



Australian Government  
Department of Social Services

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# **Statutory Review of the *Data Availability and Transparency Act 2022***

**Department of Social Services Submission**

11 June 2025

# Contents

Introduction .....	2
Key Consultation Point - Has the operation of the DAT Act advanced its objects? .....	3
Key Consultation Point - Does the DAT Act improve information flows between public sector bodies and accredited entities? .....	5
Key Consultation Point - How does the DAT Act add value in the wider data sharing context? .....	7
Does the DAT Act complement or conflict with alternative data sharing mechanisms? ..	7
Comments on effectiveness of the accreditation framework and whether it supports ease of access versus regulatory burden .....	7
The impact of excluding private and non-government sector entities from being accredited users.....	8
Other observations .....	9
Key Consultation Point - 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? .....	9
Key Consultation Point - Should the DAT Act be allowed to sunset? .....	10
Appendix.....	11

# Introduction

The Department of Social Services (DSS) welcomes the statutory review of the *Data Availability and Transparency Act 2022* (DAT Act) and the opportunity to make a submission. DSS' submission addresses the key consultation points for discussion provided in the Statutory Review of the DAT Act Issues Paper<sup>1</sup> issued by the Department of Finance in April 2025. Our submission also articulates DSS' engagement in improving the availability and use of public sector data in the public interest.

Social policy data plays a significant role in the public sector data ecosystem. DSS contributes through collecting, using, integrating and sharing a wide variety of data about the Australian community. It does this with the goal of improving the economic and social wellbeing of individuals, families and Australian communities.

DSS' data is critical to ensuring there is a strong evidence base for public policies to improve the lives of all Australians. DSS takes data protection seriously and only shares data in ways that are legally sound and where appropriate safeguards are in place.

DSS has been leading the National Disability Data Asset (NDDA) project<sup>2</sup>, one of the Mission Initiatives in the Australian Government Data and Digital Government Strategy. The NDDA connects de-identified public sector data, across all jurisdictions, about people with a disability. The NDDA will give a more comprehensive picture of the life experiences of people with a disability so governments can improve support and services for people with a disability, their carers and families.

The NDDA is the first, and at the time of writing, the only data sharing project to use the DAT Act. The project has included the development of 8 DAT Act data sharing agreements (DSAs) to enable the legal authorisation of data into the NDDA. At the end of May 2025, the NDDA comprised 22 Commonwealth, state and territory datasets shared under these DSAs. To date, the Australian Bureau of Statistics (ABS) has received 7 requests for researcher access to the NDDA. These requests are being progressed via the NDDA's co-governance processes with the disability community, with the aim to provide access to researchers as quickly as possible. No research projects using the NDDA have commenced yet.

Based on DSS' experiences with the NDDA to date, the DAT Act is not helping to maximise the value of public sector data. The complexity of the DAT Act and aspects of the Data Availability and Transparency Act (DATA) Scheme established by the DAT Act appear to work against maximising the value of public sector data.

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<sup>1</sup> <https://www.finance.gov.au/sites/default/files/2025-04/statutory-review-of-the-dat-act-issues-paper.pdf>

<sup>2</sup> Note that on 13 May 2025 the Department of Prime Minister and Cabinet (PM&C) released advice regarding Machinery of Government (MoG) changes that will affect the DSS Portfolio. This includes a renamed Department of Health, Disability and Ageing which will take on responsibility for a range of disability policy work. This may include responsibility for the NDDA, pending further formal announcements.

DSS considers it is likely that significant amendments would be needed for the anticipated benefits of the DAT Act and DATA Scheme to materialise. If the DAT Act were to sunset, consideration should be given to whether its objects (or those that are still relevant) would be better achieved through other mechanisms, including non-regulated frameworks and/or making appropriate amendments to existing legislation.

## Key Consultation Point - Has the operation of the DAT Act advanced its objects?

DSS has seen some advances with respect to the overarching object of the DAT Act, namely, *to maximise the value of public sector data by providing a mechanism to overcome existing barriers to data sharing, including through an authorisation to override other laws, with appropriate safeguards in place*. However, in our view, the advances we have seen may have occurred in any event without the DAT Act given the priority and effort invested across the Commonwealth, state and territory and private sector on the availability and use of data. DSS also considers it too early to be definitive about what value the DAT Act has provided, particularly in view of the challenges we have experienced in using it for the NDDA.

In a practical sense, DSS does not need the DAT Act to share data. DSS is able to share data securely, safely, lawfully and ethically under a range of existing legislative frameworks. These frameworks impose requirements that limit the circumstances in which certain data can be shared, by whom, with whom, and for what purposes, and there are significant penalties for non-compliance with these requirements.

DSS' data, together with other data from multiple sources, including the public and private sector, assists DSS to fulfil our core responsibilities. For example, we hold and effectively manage large, population-level data assets. This includes integrated, longitudinal data sets relating to most of the Australian population, including recipients of all income support payments. Based on our experience with the NDDA and data sharing more generally, including before the commencement of the DAT Act, we do not consider data has necessarily become more available specifically as a result of the DAT Act.

The DATA Scheme has unfortunately, in many respects, proven to be more complex, restrictive and inefficient to use than originally expected. Substantial governance complexities resulting from the DAT Act have arisen at every stage of the process. This has resulted in DSS and our project partners requiring significant time and resources in seeking independent legal advice on a range of issues.

Many factors have contributed to this. They include the DAT Act definitions of 'data custodian', what data can be shared and who can use it under the DAT Act, the extensive requirements included in DAT Act DSAs, and how data exits from the DATA Scheme. The specific requirement under the DAT Act for data to be published in order for it to 'exit' has been a substantial challenge and is yet to be resolved. Based on our NDDA experiences, the DAT Act's aim of increasing the availability and use of Australian Government data, underpinned by efficient and lawful processes, has not yet reached fruition.<sup>3</sup>

In particular, the complexities in managing DAT Act authorisations for the sharing of data into the NDDA contributed to the expected number of datasets available in the first release of the NDDA in December 2024 from 48 to only 18. It also contributed to the original release date moving from December 2023 to December 2024. Furthermore, the NDDA is now facing challenges navigating the complexities of how researchers can use the NDDA, specifically how a DAT Act DSA should authorise the exit of data from the DATA Scheme. While one researcher request for access to the NDDA has been conditionally endorsed by the NDDA Council's Disability-informed Ethical Oversight Panel, a pathway for this researcher to access the NDDA has not been resolved.

Complexities in managing authorisations have included the need to ensure data, including DSS' data, was provided to the ABS for inclusion in the NDDA in a way that made the ABS a data custodian, as defined by the DAT Act, with respect to that data.

Another complexity related to the inclusion in the NDDA of data originally provided to the AIHW by a state or territory agency under the *Australian Institute of Health and Welfare Act 1987* (AIHW data). That data is provided to the AIHW under agreements concerning the use of that data and the DAT Act bars sharing that contravenes a contract or agreement to which a DAT Act data custodian is a party. It is therefore necessary to ensure the sharing and use of AIHW data under DAT Act DSAs upholds the terms and conditions on which the data was originally supplied to the AIHW. While this an appropriate part of ensuring the safe and appropriate use of the data, achieving it under the DAT Act has not been straight-forward.

DSS is proactive in improving the availability and use of public sector data. The Secretary of the then Australian Department of Families, Housing, Community Services and Indigenous Affairs was an inaugural member of a now-ceased Cross Portfolio Statistical Integration Committee (CPSIC) established by Australian Government Portfolio Secretaries in 2009 and the current DSS Secretary is a member of the Secretaries Digital and Data Committee (SDDC). DSS also currently chairs a Chief Data Officer Group established by the SDDC. This ongoing commitment and participation has been quite independent of the commencement and impact of the DAT Act.

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<sup>3</sup> [Introducing the DATA Scheme | Office of the National Data Commissioner](#)

DSS notes the enactment of the DAT Act occurred in the same financial year as the establishment of the Intergovernmental Agreement on Data Sharing<sup>4</sup> (IGA). The IGA commits all jurisdictions, including the Commonwealth, to share public sector data as a default position where it can be done securely, safely, lawfully and ethically. The IGA came into effect in July 2021 and sets out agreed principles for public sector data sharing. The IGA and the institutional and governance arrangements in place for the IGA have contributed to advancing value from public sector data, including through data sharing, outside of the DAT Act context.

Specifically, DSS is a regular participant in the cross-jurisdictional Data and Analytics Working Group reporting to the Data and Digital Ministers Meeting (DDMM) which oversees the IGA and has collaborated with jurisdictions to deliver the NDDA project. Through the Entrenched Disadvantage Package<sup>5</sup>, the Government has also invested \$16.4 million in a cross-jurisdiction Life Course Data Initiative focussing on intergenerational disadvantage and improving child and family wellbeing.

DataPlace<sup>6</sup>, an initiative of the Office of the National Data Commissioner (ONDC), has increased the ability to search and request access to Australian Government data. While our specific experience using DataPlace has been limited, it has substantial potential for future use, independent of the DAT Act, in line with its original design.

DSS has actively engaged with the National Data Commissioner (Commissioner) and the ONDC. DSS has sought the advice of the Commissioner and ONDC to interpret and streamline the application of the DAT Act in the context of the NDDA project<sup>7</sup>. DSS has had no engagement with the National Data Advisory Committee established by the DAT Act.

## Key Consultation Point - Does the DAT Act improve information flows between public sector bodies and accredited entities?

DSS' experience with the operation of the DAT Act to date has been limited to transferring our 2018 accreditation to the DAT Act accreditation scheme and leadership of the NDDA project. However, based on that experience, information flows between public sector bodies and accredited entities have not been improved by the DAT Act.

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<sup>4</sup> [Intergovernmental Agreement on Data Sharing | Department of Finance](#)

<sup>5</sup> <sup>6</sup> [Entrenched disadvantage package | Department of Social Services](#)

<sup>6</sup> [About - Dataplace](#)

<sup>7</sup> The advice has been helpful in clarifying the operation of certain provisions of the DAT Act so that decisions could then be made on a firmer basis, however the advice could not overcome the legal effect of those provisions, which has been proven challenging.

The NDDA aims to improve information flows between public sector bodies, specifically Commonwealth, state and territory governments. The NDDA is achieving this by investing in National Linkage Infrastructure that facilitates interoperability between Commonwealth, state and territory data systems. A key component of this interoperability is the sharing of a subset of the Commonwealth's Medicare Consumer Directory data (MCD) with states and territories.

The Department of Health, Disability and Ageing (DHDA) chose to issue a Public Interest Certificate under existing legislation as the most appropriate data sharing pathway for the MCD. DSS understands DHDA did so because it was consistent with disclosures of the MCD to the ABS and AIHW, and use of this pathway was an extension of an established and trusted model DHDA has with ABS and AIHW to create national linkage infrastructure.

As joint data custodians of the MCD, the DHDA and Services Australia have taken a policy position to only share MCD data (using powers under other legislation) with states and territories who are accredited under the DAT Act as Accredited Data Service Providers. This is also consistent with the sharing of the MCD with ABS and AIHW who are also accredited under the DAT Act as Accredited Data Service Providers.

DSS also shares data with the ABS and ABS, using powers under other legislation however, does not require users of its data to be accredited under the DAT Act. (The DAT Act accreditation requirements only apply where the sharing and use of data is carried out under the DAT Act). However, an accreditation scheme provides assurance with respect to providing data to another Commonwealth, state and/or territory government entity, especially when this data sharing is occurring for the first time. DSS notes an accreditation scheme existed prior to the DAT Act and although the scheme was Commonwealth centric, there were no legal limitations to states and territories, universities or research institutions adopting it or DSS requiring these entities to adopt it as a condition of sharing data with them. More information on this scheme is included in the Appendix.

The NDDA project has highlighted limitations with the DAT Act in the context of that project. These limitations have been articulated in regular NDDA program reports to the SDDC and DDMM. Several key limitations that impact on information flows are:

- The inability for state and territory governments to be data custodians under the DAT Act. This means, if state or territory data is to be shared using DAT Act provisions, state and territory governments must provide the data to a Commonwealth agency in such a way that the Commonwealth agency is a custodian of the data as defined in the DAT Act. For example, arrangements had to be made to ensure that a Commonwealth agency was a data custodian under the DAT Act for the 14 state and territory datasets in the NDDA.

- The DAT Act definition of public sector data being restricted to data lawfully collected, created or held by or on behalf of a *Commonwealth* body.
- The inability of any entity, other than a Commonwealth, state or territory body or an Australian university, to be accredited to use data shared under the DAT Act. For example, think tanks such as e61 cannot be accredited under the DAT Act and cannot use data in the NDDA (without, for example, partnering with an accredited entity who can use data in the NDDA).

## Key Consultation Point - How does the DAT Act add value in the wider data sharing context?

As noted earlier, based on our NDDA experience, the DATA Scheme established by the DAT Act to facilitate data sharing and use has proved to be more complex, restrictive, and inefficient to use than expected. The current operationalisation of the DATA Scheme, including the ease with which participants can navigate it and the extent to which it supports flexibility in data sharing, is a limitation. The NDDA project has highlighted limitations in the context of the project and these limitations have been articulated in regular project reports to the SDDC and DDMM. DSS understands the Statutory Review team has access to these reports through the Department of Finance.

## Does the DAT Act complement or conflict with alternative data sharing mechanisms?

The DAT Act provides an alternative, lawful data sharing mechanism where secrecy provisions and potentially the *Privacy Act 1988* would otherwise prevent data sharing. These cases were outlined in the 2017 Productivity Commission (PC) Inquiry into Data Availability and Use. DSS has yet to experience one of these cases in the context of the NDDA project or in its data sharing experiences, since 2015, with ABS' Person Linked Integrated Data Asset (PLIDA).

## Comments on effectiveness of the accreditation framework and whether it supports ease of access versus regulatory burden

Accreditation, under both the CPSIC and DAT Act schemes, has improved DSS' data handling maturity. Accreditation also provides DSS with assurance that users are using the data safely, security and legally. This use includes the sharing of data for the purposes of data integration (in the case of NDDA and PLIDA) or for statistical and research purposes in the public interest. This assurance is in addition to the safeguards that exist in legislation under which DSS data can be collected, used and shared (namely requirements that prescribe what data can be collected, the purposes for which it can be used and shared, and by whom).



The DAT Act accreditation framework built on the existing, albeit Commonwealth only, accreditation framework developed and endorsed by the CPSIC. The CPSIC framework focused on accreditation of Integrating Authorities to undertake high risk data integration involving Australian Government-held data and did not impose any accreditation requirement for users of data. The requirement for DAT Act accredited users seeking access to DATA Scheme data to use secure access data services provided by Accredited Data Service Providers is likely to<sup>8</sup> impose a significant regulatory burden on users, based on experience with other accreditation activities.

The Government response to the PC Inquiry focused on Accredited Data Authorities as catalysts for efficient and safe sharing and release of data.<sup>9</sup> The response did not differentiate between service providers or users.

DSS uses existing legislation to lawfully share data for PLIDA and does not require researchers accessing DSS data in PLIDA to be DAT Act accredited users.<sup>10</sup> The internationally recognised Five Safe<sup>11</sup> controls in place since 2015 for user access to DSS data in PLIDA provides the assurance needed that projects are safe, outputs are safe, users are safe, settings are safe, and the data being disclosed is safe.

## The impact of excluding private and non-government sector entities from being accredited users

The exclusion of private and non-government sector entities (other than Australian universities) from being accredited users under the DAT Act limits the potential of the DAT Act to increase the availability and use of public sector data. The limitation means alternative pathways, such as contractual arrangements with an accredited entity, are needed if the expertise of these entities is required in connection with a project which requires access to DATA Scheme data.

In some circumstances, the DAT Act effectively places responsibility for the risk of breaches by third parties (e.g. the private and or non-government sector entity) on the accredited user, which makes entering contractual arrangements more challenging and higher risk for accredited entities.

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<sup>8</sup> We say 'is likely to' because, at the time of writing this submission, the NDDA project has not had any experience with the NDDA being used.

<sup>9</sup> [The Australian Government's response to the Productivity Commission Data Availability and Use Inquiry](#)

<sup>10</sup> As noted above, the DAT Act accreditation requirements only apply where the sharing and use of data is carried out under the DAT Act

<sup>11</sup> The Five Safes framework takes a multi-dimensional approach to managing disclosure risk. Each safe refers to an independent but related aspect of disclosure risk. This allows data custodians to place appropriate controls, not just on the data itself, but the way data is accessed. The framework is designed to facilitate safe data release and prevent over-regulation ([Five Safes framework | Australian Bureau of Statistics](#)).

## Other observations

Many agencies, including DSS, are proactively working on improvements to the current data ecosystem. Under the leadership of the Department of Finance, Commonwealth agencies have completed a Data Maturity Assessment to identify areas for improvement and action, helping inform agencies' future development needs as the data ecosystem evolves. Agencies are also actioning the Secretaries Board-endorsed Framework for the Governance of Indigenous Data and supporting the IGA through new investments, including the Government's \$16.4m investment, through the Entrenched Disadvantage Package, for a Life Course Data Initiative.

Agencies are alert to legislative barriers to data sharing, including those identified in the 2017 PC Inquiry which recommended legislation to overcome these barriers and led to the enactment of the DAT Act. Agencies are also working collaboratively to address them. DSS is already working closely with, for example, the Department of Finance and Services Australia exploring possible legislative provisions to facilitate information sharing for service delivery.

As noted below, if the DAT Act were to sunset, consideration should be given to whether its objects (or those that are still relevant) would be better achieved through other mechanisms, such as non-regulatory guidelines and/or by making appropriate amendments to other key legislation which is used to establish large integrated data assets such as DSS Portfolio legislation, the *Census and Statistics Act 1905* or the *Australian Institute of Health and Welfare Act 1987*.

## Key Consultation Point - 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?

As noted above, the NDDA project has highlighted limitations with the DAT Act in the context of the project. These limitations have been articulated in regular project reports to the SDDC and DDMM and DSS understands the Statutory Review team has access to these reports through the Department of Finance. If these limitations were addressed, this might make the DAT Act (and therefore the DATA Scheme) more effective.

## Key Consultation Point - Should the DAT Act be allowed to sunset?

Based on our experiences to date, DSS would not be concerned if the DAT Act were allowed to sunset.

If the DAT Act were to sunset, consideration should be given to whether its objects (or those that are still relevant) would be better achieved through other mechanisms, including non-regulated frameworks and/or making appropriate amendments to existing legislation.

Elements of the DAT Act, such as accreditation, existed in non-regulatory forms before the DAT Act. These elements could be re-purposed into stand-alone frameworks or guidelines which provide the transparency and assurance needed for availability and use of public sector data. There are existing frameworks and guidelines in place which already provide such assurance, like the Essential 8 for cyber security and Protective Security Policy Framework for security, which could be used as models for accreditation guidelines. DSS does not have a need for these aspects to be part of a legislated data sharing scheme.

Consideration should also be given to making appropriate amendments to key legislation which authorises the sharing and use of data, including to establish large integrated data assets. This includes Social Services Portfolio legislation, the *Census and Statistics Act 1905* and the *Australian Institute of Health and Welfare Act 1987*. In terms of Social Services Portfolio legislation, for example, there would be scope to reduce complexity and inconsistencies in data sharing provisions in a way that supports appropriate and efficient data sharing without in any way reducing the safeguarding of that information.

## Appendix

DSS is strongly committed to better availability of public sector data and was an early partner in the establishment of institutional and governance arrangements for the sharing of Commonwealth public sector data.

The Secretary of the then Australian Department of Families, Housing, Community Services and Indigenous Affairs was a member of the CPSIC established by Australian Government Portfolio Secretaries in 2009 to create an Australian government approach to facilitate linkage of social, economic and environmental data for statistical and research purposes. CPSIC established a set of seven guiding principles aimed at building trust in data sharing and improving the availability and use of public sector data. These were strategic resource; custodian's accountability; integrator's accountability; public benefit; statistical and research purposes; preserving privacy and confidentiality; and transparency.

DSS was one of only 5 Commonwealth agencies to share data into the first release, in 2015, of the Multi Agency Data Integration Project (MADIP), now PLIDA. DSS continues to legally share data into PLIDA on a quarterly basis without the need of the DAT Act or DATA Scheme.

The Australian Statistician, in a 2024 address to Oxford University<sup>12</sup>, noted PLIDA integrates 30 datasets including the Census, tax return data, data on social security recipients, migrants, and on health, education, and disability. This is a significant growth from the 5 datasets shared and integrated in PLIDA in 2015, and around 30 per cent more than is available, to only DAT Act accredited users, in the NDDA.

The Australian Statistician also noted, as of April 2024, there were nearly 350 active research projects accessing ABS-hosted integrated data assets. Of these, about a half use PLIDA and the remainder use a combination of both PLIDA and a business equivalent of PLIDA, the Business Longitudinal Analysis Data Environment (BLADE). In contrast, there are no active research projects currently accessing the NDDA.

The Australian Statistician also noted about half of the PLIDA and BLADE projects were university projects, one third were government projects (Commonwealth, state and territory), with the remainder being internal ABS projects and projects undertaken by Australian think tanks like the Grattan Institute and e61. Without a partnering arrangement, neither the Grattan Institute nor e61 can undertake projects using the NDDA.

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<sup>12</sup> [Data linkage and integration to improve the evidence base for public policy: lessons from Australia | Australian Bureau of Statistics](#)

Transparency is essential for DSS' engagement in data sharing activities. DSS' data sharing activities are reported on the PLIDA website maintained by the ABS. Researchers who have used DSS data also report its use in their research findings, and these projects are also made transparent on the ABS website.

DSS was a member of the 2017 Data Integration Partnership for Australia. This partnership increased awareness of the internationally recognised 5 Safes Framework for safe sharing and use of data, and DSS was accredited using the CPSIC-endorsed accreditation framework in 2018. DSS relies on and values this accreditation for performing high-risk data integration activities involving DSS' data.

DSS also makes de-identified, aggregated data available in data.gov.au. Data.gov.au is the central source of Australian open government data. Anyone can access data in data.gov.au. Since 2024, DSS has matured our open data offerings by also making aggregated data available in the Digital Atlas of Australia.