



Privacy and Responsible Information Sharing

for the Western Australian public sector

A proposal



Let's start the conversation

Messages from the Ministers



I believe that the organisation people should be able to trust the most is the Government that serves them.

Privacy is a universal human right. Western Australians should be able to say that their State Government values and respects their privacy as much as they do.

Introducing clear and strong privacy protections for individuals is more important today than ever. The pervasiveness of the internet means that once personal information is released into the public sphere, it can be very hard to control the use of that information.

Our Government has committed to pursuing this legislation because we recognise the community expects the law to enshrine its values and protect them.

I encourage the WA community to engage with this important and long-needed reform.

Hon. John Quigley MLA

Attorney General; Minister for Commerce



In an increasingly data-driven world, there are incredible opportunities for government to use data to deliver more effective, more efficient, and more seamless services.

Better use of data has the power to improve many things we do, whether it is something as simple as renewing a licence, as complex as improving research into children's health, or as important as reducing cases of family domestic violence.

With this opportunity comes significant responsibility, and the use of data by Government needs a solid foundation of data protection and privacy measures to ensure both public good and public confidence.

I welcome your feedback on how a responsible approach to privacy and information sharing can deliver a smarter, more efficient WA.

Hon. Dave Kelly MLA

Minister for Water; Fisheries; Forestry;
Innovation and ICT; Science



Why do we need to act?

Did you know that Western Australia is one of only two jurisdictions in Australia without overarching privacy legislation?

While there is some legislation that regulates the use of confidential information and offers some privacy protections to individuals in particular circumstances, these operate in an ad hoc and sometimes inconsistent way.

Given the vast amount of information and data the WA Government holds, it's critical that this be addressed as soon as practical.

You have a right to know that your privacy will be protected. You need to be assured that any information held by the WA public sector about you, your family, or your business, will be handled responsibly and securely.

If you feel your privacy has been breached, there should be somewhere in Government that has the right skills and tools to make sure that your

complaint is resolved. Government should be diligent and transparent in managing your privacy, and held to account when things go wrong.

Cutting the red tape that unnecessarily locks information up is key to making sure you have access to the best possible Government services. We recognise you should only have to tell us once when you move house, or a loved one passes away. And if you want to get those services online, you should be able to.

In our increasingly complex world, this Government recognises it must do things differently if it is to address our most wicked problems. We can't improve Aboriginal wellbeing, homelessness or youth suicide by doing what we've always done.

Sharing information between agencies is fundamental to unlocking new insights and making sure Government can work as one to address society's most pressing needs.



We consider that State privacy legislation is essential to support and enable current and future health and social research in WA, and to improve outcomes for Western Australian citizens.

Malcolm McCusker AO QC

Chair of the Governing Board, Western Australian Health Translation Network



Previous consultation on data sharing

There have already been several recent reviews and inquiries that have considered, reported and made recommendations related to information sharing within government. The submissions made to the 2016 Data Linkage Review and relevant submissions made to the 2017 Service Priority Review and the current Commonwealth Government consultation on a proposed Data Sharing and Release Bill have been reviewed.

There is broad consensus that responsibly unlocking the value of information held by government has the potential to improve decision making and the way government operates, ultimately resulting in better services and outcomes for individuals, the community and businesses.

General support for:



Information being shared between government agencies to support service delivery



Sharing of data for research when in the public's interest



A principles approach to sharing data such as the 'Five-Safes' model



Transparency around how data is collected, used, stored and managed by government

Highlighted the need to have:



Rigorous privacy protections



Clear guidelines to inform how information is shared



Mechanisms to share information with authorised third parties



Appropriate repercussions/redress for data misuse



Appropriate systems and capabilities across the Government to unlock the true benefits of data sharing

Concerned about:



Enabling third parties to use information which is not in the public's interest



Sharing information to enforce compliance



Undermining existing provisions, such as national security



How can we better protect privacy?

At first glance, privacy and data sharing might appear to have competing aims – one is restricting the flow of information and the other is facilitating it.

But the WA Government sees these two important considerations as complementary. We should not be considering expanding the sharing of data without first making sure we have the right privacy framework to safeguard citizens' personal information.

The WA Government is proposing to introduce a whole-of-government framework to govern the way the public sector manages the information it holds.

This will create uniform rules across the WA Public Sector that will require agencies to consider your

privacy whenever they collect, use or share your information.

At an agency level, the WA public sector has processes to protect personal and sensitive information. There are also avenues to penalise public servants who have misused information. However, the laws that currently regulate privacy and the disclosure of personal information are complex and inconsistent across Government, and there is no specific body to oversee privacy in the WA public sector.

The Government has looked at privacy protections elsewhere in Australia and overseas, and sees many benefits in learning from their experience in these areas and aligning proposed privacy and data sharing legislation with other jurisdictions where practical and appropriate.



I welcome the development of WA data sharing legislation to provide a strong framework to ensure that data is used for public good whilst protecting individual privacy.

As a child health researcher, the use of data to answer important questions about issues that affect children and their families is integral for the prevention and treatment of illness and adverse outcomes. Data collected by government agencies is an important resource which needs to be used by government and researchers to ensure policy, programs and interventions are achieving the best outcomes for Western Australians.

Professor Fiona Stanley AC
Patron, Telethon Kids Institute



Overarching framework

Proposed model:

- A strong framework to protect privacy of personal information
- Whole-of-government standards for the responsible collection, management and use of personal information
- A comprehensive and consistent framework to govern the responsible sharing of information within Government and with authorised third parties
- Provisions to enable the use of information to deliver better services and outcomes
- Mechanisms to ensure accountability and public confidence through independent oversight and clear pathways for resolving complaints

Approach:

- Privacy elements will relate to protecting personal information within the WA public sector, while other provisions will relate to sharing a range of information.
- Will apply to the WA public sector and include sharing provisions for authorised third parties such as universities, other Governments and non-government organisations that are delivering services on behalf of government.

The framework will facilitate information sharing for:

Evidence-based decision making

Inform the design, implementation and evaluation of policy, programs and services.

Service delivery

Enable a citizen-centred approach to effective service delivery and efficiency in government operations.

Research and Development

Support broader independent research insights and outcomes.

The legislation will be based on a foundation of privacy principles, transparency and independent oversight.

- Privacy principles which place obligations on the public sector, and give protections to those whose information is held by the WA public sector.
- An independent body which is able to receive and resolve privacy complaints from the public
- Transparency around the appropriate purposes and circumstances for sharing information

For more information about the Australian Privacy Principles, which are a guiding framework for WA's proposed privacy model, please see the Office of the Australian Information Commissioner's website at:

<https://www.oaic.gov.au/privacy-law/privacy-act/>

New privacy protections for the personal information held by the WA public sector, supported by clear rules for responsible information sharing, will help protect people’s privacy while unlocking the value of data to deliver better services and outcomes for the community.

Western Australia remains the only Australian jurisdiction without privacy and/or data sharing legislation.

The absence of comprehensive privacy and information sharing frameworks in Western Australia means personal information is protected by a patchwork of rules, and public sector agencies must operate within a complex, inefficient system in order to lawfully and responsibly manage and share the information they hold.

This has resulted in:

- fragmented and unclear protections for those whose information is held by the WA public sector, with no specific avenue by which privacy complaints can be resolved;
- reduced public trust and confidence in how data is stored, used and shared;
- an inconsistent and generally risk adverse approach to information sharing between agencies; and
- reduced collaboration and evidence based decision making.

A range of reviews, inquiries and inquests, as well as broader stakeholder feedback, highlight the pressing need for action.

Delivering better outcomes for Western Australia

Stronger protections for privacy



- Ensures non-negotiable standards for the collection, management, use and disclosure of personal information.
- Gives clarity for the circumstances in which personal information can or can not be shared.

Improved accountability and transparency



- Provides for independent oversight and a mechanism where public complaints can be addressed.
- Ensures accountability within the WA public sector for the handling of personal information.
- New governance and reporting arrangements for data sharing to improve accountability and transparency.

Better services and outcomes for the community

Enabling the WA public sector to responsibly share information will:



- Make it easier and more convenient to interact with government. This also means that services can be better tailored or designed to meet your needs.
- Enable better decisions and planning for the future about the services that it provides, like where to prioritise transport, health and education investments.
- Enable new insights into how best to tackle complex economic, environmental and social issues creating a safer and fairer society for all.

What's wrong with the status quo?

The absence of overarching privacy legislation in WA has contributed to difficulties in sharing information with other States and the Australian Government.

This means that we sometimes miss opportunities that would be beneficial to Western Australians. Our health researchers are not able to get access to all the information they need, and sometimes WA government agencies miss out on opportunities to properly find out whether taxpayer dollars are delivering the best possible outcomes.

WA Government is a large and complex organisation working across the biggest State in Australia. The lack of information sharing means that sometimes we don't get the best outcomes, despite the hard work of frontline services.

It is in the community's interests that the WA Government breaks down these barriers and encourages responsible information sharing that will result in better outcomes in key areas such as health, safety, education and planning.

*Greater availability and use of public sector data has the potential to bring significant benefits to the community, such as improved government policy and service delivery, more transparency, and improved accountability.*¹



For example, in 2019 the Auditor General reported on improving Aboriginal Children's Ear Health. Otitis Media is a treatable ear disease that can cause permanent hearing damage. The Auditor General noted that

“the many entities, organisations and medical practices involved in identifying, diagnosing and treating Otitis Media in Aboriginal children across WA collect their own specific data. However due to privacy concerns, they do not share patient information, even at a de-identified and aggregated level... Because the data is not shared, no one knows how bad the situation is for Aboriginal children at a whole of state level at any specific point in time, and there is no baseline to measure performance.”²

A whole-of-government framework to govern the way the public sector manages the information it holds will provide greater protection because it will ensure consistent and clear rules and responsibilities when information including personal information is collected, stored, managed and used.

¹ Submission to: New Australian Government Data Sharing and Release Legislation 2018

² Office of the Auditor General. 2019. Improving Aboriginal Children's Ear Health

What are the benefits for me?

We live in a society that is constantly changing. We expect our services to be more accessible and able to meet our needs quickly and efficiently.

How many times have you been asked for the same information from different government agencies?

Wouldn't it make life easier if:

- Instead of having to have a range of different licences, such as your Driver's Licence, a Fishing Licence, a Plumbers Licence, and so on, you could just have one that gets updated automatically when you tell Government you've changed address?
- When a loved one passes away, you only need to tell WA Government once, instead of having to tell many different agencies?
- You got married and changed your name, and you only needed to tell the WA Government once?
- You could get all your WA Government services online through a single portal, instead of having to go into different government department offices?

ServiceWA, a WA Government initiative aimed at making life easier for West Australians, is being trialled in Bunbury. It will enable Western Australians access to 85 everyday services — either

face-to-face or via an online portal — from five WA government agencies.

This initiative is just the beginning. Introducing this legislation could address any legal barriers to realising the full potential of this service to reduce unnecessary interactions with Government and enable better services for you.

This is particularly important when you are dealing with multiple agencies in times of stress, such as supporting a loved one with mental illness, seeking help with disability services, or navigating the police and justice systems.

Making use of the rich, but currently fragmented information that Government holds would allow us to identify issues early and prevent issues that might affect you or your family.

In South Australia, the [Energy4Life](#) initiative matches South Australian suburbs undergoing long power outages with residents with electricity-dependent medical issues. For example, a person on a dialysis machine could be at risk without access to power for such a long period. Energy4Life prompts SA Health to login for more information on an outage and provide Red Cross with details of people at risk.³

Sharing data is important to businesses, too. The Victorian Government "[My Victoria](#)" portal is a free, easy to use business insights tool that aims to help small business identify gaps in the market and grow their businesses.⁴ The NSW Government [Easy to Do Business initiative](#) helps people get their businesses off the ground. It has condensed 48 forms and 75 regulations into one single digital form and allows access to 13 government agencies through a single digital solution.⁵

³ Government of South Australia. Department of the Premier and Cabinet. Energy4Life. Available from: <https://www.dpc.sa.gov.au/responsibilities/data-sharing/current-projects/energy4life>

⁴ Government of Victoria. Open data. Available from: <https://myvictoria.vic.gov.au/>

⁵ NSW Government. Improving government services. Available from: <https://www.nsw.gov.au/improving-nsw/premiers-priorities-2015-2019/improving-government-services/>

How does sharing information help society?

The biggest problems facing our community are complex and do not have a simple solution — for example, improving the health and wellbeing of children, or reducing illicit drug use.

When Government agencies work together to tackle complex issues, rather than in silos, everyone benefits.

The biggest impact that can be made by Government is often in the areas where the problems are the most difficult. When information is shared between public sector agencies, it can help deliver practical insights into how we can better deal with our seemingly intractable issues. It can also support a more effective public service by identifying those who would benefit most from services and support.

In South Australia, the [Vulnerable Children Project](#) facilitates information sharing between agencies to provide frontline workers and strategic decision makers with a fuller picture of South Australia's vulnerable children and their families. This provides a near real-time dashboard to the Department for Child Protection's Child Abuse Report Line to inform decision making at strategic and operational levels. The dashboard features integrated, securely shared data from across government.

Here in WA, the Index of Biodiversity Surveys for Assessment has centralised biodiversity data collected each year. This information helps build a better picture of WA's flora and fauna, supports environmental assessments and improves strategic planning and management.

Data linkage has also helped the Government to develop strategies that ensures better care for our most vulnerable citizens. This has significant socio-economic benefits, identifying children at risk and allowing earlier intervention.

The WA Data Linkage System, which confidentially and securely links data while protecting individual



privacy, has been used in more than 800 projects in universities, government and hospital settings and often involved collaboration with diverse research groups. The use of these integrated data sets has helped inform policy, innovation and research and, importantly, there has not been a single breach of private information since its inception in 1995.

By sharing information and integrating data sets, researchers and policy makers gain new insights into difficult issues and are better able to develop solutions.

Through better access to data and the capacity to engage in data linkage, the State Government can open up the possibility for services to better measure outcomes and demonstrate return on investment, and to better understand risk factors and target at risk cohorts to enable earlier intervention strategies.⁷



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⁶ Government of South Australia. Department of the Premier and Cabinet. Vulnerable Children Project. Available from: <https://www.dpc.sa.gov.au/responsibilities/data-sharing/current-projects/vulnerable-children-project>

⁷ Submission to: Data Linkage Expert Advisory Group, A review of Western Australia's data linkage capabilities 2016

What sort of information can be shared?

The WA Government collects and holds a lot of information. Some is not sensitive, such as information about the environment we live in. Other information is highly sensitive, such as details about an individual's health and financial circumstances.

It is proposed that sensitive information held by the WA public sector be kept confidential unless there are overriding and very important reasons to disclose or share that information.

Sometimes it is necessary to share personal information to ensure community safety. As an example, the WA Government introduced 'No Jab, No Play' laws to allow the Department of Health to protect under-vaccinated children at school during disease outbreaks. In order to achieve this, schools must be able to share the information they hold about children's vaccinations with the Department of Health.

This means the Department of Health can identify children whose vaccines are not up-to-date, so

they can be made to stay safely at home if there is a disease outbreak at their school.

However, in other examples, such as in health researchers exploring links between mental health and the justice system, or Government making informed decisions about where to build new schools, only aggregated, de-identified data is necessary.

In order to provide clarity and to reassure the community, the WA Government is considering which activities it should permit within the proposed legislation, and provide guidance to agencies on approved purposes for sharing information. These might include, for example, activities to ensure better delivery of government services, such as reducing requests for the same information; to protect an individual; or to reduce a threat to health or safety.

There will be scope to exclude particularly sensitive kinds of information from the legislation. These might include, for example, information that relates to criminal investigations or proceedings, or is subject to active police operations.



Data is a rapidly emerging resource that has been described as the new gold. Western Australia's capacity to harness its data and information assets is key to the State's capacity to prosper in the digital era and solve complex societal challenges. This includes building on Western Australia's exceptional data linkage capabilities which have been utilised for decades to solve numerous health challenges. I am pleased to support the development of Western Australian legislation that will facilitate sharing of data whilst protecting privacy.

Professor Peter Klinken AC
Chief Scientist of Western Australia



The Western Australia Aboriginal Health Ethics Committee (AHEC) supports the government's intention to introduce privacy and responsible information sharing legislation and engage with Aboriginal people to look at opportunities to address related issues of concern to them. The Committee encourages Aboriginal people and organisations to engage with this decision making process to ensure the collection, use, disclosure and sharing of data within Government, with authorised third parties and with Aboriginal people themselves, benefits Aboriginal people and their communities.

The Committee was established in 1996 and ensures research decision making processes respect Aboriginal and Torres Strait Islander Peoples and communities, to recognise and understand their rights and responsibilities in being involved in all aspects of research and better understanding the steps involved in making research ethical.



Who would get access to public sector information?

The Government will need to provide clear rules for what information can and can't be shared, who with, and for what purposes.

With changes in technology people are more aware of and concerned about who has access to their data and what it is used for. It proposes only to share information within Government and with authorised third parties so better decisions can be made about the types of services provided and how best to implement them. The Government wants to better tailor services to meet the needs of individuals, families and communities and to gain better insights into the solutions needed to fix complex social problems.

Where appropriate and beneficial, information would be shared within and between public sector agencies, or with authorised third parties. These could include other Australian governments, or non-government organisations providing services to the community on behalf of the Government.

The WA Government also has important relationships with external stakeholders, such as research groups. For example, sharing data could help support better research into child health.



Before a public sector agency could share information, it would be required to ensure the third party is compliant with WA's standards of data sharing, can ensure confidentiality and can deliver on the purposes for which the information is being shared.

Government will be transparent about how information sharing decisions are made, and who information is shared with.

How will the Government ensure that information is shared safely?

The proposed legislation will require public sector agencies to consider privacy in everything they do when collecting or using personal information. Agencies will be legally obliged to ensure the privacy of citizens is a primary consideration.

A structured, risk-based decision-making process will be provided to enable agencies to assess whether information should be shared or not.

It is proposed that this process be built upon the data sharing principles that underpin the Australian Government’s proposed [Data Sharing and Release legislation](#).

The set of five principle-based criteria — Safe

Projects, Safe People, Safe Data, Safe Settings, and Safe Outputs — must be applied and satisfied before an agency can share information with another party.

In making a decision whether to share personal or sensitive information, government organisations will need to be supported to understand potential risks and make informed decisions about whether or not to share information.

The WA Government is also investing heavily in improving public sector cyber security, and will work to build the public sector’s ability to ensure the safety of information.

Five principle-based criteria ⁸



⁸ Adapted from: <https://dpc.sa.gov.au/responsibilities/data-sharing/information-sharing-in-south-australia/sharing-public-sector-data#trusted-access-principles>



In my role as a community health nurse, information sharing is essential to ensure the safety and wellbeing of children together with my own safety in the workplace. More timely and joined up information sharing would assist me to better assess and manage a family's risk with the aim of keeping children, families and community nursing teams safe and well.

As a community nurse this should include information about the child, situations involving family violence, substance misuse or any circumstance which pose a risk to families and/or staff. Whilst we have clear policy which support the safety of nursing teams, children and their families, improved information sharing will be of great benefit in ensuring we all work together to support families and their care providers.

Barbara Colborne

Clinical Nurse, Child and Adolescent Community Health



Who will ensure accountability and transparency?

A key consideration of the consultation process will be determining the appropriate standards for privacy.

The Government is considering the appointment of a WA Privacy Commissioner to support accountability for the public sector in meeting these standards.

It is envisaged a commissioner could facilitate transparency and ensure compliance, be responsible

for promoting privacy within the public sector and ensure privacy principles are upheld.

WA Government is also considering that a Chief Data Officer could be appointed to support the WA public sector in using, sharing, linking and analysing information. The Chief Data Officer would establish and monitor standards for information sharing and advocate for best practice in the use and management of data in the public sector.

What happens if my privacy is breached?

At the moment, if you believe a public sector agency has breached your privacy, there is no specific pathway for complaints to be made and resolved.

It is proposed that a Privacy Commissioner could be responsible for receiving complaints and ensuring

they are resolved appropriately. The handling of privacy breaches in other jurisdictions will be considered in considering the commissioner's responsibilities.



How do I share my feedback?

The Government recognises that privacy is of the utmost important to Western Australians and acknowledges the need to consult thoroughly to ensure any legislation protects the integrity of information while enabling it to be shared in an efficient and safe manner where it is deemed advantageous.

We encourage you to take the time to read the discussion paper in full and share your feedback, either in writing or via our website:

[WA.gov.au/privacyproject](https://www.wa.gov.au/privacyproject)



Email: privacy@dpc.wa.gov.au

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West Perth WA 6872

All feedback must be received by Friday
1st November 2019.



Acknowledgement of Country

The Government of Western Australia acknowledges the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures; and to Elders both past and present.