

Comments in relation to the Draft Data Standard 1 April 2021

Connection to the Companies

We understand that previous decision has been made to implement director ID prior to the company database. We continue to believe this is creating inefficiencies and unnecessary cost and complexity to the MB project.

However, if this is not going to change, we believe that the data collected at the time a person applies for a DIR should include a list of the ABN/ACN that the person is currently connected with. This will enable better alignment and connection when the companies database becomes available.

Reliance on technology working

We believe all facets of the MBR legislative framework needs to acknowledge and provide consideration of its reliance on the technology of the Registrar, the technology of the(all) identity providers, the internet providers and the users (directors, company secretaries, agents, individuals, entities).

If the regime has penalties for non-lodgment or late lodgment/payment then we have to allow a period of concession for technical difficulties.

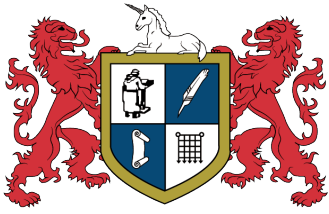
For example, myGovID implemented upgrade over night recently. Errors are still being found in persons identity recognition and the apps on the phones. Users have had to re-establish their digital identity from scratch. This takes time and causes frustration. A quick interaction with the Registrar becomes a task that is harder than it should.

Background

We recommend an inclusion in these statements of the positive outcome of credible legitimate directors being able to be observed through the provision of a DIR and the ability to search the government register to validate such a person. This project has potential to be utilised for positive outcomes.

Apply or Register

Although the term “Apply” may exist in the Legislation, we propose that a person is not “Applying” for a DIR. They are required to have one if they are or are to become a director. It is a registration! Data standard explanatory statement # 14 “The Registrar is required to give a person who has applied....is satisfied that the person’s identity has been established”. It is not a matter of discretion or option, it is a registration that is required.



“may require and collect the following information”

Draft Data Standard #6 omits several items that should be designed into the system:

- Agents (see below)
- Alternate Contact Details (see below)
- Communication Preferencing (see below)

DS#6 seems to be missing the connection to the persons Digital Identity.

Agents

We note the view held that an individual must apply for the DIR themselves.

We remain of the view that the system should be developed to allow an individual to have a suitable Agent initiate the process and the individual overtly consent/declare the application.

We do not agree with the current design of the “Apply for DIR” process.

The Registrar should be designing a service whereby an Agent through software could initiate the application, then

- submit the prepared DIR Application for the Individual to retrieve by
- the individual using their digital identity (same process, same purpose)
- to access the submitted draft and declaring it to be correct and
- then lodging

Therefore we also are of the view that ES#31 should be reconsidered. We do not agree with the premise that an individual must “complete the director ID application form themselves”, as described above.

We again note that a major reason that DIR ID will be slow to implement is this policy decision that is now in design that there is a risk. If MBR was to design in a process as described above the uptake will be improved.

A further preference would be to allow interaction with software.

ES#55 should also allow Agents.

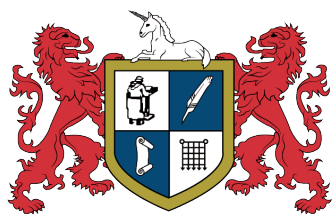
ES#60 should also include the role of Agents

Agents data should be collected

ES #15 lists the data that is to be collected. In addition to the items listed: we propose that the individual should be able to appoint an individual as an Agent with their contact details.

Alternate and further contact details

The individual should be permitted to also list an alternate contact or emergency contact.



We also suggest that the system allow a person to list their residential address but also to provide a “Registered” address for service of notices etc.

This concept should include the ability to provide an email address for the purpose of DIR that maybe different to that registered with the digital identity service.

Interaction of Digital Identity and Confirming Identity

ES #23 This paragraph doesn’t acknowledge that the individual has two tasks that are separate:

1. obtain a mygovid (or similar) that is the digital identity and by doing so they will have already proved their identity
2. use that digital identity to access the system to apply for a DIR

It also fails to note that the Registrar will rely on the identity proven by the digital identity.

The current wording embeds mygovid as though it is a part of DIR. It’s not! DIR leverages off the Digital Identity program. As it should.

We note ES#32 which should be the first paragraph used to explain the interaction between digital identity and the DIR process.

Exchange of information from Digital Identity Provider

ES#28 states that the Registrar will display information collected from the Digital identity provider.

We specifically note that this cannot be a requirement to use the same email or address information.

Duplicate registration process

ES#36 states “The Registrar can direct an individual who is a director to apply for a director ID whether or not that individual already has a director ID.”

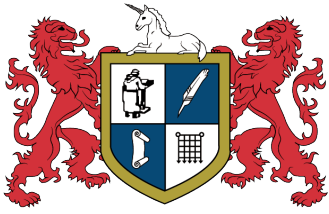
We do not understand the concept behind this statement nor how this would be consistent with the regime and policies of ES#11 “Unique” and “only one”.

Updates to information

DS#9(2)

ES#38 states “An individual...may request the Registrar to update any of their details...”.

The data standard MUST allow an individual to appoint an Agent for the purpose of maintaining such details.



The MBR should be interacting with other Registrations under the “tell us once” principle.

If the Registrar is informed of an individual's change of address, the Registrar should also be able to apply that to any and all records of that individual including the company/s to which the individual is a Director.

There should not be a requirement to perform two processes; tell the registrar as part of DIR and then tell the company. This would increase the redtape of the corporate requirements. MBR is supposed to be streamlining the processes and reducing redtape.

This, single notification of a change, is an important design principle that MUST be adopted.

Invalid “Application”

ES#40 states that an individual may not be provided with a DIR. What is the consequence of an appointed director who has applied for a DIR not being issued with one?

Consequences

What are the consequences if a company does not have any Directors with a DIR?
Are Directors deemed ineligible to be a Director without a DIR?

Privacy

ES#42 states “information collected...is protected informationsubject to the secrecy and privacy provisions”.

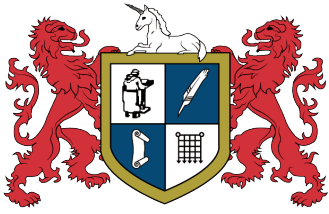
The impact of this statement should be discussed. What design and disclosure impact does this have.

As the DIR is not a secret number and as the purpose is to allow for the tracking and transparency of a Director, the ability to search and find information about a Director based on their DIR is an essential benefit of the DIR system.

DIR is not just about tracking the crooks it can also be about the proving of the credibility of all others.

Invalid information in application webform

ES#43 discusses realtime validation. Experience shows that web form validation techniques sometimes do not allow valid information to be provided due to design decisions from time to time.



Accordingly we strongly recommend that the Registrar be permitted to accept a draft application where the process allow the applicant to provide further reason as to why the field is valid or should be considered. Ie allow a digital interaction with the Registrar rather than creating the need for phone calls.

Embedding the ATO into the ABR

We understand that the role, functions and legislation of the Registrar is separate and is required to be separate from the ATO.

Noting that we seek development of the “tell us once” principle and we also seek that the ATO details of a person can be updated at the same time as the DIR details. Ie we need to design in an ability for an update via the ABR to the ATO and from the ATO to the ABR.

Noting we seek an appropriate interaction between the ATO and the ABR but not an integration.

ES#46 includes the following points: “...link the individual to an ATO client record”, “facilitate the use of ATO enterprise systems and shared services”, “provide additional certainty around the individuals identity”. These concepts all appear to embed the role, function and capabilities of the ABR conclusively within ATO systems. We understood that this was not to be the case.

We believe this paragraph, et al, creates too close a connection between the organisations.

ES#48 why does the Registrar need to “perform proof of record ownership by checking the individuals address against the ATO records”? The digital identity process should achieve this. Maybe this is for the non digital applicant in which case it should say so.

Corrections to information held by the Registrar

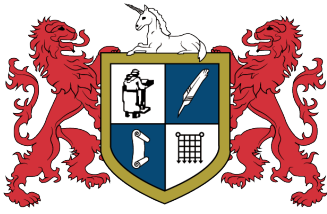
DS#12

& ES#54 “The Registrar may update the director ID information of an individual if the Registrar reasonably believes....”

We accept the latter portions of the ES paragraph as a great concept “...example a company informs the Registrar of a changed details for a Director”

We DO NOT accept the general concept that the “Registrar may update” without a process for seeking clarification and consent of the impacted person/party.

Communication



The design MUST allow an individual to direct their communication from the Registrar to an Agent. Compliance and effectiveness will be enhanced by allowing Directors to appoint experts who liaise with the Registrar normally and regularly to perform the functions required.

The design must allow for an individual to indicate what types of communication are provided to which form of communication (ie email, letter, phone) and allow alternate addresses for the various purposes. In effect we are seeking an enhanced form of the Communication Prefencing project of the ATO.

Compromised or Cancelled DIR

ES#59 mentions communication due to “director ID has been compromised or cancelled”.

In what situation would a DIR ID be compromised or cancelled?

Why would a DIR ID be cancelled?

This is possibly due to the seemingly inappropriate use of the word “Cancelled” in the initial legislation.

Declaration

ES#62ff. We believe the concept would be better expressed as “...this declaration will be provided by the individual, identified through their digital identity, indicating their making of the declaration”

We do not believe the data standard should limit the Registrar to a “tick the box” function. A better concept in design to ensure legal acceptance of the Declaration would be a drop down box of “Yes I make this declaration” or “No I do not make this Declaration”.

A “tick the check box” does not appear of sufficient substance and conscious action of the applicant.

Compliance Cost

How can it possibly be considered the compliance cost impact is Low.

This is a process that has not existed previously.

You are creating an obligation that has not existed.

There is very little, if anything, in this design that removes existing obligations.