**Recovering the costs of data sharing**

## Guidance for data custodians

The *Data Availability and Transparency Act 2022* establishes a new, best practice scheme for sharing Australian Government data – the DATA Scheme. The DATA Scheme is underpinned by strong safeguards and consistent, efficient processes. It is focused on increasing the availability and use of Australian Government data to deliver better government services, policies and programs, and support world-leading research and development.

Commonwealth, state and territory government bodies and Australian universities are eligible to participate in the DATA Scheme. There are three roles participants can play. Data custodians are Commonwealth government bodies who control and can share public sector data. Data users are Commonwealth, state and territory government bodies and Australian universities who, once accredited, can request, obtain and use Australian Government data. Data service providers are Commonwealth, state and territory government bodies and Australian universities who, once accredited, can provide complex data integration, de-identification and secure access services to support data sharing. For further information about the DATA Scheme, see [Introducing the DATA Scheme.](https://www.datacommissioner.gov.au/the-data-scheme)

Under the DATA Scheme, data custodians may charge data users fees for services performed in dealing with a data sharing request (see Section 140 of the *Data Availability and Transparency Act 2022*). Any fees charged must be in accordance with applicable policies of the Australian Government. This includes the [Australian Government Charging Framework](https://www.finance.gov.au/government/managing-commonwealth-resources/managing-money-property/managing-money/australian-government-charging-framework) and the [Australian Government Cost Recovery Guidelines](https://www.finance.gov.au/publications/resource-management-guides/australian-government-cost-recovery-guidelines-rmg-304). Applying the Framework and the Guidelines, charging for data services under the DATA Scheme is *charging for commercial services* and the pricing model to be applied is *cost recovery*. Among other things, this means any fees charged should be the marginal cost of providing the data and not exceed the cost of providing the service.

The guidance has been prepared for data sharing under the DATA Scheme, but could be applicable to all data sharing activities by Australian Government bodies––consistency and transparency in charging for data services improves the experience of data users and is simpler for agencies to manage. This guidance does not cover the charging of fees by accredited data service providers.

### Costs to be recovered

The types of services a data custodians could charge a fee to a data user for services performed in dealing with a data sharing request include:

* Developing data sharing agreements where the development of that agreement is a complex exercise that includes negotiation of the application of the data sharing principles
* Extracting, manipulating, interpreting, processing and/or presenting data to fulfil a data sharing request
* Services that improve the quality, governance or management of the data where required to meet the data request, and
* The costs of triaging the data sharing request and providing a cost estimate for meeting complex data sharing requests.

**Principles for recovering costs**

The following principles guide data custodians in determining how to calculate and recover the costs of data sharing.

**Principle 1: Take a consistent approach to charging across all data users**

Charging for data sharing should be comparable for all data users and follow a similar pattern across agencies and across sharing schemes. An agency’s cost recovery model under the DATA Scheme should be similar to their standard practice.

**Principle 2: Only recover the costs that relate to the data sharing project**

Only the costs of sharing data which are related to the data sharing project should be recovered. Data custodian should not charge for broader data management activities or inflate costs as a deterrent for data sharing.

**Principle 3: Data custodians can choose to cover the costs of data sharing**

The data custodian may choose to waive the cost of data sharing, particularly when the project would generate a significant public good and/or is aligned to the core business of the agency, for example sharing data to inform public health responses to public health emergencies.

**Note:** a condition of some Commonwealth grants is that grant funds cannot be returned to the Commonwealth. The effect of these provisions is that some research projects will not be able to pay the Commonwealth for data services.

**Method for calculating the costs**

Potential methods to determine fees include calculating the cost based on the time required to provide the services (for example, an hourly rate), or calculating the person-days required to perform the services.

It is at the discretion of the data custodian whether they require payment before or after the service is provided.

Charges should be disclosed to the data user once the data custodian agrees to the data request. Once agreed by the data user, the financial arrangements must be included in the Data Sharing Agreement. The recommended pathway for charging for a more complex request under the DATA Scheme is outlined below (Figure 1).

For data sharing requests made through [Dataplace](https://www.dataplace.gov.au/), the steps for recovering costs will be included as part of the data request and data sharing agreement service.

Figure 1: Steps for the recovery of costs associated with data sharing

An accredited data user makes a data request to the appropriate data custodian.

The data custodian agrees to a data sharing request, and provides a quote on how much it will cost to provide the data.

The accredited data user accepts the quote and financial arrangements are documented in the Data Sharing Agreement.

The data custodian commences work on the data request, keeping the accredited user regularly informed on the progress and whether the quote is likely to be exceeded.

The data custodian completes the services and calculates the final cost on a per-hour basis, which aligns with the indicative quote.

The accredited user pays the data custodian for the service. Once payment has been received, the data custodian provides the accredited user with the data, in line with the data sharing agreement

### Developing a policy and procedures for charging

Data custodians should develop and publish a policy on charging for data services. They should also develop procedures for determining how much should be charged to a data user. [Dataplace](http://www.dataplace.gov.au) includes a mechanism for providing cost estimates as part of negotiating a data sharing agreement, which will assist custodians in providing indicative costs to users.

Procedures should include arrangements for a data custodian to approve a charge, complaints handling, risk management, reporting of revenue in the entity’s annual report, and detailing how the data custodian will respond to data sharing processes that are incomplete.

**Approval arrangements**

Appropriate arrangements for a data custodian to approve a charge must be in place before a custodian charges for a service. These arrangements must consider the custodian’s financial delegations and the authorisation of individuals to enter into data sharing agreements under the DATA Scheme (see Section 137 of the *Data Availability and Transparency Act 2022*).

**Handling complaints**

It is possible that a data custodian’s charging arrangements lead to complaints, and responding to such complaints will usually be the responsibility of the data custodian. If a data custodian will be undertaking significant and/or ongoing data services it is strongly recommended they develop and publish a policy on handling complaints.

Data custodians should ensure that an appropriate channel is in place to receive such complaints and that a policy and procedures are in place for how complaints are handled.

Note that an accredited entity under the DATA Scheme could also complain to the National Data Commissioner about the conduct of a data custodian, in which case the complaint would be handled according to ONDC complaints procedures.

**Reporting of revenue**

Entities must report revenue raised from charging as part of their annual report. Charging process should include the collection of this information by default.

**Responding to incomplete processes**

It is possible that a data sharing request does not run to completion, even after a data custodian has completed work to meet the request. The data sharing agreement should include provisions for charging in these circumstances.

For example:

* In the event an accredited user withdraws their request after the data custodian has performed all or part of the services, the accredited user may still be liable to pay the charge. These requirements should be included in the data sharing agreement before the data custodian commences work on the request.
* The data custodian may determine the request cannot be completed part way through performing the services. The data custodian and accredited user should discuss this possibility ahead of the services being performed to determine whether the user should still be liable for any charge.

**Requests involving multiple entities**

If there are multiple data users involved in a request, users should select a lead entity who would be responsible for meeting charges from the data custodian. The users must agree on how the fee should be divided and ensure this is captured in the data sharing agreement.

If there are multiple data custodians, the data custodians should:

* ensure that no duplication of services occurs between custodians
* clearly articulate to the user what services are being provided by which custodian, and what the costs associated with that are
* where multiple custodians would have to make significant changes to datasets to meet a single data sharing request, the user should be given the option to use an accredited data service provider (with limited costs being occurred by the custodians).

# Further questions?

For help or support in recovering costs under the *Data Availability and Transparency Act 2022*, agencies can contact:

* their Department’s internal finance area
* the Office of the National Data Commissioner through [datacommissioner.gov.au/form/contact](http://www.datacommissioner.gov.au/form/contact)
* the Department of Finance’s charging policy section.