

22 February 2023



To the Members of the Victorian Greens and cross bench in the Victorian Parliament:

Re: *Health Legislation Amendment (Information Sharing) Bill 2023* - Victorian Health Information Sharing System

I write on behalf of Digital Rights Watch (DRW) regarding the health information sharing system proposed by the Victorian Government currently before the house for consideration (the proposed system).

DRW was founded in 2016 with a mission to ensure that all people in Australia are equipped, empowered and enabled to uphold their human rights as realised in the digital economy. Our vision is for a digital world where all humanity can thrive, and where diversity and creativity flourishes. We stand for democracy, privacy, fairness and fundamental rights for all people who engage in the digital world.¹

As Australia's leading digital rights advocacy and civil society organisation, we are seriously concerned about this proposed system and urge you to oppose it in its current form.

In our view, the proposed system does not meet best practice in terms of human rights or cybersecurity. We share the concerns raised by the Law Institute of Victoria about the inability for patients to opt-out. We do not accept the argument that opt-out mechanism would undermine the effectiveness of the system. There is no harm to allowing people to opt-out, and such a design is consistent with a human rights based approach. We are also troubled that the proposed system has not been designed with a best practice approach to cybersecurity, creating a risk of unauthorised and inappropriate access to information. To us, the proposed system appears to be worse than My Health Record, which had a similarly poor approach to cybersecurity but did at least permit patients to opt out. DRW engaged in extensive advocacy in respect of My Health Record, raising numerous concerns about the lack of proper cybersecurity and privacy protections. These concerns also apply to this proposed system, and are exacerbated by its restrictive design.

DRW is also concerned that the proposed system is exempt from FOI, supposedly because the treating health service is best placed to respond to FOI requests from patients. This position is inconsistent with transparency in government and the right of patients to know how their personal information has been used. It is wholly inappropriate to design a system of information management that does not permit patients to find out who has accessed their information, when, and for what purpose.

Victoria has historically been a leader federally in respect of human rights, including privacy. To allow the proposed system to be implemented would represent a grave departure from this tradition. We urge you to consider proposing significant amendments or opposing the bill entirely.

Digital Rights Watch would be happy to discuss this issue further with members of the Parliament as required.

Sincerely,

Elizabeth O'Shea

Chair, Digital Rights Watch

¹ Learn more about Digital Rights Watch and our work on our website: <https://digitalrightswatch.org.au/>