



office of the  
privacy  
commissioner  
new south wales



Our reference: IPC15/A000125

Mr Timothy Pilgrim  
Acting Australian Information Commissioner  
Office of the Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

By email: [consultation@oaic.gov.au](mailto:consultation@oaic.gov.au)

11 NOV 2015

Dear Mr Pilgrim, *Timothy*

**Revised PCEHR (Information Commissioner Enforcement Powers) Guidelines 2015**

I write to you in relation to your email of 6 October 2015 inviting comments on the revised *PCEHR (Information Commissioner Enforcement Powers) Guidelines 2015* (Revised Guidelines).

The preparation of the Revised Guidelines is commended as they support appropriate regulation of sensitive personal and health information.

Health practitioners using the Revised Guidelines may be subject to provisions in the *Health Records and Information Protection Act 2002* (NSW), which I as NSW Privacy Commissioner oversee.

When finalising the Revised Guidelines, you may wish to consider including a statement noting that health practitioners should still be mindful of State and Territory legislative instruments relating to personal and health information. This is important given there are a number of reviews and inquiries underway that may result in the NSW Government pursuing amendments to privacy legislation through the Parliament in the coming months.

I also believe it would be useful to note the various governing and statutory arrangements in each jurisdiction. For example in NSW, the Privacy Commissioner has sole statutory responsibility for privacy functions in relation to personal and health information and not the Information Commissioner. This is obviously contrary to Commonwealth arrangements, where the Information Commissioner exercises a dual function. Such a statement would provide greater clarity for all stakeholders.

I appreciate the opportunity to provide feedback as part of this process. Please do not hesitate to contact me if you have any queries on [REDACTED]

Yours sincerely



Dr Elizabeth Coombs  
NSW Privacy Commissioner