



Our reference: [REDACTED]

Mr Taylor Black  
Assistant Secretary  
Department of Finance  
1 Canberra Ave  
Forrest ACT 2603

By email: DATActReview@finance.gov.au

**Consultation on the draft findings and recommendations of the  
Statutory Review of the *Data Availability and Transparency Act 2022***

Dear Mr Black

The Office of the Australian Information Commissioner (OAIC) welcomes the opportunity to comment on the draft findings and recommendations of the Statutory Review of the *Data Availability and Transparency Act 2022* (Cth) (DAT Act).

The OAIC agrees with the draft view that it would be more advantageous to reform the DAT Act rather than allowing it to sunset. Australia’s government-held data is currently underutilised by government and business. The Productivity Commission estimates the value of public sector data as being between \$625 million to \$64 billion.<sup>1</sup> The work of the Office of the National Data Commissioner (ONDC) is vital to ensuring access and transparency to government data and should be supported by a robust legal framework.

Building on our original submission, the OAIC has focused this response on two themes – transparency and building APS capability.

**Transparency**

Draft recommendations 2-4 consider the necessity of transparency and the OAIC remains supportive of using the DAT Act to promote greater availability and use of government-held data in a manner that is secure, transparent, and consistent with privacy protections, as this access can support innovation, improve service delivery, and importantly, enhance transparency and accountability.

<sup>1</sup> <https://www.pc.gov.au/inquiries/completed/data-access/report>



From an information access and transparency perspective, increasing the proactive release and sharing of government-held data aligns with the objectives of the *Freedom of Information Act 1982* (Cth) and the Information Publication Scheme (IPS). The OAIC is willing to provide advice based on the experience of the IPS to support greater usage of the Australian Data Catalogue, given it currently only houses datasets from 22 agencies, in an attempt to bring transparency to the forefront of data sharing.

Further, we note that there are currently officer-level discussions underway between the OAIC and ONDC on the possibility of greater data sharing in areas of mutual significance, which demonstrates a commitment to embedding and encouraging the advantages of transparency and access to information across government.

### **Building APS capability**

The OAIC is also conscious of the need to ensure that privacy is not construed as a barrier that precludes transparent data sharing. A key point outlined in draft recommendation 3 notes that the privacy safeguards in the DAT Act should be reviewed to ensure they protect privacy but do not unduly preclude data sharing that results in clear public benefit. The OAIC supports this draft recommendation and notes that whilst Privacy Act reforms are still underway, there are other mechanisms that can be implemented to manage this risk.

For example, there is an opportunity to increase the capability of the APS in administrative decision-making in relation to data sharing by developing streamlined regulatory guidance and templates on how to conduct effective Privacy Impact Assessments (PIAs) which will simplify the privacy safeguards in the DAT Act. PIAs should not be seen as the sole domain of lawyers and the OAIC is aware of the need to build broader confidence in conducting PIAs.

The OAIC also sees benefit in the development of a specific training and work program to elevate the capacity of the APS in administrative decision-making which could also result in the provision of more timely, accurate advice in relation to data sharing.

### **Proposed regulatory role of the OAIC**

The OAIC notes the point raised in draft recommendation 6 that the regulatory functions and powers of the National Data Commissioner should be revised to focus on assurance and oversight to facilitate data sharing decisions and there should be a greater reliance on the compliance and enforcement provisions in the *Privacy Act 1988* (Cth).

The suggestion that the OAIC may assume responsibility for non-compliance by DATA Scheme participants needs greater clarification. Maintaining the nexus between entry/assurance requirements and compliance requirements provides an approach that supports better regulatory outcomes. However, the OAIC has similar responsibilities to that proposed under the CDR and Digital ID systems. The OAIC is available to discuss these options.

The OAIC remains committed to supporting the Australian Government's data strategy through the promotion of responsible data practices that uphold privacy and information access rights. We welcome further engagement with the Office of the National Data Commissioner and Department of Finance to ensure that the DAT Act delivers on its promise of safe, streamlined and transparent data sharing.

Please do not hesitate to contact us should you require further information or clarification on any aspect of this submission.

Yours sincerely



Elizabeth Tydd  
**Australian Information Commissioner**

13 August 2025