



**Australian  
Human Rights  
Commission**

**Human Rights Commissioner**  
**Lorraine Finlay**

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Senate Standing Committee on Legal and Constitutional Affairs

By email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

## **Identity Verification Services Bills**

The Australian Human Rights Commission (Commission) welcomes the proposed *Identity Verification Services Bill 2023* and *Identity Verification Services (Consequential Amendments) Bill 2023* (Verification Services Bills) which would establish a legislative framework for the operation of identity verification services. It is of the utmost importance that identity verification services are regulated and that those regulations have built-in privacy protections.

The Commission has previously made substantive submissions on the Verification Services Bills' predecessors, the [Identity-matching Services Bill 2018](#) and [Identity-matching Services Bill 2019](#). These past submissions discussed the human rights impacts of previous iterations, with a particular focus on the right to privacy as enshrined in article 17 of the *International Covenant on Civil and Political Rights*.

The Commission's past submissions were considered and substantive, providing detailed analysis and recommendations. The Commission would have welcomed a longer timeframe to respond to the current Verification Services Bills in a similarly substantive manner. This proposed legislation is highly technical and may have serious implications for broader legislative frameworks. Given the short timeframe, the Commission has opted to provide a shorter letter submission.

The Verification Services Bills promise to allow organisations to verify identity in a manner which is secure and private. In doing so, the Verification Services Bills rely on existing legislation, including the *Privacy Act 1988* (Cth) (Privacy Act). This raises immediate concerns for the protection of personal and identification information. The Privacy Act is currently under review, as the Attorney-General's Department seeks to modernise the legislation. This review is intended to lead to meaningful and needed reform, with the Attorney-General's Department making over 100 proposals for change to the Privacy Act in its [Review Report](#). The Commission has previously made its own [submission](#) on the Privacy Act, which noted several issues with the proposals suggested.

We note that the [Government response to the Privacy Act Review Report](#) was released on 28 September 2023. We welcome the progress that is being made towards comprehensive reform in this area and note that the Government response itself recognises that there is still work to be done before the reform process is completed.

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Given this, we have concerns about proceeding with the Verification Services Bills (which rely upon the yet-to-be-modernised Privacy Act, before the privacy law reform process is completed. For this reason, the privacy protections built into the Verification Services Bills are currently incomplete and not appropriate to safeguard privacy against verification technologies. The Privacy Act reforms must be completed before the Verification Services Bills are enacted.

Should the government decide to proceed with passing the Verification Services Bills prior to reforming the Privacy Act, an additional privacy-focused review mechanism should be included. Such a mechanism would ensure that 12 months after receiving royal assent, the Verification Services Bills would be reviewed alongside the Privacy Act to ensure that subsequent privacy reforms are adequate to protect individuals' data. Should privacy reform still be ongoing, the Verification Services Bills should be reviewed at 12-month intervals until the Privacy Act reforms are passed. Then a final examination of the interaction between the Privacy Act and Verification Services Bills should be undertaken with the aim of determining the adequacy of privacy protection for individuals.

Another solution while the Privacy Act is under review, would be to create a privacy framework specifically for the Verification Services Bills. This may offer a solution in the short to medium term, while waiting for the Privacy Act reforms to be finalised. However, a distinct privacy framework would further complicate the already highly technical privacy legislative landscape – which is why reliance on a reformed Privacy Act is preferred.

Despite the technical and complex nature of the Verification Services Bills, the short timeframe allowed for providing a submission meant that the issues discussed in this letter could not be further explored and presented in a constructive manner. We would welcome the opportunity to discuss these issues further.

Yours sincerely

Lorraine Finlay  
**Human Rights Commissioner**