

Chapter 10:

Privacy Safeguard 10 —

Notifying of the disclosure of CDR data

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Key points

- Where a data holder discloses CDR data to an accredited person, the data holder must notify the consumer by updating the consumer dashboard.
- The Consumer Data Rules set out the matters that must be included in this notification.

What does Privacy Safeguard 10 say?

- 10.1 Where a data holder is required or authorised under the Consumer Data Rules to disclose CDR data, they must notify the consumer by taking the steps identified in the Consumer Data Rules.¹
- 10.2 Where an accredited data recipient discloses CDR data, they must notify the consumer by taking the steps identified in the Consumer Data Rules.²
- 10.3 The notification must:
- be given to those consumers that the Consumer Data Rules require to be notified,
 - cover the matters set out in the Consumer Data Rules, and
 - be given at or before the time specified in the Consumer Data Rules.

Why is it important?

- 10.4 Notification of disclosure of CDR data is an integral element of the Consumer Data Right (CDR) regime, as it provides confirmation to consumers that their CDR data has been disclosed in response to a consumer data request.
- 10.5 This ensures consumers are informed when their CDR data is disclosed and builds trust between consumers, data holders and accredited data recipients.

Who does Privacy Safeguard 10 apply to?

- 10.6 Privacy Safeguard 10 applies to data holders and accredited data recipients. It does not apply to designated gateways.
- 10.7 Although Privacy Safeguard 10 applies to accredited data recipients, there are currently no Consumer Data Rules requiring accredited data recipients to notify consumers about the disclosure of CDR data.³
- 10.8 Accredited persons, accredited data recipients and designated gateways must ensure they are adhering to their obligations under the *Privacy Act 1988* (Cth) (Privacy Act) and the Australian Privacy Principles (APPs), including APP 6, when disclosing personal information.

¹ Section 56EM(1). For further information on ‘required or authorised to use or disclose CDR data under the Consumer Data Rules’, refer to Chapter B (Key Concepts).

² Section 56EM(2).

³ This is because accredited data recipients are generally not permitted to disclose CDR data unless the disclosure is directly to the consumer or to an outsourced service provider (Consumer Data Rule 7.5). On that basis, an accredited data recipient does not currently have notification obligations under Privacy Safeguard 10.

Who must be notified?

- 10.9 The data holder must notify each of the consumers for the CDR data that has been disclosed.⁴
- 10.10 There may be more than one consumer for the CDR data. In the banking sector, a key example is CDR data relating to a joint account. In this case, the data holder must notify both the requesting and non-requesting joint account holders. However, a data holder will not be required to notify the non-requesting joint account holder/s where the data holder considers this necessary to prevent physical or financial harm or abuse.⁵
- 10.11 This exception to notification is to accommodate existing procedures a data holder may have to protect consumers, for example particular account arrangements relating to consumers that may be experiencing family violence.

How must notification be given?

- 10.12 A data holder must update the consumer dashboard⁶ for a consumer as soon as practicable after CDR data relating to that consumer is disclosed.⁷
- 10.13 Further guidance about the consumer dashboard is set out in Chapter B (Key concepts).

When must notification be given?

- 10.14 A data holder must notify the consumer/s as soon as practicable after the CDR data is disclosed.⁸
- 10.15 Notification should generally occur in as close to real time as possible (i.e. as close to the time of first disclosure as possible).
- 10.16 However, whether the notification occurs ‘as soon as practicable’ will depend on the circumstances, and the following factors may be relevant:
- time and cost involved
 - technical matters
 - individual needs of the consumer (for example, additional steps required to make the content accessible).
- 10.17 It is the responsibility of the data holder to be able to justify any delay in notification.

⁴ Section 56EM(1)(b) and Consumer Data Rule 7.9. The Consumer Data Rules may also set requirements for other consumers that must be notified when CDR data is disclosed. There are currently no additional requirements in the Consumer Data Rules, other than in relation to joint account holders in the banking industry.

⁵ Rule 7.9 and clause 4.6 of Schedule 3, Consumer Data Rules.

⁶ A data holder’s consumer dashboard is an online service that can be used by each consumer to manage authorisations to disclose CDR data in response to consumer data requests. The service must also notify the consumer of information related to CDR data disclosed pursuant to an authorisation. The requirements for a data holder’s consumer dashboard are set out in Consumer Data Rule 1.14. The Consumer Experience Guidelines contain best practice recommendations for the data holder consumer dashboard.

⁷ Consumer Data Rule 7.9.

⁸ Consumer Data Rule 7.9.

10.18 A data holder is not excused from providing notification by reason only that it would be inconvenient, time consuming or costly to do so.

What matters must be included in the notification?

10.19 The minimum matters that need to be noted in a consumer's consumer dashboard are:

- what CDR data was disclosed
- when the CDR data was disclosed, and
- the accredited data recipient of the CDR data.⁹

What CDR data was disclosed

10.20 The data holder should ensure that the CDR data is described with sufficient specificity to allow the consumer to easily understand what CDR data was disclosed.

10.21 A data holder should have regard to the Data Language Standards when implementing this requirement.¹⁰ This will aid consumer comprehension by ensuring consistency between how CDR data was described in the authorisation-seeking process and how CDR data is described in the consumer dashboard.

When the CDR data was disclosed

Where the CDR data was disclosed on a 'one-off' basis:¹¹

10.22 The data holder should include the date on which the CDR data was disclosed.

10.23 Where CDR data was disclosed at different times, the data holder should include the date on which each dataset was disclosed.

Where the CDR data was disclosed and will continue to be disclosed over a period of time:¹²

10.24 The data holder should include the date range between which CDR data will be disclosed, with the starting date being the date on which the CDR data was first disclosed.

10.25 The data holder should, in addition to stating the time period for disclosure, note the frequency of data disclosure for ongoing disclosure.

⁹ Consumer Data Rule 7.9.

¹⁰ The Data Language Standards can be found within the Consumer Experience Guidelines. They provide descriptions of the types of data to be used by data holders when making and responding to requests. Adherence to the Data Language Standards will help ensure there is a consistent interpretation and description of the consumer data that will be shared in the CDR regime.

¹¹ This is where the accredited person made a consumer data request on behalf of the consumer for a collection of CDR data on a single occasion.

¹² This is where the accredited person made a consumer data request on behalf of the consumer for collection of CDR data over a specified period of time.

- 10.26 The data holder should have regard to the Consumer Experience Guidelines when implementing this requirement.¹³

The accredited data recipient of the CDR data

- 10.27 The data holder must indicate to whom the CDR data was disclosed.
- 10.28 A data holder should have regard to the Consumer Experience Guidelines relating to consumer dashboards when implementing this requirement.

Other notification requirements under the Consumer Data Rules

- 10.29 In addition to the Privacy Safeguard 10 notification requirements in relation to disclosure, the data holder must update a consumer's consumer dashboard as soon as practicable after the information required to be contained on the dashboard changes.¹⁴

Disclosure to a designated gateway

Note: *There are currently no designated gateways in the CDR regime.*

- 10.30 Privacy Safeguard 10 applies where a data holder or accredited data recipient discloses CDR data to a designated gateway as required or authorised under the Consumer Data Rules.¹⁵
- 10.31 There are currently no Consumer Data Rules made for this circumstance.

Interaction with other Privacy Safeguards

- 10.32 CDR participants must comply with Privacy Safeguard 1 by taking reasonable steps to implement practices, procedures and systems that will ensure they comply with the CDR regime, including Privacy Safeguard 10. See Chapter 1 (Privacy Safeguard 1).
- 10.33 Privacy Safeguard 11 mandates the steps by which a data holder must advise a consumer where the data holder has disclosed CDR data that was incorrect. See Chapter 11 (Privacy Safeguard 11).

¹³ See the examples of implementation of the data holder dashboard regarding 'data sharing arrangement' in the Consumer Experience Guidelines.

¹⁴ Consumer Data Rule 4.27.

¹⁵ Consumer Data Rules may be made in relation to the notification requirements for that disclosure.