

25 October 2021
Digital Transformation Agency
50 Marcus Clark Street
CANBERRA ACT 2061

Dear Digital identity Team,

Submission in response to Digital Identity Legislation Phase 3 consultation

Centre for Inclusive Design (CfID) welcomes the opportunity to provide feedback on the Trusted Identity Bill 2021 package for the Digital Identity System. We note that much consultation has occurred in the past three phases. We are broadly supportive of feedback provided by both consumer and privacy groups, particularly around biometrics, privacy and safeguards for consumers.

As such, this submission focuses on four additional aspects across the accreditation rules, TDIF accreditation rules, TDI rules and proposed legislation:

- **Baked-in Inclusion**
- **Digital Accessibility and User Experience** *amendments to current considerations*
- **Protection for non-users** *currently a gap*
- **Decentralisation of data** *currently a gap*

Baked-in inclusion

For a digital identity system to be successful in Australia, it must be inclusive of and accessible to all users. CfID believes the legislation needs to be explicit about the inclusion of diverse groups within the population, particularly those from the margins, including people with different abilities, language, culture, gender, age, vulnerability, location, and other forms of human difference. While current thinking addresses disability and some aspects of vulnerability, it doesn't address the full range of human difference.

To ensure the digital identity is inclusive, CfID recommends adopting an Inclusive design approach. This approach is an ongoing process of embedding human-centered design principles and requires continuous consideration. Inclusive Design means accounting for the uniqueness and diversity of Australia's population and can be optimised through a 'one-size-fits-one' configuration. This process involves designing with, not for, edge users and mapping the user experience for a range of diverse consumers.

This will ensure the process of gaining and using a digital identity is accessible for all users, particularly those who are not considered in mainstream groups. As these groups will be most critically impacted if there is a failure in the system; Inclusive Design is critical.

Digital Accessibility and Usability

CfID supports the Legislation incorporating accessibility requirements. Division 5 of the Bill and Section 7 of the TDIF Accreditation rules are appropriate in their intention. However,

Web Content Accessibility Guidelines (WCAG) are routinely updated and must be adhered to across all digital platforms. This should include not only accredited partners but also onboarding partners. It will ensure that as new accessibility standards are released, web and mobile platforms across the digital identity ecosystem are accessible for all users in the future.

In terms of consistency, the WCAG 2.0 Level AA success criteria is not the correct criteria given that it does not cover mobile applications. The proposed update to WCAG 2.1 Level AA success criteria is currently the correct level; however, it is being updated and will continuously update as technology and requirements change. We believe the appropriate approach would be to future proof the legislation by including successor standards. For example, by the legislation referencing "the most up to date version (or Successor of 2.1 AA) WCAG".

The proposed usability testing requirements are promising but do not highlight the most relevant communities for both useability and user experience testing. CfID recommends that the accreditation rules make it mandatory for accredited partners to explicitly state who they have tested the product in terms of ability, race, sexuality, age, gender, location and vulnerability. An inclusive design framework for the testing of user experience will not only cover mainstream users but will ensure that those most vulnerable are protected by design.

Digital and non-digital interface

CfID is pleased to see that within the proposed legislation, consumers and businesses are empowered to make choices around participating in the digital identity system, and that considerations have been made for the harmonisation with Privacy laws both at a State and National level. We support the notion that all privacy and consumer protection safeguards in the TDIF are also enshrined in law.

Using a digital identity significantly increases cyber risk, particularly for vulnerable communities; consumers and businesses must continue to have the freedom to opt in and out and to be forgotten. Should a consumer choose not to opt-in, non-users should not be prevented from accessing services online via the digital identify system. However, there is a gap in how the digital identity interacts with non-digital systems for help, complaints and other service options. Consumers do not differentiate between services based on the channel but rather expect that all channels work together. Therefore, the connection and relationship between digital identity and other channels must be thoughtfully considered.

Decentralisation of data storage

CfID recognises that within the current Trusted Digital Identity Bill Package, substantial consideration has been given to creating a safe and trusted ecosystem where information is securely stored. However, CfID has concerns surrounding the proposed centralisation of data storage. We believe consumers must have a self-sovereign digital identity and retain the right to be forgotten at any point in time.

As Digital Identity in Australia matures, the system in which it operates will become more complex. Both organisations and consumers will likely have different needs and be more sophisticated in their understanding and requirements around participants. We believe that data sovereignty and the rights of individuals would be more protected under a decentralised data model, similar to models used in other parts of the world. Creating a system that puts more control and choice in the consumer's hands and allows for flexibility in terms of interoperability.

About us

CfID delivers policies, products, services and experiences with inclusivity in mind. Our expertise lies in creating accessible and usable designs that empower edge users and mainstream groups so that more people have the experience they deserve. CfID also hosts the Eastern Chapter of W3C (World Wide Web Consortium).