

Data Availability and Transparency (DATA) Scheme

Data Availability and Transparency Act 2022

The Data Availability and Transparency Act establishes a new best practice scheme for sharing Australian Government data. It provides a legislative override mechanism, underpinned by strong safeguards and consistent efficient processes.

National Data Commissioner

The National Data Commissioner is the regulator of the DATA Scheme and provides advice and guidance about its operation. The National Data Commissioner also delivers education and support for best practice data handling and sharing.

National Data Advisory Council

The *Data Availability and Transparency Act 2022* establishes the National Data Advisory Council. Its role is to advise the National Data Commissioner on using and sharing public sector data including on ethical data use, balancing data availability with privacy protection, trust and transparency, technical best practice, industry and international developments and community expectations.

DATA Scheme Operation

Data Custodians

Data Custodians are Australian Government bodies. Some bodies and their data are excluded from the Scheme.

Accredited Data Service Providers

Commonwealth, state and territory government bodies and Australian universities who can provide specialised data services such as complex data integration, de-identification and/ or secure access data services to support data sharing projects.

Accredited Users

Commonwealth, state and territory government bodies and Australian universities can obtain and use Australian Government data.

DATA Scheme Safeguards

Data Sharing Purposes

Sharing of Australian Government data must be in the public interest and for one of three purposes:

- Government service delivery

- Informing government policy and programs
- Research & development.

Data cannot be shared for the purpose of enforcement or compliance.

Accreditation

Commonwealth, state and territory government bodies and Australian universities can apply to be an Accredited User or Accredited Data Service Provider. The Minister or National Data Commissioner may grant accreditation and have the power to suspend, vary, or cancel accreditation. The Commissioner maintains oversight of all accredited entities.

Data Requests

Data Custodians have no duty to share, however, must provide reasons to Accredited Users if refusing a data sharing request.

Data Sharing Principles

Data Sharing Principles must be applied to all data sharing. The Principles manage data sharing risk by applying controls on the project, people, setting, data and output.

Privacy protections

The DATA Scheme works with the *Privacy Act 1988* to protect personal information. The privacy protections minimise the sharing of personal information, prohibit the re-identification and storage of data or access of personal information outside Australia.

Express consent is always required to share biometric data.

Data Sharing Agreements

Arrangements, including the application of the data sharing principles, must be documented in a Data Sharing Agreement.

Agreements that meet Scheme requirements must be registered by the National Data Commissioner to take effect.

Transparency and reporting

National Data Commissioner must:

1. keep public registers of Data Sharing Agreements, Accredited Users and Accredited Data Service Providers.
2. Prepare an Annual Report on the operation of the DATA Scheme, the Commissioner's and Council's activities.

Regulation and compliance

The National Data Commissioner's regulatory functions include:

- accreditation
- handling complaints
- assessments and investigations and taking enforcement actions such as issuing infringement notices and directions, seeking injunctions and civil and criminal penalties
- transferring matters to another appropriate authority.

DATA Scheme enablers

Data Discovery

The Data Discovery program of work supports agencies to develop data inventories and build an Australian Government Data Catalogue to help users find data.

Dataplace

Dataplace is a digital platform for Scheme participants and others to manage data requests and support administration of the DATA Scheme.