

30 May 2025

Dr Stephen King
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By email: DATActReview@finance.qld.gov.au

Dear Dr King

Statutory Review of Data Availability and Transparency Act 2022

The Queensland Office of the Information Commissioner (**OIC**) welcomes the opportunity to make a submission in relation to the *Statutory Review of the Data Availability and Transparency Act 2022 - Issues Paper (Issues Paper)*.

The *Data Availability and Transparency Act 2022 (DAT Act)* establishes the DATA Scheme for sharing public sector data for specific purposes in the public interest.

OIC's comments are confined to:

- whether there may be benefits to expanding the scope of the DATA Scheme to allow additional participants,
- the retention of the data principles under the DAT Act,
- the need for the DATA Scheme to encompass any future legislative reforms to the Commonwealth *Privacy Act 1988 (Cth) (Privacy Act)*, and
- provision of funding for the Office of the National Data Commissioner to regulate and promote the DATA Scheme.

About the OIC

OIC is an independent statutory body that reports to the Queensland Parliament. The Information Commissioner is an Officer of Parliament and is charged with functions under the *Right to Information Act 2009 (RTI Act)* and the *Information Privacy Act 2009 (IP Act)* to, respectively, facilitate greater access to government-held information and oversee safeguarding of personal information collected, used and held by Queensland public sector agencies.

Queensland's RTI Act recognises that government-held information is a public resource and that openness in government enhances accountability. The RTI Act represents a clear move from a 'pull' model to a 'push model' emphasising proactive and routine release of information and maximum disclosure of information unless to do so would be contrary to the public interest.

OIC supports data sharing and release strategies and initiatives that maximise disclosure of government-held information, carefully balanced with other important public interests such as appropriately safeguarding the community's privacy.

Scope of the DATA Scheme

Under the DATA Scheme, accredited users are limited to Commonwealth entities, state and territory government bodies and Australian Universities. An excluded entity, such as Australian Government law enforcement and intelligence entities, cannot share, collect or use data under the DATA Scheme.

Private entities (bodies corporate), individuals and unincorporated bodies (such as partnerships and trusts) are precluded from participating in the DATA Scheme. As stated in the Revised Explanatory Memorandum, these preclusions are intended to provide an opportunity for the DATA Scheme to establish and mature.

OIC notes the Australian Government has committed to '*encouraging all entities to build partnerships and share data across the APS and with state and territory governments, the private sector and non-government organisations*' (Data and Digital Government Strategy).¹

OIC also notes the Australian Government Productivity Commission's 5-year Productivity Inquiry made the following recommendation relating to private sector access to government data:

The Australian Government should enable government data to be securely shared with the private sector, so that not-for-profit organisations and businesses can undertake research and develop improved products and services for Australians.

This could be enabled by extending the Data Availability and Transparency Act 2022 (Cth). Extension could be gradual, starting with accredited private organisations using the data for policy and research purposes to achieve social objectives, before being opened for accredited businesses to use the data commercially. Appropriate safeguards should be employed to ensure security and privacy concerns are addressed, and the government could consider utilising advances in technology for individual privacy preservation.²

Any proposed expansion of the scope of the DATA Scheme to allow additional participants, including private sector and non-government entities, requires thorough and careful consideration of any identified privacy risks and issues.

OIC suggests that any decision to expand the scope of accredited users will involve balancing the potential public benefit derived from increased access to public sector data with the inherent privacy and information security risks.

Current privacy protections and safeguards contained in the DAT Act would need to be reviewed and a further Privacy Impact Assessment undertaken. In addition, the data governance practices for additional accredited users would need to be examined.

Retention of data sharing principles under the DAT Act

The Issues Paper seeks feedback on '*the necessity of setting out data sharing principles in the DAT Act*'.

¹ [Data and Digital Government Strategy](#) at p16

² Recommendation 4.3 in the [5-year Productivity Inquiry: Advancing Prosperity \(Volume 1, 2023\)](#). See also Finding 4.12 in the [5-year Productivity Inquiry: Australia's data and digital dividend \(Volume 4, 2023\)](#).

A data sharing project must be done for one or more of the data sharing purposes set out in section 15 of the DAT Act and must be undertaken consistently with the data sharing principles set out in section 16 the DAT Act.

OIC supports the retention of the data sharing principles within the DAT Act given their centrality to the operation of the DATA Scheme. Accordingly, similar to information privacy principles located in the Schedules of various privacy legislation in Australia, OIC considers it is necessary and appropriate that the data sharing principles remain within the DAT Act, as opposed to, for example, being moved to regulations in relation to the DAT Act.

Future Commonwealth privacy reforms

On 29 November 2024, the first tranche of Australian privacy reforms in the *Privacy and Other Legislation Amendment Bill 2024* (Cth) (Bill) passed both Houses of Parliament. The Bill received Royal Assent on 10 December 2024, and the *Privacy and Other Legislation Amendment Act 2024* (Cth) has now commenced. The amendments to the Privacy Act are intended to reform and modernise Australia's privacy regime.

The Commonwealth Government has indicated that a second tranche of reforms to the Privacy Act will proceed in the future.

Accordingly, OIC recommends the DATA Scheme encompass any future legislative reforms to the Privacy Act, where they relate to the Scheme, to ensure the continued strengthening of privacy protections for individuals' personal and sensitive information shared through the Scheme.

Office of the National Data Commissioner

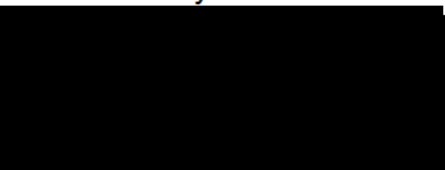
Finally, OIC recommends consideration be given to ensuring the financial sustainability and sufficient funding of the Office of the National Data Commissioner (**Commissioner**) given it is one of four key safeguards to ensure the safe sharing of data under the DATA Scheme.

Ensuring the Commissioner and their office have appropriate and sustainable funding will be a key factor in them being able to effectively undertake their remit of functions under the DAT Act. This includes funding to properly regulate the DATA Scheme, take any regulatory action where required to promote trust in the operation and oversight of the Scheme, its work in promoting the Scheme so as to increase its uptake across jurisdictions, and in the event the DATA Scheme is expanded to include the private sector.

Thank you for the opportunity to provide a submission on the Issues Paper. We trust that our comments will assist with the Review.

Should you require further information regarding the above matters, please contact us at administration@oic.qld.gov.au or on 07 3234 7373.

Yours sincerely



Joanne Kummrow
Information Commissioner