



Australian Government



Services
Australia

Submission

Feedback on the Statutory Review of the Data Availability
and Transparency Act 2022 – Draft Findings and
Recommendations

August 2025

Data and Analytics Division/Services Australia

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Summary of review

Services Australia (the agency) welcomes the opportunity to provide further input into the review of the *Data Availability and Transparency Act 2022* (Cth) (DAT Act) through review of the *Statutory Review of the Data Availability and Transparency Act 2022 – Draft Findings and Recommendations* report (the report).

As previously advised, the agency is supportive of the intent of the DAT Act, which aims to improve access to government data and establish a structured accreditation scheme overseen by the National Data Commissioner (ONDC). However, we acknowledge that since the inception of the Scheme in 2022, Services Australia has received only two requests for data via DataPlace, with most data requests being released under existing mechanisms including Public Interest Certificates (PIC).

Key observations

The findings and recommendations articulated within the report accurately reflect upon the information provided by the agency as part of the initial submission lodged in May 2025.

The report provides comprehensive exploration into the legal uncertainty, custodianship, accreditation and interoperability concerns and recommendations provided by the agency with many of the findings and recommendations proposed within the report expanding upon these themes in a detailed and well considered manner.

Overall, the agency notes the report findings and recommendations are aligned with the agency's submission content. The agency considers the report and its contents an appropriate reflection of what the agency sees as the issues, and possible solutions, to the application and use of the DAT act.

Focus question responses

The agency welcomed the invitation to provide comment (where relevant) to the following focus questions provided within the report.

Associated with REC2: Does this recommendation strike the right balance between ease of use, safeguards and transparency? What principles should be retained or included in the primary legislation? What are appropriate transparency mechanisms?

REC2 response: This recommendation is very high-level.

Consistent with the agency's previous submission, the agency agrees that the DAT Act needs to adequately account for existing privacy and secrecy provisions and address the lack of clarity around the interaction between the DAT Act and existing legislation.

The agency also notes, that when sharing data, the agency needs to consider its unique position as a custodian of personal, sensitive, and protected information from almost every Australian. If data is not shared appropriately, it could raise legal, customer safety and other risks impacting public trust in government.

Associated with REC3: Should the DAT Act prescribe specific requirements for creating enduring linked assets, given the high value and potential governance complexity involved? Alternatively, is it sufficient for any requirements to be set out in subordinate legislation?

REC3 response: As per REC2 response

Associated with REC4: What requirements, including timeframes should be placed on data custodians? How should the resources to meet these timeframes be resourced? Should an escalation or mediation mechanism be available for data sharing requests that are made under or using any Commonwealth framework, or limited to requests made under the DAT Act? If an escalation or mediation mechanism is desirable, who should perform this role? E.g. should it be the Commissioner, or a different office holder or body? Is a power to direct that data sharing must occur feasible or desirable, noting this power is proposed to be contingent on due process and advice?

REC4 response: Data sharing can be resource intensive and costly even if it is permissible. Even assessing and responding to requests (prior to discussions on data provision) can be resource intensive. There needs to be a detailed understanding of the varying costs for data sharing and understanding that there will be variability.

It may be possible to provide guidelines regarding reasonable timeframes to respond/acknowledge requests received via DataPlace however agencies/departments will need to be able to manage timeframes and cost recover as required.

Associated with REC5: Is a proposed power to authorise data sharing in exceptional circumstances on national interest grounds desirable or appropriate? Should this proposed power be broadened to enable sharing with or by excluded entities, and the sharing of data otherwise barred from sharing? Are there any other mechanisms or circumstances that should be considered to enable or justify expanding the operation of the DAT Act's authorising framework?

REC5 response: Regarding information relating to customers, this is already subject to legislative secrecy provisions (in addition to the Privacy Act). These legislative arrangements generally already include exceptions to allow for the sharing of data in the public interest in limited circumstances.

Empowering the Minister to authorise data sharing that is not otherwise authorised under the DAT Act where the sharing is in the national interest may be desirable, however the appropriateness of this would require significant consideration. This is because an entity's view of 'national interest' may vary when seeking to enact the power of exceptional circumstances for the purposes of sharing data.

This also applies regarding enabling data sharing in these circumstances to include excluded entities. Without an appropriate and well considered definition of 'national interest' and visibility of the 'appropriate safeguards' referenced within the recommendation being included for consideration, the agency will withhold comment at this time, pending further information.

Associated with REC6: Is an independent statutory office the appropriate mechanism to carry out the functions and powers set out above? Should the Commissioner have a power to inquire into, review and make recommendations about data sharing projects? Should this be limited to sharing under the DAT Act or applicable

to any Commonwealth data sharing? Should these recommendations by the Commissioner be able to inform a Ministerial authorisation as considered in recommendation 5?

REC6 response: In considering the recommendation and the key points, the agency would agree that an independent statutory office would present as a suitable mechanism to administer the functions outlined and the Commissioner should be afforded the power to inquire into, review and make recommendations (where appropriate) about data sharing projects.

Associated with REC8: Is 'tiering' accreditation consistent with the objective of better aligning data sharing use cases with accreditation requirements, or would it introduce unnecessary complexity for current and prospective DAT Act participants relative to current processes? Are there recommendations on particular 'tiers', from a scale of, for example, 'highly restricted' to 'no restrictions' which would accommodate most data sharing use-cases? What rights for data access should be associated with particular accreditation tiers?

REC8 response: Not all data sharing requests carry the same level of risk. A 'tiering' accreditation would facilitate ease of use and accreditation for low-risk use cases, requiring entities to meet a higher level of requirements for highly sensitive, personally identifiable data at scale. A key deciding factor on this approach should focus on the potential for risk and harm to an individual or group against public benefit.

Associated with REC10: Should the Review be considering other dependencies impacting the proposed expansion of accreditation eligibility, such as for example, the consistency of data sharing use-cases of expanded entities with the data sharing purposes? Are there other groups who should be considered for inclusion, in the national interest, at this stage, and should all the groups listed above be included? Are there particular supporting mechanisms which would be considered as critical to enabling ACCO participation?

REC10 response: The agency is supportive of the review considering other dependencies impacting the proposed expansion of accreditation eligibility.

The agency is satisfied with groups identified for inclusion within recommendation 10 and do not have any further recommendations at this time.

Associated with REC12: Are there other arrangements, in addition to a permission-basis for accreditation and adjustments to prescriptive data sharing requirements, which are required to enable data curation as a data sharing purpose?

REC12 response: The technical process to enable curation of data can vary significantly depending on the complexity and requirements of a request. The agency manages a significant volume of data and largely bears the technical costs and resourcing requirements to manage data storage, access and curation. Given the timeframes and resources required to curate data at scale, a calibration of timeframes and cost recovery processes needs to be factored in.

Associated with implementation approach: As an alternative option, would it be preferable to allow the DAT Act to sunset and for an entirely new framework to be developed? If so, what transitional arrangements would be appropriate to manage the sunset of the DAT Act?

Response: Whilst the agency is supportive of the report findings and recommendations thus far, we would be equally supportive if the outcome of the review sought to allow the DAT Act to sunset, noting that there would need to be consideration if this is the effective way to resolve the challenges of the existing Act.

As advised in our May submission, since the inception of the Scheme, the agency has only received two requests for data via DataPlace with neither of these requests resulting in the release of data under the Act.

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