

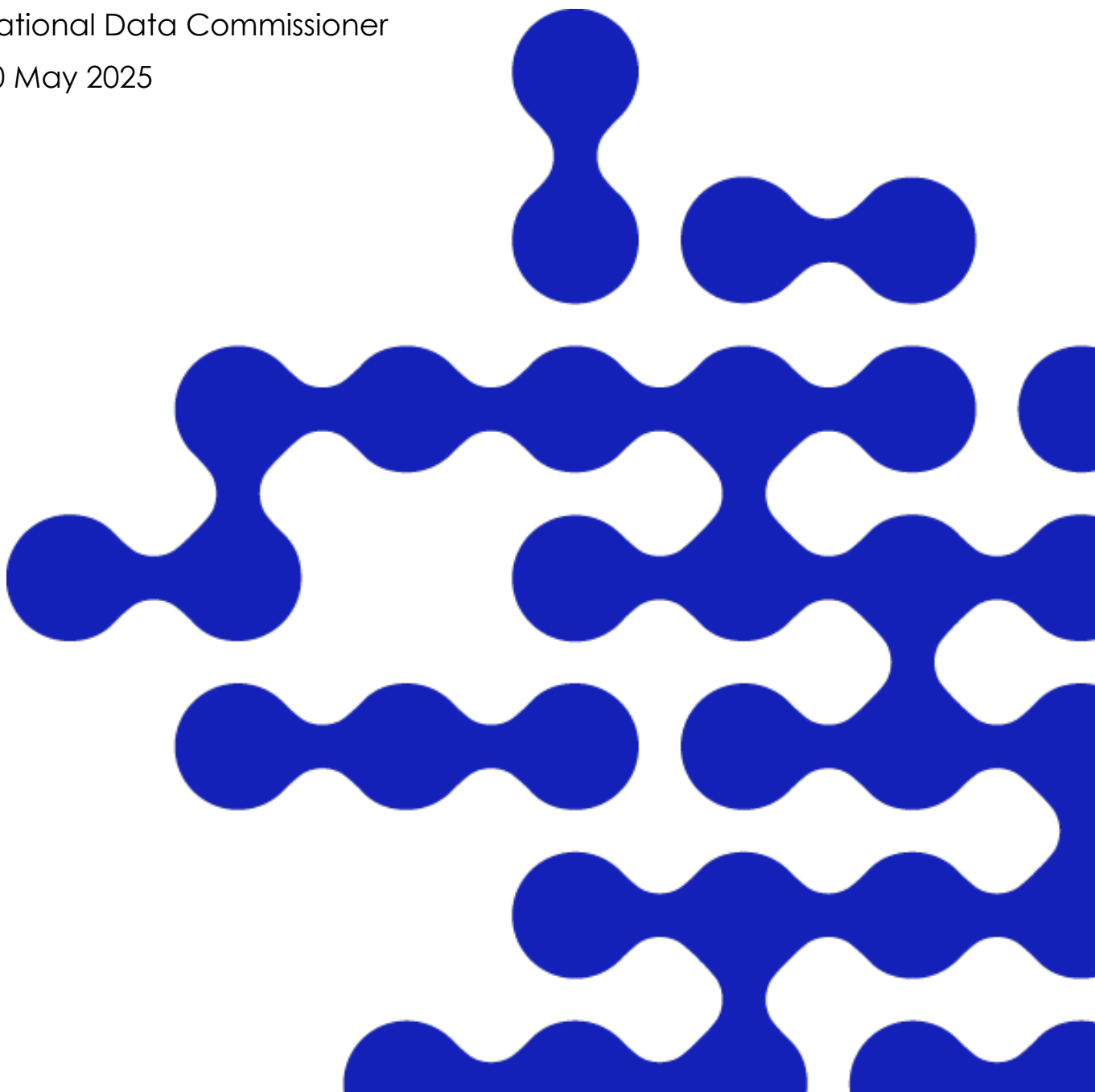


Australian Government
Office of the National Data Commissioner

CNDC

Submission to the Statutory Review of the *Data Availability and Transparency* Act 2022

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Executive summary

The statutory review of the *Data Availability and Transparency Act 2022* (the Act) is to consider how the data sharing scheme established by the Act (the DATA Scheme) has operated over its first 3 years and advanced the objects of the legislation and whether the Act should remain in force. We welcome the review. To inform it, the Office of the National Data Commissioner (ONDC) has published new resources¹ about the DATA Scheme and how it has operated since the commencement of the legislation. This submission builds on that, responding to the issues paper.

The Act was introduced to overcome barriers to sharing Australian Government data, including in response to the Productivity Commission's 2017 review into improving data availability and use (PC review). The PC review found Australia was not making the most of its valuable public data. As a result, widespread community and productivity benefits were being missed. It recommended a reformed and modernised regulatory framework to support safe and widespread sharing of Australian Government data for public benefit by enabling necessary permissions and shifting attitudes to 'treating data as an asset and not a threat'².

The Australian Government responded to the PC review by committing to reform through new data-sharing laws and creation of the National Data Commissioner. This new framework was to overcome three key barriers to data sharing:

- legal restrictions that prevented Australian Government agencies providing others with access to data, even when the sharing would have been both reasonable and safe
- lack of clarity as to who Australian Government agencies could trust to share data with, and
- uncertainty about best practices and appropriate safeguards for sharing data safely.

In addition, the Government response recognised 'a cultural change is required from agencies to ensure greater data sharing within government and support for whole-of-government initiatives and reforms'³.

The Scheme addresses the three key barriers by authorising Australian Government agencies to share data, establishing a robust accreditation framework so that only those who can safely handle public data are able to participate in the data sharing scheme, and defining best practices for sharing data safely. The data sharing scheme is overseen by an independent regulator to support transparency and trust.

To allow the data sharing scheme time to establish and mature, the Scheme started cautiously with limited reach – only government agencies and universities were eligible to participate. This review, 3-years after the DATA Scheme commenced, is a deliberate checkpoint to ensure the Act is operating as intended. It provides an 'opportunity to consider expansion or refinements'⁴ and for an independent review to 'assess its effectiveness, and whether the Scheme should continue, continue with amendments, or be allowed to cease to have effect under the sunset clause'⁵.


¹ Office of the National Data Commissioner (ONDC), [Statutory Review of the Act](#), ONDC website, and Attachment A.

² Productivity Commission (PC), [Data Availability and Use: Final Report](#), PC website, 31 March 2017, p 2.

³ Commonwealth of Australia (2018), [The Australian Government's response to the Productivity Commission Data Availability and Use Inquiry \[PDF 4.3MB\]](#), PC website, p 7.

⁴ Revised Explanatory Memorandum DAT Bill 2022, paragraph 810.

⁵ Revised Explanatory Memorandum DAT Bill 2022, paragraph 804.



Over the establishment phase, ONDC has built the Scheme and the digital platform to support its operation. We have increased awareness and understanding of the Scheme, established a rigorous accreditation framework and through that a trusted data sharing community, and facilitated data sharing. Transparency in data sharing has been enhanced, and Scheme participants are being held accountable for meeting robust standards through regulation of the Scheme. These efforts have advanced the objects of the Act⁶. Now with the robust foundations in place, the time is right to expand the Scheme.

The first 3 years of the Scheme has been a tremendous learning opportunity for ONDC, Scheme participants and others. There have been challenges and transitional costs. The valuable feedback and advice provided by Scheme participants, the National Data Advisory Council and others has spurred improvements in ONDC's performance and the Scheme's operation and provides a solid evidence base to inform the review.

Our view based on the experience and evidence of the first 3 years is that the Act should **continue with amendments** so the DATA Scheme can operate as intended and support a modern data-based society, more effectively delivering:

- better government services, policies and programs
- research and innovation, and
- economic growth and improved productivity.

We propose the following package of amendments. These would streamline the Act making it easier to use and enable the DATA Scheme to support the breadth of data sharing by Australian Government agencies. Sharing would be standardised, generating efficiencies and ensuring best practice. Sharing could be authorised if in the national interest, and sharing across all levels of government would be better enabled.

1

With the Scheme's safeguards now established, **expand the types of entities eligible to participate in the DATA Scheme** to include all Australian organisations such as government services providers, research organisations, as well as Aboriginal and Torres Strait Islander organisations and organisations supporting Aboriginal and Torres Strait Islander communities.



2

Permit the Act to apply to sharing broadly, including where sharing is already authorised by another Commonwealth legislative purpose and through the adoption of a whole-of-government platform for discovering data held by Australian Government agencies and administering data sharing.



3

To **enliven sharing for purposes of delivering better government services**, the Act should permit sharing for the delivery of government services, including where a compliance issue may be incidentally detected. The Act should continue to preclude sharing for enforcement related purposes including investigation, prosecution and punishment; and where detection of non-compliance is a material purpose for sharing.



4

Address known issues by amending the Act to streamline data sharing by taking a more principles-based and outcomes-oriented approach to refining existing features.



5

Introduce Ministerial discretion to **authorise sharing under the Act where it is in the national interest** to do so, with appropriate checks and balances.




6

Strengthen support for a national data sharing system to enable seamless sharing of data across all levels of government and permit all jurisdictions to contribute and benefit from multilateral data sharing by developing complementary legislation and consistent approaches to data sharing practices and standards.



⁶ Appendix A, Attachment A.



An amended Act, streamlined and capable of supporting the breadth of data sharing by Australian Government agencies is a necessary but not sufficient condition to realise the vision of a step change in the use of Australian Government data for public benefit and to support the Government's productivity agenda through achievement of a data dividend. A sustained focus and commitment is needed to:

- **address cultural resistance** to sharing data and sharing it in a timely way. Arguably from what we have observed over the first 3 years of the Scheme's operation, the cultural impediments are more heightened now than at the time of the PC Review, following large-scale data breaches and Royal Commissions. Senior leadership is key to greater adoption of a 'yes if, with appropriate safeguards' approach and a public data mindset.
- **further strengthen the data capability** of Australian Government agencies and other Scheme participants. We are aware of some Scheme participants applying for accreditation to drive an uplift in their data capability. Australian Government agencies participating in the \$9 million Data Inventories Pilot Program reported a marked improvement in their data asset management capability. Other initiatives such as the APS Data Profession have bolstered capability. But there is still some way to go. A 2024 self-assessment of Australian Government agencies found the average data maturity score was 2.02 out of 5. And while 44 Australian Government agencies were supported to establish and develop inventories of their data assets under the Pilot program, only 22 are contributing to the Australian Government Data Catalogue. Working with others, ONDC will continue to educate on data handling and use.
- **strategically allocate resources** within Australian Government agencies as well as across the Commonwealth, the different levels of government and the research sector.



1. Expand the types of entities eligible to participate

The 2017 PC Review envisaged a safe data sharing model for all Australian organisations for public interest purposes – such as delivery of better government services and research. The PC Review noted that ‘improved data access and use can enable new products and services that transform everyday life, drive efficiency and safety, create productivity gains and allow better decision making’ and ‘the potential value of data is tremendous; as is the scope for Australia to forgo much of this value under the misconception that denial of access minimises risks’⁷. It was estimated that the value of public sector data could range from \$625 million to \$64 billion per year^{8,9}.

In response to this call for action, the *Data Availability and Transparency Bill 2020* (DAT Bill), introduced in late 2020, opened participation in the proposed data sharing scheme to a wide range of entities from all levels of government as well as industry, research, and others in the private sector. Amendments were later made to the DAT Bill limiting eligibility; the preclusion of non-government and private sector entities was ‘intended to provide an opportunity for the Scheme to establish and mature’¹⁰.

The Productivity Commission's 5-year Productivity Inquiry report recommended extending the DAT Act to allow Australian Government data to be shared with the private sector so ‘not-for-profit organisations and businesses can undertake research and develop improved products and services for Australians’¹¹. Productivity gains could flow – businesses and services providers could use government-held data to improve their analytics, benchmark their performance and innovate.

Important government services delivery and research and development occur in organisations (often government funded) not currently able to participate in the Scheme. The effect of precluding non-government and private sector entities has substantially limited the utility and value that can be realised from government-held and government-funded data. It has also limited the range of experienced, advanced data analytics and artificial intelligence intermediaries able to assist data sharing entities achieve valuable insights from their data sharing projects.

ONDC has heard from a wide range of organisations locked out of the Scheme that they would be able to deliver public benefit through accessing data under the Act – see examples in Table 1.

⁷ PC, [Data Availability and Use: Overview and Recommendations \[PDF 673KB\]](#), PC website, 31 March 2017, p 4.

⁸ PC, [Data Availability and Use: Final Report](#), PC website, 31 March 2017, p117.

⁹ Estimates in 2013 dollars. Adjusting for inflation, the value is between \$837 million to \$85.75 billion in 2024 dollars, [Reserve Bank of Australia inflation calculator](#)

¹⁰ Revised Explanatory Memorandum DAT Bill 2022, paragraph 11.


¹¹ PC, [5-Year Productivity Inquiry: Advancing Prosperity](#), PC website, 17 March 2023, p 88.

Table 1. Example organisation types that are precluded from the DATA Scheme

<p><u>Aboriginal and Torres Strait Islander organisations</u> and organisations supporting these communities, for example:</p> <ul style="list-style-type: none"> • Australia's 146 Aboriginal Community Controlled Health Organisations (ACCHOs) are focused on preventive care and health education, primarily delivered by Aboriginal Health Workers and nurses. • The 250+ Registered Native Title Bodies Corporate (RNTBCs) manage native title right and interests on behalf of Traditional Owners following a successful native title determination.
<p>Australia's 3000+ <u>Approved Aged Care Providers</u> deliver residential care, home care, and home support to older Australians by:</p> <ul style="list-style-type: none"> • improving the quality and safety of aged care, • providing tailored care that supports ageing in place, and • enhancing access to services across urban, regional and remote communities. <p>They receive subsidies and supplements, capital grants and funding from the Australian Government and operate as independent entities, including not-for-profit, for-profit, and government-run organisations.</p>
<p>Australia's 31 <u>Primary Health Networks</u> (PHNs) are independent organisations streamlining health services across Australia's 31 health regions by:</p> <ul style="list-style-type: none"> • improving the efficiency and effectiveness of health services, • improving the coordination of health services, and increasing access and quality support for people. <p>They are fully funded by the Australian Government but are separate legal entities to the Commonwealth, and to state and territory governments.</p>
<p>Australia's <u>independent research organisations</u> conduct applied economic and social research to support evidence-based public policy.</p> <p>These institutions maintain partnerships with universities, government agencies, and other stakeholders, but operate as independent, non-profit legal entities.</p> <p>Examples of such organisations include the Grattan Institute and the e61 Institute.</p>
<p><u>Medical Research Institutes</u> play a fundamental role in delivering both health and economic value to Australia. Australia's 58 Medical Research Institutes (MRIs) are charitable institutions, closely affiliated with hospitals and/or universities but are mostly independent legal entities. They rely on a diverse mix of public funding and private investment. A significant amount of public funding is from competitive grant income from the National Health and Medical Research Council programs.</p>

An important area of expansion would be to facilitate greater access to data by Aboriginal and Torres Strait Islander-led organisations and organisations supporting Aboriginal and Torres Strait Islander peoples. The National Agreement on Closing the Gap Priority Reform 4 commits all governments to ensure Aboriginal and Torres Strait Islander peoples have access to data and information at a regional level to support shared decision-making¹². Currently, many

¹² Closing the Gap, [Priority Reforms \(Priority 4\)](#).



Aboriginal and Torres Strait Island organisations and organisations supporting these communities are not eligible to participate in the data sharing scheme¹³. These same organisations are key to driving and delivering community-led health, economic, and cultural services and outcomes for their communities. Amending the Act so that these organisations are eligible to participate in the data sharing scheme would allow them to access Australian Government held data and enable community-led policy, program and service improvement. This proposed change would also be in step with the Framework for Governance of Indigenous Data to allow the Act to extend to Aboriginal Community Controlled Organisations and Registered Native Title Bodies Corporate¹⁴.

Medical Research Institutes are another example of the forgone benefits from restricting eligibility. In 2023, these institutes received nearly \$2.5 billion in revenue from a diverse range of sources, with an estimated return on investment of between \$2.61 to \$4.54¹⁵ per dollar invested. The GenV project led by the Murdoch Children's Research Institute (MCRI) is Australia's largest and most inclusive child and parent longitudinal study, with both national and international value. GenV is creating (among other things) an ongoing data resource that brings together GenV collected data, Australian Government data, state data, hospital data, and data contributed by its collaborators and users. GenV has consent for data linkage and to access Medicare data and numbers. However, because it is not eligible to participate in the DATA Scheme, MCRI has had to work within the existing systems of access and approval to access Australian Government data. As a result, MCRI have had to negotiate with individual data custodians through approval processes designed for smaller one-off research projects. The current structure will also see data sit in multiple secure environments rather than being brought together in one place. ONDC has heard from MCRI that the result is a time consuming and costly process, delaying the real-world impact of this research.

A risk-based approach is inherent to the Scheme's safeguards. Increasing the availability and use of Australian Government data to more participants will have associated risks, but those risks can be anticipated, substantially mitigated, managed and monitored. After 3 years of experience implementing the Scheme, the Scheme's safeguards are operational and verified. The Scheme is now ready for eligibility to expand. Expanding eligible participants would expand the application of the Scheme's safeguards and best practices and regulatory oversight, as set out in Figure 1.

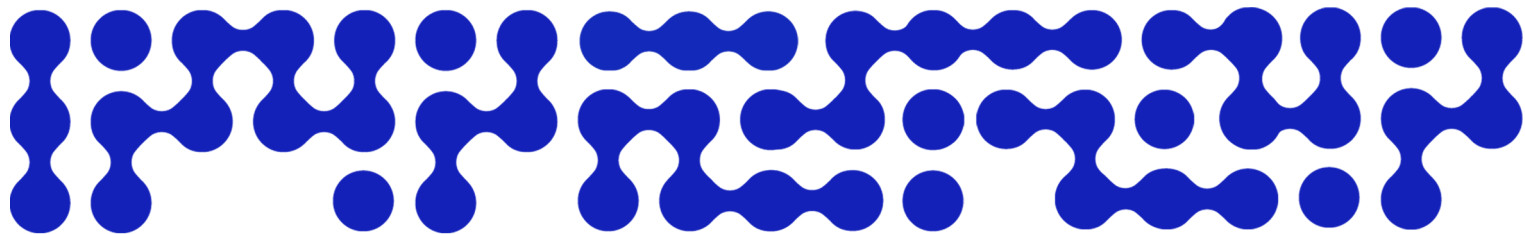
Entities wanting to participate in the Scheme must first be accredited before they can request and use data. The Scheme's accreditation framework has demonstrated it provides a strong gateway to ensure only trusted entities can participate in the Scheme. Two independent, expert reviews of the accreditation framework confirmed it provides a robust level of assurance.¹⁶ Accreditation is not set and forget. Entities are subject to ongoing

¹³ Some Aboriginal and Torres Strait Islander focused entities are currently eligible to participate in the data sharing scheme because they are Commonwealth, state or territory government entities. In September 2024, ONDC compiled a list of 13 Commonwealth entities and 144 state and territory entities that are Aboriginal and Torres Strait Islander focused entities that can currently participate in the Scheme based on responses received from jurisdictions.

¹⁴ [Framework for Governance of Indigenous Data](#), Guideline 4: Build an inclusive data system, Action 13: Explore options and prioritise resources to update the *Data Availability and Transparency Act (DATA) 2022* to allow Aboriginal and Torres Strait Islander Community Controlled Organisations and Registered Native Title Corporate Bodies to become 'accredited users' under the DATA Scheme.

¹⁵ Victorian Department of Jobs, Precincts and Regions (DJPR), [Creating a Healthy Future Report \[PDF 2.9MB\]](#), DJPR website, 2021.

¹⁶ Attachment A.



monitoring by the regulator to ensure they continue to meet the criteria. The Minister and the National Data Commissioner have powers to suspend or cancel accreditation. The ONDC has heard from data custodians that accreditation gives them confidence to share data with other Australian Government, and state and territory government agencies as well as universities. It should be remembered that while opening the Scheme to Australian organisations expands the opportunity to seek accreditation, not all organisations would pass the high standards of accreditation and conditions can be placed on accredited entities to manage risks while enabling participation.

Other important Scheme safeguards are legislative requirements for data sharing to be covered by a registered data sharing agreement that specifies the permitted purpose(s) for which data is shared, how the data sharing project is consistent with the data sharing principles, and the protection of privacy. The data sharing principles manage the risk of data sharing by applying controls on the project, people, setting, data and output, based on the Five Safes international standard.

Finally, to foster trust in the use of Australian Government data, the Scheme is overseen by an independent regulator. Transparency is provided through the Commissioner's reporting on the operation of the Scheme and public registers of accredited users, accredited data service providers, and data sharing agreements. The Commissioner regulates and enforces the Scheme holding participants to account for meeting robust standards. The Commissioner's regulatory functions include accrediting eligible entities, handling complaints, monitoring and investigating Scheme entities and taking enforcement action.

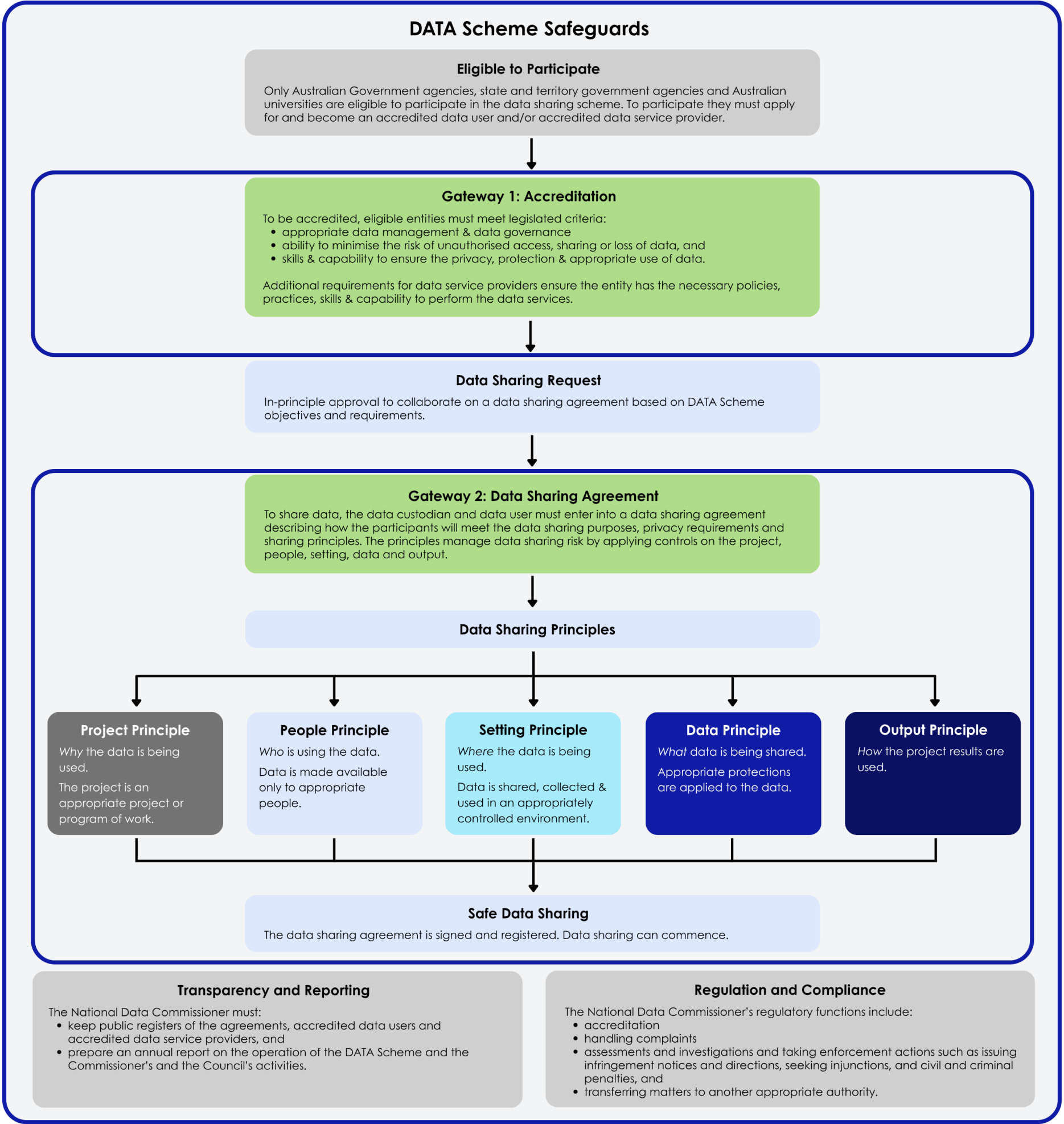
Extending eligibility to all Australian organisations will drive improvements in government services, policies and programs, support world-leading research and innovation and contribute to economic growth and improved productivity. The review could consider taking a staged approach, commencing with the types of organisations described in Table 1, who have strong claims to government-held data. Eligibility could be built out in a flexible manner with suitable checks, such as Parliamentary scrutiny. Advice from the National Data Commissioner (taking advice from the National Data Advisory Council) could be provided to the Minister, who would then act on this advice to decide whether or not to expand the Act to certain types of entities through a disallowable legislative instrument (such as a Ministerial determination/rule).

1

With the Scheme's safeguards now established, **expand the types of entities eligible to participate in the DATA Scheme** to include all Australian organisations such as government services providers, research organisations, as well as Aboriginal and Torres Strait Islander organisations and organisations supporting Aboriginal and Torres Strait Islander communities.



Figure 1. DATA Scheme Safeguards





2. Permit the Act to apply to sharing broadly

Data held by Australian Government agencies is shared using multiple bespoke pathways. This creates complexity for data custodians and data users. Allowing the Act to apply to data already authorised to be shared by a Commonwealth data custodian by other legislation would standardise data sharing practices.

An informal survey on data sharing by ONDC and the Department of Finance of around 10 per cent of Australian Government agencies in 2023-24 reported over 11,000 individual sharing activities with over 200 separate entities, ranging from governments, universities, research organisations, private sector and foreign governments. The main purposes for sharing data were research and innovation (37 per cent of the sample) and delivery of government services and programs (35 per cent). Informing government policies and programs (including evaluation) comprised 13 per cent, followed by compliance and enforcement purposes (8 per cent) and all other purposes (7 per cent). A variety of instruments and pathways were used. Agencies reported using a range of IT systems to track and administer their data sharing with many using informal or ad hoc systems such as Microsoft Excel or Word. Some agencies have bespoke, restricted access digital environments. Most data shared had some level of sensitivity.

The range of authorising legislation, practices for sharing Australian Government data, and IT systems are difficult for data custodians and data users to navigate, even more so when multiple parties are involved. Data custodians need to satisfy themselves they have the authority to share the data and understand how the different pieces of legislation interact and that the data user has the capability to handle public sector data safely. The data custodian and data user will follow different practices and processes to then share the data depending on the agency, the legislative authority and the data asset. Once data is shared, there is limited transparency of who is sharing what data with who and the purpose for which the data is shared. Australian Government agencies undertake piecemeal monitoring and compliance activities; there is no consistent regulatory oversight.

Permitting the DATA Scheme data sharing practices to apply more broadly to sharing data held by Australian Government agencies would have two key benefits – sharing would be more efficient, and it would be best practice with regulatory oversight ensuring that best practice is followed. This approach could be applied as a general exception to the need to demonstrate an approved (and not precluded) purpose to data sharing where it is authorised by another legislative framework.

Standardised practice delivers efficiencies

There are large time and cost efficiencies to be gained from using standardised approaches and systems for data sharing. The Scheme's scalable and repeatable framework reduces uncertainty for data custodians and users alike in the steps required to achieve data sharing. We have heard from Scheme participants that they appreciate using a standardised process, rather than multiple individual processes for each agency they request data from.

Establishing a single source for finding and requesting data assets across the Commonwealth would improve accessibility, and eliminate inefficiencies, inconsistencies and duplication. The



certainty in approach fostered by using a standard set of practices and processes would build trust and confidence in data custodians about when to share and who to share with.

Standardising data sharing practices for Australian Government agencies can occur through system adoption. All legally authorised data sharing should use standardised practices in the same way that standardised practices support responses to Freedom of Information (FOI) requests, and the Parliamentary Document Management System (PDMS) supports the management of Ministerial documents, and procurements by Australian Government agencies are available through AusTender.

Dataplace is a digital platform for administering data sharing. It was developed as the platform to manage DATA Scheme requests and all other data sharing. Dataplace guides Scheme participants and others to apply safe and consistent data sharing practices, streamlining sharing. Through Dataplace, entities can:

- apply for Scheme accreditation
- discover data held by Australian Government agencies
- request data held by Australian Government agencies, both Scheme and general requests¹⁷
- develop a data sharing agreement, both Scheme and general agreements, and
- monitor and report on data sharing activities.

While it could be possible to adopt a new or different system, capitalising on the existing investment in Dataplace to establish it as the Australian Government platform for data sharing will present financial and non-financial investment efficiencies. As with PDMS, Dataplace can retain core features while being customised for specific needs of each agency. Dataplace has been designed to be interoperable with existing systems.

Standardised practice that is best practice

The DATA Scheme establishes best practices for data sharing. It ensures data is shared with entities that can be trusted to handle public sector data safely, for permitted purposes, and that a data sharing agreement is in place that applies the data sharing principles (see Section 1.3, Attachment A). Regulation of the Scheme means that sharing of data held by Australian Government agencies is transparent and that those involved in sharing data are held accountable for meeting robust standards.


Broadening and embedding this best practice would further strengthen data maturity across the Australian Government.

The 2024 Data Maturity Assessment found that on average, agencies understand the importance of using and managing data effectively at the enterprise level and have some initiatives for increasing data capability, but improvements are still a work in progress¹⁸. Some aspects of data maturity, including managing data assets, are at a lower level of maturity, with only initial or ad hoc processes and practices in place.

Multiple recent Royal Commissions identified deficiencies in the use of public sector data to support the provision of essential services and pointed to the need for better practices:

¹⁷ General data sharing requests are those that use another legal pathway to authorise data sharing (other than the DAT Act). They also include requests made by entities not eligible to participate in the DATA Scheme.

¹⁸ Department of Finance, [Data Maturity Report \[PDF 858 KB\]](#), Department of Finance website, 2024.

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- The 2021 Royal Commission into Aged Care Quality and Safety highlighted the need for better use of public sector data to improve aged care quality and safety, recommending reforms to data collection, sharing and analysis.
 - The 2023 report on the Royal Commission into the Robodebt Scheme recommended strengthened governance in the use of data-matching programs.
 - The 2024 Australian Government Response to the Final Report of the Royal Commission into Defence and Veteran Suicide supported wide ranging reforms, many which were underpinned by improved data sharing and use.

2

Permit the Act to apply to sharing broadly, including where sharing is already authorised by another Commonwealth legislative purpose and through the adoption of a whole-of-government platform for discovering data held by Australian Government agencies and administering data sharing.



3. Enliven sharing to deliver better government services

The Act was introduced to support the delivery of better government services, a sector that has experienced very low productivity growth¹⁹. In practice though, we have learnt that Australian Government agencies delivering government services through large, integrated systems are constrained in their ability to use the Act to support sharing for better services delivery. This is due to the requirement that sharing for the purpose of delivering government services must also preclude sharing for any enforcement related purpose, even where it is incidental or not material.

The experience of Services Australia who administers many government programs such as Medicare and Centrelink provides a telling example of this constraint. The agency has advised ONDC it cannot use the Act to share data (such as a citizen's updated contact details) obtained from one program to inform another to improve their service offerings²⁰. This is because the sharing could incidentally lead to detection of non-compliance. The 2023 Critical National Infrastructure myGov User Audit, found the tell us once principle could be enhanced in the implementation of myGov. For example, expanding the pre-filling of forms using existing government data²¹.

There are practical difficulties with the inclusion of 'detection', without any limiting threshold, in the Act's definition of enforcement related purpose. The definition does not recognise that the data may incidentally identify an enforcement related purpose in government agencies that run large integrated systems.

To address this, we recommend a minor amendment to enable entities, including Services Australia, to use the Act to improve government services delivery through allowing data sharing within their own agency and between agencies when it could incidentally lead to the detection of a compliance issue. The Act should still preclude sharing for detection of enforcement related purposes where this is a material purpose for sharing; and it should preclude all sharing for investigation, prosecution and punishment²².

3

To **enliven sharing for purposes of delivering better government services**, the Act should permit sharing for the delivery of government services, including where a compliance issue may be incidentally detected. The Act should continue to preclude sharing for enforcement related purposes including investigation, prosecution and punishment; and where detection of non-compliance is a material purpose for sharing.



¹⁹ PC, [5-year Productivity Inquiry: Advancing Prosperity \[PDF 1317 KB\]](#), PC website, 7 February 2023, p ix.

²⁰ The controls on restricted data mean that data may not be able to be shared within an organisation (i.e. within the same Commonwealth data custodian). The Act may be used to authorise sharing within the same organisation.

²¹ myGov, [Critical National Infrastructure – myGov User Audit \[PDF 744 KB\]](#), myGov website, January 2023, p12.

²² For these compliance actions to be pursued, a legal pathway other than the DAT Act must be used.



4. Streamline data sharing

Over the first 3 years, the Scheme has enabled safe sharing of data collected by Australian Government agencies. More than 50 data requests have been made through Dataplace. 31 of these have been made by accredited entities under the DATA Scheme. The other 23 requests were 'general' requests – requests that use another legal pathway to authorise data sharing, including because the entity requesting the data is ineligible to participate in the Scheme. So far, the requests have resulted in 25 instances of data sharing (11 under the Scheme and 14 general shares). Notably, the Scheme is enabling data sharing to create the National Disability Data Asset and following the first release of the asset in December 2024, access to it. The best practices of the Scheme have been used to support data sharing relating to education, social services, employment and fraud. The attachment to this submission provides further information on data sharing under the Scheme (see in particular Figures 6, 7 and 8 of Attachment A).

Scheme participants have told us that using the Act can seem complicated at both ends of 'simple' and 'complex' data sharing. The Scheme's safeguards may be applied in excess of the risks for 'simpler' data sharing projects, while it can be difficult to interpret how the Act would apply to more 'complex' projects. Our experience facilitating data sharing, and that of Scheme participants, suggests the Act should be amended to make it less one size fits all and prescriptive and more principles-based and outcomes-oriented. Relatedly, we recommend consideration be given to the National Data Commissioner's regulatory functions with provisions that inject proportionality into the safeguards. These amendments would greatly improve the efficiency of the Scheme and its practical use to support the breadth of data sharing projects.


Allow for a graduated approach

To make it easier to use the Scheme, the Act could allow for safeguards and the regulator's functions to apply in a graduated way to lower-risk data sharing.

The Act provides a comprehensive framework for standardising data sharing processes across the Commonwealth. Although the Act provides a reasonable degree of discretion for participants to dial-up or dial-down the way they comply with certain conditions, based on the specific features and risks of their project, it is generally the case that the same conditions and procedural steps always need to be complied with for any data sharing project. As a result, there is a perception among some Scheme participants that using the Act for 'simpler' data sharing projects involves a disproportionately high level of effort, relative to the risks associated with the project.

Allowing for certain features or requirements in the Act to be 'turned off', or more explicitly recalibrated, would assist in ensuring the Act applies in a proportionate manner. This would assist in reducing the compliance burden associated with utilising the Act and ready it to apply more broadly. Certain requirements could be turned off, for example, for one Australian Government agency sharing data with another. Consideration could also be given to better framing the data principles in the Act so they focus on the outcome and less on prescribing steps needed to achieve the outcome.

Another option for managing compliance with certain conditions is to reconsider the interaction between the DAT Act and the Privacy Act, with a view to introducing changes that recalibrate the balance between the two regimes. For example, there are stricter



requirements under the DAT Act where it is necessary to obtain consent from individuals²³ even where it may not otherwise be required under the Privacy Act.²⁴ This should be considered in light of the Productivity Commission's inquiry into harnessing data and digital technology that will consider Australia's privacy regime, including whether outcomes-focused compliance pathways could be used to effectively protect personal information while creating clear obligations for data holders.²⁵ Relatedly, the Australian Government's response to the Attorney-General Department's Privacy Act Review recommended further consultation on expanding the scope of the Privacy Act's exceptions from requiring consent in research contexts to apply to human research generally that is in the public interest.²⁶

Clarify data sharing projects and processes

The Act authorises sharing, collection and use of data for 'projects' that are for a defined data sharing purpose, and meet the requirements of the Act. Many of these requirements relate to, and specify, the process under which data is authorised to be shared under the Act. They describe a range of matters, including the various parties to a data sharing agreement and the exchange of data between parties to the agreement.

These processes are described under the Act in relatively simplified terms. There is generally an underlying assumption that data sharing will take place under the Act through one-off transfers of data involving a single data custodian, a single data user and (where required) a single accredited data service provider. Although these types of arrangements are common, in practice there are also any number of other, more complex arrangements involving multiple parties and multiple exchanges of data (for example, where data is passed back and forth between multiple entities, with different functions undertaken at different times). It is also possible for arrangements to encompass a number of authorising frameworks, with aspects relating to Act and non-Act arrangements or parties.

While it is possible for the Act to apply to these more complex arrangements, doing so involves a degree of interpretation and retrofitting of existing concepts across the simpler data sharing methodology envisaged by the Act. This can contribute to a lack of clarity about how some arrangements are intended to apply under the Act, and a substantial investment of resources to ensure that such arrangements are permissible.

Reconsideration of the way projects and related requirements are defined under the Act would facilitate a better understanding of how the Act applies to more complex arrangements. In particular, the Act should provide greater clarity about how arrangements can be undertaken with multiple parties, in conjunction with non-Scheme arrangements, and where there are two-way data flows between parties.

²³ The Act prescribes general privacy protections that apply to all data sharing projects, irrespective of the data sharing purpose (section 16A), as well as purpose-specific privacy protections (section 16B).

²⁴ For example, the Act requires express consent for the sharing of biometric data (section 16A(1)). Under the Privacy Act, there are broader exceptions permitted with respect to the collection of biometric information.

²⁵ PC, [Harnessing Data and Digital Technology: Support safe data access and handling through an outcomes-based approach to privacy](#), PC website.

²⁶ Attorney-General's Department (AGD), [Government response to the Privacy Act Review Report](#), AGD website, 28 September 2023, p17.



Greater clarity should also be provided about how multiple accredited data service providers can be utilised in a single project, with greater flexibility for arrangements to be undertaken directly between such accredited data service providers.

Simplify definitions of Commonwealth bodies, authorised officers and designated individuals

The Act defines the terms 'Commonwealth bodies', 'authorised officers' and 'designated individuals' in a prescriptive and complex manner and there is no regulatory flexibility to accommodate outlier arrangements. While the terms are easily applied to entities that follow a relatively standard structure, there are several entity organisational structures that are difficult to accommodate, or that cannot be accommodated. This results in disproportionate resources being applied by Scheme participants and ONDC to determine how particular entities can participate in the Scheme, and who in the entity is authorised to take certain decisions under the Scheme. In some outlier cases, technical deficiencies in the Act mean there are no individuals able to take such decisions.

The various definitions for Commonwealth bodies, authorised officers and designated individuals should be reconsidered, with a view to amending them so that they operate in a more coherent and principled manner.

A less prescriptive approach would enable the National Data Commissioner and ONDC to work constructively with participants and prospective participants to identify the most appropriate way of defining an entity and individuals within the entity to exercise particular functions under the Act. As part of this, to enable the Act to apply in a way that reflects operational realities, there could be benefit in introducing some regulatory flexibility, such as through empowering the National Data Commissioner to make determinations to allow the Act to apply to entities in a manner that most appropriately reflects their operational arrangements. This was envisaged in the original draft Bill but removed through the Parliamentary process.

Provide transitional arrangements for changes to accredited entities


The Act does not currently provide the National Data Commissioner with powers to manage transitional accreditation arrangements where functions or capability move from an accredited entity to an entity that is not accredited (for example, a new entity, as can occur through a machinery of government change that creates a new department). In such cases, the new entity is required to undertake the accreditation process in full. This can cause a significant compliance and administrative burden which may be disproportionate to the risks in a particular circumstance (for example, where the relevant capability or functions are moved but operate in an identical manner in the new entity). It can also cause project-level disruption for authorised data sharing that is actively underway at the time of the change.

Regulatory powers to authorise transfers of accreditation status between entities would provide transitional relief for organisational changes involving the transfer of functions to entities that are not already accredited.

Focus on data users and sharing

The Scheme is intended to facilitate data sharing within a reasonable period. The 2017 PC review identified that some data sharing requests had waiting periods stretching 6 years





or more²⁷. The reasonableness requirement of the Scheme is designed to provide certainty to data users on whether their request would be approved or not in a timely manner. Scheme participants tell us that timely handling of data requests is a high priority for them to inform a policy decision or a government report with tight timelines. For researchers, many data sharing projects are tied to funding with strict timing requirements.

The Act provides broad discretionary power to data custodians when deciding to approve or refuse a data sharing request. Data custodians are required to consider requests and required to do so in a reasonable timeframe. Subject to these requirements, they may refuse a request for any reason.

The Commissioner's guidance to Australian Government agencies (data custodians) is to acknowledge receipt of requests within 1 week, consider the request or issue a request for further information or re-scoping of the request within 2 weeks and, subject to the circumstances of the request, within 1 month provide in-principle approval and agree to collaborate on a data sharing agreement or refuse the request. The Act requires the data custodian to notify the data user, in writing, within 28 days of taking a decision to refuse.

ONDC's monitoring of the handling of the growing requests for sharing data, both under the Scheme and general sharing requests through Dataplace, suggests that while some requests are being handled in a timely way, others are months old and a few over 100 days old (Figure 12, Attachment A).

It is common for legislation to specify a timeframe for responding to requests for information. As an example, a 30 calendar-day processing timeframe applies to FOI requests received under the *Freedom of Information Act 1982* that may be extended in limited circumstances. Amending the DAT Act to require a decision within 1 month on whether to provide in-principle approval and agree to collaborate on a data sharing agreement or refuse the request, would allow the DATA Scheme to work more efficiently. Provision could be made for exceptions for complex requests.

For the Scheme to work as intended, data custodians should agree to share data, unless there is a good reason not to. The Commissioner's guidance encourages data custodians to take account of the objects of the Act when considering a data request. The first object of the Act is to service the public interest by promoting better availability of public sector data. In practice, ONDC has observed requests refused for reasons that appear to demonstrate a lack of understanding of the Scheme, as the reasons go to issues that the Scheme safeguards address. We have also observed instances where data users have been asked to withdraw their request under the Scheme and on Dataplace and submit their request through another channel. Both are frustrating for data users.

The discretionary power conferred on data custodians to refuse a request could be confined by amending the legislation to expressly require data custodians to take into account the objects and purpose of the Act, and any relevant provisions of the Act, when considering a data sharing request (the first object being to better serve the public interest). Further, the onus on custodians in determining a response to a request could be recalibrated in favour of agreeing to a request, unless the request did not meet the objects of the Act and any relevant provisions. This provision should also require that the reasons for refusal are legally objective, in that they are based on facts in a way that would generally be considered

²⁷ PC, [Data Availability and Use: Final Report](#), PC website, 31 March 2017, p 6.



reasonable. This could include that the reason for refusal is not one that could be simply remedied, such as through the data user engaging an intermediary data service provider to assist with safe sharing.

A decision to refuse a data sharing request under the Act can be made by any designated individual. In practice, this means any individual employed by the Australian Public Service whose role has these duties. In contrast, only authorised officers can decide to enter into a data sharing agreement.

As the Act was established to promote data sharing, refusing a data request is a significant decision under the Act, and should only be made for good reasons. It is recommended that the Act is amended to require an authorised officer to refuse a data sharing request. This need not extend to the decision to agree to sharing in-principle, as an authorised officer is already part of that decision-tree and required to sign off on a data sharing agreement. Requiring an appropriate level of seniority, with appropriate understanding of the Act, to refuse a request will increase the accountability of data custodians and enhance the processes for data sharing.

Consideration could also be given to requiring DATA Scheme sharing requests to be actioned through the Scheme, rather than refused or withdrawn to proceed through another pathway.

Address known issues by amending the Act to streamline data sharing by taking a more principles-based and outcomes-oriented approach to refining existing features:

- a) allow certain features of the Act to be dialled up or down depending on the risk of the project, including through proportionality provisions in the Commissioner's regulation of the safeguards;
- b) better recognise how projects and data sharing processes are undertaken;
- c) take a more principles-based approach to defining Commonwealth bodies, authorised officers and designated individuals;
- d) introduce regulatory powers to enable more efficient transitional arrangements for machinery of government and other organisational changes, and
- e) require data custodians to decide on a data sharing request within a certain timeframe, share unless there is a good reason not to, and have authorised officers to be accountable for refusals; and require requests initiated under the Scheme to be actioned under the Scheme.



4



5. Authorise sharing under the Act where it is in the national interest

The Act is an example of general application legislation that works across the Australian Government's data holdings. It enables sharing of that data with appropriate safeguards and restrictions on the purposes for which it can be used. It cannot always enable sharing in circumstances where it is in the national interest to do so, which represents a notable gap in the legislation. Other Commonwealth legislation includes national interest tests to ensure the Australian Government can enable activities that demonstrably support the national interest, such as facilitating strategic investments in critical infrastructure and networks ²⁸.

There are examples of recent initiatives of national importance where the DATA Scheme was unable to support data sharing due to the purpose for which the data would be used. For example, through National Cabinet, in 2024 the Commonwealth, States and Territories committed to improve information sharing about perpetrators across systems and jurisdictions to intervene early to prevent family and domestic violence escalating ^{29, 30}.

The Act could also be used for national priorities such as improving preparedness for public health emergencies. The Australian Government is establishing an Australian Centre for Disease Control (CDC) for this purpose, and to build the necessary evidence base, the CDC will need to use and link state and territory data with Commonwealth data. Features of the DATA Scheme, such as the Scheme's accreditation framework and data sharing principles (based on the internationally recognised Five Safes framework) could support the sharing of national public health data, including through providing independent regulatory oversight.

We recommend the Act be amended so the Scheme can support data sharing on matters of national importance. This could take the form of a discretionary Ministerial power with appropriate checks and balances. This power must be subject to Parliamentary scrutiny and transparency requirements, and the exercise of the power could be informed by advice (for example, from the Commissioner and the National Data Advisory Council).

The *Privacy and Responsible Information Sharing Act 2024 (WA)* (PRIS Act) may provide a legislative model for how this could work in practice. The PRIS Act grants the responsible State Minister information sharing powers. The power can be exercised only if the Minister is satisfied that the direction is in the public interest and meets certain conditions and the direction must be tabled in the Parliament of Western Australia, creating a transparent public record of the Minister's action.³¹

5

Introduce Ministerial discretion to **authorise sharing under the Act where it is in the national interest** to do so, with appropriate checks and balances.



²⁸ An example is the *Telecommunications Act 1997* that regulates telecommunication services. Additionally, the Treasury Laws Amendment (Miscellaneous Measures) Bill 2024 contained proposed draft national interest provisions to designate a payment system.

²⁹ Prime Minister of Australia (PM), [Meeting of National Cabinet on gender-based violence](#) (media release), PM website, 1 May 2024.

³⁰ Prime Minister of Australia (PM), [Meeting of National Cabinet](#) (media release), PM website, 6 September 2024.

³¹ PRIS Act, section 164.



6. Strengthen support for a national data sharing system

The 2017 PC review envisaged a national data sharing system to unlock the benefits of public sector data. This national data sharing system would facilitate controlled access across all levels of government in a manner that meets community expectations around safety, trust and accountability.

Following this, in 2021, the Intergovernmental Agreement on data sharing between Commonwealth and state and territory governments recognised the value in sharing data between jurisdictions to improve government policy, service delivery, and decision making for all Australians³².

Data collection and custodianship is distributed across all levels of government reflecting their different areas of responsibility. For example, the underlying factors contributing to Australia's acute housing challenges are complex, and the evidence required stretches across a range of data sources and jurisdictions. Local and state governments have responsibilities for development approvals, including planning and zoning. The Australian Government holds data on personal income tax and social security benefits. The Commonwealth and states hold data relating to environment assessments. To deliver better government services, policies and programs, governments require an integrated view based on the best available data. This is just one example; similar cross-jurisdictional efforts are required to address other government priorities including quality aged care, addressing falling education standards and entrenched socioeconomic disadvantage.

The Intergovernmental Agreement commits all parties to share public sector data by default, guided by principles of security, privacy, legality and ethics. It was updated in 2023 to reference the principles in the Act following its commencement in mid-2022. The Intergovernmental Agreement is implemented through the Data and Digital Ministers Meeting and is supported by the National Data Sharing Work Program (Work Program)³³.


The Act provides the foundations for more data sharing between the Commonwealth and states and territories; particularly the authorised sharing of restricted data³⁴. It allows states and territories to share data with the Commonwealth, and for that data to be shared back to states and territories, including data they have provisioned to the Commonwealth through other mechanisms. Australian Government agencies, such as the Australian Institute of Health and Welfare and the Australian Bureau of Statistics, also play a critical role in being able to provide access to data that originates from states and territories under the Scheme.

A lack of explicit recognition in the Act of the status of data held by states and territories agencies, as custodians of data, has led to a perception that the Act is not able to preserve the rights of states or territories in respect of data that is shared under the Scheme by an Australian Government agency. This is currently being addressed through an amendment to

³² National Cabinet, [Intergovernmental Agreement on data sharing between Commonwealth and State and Territory governments](#), National Cabinet website, 9 July 2021.

³³ Department of Finance, [Data sharing factsheets](#), Department of Finance website.

³⁴ Access to restricted data may be limited for reasons such as legal, privacy and sensitivity. ONDC, [Guide on Metadata Attributes \[PDF 485 KB\]](#), ONDC website, August 2023.



the *Data Availability and Transparency Code 2022*³⁵, and could be further clarified through inclusion of more explicit references to how data obtained from states and territories is treated relative to data held exclusively or generated by the Commonwealth, such as through introducing specific requirements about how such data can be used under the Scheme.

The statutory review should identify further steps to normalise and support more seamless data sharing across different levels of government in a federated system.

There is a complex web of legislation at the Commonwealth, state and territory level, that governs data, privacy and information handling. Certain jurisdictions have enacted specific data sharing legislation³⁶. Additionally, the handling of personal information by public sector agencies is subject to privacy regulation in most states or territories.³⁷ The patchwork of data handling frameworks across all levels of government, and how they are applied in practice, can present a significant barrier to data sharing between the Commonwealth and other jurisdictions.

The Commonwealth, state and territory governments should continue to closely collaborate to address any gaps or inconsistencies in the existing data sharing legislation and, then to identify new legislation or amendments to develop a complementary, more harmonised set of laws that would make it easier to share data across the different levels of government.

As the Scheme matures, the National Data Commissioner can play an important role, working with state and territory government agencies and regulators on consistent approaches to data sharing practices and data standards across jurisdictions. While this is a longer-term endeavour, this review of the Act can elevate the importance of a national data sharing system to achieve the objects of the Act 'to support a modern data-based society, driving innovation and stimulating economic growth'³⁸.

6

Strengthen support for a national data sharing system to enable seamless sharing of data across all levels of government and permit all jurisdictions to contribute and benefit from multilateral data sharing by developing complementary legislation and consistent approaches to data sharing practices and standards.



³⁵ Data Availability and Transparency Code 2022 and [Exposure Draft](#)

³⁶ *Data Sharing (Government Sector) Act 2015* (NSW); *Public Sector (Data Sharing) Act 2016* (SA); *Victorian Data Sharing Act 2017* (VIC); *Privacy and Responsible Information Sharing Act 2024* (WA).

³⁷ For a general overview of State and Territory privacy legislation, see: Office of the Australian Information Commissioner (OAIC), [State and territory privacy legislation](#), OAIC website, July 2024.

³⁸ Revised Explanatory Memorandum DAT Bill 2022, paragraph 4.



Attachment A

Data Availability and Transparency Act **2022: the first 3 years**

Overview

The *Data Availability and Transparency Act 2022* (the Act) establishes the DATA Scheme - a best practice scheme for sharing data collected by Australian Government agencies. The purpose of the DATA Scheme is to increase the availability and use of Australian Government data to deliver better government services, policies and programs and world-leading research and development.

The statutory review of the Act is to consider how the DATA Scheme has operated over its first 3 years and advanced the objects of the legislation and whether it should remain in force. To inform the review, this paper provides an overview of the data sharing scheme and its operation since the commencement of the legislation through to end April 2025. Key metrics are shown in Figure 1: Data Scheme Activity.


To allow the Scheme time to establish and mature, only government agencies and universities are eligible to participate in the data sharing scheme. To do so they must first be accredited. So, establishing a trusted data sharing community was an early focus. There are now 35 unique accredited entities – 17 Australian Government agencies, 10 State and Territory agencies and 8 Australian universities. There are 31 accredited users and 13 accredited data service providers; 9 entities are accredited as both users and data service providers³⁹.

Over the establishment phase, the Scheme has enabled safe sharing of data collected by Australian Government agencies. More than 50 data requests have been made through Dataplace. 31 of these have been made by accredited entities under the DATA Scheme. The other 23 requests were 'general' requests – requests that use another legal pathway to authorise data sharing, as well as those made by entities not eligible to participate in the DATA Scheme. So far, the requests have resulted in 25 instances of data sharing. Notably, the Scheme is enabling data sharing to create the National Disability Data Asset and following the first release of the asset in December 2024, access to it.

Another early priority was making legislative instruments. This included codes to guide Scheme participants on applying the data sharing principles, including the public interest test and approach to consent, privacy and ethics, as well as managing national security risks. Regulations prescribed Australian Government agencies and data that could not be shared under the DATA Scheme. The National Data Commissioner's advice, guidance and education functions were also stood up to support safe data sharing.

Dataplace was launched in June 2022. Additional services were progressively rolled out with the Australian Government Data Catalogue (the Catalogue) added in July 2024. Dataplace and the Catalogue play an important role in promoting better availability of public sector data and the institutional arrangements for sharing data held by Australian Government

³⁹ DATA Scheme statistics correct as at 30 April 2025 unless otherwise indicated.



agencies. They have wider application beyond the DATA Scheme. Eligible Scheme entities and other organisations can use Dataplace as their one stop shop to find and request data held by Australian Government agencies. The digital platform guides data users and data custodians (Australian Government agencies) to apply consistent and best data sharing practices, streamlining sharing and helping them comply with the Scheme's safeguards.

The number of organisations onboarded to Dataplace has grown to 120. There are more than 55,000 data assets available on the Catalogue, with 22 Australian Government agencies contributing metadata records of almost 600 data assets. The Data Inventory Pilot Program supported 44 Australian Government agencies to develop an inventory of data assets they hold. It enabled an uplift in agency capability and laid the foundations for the Australian Government Data Catalogue.

Transparency in sharing of data held by Australian Government agencies has been enhanced through registers of accredited users and data sharing agreements and the National Data Commissioner's annual reports on the operation of the Scheme. Scheme participants are also being held accountable for meeting robust standards through regulation of the Scheme. Accreditation plays a key role in ensuring the Scheme's integrity. ONDC has stepped up its monitoring activities focusing on accredited entities continuing to meet expected characteristics, timely handling of requests, refusals of data sharing requests, and compliance with data sharing agreements.

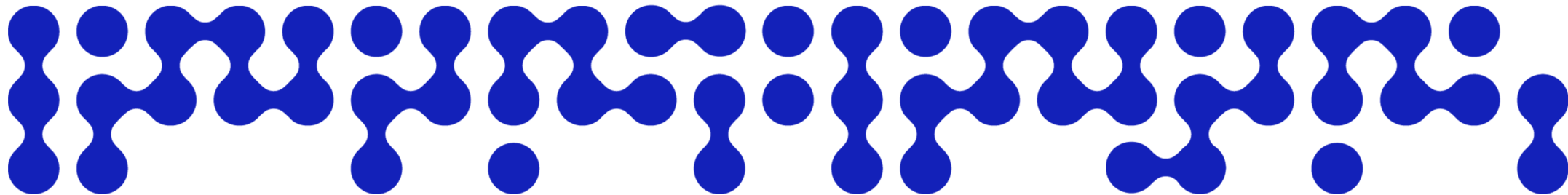


Figure 1. DATA Scheme Activity

Engagement of Participants	Australian Government Data Catalogue	Dataplace	Accredited Users	Accredited Data Service Providers	Data Sharing Requests	Data Sharing	Compliance & Regulation
<p>280 meetings with Scheme entities</p> <p>69 Presentations to forums</p> <p>94 information sessions held with 313 unique organisations</p> <p>1 100 enquiries</p> <p>10,90 average monthly website views</p> <p>1,885 DataPoints subscribers</p> <p>880 LinkedIn followers</p>	<p>56,029 records available on the Australian Government Data Catalogue</p> <p>22 agencies contributing records directly from their data inventory</p> <p>595 metadata records directly contributed to the Australian Government Data Catalogue</p>	<p>120 organisations completed onboarding</p> <p>16 organisations have commenced onboarding</p>	<p>31 data users accredited</p> <p>4 data user applications being assessed</p>	<p>13 data service providers accredited</p> <p>2 data service providers renewed</p> <p>1 data service provider application being assessed</p> <p>5 data service provider renewal applications being assessed</p>	<p>31 data requests under the Scheme</p> <p>23 general requests made through Dataplace</p>	<p>8 data sharing agreements under the Scheme</p> <p>14 general data sharing</p> <p>3 data sharing from a variation to data sharing agreements under the Scheme</p> <p>2 administrative variations to data sharing agreements under the Scheme</p>	<p>16 complaints</p> <p>0 Scheme complaints</p> <p>6 general complaints</p> <p>10 other complaints</p> <p>10 events/changes in circumstance resolved</p> <p>0 data breaches</p> <p>As at 30 April 2025</p>





1. The why and the what of the Act

1.1. Why the Data Availability and Transparency Act was introduced

Data held by the Australian Government is a national asset. The Productivity Commission's 2017 review into improving data availability and use (PC review)⁴⁰, found Australia was not making the most of this valuable asset. As a result, widespread community and productivity benefits were being missed.

The PC review found ad hoc and outdated legal and policy frameworks governing the sharing of Australian Government data were acting as a hinderance to its use. For example, there were varying restrictions on the use of data collected, even in the same field. This overarching uncertainty fostered inaction and contributed to a culture that resisted making data more broadly available.

The Productivity Commission recommended a reformed and modernised regulatory framework to support safe and widespread sharing of Australian Government data for public benefit by enabling necessary permissions and shifting attitudes to 'treating data as an asset and not a threat' (PC review, p. 2).

The Australian Government responded to the PC review in 2018, committing to reform through new data-sharing laws and creation of the National Data Commissioner role to streamline public data sharing and release, supported by efforts to build public trust.

Along with a recognised champion, this new framework was to overcome three key barriers to data sharing:

- a) legal restrictions that prevented Australian Government agencies providing others with access to data, even when the sharing would have been both reasonable and safe
- b) lack of clarity as to who Australian Government agencies could trust to share data with, and
- c) uncertainty about best practices and appropriate safeguards for sharing data safely.

In addition, the Government's response recognised the need for cultural change from Australian Government agencies to ensure support and realise greater data sharing from the proposed whole-of-government framework and reforms.

The Productivity Commission's 5-year Productivity Inquiry, finalised in 2023, identified missed opportunities to maximise the use and availability of Australian Government data.⁴¹ The Productivity Commission is currently conducting five inquiries to identify and report on priority reforms in each of the areas under the Government's five pillar productivity growth agenda, including through harnessing data and digital technology.⁴²

⁴⁰ PC, [Data Availability and Use: Final Report](#), PC website, 31 March 2017.

⁴¹ PC, [5-Year Productivity Inquiry: Advancing Prosperity](#), PC website, 17 March 2023.

⁴² PC, [Harnessing Data and Digital Technology: Terms of Reference](#), PC website, 13 December 2024.





1.2. A Scheme for sharing data held by the Australian Government

The Government enacted the reforms through the Act which commenced on 1 April 2022. The objectives of the Act are fivefold, to:

- a) serve the public interest by promoting better availability of Australian Government data,
- b) enable the sharing of Australian Government data consistent with the *Privacy Act 1988* (Privacy Act) and appropriate security safeguards,
- c) enhance integrity and transparency in sharing Australian Government data,
- d) build confidence in the use of Australian Government data, and
- e) establish institutional arrangements for sharing Australian Government data.⁴³

The Act establishes the DATA Scheme - a best practice scheme for sharing Australian Government data⁴⁴. The data sharing scheme is underpinned by strong safeguards and consistent, efficient processes. Figure 2 provides an overview of the DATA Scheme.

The purpose of the DATA Scheme is to increase the availability and use of Australian Government data to deliver better government services, policies and programs and world-leading research and development. The Australian Government views the DATA Scheme as a *'critical enabler in building the public's trust in the Government's data sharing practices'*⁴⁵.

The Act establishes the National Data Commissioner as an independent regulator to oversee the Scheme. The Commissioner provides advice and guidance about the Scheme's operation to the Minister, Scheme participants and others. The Commissioner's other function is to deliver education and support for best practice data handling and sharing. The Commissioner is supported by the Office of the National Data Commissioner.

The National Data Advisory Council, comprising ex-officio and appointed members with appropriate qualifications, skills or experience, provides advice on data sharing to the Commissioner on issues such as ethics, balancing data availability with privacy protections, trust and transparency, technical best practice, and industry and international developments.

What data can be shared?

Australian Government data encompasses all data lawfully collected, created or held by a Commonwealth body, or on its behalf. Data can include a wide range of topics, from data dealing with the weather, personal and business data, through to freight and traffic movements, and agricultural yields.

For national security and other reasons, some entities are excluded from the Scheme and some types of data cannot be shared. Excluded entities include intelligence and law

⁴³ DAT Act, s3.

⁴⁴ The DAT Act uses the term 'public sector data' and it is defined (at s9 of the Act) to mean 'data lawfully collected, created or held by or on behalf of a Commonwealth body, and includes ADSP-enhanced data'. In this paper, Australian Government data or data held by Australian Government agencies is used synonymously with the Act's definition of 'public sector data'.

⁴⁵ ONDC, [Ministerial Statement of Expectations \[PDF 2.2 MB\]](#), ONDC website, 22 September 2022.



enforcement entities such as the Australian Federal Police and the Australian Security and Intelligence Organisation.⁴⁶ Data relating to operations by Home Affairs and AUSTAC, for example, cannot be shared, and data custodians, acting in a specific capacity in relation to the *My Health Records Act 2012* (MHR Act), are barred from sharing data under the DAT Act.⁴⁷

Participants in the DATA Scheme

There are three types of participants in the Scheme.

- Data custodians – Commonwealth bodies that control Australian Government data. They are automatically designated as data custodians and do not need to be accredited for this role.⁴⁸
- Accredited users – Commonwealth, state and territory government bodies and Australian universities can apply to be accredited as a data user. They can collect and use Australian Government data.⁴⁹
- Accredited data service providers – Commonwealth, state and territory government bodies and Australian universities can apply to be an accredited data service provider. They act as intermediaries between accredited users and data custodians providing de-identification, data integration and secure access data services.⁵⁰

An entity can play more than one role. For example, the Australian Institute of Health and Welfare a Commonwealth body, is automatically designated as a data custodian. It also holds accreditation as both a data user and a data service provider.

Private entities (i.e., bodies corporate), individuals and unincorporated bodies (i.e., partnerships and trusts) are precluded from participating in the Scheme. These preclusions were designed to allow the Scheme time to establish and mature.

Sharing under the Scheme

Under the DATA Scheme, accredited users can request data held by an Australian Government agency (the data custodian). An accredited data service provider can be used to provide data services to support the data sharing project. For example, the New South Wales Ministry of Health can request data from the Australian Government Department of Social Services and the Australian Bureau of Statistics may provide secure data access services to support sharing the data. An accredited data service provider must be used if the project involves complex data integration.

Legal authorisation and override

The Act removes a key barrier to data sharing by providing a legal authorisation pathway for sharing Australian Government data⁵¹. The Act has an express statutory authority to override Commonwealth, State or Territory laws that would otherwise prohibit the sharing, collection and use of certain data provided the authorisation requirements⁵² of the Act are met, for

⁴⁶ DAT Act, s11(3).

⁴⁷ Data Availability and Transparency Regulations 2022, s7.

⁴⁸ DAT Act, s11(2).

⁴⁹ DAT Act s11(4).

⁵⁰ DAT Act, s11(4).

⁵¹ DAT Act, s23.

⁵² Authorisation requirements at sections 13, 13A and 13B and 13C of the DAT Act.





example a data sharing project must be covered by a data sharing agreement registered by the Commissioner.⁵³

The 2023 Final Report of the Review of Secrecy Provisions conducted by the Attorney-General's Department identified 875 secrecy provisions in Commonwealth legislation alone (considering the general secrecy offences, specific secrecy offences and non-disclosure duties given criminal liability by section 122.4 of the *Criminal Code Act 1995*)⁵⁴. Authorising provisions in legislative frameworks may also limit sharing by prescribing that sharing may only occur for particular purposes, or with particular parties.

⁵³ DAT Act, s13A(a).

⁵⁴ AGD, [Review of Secrecy Provisions: Final Report](#), AGD website, 21 November 2023.

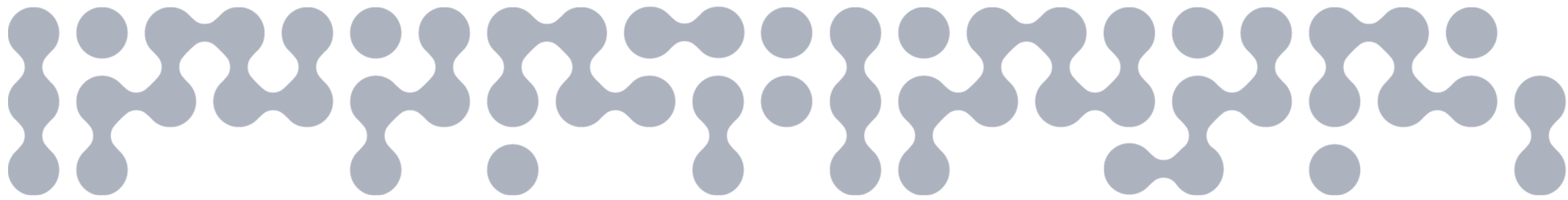
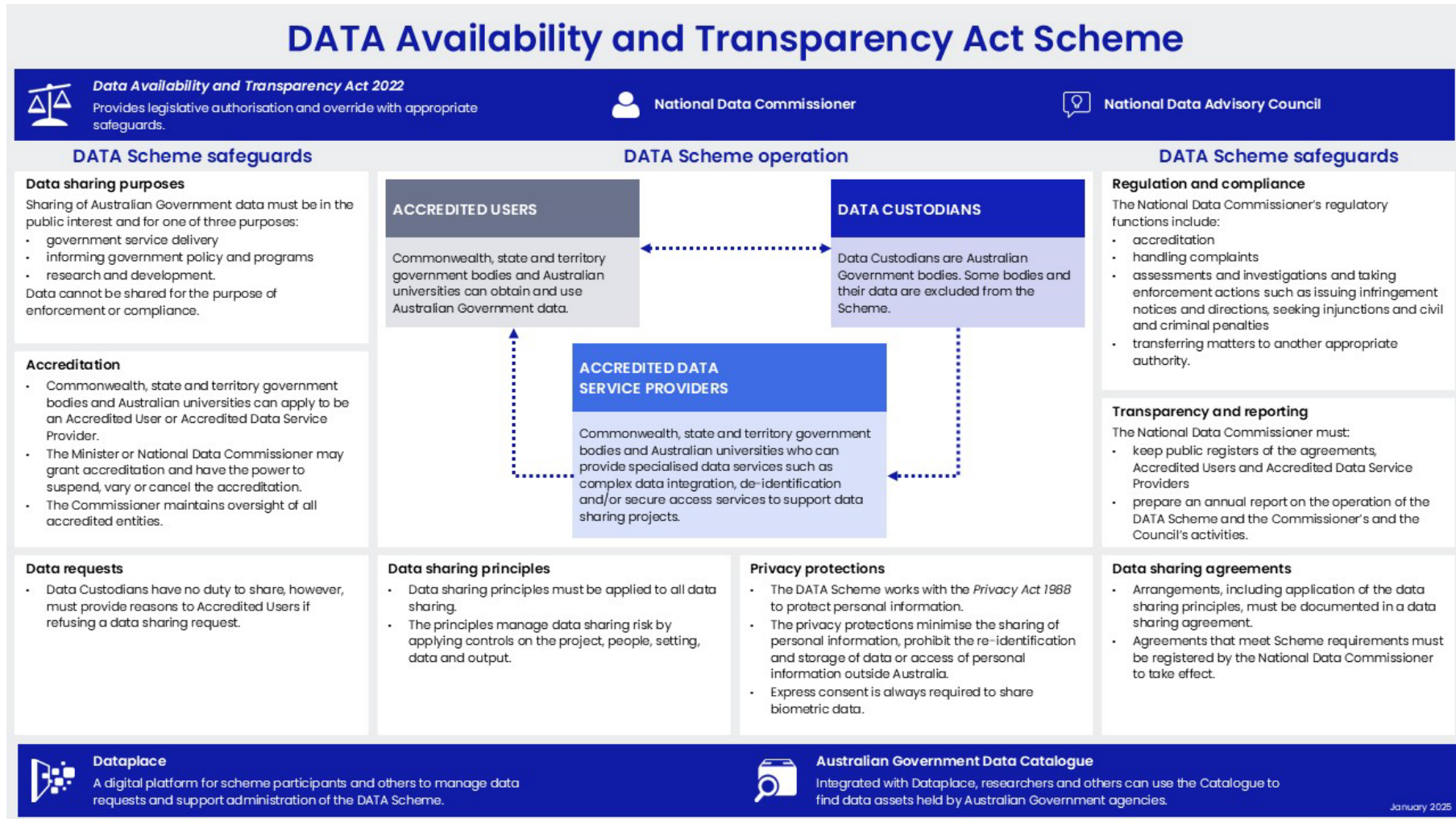


Figure 2. Overview of the DATA Scheme





1.3. DATA Scheme safeguards

The Act is underpinned by key safeguards to ensure safe data sharing under the DATA Scheme to serve the public interest.

Data sharing purposes

Under the Act, data held by Australian Government agencies can only be shared for three permitted purposes: government service delivery, informing government policies and programs, and research and development.

Government service delivery includes the provision of information (such as advice that the individual is eligible to receive a benefit), the provision of a service (such as assistance to a person to help restore their property after a flood), determining an eligibility for payment, or paying a payment.

Data cannot be shared for national security or enforcement related purposes.

Accreditation

Only accredited entities can participate in the Scheme. Accredited data users can collect and use Australian Government data. Accredited data service providers can de-identify and integrate data and provide secure access to data. Accreditation ensures users and data service providers are capable of handling Australian Government data and minimising risk of unauthorised access or use. Accreditation is like a trusted tick of approval, signalling to data custodians who they can trust to share data with.

The Minister and the Commissioner are the authorities for accrediting users and data service providers and can impose conditions on accreditation if required. To be accredited as a data users, eligible entities (Australian, state and territory government agencies as well as Australian universities) must meet the following criteria:

- the entity has appropriate data management and governance policies and practices and an appropriately qualified individual in a position that has responsibility for data management and data governance for the entity
- the entities are able to minimise the risk of unauthorised access, sharing or loss of data
- the entity has the necessary skills and capability to ensure the privacy, protection and appropriate use of data, including the ability to manage risks in relation to those matters.

In addition, accredited data service providers must have the necessary policies, practices, skills and capability to perform the following data services:

- deidentification of data services
- secure access data services
- complex data integration services.

Data requests

An accredited user can request data from a data custodian. A data request is used to initiate the consideration of a data sharing agreement. Data custodians must consider and respond to all requests they receive from an accredited user within a reasonable period.



The National Data Commissioner's guidance⁵⁵ encourages data custodians to

- consider how they can share data safely taking account of the objects of the Act when considering a request. The first object of the Act is to serve the public interest by promoting better availability of Australian Government data.
- acknowledge receipt of requests within 1 week, consider the request or issue a request for further information or re-scoping of the request within 2 weeks, and, subject to the circumstances of the request, within 1 month provide in principle approval and agree to collaborate on a data sharing agreement or refuse the request.

Data custodians have no duty to share data. Stated otherwise, they have the power to refuse a request. The power must be exercised reasonably and for a proper purpose. Data custodians must provide the requester with a written notice within 28 days after the decision is made giving the reasons for refusal. This approach seeks to ensure data custodians follow due process to consider requests before accepting or rejecting those requests while promoting procedural fairness.

Data custodians are required to notify the National Data Commissioner of any refusals. The Commissioner is required to report publicly on refusals in the Annual Report.

Data sharing principles

The data sharing principles function as a best practice risk management framework that sits at the core of the Scheme supporting data custodians to decide if it is safe to share data (s16). The principles are based on the internationally recognised 'Five Safes'. They cover the data sharing project, people, setting, data and output. The principles must be applied in a way that when viewed as a whole, appropriately mitigate the risks of sharing, collecting and using data.

The *Data Availability and Transparency Code 2022* sets out further guidance about the application of the data sharing principles. The *Data Availability and Transparency (National Security Measures) Code 2022* sets out additional requirements for accredited entities when individuals who are foreign nationals are able to access shared data.

Privacy protections

The DATA Scheme does not override the Privacy Act but aligns with it to protect personal information. Robust privacy protections (s16A-16F), work with the Privacy Act to minimise sharing of personal information, prohibit the re-identification of data that has been previously de-identified, and prohibit the storage or access of personal information outside Australia. Express consent is always required to share biometric data.

The DAT Act also contains purpose-specific privacy protections, depending on the data sharing purpose of the project.

Data sharing agreements

To share data, the data custodian and data user must enter into a data sharing agreement which sets out the details of the data sharing project. The data sharing agreement must describe how the participants will meet the data sharing principles and how the project

⁵⁵ ONDC, [DATA Scheme Guidance](https://www.datacommissioner.gov.au), ONDC website. DATA Scheme Guidance: www.datacommissioner.gov.au



serves the public interest. The data sharing agreement must be registered by the National Data Commissioner before any data sharing occurs.

A regulated Scheme

To maintain and build trust in the use of Australian Government data, the DATA Scheme is regulated.

The Commissioner must keep public registers of accredited users, accredited data service providers, and data sharing agreements, and provide an annual report on the operation of the DATA Scheme. The annual report must include:

- details of any legislative instruments made
- the scope of data sharing activities and regulatory actions which have occurred, including reasons for agreeing to or refusing data sharing requests, and
- staffing and financial resources made available to the Commissioner and how they were utilised.

The Commissioner regulates and enforces the Scheme through their regulatory functions. These include:

- accrediting eligible entities as well as suspending, cancelling and renewing accreditation
- handling complaints from Scheme entities and others
- assessing and investigating Scheme entities
- taking enforcement action, such as issuing infringement notices and directions and/or seeking injunctions as well as civil and criminal penalties
- transferring matters to another appropriate authority.

1.4. The Australian Government Data Catalogue and Dataplace

To help realise the Act's objects, the Australian Government funded two foundational programs, administered by ONDC.

- \$11.1 million over 4 years from 2020-21 to develop Dataplace – a digital platform for Scheme participants and others to administer their data sharing. It is not a platform for the exchange of data. The platform is also used by the National Data Commissioner to regulate the DATA Scheme.
- \$16.5 million over 4 years from 2021-22 to make it easier for researchers and others to find data held by Australian Government agencies. The Data Discovery initiative had two parts. The Data Inventory Pilot Program supported Australian Government agencies to develop and improve their inventories of data assets. Funding was also provided to create the Australian Government Data Catalogue. Integrated with Dataplace, the Catalogue is a searchable directory of data assets held by Australian Government agencies.



2. Operation of the DATA Scheme

2.1. Building awareness and understanding of the Scheme

An early priority was to build awareness and understanding of the Scheme and to help entities participate in the Scheme and use it to share data. ONDC engaged extensively across multiple channels, including through correspondence, executive level meetings, presentations and introductory webinars, as shown in Figure 1, DATA Scheme Activity.

ONDC's website is a key source of information for Scheme participants and others, with average website views remaining above 10,000 per quarter (Figure 3). The Commissioner's monthly newsletter, DataPoints, also serves to keep the data community up to date on Scheme developments. The first edition was published in July 2022 and the number of subscribers has grown to over 1800. ONDC's social media presence has also grown, with the LinkedIn profile reaching over 880 followers. Comparison of DataPoints subscriber growth and LinkedIn follower growth is at Figure 4.

Figure 3. Average website views per quarter

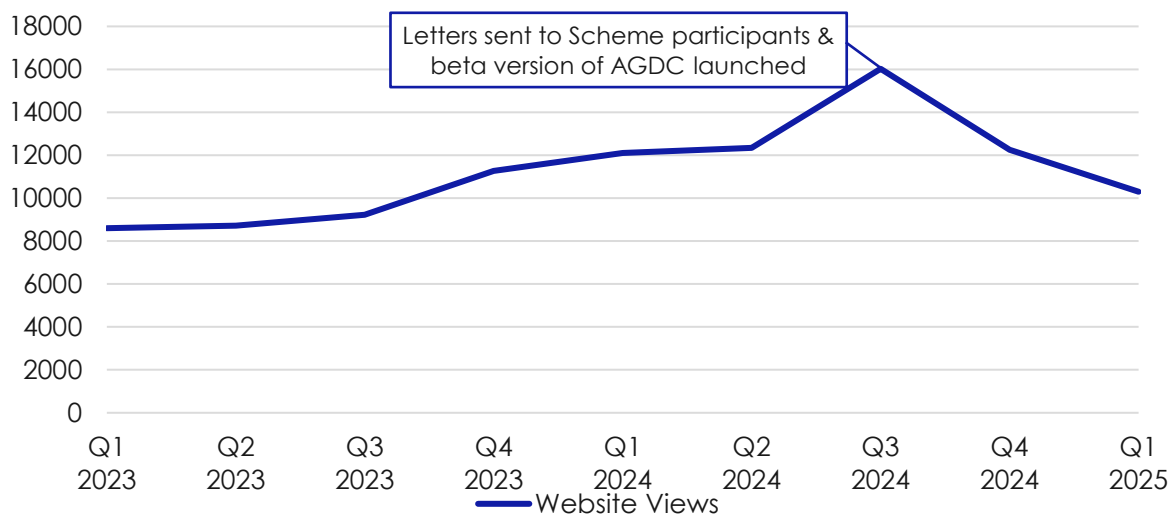
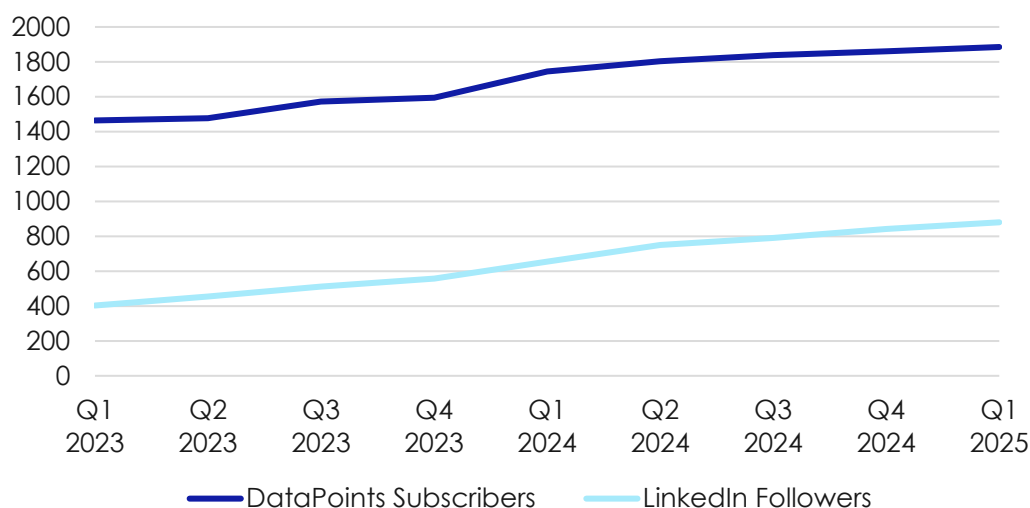


Figure 4. Growth of DataPoints subscribers and LinkedIn followers





2.2. Establishing a trusted data sharing community through accreditation

To meet the legislated timeframes, Commonwealth, state and territory government agencies were able to apply for accreditation as a data user from 1 June 2022 and Australian universities from 1 August 2022. Applications could be submitted using Dataplace. All eligible entities were able to apply for accreditation as a data service provider from 1 August 2022.

The application for accreditation as a data service provider was grounded in research from other established schemes and informed by specialist expertise on cyber and ICT security. It was refined through a trial with 11 eligible Scheme entities.

The application for accreditation as a data service provider was established by an ONDC-led working group of expert advisors from the Australian Bureau of Statistics, the Australian Institute of Health and Welfare, and the Australian Cyber Security Centre. The experts included the technical advisers to the Australian Government process of accrediting integrating authorities. The working group considered the requirements of accreditation for integrating authorities in conjunction with security and privacy expectations.

To support eligible entities to apply for accreditation, ONDC published

- the application form,
- expected characteristics for accreditation as users and data service providers,
- checklists, and
- instructions for making applications.

ONDC developed standard operating procedures to assess applications and service level standards: two months for accreditation as a data user and three months for data service providers. ONDC has consistently met these service level standards since they took effect from October 2023 (Appendix B).

ONDC initiated two independent reviews of the accreditation framework to ensure its robustness and remains fit for purpose. The first review was a Department of Finance internal audit Management Initiated Review which assessed the effectiveness of the framework, including whether the design and implementation is in accordance with the legislative requirements. This review found the current framework to be implemented with satisfactory controls, and with no significant issues or gaps in cyber and ICT security requirements. An expert review was also initiated to gain external, independent advice on the cyber requirements. Cyber CX completed the review and found:

'The current framework provides a robust level of assurance and comprehensively addresses legislative requirements while supporting a flexible approach for applicants. Significant evidence guidance assists applicants through the accreditation process, underpinned by knowledgeable and insightful ONDC staff. No significant issues or gaps were identified with the accreditation framework.'

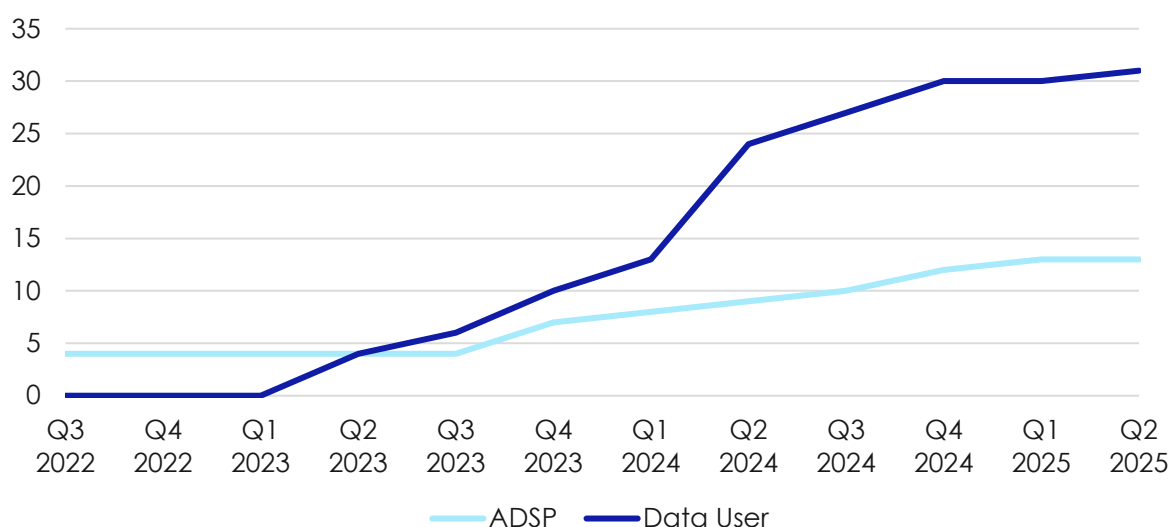
Informed by feedback from Scheme participants, its own experience and the review recommendations, ONDC has streamlined the applications for accreditation as well as its approach to assessing applications. ONDC is also working on increasing recognition of accreditation by Australian Government agencies and others⁵⁶.

⁵⁶ ONDC is working with data custodians to improve understanding and trust of the DATA Scheme accreditation process, including developing profiles of select accredited entities. The Queensland Government (Data and Digital Government) and Services Australia are leading a work program on trusted entities for the purposes of national data sharing. This work is being progressed through the Intergovernmental Data Sharing Agreement Fourth Work Program. It seeks to consider accreditation under the DATA Scheme and what characteristics define a trusted entity.

The trusted data sharing community is shown in Appendix C. It comprises 35 unique entities – 31 users and 13 data service providers. Nine entities are both users and data service providers. There are 17 Australian Government agencies, 10 State and Territory agencies and 8 Australian universities. Some entities have been accredited with conditions. For example, that they can only access the data through the secure access services of a data service provider, that they can only provide certain data services, or that only a certain area of the organisation can provide data services. Figure 5 shows how the community has evolved over time⁵⁷.

Some eligible Scheme participants have reported the accreditation process provided a necessary impetus and framework for them to assess and uplift their data maturity. There are examples of Australian Government agencies making use of the accreditation status to support data sharing outside of the DATA Scheme. Australian Government officials decided in 2023 to adopt the Scheme's data service provider accreditation to replace the previous accredited integrating authority's process⁵⁸. Entities not accredited as data service providers under the DATA Scheme from 30 July 2025 will not be able to undertake high-risk data integration activities involving Australian Government-held data.

Figure 5. Cumulative accreditation of data users and data service providers per quarter



2.3. Facilitating data sharing

As at 30 April 2025, 54 data requests have been made through Dataplace (Figure 6). 31 of the 54 data requests have been made by accredited entities under the DATA Scheme. The remaining 23 requests were 'general' requests, which do not use the Act to authorise sharing. The requests may, for example, be from an entity that is not accredited under the DATA Scheme and where the data custodian can use another legal pathway to authorise sharing the data. Figure 7 shows the cumulative comparison of DATA Scheme and general data sharing requests. Figure 8 shows data sharing requests made by user group.

⁵⁷ There has been one unsuccessful accreditation application to date.

⁵⁸ Deputy Secretaries Data Group decision made 13 March 2024.

Figure 6. Data sharing requests submitted to data custodians⁵⁹

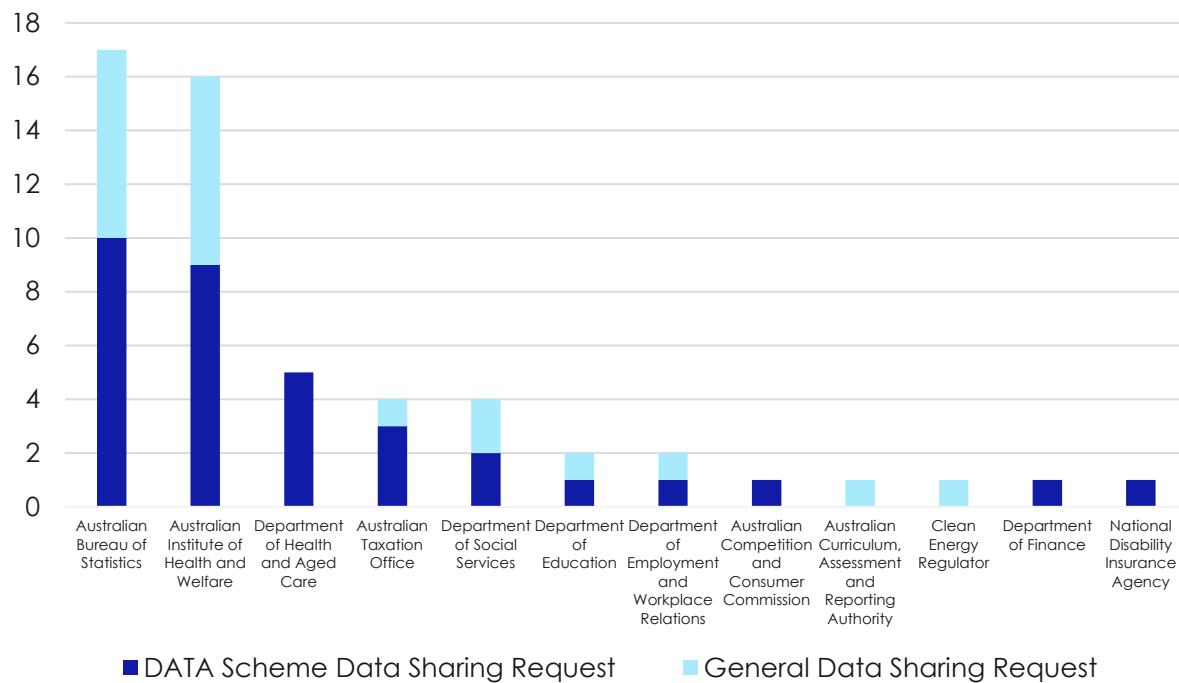
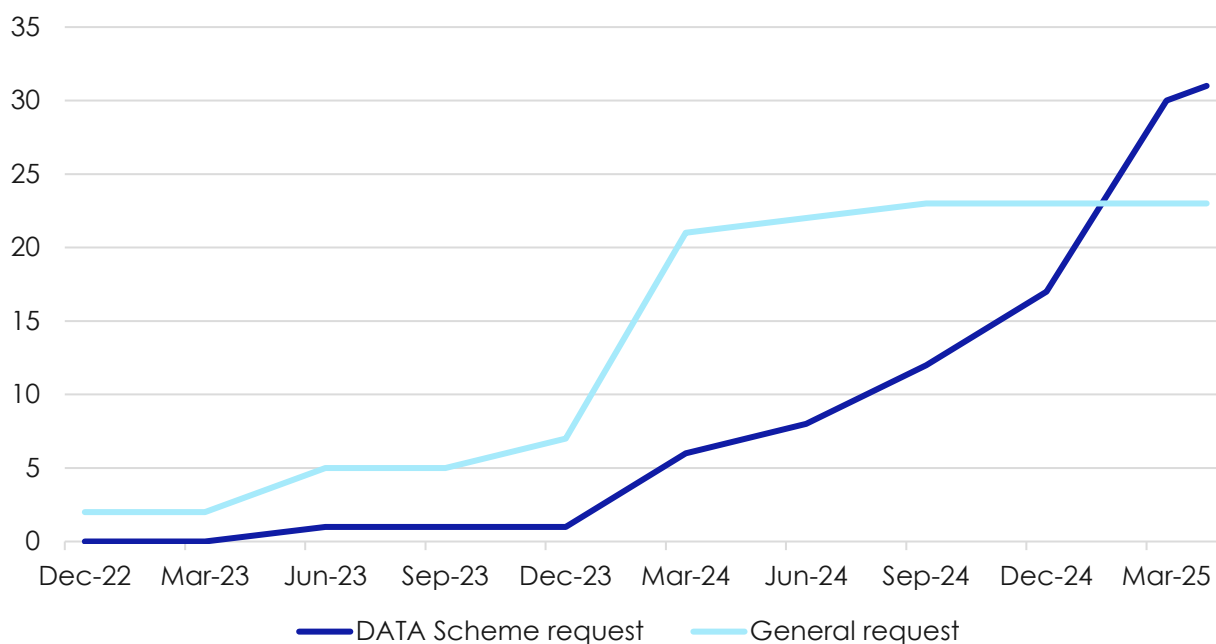
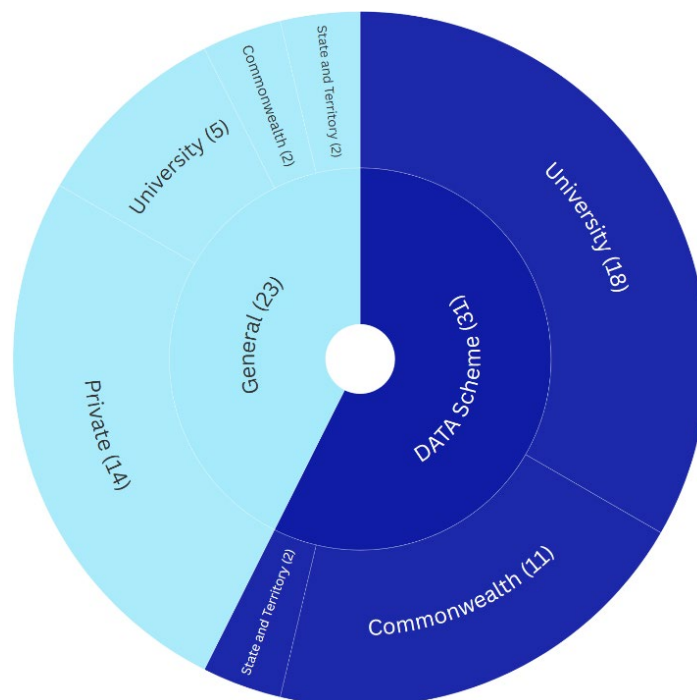


Figure 7. Cumulative number of DATA Scheme and general data sharing requests as at 30 April 2025



⁵⁹ Figure shows requests submitted to the primary data custodian. Some data sharing may be submitted to multiple custodians or handled by multiple custodians.

Figure 8. Data sharing requests made by user group



So far, the requests have resulted in 25 instances of data sharing. 11 of these have been under the DATA Scheme with the agreements (and variations to them) supporting Commonwealth, state and territory government agencies to share data with the Australian Bureau of Statistics and the Australian Institute of Welfare to create the National Disability Data Asset (NDDA). Further information about these data sharing agreements can be found on the public register⁶⁰. Following the first release of the NDDA in December 2024, Scheme entities are now making requests to access it. There were 5 such requests as at 30 April 2025; more have been made through Dataplace since then. (For more on the NDDA see Case Study 1).


The 14 general data shares have supported access to data relating to education, social services, employment and fraud. Data has been used for research and development and informing government policies and programs.

Case Study 1. National Disability Data Asset

The National Disability Data Asset (NDDA) is an initiative of national significance involving data sharing at scale across all jurisdictions in Australia. Australian governments at all levels are working with the disability community to bring together data from a broad range of sources for research and analysis. The data asset will help us better understand the experiences of people with disability and better support them, their carers and the community. The Department of Social Services is leading the development of the NDDA in partnership with the Australian Bureau of Statistics and Australian Institute of Health and Welfare.

The DATA Scheme is supporting the Australian Bureau of Statistics and the Australian Institute of Health and Welfare to create an enduring national data asset. The first release

⁶⁰ Further instances of data sharing can be found on the public register. ONDC, [Data Sharing Agreement Register](#), ONDC website.



of the NDDA in December 2024 brings together data held by Commonwealth, state and territory government agencies including on:

- disability and hospital services
- social services and disability support programs
- education and employment participation
- mortality and deaths records.

In keeping with the [NDDA Charter](#), access to the asset is also under the DATA Scheme. This approach ensures:

- data is shared applying the Scheme's safeguards
- data sharing is transparent
- Scheme participants and the public can make complaints if they suspect a breach of the Act or a data sharing agreement or to raise concerns about the administration or operation of the Scheme, and
- those sharing the data are held accountable for meeting robust standards through regulation by the National Data Commissioner.

In step with its facilitative posture, ONDC has established a data sharing and engagement team that provides a concierge service to assist both data users and data custodians to use the Scheme, supporting their data sharing projects from request to implementation.

2.4. Legislation, advice, guidance and education to support data sharing

Immediately following the commencement of the Act, legislative instruments were developed to support the operation of the DATA Scheme.

The *Data Availability and Transparency Regulations 2022* prescribe specific data, data custodians, or circumstances when data sharing is barred under the Act. They commenced in April 2022.


A Ministerial Rule, with effect from September 2022, transitioned 6 Accredited Integrating Authorities – the Australian Bureau of Statistics, the Australian Institute of Family Studies, the Australian Institute of Health and Welfare, the Australian Government Social Services Department, Queensland Treasury and the Victorian Health Department – to be accredited data service providers. An additional entity, Queensland Health, was transitioned in November 2023. Unless their accreditation is renewed, these entities cannot provide data services beyond 30 July 2025.

The Commissioner made two data codes which commenced in December 2022:

- the [Data Availability and Transparency Code 2022](#) (DAT Code) to guide Scheme participants on applying the data sharing principles, including the public interest test and approaches to consent, privacy and ethics.
- the [Data Availability and Transparency \(National Security Measures\) Code 2022](#) sets out additional measures to manage national security risks that may arise if foreign individuals, working within an accredited entity, are provided access to shared data.

Consultations closed on 1 May 2025 on proposed amendments to the DAT Code to include requirements for data sharing agreements to explicitly recognise the rights of States and Territories over data for which they are custodians. The Commissioner is finalising these amendments.

The Commissioner's functions include providing advice to Scheme participants on how the Scheme applies in specific circumstances. Advice was provided for the first time in January



2025 to the Commonwealth NDDA partners about the use of the Act to authorise access to the NDDA⁶¹. A second request for advice was received in April 2025. In March 2025, ONDC published on its website information about the advice function, including the process for obtaining advice⁶².

The first guidance notes were published in early 2023. A collection of 18 guidance notes is available on the ONDC's website to support Scheme participants to share data safely. Topics include the role of an authorised officer, making and responding to data sharing requests, making and registering data sharing agreements, charging fees, data breach responsibilities, and reporting requirements under the DATA Scheme. ONDC is continuing to refine and add to the bank of guidance, informed by the priorities of Scheme participants.

ONDC hosts 2-3 webinars each month to educate Scheme participants on best practice data handling and sharing. Since the passage of the legislation, a total of 94 webinars have been delivered involving more than 300 unique entities with topics including:

- Introduction to the DATA Scheme
- Dataplace and the Australian Government Data Catalogue
- How to become an Accredited User or Data Service Provider
- Making a data sharing request
- Responding to data sharing requests
- Establishing a DATA Scheme data sharing agreement
- Scheme entities responsibilities and reporting obligations, and
- Data breaches under the DATA Scheme.

The webinars offer participants essential information, system demonstrations, time for interactive Q&A and networking opportunities.

2.5. Dataplace

Dataplace was launched in June 2022. ONDC has progressively rolled out services on the platform and added the Australian Government Data Catalogue. Its design has been guided by users, including the Dataplace Policy and Technical Advisory Group. The platform guides Scheme participants and others to apply safe and consistent data sharing practices, streamlining sharing and helping them comply with the Act.

Organisations can onboard to Dataplace to:

- apply for accreditation under the DATA Scheme.
- discover data held by Australian Government agencies.
- request data held by Australian Government agencies, both under the DATA Scheme and general requests.
- develop a data sharing agreement, both a DATA Scheme data sharing agreement and a general agreement, and
- monitor and report on your organisation's data sharing activities – what data your entity is sharing, with whom and for what purpose – and meet reporting obligations under the DATA Scheme.

Dataplace and the Catalogue have wider application beyond the DATA Scheme. Eligible Scheme entities and other organisations can use Dataplace as their one stop shop for accessing data held by Australian Government agencies. Case Study 2 provides an example

⁶¹ ONDC, [Publication of National Data Commissioner's Advice on NDDA](#), ONDC website, 13 January 2025.

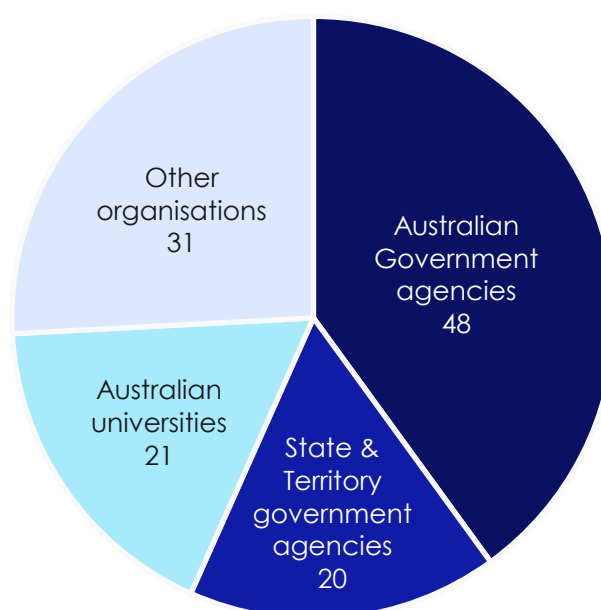
⁶² ONDC, [National Data Commissioner's Advice Function](#), ONDC website.

of an organisation using Dataplace to make a general data request and data sharing agreement.

Organisations can also opt to use Dataplace to improve their own enterprise data governance. Dataplace has been designed to operate as a standalone platform for agencies that do not have their own systems, or one that can be integrated with existing systems, providing a consistent front-door for data users.

As at 30 April 2025, there are 120 organisations onboarded to Dataplace (Figure 9). More information on those onboarded is available on Dataplace⁶³.

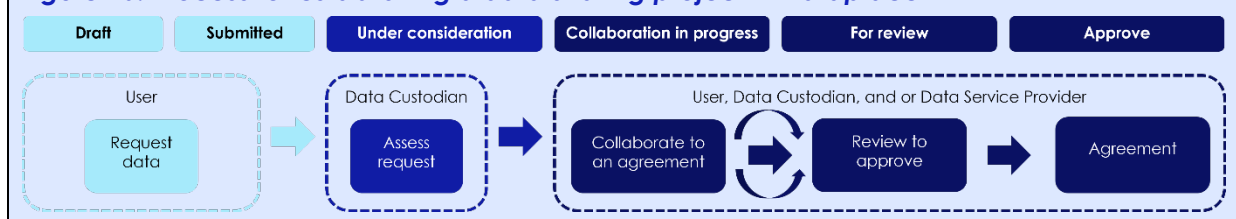
Figure 9. Organisations onboarded to Dataplace as at 30 April 2025 by type.




Case Study 2. Using Dataplace to manage data sharing

The University of Melbourne and the Department of Employment & Workplace Relations used Dataplace end to end to establish a new data sharing project. The project aims to better understand early school leavers employment opportunities, with a goal of achieving better employment outcomes. Researchers from the university were guided to Dataplace to draft and submit the data sharing request to the department (the data custodian, refer Figure 10). The department assessed the request, considering the University of Melbourne's status as an accredited user and the purpose of the data request, and moved it into the collaboration stage to prepare the data sharing arrangement. The parties finalised a data sharing agreement through Dataplace which enabled sharing to commence.

Figure 10. Process for establishing a data sharing project in Dataplace



⁶³ ONDC, [Organisations onboarded to Dataplace](#), Dataplace website.



Informed by user feedback, ONDC continues to improve and add to Dataplace's functionality. In February 2025, ONDC published a much shorter data sharing agreement template and made it available for download through Dataplace, alongside updated guidance.

2.6. Data Discovery Initiative

Over 3 years to end June 2024, through the Data Inventories Pilot Program (DIPP), ONDC supported 44 Australian Government agencies (about 23% of agencies) to develop an inventory of the data assets they hold, exceeding the target of 35. Participating agencies included those holding high demand data assets, agencies varying in size from extra-large to micro-small, and a cross-section of agencies where their main function ranged from policy, operational, regulatory to specialist.

The program delivered a marked improvement in agencies' data asset management capability as seen in Figure 11. It laid the foundations for the Australian Government Data Catalogue. An independent review of the program found most agencies interviewed considered that DIPP had been successful, and that it had brought benefits to the agencies that exceeded their effort. Besides the obvious benefit of having a new or enhanced data inventory, benefits included a better understanding of the government's data agenda, a focus on data management work within agencies, and an uplift of agency capability in data inventory development including broad data and metadata management and the development of work programs for taking data inventory work forward. The most obvious benefit to government was a greater understanding of agency data holdings, with several agencies either establishing data inventories for the first time or significantly enhancing existing data inventories.

To support Australian Government agencies to maintain complete and up to date inventories and contribute more of their data assets to the Catalogue, ONDC has published 2 guides: the 'Guide to developing a data inventory'⁶⁴ and the 'Guide on Metadata Attributes'⁶⁵. ONDC continues to support a Community of Practice.

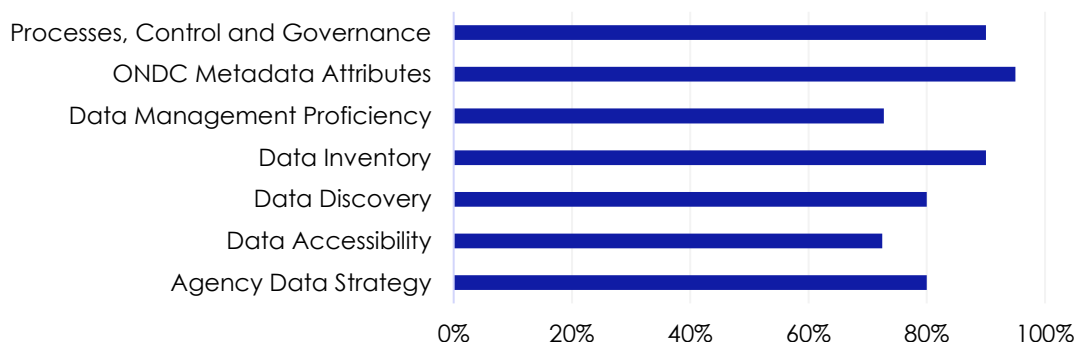
The beta version of the Australian Government Data Catalogue was launched in July 2024 with 12 government agencies contributing records of 230 data assets directly from their data inventory. As at 30 April 2025, this had grown to 22 government agencies (18 of whom participated in the Data Inventories Pilot Program) contributing records of 595 data assets.

ONDC is continuing to improve the Catalogue's search function. A new filter is being added to allow users to more easily identify data relevant to the government's priorities, including gender, indigeneity and disability. The filter has been developed in consultation with the Office for Women and relevant communities and is in step with the Australian Government's Framework for the Governance of Indigenous Data.

⁶⁴ ONDC, [Guide to developing a data inventory \[PDF 657 KB\]](#), ONDC website, May 2024.

⁶⁵ ONDC, [Guide on Metadata Attributes \[PDF 485 KB\]](#), ONDC website, August 2023.

Figure 11. Data Inventories Pilot Program: Average reported improvement per focus area



2.7. Transparency and trust

Public registers and reporting

To foster trust and transparency in data sharing, ONDC established and maintains registers of:

- accredited entities⁶⁶ and
- data sharing agreements⁶⁷ made under the DATA Scheme.

The Commissioner has published three annual reports and provided quarterly reports to the Minister on the operation of the DATA Scheme.

Regulatory approach

The Commissioner's regulatory activities are informed and guided by the Act, the Ministerial Statement of Expectations⁶⁸, the Commissioner's Statement of Intent⁶⁹, as well as ONDC's Regulatory Approach⁷⁰ and Annual Priorities⁷¹.

ONDC's early focus was on developing standard operating procedures to carry out the core regulatory functions - accrediting eligible entities and handling complaints from Scheme entities and others. Other early priorities were:

- building ONDC and Scheme participants' capability around minimising the risk of and mitigating harm from a data breach, and
- supporting Scheme participants to meet their reporting obligations including the requirement for accredited entities to report events and changes in circumstances and for data custodians to report annually to the Commissioner on data sharing requests, data sharing agreements and complaints for inclusion in the Commissioner's annual report.

Since the Scheme commenced, ONDC has handled 13 complaints. The complaint function is one of the redress mechanisms in the Scheme, and a means for the Commissioner to identify potential cases of non-compliance and areas to improve or support implementation of the Scheme. Six of these complaints were related to the DATA Scheme in general. For example, about ONDC's responsiveness and an entity being ineligible to participate in the Scheme. Seven were not within the Scheme's remit. For example, they related to the handling of the

⁶⁶ ONDC, [Register of accredited entities](#), ONDC website.

⁶⁷ ONDC, [Register of data sharing agreements](#), ONDC website.

⁶⁸ ONDC, [Ministerial Statement of Expectations \[PDF 2.2 MB\]](#), ONDC website, 22 September 2022.

⁶⁹ ONDC, [National Data Commissioner's Statement of Intent \[PDF 308 KB\]](#), ONDC website, December 2022.

⁷⁰ ONDC, [ONDC Regulatory Approach](#), ONDC website.

⁷¹ ONDC, [ONDC Annual Priorities 2024-25](#), ONDC website.

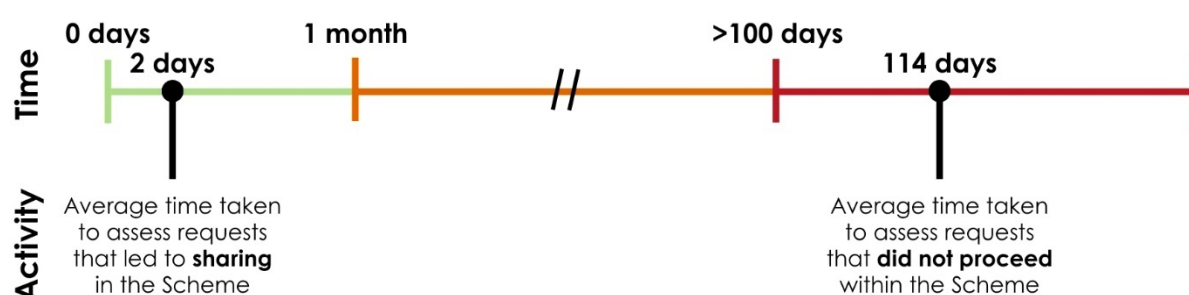
complainant's data by a private sector organisation and to concerns that private information was used to impersonate an individual. These were referred to other regulators such as the Australian Information Commissioner. No complaints have been received in relation to sharing data under the Scheme.

ONDC set service level standards for accreditation, enquiries, and complaints. ONDC is meeting these service level standards and reports on its regulatory performance in its annual reports⁷².

With the pickup in Scheme activity, ONDC has stepped up its monitoring activities focusing on accredited entities continuing to meet expected characteristics, timely handling of requests, refusals of data sharing requests, and compliance with data sharing agreements.

ONDC's monitoring of the handling of data sharing requests suggests that while some requests are being handled in a timely way, others are months old and a few over 100 days old (Figure 12). Some requests have been refused. We have been engaging closely with Australian Government agencies to encourage them to respond in a timely way and to look at ways they could share the data safely – a yes, if approach. This has included the Commissioner writing to the agencies, setting out their obligations, the Commissioner's guidance, providing them with information on the status of their requests, and offering further assistance.

Figure 12. Average DATA Scheme request assessment timeline



The Minister and the Commissioner, as the accreditation authority, can vary existing conditions of an entity's accreditation as well as suspend or cancel an entity's accreditation.

The Commissioner has not yet exercised the power to conduct assessments or initiate investigations about a Scheme entity nor has any enforcement actions been taken.

2.8. Feedback and advice

Listening and learning

To foster a culture of continuous improvement, ONDC has taken a number of measures to seek and respond to structured feedback from Scheme participants:

- In May 2024, a Scheme working group was established to identify the key issues that impede uptake of the DATA Scheme and identify potential solutions. The group reported in November 2024 and identified actions such as new guidance to clarify how data can exit the Scheme or be accessed by non-Scheme entities and using

⁷² ONDC, [Annual Reports](#), ONDC website.



subordinate legislation to clarify state and territory data rights⁷³. More than half the actions are now complete, and others are close to finalisation⁷⁴.

- In June 2024 the ONDC hosted its first annual Forum for DATA Scheme Participants. It provided a collaborative environment for participants to share ideas on the operation of the DATA Scheme and the ONDC as a regulator. There were 24 entities from Commonwealth government agencies, State and Territory government agencies, and Australian universities in attendance.
- During November 2024, the ONDC commissioned a series of executive interviews to gather feedback on its performance as a regulator. A sample of 26 executive leaders from 23 organisations were approached and all agreed to participate. Many participants view the ONDC as playing an important leadership role in supporting data sharing. Participants were positive about ONDC's facilitative posture. Universities are optimistic about accessing data for research. Australian Government agencies that identify as less data mature highly value the learnings from the Scheme's accreditation process.

National Data Advisory Council

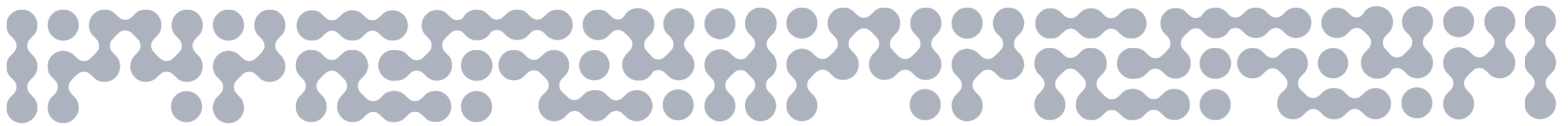
The Commissioner appointed the National Data Advisory Council in April 2022. The Council has met on average three times a year. It has monitored ONDC's and the Scheme's performance and provided expert advice on issues such as strategy and objectives, annual priorities, performance and reporting, the accreditation framework, guidance, Dataplace and the Australian Government Data Catalogue as well as ONDC's approach to regulation and compliance.⁷⁵

⁷³ ONDC, [Findings and Actions from the DATA Scheme Working Group](#), ONDC website, 8 November 2024.

⁷⁴ ONDC, [Updates from the DATA Scheme Working Group](#), ONDC website, 17 April 2025.

⁷⁵ ONDC, [National Advisory Data Council](#), ONDC website.

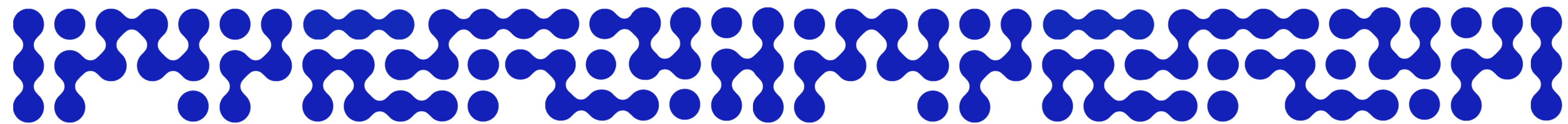




Appendix A – Checklist of DATA Scheme operation mapped to objects of DAT Act

	DAT Act objects				
	Promote better public data availability	Enable safe public data sharing	Enhance integrity and transparency in public data sharing	Build confidence in use of public sector data	Establish institutional arrangements
Establishing a trusted data sharing community through accreditation					
<u>Accreditation framework for user operational</u> : process to assess and approve entities seeking to become Accredited Data Users.	✓	✓	✓	✓	✓
<u>Accreditation framework for data service provider operational</u> : process to assess and approve entities seeking to become Accredited Data Service Providers.	✓	✓	✓	✓	✓
<u>Service level standards introduced and being met</u> : data user applications assessed within two months and data service provider applications within three months.	✓		✓	✓	✓
Facilitating data sharing					
<u>Concierge service</u> proactively support data users and data custodians progress data sharing requests and agreements	✓	✓		✓	
<u>Data requests managed through Dataplace</u> : standardised and efficient process for data custodians and Accredited Data Users to submit, manage, and agree on data sharing requests.	✓	✓	✓	✓	✓
<u>Data sharing agreements created and finalised in Dataplace</u> : facilitate efficient collaboration and ensure all terms are clearly defined and agreed upon by all parties involved.	✓	✓	✓	✓	✓
Legislation, advice, guidance, and education to support data sharing					
<u>Engagement and communication</u> to educate Scheme participants about the Scheme and to support them to use it and comply with its best practices.	✓	✓	✓	✓	
<u>DAT Regulations</u> prescribes the specific data, data custodians, or circumstances when data sharing is barred under the Act.		✓	✓	✓	✓
<u>Transitional Rule</u> allows certain Accredited Integrating Authorities to operate as Accredited Data Service Providers for a specified period.		✓	✓	✓	✓
<u>DAT Code</u> provides guidance on applying the data sharing principles. <u>DAT (National Security Measures) Code</u> sets out additional requirements for foreign individuals access shared data under a project.		✓	✓	✓	✓
<u>Commissioner advice</u> to Scheme participants on how the Scheme applies in specific circumstances.	✓	✓	✓	✓	✓
<u>Guidance notes</u> to support Scheme participants to share data safely.	✓	✓	✓	✓	✓
<u>Webinars</u> to educate Scheme participants on best practice data handling and sharing.	✓	✓	✓	✓	
Dataplace and the Australian Government Data Catalogue					





	DAT Act objects				
	Promote better public data availability	Enable safe public data sharing	Enhance integrity and transparency in public data sharing	Build confidence in use of public sector data	Establish institutional arrangements
<u>Dataplace and the Australian Government Data Catalogue</u> : digital platform for Scheme participants and others to find, request and administer their data sharing. The platform is also used by the Commissioner to regulate the DATA Scheme. It guides Scheme participants and others to apply safe and consistent data sharing practices, streamlining sharing and helping the comply with the Act.	✓	✓	✓	✓	✓
<u>Data Inventories Pilot Program</u> : supported Australian Government agencies to develop their data inventories. Guides on developing a data inventory and applying metadata.	✓		✓	✓	✓
Transparency and trust					
<u>Public registers maintained and up to date</u> : accredited entities register with contact information, accreditation status, date accredited, any applicable conditions, and the services they are accredited to provide. Data sharing agreements register with registration date, parties involved, data being shared, and purpose for which data is being shared.	✓		✓	✓	✓
<u>Reporting</u> : annual reports published on the operation of the Scheme, provided to the Minister for tabling in Parliament within the required timeframe. Quarterly reports on the operation of the Scheme provided to the Minister.	✓	✓	✓	✓	✓
<u>Regulatory approach and annual priorities published</u> : signalling to Scheme participants the Commissioner's focus	✓	✓	✓	✓	✓
<u>Handling complaints</u> : process for making and handling complaints established. Complaints handled within service level standards.	✓	✓	✓	✓	✓
<u>Monitoring activities</u> : conducting monitoring of accredited entities and timely handling of requests, refusals of data sharing requests, and compliance with data sharing agreements	✓	✓	✓	✓	✓
Feedback and advice					
<u>Feedback from Scheme participants</u> : annual forum, working group, executive interviews to gather structured advice from Scheme participants			✓	✓	✓
<u>National Data Advisory Council</u> : provides advice on best practice data sharing to the Commissioner	✓	✓	✓	✓	✓



Appendix B – Timeline of the DATA Scheme's first 3 years

Date	Activity/Achievement
March 2022	<i>Data Availability and Transparency Act 2022</i> passes in Australian Parliament.
April 2022	<i>Data Availability and Transparency Act 2022</i> takes effect.
	<i>Data Availability and Transparency Regulations 2022</i> take effect.
	National Data Commissioner appointed.
	National Data Advisory Council appointed. <ul style="list-style-type: none"> 1 appointment of Council Chair and 4 replacement appointments of Council members have been made as at 30 April 2025. The Council meets at least 3 times a year, with 10 meetings as at 30 April 2025.
	Data Inventories Pilot Program commences with 3 Australian Government agencies. <ul style="list-style-type: none"> 44 Australian Government agencies complete the Program in June 2024.
	The DATA Scheme website launches.
March 2022	<i>Data Availability and Transparency (Consequential Amendments) Act 2022</i> takes effect.
May 2022	Beta trial of Dataplace commences.
June 2022	Dataplace launches. <ul style="list-style-type: none"> Applications open for Commonwealth, and state and territory government agencies to apply to become Accredited Data Users.
	First meeting of statutory National Data Advisory Council.
July 2022	The Minister for Finance assumes responsibility for the DAT Act and the Office of the National Data Commissioner joins the Department of Finance.
	Macquarie University is the first entity to onboard to Dataplace. <ul style="list-style-type: none"> 120 entities onboarded as at 30 April 2025.
	National Data Commissioner's first newsletter update published. <ul style="list-style-type: none"> Named 'DataPoints' in July 2023. Published monthly with 31 issues as at 30 April 2025.
August 2022	Applications open for Australian universities to apply to become Accredited Data Users and for all eligible Scheme entities to apply to become Accredited Data Service Providers.



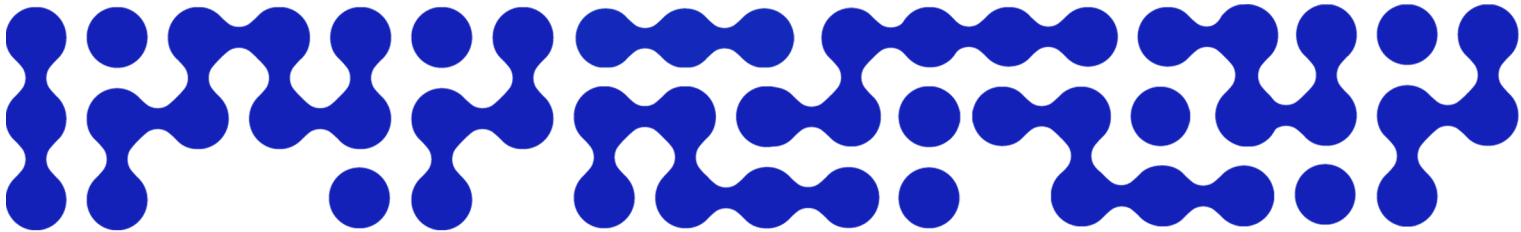
Date	Activity/Achievement
	First application for accreditation as a data user received.
September 2022	<i>Data Availability and Transparency Transitional Rules 2022</i> take effect. <ul style="list-style-type: none"> 6 entities become Accredited Data Service Providers. An additional entity was transitioned to be an Accredited Data Service Provider in November 2023.
	Minister for Finance issues Statement of Expectations for the National Data Commissioner.
	First application for accreditation as a data service provider received.
October 2022	Dataplace users can submit general requests to data custodians for data.
	The National Data Commissioner's 2021-22 Annual Report published.
November 2022	The Office of the National Data Commissioner's Regulatory Approach published.
December 2022	<i>Data Availability and Transparency Code 2022</i> takes effect.
	<i>Data Availability and Transparency (National Security Measures) Code 2022</i> takes effect.
	The National Data Commissioner responds to the Minister for Finance's expectations with a Statement of Intent.
January 2023	First guidance note published: Authorised Officers and Authorised Individuals. <ul style="list-style-type: none"> 18 guidance notes published as at 30 April 2025
February 2023	Dataplace users can generate general data sharing agreements using the platform.
March 2023	The first webinar series hosted by the Office of the National Data Commissioner. <ul style="list-style-type: none"> Webinars are held twice or three times monthly, with 94 held as at 30 April 2025.
	Data User Accreditation Standard Operating Procedure approved.
	Guidance on preventing, preparing for, and responding to DATA Scheme breaches published. <ul style="list-style-type: none"> 0 data breaches as at 30 April 2025.
May 2023	The Department of the Treasury is the first entity to be accredited as a data user. <ul style="list-style-type: none"> 31 Accredited Data Users as at 30 April 2025.
June 2023	DATA Scheme Data Sharing Agreement service released on Dataplace.





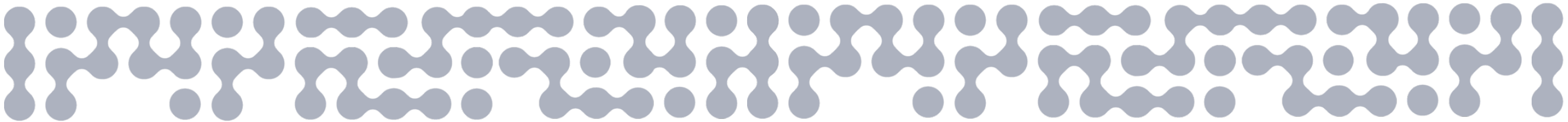
Date	Activity/Achievement
August 2023	<p>Guidance on reporting and handling complaints under the DATA Scheme published.</p> <ul style="list-style-type: none"> • 0 DATA Scheme complaints received as at 30 April 2025. • 16 complaints received (6 general and 10 other complaints) as at 30 April 2025.
October 2023	The National Data Commissioner's 2022-23 Annual Report published.
	Data Service Provider Accreditation Standard Operating Procedure approved.
	<i>Data Availability and Transparency (Consequential Amendments) Transitional Rules 2022</i> takes effect.
December 2023	<p>The Western Australian Department of Health accredited as a data service provider.</p> <ul style="list-style-type: none"> • 13 Accredited Data Service Providers as at 30 April 2025.
May 2024	<p>First Data Sharing Agreement is registered between the Australian Bureau of Statistics and the Australian Institute of Health and Welfare sharing data to create the National Disability Data Asset.</p> <ul style="list-style-type: none"> • 8 Data Sharing Agreements under the DATA Scheme and 3 variations to Data Sharing Agreements as at 30 April 2025.
	DATA Scheme Working Group established.
June 2024	<p>First annual Forum for DATA Scheme participants.</p> <ul style="list-style-type: none"> • 24 entities in attendance.
	<p>Data Inventories Pilot Program concludes.</p> <ul style="list-style-type: none"> • 44 Australian Government agencies supported to develop their data inventories.
July 2024	<p>Beta version of the Australian Government Data Catalogue is released and integrated into Dataplace.</p> <ul style="list-style-type: none"> • 56,000+ data records available and 22 agencies contributing directly as at 30 April 2025.
October 2024	The National Data Commissioner's 2023-24 Annual Report published.
	DATA Scheme Working Group concludes.
January 2025	First advice issued by the National Data Commissioner at the request of the NDDA Commonwealth partners about using the DAT Act to authorise access to the National Disability Data Asset.
February 2025	Short form data sharing agreement template available.
March 2025	Process for DATA Scheme participants requesting tailored advice from the National Data Commissioner published on ONDC's website.





Date	Activity/Achievement
	<div>Consultation on the Exposure Draft for Data Availability and Transparency Amendment Code opens.</div> <div><ul style="list-style-type: none">• Data sharing agreements to clearly state the rights and conditions for sharing state or territory data when it is shared through a data custodian.</div>

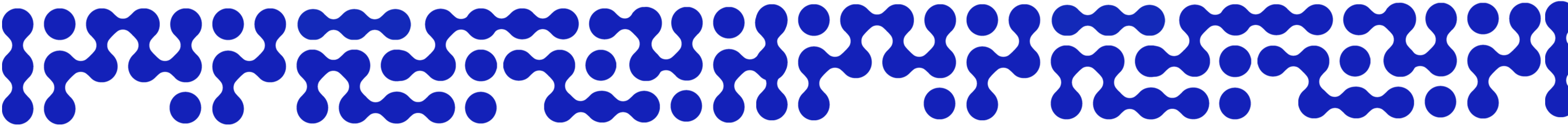




Appendix C – DATA Scheme Accredited Entities

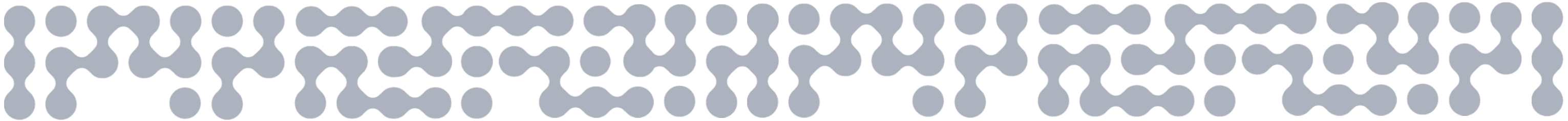
Organisation	Accreditation Type	Date Accredited*	Condition/s (if applicable)	ADSP Services (if applicable)
Australian Government Agency				
Attorney-General's Department	Accredited User	02/08/2024		
Australian Bureau of Statistics	Accredited User	05/07/2023		Complex Data Integration, Secure Data Access Services and De-identification
	Accredited Data Service Provider (ADSP)	11/02/2025		
Australian Commission on Safety and Quality in Health Care	Accredited User	29/02/2024		
Australian Institute of Family Studies	Accredited Data Service Provider	29/09/2022		Complex Data Integration, Secure Data Access Services and De-identification
Australian Institute of Health and Welfare	Accredited User	29/06/2023		Complex Data Integration, Secure Data Access Services and De-identification
	Accredited Data Service Provider	19/12/2024		
Australian Securities and Investments Commission	Accredited User	30/05/2024		
Department of Education	Accredited User	03/05/2024		
Department of Employment and Workplace Relations	Accredited User	30/04/2024		
Department of Finance	Accredited User	02/08/2024		
Department of Health and Aged Care	Accredited User	19/10/2023		
Department of Industry, Science and Resources	Accredited User	07/06/2023		
Department of Infrastructure, Transport, Regional Development, Communications and the Arts	Accredited User	18/01/2024		
Department of Social Services	Accredited User	7/07/2023	ADSP: The entity must not provide secure access data services as part of a project.	Complex Data Integration and De-identification
	Accredited Data Service Provider	29/09/2022		
Department of the Treasury	Accredited User	05/05/2023		
Digital Transformation Agency	Accredited User	29/11/2024		
National Disability Insurance Agency	Accredited User	04/10/2024		
Productivity Commission	Accredited User	17/05/2024		





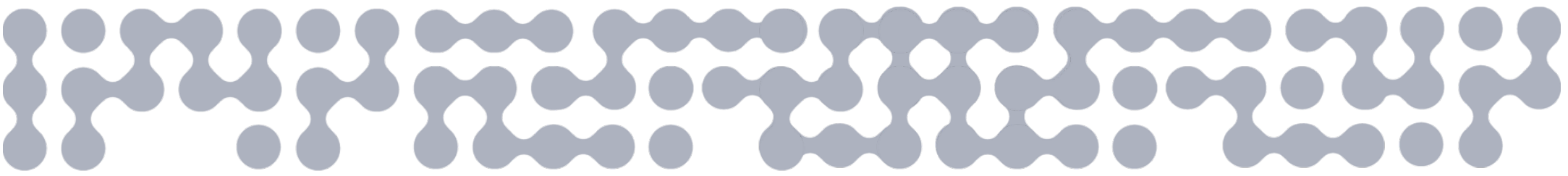
Organisation	Accreditation Type	Date Accredited*	Condition/s (if applicable)	ADSP Services (if applicable)
State and Territory Government Agency				
ACT Chief Minister, Treasury and Economic Development Directorate	Accredited User	12/09/2024		
NSW Health Administration Corporation	Accredited Data Service Provider	21/12/2023	The entity must not provide secure access data services as part of a project.	Complex Data Integration and De-identification
NSW Ministry of Health	Accredited User	28/06/2024		
NSW Department of Customer Service	Accredited User Accredited Data Service Provider	17/06/2024 28/03/2024	ADSP: The entity must not provide de-identification data services, secure access data services or complex data integration services as part of a project unless those services are provided by the Data Analytics Centre. The entity must not undertake data linkage as part of complex data integration services provided for a project.	Complex Data Integration, Secure Access Data Services and De-identification
Queensland Health	Accredited Data Service Provider	25/11/2023		Complex Data Integration
Queensland Treasury	Accredited User Accredited Data Service Provider	29/11/2024 29/09/2022	ADSP: The entity must not provide de-identification data services or complex data integration services as part of a project unless those services are provided by the Queensland Government Statistician's Office. The entity must not provide secure access data services as part of a project. User: The entity may only collect or use scheme data if the collection or use is undertaken by the Queensland Government Statistician's Office.	Complex Data Integration and De-identification
SA Department of Treasury and Finance	Accredited Data Service Provider	03/10/2024	The Department must not provide de-identified data services, secure access data services or complex data integration services as part of a project unless those services are provided by the Office of Data Analytics (ODA) and within the ODA data lab.	Complex Data Integration, Secure Access Data Services, and De-identification
Victorian Department of Health	Accredited User Accredited Data Service Provider	30/01/2024 29/09/2022	ADSP: The entity must not provide de-identification data services, complex data integration services or secure access data services as part of a project unless those services are provided by the Centre for Victorian Data Linkage.	Complex Data Integration, Secure Data Access Services and De-identification
Western Australia Department of the Premier and Cabinet	Accredited User Accredited Data Service Provider	30/04/2024 03/07/2024	ADSP: The entity must not provide de-identified data services, secure access data services or complex data integration services as part of a project unless those services are provided by the Office of Digital Government (DGov) and within PeopleWA data lab. The entity must not undertake data linkage activities with personal information as part of complex data integration services provided for a project.	Complex Data Integration, Secure Data Access Services and De-identification
Western Australia Department of Health	Accredited User	22/06/2023 13/12/2023	ADSP: The entity must not provide secure access data services as part of a project.	Complex Data Integration and De-identification





Organisation	Accreditation Type	Date Accredited*	Condition/s (if applicable)	ADSP Services (if applicable)
	Accredited Data Service Provider			
Australian Universities				
Monash University	Accredited User	18/12/2023		
The University of Adelaide	Accredited User	18/06/2024		
The University of Melbourne	Accredited User Accredited Data Service Provider	10/05/2024 02/05/2024	ADSP: The entity must not provide de-identification data services, secure access data services or complex data integration services as part of a project unless those services are provided by the Melbourne Institute in the Melbourne Institute Data Lab. The entity must not undertake data linkage with the use of personal identifiers as part of complex data integration services provided for a project.	Complex Data Integration, Secure Access Data Services, and De-identification
The University of New South Wales	Accredited User	10/11/2023		
The University of Queensland	Accredited User	25/06/2024		
The University of Sydney	Accredited User	05/12/2023		
The University of Western Australia	Accredited User	11/04/2024		
University of Tasmania	Accredited User	30/04/2025	The entity may only store Scheme data within the Tasmanian Data Linkage Unit.	





Appendix D – Data sharing requests by requestor

Requestor Type	Requestor	DATA Scheme Requests	General data requests	Total
Commonwealth	Australian Bureau of Statistics	5	0	5
Commonwealth	Australian Institute of Health and Welfare	5	0	5
Commonwealth	Department of Industry, Science and Resources	0	1	1
Commonwealth	Department of Social Services	0	1	1
Commonwealth	Department of the Treasury	1	0	1
State and Territory	Department for Health and Wellbeing SA	0	1	1
State and Territory	Health Administration Corporation NSW	0	1	1
State and Territory	Ministry of Health (NSW)	2	0	2
University	Monash University	7	1	8
University	The University of Adelaide	0	1	1
University	The University of Queensland	3	0	3
University	The University of Sydney	2	1	3
University	University of Melbourne	5	1	6
University	University of New South Wales (UNSW)	1	1	2
Private	GLOBAL SISTERS	0	1	1
Private	SEER Data & Analytics	0	13	13

