
Subject:

Data Code Consultation: APSC Submission

OFFICIAL

Hello

The Australian Public Service Commission (APSC) welcomes the opportunity to provide feedback on the draft *Data Availability and Transparency Code 2022* (the data code), as requested at the DSDG meeting on 17 August.

The draft data code is a clear and helpful addition to assist entities in understanding and participating in the DATA Scheme. As a small policy agency with an APS-wide data custodian role, we appreciate resources and guidance that help agencies understand their responsibilities around data governance and privacy principles.

In regards to the *Project principle*, the increased detail on how to discern if a project is in the public interest is valuable, especially the list of considerations provided to support decision-makers in weighing the benefits and potential arguments against a project. Overall, as noted in the consultation questions, it is always useful for participants and organisations to provide examples to assist in decisions. As the Scheme is rolled out more thoroughly, case-studies and examples of decisions could be provided on the ONDC website. In terms of applying processes relating to ethics, the APSC supports the suggestion that *any* ethics process should be considered but only one applied. The detail in the additional note about ethics processes required by external independent bodies is appreciated. The emphasis on a thorough ethics review and risk assessment is supported as it increases the general capability of data custodians across the APS to be aware of their responsibilities.

In regards to the *People principle*, the APSC appreciates the focus on who should hold responsibility for managing conflicts of interest, specifically if an entity is a Government body. This is a pragmatic approach to a data custodians responsibility in managing risks. It could be clearer if the expectation is that a data custodian is not required at all to manage other parties conflicts of interest or if there is still a requirement if the other entity is not a Government body.

The additional information on the requirements for an appropriate person are helpful. The APSC supports the expectation that agencies would know who has access to data and the relevant qualifications (or on-the-job training) required to have access to data. It is important agencies have data policies in place for their employees who manage and control data.

In regards to the *Setting principle*, the practical advice is appreciated. User error is generally the biggest risk in data breaches so APS organisations should clearly communicate their data sharing and storage protocols. An example for this section could include how data should be managed on approved devices and outputs stored in secure file storage (i.e. locked down folder structures that only appropriate persons have access to). It could also reference how data should be accessed by staff who may be working remotely (i.e. not saving data to desktops or external drives to transfer). Further supporting resources could reference the *Swiss Cheese* model of security/risk prevention where multiple layers of protection are layered to reduce risks of data breaches.

In regards to the *Data principle*, the APSC supports the approach that data should be shared based on the requirements of the project and that consideration should be given to what data is removed, altered or aggregated *before* sharing. It establishes that scope should be as clear as possible before moving into the data sharing stage. There may need to be guidance for projects where there is an ongoing need to supply data and how to address issues if the scope of the output changes.

Part 3 - Privacy protections is a useful explanation of how consent should be sought, when it is not required and how to react if consent is withdrawn.

The data code could consider some risks involved with sharing data that is not considered personal information under the *Privacy Act 1988* (the Privacy Act). Data that is not personal information (i.e. that has been made anonymous or de-identified) can potentially be combined with other publicly available information that could

reasonably re-identify someone within the dataset. This may change the requirements on how the information should be treated and stored.

Thank you again for the opportunity to be involved in the consultation for the draft data code. If you would like to discuss the above feedback please reach out to Nathan Borgelt, Director, Workforce Research and Analysis

cheers
Nicole

Dr Nicole Steele (she/her)

Assistant Commissioner, Strategic Policy & Research Group

APSC **LGBTIQ+** Network Champion

Australian Public Service Commission

Old Parliament House, King Georges Tce, PARKES ACT 2600

GPO Box 3176 CANBERRA ACT 2601

w: www.apsc.gov.au