

Digital Identity legislation: what is it?

Factsheet



In 2015, the Australian Government took the first steps to develop a digital identity system after a financial inquiry highlighted the benefits of digital identity for the economy.

Since then, the Digital Transformation Agency (DTA) has developed the Australian Government Digital Identity System (the System) and the policy that sits behind it.

Why do we need legislation?

Currently, Australians use the System to access 80 government services. While many Australians are benefitting from more government services being provided online, legislation is required to enable more state and territory services, as well as the private sector, to participate in the System.

Consumer privacy and protections introduced through the legislation will mean Australians can have confidence in the System as it expands and know that their personal information is safe and secure. Permanent governance arrangements and a strongly regulated regime are additional measures to protect the System and users.

Who is this legislation for?

This legislation provides assurance to **consumers** that their privacy and security is protected.

It is also relevant for **businesses and state and territory governments** who wish to:

- be accredited for the digital identity services they provide under the Australian Government accreditation scheme, or
- participate in the System as an accredited onboarded participant (provides identity services) or a relying party (services that require their customer to verify their identity online).

What are the benefits of the legislation?

Once the legislation is passed, the System will deliver a range of benefits to consumers and business users, service providers, government, and the broader economy.

For **Australians**, this means a safe, secure and convenient way to prove who they are online, and having access to more services and businesses from the comfort of their home at a time that suits them.

This legislation will ensure that Australians have access to a system—governed by legislation and designed with privacy in mind—that they can trust.

For **business**, the legislation means a simpler way to verify their customers. They get access to a market of identity providers certified against the accreditation scheme, giving them and their customers peace of mind. The redress scheme in the legislation means that their customers have protections in the event of a fraud or cyber security incident.

For **entities offering identity services**, the legislation will provide a nationally consistent set of standards

they can choose to accredit themselves against and give them access to government agencies and businesses requiring identity services. The liability scheme in the legislation provides clarity and certainty, and rewards providers who follow the rules.

For **government**, the legislation will improve security and streamline processes across agencies. This will make it easier for Australians to access more government services and decrease the risk of identity fraud.

For the **broader economy**, a whole-of-economy digital identity solution has the potential to save up to \$11 billion in costs to our economy of verifying identities.

Identity fraud also costs Australians, who fall victim, approximately \$900m per year, according to the Australian Cyber Security Centre.

Consultation

Extensive consultation has taken place—not just on the development of the legislation, but also the Trusted Digital Identity Framework (TDIF). The TDIF sets the standards, rules and guidelines for participating in the System. Since 2017, the TDIF has undergone 4 iterations, based on

nearly 6000 contributions from industry, subject matter experts, and other stakeholders. This is important because the TDIF forms the policy basis of the draft legislation.

In 2020 the DTA released a consultation paper seeking views on key concepts and principles, to guide the legislation's development, design, scope and content. From this feedback we developed a position paper in 2021 to consult on the policy positions that would inform the draft legislation.

Throughout this, we've heard from a wide range of stakeholders, including individuals, governments, regulatory entities, jurisdictions, privacy advocates, compliance scheme representatives, corporate Australia, small businesses, peak bodies, and international counterparts.

What's changed since the position paper?

While we recognise not all views can be reflected in the legislation, we have listened and aimed to strike an appropriate balance between the many competing perspectives and the objectives of the digital identity program.

Three key changes which have been made since the release of the position paper are:

1. Introduced new privacy and consumer protections, including clarifying that participating relying parties must help users seek help when affected by a cyber security fraud or a cyber security incident (i.e. in addition to the assistance that must be provided by onboarded accredited participants and the Oversight Authority).
2. Provided further clarity and certainty about which obligations apply to accredited entities onboarded to the Australian Government Digital Identity System versus accredited entities using another digital identity system. There has been no change however, to the principle that only entities who wish to participate are regulated by the legislation.
3. Introducing new restrictions regarding access to and storing of data outside of Australia.

Please read the exposure draft to see all the changes.

What is the charging framework?

We're working to develop a fair and transparent charging framework that will support the expansion of the system and ensure it is sustainable in the long-term. While this isn't included in this legislation, it will be enabled by it.

The charging framework will only apply to businesses and governments who will participate in the System. Australians will not need to pay to use the System.

What's next?

With the release of this draft legislation, another round of public consultation will begin. We are seeking feedback on the draft legislation – the exposure draft to make sure the System meets the expectations of the Australian community.

At the end of this consultation, we will review the feedback and finalise the draft legislation for it to be introduced into Parliament.

Want more information?

Visit digitalidentity.gov.au/have-your-say and download *Your guide to the Digital Identity legislation*.