



## ISSUES PAPER: NEW AUSTRALIAN GOVERNMENT DATA SHARING AND RELEASE LEGISLATION

### RESPONSE FROM THE AUSTRALIAN NETWORK OF UNIVERSITY PLANNERS

1 AUGUST 2018

#### BACKGROUND

The following comments are provided by members of the Australian Network of University Planners (ANUP), a network of senior planning staff from Australian universities. ANUP representatives from Edith Cowan University, the Australian Catholic University, and Murdoch University have contributed to this response. The views expressed here may not represent those of all ANUP members.

Under the *Higher Education Support Act 2003*, universities in Australia are required to provide to the Commonwealth Department of Education and Training, large volumes of data relating to university students, university staff and courses of study. As described by the Issues Paper, the Commonwealth Department of Education and Training is the “data custodian” for higher education datasets, while universities act as, what might be called, data collection agents. Universities understand the importance of data governance and privacy concerns associated with the collection and submission of data.

Universities are also significant consumers of this data. Collaboration on data sharing is well established across the sector, and currently relies upon an arrangement brokered by the peak body Universities Australia, which allows a signatory to the Memorandum of Understanding to access data provided to the Department of Education and Training by all other signatories.

The Australian Network of University Planners brings together expertise in planning, analytics and performance monitoring, and through collaboration arrangements for data sharing, ANUP members are able to provide insights that inform decision-making and drive performance improvement in their universities, and across the higher education sector as a whole.

#### COMMENTS

Feedback on the Issues Paper is restricted to matters relating to public sector data sharing arrangements (questions 21 to 26).

##### **Consistent, comprehensive agreements**

Data sharing agreements must be consistent and comprehensive, using a common template that fulfils all the requirements of the proposed legislation, existing privacy legislation, and the relevant legislation for collection of the data.

##### **Proper disclosure and transparency are vital**

Disclosure, as to the use and distribution of personal information, is vital if public confidence is to be achieved and maintained. This disclosure should be made to the individual at the point of collection and must cover all “downstream” uses of the data. Where additional uses of the data arise after collection – as a result of new data sharing and release arrangements coming into play – these new data uses should be communicated back to the individuals affected.

Discrepancies and conflicting data will become evident in linked or combined datasets, and protocols as to how these will be resolved, must be in place. The responsibilities of an Accredited Data Authority, and the two (or more) data custodians in this regard, should be set down in legislation.

The detail of the disclosure would include: how the data will be used; what derived data will be constructed from the data; and, when data is found to include inaccuracies and/ or inconsistencies, what mechanisms for amendment of source data, and reporting these changes, will apply.

### **Technology is key**

The data sharing and release framework needs to prescribe better use of technology as the means to share information more regularly and frequently across government, to a level of detail that allows the information to inform practice and to be acted on in meaningful ways. Consistent application of technology is also key to insuring the security of this data is maintained within and across government agencies.

As data sharing between government agencies becomes more commonplace, issues arising from the duplication of data and inconsistency between similar data in different government datasets, will become more evident. Technology will also be required to solve these issues.

### **Data sharing by government agencies**

The intent of this legislation is to enable greater access, through new data sharing arrangements, to data already held by Commonwealth government agencies. Given the broad data collection powers of some government agencies, the legislation should guard against the unintended consequence of one Commonwealth government agency using another agency's data collection provisions as a proxy for its own purposes.

The re-design of the current higher education student data submission system offers interesting insights into potential legislative difficulties. The *Transforming the Collection of Student Information* (TCSI) project will see universities continue to collect and submit student data under the requirements of the *Higher Education Support Act 2003*, but new data sharing arrangements between the Department of Education and Training and the Department of Human Services, will allow this second agency "real-time" access to unit level student data, in order to improve its monitoring of financial assistance to students under the *Social Security Act 1991*.

We would be concerned if the proposed legislation resulted in a broader range of agencies having access to disaggregated or unit level student datasets, and the ability of universities to meet requirements for disclosure to students on data use in these circumstances.

### **Clarity on the inclusion of research data**

It is unclear whether, and if so, to what extent, research data falls within the scope of the proposed legislation. A number of universities are currently reviewing their research strategies, and if research data is included, then internal practices will need to be managed to reflect more open data sharing arrangements.

### **Intellectual property restrictions under Commonwealth agreements**

Intellectual property generated through Commonwealth funding agreements is often defined as Commonwealth Material and therefore ownership is vested in the government. However, the capacity for the Commonwealth to make good use of the breadth of information it has ownership of, is limited. We recommend that the proposed legislation takes into consideration the benefits for allowing intellectual property to be used by providers, where this does not impinge on any other data sharing principles. General industry practices and standards, or better practice guides are examples of this.

### **Compliance and reporting obligations**

Care needs to be taken not to increase the compliance burden on the higher education sector as data providers and consumers. The Commonwealth Government's response to the *Review of Reporting Requirements for Universities*<sup>1</sup> in December 2013 committed to reducing the reporting and regulatory burdens on universities and other higher education providers. The response identified duplication and a lack of co-ordination of reporting requirements for the higher education sector, and the tendency of reporting requirements to accumulate over time. In establishing the National Data Commissioner's review powers, the Commissioner's role in ensuring that Australia's data sharing and release framework is underpinned by a strong foundation of privacy and security needs to be balanced with the existing high burden of reporting on universities to numerous government agencies.

### **Consultation and collaboration with universities and industry**

We acknowledge the work undertaken already in consulting the higher education sector and industry. It is possible however, that some views are not represented and as a general principle, we would encourage further consultation and collaboration with individual universities, in order to understand the implications of the proposed legislation on each institution.

**END**

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<sup>1</sup> Australian Government. (2013). *Government Response to the Review of Reporting Requirements for Universities*. Retrieved from [https://docs.education.gov.au/system/files/doc/other/government\\_response\\_to\\_review\\_of\\_reporting\\_requirements\\_for\\_universities.pdf](https://docs.education.gov.au/system/files/doc/other/government_response_to_review_of_reporting_requirements_for_universities.pdf)