



**Data Availability and  
Transparency Bill –  
submission from the  
Australian Data  
Archive**

AUSTRALIAN DATA ARCHIVE  
<http://www.ada.edu.au>  
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The Australian Data Archive (ADA) appreciates the opportunity to respond to the proposed Accreditation Framework for the Data Availability and Transparency Bill.

ADA provides a national service for the collection and preservation of digital research data, and disseminates this data for secondary analysis by academic researchers and other users. ADA is based in the Centre for Social Research and Methods at the Australian National University. We have been working with government agencies, the academic community and the broader public to support access to research data since 1981, and today support a community of over 6000 academic and government data users around Australia and internationally.

We are strongly supportive of the development of the Data Availability and Transparency Bill, and are pleased to see its release for comment as an outcome of the Productivity Commission review conducted in 2017. The Bill provides a sound foundation for establishing a whole-of-government framework for improving data access within a suitable risk management framework, while addressing the expectations of the Australian public around both privacy considerations and the use of government data for public benefit. We are particularly supportive of the Data Sharing Principles as a foundation of the Bill.

We have responded to the Questions outlined in the Accreditation Framework below. We would note that the draft Bill does specify the principles-based model for the ONDC and for establishing Data Sharing Agreements, and that the specific requirements for the Accreditation Framework will be established through Rules and Regulations subsequent to the passing of the Bill itself. We would strongly recommend the continued consultation on these additional requirements as a core expectation of the implementation of the Bill, and would welcome opportunity to participate in such consultation into the future.

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## **Responses to Questions for comment in the Accreditation Framework discussion paper.**

### ***1. What is considered to be an appropriate level of Australian ownership for an organisation to be eligible for accreditation?***

We would suggest that Australian ownership should not be a defining characteristic of an organisation in order to be eligible for accreditation. Particularly in regard to the use of data for research purposes, the potential public benefit of enabling the use of data in international research projects is significant, evidenced for example in the recent wave of international comparative studies of COVID-19 and its health and social impacts.

We would however support the reporting of ownership information in any accreditation process. This will enable agencies to incorporate ownership status as part of any specific requirements as part of a data sharing agreement where relevant.

### ***2. Should individuals acting on behalf of an Accredited Data Service Provider be accredited individually? If so, what might be appropriate arrangements?***

We would expect that there would be some circumstances where there is cause for accrediting individuals who are acting on behalf of ADSPs, such as designated employees who may be responsible for data integration activities, data management or systems support. That said, this does have the potential to restrict the operations of ADSPs, for example where there is a change of personnel, or the use of cloud and other infrastructure providers for the provision of services (e.g. hosting through Amazon AWS). As the discussion paper notes on p.2, "the skills and capability of individuals to handle data safely will vary depending on the project".

As such, it may be preferable to manage any requirements for the use of specific individuals as part of data sharing agreements with ADSPs rather than as part of the accreditation process.

### ***3. Are there circumstances when it should be mandatory to use an Accredited Data Service Provider for a data sharing project?***

Similarly to the question regarding individual accreditation, it is again plausible that there might be some circumstances where the use of an ADSP is

preferable. This does however appear to be largely related to the specifics of the data to be shared and the project purpose. It is also likely that organisations (and individuals) will vary in their capacity to manage the relevant risks associated with the data and the project. For example, some organisations will have highly developed technical and governance infrastructure, whereas others have limited or no capacity due to resource constraints, capability of personnel, or other organisational characteristics.

ADA would suggest therefore that mandatory use be limited to those circumstances where the proposed end users of the data cannot demonstrate suitable organisational capability to meet governance and technical needs associated with the project.

The corollary of this is that the accreditation procedures for organisations will likely need to be stratified - that they provide sufficient information to distinguish different levels of capability to meet differential requirements of data custodians.

#### ***4. What would those circumstances be?***

See response to Question 3.

#### ***5. Are there elements of data capability that should be given more or less weight in the accreditation process, i.e. making elements mandatory or optional?***

The structure of the proposed accreditation process in the DAT Bill allows for the accreditation of organisational and individual users and ADSPs as a prerequisite for the establishment of a data sharing agreement.

As noted earlier in this response, and in consultations on the DAT Bill, data sharing agreements are likely to differ in their complexity and risk profile. Capabilities that are highly relevant in one agreement may be less relevant to another.

As such, the accreditation process should focus on capturing the set of information needed to enable a data custodian to assess a user's capability in the context of the data sharing request being evaluated. Any mandatory requirements should be kept to a minimum to allow for as many users as possible to meet the minimum threshold. If there are too many mandatory requirements, users could be excluded from the second stage of requesting data where they

do not meet the minimum mandatory requirements.

An extension of this could be to enable a stratified accreditation across different (organisational or individual) characteristics. This would then allow for users to demonstrate capabilities in different areas, which could then be applied in specific circumstances or for specific types of data sharing requests.

***6. What elements would be most useful to Data Custodians to support their decision-making process when considering sharing and access to data?***

ADA has a long history of working with government and academic data custodians to support access to data for research and policy purposes. In our experience, there is a core set of information that most custodians rely upon in making assessments regarding sharing and access to data.

In relation to organisations, the core capabilities identified in the consultation paper appear to be a suitable framework for establishing a specific set of elements to be included in an accreditation system: governance and administrative frameworks, data security and privacy arrangements, and technical skills and capability, are a fair reflection of the breadth of information required. We would however recommend consultation on the specific elements to be included in the Regulations, Rules and Codes when they are drafted, as this is where the practical implications of the Bill will be most apparent.

We would note that data custodians are also likely to want additional information on individual users in making assessments. It is individual users who will generally undertake any analysis or integration of the data, and that also represent a significant part of the "technical skills and capability" of the organisational accreditation. In our experience custodians generally seek to understand both the organisation and the individual in making evaluating data sharing requests. Some of the skills identified in the requirements for data providers (such as working with microdata files and experience with data integration) could also be beneficial information regarding individuals. The ONDC may want to consider here models such as the ICPSR Researcher Passport program (<https://www.icpsr.umich.edu/web/pages/about/researcher-credentialing.html>) as a framework for establishing individual user credentials.

***7. Should the accreditation process recognise other frameworks, standards or processes that have assessed an element of data***

***capability? If so what standards/processes might be appropriate to recognise?***

ADA strongly supports the use of existing frameworks for the management of accreditation where possible. For example, organisations with accreditation under information security frameworks such as ISO27001 could be recognised within the DAT Bill framework.

The question that the ONDC will need to consider is how the external accreditation system will be recognised by the ONDC. One option may be to review the external accreditation framework, and then to identify where the external framework concords with relevant DAT Bill accreditation elements. This would then allow the DAT Bill accreditation system to "import" the relevant information from the external system.

***8. Are there any elements of data capability that should be captured in order to understand an accredited entity's ability to keep data safe?***

The three areas identified in the accreditation framework provide a suitable framework for establishing a safety assessment. Again, we would recommend consultation on the specific details to be included in the Regulations, Rules and Codes as part of their development.

***9. What is a reasonable period of time to assess an application?***

It is difficult to identify a specific timeframe for assessment in this framework, given the complexity of the information being sought in the accreditation process proposed (at least for ADSPs and organisations). We would suggest however that there be a target timeframe (probably between one and three months) for a decision to be made, with the potential for extension where additional information is required. We would also recommend that the Commission be required to report on the turnaround time of applications as part of regular reporting processes.

***10. Are there further ways we can streamline the accreditation process?***

We would see two means through which the accreditation process could be streamlined.

a) The use of stratified accreditation levels (as discussed in response 5 & 6) would allow for different thresholds of capability to be assessed and enable projects with lower levels of risk to be progressed while higher-risk

requirements are assessed

b) The recognition of existing accreditation frameworks, and suitable means for passing that information into the ONDC accreditation system, would reduce the documentation demands of the accreditation process.

***11. Do the timeframes to renew accreditation, every 5 years for Accredited Data Service Providers and every 3 years for Accredited Users, seem reasonable?***

These periods appear reasonable for individuals and ADSPs. It may however be preferable to have organisational users reaccredited on a 5 year basis, similar to that of ADSPs, given the breadth of the accreditation requirements that are likely to be required.