



Our ref: PDL:BMml280624

28 June 2024

Dr James Popple
Chief Executive Officer
Law Council of Australia
PO Box 5350
Braddon ACT 2612

By email: Jessica.Morrow@lawcouncil.au

Dear Dr Popple,

Digital ID Rules, Accreditation Rules and Data Standards Consultation

Thank you for the opportunity to contribute to a Law Council of Australia's submission to the Department of Finance (**the Department**) on the Digital ID Rules, Accreditation Rules and Data Standards. The Law Society's Privacy and Data Law Committee contributed to this submission.

The Law Society recommends that the Department further consider the implementation of consent mechanisms, and how this would work in the context of a broader privacy framework and take up of the services. We note the work being undertaken as part of the Review of the *Privacy Act 1988* and specifically the attention given to consent and privacy default settings.¹ It will be important to have a consistent approach that avoids fragmentation and supports interoperability.

Currently, the Digital ID Accreditation Rules require an accredited entity with public-facing accredited services to ensure that 'the process and description for an individual to provide express consent, or to withdraw or vary that consent, is in clear, simple and accessible terms' (Rule 4.40), when obtaining the express consent of an individual.

There does not appear to be guidance on the specific mechanisms that may be used when obtaining consent, either in the Digital ID Accreditation Rules or the Data Standards. We are concerned that consent requirements, if perceived by customers to be overly cumbersome or burdensome, even if expressed in clear and accessible terms, might deter customers from availing themselves of the right of consent.

We also recommend that the Department take note of lessons learnt in other Commonwealth or State government agencies, given the increasing number of digital ID systems that are being used in government services, such as myGovID and the NSW Digital ID.

Any questions in relation to this letter should be directed to Mimi Lee, Policy Lawyer on (02) 9926 0174 or by email: mimi.lee@lawsociety.com.au.

Yours sincerely,

Brett McGrath
President

¹ See proposal 11, Attorney-General's Department (Cth), *Privacy Act Review*, Report (2022) 8.