
Subject: Data Code Consultation Submission
Attachments: Polidano and Moschion submission.docx

Dear Sir/Madam,

Please receive responses to select questions from the consultation paper on the Draft Data Availability and Transparency Code 2022 by myself (Dr Cain Polidano) and my colleague Dr Julie Moschion from the Melbourne Institute: Applied Economic and Social Research at the University of Melbourne.

Thank you for the opportunity to provide feedback.

Best wishes,

Cain

Dr Cain Polidano | Senior Research Fellow | ARC Life Course Centre Associate Investigator
Melbourne Institute: Applied Economic & Social Research | Faculty of Business and Economics
Level 5, FBE Building, 111 Barry Street, Carlton
The University of Melbourne, Victoria 3010 Australia

melbourneinstitute.com | twitter.com/MelInstUoM | facebook.com/BusEcoMelb

I acknowledge the Traditional Owners of the land on which I work, and pay my respects to the Elders, past and present.



CRICOS: 00116K

This email and any attachments may contain personal information or information that is otherwise confidential or the subject of copyright. Any use, disclosure or copying of any part of it is prohibited. The University does not warrant that this email or any attachments are free from viruses or defects. Please check any attachments for viruses and defects before opening them. If this email is received in error, please delete it and notify us by return email.

Responses to Select Questions Regarding the Draft Availability and Transparency Code

Thank you for the opportunity to provide reactions to the code. Please find our responses to select questions below.

5. Under the draft data code, entities must have regard to any process of ethics applicable. Do you have any comments about this approach?

A prime concern of ethics committees is proper consultation and engagement of Aboriginal and Torres Strait Islander communities when appropriate, including to ensure free and informed consent, as outlined in national guidelines including the AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research. Operationalising such codes is clear in the context of primary data collection, but it is not clear how such codes apply when using Government collected data, especially when the Government data being used for research is on a national scale. In this context, engaging with all communities is not practical or necessarily warranted. However, appropriate ethical guidelines for conducting Aboriginal and Torres Strait Islander research using administrative data sources is missing. In our view, such a code would help provide practical guidance on how government data should be used to the highest set of ethical standards that are demanded by the community and ethics committees.

9. Are the attributes, qualifications and affiliations listed in this section appropriate and easy to understand?

Under section 10, while there is adequate description of the technical qualifications required, there is no mention made of the cultural competency required to properly use and interpret the results from the analysis. This is particularly true when the analysis is on Aboriginal and Torres Strait Islander communities.

11. Setting principle: reasonable security standards. Is this section adequate in clarifying what are reasonable security standards?

In section 12, it is made clear that appropriate steps should be taken before the data is shared, that the entity should consider altering or removing the data in a way that helps to manage risk. While this is appropriate, it needs to be clear that this decision needs to be made in the context of other measures that can manage risk and should not be relied upon as the default method for protecting the data. Further, it is important that entities consider the impact that altering/removing the data can have on the quality of the research and the loss of benefits that will occur. Setting clear restrictions on the outputs that can be produced and published (e.g. minimum cell sizes for publication of tables and figures) is a far more effective way of managing risk than restricting the data that is shared for research.

18. Does this part of the draft data code provide an adequate list of factors for data custodians to consider when determining whether the public interest justifies the sharing of personal information without consent? Would this section benefit from an example provided in a note, and if so, can you suggest one?

Section 18(e) specifically refers to cultural benefits and costs that should be considered when assessing public interest for waving consent. For Aboriginal and Torres Strait Islander research, it is important to note the diversity of First Nations cultures and histories. When using national data for research that is large or national in scope, guidance on how these different cultures should be considered would help custodians weigh-up the costs and benefits of waving consent.