

Dear Secretary,

I apologise but my responses to questions on notice are a day late.

In response to the question on notice about what are 'the privacy protections in the digital ID bill that you think, as a bare minimum, need to be included in this bill', I say the following:

The Digital Identity Bill (public exposure draft) contains a range of privacy protections in addition to current privacy laws. A number of these provisions could be usefully repurposed and inserted into the IVS Bill. Some amendments would be required in some contexts. But at a general level, we recommend including the following provisions from the Digital Identity Bill:

- a 33 - an expanded definition of personal information
- s 34 - an expansion of the application of privacy protections beyond just APP entities
- s 36 - a provision that means that relevant contraventions are taken to be interferences with privacy, for the purposes of the Privacy Act
- s 40 - an additional role for the Information Commissioner of providing advice
- s 41 - a prohibition on collection of certain information (acknowledging that some of these prohibitions may not be workable given the nature of the IVS scheme)
- s 42 - requirements around express consent, which would require additional amendments
- s 43 - penalties for disclosure of restricted attributes without consent (acknowledging that some of these prohibitions may not be workable given the nature of the IVS scheme)
- s 45 - restrictions on biometric information, which as for s 42, would require additional amendments with respect to consent. The other clauses relating to biometric information could potentially be appropriate for this bill, but may be unworkable depending on the status of other amendments
- s 50 - prohibition of profiling
- s 51 - prohibition on use of personal information for enforcement purposes
- s 52 - prohibition on use of personal information for marketing purposes

In response to the second question on notice about criminal penalty clauses 'and whether there are any amendments or things that you would suggest' I say the following:

We note that the above provisions from the Digital Identity Bill often commonly involve civil penalty orders associated with violations. We would recommend a similar regime apply for the IVS Bill. In particular, we note the utility of expanding the consequences associated with a contravention (under s 36 of the Digital Identity Bill) which would allow this legislative regime to improve in the event the Privacy Act is reformed.

Thank you so much for your consideration of this material and I apologise for the delay.

On Tue, Oct 31, 2023 at 10:34â€AM Legal and Constitutional, Committee (SEN)
<LegCon.Sen@aph.gov.au> wrote:



THE SENATE

LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE

Dear Witness,

**Inquiry into the Identity Verification Services Bill 2023 and Identity Verification Services
(Consequential Amendments) Bill**

An electronic copy of the proof *Hansard* transcript of evidence for the committee's hearing in **Brisbane on Monday, 30 October 2023** is attached to this email.

If you consider corrections to the transcript are needed, please mark them in red on a soft copy and return to the secretariat by **close of business Monday, 4 December 2023**.

Corrections should be restricted to typographical and transcription errors. Suggested changes which alter the sense of the evidence or which are designed to improve style are not permitted. Any variations or additions to the evidence you provided at the hearing must be done by separate letter or in a supplementary submission.

Please note that corrections suggested by a witness may not necessarily be accepted by the committee and that the committee may also make its own corrections to the evidence.

If you do not wish to make any corrections, please also advise the secretariat by return email. The official *Hansard* will then be prepared and printed.

The deadline for **answers to questions on notice** is **close of business Monday, 6 November 2023**. The committee would be grateful if you could identify the questions you have taken on notice from the attached *Hansard* and return the answers if you have not already done so.

I take this opportunity on behalf of the committee to thank you for your assistance with this inquiry.

Yours sincerely

Ms Sophie Dunstone
Committee Secretary

PO Box 6100, Parliament House Canberra ACT 2600 Tel: (02) 6277 3560

Email: legcon.sen@aph.gov.au Internet:

www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs