



Health and wellbeing for lesbian, gay, bisexual, trans, gender diverse, intersex, queer and other sexual orientation, gender and bodily diverse people (LGBTIQ+)

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

About LGBTIQ+ Health Australia

LGBTIQ+ Health Australia (LHA) is the national peak organisation promoting the health and wellbeing of LGBTIQ+ people and communities. With a diverse membership spanning LGBTIQ+ community-controlled health organisations, community groups, state and territory peak bodies, service providers, researchers, and individuals, LHA is uniquely positioned to deliver national leadership in policy, advocacy, research, and capacity building.

A national focus on LGBTIQ+ health

LGBTIQ+ people are recognised as a priority population in key national strategies such as the *Primary Health Care 10-Year Plan*¹, *National Preventive Health Strategy*², *National Men's*³ and *Women's Health Strategies*⁴, and the *National Mental Health and Suicide Prevention Plan*⁵. The release of the *National Action Plan for the Health and Wellbeing of LGBTIQ+ People 2025–2035*⁶ (National Action Plan) marks a historic step forward, delivering a comprehensive framework to address systemic health inequities and achieve better physical and mental health outcomes for LGBTIQ+ people across Australia.

Understanding experiences of LGBTIQ+ people

Despite these national strategies, LGBTIQ+ people continue to experience poorer health outcomes due to stigma, discrimination, prejudice, and abuse. LHA acknowledges the compounding barriers faced by LGBTIQ+ people with intersecting experiences, including Aboriginal and Torres Strait Islander status, cultural and racial diversity, age, disability, socioeconomic disadvantage, and geographic isolation.

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¹ <https://www.health.gov.au/resources/publications/australias-primary-health-care-10-year-plan-2022-2032>

² <https://www.health.gov.au/resources/publications/national-preventive-health-strategy-2021-2030>

³ <https://www.health.gov.au/resources/publications/national-mens-health-strategy-2020-2030>

⁴ <https://www.health.gov.au/resources/publications/national-womens-health-strategy-2020-2030>

⁵ <https://www.health.gov.au/resources/publications/the-australian-governments-national-mental-health-and-suicide-prevention-plan>

⁶ <https://www.health.gov.au/resources/publications/national-action-plan-for-the-health-and-wellbeing-of-lgbtiqa-people-2025-2035>

Introduction

LGBTIQ+ Health Australia (LHA) welcomes the opportunity to provide feedback on the draft My Health Records (Information Commissioner Enforcement Powers) Guidelines 2026. LHA is the national peak body for organisations working to improve the health and wellbeing of LGBTIQ+ people across Australia. Our members include LGBTIQ+ community-controlled organisations and mainstream services delivering health and human services to LGBTIQ+ populations.

LHA supports the remaking of the Guidelines and their intent to improve clarity, streamline content, and align with recent legislative changes. Clear and accessible regulatory guidance supports stronger compliance and contributes to public confidence in the My Health Record system. Strong privacy protections are particularly important where health information is highly sensitive and inappropriate access or disclosure could result in stigma, discrimination or harm.

General comments

The draft Guidelines are clear, relevant and practical. The streamlined structure and plain language improve readability and accessibility. The clearer explanation of the Information Commissioner's regulatory approach, including early resolution processes and the range of available enforcement tools, will assist participants in the My Health Record system to understand their obligations and the potential consequences of non-compliance.

LHA supports the risk-based approach to enforcement, including consideration of the risk of substantial harm to people and communities, the potential for systemic issues, and matters of significant public interest. This approach is appropriate for a system that contains highly sensitive health information and where privacy breaches may have serious consequences.

Protection of sensitive health information

For many LGBTIQ+ people, My Health Record may contain information that carries heightened social risk if disclosed without consent. This may include information relating to gender-affirming care, sexual health, HIV status, mental health, reproductive health, or variations of sex characteristics. Unauthorised access or disclosure of such information may expose people to discrimination, family or community conflict, employment consequences, or risks to personal safety.

The draft Guidelines note that risks of harm to vulnerable groups may be considered when determining enforcement action. LHA recommends strengthening this aspect of the guidance. Explicit recognition that certain categories of health information may carry elevated social and safety risks would reinforce the importance of strong regulatory responses where breaches occur.

We recommend that the Guidelines:

- emphasise that the sensitivity of the information involved is a relevant factor in assessing the seriousness of a breach; and
- clarify that enforcement decisions should take into account the potential for stigma, discrimination or other adverse consequences arising from disclosure.

Strengthening this framing would support a more consistent understanding across the sector of the real-world impacts of privacy breaches.

Public confidence and transparency

Trust is critical to the effective operation of the My Health Record system. People must be confident that their information will be handled appropriately and that breaches will be addressed promptly and proportionately.

LHA supports the provision allowing the Information Commissioner to communicate publicly about the use of enforcement powers, subject to appropriate limitations. Where possible, transparent reporting of enforcement activity and outcomes can contribute to public confidence and support improved compliance across the sector.

Accessibility and practical guidance

The revised structure and simplified language improve the usability of the Guidelines. We encourage the OAIC to continue supporting the regulated community through practical resources, case examples and plain-language materials that illustrate how enforcement considerations apply in practice.

Clear, accessible guidance is particularly important for smaller healthcare organisations and community-based services, including LGBTIQ+ community-controlled organisations, which may operate with limited administrative and compliance capacity.

Data accuracy and respectful recording

Accurate and respectful recording of sex, gender, variations of sex characteristics and sexual orientation information is important for both clinical care and privacy protection. LHA encourages alignment, where relevant, with the Australian Bureau of Statistics' Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables, 2020. Consistent data practices support quality care and appropriate handling of sensitive information.

Conclusion

LHA supports the remaking of the Guidelines and their improved clarity and accessibility. Strengthening the emphasis on the heightened risks associated with disclosure of highly sensitive health information would further support a risk-based regulatory approach and reinforce public confidence in the My Health Record system.

LHA would welcome the opportunity to provide further information if required.