

Ashley Schofield

SUBMISSION ON PRIVACY AND INFORMATION SHARING

Dear Sir/ Madam,

I have reviewed the discussion paper on possible Privacy legislation in Western Australia and welcome the opportunity to contribute to this debate. The Government is to be supported in soliciting the views of Western Australians on this very important topic. However, I wonder why Governments of both political persuasions have taken 12 years to get to this point.

The problem with the proposed framework is that it is not about privacy protection for individual but providing public sector agencies with the opportunity to exploit existing datasets and information on individuals currently precluded by convention, regulation or data sharing protocols. The framework states quite clearly that *'the WA Government recognises the true value of information can only be achieved by setting it free of organisational silos (page 44)*. This is the true agenda of this framework!

My comments on the proposed privacy framework do not follow your preferred questions, rather they focus on what is missing the discussion paper:

- The discussion paper does not state that the privacy rights of the individual in their transactions with the State are the overriding focus of the proposed legislation and that state government agencies must only share information with the consent of the individual or as de-identified data.
- The paper does not propose to codify the rights of the individual to privacy, including consent and the capacity to withdraw consent at any time, restrictions and/ or enhanced protections for sensitive information and the lawfulness of processing of identifiable information.
- The numerous examples of how health outcomes can be improved with the proposed framework is misleading. Health information is or should be classified as sensitive information and will have higher levels of protection. In addition, most of those health outcomes presented in the paper can be achieved with de-identified data.
- The proposed oversight mechanism of a privacy commissioner should focus on compliance with the capacity to take legal action. This role should provide approvals, not oversight, to exemptions from the privacy principles (page 30).
- The paper does not mention which APPs it will 'follow' only that some may not apply. They are principles and will have application to all agencies except perhaps APP7 (page 28).
- Any proposed legislation should override existing information sharing protocols and agreements, not supplement them (page 33).
- The proposed benefit of a whole of government approach to recognising the value of information omits the key fact that data can only be collected for a lawful purpose within the remit of the agency and would normally be very specific for that purpose. If that data is shared across multiple agencies, is the Government proposing a unique identifier for every WA citizen. This is the hallmark of big brother!

The discussion paper is long on rhetoric but offers little tangible insight into the proposed legislation except to state that it will mirror the APPs and other state legislation. The proposed framework does not recognise that it is my personal information, not the state's data or a public good (unless de-identified). It is clearly written by, and for, data processing professionals, not privacy experts.