Australian Academy of Science submission on the
Statutory Review of the Data Availability and Transparency Act 2022

The proposed *Data Availability and Transparency Act 2022* (the DAT Act) and DATA Scheme had the potential to unlock critical data for science and innovation but have not delivered on the objective to enhance the availability of public sector data for research. Public sector data is only a strategic asset if it can be accessed, shared and used to its full potential.

The Academy makes the following recommendations:

- Public sector data custodians should be appropriately resourced to respond to the increasing demand for data for research and be required to publish metadata to make data discoverable.

- Mandate participation in the DAT Scheme for major Commonwealth data-holding agencies to ensure comprehensive access to high-value datasets, and encourage the development of mechanisms to support harmonisation with state and territory data access frameworks to enable cross-jurisdictional research.

- Modify the DATA Scheme accreditation model to enable collaborations involving multiple institutions.

- Amend Section 16A (2) and the *Data Availability and Transparency (National Security Measures) Code 2022* to include a risk-based approach and avoid discouraging researchers from using the DATA Scheme.

- The Statutory Review consider the increasing use of AI in research and the DAT Act's interaction with developments in Australian Government policies on Artificial Intelligence since its commencement.

- A greater whole of government, consistent commitment to open data through implementing measures to meet the UNESCO Recommendation on Open Science.

Has the operation of the DAT Act advanced its objectives?

Researchers had high expectations that the DAT Act and DATA Scheme would significantly improve timely and safe access to government datasets for research purposes. However, access processes remain complex, slow and fragmented, and the anticipated benefits of streamlined data sharing have not materialised.

The 2023 OECD Digital Government Index finds that Australia performs well in implementing digital government policies.[1] However, the 2023 OECD's Open, Useful and Re-usable data (OURdata) Index shows that Australia has low performance in data availability, data accessibility and government support for data re-use.[2] As highlighted in the issues paper, data sharing under the Act has been limited. The difference is dramatic, with only 8 agreements under the DATA Scheme compared to 11,000 data sharing agreements with Commonwealth entities outside the DATA Scheme.

The original ambition of the Act has been constrained to focus on access to datasets not otherwise available, and the need to override other legislation, rather than fulfilling the broader promise of enabling flow of data from the public sector for research.

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[1] 2023 OECD Digital Government Index, 2024. Available at: https://www.oecd.org/en/publications/2023-oecd-digital-government-index_1a89ed5e-en.html

[2] 2023 OECD Open, Useful and Re-usable data (OURdata) Index, 2023. Available at: https://www.oecd.org/en/publications/2023-oecd-open-useful-and-re-usable-data-ourdata-index_a37f51c3-en.html

Many public sector agencies are adopting risk-averse interpretations of the DAT Act, leading to reluctance in participating or sharing data, even for projects with evident public interest. This cautious culture creates a bottleneck for research reliant on large-scale or longitudinal data.

The complex accreditation process establishes a default of non-sharing unless specific requirements are met, which perpetuates barriers to data availability instead of embracing a principles-based approach that facilitates open data sharing by default. Furthermore, the framework has not been adequately tailored to support academic research. Accreditation and security demands often misalign with the capabilities of university research teams, leading to frustration over intricate and inconsistent data-sharing agreements that hinder the development of scalable infrastructure for research access.

Researchers face a lack of transparency regarding data availability; they frequently lack clarity about existing data, the agencies holding it, or the process to request access. The absence of a comprehensive data catalogue with metadata for all datasets under the DAT Scheme complicates research planning and engagement.

The DAT Scheme has not harmonised access arrangements across jurisdictions as researchers anticipated. While they hoped the DAT Act would streamline pathways to data from federal, state, and territory levels, it has, unfortunately, contributed to a more fragmented landscape. On a positive note, the establishment of a National Data Commissioner and a National Data Advisory Council is a significant outcome of the Act.

What changes could be made to the DAT Act or the DATA Scheme to make it more effective in facilitating access to, sharing and use of public sector data?

Improve access and discoverability of data and mandate participation by Commonwealth data custodians

Research has become increasingly data-intensive, creating an enormous demand for access to data. At a 2023 symposium hosted by the Academy, participants emphasised lack of adequate resourcing for data custodians to make data available as a major barrier to accessing public sector data.[3] This challenge was also reported in a survey conducted by the Australian Research Data Commons.

A key measure to address data availability would be mandating participation in the DAT Scheme by Commonwealth data custodians. Currently, participation is voluntary, resulting in limited data being made available under the Scheme. Mandating participation could also help incentivise adequate resourcing of Commonwealth entities to respond to data requests effectively, promptly, and pursue productive partnerships with researchers, which would have a tangible impact on data sharing for research.

The Act should be amended to require the involvement of agencies that hold high-value research data—such as Services Australia, the Department of Health and Aged Care, and the Department of Education. Parallel efforts should also be made to support the inclusion of state and territory data holdings through intergovernmental agreements or incentives for harmonisation, given the significant research value of linked cross-jurisdictional datasets.

A lack of detailed metadata for all datasets under the DAT Scheme is another significant barrier to the discoverability of data for research. The current catalogue classifies many key datasets as "restricted". The Act should require public sector data custodians to publish metadata publicly to make data discoverable. The data sharing registers under the DAT Scheme could also be expanded to include all available public sector data.

Support for collaborative research

The DAT Scheme should enable greater flexibility for collaborative research. The current accreditation model focuses on individual institutions, which complicates access for multi-institutional projects. The accreditation system should be modified to allow research collaborations involving multiple institutions—particularly for collaborative consortia involving universities, hospitals, and nonprofit research organisations. This would reduce barriers and better reflect how contemporary research is conducted.

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[3] Australian Academy of Science, 2023, *Data for the People: Digital Government Meets Open Science for Grand Challenges*

Amend Section 16A (2) and complex requirements for foreign individuals

Section 16A (2) of the Act prohibits an accredited entity from accessing or providing access to data from outside of Australia, which presumably would include researchers living or working overseas. The *Data Availability and Transparency (National Security Measures) Code 2022* has introduced detailed requirements for foreign individuals to access data through a data sharing agreement including disclosure of details to ASIO.

While the Academy acknowledges the security and privacy reasons for this, these provisions discourage researchers from using the DATA Scheme and complicate international collaborations using public sector data under the DAT Act, when this may not be the case if the data are accessed through alternative pathways. Implementing a risk-based framework could support the aim to enable data to be as open as possible, as closed as necessary.

Enabling the use of artificial intelligence for DATA Scheme projects

The Australian science sector requires a strong policy framework to guide the development of necessary infrastructure and guidelines for responsible and ethical adoption of artificial intelligence (AI) tools. As data are the fundamental foundation of AI technologies, the DAT Act is part of the network of policies that will influence AI use. Therefore, the Statutory Review should consider the increasing use of AI in research and the DAT Act's interaction with developments in Australian Government policies on Artificial Intelligence since its commencement, such as Australia's AI guardrails.

Supporting a greater whole of government, consistent commitment to open data

Australia must embrace an open science culture to maximise the value of research investment, enhance innovation and strengthen national resilience.

Coordinated, consistent standards for data accessibility and interoperability across research, government and industry sectors would enable the full potential of data for scientific discovery, innovation and public benefit. Alignment with international data sharing frameworks and standards is also important for Australia's research competitiveness and collaboration on global challenges.

The Australian Government should commit to implementing measures that meet the UNESCO Recommendation on Open Science, which provides a strong framework for open science policy and practice to maximise the potential of Australian data.

To discuss or clarify any aspect of this submission, please contact science.policy@science.org.au.