

Response to Consultation Paper proposed Digital Identity legislation

Anonymous submission

Before completing your submission you will need to read the Privacy Notice. I have read the above Privacy Notice and understand how my personal information will be used, and I wish to continue.

Yes

Can we publish your submission?

Yes, but I prefer to remain anonymous. Your submission will appear on our website with the name 'Anonymous' in place of any name or organisational name you provide.

I am submitting:

On behalf of an organisation

Q16. Question 1A Are the matters (legal authority, privacy protections, governance, amendments) relevant matters which should be included in the Legislation? Take me to the relevant part of the Consultation Paper | Section 3.1 Purpose of the Legislation

Yes

Q17. If yes, please give more information about why the matters above should be included in the Legislation?

The legislations refers only to the TDIF Framework and makes no provisions for other Frameworks and the facilitating of interoperability.

Q19. Question 1B Are there additional matters which should be considered? Take me to the relevant part of the Consultation Paper | Section 3.1

Yes

Purpose of the Legislation

Q20. If yes, please give more information about what additional matters should be considered?

I think opening up the Framework to the private sector will drive innovation and competition, leading to a better outcome for individuals using the systems.

Q22. Question 2A What matters covered by the TDIF should be incorporated into the primary legislation? Take me to the relevant part of the Consultation Paper | Section 3.2 Structure of the legislative framework Please tick all that apply:

privacy
technical integration matters
fraud prevention measures
accessibility

Q24. Please describe why you think the selected above, including other, is important

Ensuring the interoperability of this Framework with others is a key factor

Q25. Question 2B What matters covered by the TDIF should be incorporated into Operating Rules? Take me to the relevant part of the Consultation Paper | Section 3.2 Structure of the legislative Framework Please tick all that apply:

privacy
service operations
fraud prevention measures
technical integration matters

Q27. Please describe why you think the selected above, including other, is important.

A strong accreditation and onboarding process is key

Q28. Question 2C What matters covered by the TDIF should remain as policy? Take me to the relevant part of the Consultation Paper | Section 3.2 Structure of the legislative framework Please tick all that apply:

security
privacy
fraud prevention measures

Q30. Please describe why you think the selected above, including other, is important	These principles are fundamental to maintain trust in the system
Q31. Question 3Is a publicly available 'Digital Identity Participant Register' an appropriate mechanism to communicate who will be covered by the Legislation? Take me to the relevant part of the Consultation Paper – Section 3.3 Scope of the Legislation	No
Q33. If no, please give more detail about why a publicly available 'Digital Identity Participant Register' is NOT an appropriate mechanism to communicate who will be covered by the Legislation?	There should be constant expansion, the creation of this list is limiting. There is should be a list of non-participants, that would more helpful and hopeful.
Q34. Question 4Are the proposed obligations on relying parties described [see link] reasonable? Take me to the relevant part of the Consultation Paper – Section 3.3 Scope of the Legislation	Yes
Q35. If yes, please give more detail about why the proposed obligations are reasonable?	We want to welcome relying parties
Q37. Question 4[second part] Should there be any additional obligations in addition to the proposed obligations on relying parties? Take me to the relevant part of the Consultation Paper – Section 3.3 Scope of the Legislation.	No
Q40. Question 5Are the concepts outlined [see link] appropriate to include in a definition of 'Digital Identity' for the Legislation? Take me to the relevant part of the Consultation Paper – Section 3.3 Scope of the Legislation.	No
Q42. If no, please give more detail about why the concepts outlined above are NOT appropriate to include in a definition of 'Digital Identity'?	I think there should be room for expansion, we can't predict the future and digital identity might expand beyond our wildest dreams
Q43. Question 5[second part] Are there any additional concepts that should be included? Take me to the relevant part of the Consultation Paper – Section 3.3 Scope of the Legislation	No
Q45. If no, please provide comment	I think it covers the basic concept I simply want to ensure we are not limiting the Framework before we know its full capabilities and functionality
Q46. Question 6Does the legislation need to include a definition of Digital Identity information, or is it preferable to rely on the definitions of personal, sensitive, or protected information in other Commonwealth Acts? Take me to the relevant part of the Consultation Paper – Section 3.3 Scope of the Legislation	No, the definitions in other Commonwealth Acts should be relied upon
Q48. No, the definitions in other Commonwealth Acts should be relied upon - please describe why	I think this leaves the door open on the expansion of digital identity as a concept
Q49. Question 7What factors should be considered in the development of a charging framework for the system? Take me to the relevant part of the Consultation Paper – Section 3.4 Financial sustainability of the System	Market-related pricing, consultation with relying parties on the value of this information to them. Pricing should follow a simple easy to understand the model and provide a level playing field for all participants
Q50. Question 8AWhat factors should be considered in the development of the liability framework? Take me to the relevant part of the Consultation Paper – Section 3.5 Liability	Affordability and ease of understanding for all participants is key
Q51. Question 8BIn what circumstances should Participants be held liable under the liability framework? Take me to the relevant part of the Consultation Paper – Section 3.5 Liability	Liability is only enforced when the cause of the breach can be traced to a specific participants failure to follow due process

Q52. Question 8C What remedies and/or redress should be available to aggrieved Participants and Users for loss or damage suffered as a result of their use of the system? Take me to the relevant part of the Consultation Paper – Section 3.5 Liability	Any grievance should be handled by an Independent Oversight committee member, this should be a transparent process addressed in a case by case manner
Q53. Question 8D What other best practice mechanisms and processes should be considered to support Users when things go wrong? Take me to the relevant part of the Consultation Paper – Section 3.5 Liability	An Australian based, trained contract centre to provide support and guidance on the complaint process.
Q54. Question 9A Should the proposed privacy and consumer protections listed [see link] be enshrined in primary legislation? Take me to the relevant part of the Consultation Paper – Section 4.2 Privacy	Yes
Q55. If yes, please explain why the proposed privacy and consumer protections listed above should be enshrined in primary legislation?	This is fundamental to any Framework. This will build trust
Q57. Question 9B Are additional protections required? If so, what? Take me to the relevant part of the Consultation Paper – Section 4.2 Privacy	No
Q59. If no, please explain why additional protections are NOT required	I think these are quite robust. Consent and the ability for the individual to control their identity are key.
Q60. Question 10A Should the Legislation include rules around the extent of choice available to Users to verify their identity? Take me to the relevant part of the Consultation Paper – Section 4.3 Choice	No
Q62. If no, please explain why the Legislation should NOT include rules around the extent of choice available to Users to verify their identity	I think this will expand in the future and we don't want to be limited by outdated legislation
Q63. Question 10B Should any types, or all types of relying parties be obliged to provide an alternative identity verification mechanism, and what exceptions should be available? Take me to the relevant part of the Consultation Paper – Section 4.3 Choice	No
Q65. Please explain why there should NOT be exceptions available to providing an alternative identity verification mechanism?	I think relying parties should have confidence that the ISPs in the environment are able to offer suitable options for the Identity Owners.
Q66. Question 11A What types of profiling of behavioural information should be prohibited and allowed? Take me to the relevant part of the Consultation Paper – Section 4.4 Restrictions on data profiling	Everything should be IDOC compliant
Q67. Question 11B Should a public register of Attributes be maintained? Take me to the relevant part of the Consultation Paper – Section 4.4 Restrictions on data profiling	No
Q69. If no, please explain why a public register of Attributes should NOT be maintained?	I think this is limiting, allow ISPs and Attribute providers to be creative and drive competition
Q70. Question 11C Should there be additional restrictions on access to Restricted Attributes? Take me to the relevant part of the Consultation Paper – Section 4.4 Restrictions on data profiling	No
Q72. If no, please explain why there should NOT be additional restrictions on access to Restricted Attributes?	I think this is too restrictive and will limit the environment, as long as the Identity Owner consents and the relevant security and privacy protocols are followed, there should be no issue
Q73. Question 12A Are there any other safeguards on Biometric information that should be included in the Legislation? Take me to the relevant part of the Consultation Paper – Section 4.5 Biometrics	No

Q75. If no, please explain why other safeguards on Biometric information should NOT be included in the Legislation?	I believe this is quite robust
Q76. Question 12B Are there any that have been proposed [see link] that should be modified or excluded, and if so, why? Take me to the relevant part of the Consultation Paper – Section 4.5 Biometrics	Yes
Q77. If yes, please explain which safeguards should be modified or excluded, and why?	An in-person check is always preferable and it leads to a huge reduction in fraud, as deep fakes become more accessible I believe we will increasingly revert to in-person verification
Q79. Question 13A Do you agree with the proposed approach on Biometric Information? Take me to the relevant part of the Consultation Paper – Section 4.5 Biometrics	Yes
Q80. If yes, please provide comment on why you agree with the proposed position on Biometric Information	One to one matching reduces bias that can occur with the use of databases
Q82. Question 13B Will the limitations on Biometric information overly constrain innovation or rule out legitimate future use cases? Take me to the relevant part of the Consultation Paper – Section 4.5 Biometrics	No
Q84. If no, please explain how the limitations on Biometric information DO NOT overly constrain innovation or rule out legitimate future use cases	Biometrics is one of a number of verification methods
Q85. Question 14A Should the Legislation specifically provide a mechanism requiring an individual's consent before the User transacts with a relying party? Take me to the relevant part of the Consultation Paper – Section 4.6 Consent	Yes
Q86. If yes, please explain how the Legislation should specifically provide a mechanism requiring an individual's consent before the User transacts with a relying party?	Consent and the control of their own personal information is a key driver for individuals wanting to use this system
Q88. Question 14B Should the Legislation specifically provide an opt-out mechanism enabling individuals to opt-out of the system after they have created a Digital Identity? Take me to the relevant part of the Consultation Paper – Section 4.6 Consent	Yes
Q89. If yes, please explain why the Legislation should specifically provide an opt-out mechanism enabling individuals to opt-out of the system after they have created a Digital Identity?	It is completely up to the individual if they want to continue to use the system or simply opt-out. This is an important option
Q91. Question 15 Should there be a minimum age set for a young person to be permitted to create their own Digital Identity? Take me to the relevant part of the Consultation Paper – Section 4.7 Age	Yes

Q92.What should the minimum age set for a young person to be permitted to create their own Digital Identity be?

14

<p>Q93. Please explain why you chose that age</p>	<p>I think this identity can be linked with a parent or guardian and they can choose to share some information but other information will require the parent/ guardian to consent as well</p>
<p>Q95. Question 16How should the Legislation cover situations where a person lacks capacity, is not capable, is too young or lacks interest or motivation to engage personally with the system? Take me to the relevant part of the Consultation Paper – Section 4.8 Acting on behalf of another</p>	<p>A contact centre with trained staff should be available to assist people who choose not to interact with this system.</p>
<p>Q96. Question 17Should the requirement for a Privacy Impact Assessment (PIA) remain in TDIF accreditation requirements or should it be required in the Legislation or Operating Rules? Take me to the relevant part of the Consultation Paper – Section 4.9 Privacy Impact Assessments</p>	<p>TDIF accreditation requirements</p>
<p>Q97. Please describe why you think the selected above is important</p>	<p>This allows flexibility if more suitable and up to date legislation comes into being</p>
<p>Q98. Question 18In addition to the right to privacy and anti-discrimination in relation to accessibility and disability, how should the Legislation safeguard and ensure the enjoyment of Australians' human rights? Take me to the relevant part of the Consultation Paper – Section 4.10 Human Rights</p>	<p>I think the system does this by providing Identity Owners with choice and control over their identity and how it is used</p>
<p>Q99. Question 19Is the proposed approach to accessibility and usability practical and appropriate? Take me to the relevant part of the Consultation Paper – Section 4.11 Accessibility and anti-discrimination</p>	<p>Yes</p>
<p>Q100. If yes, please explain why this is practical and/or appropriate</p>	<p>The WCAG is fairly standard and will progress as technology improves</p>
<p>Q102. Question 19[second part] Should any other considerations be taken into account? Please list them here: Take me to the relevant part of the Consultation Paper – Section 4.11 Accessibility and anti-discrimination</p>	<p>My primary concern is the inter-operability of different identity frameworks. One identity should open all doors, frameworks should be created with inter-operability in mind as this will create competition, drive innovation and ultimately deliver a better experience for users</p>
<p>Q103 Question 20What additional mechanisms, including penalties and redress mechanisms, should be included in the Legislation to prevent disclosure or misuse of personal or other information? Take me to the relevant part of the Consultation Paper – Section 4.12 Penalties</p>	<p>I can't think of any to add</p>
<p>Q104. Question 21Should the Legislation include provisions to enable the disclosure of information in specified circumstances? Take me to the relevant part of the Consultation Paper – Section 4.13 Disclosure of personal information</p>	<p>Yes</p>
<p>Q105. Please provide detail about what those circumstances should be</p>	<p>Provided that the consent of the individual is provided. If we allow disclosure without consent this will be a huge barrier to trust and this framework will be seen as a branch of government. This will lead to low uptake.</p>
<p>Q107. Question 22Are there established independent bodies that could fulfil the role of an independent Oversight Authority for Digital Identity, or is a new independent body required? Take me to the relevant part of the Consultation Paper – Section 5.1 Independence</p>	<p>Yes - established independent bodies</p>
<p>Q108. Please list which established independent bodies could fulfil this role</p>	<p>To keep costs down and to choose a body that is already trusted by the public. An industry ombudsman are generally a trusted authority</p>

Q110. Question 22B What is the optimal structure of a new body? Take me to the relevant part of the Consultation Paper – Section 5.1 Independence	I believe there should be four sections (to ensure the representation of all interested parties), one dedicated to the operation and security of the Frameworks themselves, one for Identity Service Providers and those providing verification in the environment, Relying Parties section as they are providing the revenue and an Identity Owners section to represent grievances and concerns for Identity Owners.
Q111. Question 23 What types (or types) of information should be required to be publicly reported by the Oversight Authority to increase transparency in the system? Take me to the relevant part of the Consultation Paper – Section 5.2 Transparency	Details regarding privacy and security should be disclosed and the corrective action taken
Q112. Question 24A What is the appropriate period for review of the governance structure of the Oversight Authority? Take me to the relevant part of the Consultation Paper – Section 5.3 Accountability	Annually
Q113. Question 24B Should the Oversight Authority be subject to accountability requirements beyond those in the PGPA Act? Take me to the relevant part of the Consultation Paper – Section 5.3 Accountability	Yes
Q116. Question 25A Are the roles and functions outlined [see link] appropriate for the Oversight Authority? Take me to the relevant part of the Consultation Paper – Section 5.4 Functions and activities	Yes
Q117. If yes, please explain why the roles and functions outlined above are appropriate for the Oversight Authority	These are very extensive
Q119. Question 25B Are there any other functions that should be undertaken by an Oversight Authority? Take me to the relevant part of the Consultation Paper – Section 5.4 Functions and activities	No
Q121. If no, please provide comment as to why other functions should NOT be undertaken by an Oversight Authority	This is an extensive list. They could also look at innovation
Q122. Question 26A What other committees or advisory structures do you think may be needed? Take me to the relevant part of the Consultation Paper – Section 5.5 Advisory committees	I think the interests of all participants should be represented by a board that regularly meets with the Oversight Authority
Q123. Question 26B Which other organisations or bodies could supply members of the Privacy Advisory Committee? Take me to the relevant part of the Consultation Paper – Section 5.5 Advisory committees	I think it is important to have members of the private sector participate
Q124. Question 27 Should the record keeping requirements be outlined in the Legislation? Take me to the relevant part of the Consultation Paper – Section 5.6 Record Keeping	No
Q126. If no, why should the record keeping requirements NOT be outlined in the Legislation?	We need to allow flexibility as technology and market demand change
Q127. Question 28 What best practice models should be considered for the protection and use of the trust mark? Take me to the relevant part of the Consultation Paper – Section 5.7 Trust mark	I cannot offer any insight into this question, other than the use of a trust mark should be protected
Q128. Question 29 Is the proposed approach appropriately balanced to achieve the objectives of the system? Take me to the relevant part of the Consultation Paper – Section 6.1 Consistency across Australia	Yes
Q129. If yes, please explain how the proposed approach is appropriately balanced to achieve the objectives of the system	I am not a legal professional
Q131. Question 30 Should the Legislation specify whether and how audit logs from the system can be used in court as evidence? Take me to	Yes

the relevant part of the Consultation Paper – Section 6.2 Use of audit logs in judicial proceedings	
Q132. If yes, what should the Legislation say?	This needs to be clearly defined
Q134. Question 31 Is the proposed approach appropriate to achieve a high degree of consistency of privacy protections? Take me to the relevant part of the Consultation Paper – Section 6.3 Consistency of privacy protections	Yes
Q136. If yes, please explain why the proposed approach is appropriate to achieve a high degree of consistency of privacy protections	I am not an expert in this feild
Q137. Question 32 Should the Legislation specifically provide that additional administrative decisions relating to the system be subject to merits review? Take me to the relevant part of the Consultation Paper – Section 6.4 Administrative law and judicial proceedings	No
Q139. If no, please explain why the Legislation should NOT specifically provide that additional administrative decisions relating to the system be subject to merits review	We need to build a flexible and adaptable model that can expand can develop as the market demands
Q140. If you have any further feedback on any other aspect of the matters being consulted upon, please provide it here.	I would like to emphasise that having multi interoperable frameworks empowers choice, drives innovation and ultimately will offer the end-user the best experience.