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To: [Consultation](#)
Cc: [Katerina Pavlidis](#); [Minihan, Colin](#); [Wardell, Sarah](#)
Subject: Privacy, AGD comments - OAIC consultation on revised PCEHR Enforcement Guidelines [SEC=UNCLASSIFIED]
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Attachments: [image001.png](#)

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Hi Katerina

Apologies for not getting these comments to you yesterday. Hope the following are of assistance.

As a general comment, the revised PCEHR Enforcement Guidelines read well and provide a useful summary of the Information Commissioner's enforcement powers in relation to PCEHR, and specifically the relationship between powers under the PCEHR and those under the Privacy Act.

We also have some specific comments:

- Page 5 – suggest the heading 'Functions of the Information Commissioner in relation to PCEHR System' be kept with the text below it
- Page 7, para 5.3 - 'Investigative powers under the Privacy Act' – it might be worth adding in 1-2 sentences explaining the effect of 'a provision of Part 4 or 5', eg obligations on System Operators or registered healthcare providers relating to access to or security of PCEHR data.
- Page 7, para 5.4 – the reference to Part V of the Privacy Act setting out the investigative powers and processes relating to the Information Commissioner's investigation under the Privacy Act into an alleged 'contravention of the PCEHR Act'. Is it worth referring instead to alleged 'interference with privacy' to better reflect the wording of Part V. I note that para 5.3 already explains that a contravention of the PCEHR Act is an interference with privacy for the purposes of the Privacy Act.
- Page 15, after para 9.4 Suggest the heading 'General approach to acceptance of an undertaking' be kept with the text below it
- Page 17, paras 10.6 and 10.7 – there is an additional full stop at the end of each of these paras.
- Page 18, para 10.9 – I note this paragraph repeats para 10.2 and I wonder if the duplication is needed.
- Page 19, para 11.1 and para 12.1, subparagraph (b) – is it worth clarifying 'if the refusal or failure to do that act or thing **was, is or** would be a contravention of the PCEHR Act for consistency with the other subparagraphs?
- Page 20, para 13.2, subparagraph (d) – is there meant to be a comma after the word 'timeframe' ie 'failure to notify the PCEHR System Operator, within the required timeframe, in writing...'
- Page 21, para 14.2 – It might be worth clarifying that section 13G is a civil penalty provision relating to interferences with privacy, and not only 'serious and repeated interferences' with privacy.

Kind regards, Kathryn

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