



**Australian Government**  
**Australian Digital Health Agency**



## **Privacy and Security Advisory Committee Charter**

4 April 2017  
Approved

# 1 Purpose

The Australian Digital Health Agency (the Agency) commenced operations in July 2016 to lead the digital transformation of healthcare to create a better health system and enable Australians to make more informed decisions about their health.

The Agency is governed by a [skills based Board](#) and is supported by several expert Advisory Committees, including the Privacy and Security Advisory Committee.

The Privacy and Security Advisory Committee will:

- examine legal issues in relation to digital health system, including the following issues:
  - copy right issues;
  - data privacy issues;
  - confidentiality issues;
  - data security issues;
  - legal liability issues
- provide advice to the Board about issues examined under para a) above; including interim solutions to problems arising from such issues;
- make recommendations to the Board about the long-term legal framework of digital health systems;
- monitor privacy and security issues in relation to digital health systems and to provide advice to the Board on the resolution of any problems arising from such issues;
- provide advice and recommendations to the Board in relation to standards (including compliance with standards) relating to privacy and security on relation to digital health systems;
- provide advice to the Board about the privacy and security issues encountered by users of digital health systems.

## 2 Composition and Operation

The Australian Digital Health Agency (the Agency) was established by the *Public Governance, Performance and Accountability (Establishing the Australian Digital Health Agency) Rule 2016* (Rule), which also sets out the composition and operations of the Advisory Committees. This Charter operates within the broader framework of Part 6 of the Rule.

### 2.1 Membership

The Privacy and Security Advisory Committee consists of a Board member (other than the Board Chair) and up to 10, other members.

The Board member must be the Board member appointed for his or her skills, experience or knowledge in the field of developing, implementing and managing national digital health policies, strategies and services and must be a SES officer in the Department of Health nominated in writing by the Secretary of the Department.

A person is not eligible to be appointed as a member of the Privacy and Security Advisory Committee unless the person:

- a) Is a legal practitioner with experience in legal privacy issues; or
- b) Is a representative of the Privacy Commissioner; or
- c) has experience in the performance of functions relating to privacy in a State or territory agency responsible for privacy issues in the State or Territory; or
- d) is a member of the Consumer Advisory Committee with skills, experience and knowledge in consumer health advocacy; or
- e) is a registered medical practitioner; or
- f) is a medical practitioner with specialist registration; or
- g) is a legal practitioner with experience in medical litigation; or
- h) a medical insurance representative; or
- i) has expertise in cybersecurity software.

## **2.2 Appointment of Chair**

The Chair of the Privacy and Security Advisory Committee is the Board member appointed for his or her skills, experience or knowledge in the field of developing, implementing and managing national digital health policies, strategies and services who must be a SES officer in the Department of Health nominated in writing by the Secretary of the Department.

## **2.3 Appointment of Committee Members**

Members, (other than a Board member) are to be appointed by the Board, by written instrument, on a part time basis.

Before the Board appoints a person to the Privacy and Security Advisory Committee the Board must consult the Health Minister and all the State/Territory Health Ministers.

## **2.4 Term of membership**

A person appointed to the Privacy and Security Advisory Committee (other than a Board member) holds office for the period, not exceeding three years, specified in the instrument of appointment.

A Board member appointed to the Privacy and Security Advisory Committee will hold office for the same term as their Board appointment. When membership on the Board ceases, their position as a Board nominee on the Privacy and Security Advisory Committee, will also cease.

Appointments to the committee are made on a skills basis and are not generally representational in nature. Therefore if a person no longer holds a particular professional role, the Board will consider ongoing membership of the committee on a case by case basis.

## **2.5 Board direction**

The Board may give directions to the Privacy and Security Advisory Committee relating to the assistance that the committee is to provide to the Board. The committee must comply with those directions.

## **2.6 Powers**

The Privacy and Security Advisory Committee may, subject to the required membership and Chair appointments by the Board and any written directions of the Board, determine its own procedures.

Reports or recommendations from the Committee to the Board are prescribed under Part 9 of the Rule – Reporting as being a document that, once received by the Board, must, as soon as practicable after the Board has received it, be advised as available to State/Territory Health Ministers. If a request for the information is received the Board must give the report, document or information to the State/Territory Health Minister within 30 days after the request was made to the Board.

## **2.7 Other terms and conditions**

A Privacy and Security Advisory Committee member holds office on the terms and conditions (if any) in relation to matters not covered by the PGPA Rule that are determined by the Board.

## **2.8 Acting Chair and Committee Member arrangements**

The Board Chair may, by written instrument, appoint a person to act as a member of the Privacy and Security Advisory Committee during a vacancy in the office of a member of the committee (whether or not an appointment has previously been made to the office) or during any period, or during all periods, when a member of the committee is absent from duty or is, for any reason, unable to perform the duties of the office of the member.

A person must not be appointed to act as a member of the committee for more than 6 months.

A person is not eligible for appointment to act as member of the committee unless the person is eligible for appointment as a member of the committee.

## 3 Remuneration, allowances and Leave Arrangements

### 3.1 Remuneration of Committee Members

A Privacy and Security Advisory Committee member is to be paid the remuneration that is determined by the Remuneration Tribunal.

Remuneration and Allowances for the Australian Digital Health Agency Board's Privacy and Security Advisory Committee are described in [2015-20 Remuneration and Allowances for Holders of Part-Time public office](#).

However, a Privacy and Security Advisory Committee member is not entitled to be paid remuneration if he or she holds an office or appointment, or is otherwise employed, on a full-time basis in the service or employment of:

- a State; or
- a corporation (a public statutory corporation) that:
  - is established for a public purpose by a law of a State; and
  - is not a tertiary education institution; or
  - a company limited by guarantee, where the interests and rights of the members in or in relation to the company are beneficially owned by a State; or
  - a company in which all the stock or shares are beneficially owned by a State or by a public statutory corporation.

### 3.2 Travel, allowances and expenses

Business and travel expenses and will be in accordance with the *Agency Travel, Allowances and Business Expense Policy*. This Policy aligns with public sector expense standards such as 'best fare of the day' economy class travel for domestic flights. A copy of the Policy is available on the Agency website.

### 3.3 Leave for Privacy and Security Advisory Committee members

The Board Chair may grant leave of absence to a member of the Privacy and Security Advisory Committee on the terms and conditions that the Board Chair determines.

The Board Chair must notify the Minister for Health and all the State/Territory Health Ministers if the Board Chair grants a member of the Privacy and Security Advisory Committee leave of absence for a period that exceeds 3 months.

## 4 Committee Members' Responsibilities

The Privacy and Security Advisory Committee subscribes to conflict of interest principles set out in the Australian Public Service Commission's [\*Values and Code of Conduct in practice: A guide to official conduct for APS employees and agency heads\*](#).

### 4.1 Confidentiality

All deliberations, decisions and activities of the Privacy and Security Advisory Committee are confidential unless expressly stated by the Chair (or, in the absence of the Chair, any other person presiding over a meeting) or his or her delegate.

### 4.2 Disclosure of Interests and Conflicts

At each Privacy and Security Advisory Committee meeting (including meetings convened by teleconference or other form of electronic communication), the Privacy and Security Advisory Committee Chair must seek declarations of interests from all Privacy and Security Advisory Committee members present. A Privacy and Security Advisory Committee member who has a material personal interest in a matter that relates to the affairs of the Agency must give the other Privacy and Security Advisory Committee members notice of the interest.

The notice must give details of:

- The nature and extent of the interest; and
- The relation of the interest to the affairs of the Agency; and
- Be given at a Privacy and Security Advisory Committee meeting as soon as practicable after the Privacy and Security Advisory Committee member becomes aware of his or her interest in the matter.

The details must be recorded in the minutes of the meeting. Additionally, the Australian Digital Health Agency Privacy and Security Advisory Committee secretariat must retain all details of interests declared and all standing notices of interest.

### 4.3 Restrictions on outside employment

A member of the Privacy and Security Advisory Committee member must not engage in any paid employment that, in the Board's opinion, conflicts or may conflict with the proper performance of his or her duties on the Privacy and Security Advisory Committee.

## 5 Meetings

### 5.1 Committee Members' Conduct in meetings

The Privacy and Security Advisory Committee may, subject to the required membership and Chair appointments by the Board and any written directions of the Board, determine its own procedures.

Section 15 of the Public Governance, Performance and Accountability Rule 2014 deals with the consequences of having a material personal interest and may affect whether a Privacy and Security Advisory Committee member can be present at a meeting and vote in relation to a matter.

### 5.2 Convening Meetings

The Privacy and Security Advisory Committee Chair must convene such meetings of the Privacy and Security Advisory Committee as are, in his or her opinion, necessary for the efficient conduct of its affairs.

The Privacy and Security Advisory Committee Chair must convene at least two meetings annually and further meetings dependent on workload.

The Privacy and Security Advisory Committee Chair must convene a meeting of the Privacy and Security Advisory Committee if directed to do so by the Minister for Health.

On receipt of a written request signed by a majority of the Privacy and Security Advisory Committee members, the Privacy and Security Advisory Committee Chair must convene a meeting of the Privacy and Security Advisory Committee.

### 5.3 Presiding at Committee meetings

The Privacy and Security Advisory Committee Chair must preside at all meetings of the Privacy and Security Advisory Committee at which he or she is present.

If the Privacy and Security Advisory Committee Chair is not present at a meeting of the Privacy and Security Advisory Committee, the Privacy and Security Advisory Committee members present must elect one of their number to preside at the meeting.

### 5.4 Quorum

At a meeting of the Privacy and Security Advisory Committee, a quorum is constituted by a majority of the Privacy and Security Advisory Committee members for the time being holding office.

However, if:

- a Privacy and Security Advisory Committee member is required by section 15 of the Public Governance, Performance and Accountability Rule 2014 (which deals with material personal interests):

- not to be present while a matter is being considered at a meeting of the Privacy and Security Advisory Committee; or
- not to vote on a matter that is being considered at a meeting of the Privacy and Security Advisory Committee; and
- when the Privacy and Security Advisory Committee member leaves the meeting concerned there is no longer a quorum present the Privacy and Security Advisory Committee members remaining at the meeting constitute a quorum for the purposes of any consideration of, or vote on, the matter at the meeting.

## 5.5 Voting

At a meeting of the Privacy and Security Advisory Committee, a question is decided by a majority of the votes of Privacy and Security Advisory Committee members present and voting.

The Privacy and Security Advisory Committee member presiding at the meeting has:

- a deliberative vote; and
- in the event of an equality of votes, a casting vote.

## 5.6 Committee Minutes

The Privacy and Security Advisory Committee must keep minutes of its meetings.

# 6 Committee Reports and Recommendations to the Board

## 6.1 Sharing information with other jurisdictions

The Agency is a prescribed agency for the purpose of paragraph 82 of the PGPA Act, which means that each State/Territory Health Minister may request the following reports, documents and information from the Privacy and Security Advisory Committee:

- a report or recommendation prepared by the Privacy and Security Advisory Committee for consideration by the Board of the Australian Digital Health Agency, once the Board has received the report or recommendation from the Privacy and Security Advisory Committee has received the report or recommendation from the standing advisory committee.

The Board must advise State/Territory Health Ministers of availability of documents as soon as practicable.

The Board must provide these within 30 days after the State/Territory Health Minister's request.



## **6.2 Annual performance report to the Board**

The Privacy and Security Advisory Committee must prepare an annual performance report of its deliverables under the Board's national digital health work program for each financial year. The annual performance report must be prepared and delivered by the date requested by the Board before 31 March in the financial year.

# **7 Resignation and Termination**

## **7.1 Resignation of Committee members**

A Privacy and Security Advisory Committee member may resign his or her appointment by giving the Board Chair a written resignation. The resignation takes effect on the day it is received by the Board Chair or, if a later day is specified in the resignation, on that later day.

## **7.2 Termination of appointments of Committee members**

The Board may terminate the appointment of a Privacy and Security Advisory Committee member:

- a) for misbehaviour
- b) if the member is unable to perform the duties of his or her office because of physical or mental incapacity
- c) if the member
  - i. becomes bankrupt; or
  - ii. takes steps to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
  - iii. compounds with one or more of his or her creditors; or
  - iv. makes an assignment of his or her remuneration for the benefit of one or more of his or her creditors; or
- d) if the member is absent, except on leave of absence, from 3 consecutive meetings of the committee; or
- e) if the member engages in paid work that, in the Board's opinion, conflicts or may conflict with the proper performance of his or her duties.

## **7.3 Procedures relating to certain terminations**

Before the Board Chair terminates the appointment of a Privacy and Security Advisory Committee member, the Board Chair must consult the Health Minister and all the State/Territory Health Ministers.

## **8 Committee Performance Review**

The Board Chair will arrange for Privacy and Security Advisory Committee performance reviews every three years. Performance will be assessed against this Charter.

## **9 Publication and Review of Charter**

This Charter will be available on the Agency's website. The Board must review this Charter annually to ensure it remains consistent with the Privacy and Security Advisory Committee's functions.