communities. This would ultimately reduce access and continuity of care for multicultural consumers.

While section 7.1 allows consideration of harm to vulnerable groups, the Guidelines do not clearly articulate how equity, system capacity and cultural context inform enforcement decisions.

Recommendation: Provide guidance on proportionality in enforcement for small and resource-limited providers serving multicultural communities.

Digital Literacy and Digital Exclusion

Digital exclusion remains a significant barrier for many people from multicultural backgrounds, particularly those with limited experience using digital platforms, low English literacy, or reliance on older devices or shared technology.

For these consumers, challenges such as navigating the My Health Record interface, identifying a potential breach, or understanding digital notifications can severely impede their ability to engage with privacy protections.

The Guidelines assume a baseline of digital capability that does not reflect the realities of many multicultural communities. Incorporating considerations of digital literacy into enforcement guidance (including low-tech complaint pathways, assisted support, and alternatives to online communication) would ensure that privacy rights remain accessible regardless of digital skill or access.

Recommendation: Recognise and address systemic barriers, including fear of authority, migration concerns, and low English or digital literacy.

Consultation and participation

Finally, we note that the consultation process itself reflects the same accessibility challenges identified above. The Consultation Paper is available only in English, assumes written submissions, and does not explicitly invite community or consumer perspectives. This limits the diversity of voices informing the final Guidelines and risks reinforcing a system shaped primarily by institutional stakeholders.

Recommendation: Commit to inclusive consultation processes, including multilingual consultation materials and invitations to community and consumer voices. Develop co-designed, culturally appropriate materials to support understanding of rights, breaches, and enforcement actions.

Conclusion

We support the remaking of the Guidelines and recognise the importance of strong enforcement powers to protect privacy in the My Health Record system. However, without explicit attention to transparency, agency and accessibility for multicultural communities, there is a risk that these protections remain theoretical rather than lived.

We encourage the OAIC to consider how the Guidelines might better signal consumer-facing transparency, supported agency or involvement for people facing structural barriers and culturally safe and accessible engagement with enforcement processes

We would welcome the opportunity to contribute further, including through consumer testing, co-design or the development of culturally appropriate guidance materials to sit alongside the Guidelines. principle, but universal in practice.

—

Australian
Multicultural
Health
Collaborative

Unit 1, Level 6, 54 Marcus Clarke Street
Canberra City, ACT 2601
t (02) 6282 5755
e admin@multiculturalhealth.org.au
s @cald_health
multiculturalhealth.org.au

FECCA

An initiative of The Federation of Ethnic
Communities' Councils of Australia