

29 May 2025

Dr Stephen King
Department of Finance
1 Canberra Ave,
Forrest ACT 2603

By email only: DATAActReview@finance.gov.au

Dear Dr King,

Thank you for the opportunity to make a submission to the Statutory Review of the *Data Availability and Transparency Act 2022 (the Act)*. The Office of the Victorian Information Commissioner (OVIC) is a Victorian integrity agency that oversees privacy, information security and freedom of information in Victorian Public Sector agencies. This oversight is enabled by both the *Privacy and Data Protection Act 2014* and the *Freedom of Information Act 1982 (Vic)*.

OVIC is broadly supportive of safely making data available for use across government agencies and leveraging the data handling capabilities of those agencies. The Act and the Data Availability and Transparency Scheme (**the Scheme**) are opportunities to leverage the value of existing Australian Government data and public sector capabilities across jurisdictions. Realising this value can mean high quality, more targeted service delivery to Australians and more efficient public sector agencies.

Further, the Scheme is a method of proactive release of government-held information. This, and informal release, are the preferred contemporary methods of public access to information.¹ While the information shared under this Scheme is not accessible to the public, it represents a step further toward open access to government-held information balanced with Australians' privacy rights.

Privacy protections must be maintained in any changes to the Act or Scheme

OVIC is of the view that any changes to the Act and the Scheme must not weaken privacy protections enshrined in the primary legislation. Government agencies have a fundamental responsibility to actively protect citizens' privacy through responsible collection, use, sharing, storage and disposal. This is a requisite for enhancing the usefulness of data-sharing across government agencies. This was

¹ In contrast to long-established freedom of information schemes. For more information on proactive release of information, see OVIC's guidance here: <https://ovic.vic.gov.au/freedom-of-information/resources-for-agencies/practice-notes/proactive-release-of-information/>. For more information on informal release of information, see OVIC's guidance here: <https://ovic.vic.gov.au/freedom-of-information/resources-for-agencies/practice-notes/informal-release-of-information/>.

identified in the Productivity Commission's 2017 Data Availability and Use Report: "A key to achieving the many potential benefits of data use will be building and retaining community trust in how data is managed and used."² OVIC supports the current privacy protections and their interaction with the *Privacy Act 1988* (Cth) and state-based privacy legislation.

Data custodians should have comprehensive information asset registers to help identify high quality data to upload to the Australian Government data catalogue

The Issues Paper indicates that the data sharing agreements under the Scheme are a small fraction of total data sharing arrangements across the public sector. These arrangements likely involve one agency asking another agency for specific data, whereas the Scheme has established Dataplace to 'facilitate the discovery'³ of data held by Australian Government agencies. This structure relies on an agency being acutely aware of what data it holds across all business units.

In the Victorian context, Part 4 of the *Privacy and Data Protection Act 2014* requires the Victorian Information Commissioner to develop the Victorian Protective Data Security Framework for monitoring and assuring the security of public sector data, and may issue standards for the confidentiality, integrity and availability of public sector data. OVIC's experience in administering this framework indicates that many agencies do not have comprehensive information asset registers and therefore are unaware of the breadth of data they hold.⁴ Without this awareness, those agencies cannot upload the metadata for the broadest possible range of data they hold. This may be a barrier to uptake of the Scheme. OVIC recommends the Australian Government encourage agencies to create and maintain comprehensive information asset registers to better assess data holdings for inclusion on Dataplace.

Similarly, the maintenance of this register should work in tandem with data cleansing functions to ensure high quality data is shared with data custodians. Data cleansing also makes an agency's use of its own data more efficient and ensures the agency disposes of data that is no longer useful.

Eligibility for accreditation should not be broadened at this time

OVIC is also of the view that the Scheme should not be made available to a broader range of participants, such as the private sector. Broadening the scope of the Scheme misdiagnoses the lack of uptake of the Scheme as a lack of eligible participants rather than a lack of quality data and introduces a high degree of risk into a fledging system. The high amount of public sector data sharing agreements outside of the Scheme indicates an existing, willing client/consumer base for data sharing in the public sector. Focus should be on increasing uptake among existing eligible entities.

Secondly, the Act and Scheme together are a new initiative. The modest uptake of the Scheme suggests that it has not been tested at scale. Opening eligibility for even more entities would

² Productivity Commission. Data Availability and Use Inquiry Report Overview. p. 55.
<https://www.pc.gov.au/inquiries/completed/data-access/report/data-access-overview.pdf>

³ Australian Government. 'About Dataplace'. <https://www.dataplace.gov.au/kb/?id=KA-01031>.

⁴ One of the elements of Standard 2 is that organisations develop an information asset register. More information on information asset registers is available on OVIC's website: <https://ovic.vic.gov.au/information-security/practitioner-guide-identifying-and-managing-information-assets/>.

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exacerbate any undetected flaws and expose agencies and the public to increased risk. Further, expanded eligibility would require considerably greater resources. For example, compliance with the Scheme must be supported by an auditing function and ongoing education. The National Data Commissioner may not have capacity to conduct these functions effectively. Therefore, a broadening of the current Scheme would increase the risk of misuse of data received through the Scheme.

If you have any questions about this submission, please contact us through [REDACTED], Senior Policy Officer, at [REDACTED]

I have no objection to this submission being published. I also propose to publish a copy of this submission on OVIC's website.

Yours Sincerely

Sean Morrison

Victorian Information Commissioner