



Voluntariness Obligation in the Australian Government Digital ID System

Voluntariness and the AGDIS

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This guidance has been developed for entities that have been approved to participate in the Australian Government Digital ID System (AGDIS). It should be read in conjunction with additional guidance for participants in the AGDIS that has been developed by the Australian Competition and Consumer Commission (ACCC) and is available on the [Digital ID System website](#).

This guidance contains general information only. It is not legal advice. Organisations should seek their own professional advice about their voluntariness obligations under the *Digital ID Act 2024* (the Act).

The Digital ID framework, as underpinned by the Act, aims to provide individuals with secure, convenient, voluntary and inclusive ways to verify their identity in online transactions.

When it comes to using Digital ID in the AGDIS, voluntariness is a key principle. The voluntariness obligation means that when accessing services, the use of a Digital ID must be voluntary. Individuals must have the option to use alternative methods to access those services.

This means that a participating relying party providing access to a service must ensure that the use of a Digital ID by individuals to access that service is optional, not mandatory.

An example of this is provided below.



Casey wants to lodge a tax return online and is prompted to log-in using myID, which is an accredited Digital ID provider.

Alternative methods to access tax return services may include:

- log into their MyGov account with a username and password
- use a registered tax agent to file their return
- file a paper tax return form.

Compliance with the voluntariness obligation

The examples below may support participating relying parties to understand how to comply with the voluntariness obligation when providing access to a service:



Must

- provide an alternative to Digital ID to access a service that is not substantially less favourable.



Must not

- offer a substantially reduced service, or substantially degraded access to a service, when an alternative verification method is used

For example: a user who is not using a Digital ID to access a service receives a restricted and less comprehensive experience, such as being limited to 'view only' access, or experiencing a substantial and unreasonable delay in accessing the service.



Recommended

- clearly and prominently state that alternative method/s are available to access the service
- clearly communicate how to use the alternative method/s to access the service (e.g. access through email, in person, online via a secure link or username and password)
- if a service is exclusively available through an online portal, access to that portal should not rely solely on a Digital ID.



Not recommended

- state that a Digital ID **must** be used to access the service, or only offer Digital ID as a method to access the service
For example: the log-in page only provides an option to 'Sign in with Digital ID' and no alternative method to access the service is provided.
- fail to adequately inform individuals of the alternative method/s available to access the service
For example: an alternative method exists, but individuals are not provided with easily accessible information about the alternative method.
- make the alternative method/s difficult to access.
For example: users are required to search and navigate through multiple screens to find alternative method/s of access.

Exceptions to the voluntariness obligation

There are limited exceptions to the voluntariness obligation. These are outlined in sections 74(2) and (3)(a) of the Act.

The exception under section 74(2) of the Act consists of 4 elements that must all be met for the exception to apply:

- the digital ID service provides access to another service
- the individual can access the other service by means other than the creation or use of a digital ID through the AGDIS
- the other means is reasonably accessible
- using the other means does not result in the other service being provided on substantially less favourable terms.

The exception under section 74(3)(a) of the Act is made up of 2 elements that must both be met for the exception to apply:

- the individual (which includes sole traders) accessing the service is acting on behalf of another legal entity
- they are acting in a professional or business capacity.

Participating relying parties cannot require individuals, including sole traders acting on their own behalf to use a digital ID to access services. For example, if a sole trader is applying for a service that uses digital ID for access to the service, another method to access the service must be provided. See section 74 of the Act.

Whether this exception applies depends on the circumstances of each case. Entities should seek their own legal or professional advice to determine how the exception may apply to their situation.

The following examples are intended to illustrate some situations that may or may not fall within the exception under section 74(3)(a).



An accountant must use their Digital ID to access a portal to lodge tax returns on behalf of another business.

Does the exception apply?

Yes, as the accountant is acting in their professional capacity to submit a tax return on behalf of a client which is another business.



An individual medical practitioner, under the obligations of their personal practising certificate, must log into a national register to report a patient's diagnosis of a particular disease or medical condition. They are required to use a Digital ID to access the register, and an alternative method is not available.

Does the exception apply?

No, while the medical practitioner is acting in their professional capacity, the reporting obligation is imposed on the individual medical practitioner. In this circumstance, the medical practitioner would not be 'acting on behalf of another entity' when fulfilling this personal obligation.



A building assessor who is a sole trader is legally required to lodge a report, or an application on behalf of a building owner via a designated portal that can only be accessed using a Digital ID.

Does the exception apply?

Yes, as the assessor is acting in their professional capacity on behalf of the building owner.



A building assessor who is a sole trader needs to update their building qualifications through a designated portal. Access to the portal requires the use of a Digital ID, and an alternative method of submitting qualifications is not available.

Does the exception apply?

No, while the assessor is acting in their professional capacity, they are not 'acting on behalf of another entity' when providing or updating their qualifications.

Some website portals may offer multiple services, and the reasons for logging in can vary accordingly. In such cases, it is important to assess the user's purpose for logging in to ensure that individuals who are not acting on behalf of another entity, or who are sole traders, are able to access the service through alternative methods if an exception does not apply. It is also important for participating parties to consider whether sole traders access services on their own behalf or on behalf of other entities.



If a participating relying party is seeking to discuss their alternative method of accessing a service, or is uncertain if an exception applies, they should seek independent legal advice on how section 74 of the *Digital ID Act 2024* applies to their circumstances.

Exemption from the voluntariness obligation

The ACCC, as the Digital ID Regulator (the Regulator) may grant an exemption in limited circumstances.

An organisation can foreshadow a potential exemption request at the time of application for approval. However, an organisation can only apply for an exemption from the voluntariness obligation **after** receiving approval and has commenced participating in the AGDIS.



Commonwealth entities are not eligible for an exemption. See section 74(6) of the *Digital ID Act 2024* for a full list of entities that are not eligible to apply for an exemption. Even under exceptional circumstances, Commonwealth entities are not eligible for exemptions.

What are the considerations for granting an exemption?

The Regulator will only grant exemptions from the voluntariness obligation if it is satisfied that it is appropriate to do so.

A key consideration is that the exemption does not unduly undermine the ability of individuals to use or access a participating relying party's service.

Factors the Regulator may consider include, but are not limited to:

- whether the applicant is a small business
- whether the applicant provides services, or access to services, solely online
- whether services, or access to services are provided in exceptional circumstances
- whether the applicant has explored all other verification options
- the number and type of users impacted.



For more details about factors the Regulator may take into consideration when assessing an application for an exemption and the type of supporting information required, see Appendix A in the [Guidance for entities approved to participate in the Australian Government Digital ID System](#).

Exemption FAQs



Will a participating relying party that is a small business, or an entity that provides services, or access to a service, solely online, be granted an automatic exemption?

No, the Regulator will assess each request based on individual merits. An exemption will only be granted if the Regulator deems it appropriate to do so.



What is an example of a service provided in exceptional circumstances?

An example of an exceptional circumstance might be a state of emergency, such as a bushfire or floods, where a state or territory government agency is issuing one-off payments to affected individuals. In such a case, using Digital ID could enable faster identity verification and access to financial assistance, particularly if traditional forms of identification have been lost or are inaccessible.



A state government agency requires individuals to register and manage their profile online to access housing support services. Can the agency be exempt from the voluntariness obligation and make the use of Digital ID mandatory?

Unlikely, as only offering one form of verification could unfairly disadvantage vulnerable customers who rely on the services. The entity must provide sufficient evidence to the Regulator that mandating the use of a Digital ID will not unduly undermine an individual's ability to access their services.

How to apply

To apply for an exemption to the voluntariness obligation, the following forms, which are found on the [Digital ID System website](#) should be submitted to the Regulator via email at DigitalIDRegulator@accc.gov.au:

- AGDIS exemptions for Participating Relying Parties form
- Service and Contact Person form
- Final Declaration for all entities seeking approval to participate in the AGDIS form.