Australian Government

AUSTRALIAN GOVERNMENT'S RESPONSE TO THE ACCESS CARD CONSUMER AND PRIVACY TASKFORCE'S ADVICE TO THE

MINISTER FOR HUMAN SERVICES

REPORT NUMBER 1

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NOVEMBER 2006

About this Report

On 24 May 2006, the Minister for Human Services announced the establishment of the Access Card Consumer and Privacy Taskforce to report on consumer and privacy issues arising from the Australian Government's introduction of a new health and social services Access Card.

The Taskforce is chaired by Professor Allan Fels AO, former Chair of the Australian Consumer and Competition Commission and assisted by Professor Chris Puplick AM, former New South Wales Privacy Commissioner and Mr John Wood, former Deputy Commonwealth Ombudsman.

The Report, informed by the views of 120 representative groups and over 100 public submissions, makes 26 recommendations, the majority of which are supported by the Australian Government.

This is the Australian Government's response to the recommendations of the Report.

The Australian Government acknowledges the significant work of the Taskforce members in bringing the views and concerns of individuals and community groups to bear on the development on the Access Card project. In particular the Australian Government expresses its appreciation to Professor Fels, Professor Puplick and Mr Wood, as well as the supporting Secretariat.

Response to the Taskforce's recommendations

The Government's case for the card

Recommendation 1. The Participating Agencies continue to develop comprehensive programmes to ensure that their staff are well informed about the whole Access Card proposal and that this information is kept up to date on a regular basis.

Recommendation 2. Participating Agencies further develop written material and website material which will inform interested members of the public and clients of the Agencies about Access Card proposals.

Recommendation 3. In this process, clarification be given about the way in which data provided to Centrelink and Medicare is treated/transferred/shared or made accessible within the rest of the Australian Government and the protection, which exist in the current legislation in relation to such matters.

Recommendation 4. Policy and supporting rationale be (re-)stated in the response to the strongly argued view that there should be two cards issued under the Access Card.

Response

The Australian Government supports Recommendation 1.

The Department of Human Services has established a Communication Working Group represented by participating agencies. Fact sheets, newsletters and other information provision have been and will continue to be provided to the agencies and their staff. A comprehensive staff training program will also be undertaken to ensure that accurate information can be provided to the Australian community.

The Australian Government supports Recommendation 2.

The Australian Government is developing a public information program which will address issues pertaining to card registration, the card operation system and the proposed legislative consumer protections

The Australian Government supports Recommendation 3.

Clarification will be provided about the way in which data is treated / transferred/ shared within the Government and the protections that exist in current legislation and protections that are proposed in the Access Card legislation. Existing privacy, confidentiality and other legislative protections of information will be upheld and will not change with the introduction of the Access Card. The proposed Access Card legislation will provide additional protections unique to the Access Card and its operation.

The Australian Government supports Recommendation 4.

The Australian Government supports the conclusion reached by the Consumer and Privacy Taskforce that one card, rather than two, better serves consumers.

One card rather than two enhances privacy as the relationship between an Access Card holder and any particular agency cannot be established by reference to the type of card they hold.

The suggestion for a second card arose from concerns about the bringing together of databases on medical and other information. These concerns are unwarranted. Each participating agency (including Medicare Australia and Centrelink) will maintain their own information and separate databases, as they currently do.

Consumer Benefits

Recommendation 5. The Government clarifies what applications will be available when the first cards are issued. This information should be available as soon as possible and before the issue of the first Access Card. The Government should also outline procedures for the consultation and resolution of privacy issues before any decisions are taken on the addition of any new applications.

Response

The Australian Government supports Recommendation 5.

The Australian Government will implement the Access Card as indicated for the purposes of access to health and social services. New functions at this stage are ruled out. Consultation on possible future functionality or applications which may be included on later generations of the Access Card will occur in a transparent way.

The Australian Government's public information program will inform the public about where they can go to find more information about the card, how it will work including card functions, and its benefits to individuals and the community.

The Australian Government has committed to an open and transparent consultative process evident by its approach to consumer and privacy matters.

The need for a legislative basis to the Access Card

Recommendation 6. A comprehensive legislative framework be developed for the Access Card scheme.

Recommendation 7. Suggestions received in Taskforce submissions and the views of the Taskforce itself be taken into account as these are developed.

Response

The Australian Government supports Recommendation 6.

There will be a proposed legislative framework

It is proposed that the Access Card legislation will:

- Provide for the introduction of the new card to access Australian Government benefits and services;

- Set out the purpose (functions) of the card and register;
- Define information to be collected and stored;
- Clearly set out prohibitions and protections unique to the Access Card;
- Vest ownership of the card in the consumer; and
- Address other matters to do with effective implementation of the card scheme not specified in existing laws due to the card's unique nature.

Most importantly, legislation will ensure that the Access Card is:
- <u>Not</u> a national identity card;
- <u>Not</u> required to be carried at all times; and
- <u>Not</u> able to be demanded outside health and social service purposes.

Access Card legislation will be consistent with existing laws that protect privacy and information disclosure.

The Australian Government will ensure that there is legislative protection for consumer security to maintain the integrity of the system and flexibility to enable the consumer to customise their card with voluntary information offering choice.

Access Card legislation is most likely to be introduced in tranches as some legislation will need to be informed by further development on the planned operations of the Access Card system.

The Australian Government supports Recommendation 7.

The Australian Government through the Office of Access Card, will continue to consult closely with the Consumer and Privacy Taskforce, State and Local Governments and the community in order to address community issues as and when they arise.

Ownership of the Access Card

Recommendation 8. The Government clarify the matter of who 'owns' the Access Card and desirably vest this ownership in the individual cardholder subject to some limitation on inappropriate usage as suggested above.

Response

The Australian Government supports Recommendation 8.

The Australian Government has decided that the ownership of the card will be vest in the consumer. This will be enshrined in the Access Card legislation.

Disability Feature

Recommendation 9. A feature be built into the Access Card itself to render it as disability-friendly as possible and that all Access Cards be produced in this way.

Response

The Australian Government supports Recommendation 9.

The Australian Government is studying the submissions made to the Taskforce and is examining features of cards overseas to determine what features will be useful to people with disabilities.

The name on the card and in the database

Recommendation 10. The Government decide now that people will be entitled to have the choice of which name they wish to have appear on the face of the Access Card provided that this choice is not misleading or deceptive as to the person's identity and the chip and the SCRS hold details of other names by which the cardholder is, or has been known as well as their legal (i.e. birth certificate as issued or amended) name.

Response

The Australian Government supports Recommendation 10.

The Australian Government recognises there are legitimate reasons why consumers would want to have a name displayed on the Access Card which may differ from their legal name. The Australian Government has agreed to the use of the preferred name on the face of the Access Card. Although there will be an option of nominating a preferred name, within prescribed parameters, a person's full legal name will be recorded on the card chip and register. Card readers will be available to enable access to the legal name with the permission of the individual cardholder. The individual will need to consent to hand over the card and key in their PIN where they have opted to PIN protect this information.

Photographs on the card and in the database

Recommendation 11. The Government note that there have been numerous submissions put to the Taskforce in support of the principle that the photograph on the face of the card should be voluntary rather than compulsory and that as a result there is some merit in the Government revisiting this decision, bearing in mind that a determination needs to be made against the need to maximize the integrity of the system for personal identification of cardholders and noting the Taskforce's position on this issue which, at this stage, supports the use of a mandatory photograph on the card, with the destruction of old photographs when new ones are taken for card reissue or replacement.

Recommendation 12. However wherever the photograph is to be stored (on the card chip or in the SCRS) there is great merit in considering the storage of the photograph in the form of a template. In the event that it is decided to maintain a real photographic database, this should as far as practical be clearly separated from the template database and all photographs should be stored in a manner that ensures that rigorous controls are in place to prevent unauthorised access and improper disclosure.

Recommendation 13. The Government, as part of its Access Card proposal commence a programme to publish information which allows a better understanding by the public of exactly what is involved in the technology of facial biometric recognition in relation to the Access Card programme.

Response

The Australian Government supports Recommendation 11.

The Government supports the conclusion reached by the Consumer and Privacy Taskforce that a mandatory photograph is required to ensure the success of the system.

The Australian Government has received positive feedback from many clients of the participating agencies including the Department of Veterans' Affairs, welcoming this feature.

The Australian Government partially supports Recommendation 12.

The storage of the photograph as a template rather than a high resolution biometric photograph would have a negative impact on customer convenience, cost, the effective operation of the registration system, and on card operation particularly for offline options.

Rigorous access controls will be put in place to ensure the highest level of security and that photographs are stored in a manner to prevent unauthorised and improper disclosure.

The Australian Government supports Recommendation 13.

The Australian Government is developing a public information program to let people know where they can find more information about the card. This includes the development of a website which has information that will assist in the better understanding of what biometric photographs are and how they support the integrity of the Access Card system by emphasising security and privacy protection for the consumer.

Storage

> **Recommendation 14.** The Government make clear the current policy on the length of time and the public policy or legislative basis upon which data is held by Participating Agencies, and the arrangements by which data is removed from the system.

Response

The Australian Government supports Recommendation 14.

Legislative record storage, archival and destruction practices in participating agencies will not change with the implementation of the Access Card and as recommended by the Taskforce, the Government will make those practices public.

The introduction of the Access Card provides the Government with an opportunity to explore legislation and business process with a view to eliminating the holding of unnecessary records. It is proposed that this practice will extend to old photographs as new photographs are taken for replacement or expired cards.

Digitised Signatures

> **Recommendation 15.** In line with its previous recommendation, further work be undertaken to assess the value and utility of including the digitised signature on the Access Card itself, noting that the Taskforce's preferred position is for it not to be included, and that
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> **Recommendation 16.** In line with its previous recommendation and for the same reasons, if a digitised signature is to be included in the architecture of the Access Card then its storage in the database be stored in a manner that ensures that rigorous controls are in place to prevent unauthorised access and improper disclosure.
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> **Recommendation 17.** A process be established in which the Taskforce, the Lead Advisor and the Chief Technology Architect consult to address the questions of what technology is both available and of best assurance to maximise the security of the card and the database in relation to the storage (in whatever form) of the photographs, signatures and other data to be collected from individuals. Further that no final decisions on the security architecture be made without the advice of these parties.

Response

The Australian Government does not support Recommendation 15.

The Australian Government has consulted widely in its assessment on the value of a digitised signature concluding that a digitised signature on the card provides greater utility and security for the cardholder.

The Australian Government supports Recommendations 16 and 17.

The Australian Government has already established open and effective communication channels between the Access Card Consumer and Privacy Taskforce, the Lead Adviser and the Chief Technology Architect. These

people will continue to inform and guide the development of the Access Card system.

The Card Number

> **Recommendation 18.** The Government notes the Taskforce's conclusion that there is a strong case for the number to be removed from the reverse of the card and reconsider the decision that the Access Card itself displays a card number, instead storing the number out of plain sight in the chip and the SCRS. In the alternative, the Government give consideration to making the inclusion of a unique number on the reverse of the card a matter of genuine choice for the individual cardholder.

Response

The Australian Government does not support Recommendation 18.

The card number is integral to the business operations of the Department of Veterans' Affairs, Centrelink and Medicare Australia, their customers and third parties. The number provides the means for service delivery, particularly for telephone and internet based services.

The Department of Veterans' Affairs has stressed the need for the retention of the number on the card for health and service provider business operations and the convenience of their clients.

Concerns in relation to fraudulent use of the Access Card number are dealt with by robust proof of identity 'secret' questions and PINs that will continue to be applied to all business transactions between the consumer and participating agencies.

The Access Card number is an additional protection for the consumer. The Access Card number will be the only number printed on the card. Medicare, Centrelink and Department of Veterans' Affairs card numbers will not be visible. This safeguards the consumer against inappropriate access to services and benefits offered by the agencies, should the card be lost or stolen.

The Expiry Date on the Card

> **Recommendation 19.** Consideration be given to listing the month and year of the Access Card expiry on the card itself.

Response

The Australian Government supports Recommendation 19.

Card expiry dates are a good idea because cards will need to be replaced due to general wear and tear and for the updating of photographs. Listing the expiry date on the Access Card provides consumers and service providers assurance that the card being presented is a valid card. It also serves as a reminder to consumers when they are required to get a new card.

Scanning / Copying of Proof of Identity documents

Recommendation 20. POI documents should not be scanned, copied or kept on file once those POI documents have been verified.

Response

The Australian Government partially supports Recommendation 20.

The Government believes there is merit in examining existing arrangements. The Government will explore relevant legislation and business process with a view to implementing this recommendation.

Emergency medical and other data on the card

Recommendation 21. The Taskforce itself be authorised by the Government to consult further with representatives of all identified parties, to develop recommendations about the manner in which emergency health data should be incorporated within the Access Card programme and to subject any initial recommendations to extensive public exposure and comment before making final recommendations to the Government.

Response

The Australian Government supports Recommendation 21.

The Australian Government believes that further consultation is warranted. The Consumer and Privacy Taskforce will lead these consultations and provide further advice to Government.

Many of the submissions to the Consumer and Privacy Taskforce and customers of participating agencies are supportive of the inclusion of voluntary emergency contact and emergency health information on the Access Card.

Systems / Chip capacity

Recommendation 22. The advice which the Taskforce has received on this issue, in response to the suggestions made to it about chip capacity be made public.

Response

The Australian Government supports Recommendation 22.

The Australian Government is developing a public information program to inform people about what is proposed on the chip. Chip capacity has not yet been finalised however this information can easily be published on the website when it becomes available.

Matters of technology security and controls are of great importance and as such are a priority for the Chief Technology Architect.

Emergency / Disaster relief functionality

> **Recommendation 23.** The proposed use of the Access Card for emergency/disaster relief purposes be clarified in a way which addresses the concerns raised to date in Submissions to the Taskforce.

Response

The Australian Government supports Recommendation 23.

The Australian Government will provide emergency and disaster relief payments as a feature of the Access Card and will continue to consult with the Consumer and Privacy Taskforce.

Concessions

> **Recommendation 24.** A priority be given to resolving the issues arising in relation to the operation of the concessions system and that the options or decisions be explored in a way which allows informed public input to the final decision making process.

Response

The Australian Government supports Recommendation 24.

The Australian Government is conscious of the complexity of administering concessions by the Commonwealth, States and third parties. Further work will be undertaken to ensure that existing concessions continue to be easily obtainable.

The Lead Adviser and Chief Technology Architect supported by a stakeholder working group, is tasked with exploring solutions that will:

- Offer choice to consumers as to how concession status can be visible and verified with concession providers;
- Ensure a robust and accurate validation environment for concession providers, mindful that concession status, for some consumers, changes often; and
- That consultation with stakeholders continues.

The Secure Customer Registration Service (SCRS): The Architecture of the central database

Recommendation 25. Further work be undertaken involving all relevant parties, including the Taskforce, seeking the advice of external experts, (DSD, ASIO, AFP, etc) to evaluate the proposed security architecture of the Access Card to ensure that it optimises security, privacy and consumer convenience.

Response

The Australian Government supports Recommendation 25.

The Office of Access Card, in the Department of Human Services has established a process to consult relevant security experts including the Defence Signals Directorate, ASIO, the Australian Federal Police and accredited specialist IT security assessors. The security architecture will be supported by rigorous access controls, logging and auditing.

Consistent with the Government's response to Recommendation 17, the Consumer and Privacy Taskforce will be included in these discussions.

Conclusion

Recommendation 26. After consideration by the Minister, this Report be made public.

Response

The Government supports Recommendation 26.

Copies of the Taskforce report and this Australian Government response are available on:

http://www.australia.gov.au/accesscard