



AIATSIS

AIATSIS Submission
Data Availability and Transparency
Code 2022

19 September 2022

Introduction

The Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) is Australia's only national institute dedicated to telling the story of Aboriginal and Torres Strait Islander Peoples' knowledge, societies and cultures. We are the custodian of Australia's national collection of Aboriginal and Torres Strait Islander heritage materials and a publicly funded research agency. AIATSIS is also tasked with providing advice to government on Aboriginal and Torres Strait Islander cultures and heritage.

AIATSIS welcomes this opportunity, and any further opportunities, to work with the Office of the National Data Commissioner in the development of the Data Availability and Transparency Code (the Code).

Project principle: applicable processes relating to ethics

Principle 5. The AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research applies to all Aboriginal and Torres Strait Islander research in Australia and is endorsed by the National Health and Medical Research Council (NHMRC), the Australian Research Council (ARC) and the National Indigenous Australians Agency (NIAA). AIATSIS considers the ethics process as a critical element in research and applies this to the research outputs' care, maintenance and future use. The requirement for ethics considerations within the scope of the Code should be strengthened and reference the need for ethics considerations, especially when existing data is used in new research or when the disaggregation of data is processed.

People principle: appropriate persons

Principle 9. The definitions used within this requirement fail to acknowledge the significant cultural role that Aboriginal and Torres Strait Islander peoples may have relating to data and information connected to country or community. It also lacks reference as to how Aboriginal and Torres Strait Islander peoples may interact with data differently to researchers or policy shapers. As cultural custodians, Aboriginal and Torres Strait Islander peoples have a range of purposes for accessing data. These purposes may not fit under the appropriate persons requirement as it is currently drafted. As it stands, the current definition could be seen as an impediment to Aboriginal nation-building and a lost opportunity for Government data holders to engage in this Important process.

Setting principle: reasonable security standards

Principle 11. AIATSIS agrees that security standards are a requirement however, these should also include additional sensitivities around Aboriginal and Torres Strait Islander datasets. A more holistic overview to security using a case-by-case approach is reasonable. However, it may be difficult for Aboriginal and Torres Strait Islander organisations to meet set requirements given the lack of infrastructure to support data security. This could be a further impediment for Aboriginal and Torres Strait Islander organisations to participate in these arrangements.

Privacy protections

Principle 16. Consent to sharing personal information, privacy protections are currently based at the individual level. As Aboriginal and Torres Strait Islander organisations are often representatives of the communities they serve, it may be prudent to broaden the scope to include family, community or organisation representatives with permission to provide consent (collective protections). This should

also be applied on a case-by-case basis, while reflecting the difference between individual and collective decision making.

Potential additions to the data code

Principle 22. In noting potential additions to the data code the Commissioner may also make a code about other matters necessary, or convenient, for giving effect to the DATA Scheme (the new best practice scheme for sharing Australian Government data), AIATSIS would strongly recommend that the unique nature of Indigenous data principles be considered. This includes, but is not limited to Indigenous data sovereignty, Indigenous Cultural and Intellectual Property. It would also assist Government in responding to Closing the Gap: Priority Reform Four - *Aboriginal and Torres Strait Islander people have access to, and the capability to use, locally-relevant data and information to set and monitor the implementation of efforts to close the gap, determine their priorities and drive their own development*. These aspects require further consideration; potentially as inclusions within the current Code, or as a separate Code or Guideline, and would need to be developed with Aboriginal and Torres Strait Islander data experts and custodians.

Conclusion

AIATSIS welcomes continued discussion and involvement in the development of the Data Availability and Transparency Code 2022. As the only national institution focused exclusively on the diverse history, cultures and heritage of Aboriginal and Torres Strait Islander Australia, AIATSIS is well placed to provide a considered response that reflects Aboriginal and Torres Strait Islander ways of knowing, being and doing. AIATSIS will continue to promote greater understanding of Aboriginal and Torres Strait Islander peoples' ways of accessing and using data to ensure better understanding across Government and institutions that hold data sets relating to Aboriginal and Torres Strait Islander peoples and their communities.