



information
and privacy
commission
new south wales

**REPORT ON THE OPERATION OF
THE GOVERNMENT INFORMATION
(PUBLIC ACCESS) ACT 2009
2013 – 2014**

Letter of Transmission

The Honorable Don Harwin MLA
President, Legislative Council
Parliament of NSW
Parliament House
Macquarie Street
Sydney NSW 2000


The Honorable Shelley Hancock MP
Speaker, Legislative Assembly
Parliament of NSW
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Mr President and Madam Speaker,

In accordance with section 37 of the *Government Information (Information Commissioner) Act 2009* (GIIIC Act). I am pleased to present the *Report on the Operation of the Government Information (Public Access) Act 2009: 2013 – 2014*.

I recommend that the Report be made public forthwith pursuant to s 39(2) of the GIIIC Act.

Yours sincerely,



Elizabeth Tydd
Information Commissioner
CEO, Information and Privacy Commission NSW

Contents

Commissioner's Overview	2
The Year in Review	8
The Legislative Framework	16
Information Release Pathways	20
Mandatory proactive release of information (open access)	22
Authorised proactive release of information	25
Informal release of information	29
Access applications	30
Appendices: access applications	64
Appendix 1: 2013 – 2014 all sectors	66
Appendix 2: 2013 – 2014 Government sector	72
Appendix 3: 2013 – 2014 Council sector	78
Appendix 4: 2013 – 2014 Ministerial sector	84
Appendix 5: 2013 – 2014 University sector	90

Commissioner's Overview

The *Government Information (Public Access) Act 2009* (GIPA Act) provides a powerful tool to advance the objective of responsible and representative government through four information release pathways.

Individually, each pathway recognises and balances the respective rights and responsibilities of citizens and decision-makers while also promoting the Act's underlying principle of the presumption in favour of disclosure.

Collectively, and when each pathway is used to maximum effect, the value of information as a strategic asset can be realised.



Information is a strategic asset – it promotes responsive and informed decision-making and policy development, enables services to be delivered effectively and promotes transparency and accountability to citizens.

The public value of this strategic asset is becoming increasingly recognised by citizens. In a recent public survey conducted on behalf of the Information and Privacy Commission (IPC) 84% of people said that having the right of access to information was very or quite important to them – with 52% saying it was very important.

In the same survey, 65% of people said that they were aware of their right to access council information and 58% were aware of their right to access information held in government departments.

Increased public awareness and understanding of rights under the Act leads to a better informed community which in turn means users of services will be better placed to participate in the design and delivery of those services.

Citizen engagement and policy development, informed by both data and citizen input, also provide the foundations of open government across all sectors – consistent with the objectives of the Act.

Elevation of the levels of community participation in decision-making on government policy, services and projects is enshrined in Goal 32 of the NSW 2021 Plan: “Involve the community in decision-making on government policy, services and projects”.

The application of the principle of presumption in favour of disclosure across all four information release pathways provides the most powerful demonstration of open and accountable government. Harnessing the full potential of these pathways requires a prudent understanding of the legislation, its intent and operation.

The better we can understand how each of these individual pathways is being used and the collective outcome, the more confident citizens can be in government openness and transparency.

The challenge is for the IPC and agencies to work effectively to promote our active responsibility to ensure that the presumption in favour of disclosure is at the forefront of agency decision-making under each information release pathway.

Inevitably, under the current legislation, we are largely driven to report on what we can measure. I foreshadowed in my last report my intention to draw on a wider range of contemporary, relevant information to enable us to better understand the contribution of each pathway to advance the Act’s intent of greater proactive release of information.

The IPC has undertaken a more detailed review of its own information resources and initiated a number of data collection projects to facilitate broader reporting across all four pathways. This data collection process has been designed to respect the operational capacity of the sectors. Analysis of that data will provide a foundation from which the IPC can provide guidance to agencies to better meet their legislative responsibilities.

I particularly thank local councils for their assistance in providing me with information around their Proactive Release Program.

This year’s Report is a first step in broadening the scope of how we report on the operation of the Act. My continued commitment to the priority area of Integrated Reporting will further build our capacity to report on all four pathways in future years. ►

Commissioner's Overview (cont'd)

Information Release Pathways



**Mandatory
Release**

**Authorised
Release**

**Informal
Release**

Advancing last year's commitments

Last year's report set out three priority areas around which the IPC and agencies could work collaboratively to advance the objectives of the Act.

In the six months since that report was issued, promising progress has been made on all three fronts and they still remain a key platform of my reform agenda across all four pathways.

Progress in these priority areas is reported on in more detail in the section "The Year in Review".

Responding to the digital age

In my last report I referred to the information management challenges arising from digital records and their storage and access.

The IPC is developing a fact sheet to be released in early 2015 to assist agencies in addressing some of the challenges arising in relation to management of data sets.

The Act needs to be as dynamic and responsive as the ever-evolving social and technological environment within which it operates. Additionally, it needs to provide an integrated framework under which different types of

information are recognised and can be accessed through different channels. For example, while the Act allows for alternative forms of lodgement, the current fee payment requirements may restrict the lodgement of applications through the more modern mediums such as social media.

In my submission to the Department of Justice 2014 Statutory Review of the GIPA Act, I raised the issue of whether the Act is sufficiently flexible to deal with data in non-traditional formats.

Even the first step of improving service delivery and timeliness using technology through on-line lodgement of GIPA applications is underdeveloped and there is a very slow take-up rate.

NSW Police, the largest GIPA access application agency, has approached me to discuss the introduction of an on-line lodgement system in 2015 that may have application to other agencies. One local council has also signalled its intention to implement an on-line lodgement facility in the coming year. I look forward to being able to report on these initiatives in next year's report.

Partnering for solutions

Over the last six months I have made it a priority to personally engage and meet with all sectors to gain a direct understanding of the issues facing each sector.



- **Access**
- **Engagement**
- **Accountability**

In my discussions, I have emphasised the value of partnerships between the IPC and agencies, and indeed between agencies, in achieving the objectives of the Act. The sectors have responded positively and generously to this engagement and have actively contributed to the development of solutions to issues identified in our discussions.

For example, in the university sector a greater understanding of the requirements to report on contracts entered into with private companies has been identified. A more effective approach to meeting these requirements may lie in adopting a consistent reporting framework. I have been working with universities to implement a shared solution and this work will continue to be a focus over the next year.

The IPC has engaged productively with a range of stakeholders including the Practitioners' Network forums to road test development of our guidelines and fact sheets. Feedback from practitioners enables us to identify and respond to their operational experience.

The Information Commissioner is appointed by the Attorney General as Chair of the Information and Privacy Advisory Committee under section 60(3) of the *Privacy and Personal Information Protection Act 1998* (PPIIP Act). In this role I initiated the first facilitated planning session to identify priority areas for consideration by the Committee.

Engagement with the Committee will also ensure that we are able to harness and apply its collective expertise to develop further guidance and advice regarding operational and strategic issues.

Championing our future

The examination of the different pathways for information release has highlighted the requirement to better categorise the diverse information held by agencies. In doing so, we will develop a more sophisticated understanding of information as a strategic asset and facilitate the early and proactive release of information to maximise its positive social and economic benefits.

The proactive release of information goes well beyond achieving the significant goals of transparency, participation and accountability. It is also a means by which the collective value of the information held can be unlocked to attain a better informed community and deliver better public services.

Proactive release of shared information can also provide more competition in the market, leading to economic growth and transparency of information for business.

As Information Commissioner I will continue to work with agencies to develop and champion information release frameworks that will help realise the full potential of this strategic asset. ▶

Commissioner's Overview (cont'd)

2013 – 2014 outcomes

The release of information is maximised when the synergies between the four information release pathways are understood and applied and information is released in a purposeful way.

Under the Act the legislated right of access is not limited to the release of information upon formal application. Three additional pathways that provide citizens with early, proactive and informal release of information are enshrined in the legislation.

It is clear that in establishing four distinct pathways the architects of the Act and Parliament explicitly recognised their interrelationship and the collective impact of their application.

This is the first year in which we are able to better understand how the four pathways operate, both individually and collectively, and whether they are achieving the Act's objective of the early and proactive release of information.

Mandatory proactive release pathway

For the first time we can provide some insight into how this open access pathway is operating in our two largest sectors – Government and Councils. A sampling of these sectors' compliance with the requirement to make a core set of information available on an agency's website showed a compliance level of 89% in the Council sector and 84% in the Government sector. Pleasingly, Government sector compliance has grown over four years from 60% in 2010 – 2011.

While these overall results are high, maximum compliance is not an unreasonable goal in this most fundamental information release pathway.

Authorised proactive release pathway

This pathway provides the mechanism through which all types of agency information can be actively and increasingly released. The annual review of proactive release programs is the tool that drives the ongoing cycle of information release. However, there is a low 64% compliance rate across all sectors. In the Government sector it is 57%.

This result is further compromised by the downward trend in the proportion of information released following a review from 86% in 2010 – 2011 to 71% this year.

These results show that agencies are not meeting their obligations in proactively identifying and releasing the kinds of information that should be made available in the public interest. The rates of undertaking reviews and releasing information suggests a lack of understanding and/or capacity in fulfilling legislative obligations.

The identification of real and perceived barriers as well as the promotion of shared solutions will maximise the purposeful release of information through this pathway.

Informal release pathway

This pathway provides a powerful, accessible information release mechanism. However, without any mandated reporting requirements it is difficult to assess the use and outcomes of this pathway.

The informal nature of this pathway does not undermine its importance in the collective release of information. Understanding the kinds of information asked for under this pathway provides a valuable intelligence source for agencies to identify information that can be more generally released through their proactive release programs and thereby build the body of information that can be accessed by all citizens.

Access application pathway

This year we are able to consider the outcomes of this pathway in the light of the 2010 – 2013 baseline report. In that report, I commented that agencies appeared to be adopting the strategic and operational intent of the Act in a number of areas.

There are several consistent and encouraging trends:

- Information release rates have remained consistent with 74% of information decisions resulting in information being released, compared with the 75% 2010 – 2013 total.
- Refusal rates have remained constant at 8% over the last two years and consistent with the 2010 – 2013 total.

- Agency internal reviews by direct application remain the preferred channel of review at 75% of all review types, consistent with the 2010 – 2013 total.
- The application of the reasons for refusal has remained consistent in both type and proportion. Legal and Professional Privilege and Care and Protection of Children have remained the most commonly used reasons for refusal. Additionally, agencies' reliance on these reasons remain consistent and largely mirror the nature of the information they hold.

At an operational level there have been some regressive trends:

- The level of agency timeliness in dealing with applications within the statutory timeframe has decreased this year to 80% and is the lowest since the introduction of the Act.
- The percentage (15%) of deemed refusals of invalid applications has reverted to the 2011 – 2012 level.

Additionally, the number of decisions varied through the internal review process increased from the 2010 – 2013 total of 69% to 72% this year. This confirms the focus on improved decision-making raised in my last report and the need to ensure that collectively we achieve a more robust and credible approach to decision-making.

Some fundamental changes have occurred in agencies' operating environment:

- There has been a downward trend in the number of applications lodged, decreasing by 27% since 2010 – 2011 and the number of applications lodged this year is the lowest since the introduction of the Act.
- There has been a significant shift in the applicant type with the majority (29%) of information release decisions (outcomes) now relating to applications from not for profit and community groups, reflecting a consistent upward trend from 3% in 2010 – 2011. This increase has been largely driven by the Government sector.
- Collectively, members of the public – both legally represented and unrepresented – represented

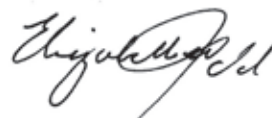
48% of all applicant outcomes, consistent with previous years. Last year the split between the two types of applicants was almost equal. However, the proportional split between represented and unrepresented applicants has changed this year. Outcomes relating to legally represented applicants have steadily trended upwards and now represent 28% of applicant type; while there has been a downward trend in unrepresented applicant outcomes that now represent 20% of applicant types.

- There has also been a shift in the type of information requested. Outcomes relating to personal information have steadily increased from a low base of 22% in 2010 – 2011 to 59% this year. Outcomes relating to applications for information other than personal information have steadily decreased from 51% in 2010 – 2011 to 35% this year.

Maximising release

Individually and collectively, these four pathways are not yet fully achieving their potential as envisaged by the Act.

This Report, which includes a more informed analysis across the four pathways, will guide the development and implementation of strategies to address the key issues identified. It will also contribute to a more strategic approach to information release through opportunities such as the Department of Justice 2014 Statutory Review of the GIPA Act.



Elizabeth Tydd
Information Commissioner
CEO Information and Privacy Commission NSW

The Year in Review

This representation provides a snapshot of the information release outcomes through each of the four information release pathways.

Mandatory proactive release

Agencies are required to release a core of agency information, free of charge, ideally via the agency's website. The Act does not require agencies to report on compliance.

Government sector compliance is measured by the IPC through sampled agency website audits and reported on in Goal 31 of the NSW 2021 Plan. For the first time, the IPC undertook a comparable audit in the council sector.

The results show:

- 89% council sector compliance
- 84% government sector compliance.

The IPC is undertaking further analysis of compliance levels and the issues faced by all sectors to guide maximum compliance.

Authorised proactive

This pathway provides the mechanism through which all types of agency information can be actively and increasingly released.

Annual reviews of an agency's proactive release program are required under the Act. These reviews provide the tool to drive the continuous release of information.

The sector-wide compliance rate in undertaking reviews was 64%.

Where agency reviews were undertaken 71% resulted in additional information being released:

- 80% government sector
- 65% council sector
- 100% university sector.

The IPC is developing best practice principles for agencies' proactive release programs and promoting the purposeful classification of information to build the body of information available to citizens.

release

Informal release

An agency may release information in response to an informal request.

The Act does not require agencies to keep a record of informal requests.

Key issues under this pathway are:

- Better understanding by the public of the best use of this pathway
- Better communication by agencies to individuals as to why release is refused
- Improved recording by agencies to inform their proactive release programs.

The IPC will be actively addressing these issues.

Access applications

The Act gives citizens an enforceable right to apply for information. The mandated reporting requirements enable the IPC to monitor and report on outcomes and trends.

This year's results show that:

- 74% of all decision outcomes resulted in applicants being granted access in full (33%) or in part (41%)
- 74% of all decision outcomes resulted in members of the public being granted access in full (32%) or in part (42%)
- 8% of all outcomes were refused in full.

The Year in Review:

Priority Areas

In the 2010 – 2013 Report on the Operation of the GIPA Act, the Information Commissioner identified three priority areas around which the IPC and agencies could work collaboratively to advance the objectives of the Act.

1. Improved reporting framework to deliver quality data and more integrated information:

- The Information Commissioner advised all agency heads of data quality issues identified in the 2010 – 2013 Report requesting their assistance in improving data quality for the 2013 – 2014 Report
- An IPC fact sheet “Agency Guide on GIPA Reporting” was issued to address commonly made data errors identified in the 2010-13 Report and to assist agencies in more accurate reporting in 2013 – 2014
- A sample of s37 data has shown significant improvements in the data quality of agency returns, particularly correct reconciliations
- Structural difficulties around agency reporting on access applications identified in the last report have been referred to the Department of Justice 2014 Statutory Review of the GIPA Act
- The Information Commissioner’s submission to the Statutory Review also raised some of the issues associated with technology and newer data forms and the need for the Act to have greater flexibility
- A number of universities and the Department of Education and Communities agreed to provide the IPC with GIPA data to facilitate consistent reporting timeframes across all sectors for this report
- The IPC initiated a number of data collection projects to enable broader reporting across all four information release pathways including: analysis of IPC complaints and reviews data; capturing data on local councils’ Proactive Release Program; capturing Goal 31 Data for local councils; and developing best practice case studies.

2. Improved operational competencies particularly through information and training to assist agencies streamline service delivery:

- In the 2013 Survey of Practitioners conducted by the IPC, 72% of respondents said that interactive e-learning was the most useful learning format; and 90% said that e-learning modules would help them in their current roles
- The IPC is enhancing its e-learning training by developing a new portal to enable its on-line training modules to be fully interactive. This is currently in the procurement phase and anticipated for introduction in February 2015
- Further practitioner engagement will focus on identifying needs-based training requirements and clarifying the various governance frameworks currently operating across agencies
- The effectiveness of IPC's GIPA Tool – a common case management tool that agencies can access to register and process GIPA applications – is underway to assess how its functionality, hosting and support can be improved to deliver a reliable on-going service to agencies
- The Act allows for electronic lodgement to streamline the lodgement process for the public. It also requires the approval of the Information Commissioner who continues to support and approve applications from agencies. Two agencies are considering introducing an on-line lodgement facility in 2015.

3. Better decision-making particularly at the initial decision-making stage to ensure that information is made available at the earliest point in the process:

- Early and greater proactive release of information has been the focus of the Information Commissioner's discussions with agency heads, practitioners and policy inputs to legislative and operational initiatives
- The IPC has initiated an Information Management Scholarship Program, a partnership program with Government agencies and the Institute of Public Administration Australia (IPAA) and State Records NSW that will offer a short-term placement with the IPC – initially drawn from within the Government sector – to obtain training and coaching in case management, statutory interpretation and decision-making and writing skills. The first program will be offered in the first half of 2015
- The Information Commissioner's submission to the 2014 Statutory Review of the GIPA Act raised the issue of how the Act might promote greater take-up by agencies of proactive and informal release pathways to advance the Act's objective of proactive release of information
- A new e-learning module "Access Training for Decision-Makers" is being developed and due for release in February 2015 on the IPC's new interactive e-learning platform
- The IPC's website currently publishes the recommendations of significant Information Commissioner's reviews of agency access decisions – and in 2015 case studies will be made available for reference and guidance
- A new fact sheet "External Review by the Information Commissioner" has been developed in consultation with practitioners that can be issued by agencies along with agency internal review decisions to provide consistent information to citizens regarding the outcome of their application and the options for external review.

The Year in Review:

Case Studies

The 2010 – 2013 Report provided a vehicle to identify the immediate, shorter-term challenges and drive improved performance through a collaborative and shared approach to advance achievement of the Act's objectives.

These case studies provide examples of strategic information delivery, effective leadership and governance and the provision of IPC expertise and guidance that may, through their sharing, offer guidance to other agencies.

Case study 1: Sharing access to information to transform government service delivery

Bringing together complex and diverse sources of information and making it easily available to the public are no longer barriers to contemporary and effective service delivery – especially in the Government sector.

A citizen-centric model of service delivery implemented by Service NSW has been a success story in delivering a one-stop shop service to the citizens of NSW.

Service NSW changed the traditional approach of citizens having to deal with disparate government departments each providing separate and unique services.

Service NSW was established in July 2013 to provide a one-stop-shop service for citizens through which they can access a range of services that previously required them to deal with multiple government departments all with different locations, phone numbers, websites and information access requirements.

Service NSW has serviced more than seven million customers across three channels – digital, phone and in-store.

Citizens can access over 800 transaction types such as renewing a drivers licence, obtaining an occupational trade licence, finding a school, paying NSW Housing rent, enrolling on the electoral roll, obtaining a working with children check and applying for a government job.

These services are delivered through three service delivery channels – a 24 hour/seven day a week whole-of-government telephone information service, a single website for on-line transactions and 18 one-stop shops with extended opening hours.

Improved access to government information and ease of transacting with government enables citizens to confidently do business with multiple government entities via Service NSW. ►

The Year in Review:

Case Studies (cont'd)

Case study 2: Implementing a responsive governance model

Providing a responsive, consistent and timely mechanism for citizens to access information was proactively addressed in a large, complex government cluster dealing with high volumes of information.

This year's Report identifies that three government agencies received the majority (67%) of access applications lodged. One of these was within the Transport cluster. Historically, the access to information function in the Transport cluster was managed separately by the different agencies within the cluster, resulting in multiple access points, different levels of service and inconsistent approaches to information release.

In 2013 a new Transport-wide model was introduced whereby the cluster's principal agency – Transport for NSW – provides leadership, strategic direction and coordination of the information management function across all its agencies.

A particular challenge was to achieve consistent, customer focused information access outcomes within a cluster where its agencies exist as separate legislative entities, each with their own legislative responsibilities under the Act.

Strategic direction is provided through a central unit with expert advisors who provide guidance and support on customer-focused service delivery, training in legislative and operational requirements, and a framework for consistent decision-making.

A single entry point for applicants is provided through a centralised administrative unit that is responsible for the central receipt, coordination and referral of requests to the appropriate agency. The unit also measures and reports on the timeliness of access application determinations.

Information and Privacy Units embedded within the agencies are responsible for the effective management of their legislative responsibilities under the Act including deciding access applications and identifying information to be disclosed under the proactive and mandatory requirements of the Act.

Transport for NSW is committed to increasing the focus on the mandatory and proactive release of information across the cluster.

Case study 3: Information Commissioner guidance in decision-making

Under section 80 of the GIPA Act an access applicant can apply to the Information Commissioner for an independent, external review of an agency's decision. The Information Commissioner starts from the principle of presumption in favour of disclosure and applies specialist knowledge to provide practical guidance of the intent of the Act and improve decision-making. The Commissioner can recommend that the agency undertake a fresh review using the guidance provided. Government regulatory functions require specific considerations under the Act.

An access application was received by a government regulatory agency for the release of a range of documents including the agency's investigation report regarding a private, regulated company. The agency made the decision to release some of the information requested, but refused access to the investigation report. The agency consulted with the third party – the company under investigation – who strongly opposed the release of any information.

The agency decision refused access on two grounds: "individual rights, judicial process and natural justice" as the report contained the personal information of employees, and "responsible and effective government" as releasing the report would "prejudice the supply to an agency of confidential information that facilitates the effective exercise of an agency's function".

The applicant then sought an independent review by the Information Commissioner.

The Information Commissioner agreed that on balance the personal information contained in the report was a relevant public interest consideration against disclosure, but concluded that the agency could consider redacting specific information. It was also noted in the Information Commissioner's review report that the applicant had advised that the personal information was not required. However, the Information Commissioner was not satisfied that releasing the report would prejudice the future supply of the information on the grounds that regulated entities are required to provide the information sought and reported on by the regulatory agency.

The regulatory agency accepted the Information Commissioner's recommendation and undertook a fresh internal review which concluded that the public interest considerations in favour of disclosure outweighed those against disclosure and determined that the report be released, subject to personal information being redacted.

The external review process challenged traditional notions of the kind of information that can be released by regulatory agencies and resulted in information being released to the applicant.

The Legislative Framework

The Government Information (Public Access) Act 2009 embodies the principle of proactive disclosure of information, a presumption in favour of disclosure and an enforceable right of access to information.

The Act provides a powerful vehicle to deliver information to the citizens of NSW across four information release pathways.

The *Government Information (Public Access) Act 2009* replaced the *Freedom of Information Act 1989* and commenced on 1 July 2010.

The object of the Act is to maintain and advance a system of responsible and representative government that is open, accountable, fair and effective by:

- authorising and encouraging the proactive public release of government information by agencies;
- giving members of the public an enforceable right to access government information; and
- ensuring that access to government information is restricted only when there is an overriding public interest against disclosure.

The Act applies to government departments, state-owned corporations, local councils, ministers and their staff, and universities.

Four sectors have been adopted for this report:

- Government (government departments and state-owned corporations)
- Councils (including county councils)
- Universities
- Ministerial

The guiding principle of the Act is to make information more accessible to the public and the Act embodies the general presumption that the disclosure of information is in the public interest unless there is a strong case to the contrary.

The Act outlines four information release pathways:

- Mandatory proactive release
- Authorised proactive release
- Informal release
- Access applications

Agencies are encouraged to proactively and informally release as much information as possible and the Act provides three out of the four pathways to facilitate this objective.

The Act also prescribes the processes that applicants and agencies must follow in dealing with access applications and the options for the review of these access decisions.

Section 125 of the Act requires agencies to report to Parliament annually on how they have dealt with access applications.

This mandated information is set out in clause 7 (a), (b), (c) and (d) of the *Government Information (Public Access) Regulation 2009* (the Regulation). Schedule 2 of the Regulation sets out the prescribed form for Clause 7(d) reporting through Tables A – H.

The *Government Information (Information Commissioner) Act 2009*

The system of public access to information is overseen by the Information Commissioner, established under the *Government Information (Information Commissioner) Act 2009*.

Under this Act the Information Commissioner's role includes:

- promoting public awareness and understanding of the Act
- providing information, advice, assistance and training to agencies and the public
- dealing with complaints about agencies
- investigating agencies' systems, policies and practices
- reporting on compliance with the Act.

Under Section 37 of the *Government Information (Information Commissioner) Act 2009*, the Information Commissioner is required to provide an annual report to Parliament on "the operation of the *Government Information (Public Access) Act 2009*, generally, across all agencies".

This Report fulfils the Information Commissioner's obligation in this regard. ►

The Legislative Framework (cont'd)

Information Release Pathways

Mandatory proactive release

Section 6 of the Act specifies a consistent core of information that agencies must release unless there is an overriding public interest against disclosure.

Authorised proactive release

Section 7 of the Act authorises agencies to make information available unless there is an overriding public interest against disclosure.

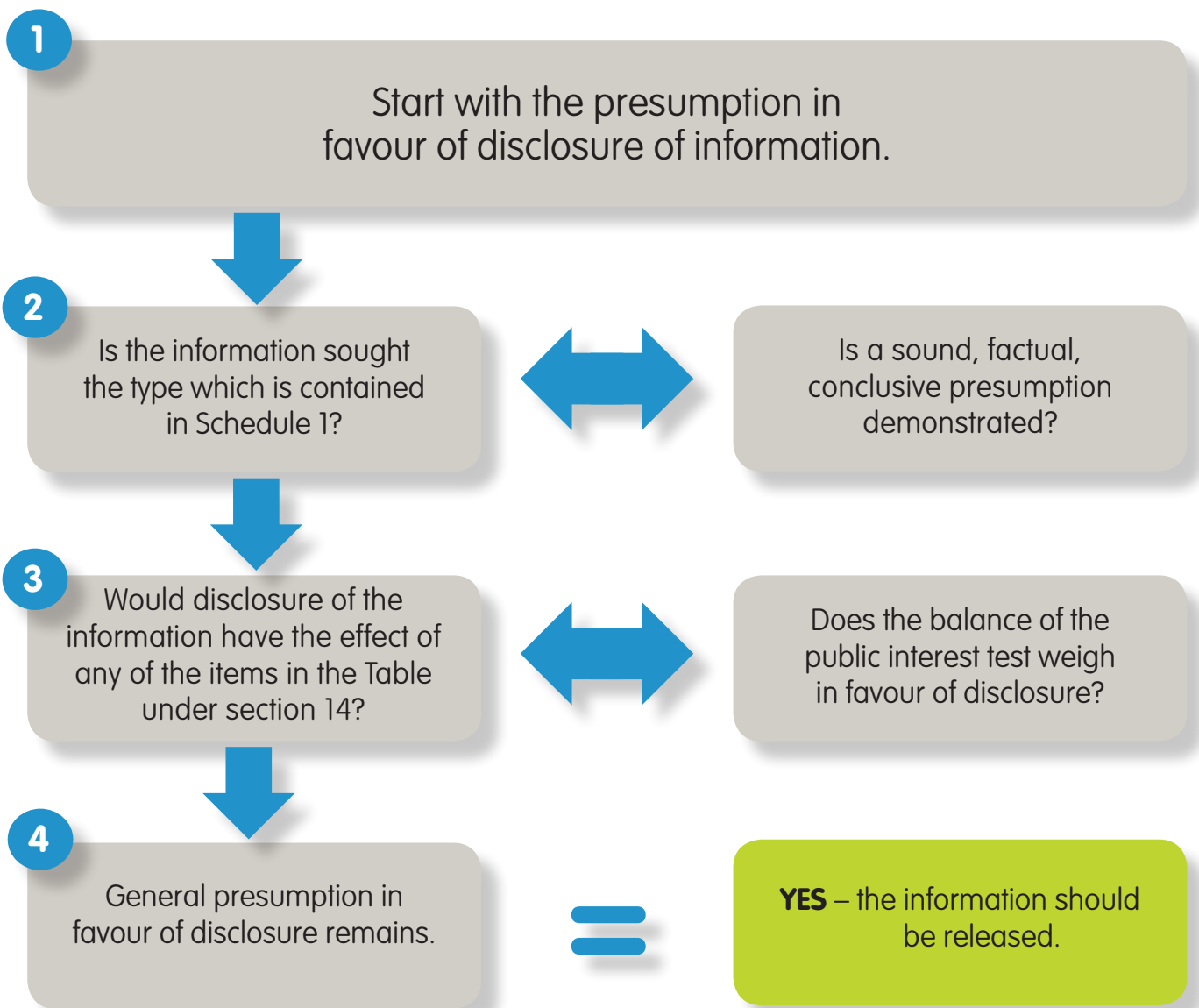
Informal release

Section 8 of the Act provides that agencies may release information in response to an informal request unless there is an overriding public interest against disclosure.

Access application

Section 9 of the Act provides citizens with an enforceable right to apply for and access information unless there is an overriding public interest against disclosure.

Information Release Decisions



Information Release Pathways

The background features a series of overlapping geometric shapes in various shades of blue and purple. A large, light blue triangle points downwards from the top left. A darker blue triangle points upwards from the bottom right. A purple triangle points upwards from the bottom left. The overall composition is modern and abstract.



Mandatory proactive release of information (open access)

Section 6 of the GIPA Act specifies a consistent core of information that agencies must release unless there is an overriding public interest against disclosure.

Agencies are mandated to make this information available to the public, free of charge on the agency's website – or in another appropriate way. Through this pathway, agencies must responsibly monitor the completeness of their reporting, recordkeeping and access obligations to ensure the public's right of access to this information.

Open access information is defined as an agency's:

- Current Information Guide
- Policy documents
- Disclosure log of access applications
- Register of contracts with the private sector
- Record of open access information not made available on basis of an overriding public interest against disclosure
- Information as prescribed by the Regulations.

The availability of open access, on-line information is a key part in citizen access to a consistent core of agency information.

In a public survey conducted by the IPC in 2014, 43% of respondents said they would access information via the internet.

While section 6 of the Act sets out the open access information that agencies must release and make available wherever possible on their website, the Act does not require agencies to report on their compliance with this requirement.

It is therefore difficult to fully assess the operation of this part of the Act across the sectors or gain an appreciation of the level of use of this information release pathway. The IPC has undertaken some additional analysis to gain an insight into the level of agency compliance with this pathway and to identify some of the issues being faced by sectors.

Government and local council compliance

One measure of government sector compliance can be derived from government agency performance against Goal 31 in the Government's NSW 2021 Plan.

Under the key area of "Restoring Accountability to Government" the aim of Goal 31 is to "Improve government transparency by increasing access to government information".

The measure used to assess this goal is the level of agency compliance with the section 6 open access requirements. The IPC is responsible for collecting and reporting on this measure by surveying a representative sample of agency websites.

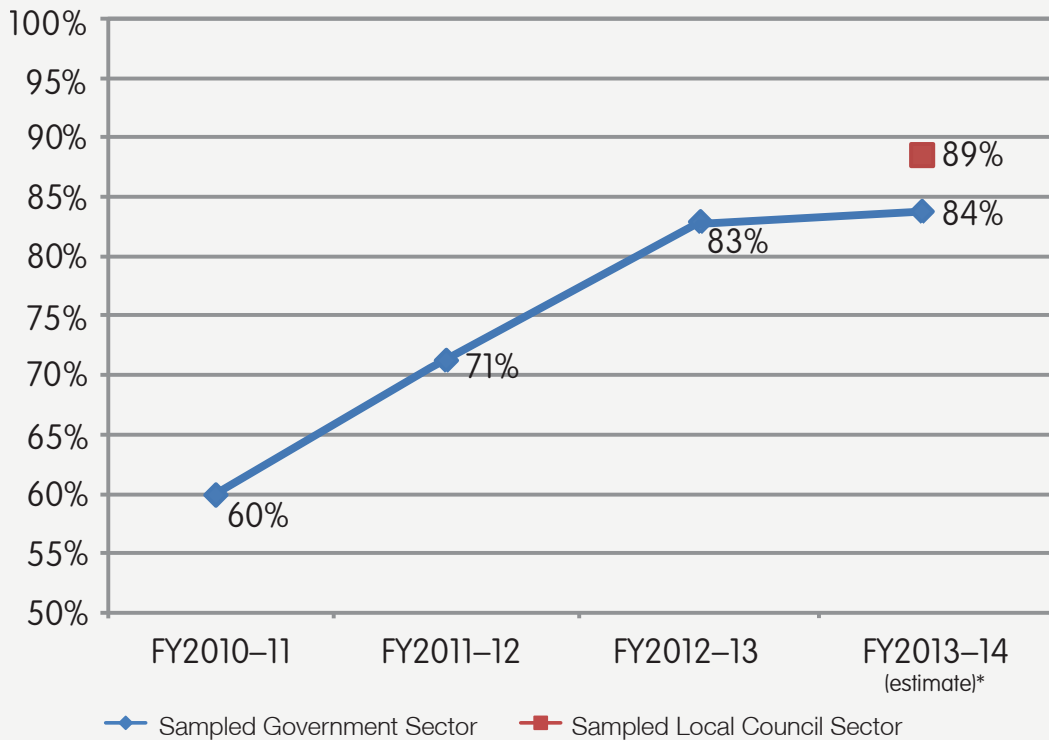
Over the last four years Government sector agency compliance, as assessed by the IPC, has risen from 60% in 2010 – 2011 to 84% in 2013 – 2014.

In seeking to expand an understanding and measurement of compliance across other sectors, the IPC undertook a data collection project and applied the same government Goal 31 methodology to a sample of local councils.

Data collected showed that the sample of local councils achieved an 89% compliance rate.

For the first time, the IPC is able to report on and provide a comparison between the two largest GIPA sectors. The IPC will continue to monitor and report on section 6 compliance across sectors.

Sampled Government and Local Council Sector compliance with mandatory proactive release



(Note: This is the first year in which Local Councils were measured for compliance.
Sources: NSW 2021 Performance Report 2014 – 2015 Budget Related Paper No. 1; IPC sample.)

Councils and development applications

Almost a third (31%) of complaints received by the IPC related to open access information not being available.

The majority of these complaints related to accessing information relating to development applications received and being considered by local councils.

Development applications are prescribed in Schedule 1 of the GIPA Regulation as open access information, but section 6 of the Act states that mandatory release does not apply if release constitutes an infringement of copyright.

Councils have expressed difficulty in resolving the tension between their disclosure obligations under the Act and potential copyright infringement as development applications usually contain intellectual property – such as unique architectural plans that may be subject to copyright.

The IPC has sought to promote understanding of this complex issue in a number of ways including the publication of guidance material, incorporating Senior Counsel legal advice, and through direct meetings with councils.

Additionally, the Information Commissioner has referred this issue to the Department of Justice for consideration in its 2014 Statutory Review of the GIPA Act.

Universities and contracts

Division 5 of the Act establishes a public access regime that is tailored across three different categories of contracts, each with different mandated requirements.

Meeting the requirement for agencies to report on contracts valued at over \$150,000 has been challenging for the university sector.

Over the years, universities consistently raised particular challenges in uploading numerous, complex and lengthy contracts – such as contracts around asset management, IT networks, research contracts and syllabus development – that very often include commercial-in-confidence material.

The Information Commissioner has been working with the university sector to promote compliance through the development and implementation of a sector template that will facilitate public access to contracts. This collaborative work will continue to be a focus over the next year.

Authorised proactive release of information

Section 7 of the GIPA Act authorises and encourages agencies to make information available unless there is an overriding public interest against disclosure.

This information can be made publicly available in any manner that the agency considers appropriate either free or at the lowest reasonable cost.

Agencies must review, at least annually, their program for releasing information to identify the types of information that can be made publicly available without undue cost.

This pathway provides the mechanism through which all types of agency information can be actively and increasingly released.

Through this pathway, agencies have an active responsibility to regularly review their information and promote release policies and practices to ensure that as much information as possible is made available.

Under clause 7(a) of the GIPA Regulation agencies are required, at least annually, to review their program for the proactive release of information and identify additional kinds of information that should be made publicly available.

These agency reviews are not merely a reporting obligation. They provide the tool to drive the continuous release of information under this pathway.

To assist agencies in meeting their proactive release obligations, the IPC is developing the key principles of an effective proactive release program and the governance and business process inputs that can inform that program.

Information release reviews

Last year's report identified a consistently low level of agency compliance in undertaking information release reviews over the three years 2010 – 2013 and this year's results have confirmed this trend.

This year's sector-wide compliance rate in undertaking annual reviews was 64%.

The breakdown by sector was:

- Government sector – 57% compliance
- Councils – 66% compliance
- Universities – 90% compliance.

Note: Ministers are not required to report data for this clause.

Ideally, all reviews should result in additional information being released. Where agency reviews are conducted 71% resulted in additional information being released.

The sector breakdown was:

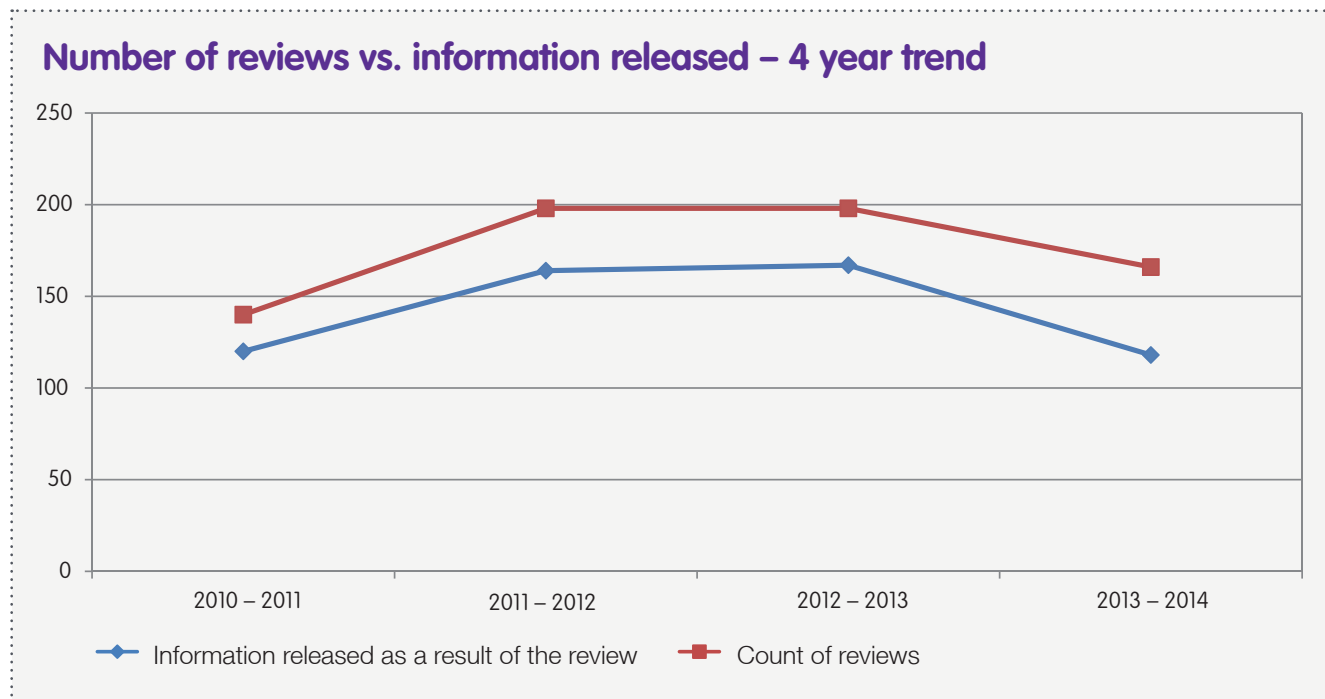
- Government – 80% (83% last year)
- Councils – 65% (down from 91% last year)
- Universities – 100% (up from 36% last year).

This breakdown shows that where reviews are conducted there is a relatively high release rate.

There is, however, a widening gap between the total number of reviews undertaken and information released.

This gap has increased from the 2010 – 2013 total of 16% to 27% this year.

The IPC will work with agencies to address the low level of compliance and identify the barriers to information release as part of a broader strategy to advance the release of information across all four pathways.



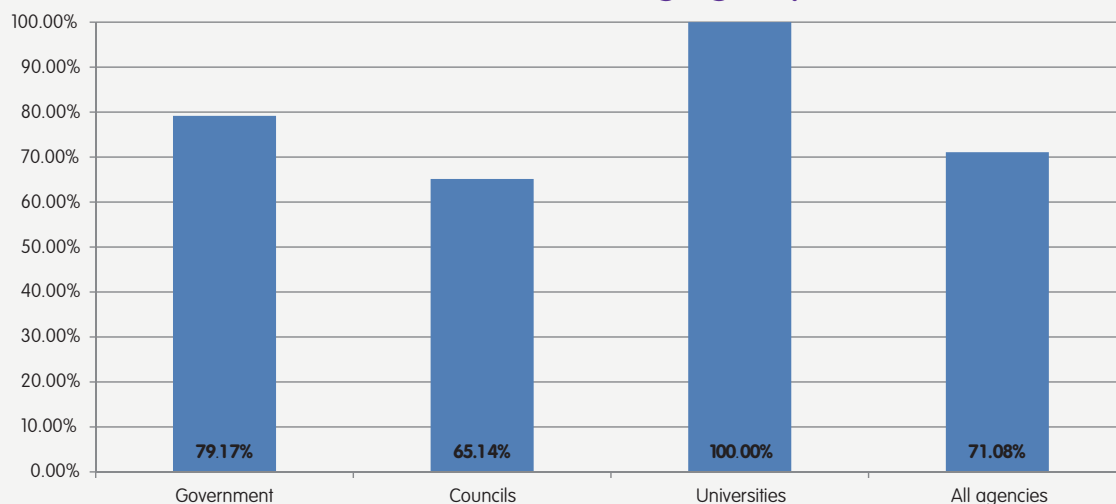
4 year trend and sector analysis

Clause 7(a) Agency Reviews	2010 – 2011	2011 – 2012	2012 – 2013	2013 – 2014
Government* (84)				
Agency review conducted	69	85	81	48
Information made available	63	68	67	38
% where additional information released	91%	80%	83%	79%
Councils (166)				
Agency review conducted	65	104	106	109
Information made available	53	91	96	71
% where additional information released	82%	88%	91%	65%
Universities (10)				
Agency review conducted	6	9	11	9
Information made available	4	5	4	9
% where additional information released	67%	56%	36%	100%
All agencies (260)				
Agency review conducted	140	198	198	166
Information made available	120	164	167	118
% where additional information released	86%	83%	84%	71%

(* Note: To establish compliance with the requirements of Clause 7 agency numbers must be absolute. However machinery of government changes vary the structure and number of agencies within the Government sector. Additionally, Government agencies may elect to report through cluster arrangements and not in their own right. The 2010 – 2013 baseline report referenced 202 agencies in the Government sector. Further changes in this reporting period necessitated re-examination of the number of agencies required to report to the IPC.

The methodology applied to establish this year's baseline count of agencies involved: examination of the number of agencies in the reporting period (215); determination of the number of entities lodging annual reports in 2013 – 2014 (135); and the number of agencies reporting to the IPC for the period as required under s125 of the GIIPA Act (84). As these numbers vary significantly the number of entities lodging a return with the IPC has been applied to establish the baseline. However, it should be noted that the low compliance levels established through this approach would be further reduced if a measure of the number of annual reports lodged was applied as the baseline figure from which to measure compliance.)

Additional information released following agency review 2013 – 2014



Developing a best practice proactive release program

The IPC is engaging with agencies to provide practical guidance in developing and implementing the key features that would drive an effective proactive release program.

Last year's report identified the council sector as releasing the greatest percentage (86%) of information release outcomes under access applications and 87% of council sector agency reviews resulted in additional information being released.

Given this profile, the IPC selected all local councils within the Council sector to survey the application of several features considered integral to a best practice proactive release program.

These features were grouped around the following three essential principles:

- Integration of a "proactive release culture" into the agency's corporate culture
- Identification of information that can be released through the strategic extraction and application of all available information sources
- Maximising the accessibility of information through the classification of information into well understood categories.

Some 44% of councils responded to the IPC survey with results indicating that local councils generally adopted the principle of integrating the program into the corporate culture and reviewed other traditional sources of information to inform their programs.

Some councils recognised the interconnectedness of the proactive release pathway and their community engagement strategy. These councils identified the most valuable information to their community and applied that knowledge to a process of community engagement in decision-making that comprises five steps: inform, consult, involve, collaborate and empower.

Whilst this represents a well-informed, strategic approach, it was not reflected in the majority of returns. Overall, less use was made of this approach and the proactive identification and classification of information that could be made available to citizens.

The survey provides an opportunity for the first time to examine the operation of the proactive release pathway in one sector and then apply this knowledge through best practice guidance across other sectors. Following from the survey some councils have already requested assistance from the Information Commissioner to develop or review their existing proactive release programs and the IPC will issue a range of guidance materials early in 2015.

Other proactive release initiatives

There have been some recent developments in proactively releasing information.

The NSW government, like Queensland, has introduced publication of Ministerial diaries to promote public visibility of Ministerial engagement and provide a publicly available record of that engagement.

The *NSW OpenGov* website provides a central repository for the publication of annual reports of government agencies. Developments such as this data portal *data.nsw* provide access to government information through one central site.

Data.nsw provides access to a list of data sets held by NSW government agencies that can facilitate data sharing between agencies. It also provides publicly accessible links to spatial data published by the Office of Environment and Heritage, government data releases including home building complaints information and statistics.

Maximising our information asset

The ultimate objective of this pathway is to build the body of information available to citizens.

However, a strategic, coordinated approach to the categorisation and release of information is required to manage our information asset.

The challenge is not only to increase the release of information but also to arrange that information in a way that citizens can easily understand and access and that facilitates greater information sharing between agencies.

The purposeful application of information is particularly pertinent in an increasingly digitised environment in which an ever-increasing volume of data is being created.

The utility and accessibility of information would be enhanced by its categorisation and classification around key public benefit issues.

The application of a "citizen lens" may usefully inform how these public interest themes are identified and developed and how the social and economic value of information can be maximised.

However, this issue requires strategic leadership and a collaborative approach. The IPC will focus on leading this initiative in 2015.

Informal release of information

Section 8 of the GIPA Act authorises agencies to release information in response to an informal request – a request that does not meet the formal requirements under section 41 – unless there is an overriding public interest against disclosure.

Agencies can make this information available subject to any reasonable condition and can determine how the information is to be released.

The benefit of this pathway is accessibility. Citizens can make informal requests for information via a range of media – phone call, fax, e-mail or as an informal request in writing.

The Act does not require agencies to keep any record of informal applications and so, by its very nature, the use of this pathway and the information release outcomes are difficult to assess.

The IPC has examined the application of this pathway through the analysis of its complaint patterns and through the IPC's survey of local councils' inputs into their proactive release programs.

Some 27% of complaints received by the IPC related to informal requests for information.

In analysing these complaints, the IPC noted that in many cases the information sought was information covered by a conclusive presumption against disclosure or necessitated the application of the public interest test – such as the release of personal information by a third party.

From this analysis, the IPC has identified opportunities to educate both agencies and the public about the operation of this pathway and to encourage and guide agencies in providing a better explanation of the reasons for refusal and to suggest other more appropriate pathways.

The IPC has released a guideline entitled *Guideline 4: Personal information as a Public Interest Consideration under the GIPA Act* to assist with the issue of personal information. This Guideline confirms that under the Act personal information is one of a number of factors to be considered in applying the public interest test and determining the release of information.

The IPC's survey on the inputs local councils use to inform their proactive release programs (discussed in "Authorised Proactive Release of Information") highlighted that limited use is made of the intelligence gained from informal release requests to feed into these programs and build the body of knowledge available to citizens,

For this reason, and to better understand how this pathway is used, there may be advantages in agencies formalising arrangements to record the volume and types of information sought and released.

While not advocating a prescriptive regime, this issue has been referred to the 2014 Department of Justice Statutory Review of the GIPA Act for consideration.

The IPC will continue to promote a collective understanding and use of this pathway by agencies and citizens.

Access applications

Section 9 of the GIPA Act gives citizens an enforceable right to apply for and access information, unless there is an overriding public interest against disclosure.

The Act also outlines the processes that applicants and agencies must follow in dealing with access applications and the options for the review of decisions.

Under section 125 of the Act agencies must report annually on how they have dealt with access applications according to specified mandated reporting fields set out in clause 7 (a) (b) (c) and (d) of the GIPA Regulation 2009.

Reported agency data provides the basis for the following analysis of access applications.

Sector snapshot

Sector	Government including State owned corporations (215)*	Councils (152) and County Councils (14)	Ministers (22)	Universities (10)
Where were applications lodged?	89%	11%	0.3%	0.5%
Who applied?	32% – not for profit organisations or community groups 28% – legally represented members of the public	54% – unrepresented members of the public 27% – legally represented members of the public	33% – Members of Parliament 29% – media	74% – unrepresented members of the public
What was asked for?	66% – personal information	85% – other than personal information	90% – other than personal information	56% – other than personal information
How quickly were decisions made? (within the statutory time frame)	78%	92%	70%	63%
Did people get what they asked for?	Granted: 74% in full and in part 31% in full 43% in part Refused: 9%	Granted: 73% in full and in part 46% in full 27% in part Refused: 6%	Granted: 73% in full and in part 40% in full 33% in part Refused: 7%	Granted: 50% in full and in part 41% in full 9% in part Refused: 14%

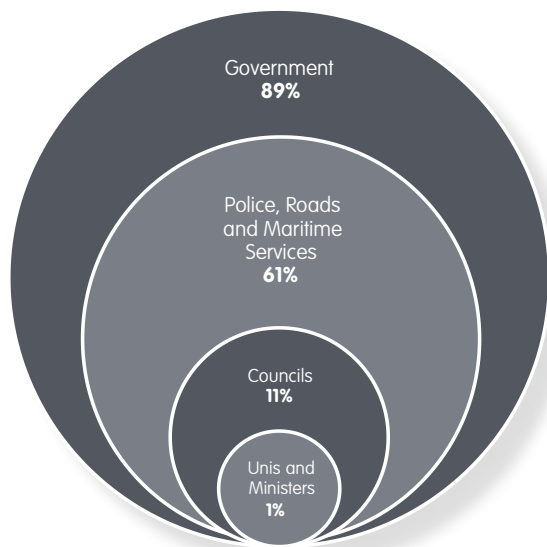
(*Note: This number is based on the number of agencies within the sector. Some agencies prepare individual GIPA reports, others may report through parent agencies.)

Year at a glance

12,945 applications were lodged

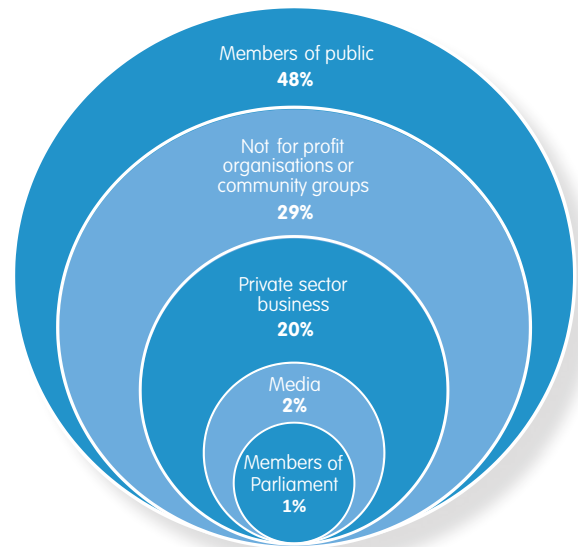
Where were applications lodged?

- The Government sector accounted for 89% of all applications lodged.



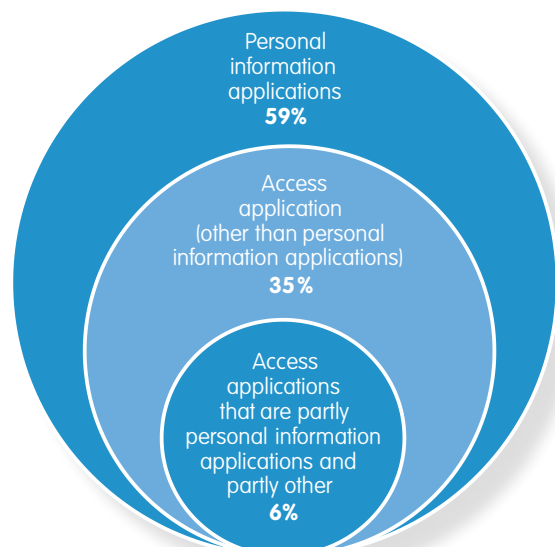
Who applied?

- 48% of all information release decisions related to applications lodged by members of the public – both legally represented and unrepresented.



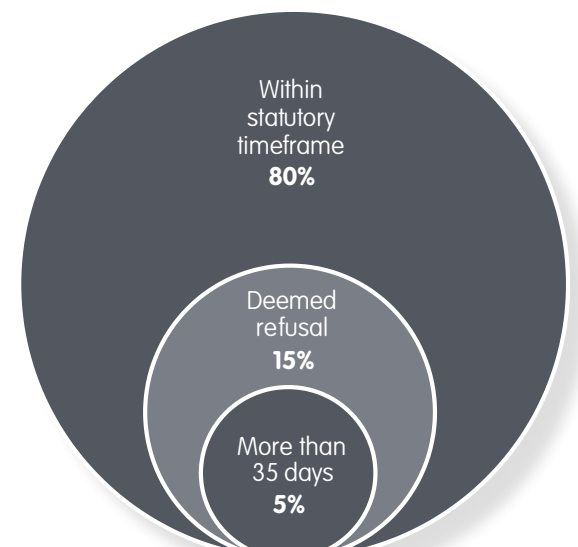
What was asked for?

- 59% of all information release decisions related to applications made for personal information.



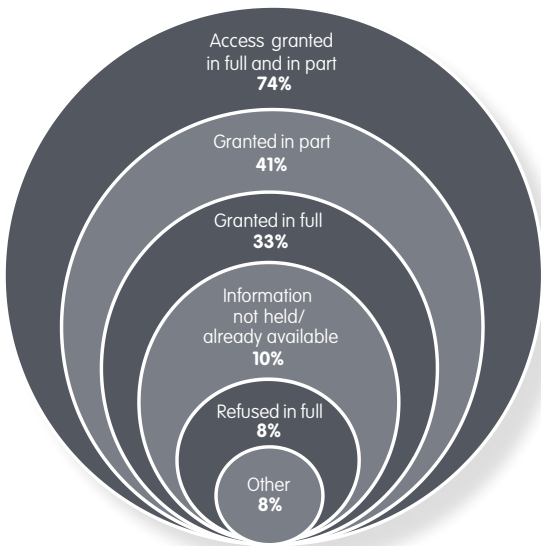
How quickly were decisions made?

- 80% of applications were finalised within the statutory timeframe.



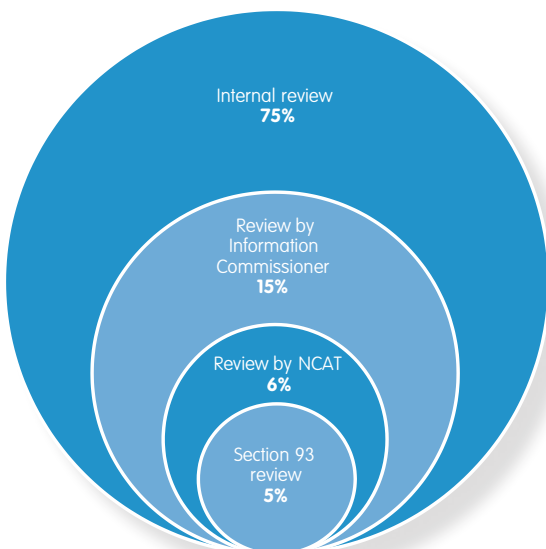
Did applicants get what they asked for?

- 74% of information release decisions resulted in information being released in full and in part.



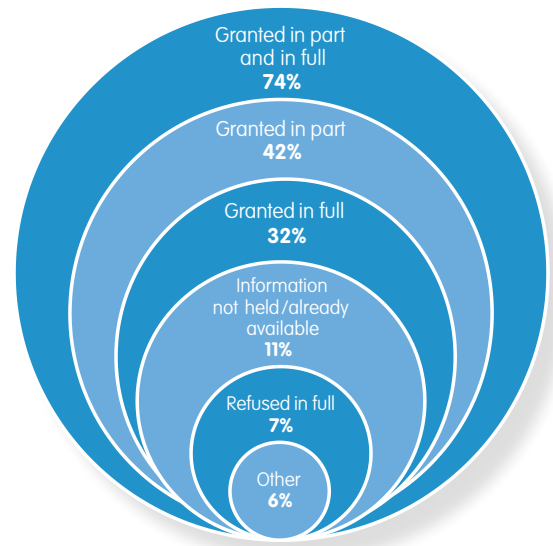
How were decisions reviewed?

- 75% of all reviews were internal reviews by direct applicant.



Did members of the public get what they asked for?

- 74% of information release decisions resulted in members of the public being granted access in full or in part.



What were the main review outcomes?

- 72% of all internal reviews (including section 93 decisions) varied the initial decision.



How many applications were lodged?

The number of applications lodged under the Act is based on data provided under clause 7(b) of the Regulations.

Year result

- 12,945 applications were lodged, the lowest since the introduction of the Act
- The Government sector continued to receive the majority of applications – 89%, up from 82% last year
- Three Government sector clusters accounted for 76% of all applications lodged:
 - Attorney General and Justice (46%)
 - Transport (21%)
 - Finance and Services (9%)
- Two Government sector agencies accounted for 61% of all applications lodged:
 - NSW Police (40%)
 - Roads and Maritime Services (21%)

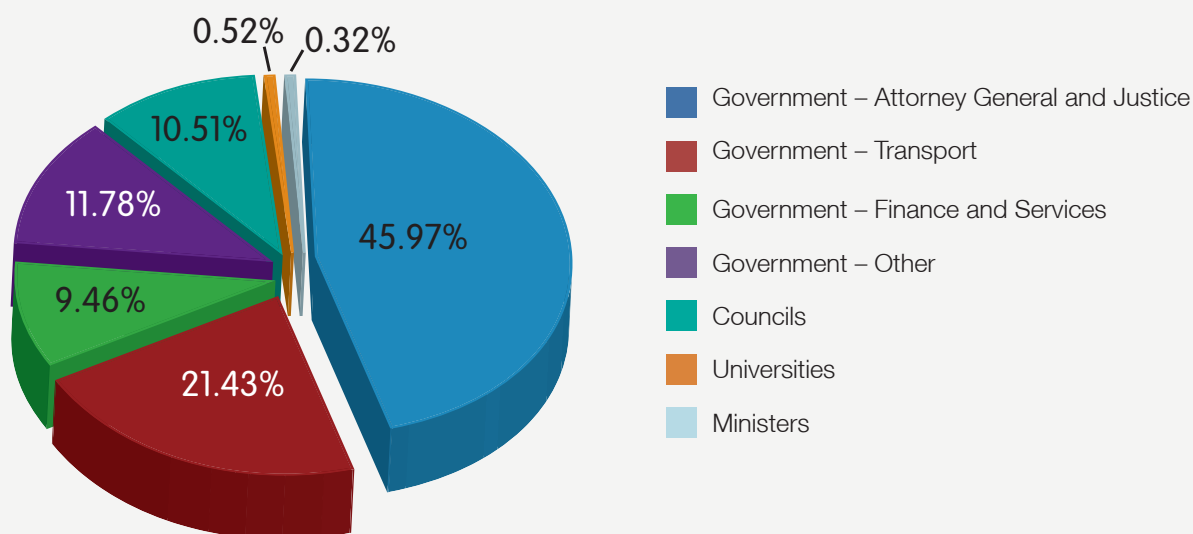
4 year trend

- There has been no consistent pattern in the number of applications lodged in each of the last four years with each year having contrasting peaks and troughs
- The trend line across the four years shows a downward trend in the number of applications lodged with a decrease of 27% since 2010 – 2011.

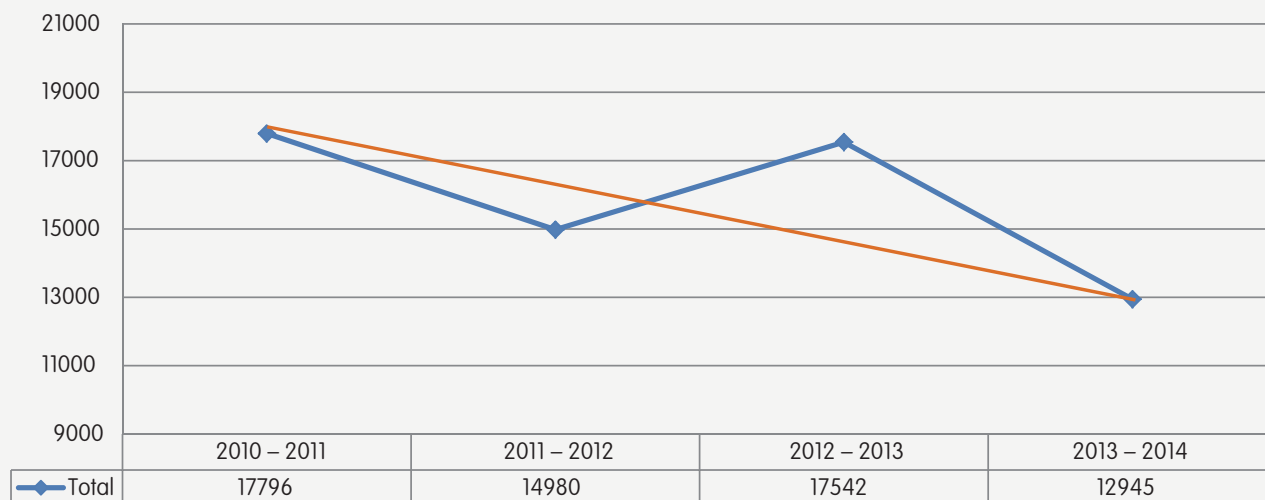
Sector analysis

- Government sector: this sector was a key driver in the decrease in total number of applications lodged having a 21% reduction between 2010 – 2011 and this year
- Council sector: the number of applications lodged decreased by 6% between 2010 – 2011 and this year.

Year result – applications 2013 – 2014



4 year trend – applications 2010 – 2014

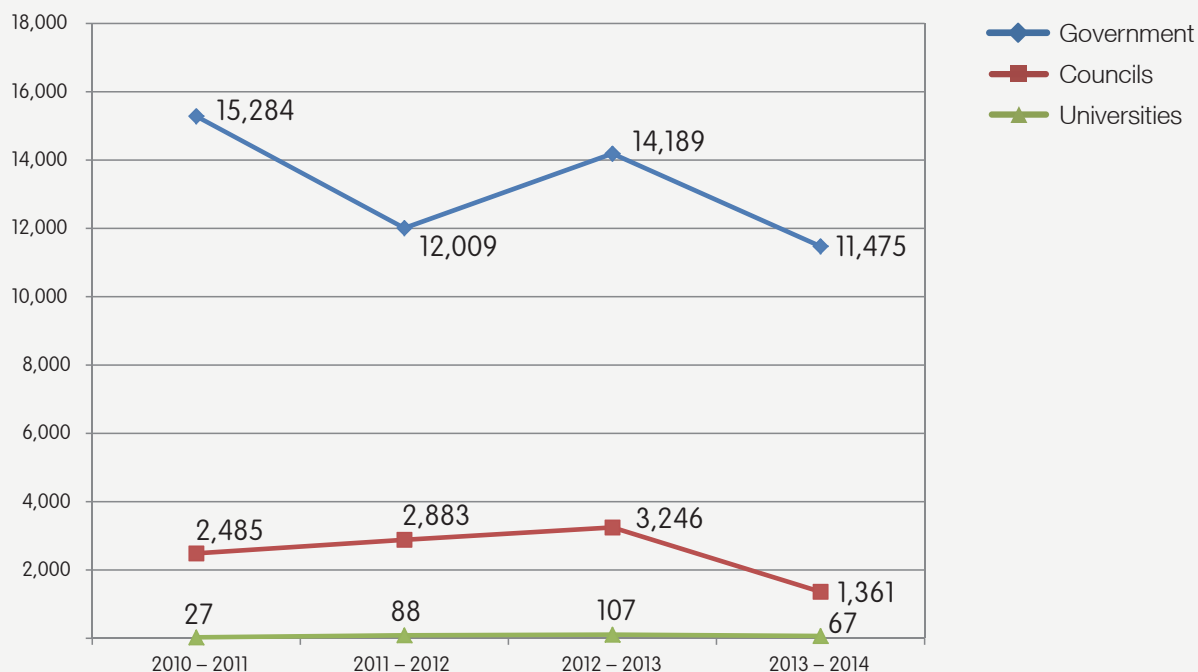


Sector analysis – application distribution by sector 2010 – 2014

Sector by year	2010 – 2011	2011 – 2012	2012 – 2013	2013 – 2014
Government	85.88%	80.17%	80.89%	88.64%
Councils	13.96%	19.25%	18.50%	10.51%
Universities	0.15%	0.59%	0.61%	0.52%
Ministers	N/A	N/A	N/A	0.32%

(Note: Ministers began reporting on Clause 7(b) in 2013 – 2014.)

Sector analysis – applications 2010 – 2014



(Note: Ministers reported 42 applications in 2013 – 2014.)

Invalid applications

Under the Act an application can be deemed to be invalid if it does not meet specified formal requirements (section 41), if it is an application for excluded information (section 43), or if it contravenes a restraint order (section 110). Information on invalid applications is based on Table C.

Year result

- Invalid applications represented 13% of all applications lodged
- 71% of invalid applications were deemed to be invalid in that they did not meet the formal requirements of the Act
- 25% of invalid applications subsequently became valid.

4 year trend

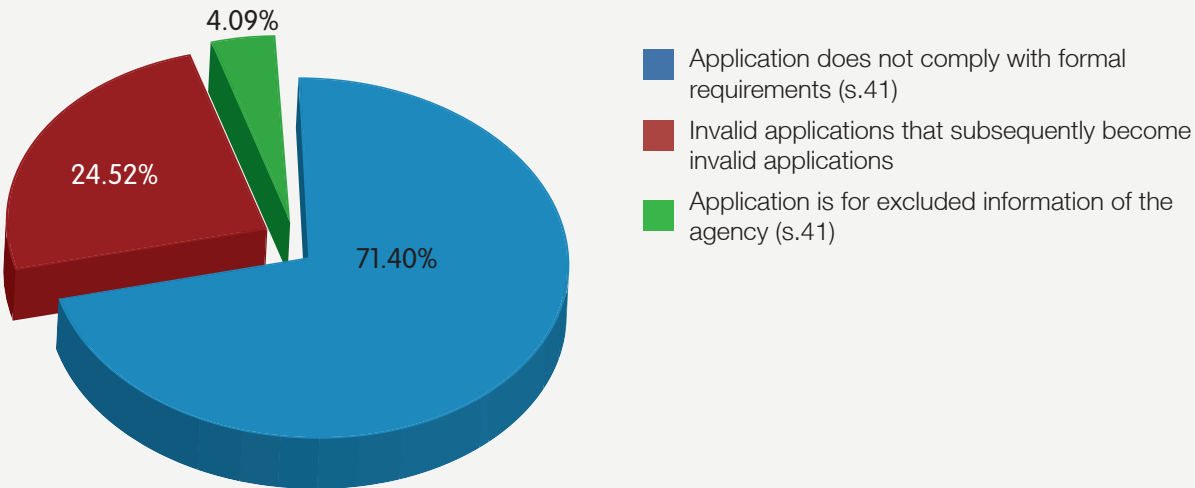
- The proportion of invalid applications to total applications has remained around 12%
- Applications deemed to be invalid in that they did not meet the formal requirements of the Act decreased from the 2010 – 2013 total of 78% to 71% this year
- The proportion of invalid applications that subsequently become valid came from a low base

of 13% in 2010 – 2011, increased to 26% in 2012 – 2013 and dropped slightly this year to 25%.

Sector analysis

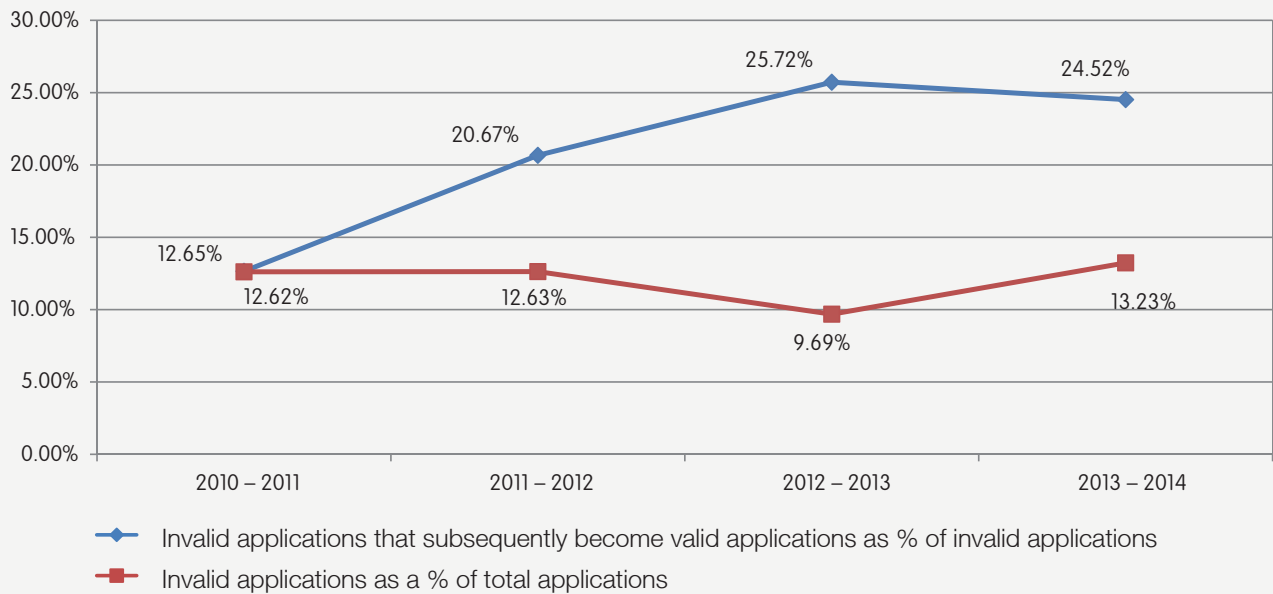
- Government sector: 14% of all applications were deemed invalid applications, of which 71% did not comply with formal requirements. 24% of invalid applications subsequently became valid.
- Council sector: 9% of all applications were deemed invalid applications, of which 71% did not comply with formal requirements. 30% of invalid applications subsequently became valid.
- University sector: 12% of all applications were deemed invalid applications, of which 88% did not comply with formal requirements. 13% of invalid applications subsequently became valid.

Year result – invalid applications 2013 – 2014

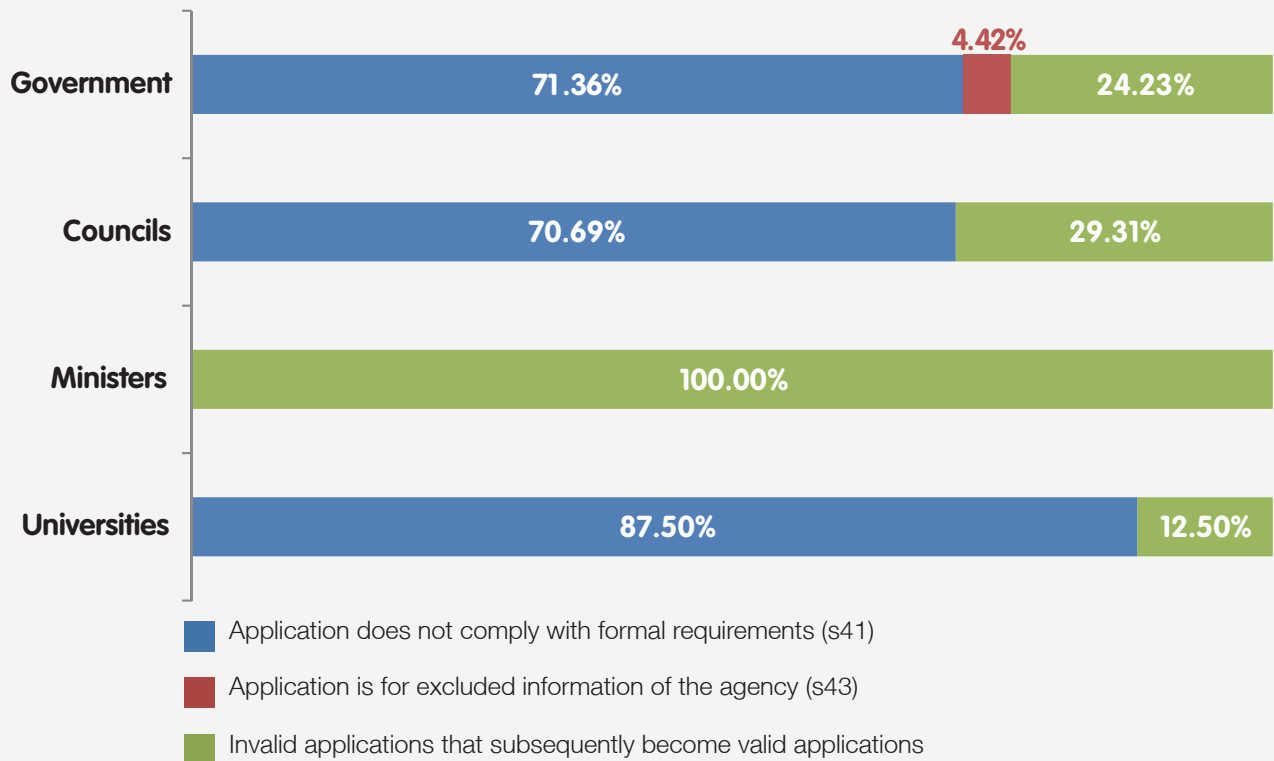


(Note: The 2010 – 2013 Report incorrectly stated that 96% of invalid applications were deemed to be invalid under Section 41. The correct percentage was 78%.)

4 year trend – invalid applications 2010 – 2014



Sector analysis – invalid applications 2013 – 2014



(Note: The Ministerial sector result is based on one application.)

Who applied?

This information is based on Table A – the number of applications by type of applicant and outcomes. It should be noted that the following calculations are based on the number of information release decisions (outcomes) not the number of applications.

Year result

- 29% of outcomes related to applications from not for profit organisations and community groups
- 28% of outcomes related to applications from legally represented members of the public
- 20% of outcomes related to unrepresented members of the public.

4 year trend

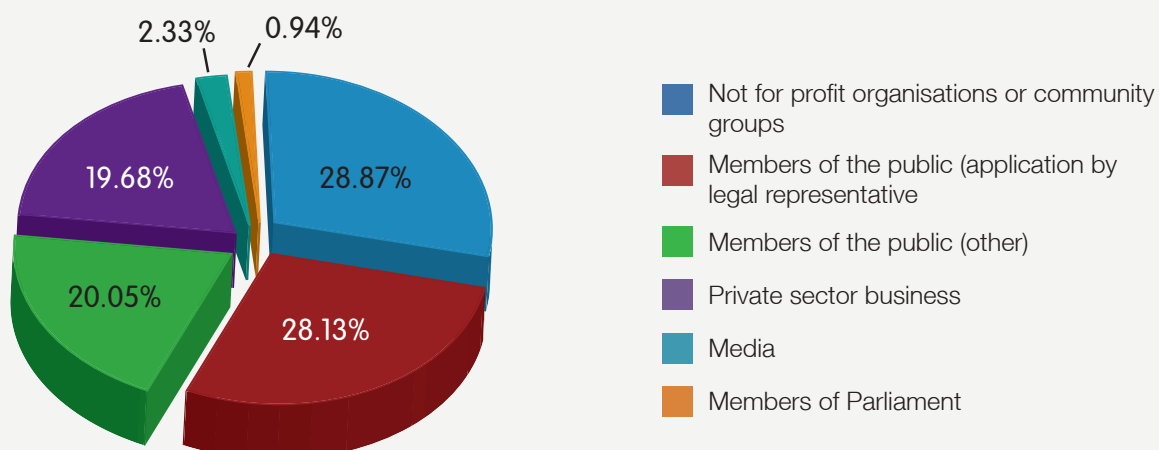
- Outcomes relating to applications from not for profit organisations and community groups increased significantly to 29% this year from a low base of 3% in 2010 – 2011, increasing to 7% in 2011 – 2012 and 20% in 2012 – 2013
- Outcomes relating to applications from legally represented members of the public increased from the 2010 – 2013 total of 26% to 28% this year
- Outcomes relating to applications from unrepresented members of the public decreased from the 2010 – 2013 total of 34% to 20% this year

- Outcomes relating to private sector business remained largely consistent with previous years but dropped from being the second highest applicant type in 2010 – 2011 to fourth this year.

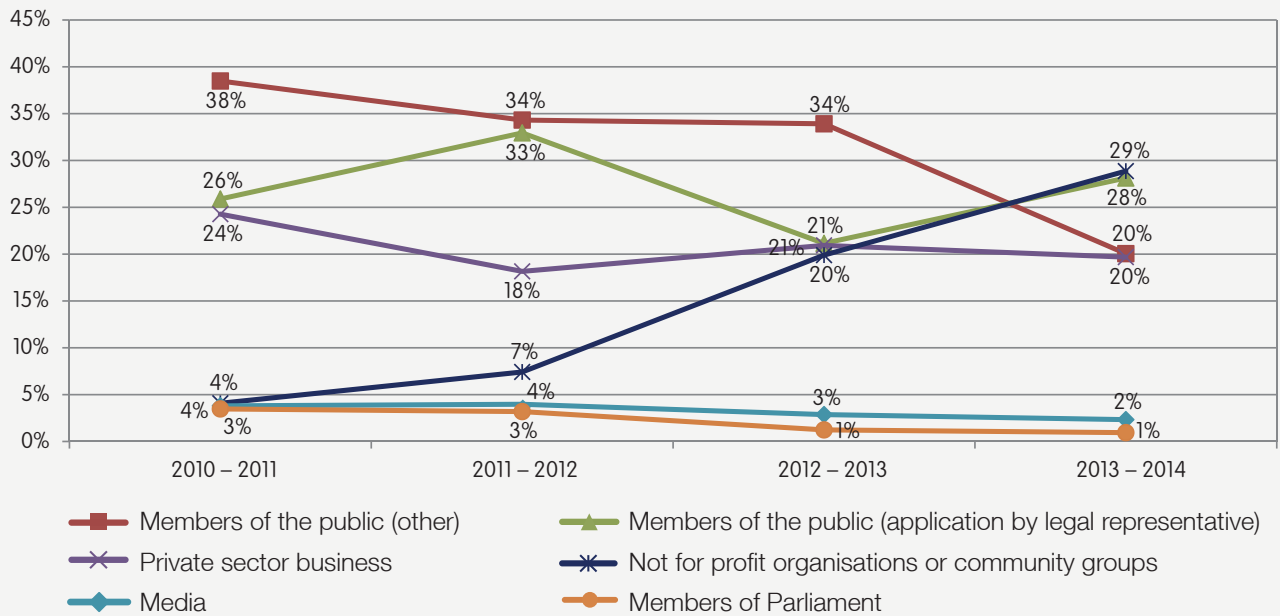
Sector analysis

- Government sector: outcomes relating to applications from not for profit organisations and community groups increased from the 2010 – 2013 total of 14% to 32% this year
- The key drivers in the shift between outcomes relating to legally represented and unrepresented applicants were:
 - Government sector: outcomes relating to unrepresented applicants decreased from the 2010 – 2013 total of 27% to 16% this year.
 - Council sector: outcomes relating to unrepresented applicants decreased from the 2010 – 2013 total of 67% to 54% this year, while outcomes relating to legally represented applicants increased to 27% from the 2010 – 2013 total of 17%.

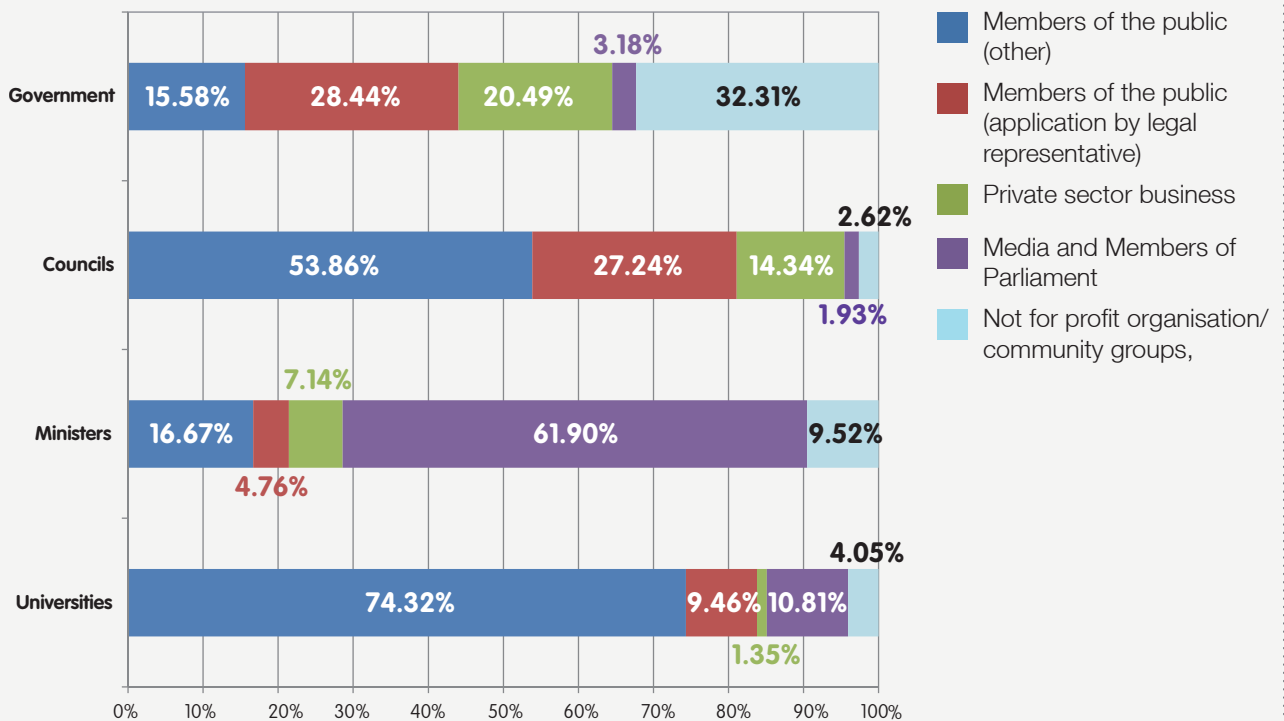
Year result – type of applicant (as a % of outcomes) 2013 – 2014



4 year trend – type of applicant (as % of outcomes) 2010 – 2014



Sector analysis – type of applicant (as a % of outcomes) 2013 – 2014



(Note: This year's report separates out not for profit, and media and members of parliament to better highlight the upward trend in not for profit/community applications. The 2010 – 2013 proportion of not for profit organisations or community groups out of all outcomes is: Government sector – 14%; Council sector – 1%; Ministers sector – 19%; University sector – 14%.)

What was asked for?

This information is based on Table B – the number of applications by type of application and outcomes. The following calculations are based on the number of information release decisions (outcomes) not the number of applications.

Year result

- The majority (59%) of outcomes related to applications for personal information
- 35% of outcomes related to applications for information other than personal information.

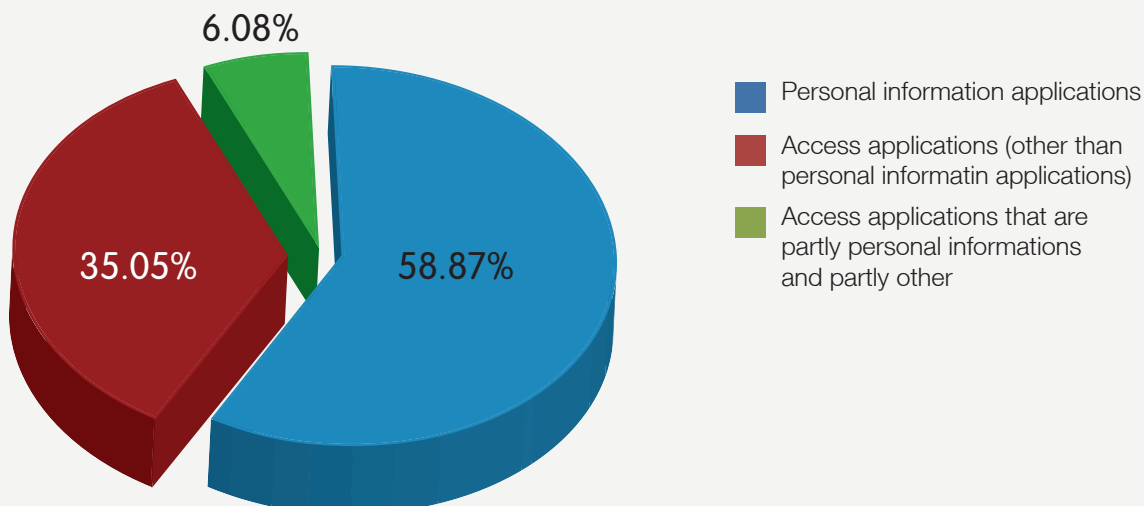
4 year trend

- Outcomes relating to applications for personal information increased from a low base of 22% in 2010 – 2011 to 49% and 45% over the following two years, and increasing to 59% this year
- Outcomes relating to applications for information other than personal information decreased from a high base of 51% in 2010 – 2011 to 39% and 44% over the following two years, and decreasing to 35% this year.

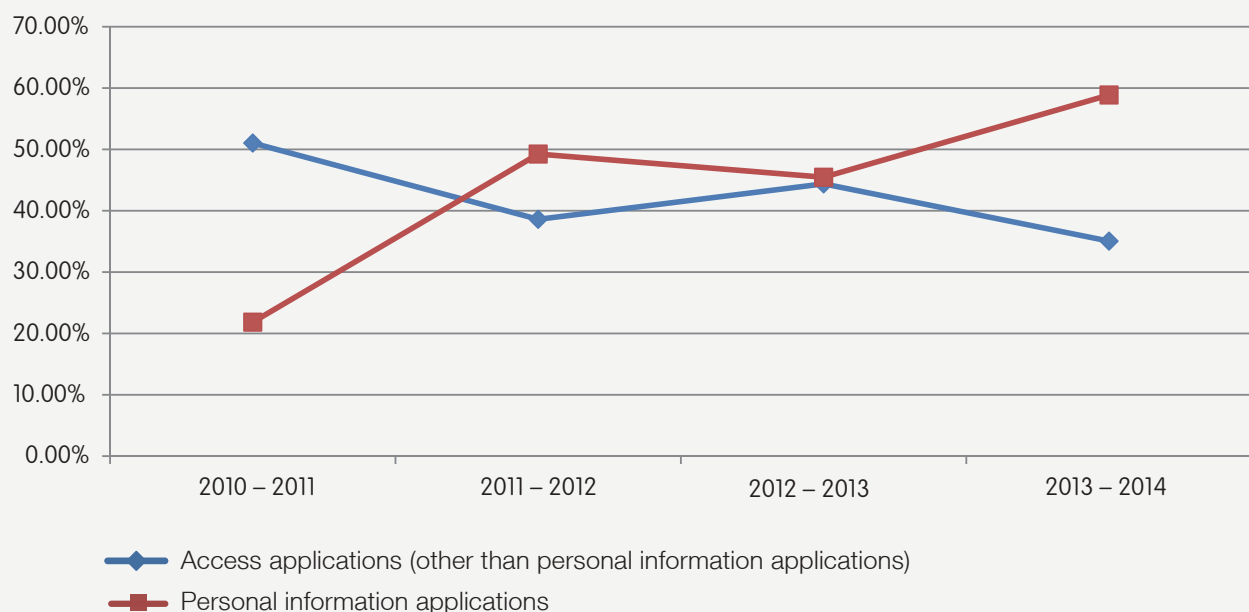
Sector analysis

- Government sector: there was a significant increase in outcomes relating to applications for personal information from the 2010 – 2013 total of 43% to 66% this year
- University sector: there was a significant decrease in outcomes relating to applications for personal information from the 2010 – 2013 total of 48% to 27% this year; there was also a significant increase in partly personal/partly other application outcomes from the 2010 – 2013 total of 5% to 17% this year
- In the other two sectors the majority of outcomes related to applications for information other than personal information and the sector application profiles are largely consistent with the 2010 – 2013 totals.

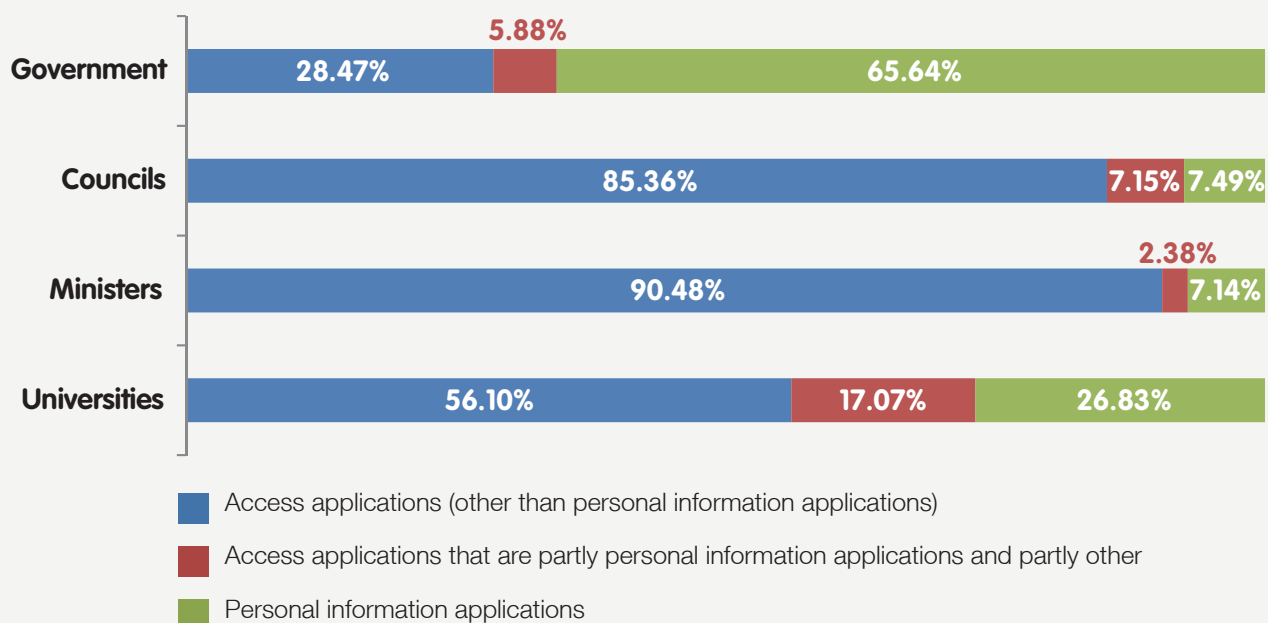
Year result – type of application (as a % of outcomes) 2013 – 2014



4 year trend – type of application (as a % of outcomes) 2010 – 2014



Sector analysis – type of application (as a % of outcomes) 2013 – 2014



Did applicants get what they asked for?

This information given here is based on information release decisions (outcomes) derived from:

- Table A: type of applicant
- Table B: type of application.

Type of applicant (Table A)

Year result

Access in full and in part

- All applicants: 74% of all outcomes resulted in applicants being granted access in full or in part:
 - 41% of outcomes granted access in part
 - 33% of outcomes granted access in full
- Members of the public: 74% of outcomes granted access in full or in part for both represented and unrepresented applicants:
 - legally represented 28% in full, 46% in part
 - unrepresented 38% in full, 36% in part
- Private sector business: 83% of outcomes granted access in full or in part (62% in full)
- Members of Parliament: 71% of outcomes granted access in full or in part (equal proportions in full and in part)
- Not for profit organisations and community groups: 70% of outcomes granted access in full or in part (15% in full)
- Media: 61% of outcomes granted access in full or in part (almost equal proportions in full and in part).

Refusals

- All applicants: 8% of outcomes refused access in full:
 - Members of the public: 7%
 - Not for profit organisations and community groups: 12%
 - Media: 9%
 - Members of Parliament: 8%
 - Private sector business: 6%.

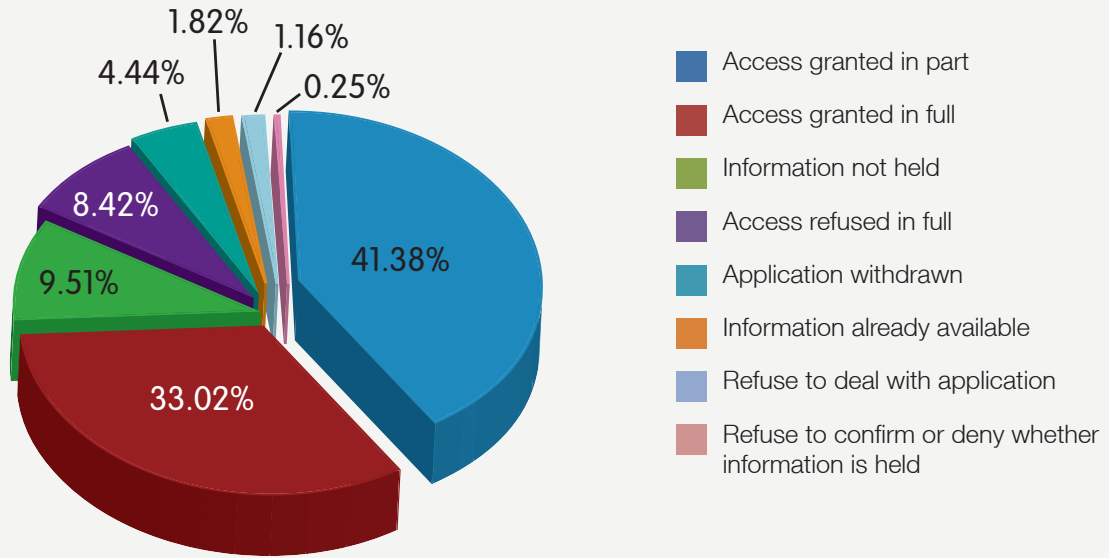
4 year trend

- All applicants: outcomes resulting in applicants being granted access in full or in part has remained consistent with the 2010 – 2013 total
- Members of the public: outcomes resulting in applicants being granted access in full or in part has remained consistent with the 2010 – 2013 total
- The refusal rate has remained constant at 8% with the 2010 – 2013 total.

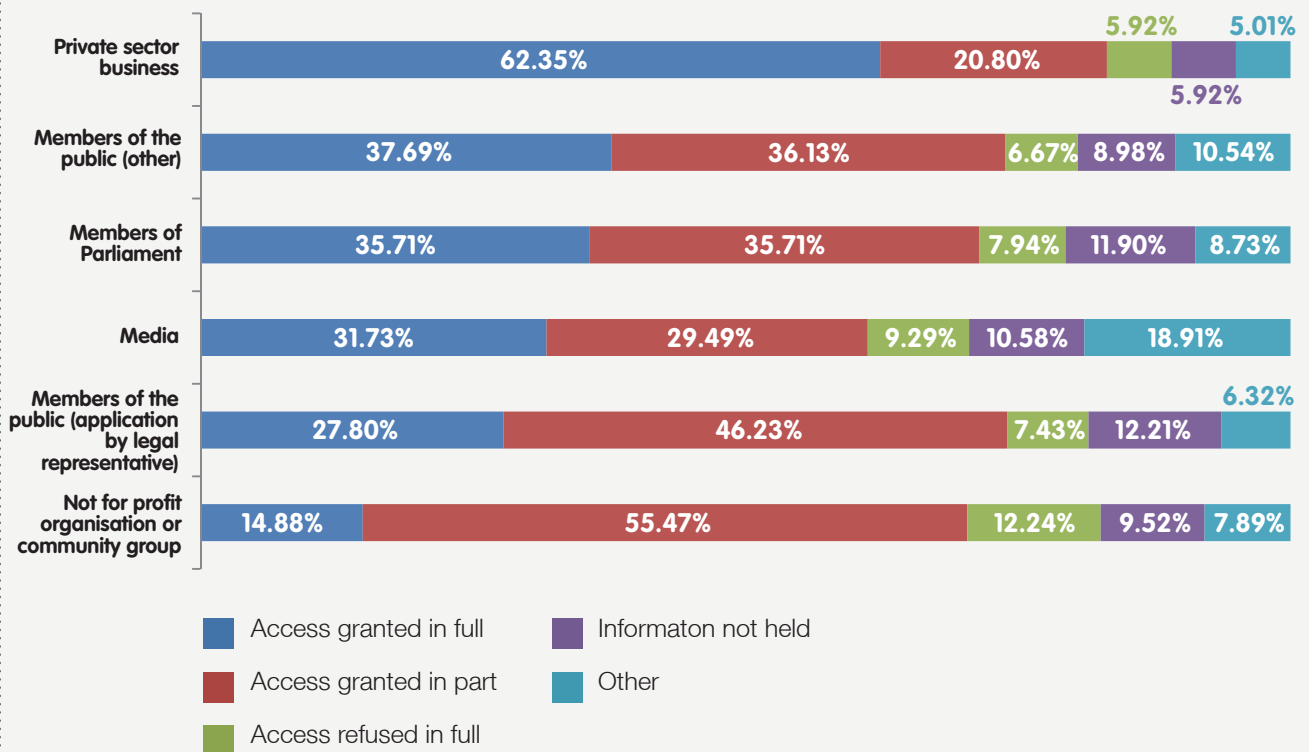
Sector analysis

- Government sector: 75% of outcomes resulted in access being granted in full or in part (consistent with the 2010 – 2013 total of 72%)
- 73% of Council sector outcomes resulted in access being granted in full or in part (a decrease from the 2010 – 2013 total of 86%)
- 74% of Ministerial sector outcomes resulted in access being granted in full or in part (an increase from the 2010 – 2013 total of 41%)
- 50% of University sector outcomes resulted in access being granted in full or in part (a decrease from the 2010 – 2013 total of 65%)
- The University sector had the highest refusal rate of 14%.

Year result – Table A by outcomes 2013 – 2014

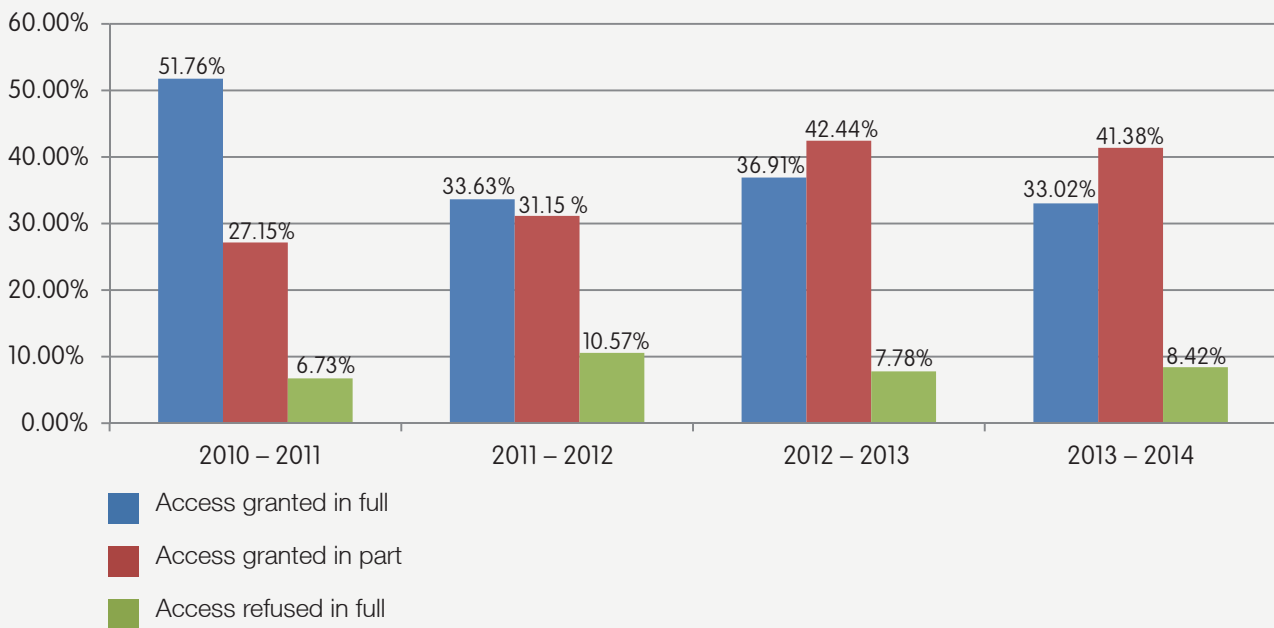


Year result – Table A – outcomes by type of applicant 2013 – 2014

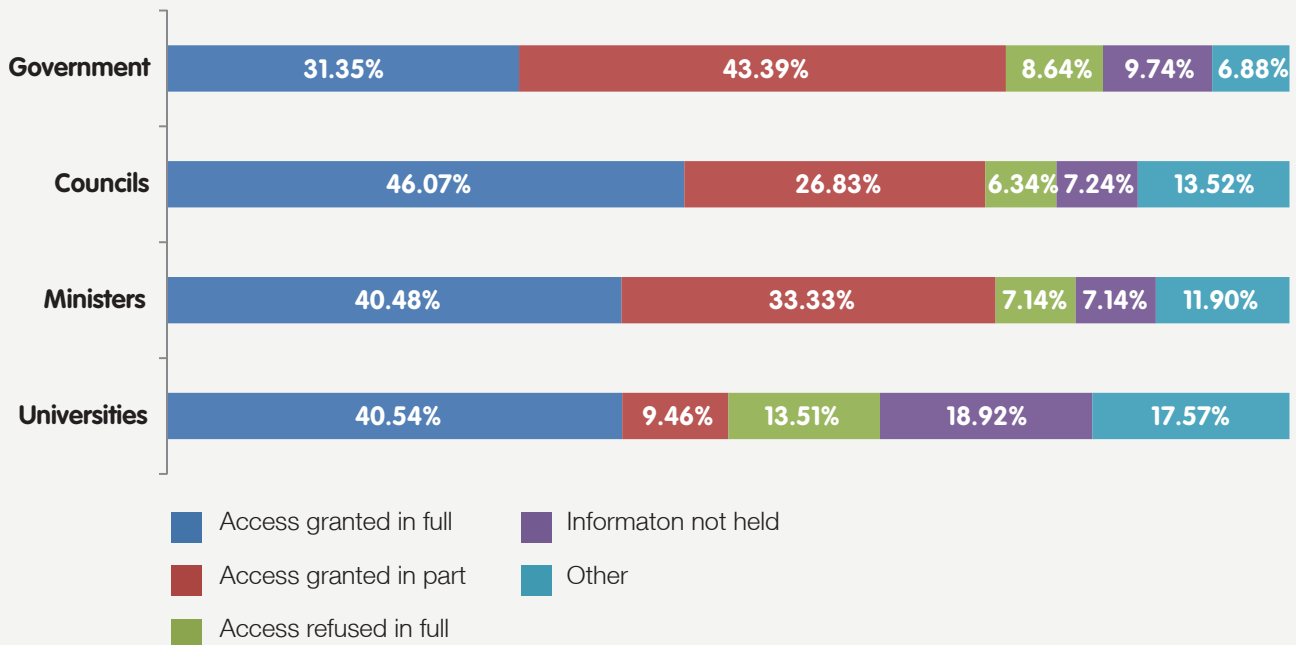


(Note: "Other" includes: information already available; refused to deal with application; refuse to confirm or deny whether application is held.)

4 year trend – Table A by outcomes 2010 – 2014



Sector analysis – Table A – applicant outcomes by sector 2013 – 2014



(Note: "Other" includes: information already available; resesd to deal with application; refuse to confirm or deny whether application is held.)

Type of application (Table B)

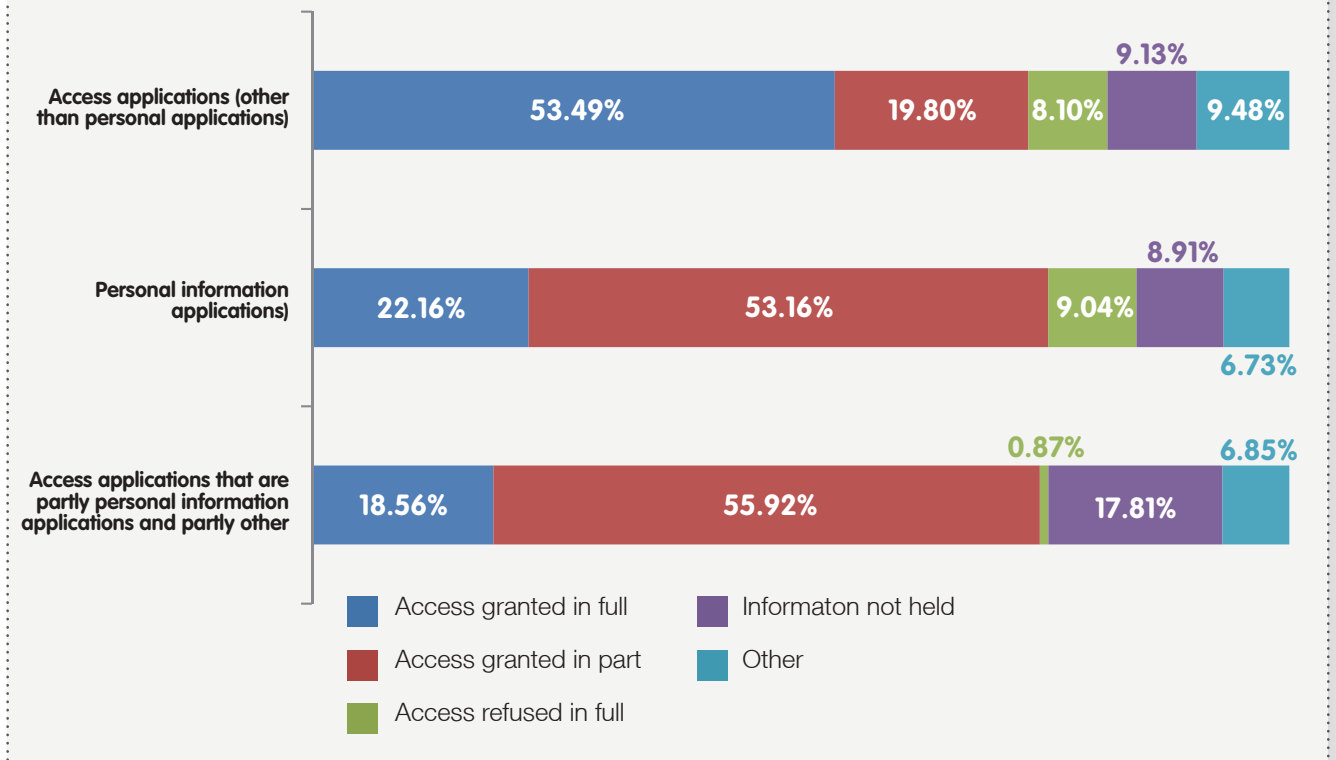
Year result

- Access applications (other than personal information applications): 73% of all outcomes resulted in applicants being granted in full or in part:
 - 53% of outcomes granted access in part
 - 20% of outcomes granted access in full
- Personal information applications: 75% of outcomes granted access in full or in part:
 - 22% of outcomes granted access in part
 - 53% of outcomes granted access in full
- Access applications (partly personal information and partly other): 75% of outcomes granted access in full or in part:
 - 19% of outcomes granted access in part
 - 56% of outcomes granted access in full.

4 year trend

- The proportional outcomes for applications for personal information and other than personal information remained consistent with the 2010 – 2013 total
- There was an increase in the percentage of applications for partly personal and partly other information that were granted in full from the three year total of 9% to 19% this year. There was also a significant increase in the information not held category.

Year result – Table B – outcomes by type of application 2013 – 2014



How quickly were decisions made?

The statutory timeframe for dealing with applications is 20 working days. A maximum extension of 15 working days is available under the Act – allowing for up to 35 days.

This can be extended to more than 35 working days with the agreement of the applicant.

If a decision is not made within the agreed timeframe the application is deemed to be refused.

Agency timeliness in dealing with applications is based on Table F. Percentage calculations are based on application totals given in Table F.

Year result

- 80% of all applications were decided within the statutory timeframe
- 5% were decided after 35 days
- 15% were deemed refusals.

4 year trend

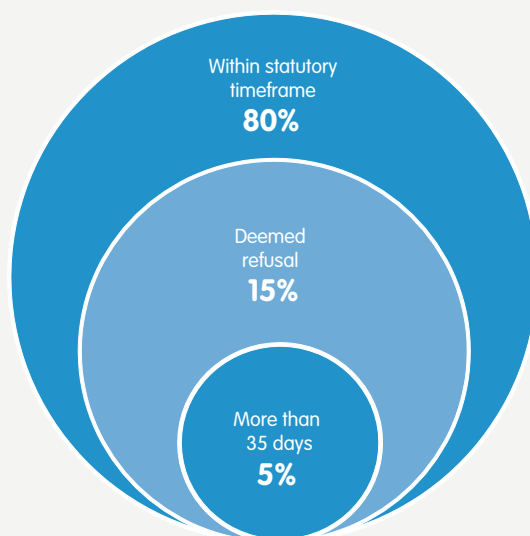
- Over the four years the proportion of applications decided within the statutory time frame decreased across all sectors from 93% in 2010 – 2011, to 82% and 85% over the next two years to 80% this year and is the lowest since the introduction of the Act
- The decrease in applications decided within the statutory time frame is largely driven by the Government sector where timeliness decreased from the 2010 – 2013 year total of 86% to 78% this year

- While University sector timeliness dropped from 81% last year to 63% this year this was not a key driver due to sector size
- Deemed refusals increased from the 2010 – 2013 year total of 10% to 15% this year.

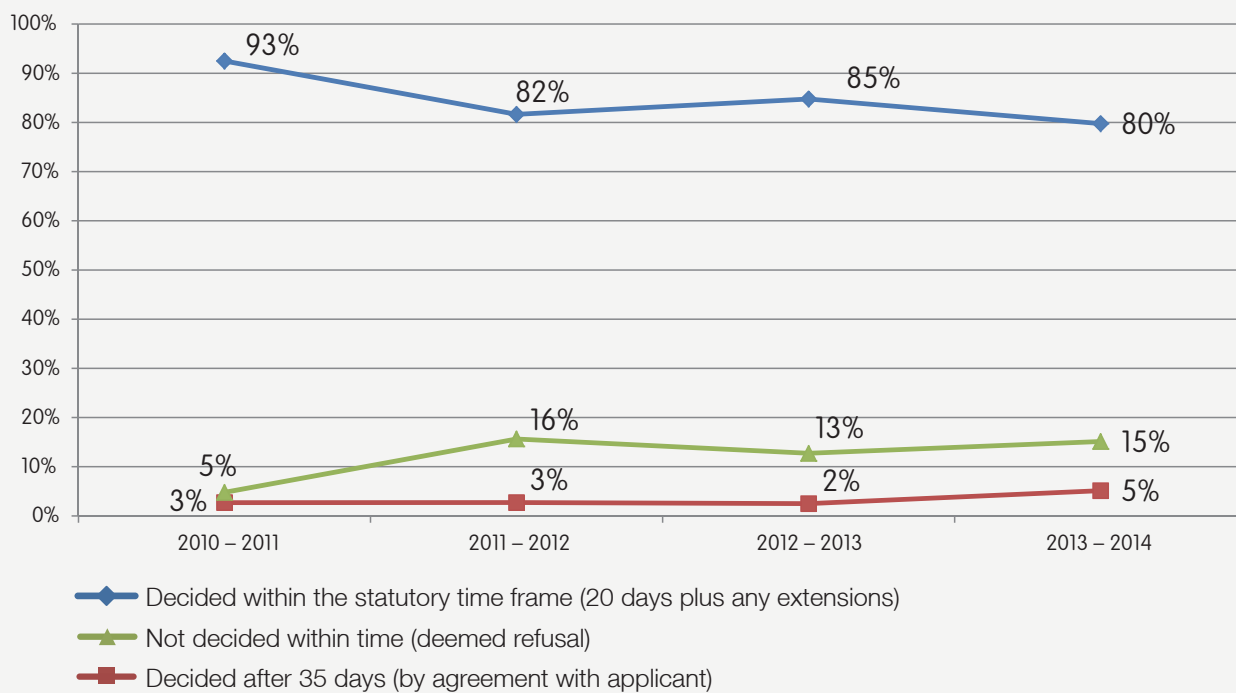
Sector analysis

- Government sector: 78% were decided within the statutory time frame (86% 2010 – 2013 total)
- Council sector: 92% were decided within the statutory time frame (95% 2010 – 2013 total)
- Ministerial sector: 70% were decided within the statutory time frame (73% 2010 – 2013 total)
- University sector: 63% were decided within the statutory time frame (81% 2010 – 2013 total).

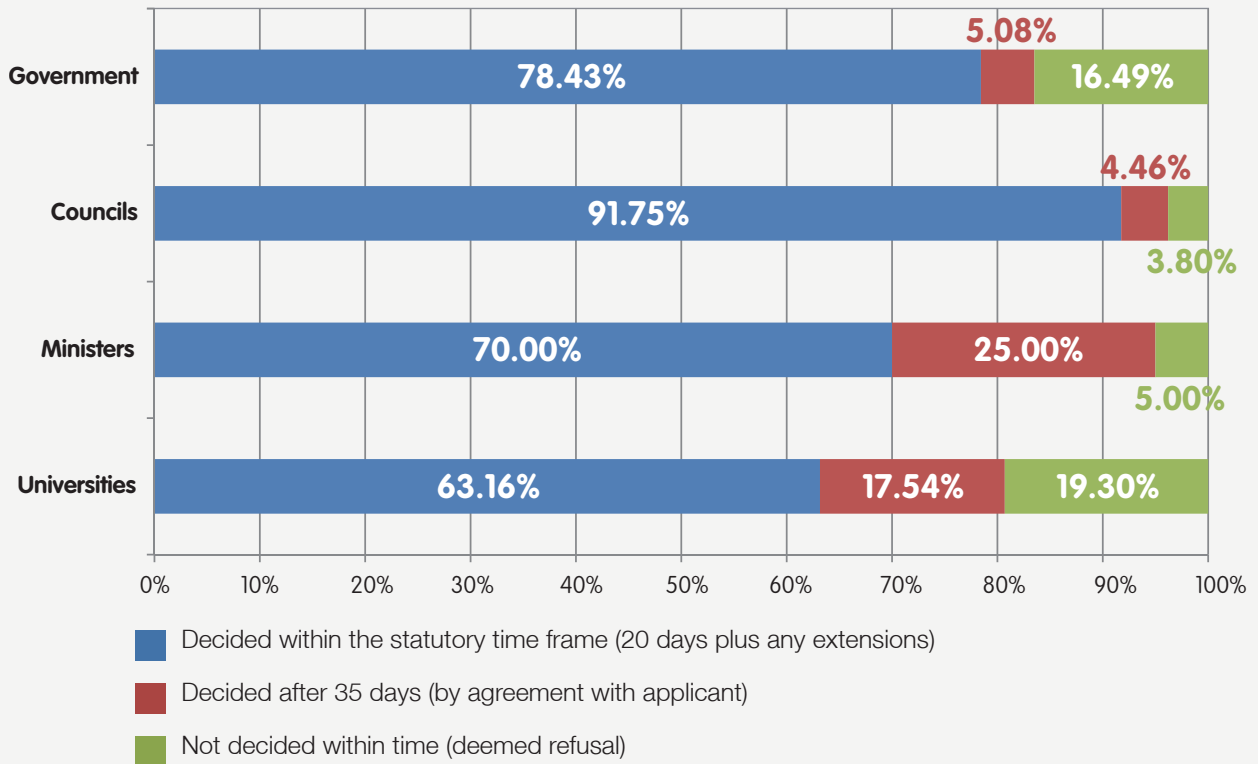
Year result – timeliness 2013 – 2014



4 year trend – timeliness by sector



Sector analysis – timeliness by sector 2013 – 2014



How was the public interest test applied?

Under section 14 of the Act it is conclusively presumed that there is an overriding public interest against disclosure of any information listed in Schedule 1.

The only other public interest considerations against disclosure that may be taken into account in applying the public interest test are listed in the Table under section 14.

Conclusive Presumption of Overriding Public Interest Against Disclosure (CPOPIAD)

Clause 7(c) of the Regulation requires agencies to report on the number of applications that were refused wholly or in part because the application requested the disclosure of information listed in Schedule 1 of the Act.

Schedule 1 lists 13 categories of information for which there is a conclusive presumption of overriding public interest against disclosure.

Table D reports on the number of times each of the CPOPIAD considerations listed in Schedule 1 were applied to applications.

More than one CPOPIAD consideration may apply in respect of an application and in such cases each consideration is to be recorded (but only once per application).

Ministers are now reporting data for this Clause.

CPOPIAD year result

- 5% of all applications were refused on the grounds that there was a conclusive presumption of overriding public interest against disclosure
- The three most used considerations were Legal Professional Privilege (32%), Care and Protection of Children (30%) and Excluded Information (19%).

4 year trend

- The percentage of applications refused decreased from the 2010 – 2013 total of 7% to 5% this year
- A significant trend over the years is the decrease in the number of applications wholly refused and the increase in applications partly refused
- The trend continues with Legal Professional Privilege and Care and Protection of Children as the most used considerations
- There was a small increase in the use of Legal Professional Privilege from the 2010 – 2013 total of 30% to 32% this year. The percentage of use of the Care and Protection of Children consideration remained constant.

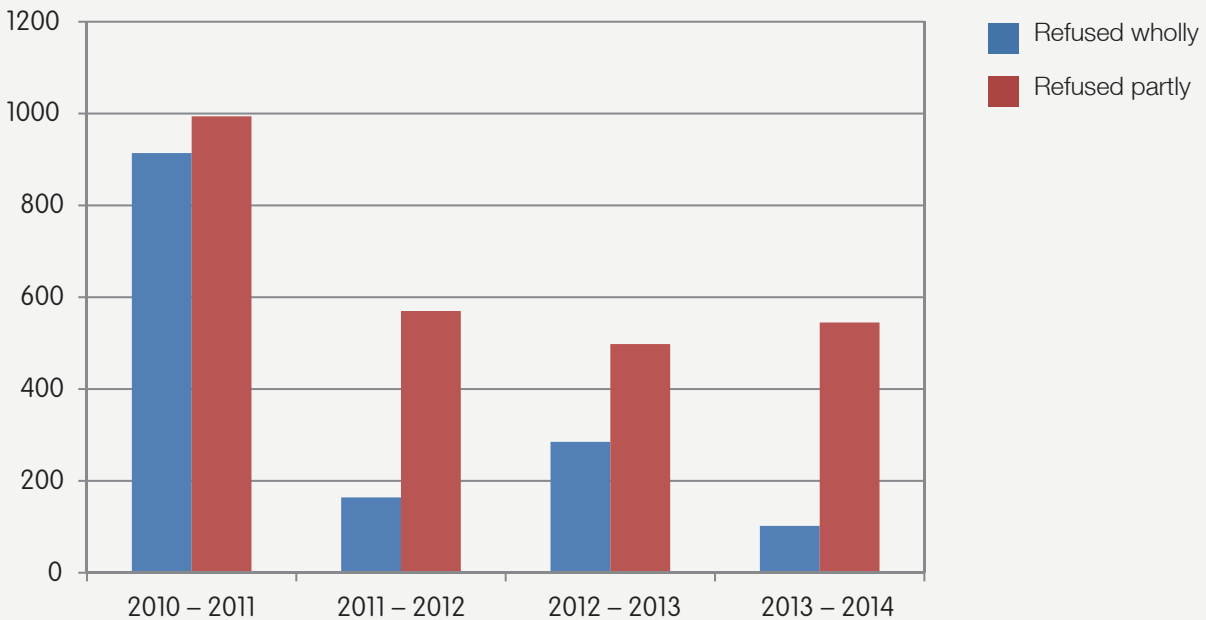
Sector analysis

- Government sector: Care and Protection of Children was the most used consideration (35%)
- University and Council sectors: Legal Professional Privilege was the most used consideration by the University (82%) and Council (71%) sectors
- Ministerial sector: the most used consideration was Excluded Information (53%).

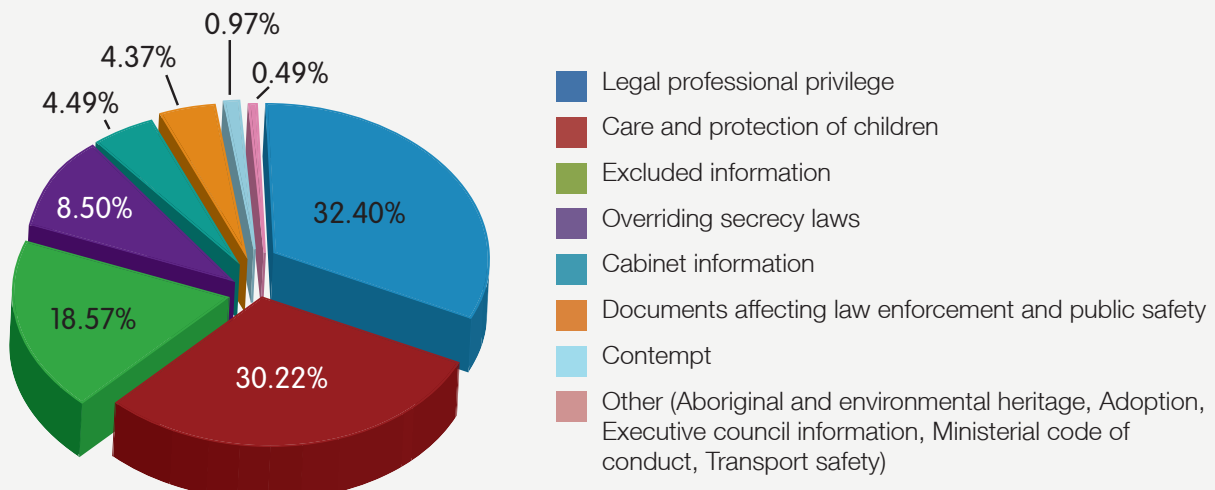
CPOPIAD refusals

	Refused wholly and in part	% wholly and in part against total applications	Refused wholly	% refused wholly against total application	Refused partly	% refused partly against total applications
2010 – 2011	1,908	10.72%	914	5.14%	994	5.59%
2011 – 2012	734	4.90%	164	1.09%	570	3.81%
2012 – 2013	783	4.46%	285	1.62%	498	2.84%
2013 – 2014	647	5.00%	102	0.79%	545	4.21%
Total	3,425	5.41%	1,465	2.32%	2,607	4.12%

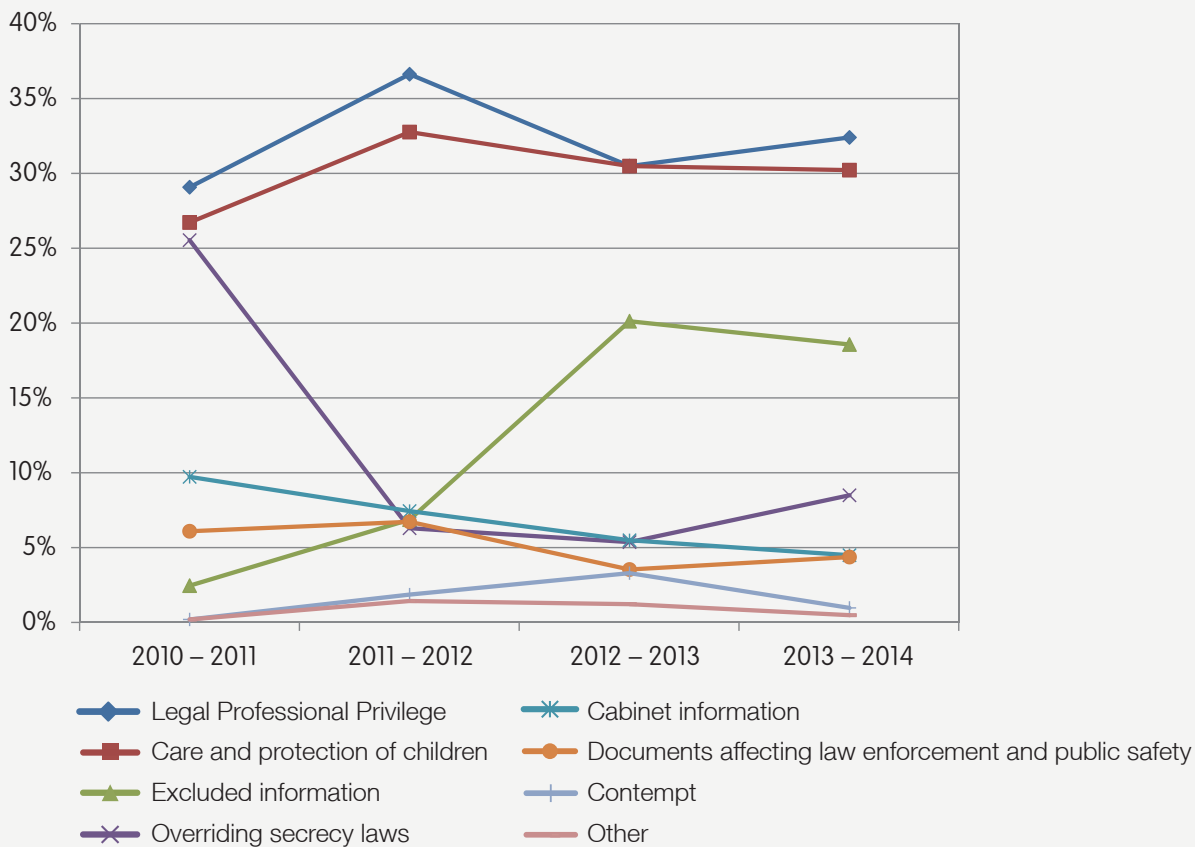
4 year trend – refusals 2010 – 2014



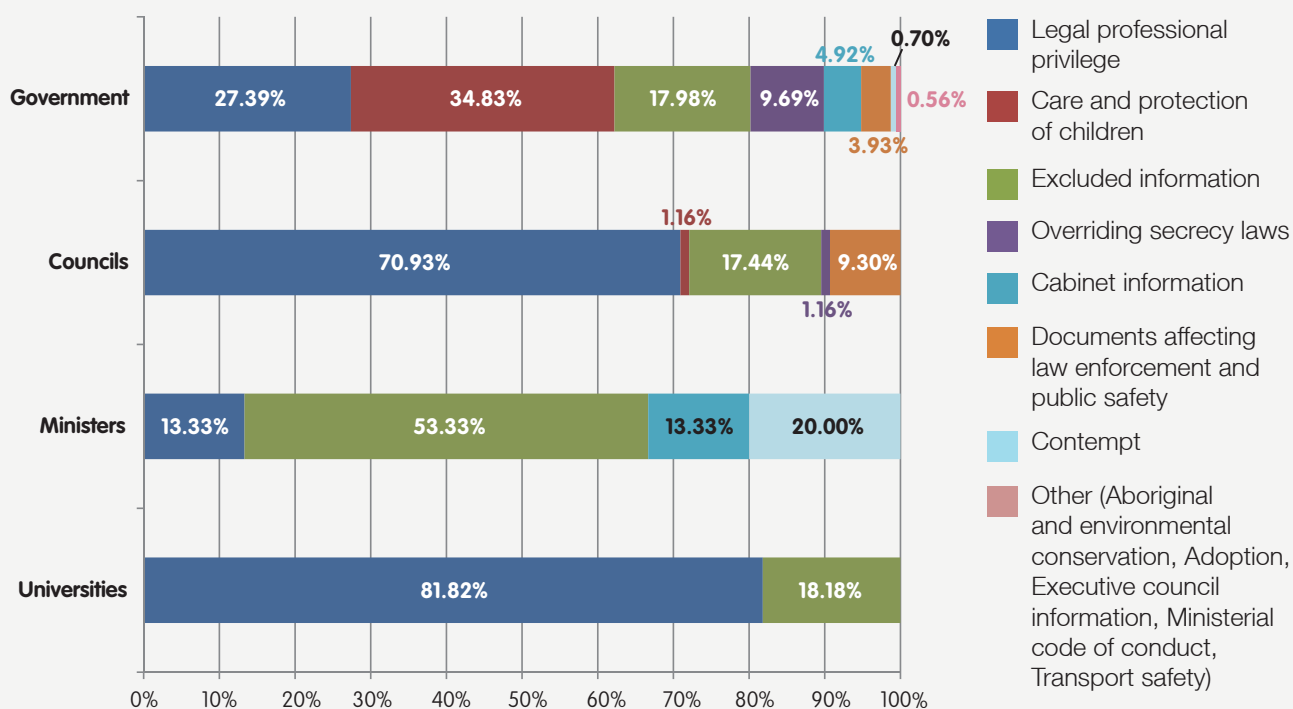
Year result – CPOPIAD reasons 2013 – 2014



4 year trend – CPOPIAD reasons



Sector analysis – CPOPIAD reasons by sector 2013 – 2014



Other Public Interest Against Disclosure (OPIAD)

OPIAD considerations are reported on in Table E.

More than one OPIAD consideration may apply in respect of an application and in such cases each consideration is to be recorded and in such cases each consideration is to be recorded (but only once per application).

OPIAD year results

- Individual Rights, Judicial Processes and Natural Justice (71%) was the most applied consideration, followed by Responsible and Effective Government (14%).

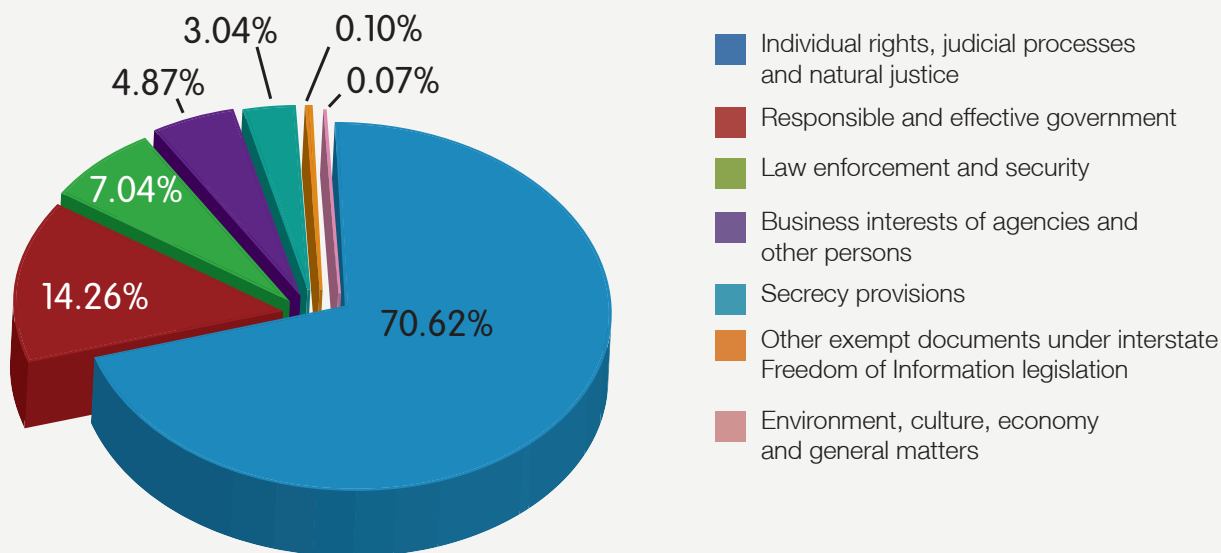
4 year trend

- Individual Rights, Judicial Processes and Natural Justice and Responsible and Effective Government remained the most applied considerations.

Sector analysis

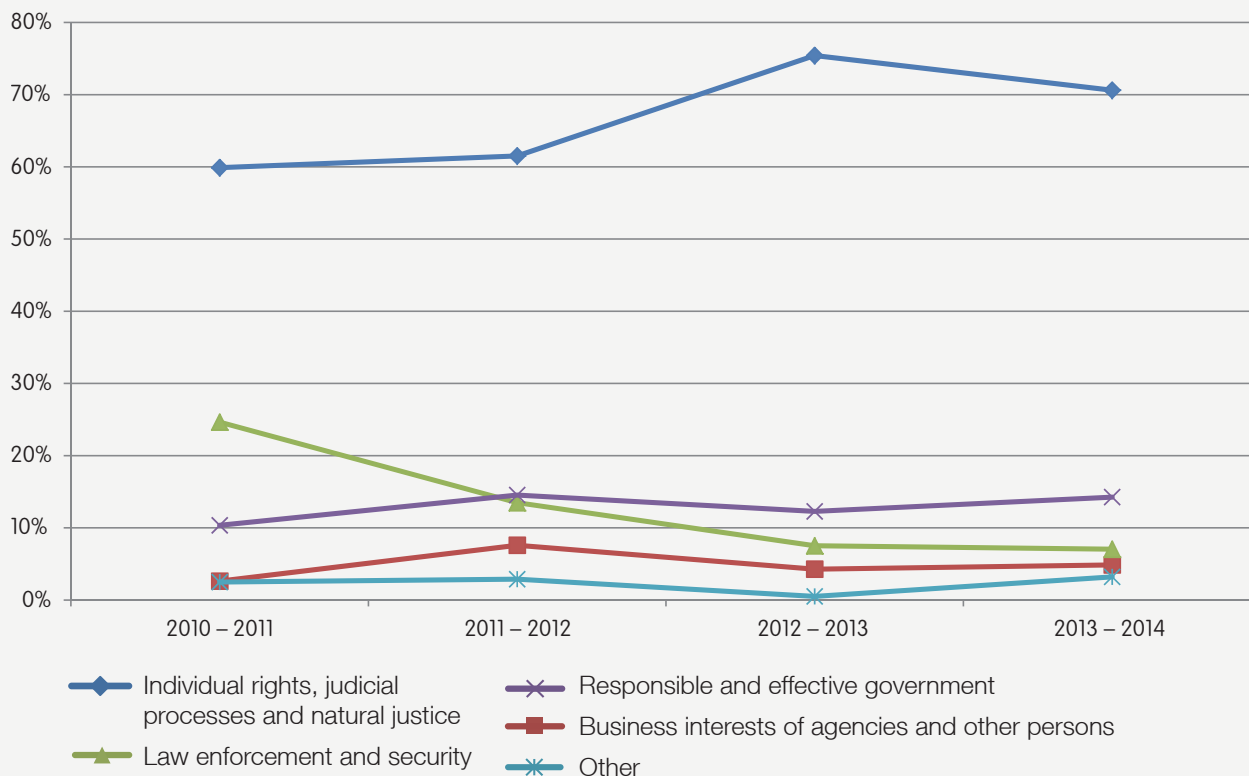
- Individual Rights, Judicial Processes and Natural Justice was the major OPIAD consideration applied across all sectors:
 - Government (71%)
 - Councils (64%)
 - Ministers (63%)
 - Universities (47%).

Year result – OPIAD reasons 2013 – 2014

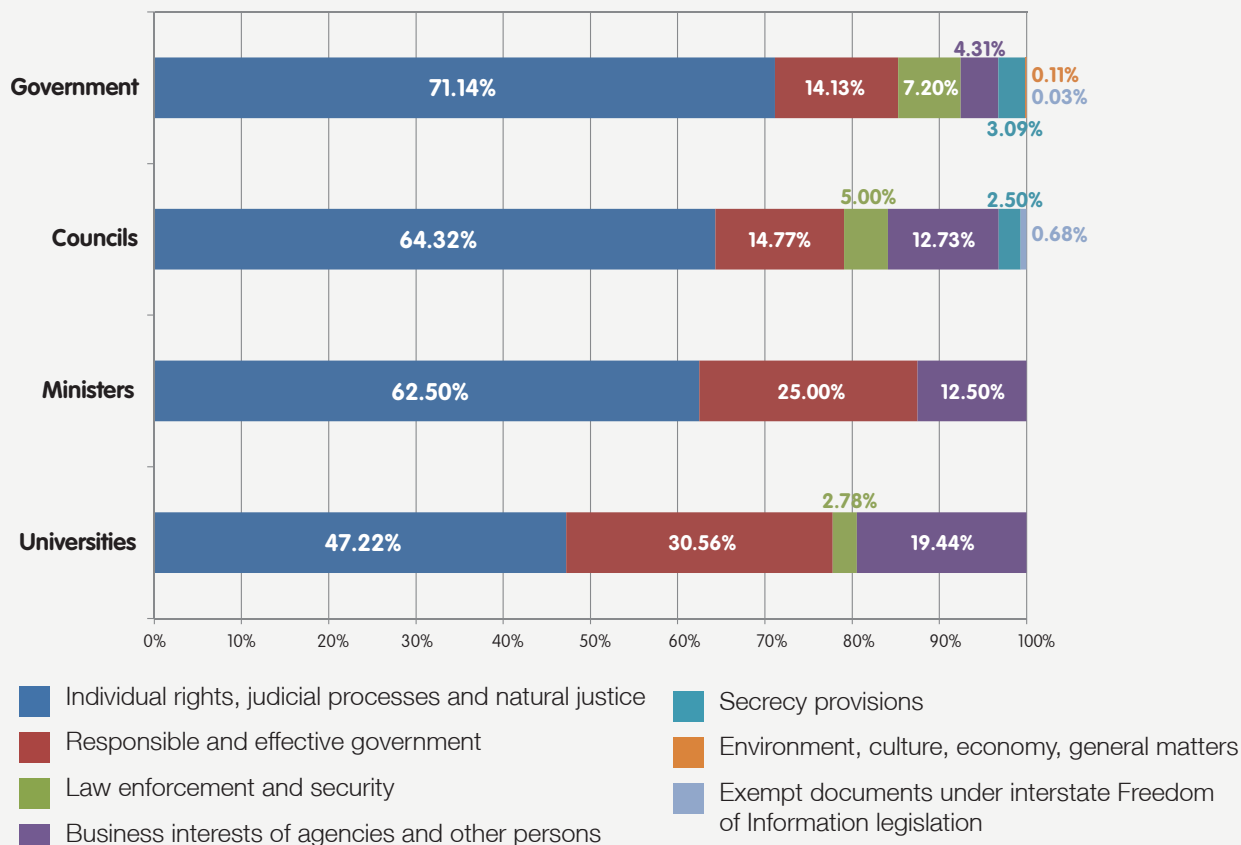


(Note: "Other" refers to (a) Exempt Documents under interstate Freedom of Information legislation (0.10%) and (b) Environment, Culture Economy and General Matters (0.07%))

4 year trend – OPIAD reasons



Sector analysis – OPIAD considerations by sector 2013 – 2014



How were decisions reviewed?

The Act enables applicants to seek a review of the initial decision on their application:

- Internal review by the agency
- Review by the Information Commissioner
- Review by the NSW Civil and Administrative Tribunal (NCAT)

An applicant can choose any one of these avenues and in some cases an application may go through more than one review process. Additionally, an agency may conduct an internal review following a recommendation from the Information Commissioner under section 93.

The information on reviews is based on Table G.

Review type

Year result

- 75% of all reviews were internal reviews conducted by agencies upon direct application.

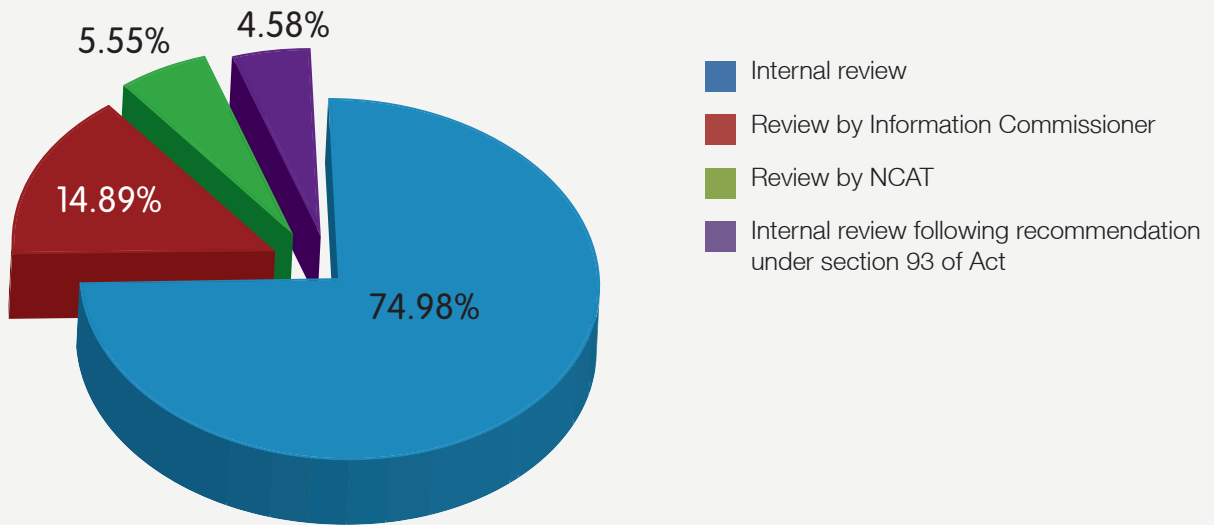
4 year trend

- Internal reviews by direct application continue to be the most used review type.

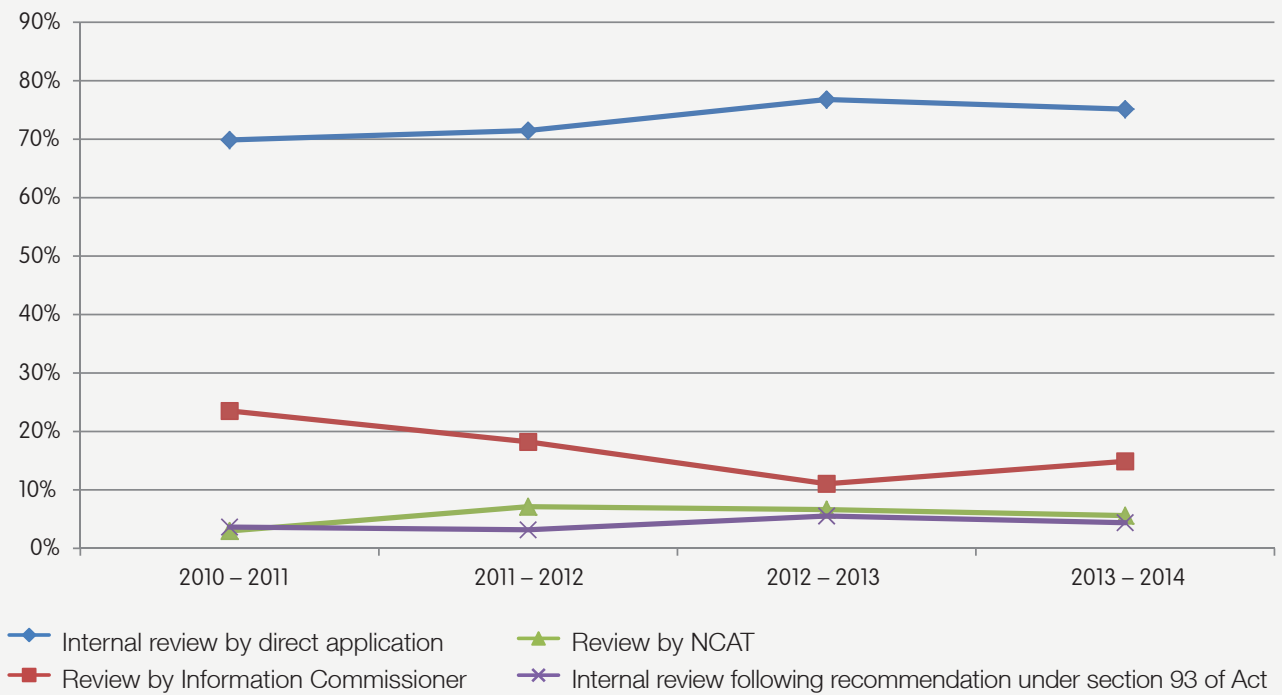
Sector analysis

- Government sector: 82% of all reviews were internal reviews by direct application
- Council sector: 42% of all reviews were internal reviews by direct application
- University sector: 40% of all reviews were internal reviews by direct application
- Ministerial sector: There were only two reported applications, both of which were reported as being reviews by the Information Commissioner.

Year result – review type 2013 – 2014

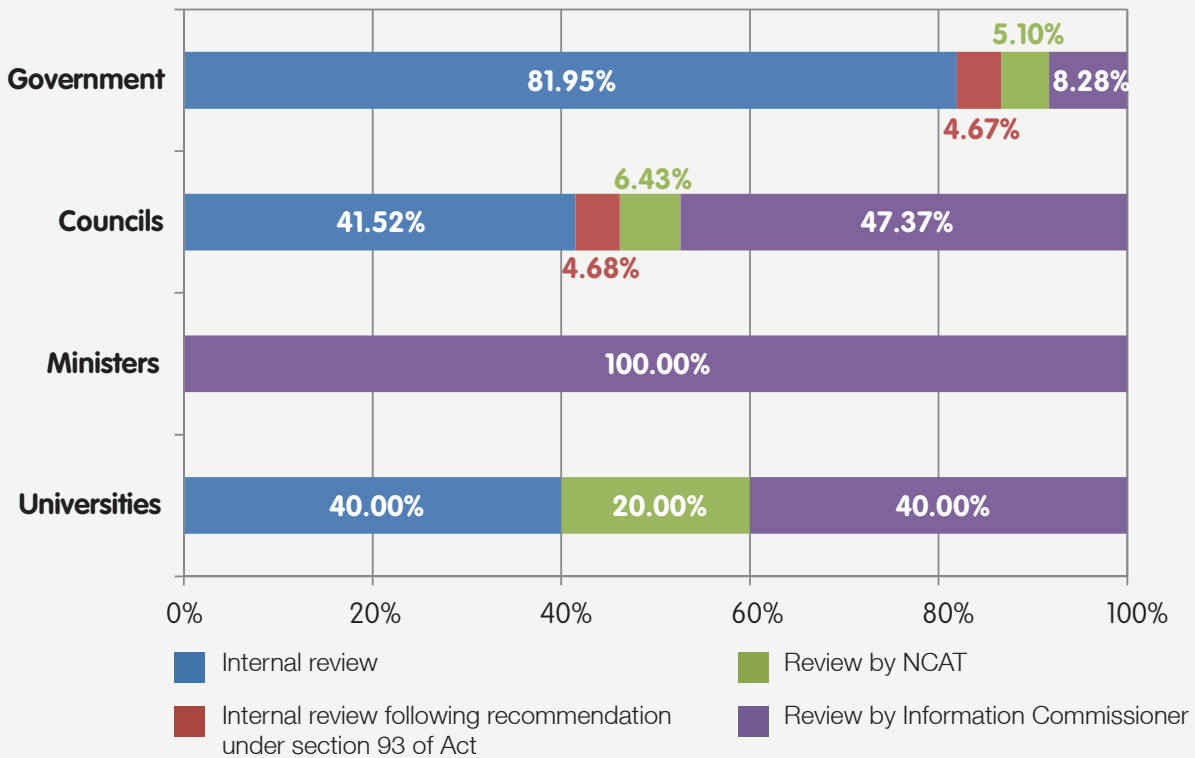


4 year trend – review type 2010 – 2014

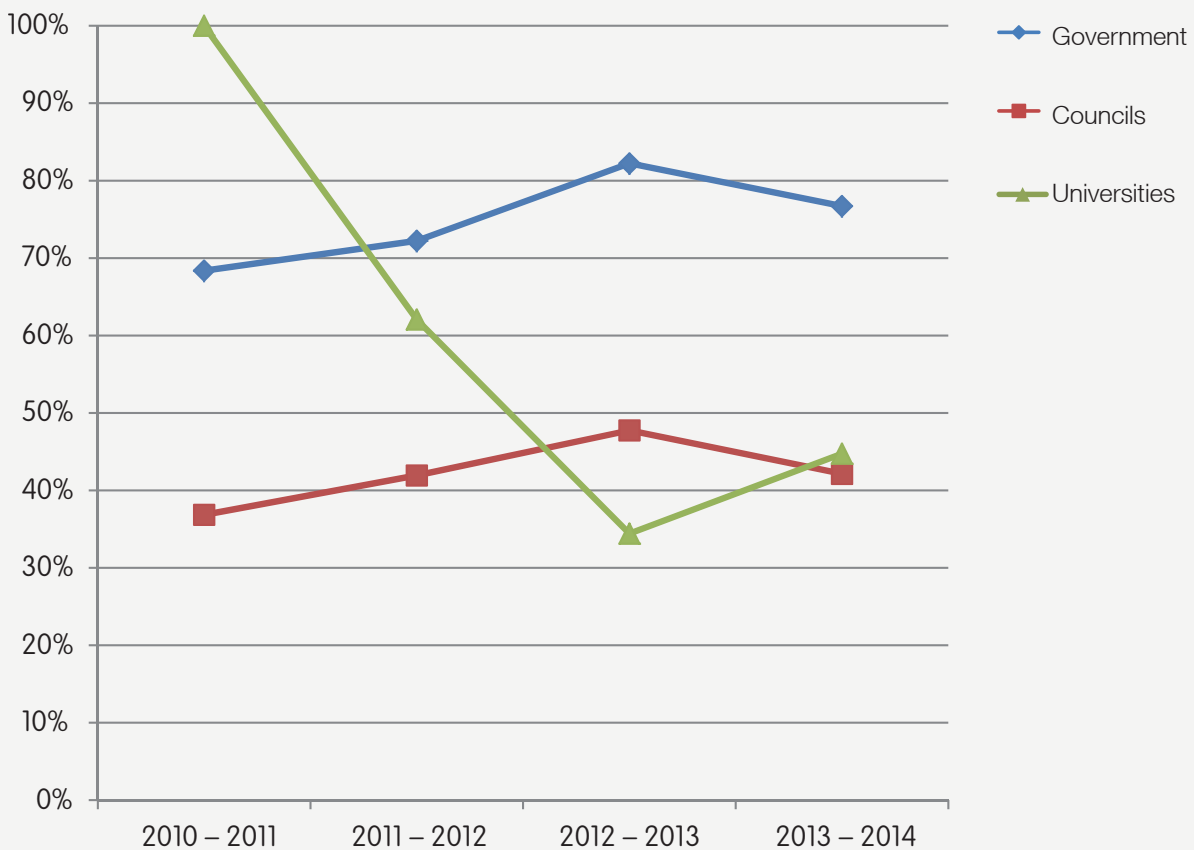


(Note: Agency data provided on Information Commissioner reviews does not align with the IPC source data.)

Sector analysis – review type by sector 2013 – 2014



4 year trend – internal reviews by sector 2010 – 2014



Review outcomes

Year result

- 72% of all decisions reviewed were varied
- 81% of internal review by direct application decisions were varied.

4 year trend

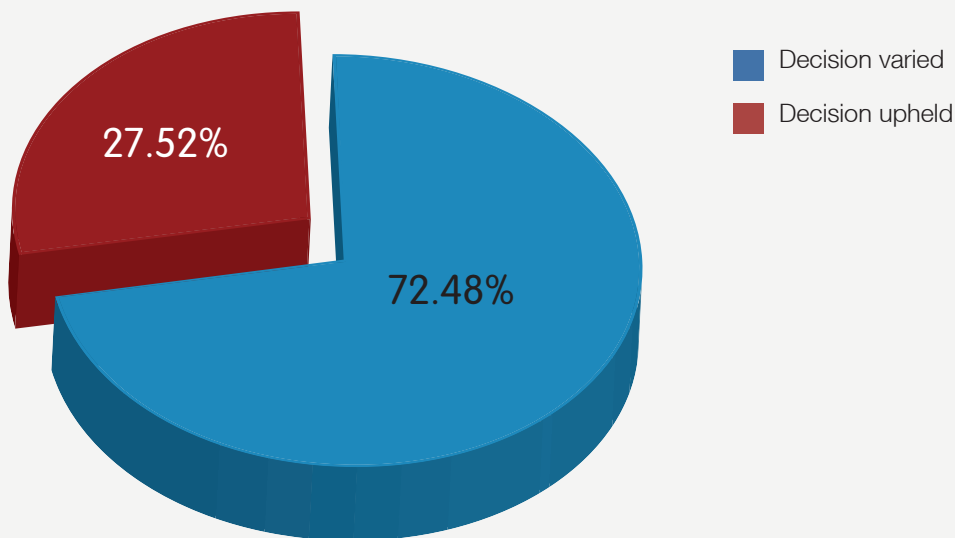
- The proportion of all decisions varied and upheld remains largely consistent with the past two years, with a small increase (3%) in the decisions varied and a small decrease (3%) in decisions upheld

- The percentage of internal reviews where the decision was varied increased from the 2010 – 2013 total of 69% to 81% this year.

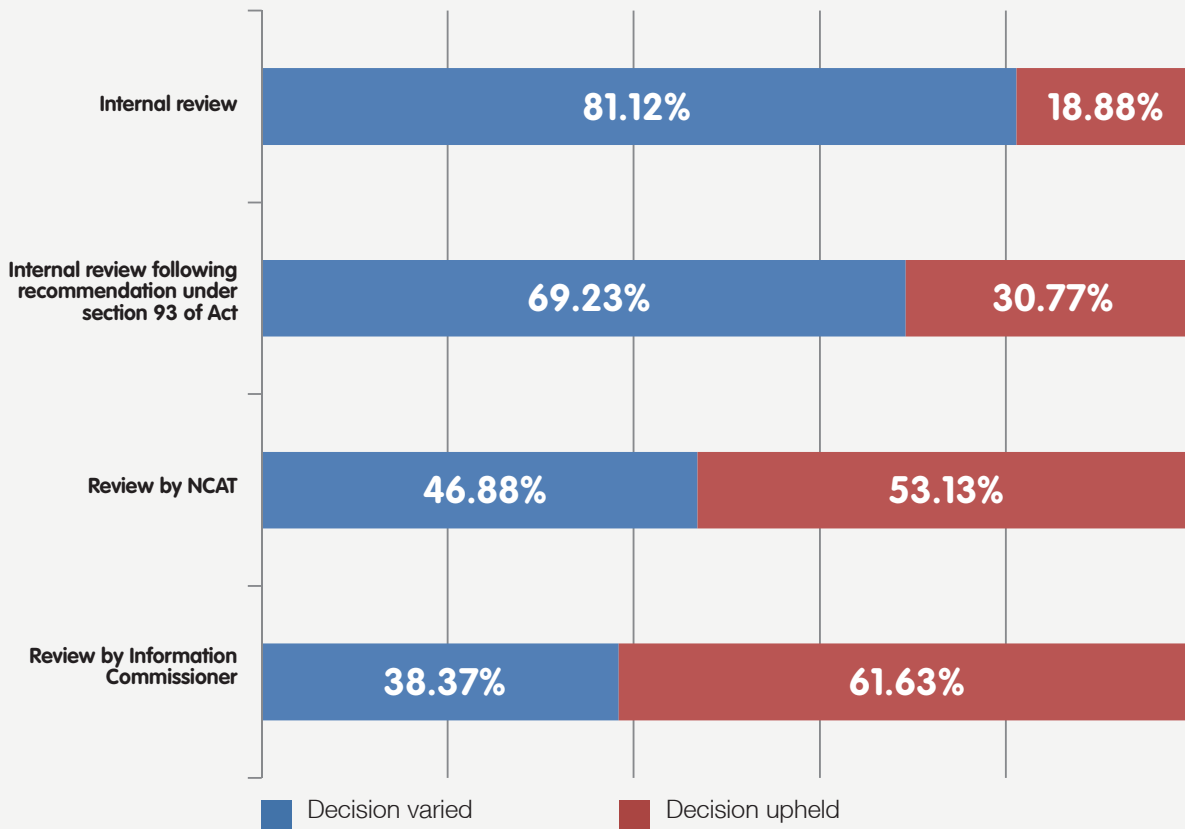
Sector analysis

- Government sector: 80% of all decisions reviewed were varied; 86% of internal review decisions were varied
- Council sector: 38% of all decisions reviewed were varied; 41% of internal review decisions were varied
- University sector: 32% of all decisions reviewed were varied; 100% of internal review decisions were varied.

Year result – all review outcomes 2013 – 2014

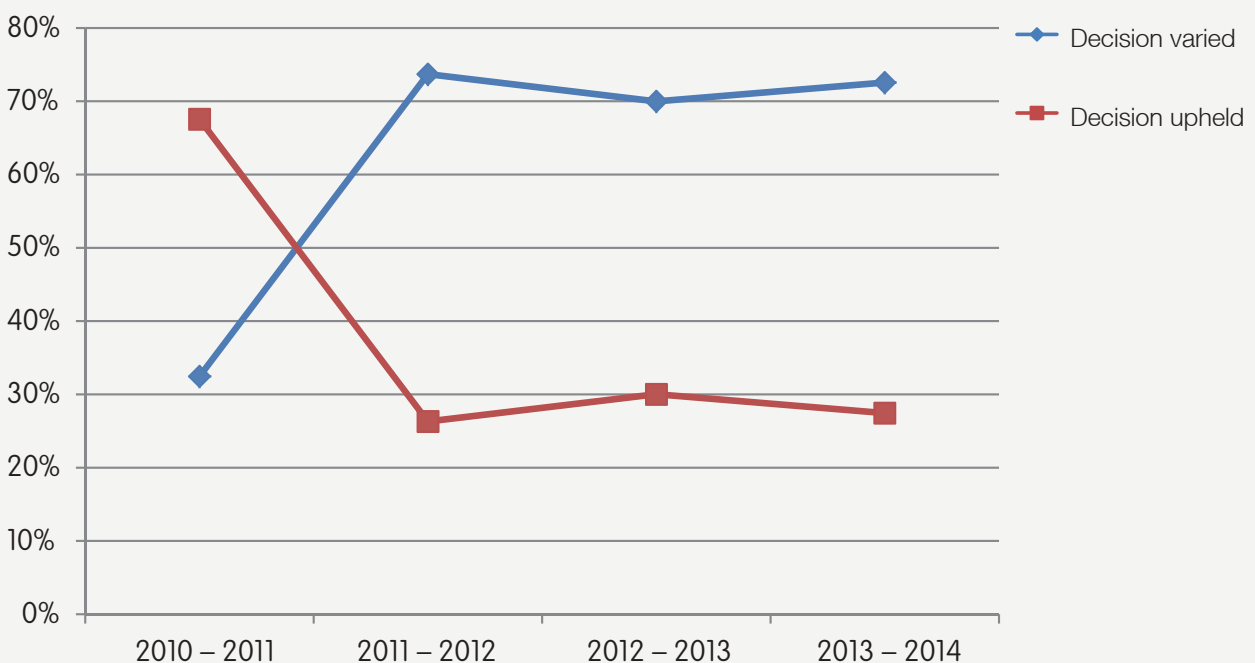


Year result – review outcomes by type of review 2013 – 2014

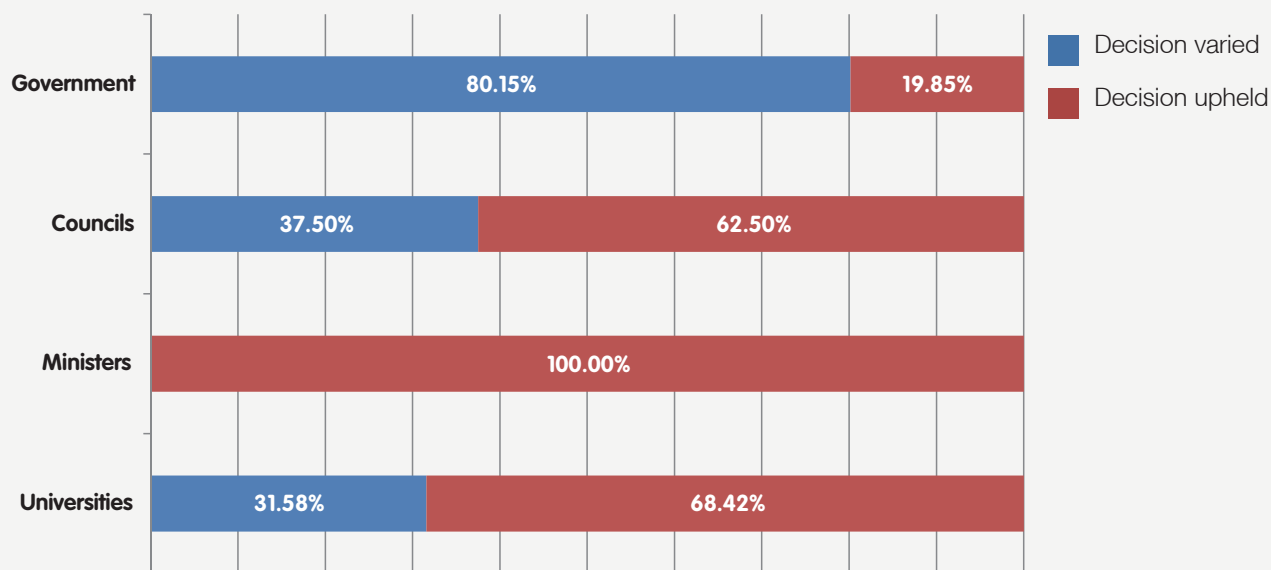


(Note: IPC data shows that the Information Commissioner exercised the power of recommendation for the agency to reconsider the decision in 46% of all IPC reviews; and recommended not to reconsider the decision in 45% of all IPC reviews.)

4 year trend – review outcomes 2010 – 2014

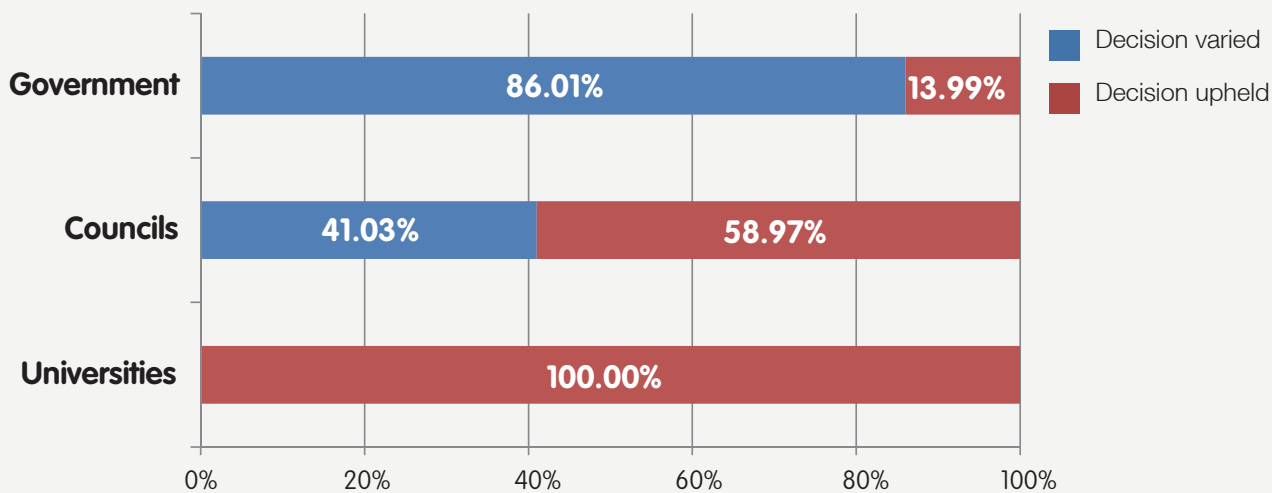


Sector analysis – all review types outcomes by sector 2013 – 2014



(Note: In the Ministerial sector, there were only two reported review outcomes which were both upheld.)

Year result – internal review outcomes by sector 2013 – 2014

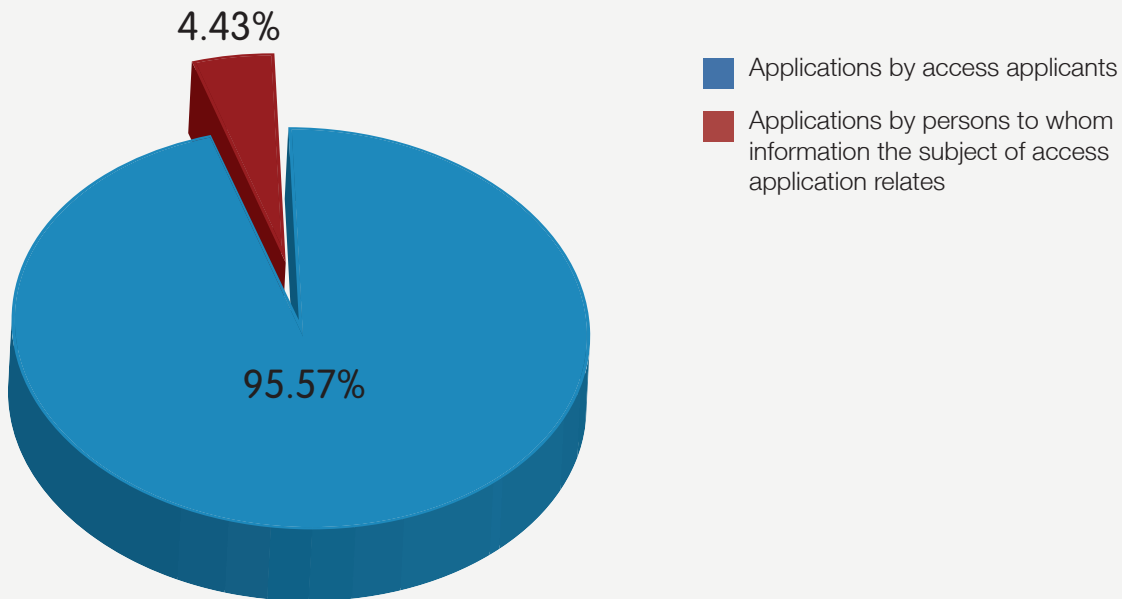


(Note: The Ministerial sector did not report on internal reviews.)

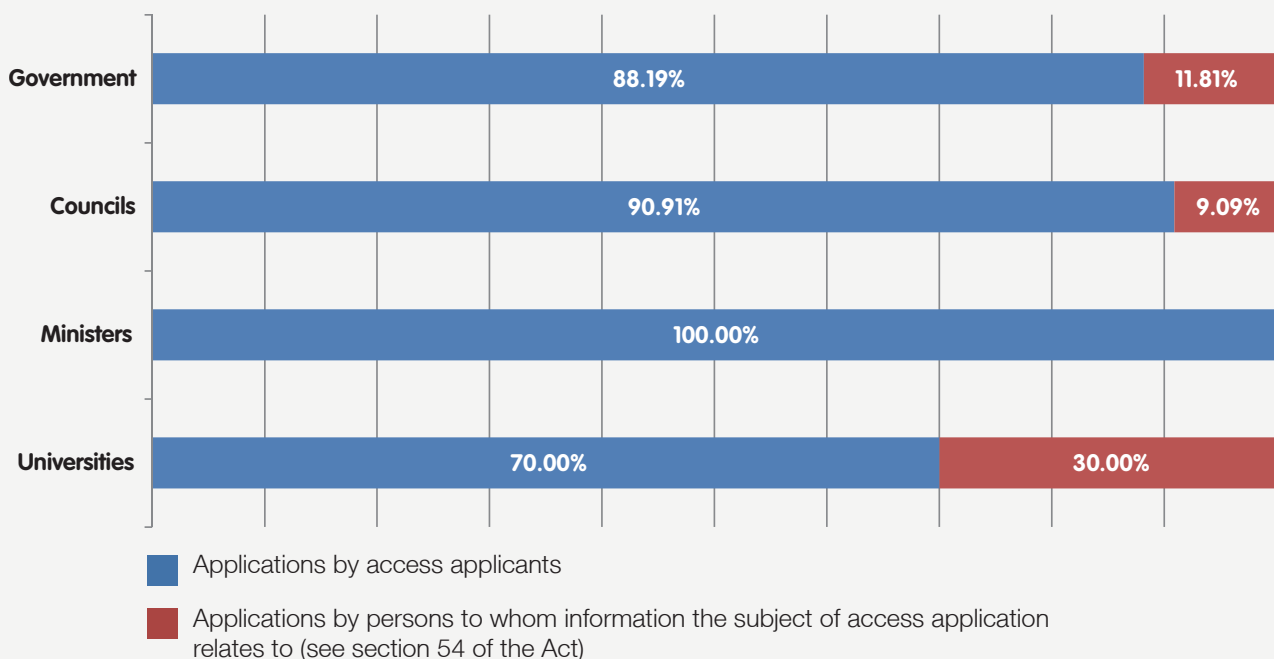
Type of review applicant (based on Table H)

- 96% of all applications for review were made by the original applicant
- Applications by the original applicant remained the majority across all sectors.

Year result – application review by applicant type 2013 – 2014



Sector analysis – application review by applicant type by sector 2013 – 2014



(Note: In the Ministerial sector, there were five reported applications, all of which were applications by access applicants.)

External reviews conducted by the IPC

Under section 89 of the Act citizens have a right to apply to the Information Commissioner for an independent, external review of an agency's decision on access applications.

The Commissioner may then make recommendations including that the agency reconsider the decision and make a new decision and that any general procedure of the agency be changed to conform to the requirements of the Act.

The following analysis is based on IPC data.

Reviews conducted

During 2013 – 2014 the IPC conducted 447 external reviews.

There has been a consistent upward trend in the number of reviews conducted since 2010 – 2011:

- 2010 – 2011: 156
- 2011 – 2012: 154
- 2012 – 2013: 237
- 2013 – 2014: 447

Of the 447 reviews conducted this year, 150 reviews related to applications lodged by one applicant as part of a practical teaching exercise and this factor has distorted the results and analysis of IPC reviews. To provide more accurate reporting these applications have been removed from the following analysis.

Sector/agency profile

There is a consistent correlation between the number of reviews undertaken and the sector and agency profile in terms of the number of access applications lodged:

- 80% of reviews related to the Government sector (89% of applications received)
- 15% related to the Council sector (9% of applications received)
- 4% – University sector (<1% of applications received)
- 1% – Ministerial sector (<1% of applications received).

NSW Police accounted for the majority (25%) of reviews and also received the majority of access applications.

This was followed by WorkCover (12%) and Family and Community Services (7.5%) who were also in the top four agencies in terms of the number access applications received.

Grounds for reviews

Under the Act an agency may rely upon more than one reason for a refusal to release information. These

reasons are categorised as: Conclusive Presumption of Overriding Public Interest Against Disclosure (CPOPIAD) as listed in Schedule 1 and Overriding Public Interest Considerations Against Disclosure (OPIAD) as listed in the Table under s14.

Of these categories:

- 87% of reviews related to decisions where agencies relied on OPIAD reasons
- 13% of reviews related to decisions where agencies relied on CPOPIAD reasons.

Overall, there was an almost even division between the Information Commissioner exercising the power of recommendation to reconsider the decision (46%) and not exercising the power of recommendation (45%).

Reliance on OPIAD reasons

The three main OPIAD reasons for refusal by agencies were:

- 40% relied on Responsible and Effective Government – an outcome driven largely by the Government sector
- 35% relied on Individual Rights, Judicial Processes and Natural Justice – also driven by the Government sector
- 17% relied on Business Interests.

The review outcomes for the OPIADS were:

- 65% of reviews of decisions that relied on Responsible and Effective Government were subject to a recommendation to reconsider the decision
- 40% of reviews of decisions that relied on Individual Rights, Judicial Processes were subject to a recommendation to reconsider the decision
- Reviews of decisions that relied on Business Interests were almost evenly divided between the Information Commissioner making a recommendation and not making a recommendation to reconsider the decision.

In the majority of decisions that relied on Responsible and Effective Government the Information Commissioner recommended reconsideration of the original decision.

This OPIAD encompasses a broad range of information including Ministerial and regulatory activities and its application requires a considered examination of the function undertaken by the agency and the impact of the release of that information on that agency's function. The case studies on pages 15 and 63 of this Report aim to provide guidance and better understanding of the application of this OPIAD.

By contrast, in the majority of decisions that relied on Individual Rights, Judicial Processes and Natural Justice the Information Commissioner did not make a recommendation for reconsideration.

This broadly defined OPIAD encompasses the notions of a fair trial and natural justice, exposure to risk of harm, personal privacy and the best interests of children.

In 2012 the IPC published *Guideline 4 – Personal Information as a Public Interest Consideration*. This Guideline assists decision-makers in balancing the disclosure of personal information and the application of the public interest test. It also recognises the legislative environment that necessitates the consideration of both the GIPA Act and the *Privacy and Personal Information Protection Act 1998* (PPIP Act).

Section 5 of the PPIP Act provides that nothing in the that Act affects the operation of the GIPA Act and at subsection (2) in particular, the PPIP Act does not lessen any obligations under the GIPA Act in respect of a public sector agency.

Other concepts under this OPIAD such as judicial processes are generally well recognised and understood by decision makers and this level of understanding may, in part explain what could be interpreted as a proper application of this OPIAD.

Reliance on CPOPIAD reasons

The majority (80%) of CPOPIAD reason for refusal by agencies relied on Legal and Professional Privilege, followed by 20% for Excluded Information.

- 64% of reviews dealing with the reason Legal and Professional Privilege were subject to a recommendation to reconsider the decision
- 40% of reviews dealing with the reason Excluded Information were subject to a recommendation to reconsider the decision.

A decision to refuse access on the basis of Legal Professional Privilege can only be justified if certain conditions are met. The high level of interpretation needed to apply these criteria may explain the Information Commissioner's recommendations to reconsider the decision in 64% of reviews where this CPOPIAD was relied on.

This is particularly relevant in light of recent decisions such as that of the Federal Circuit Court in *Bartolo v Dousta Galla Aged Care Services Ltd* (2014) Federal Circuit Court of Australia 1517. In this case the Court examined the claim of Legal Professional Privilege made by an employer and applied the test of fairness to determine whether there was an inconsistency between the confidentiality sought to be protected and the privilege claimed. The Court found that it would be unfair not to release a report prepared by legal advisors that was relied on to terminate a contract of employment and over which Legal and Professional Privilege was claimed, when the consequences for the employee were so significant.

In November 2014 the IPC issued a new fact sheet on *Legal Professional Privilege* to provide guidance to decision makers regarding this issue.

The Information Commissioner review outcomes for the CPOPIAD Legal and Professional Privilege can be contrasted with the outcomes for the CPOPIAD Excluded Information. The CPOPIAD Excluded Information is well defined under the Act and provides a clearer mechanism for decision-making. This legislative clarity may have contributed to more robust decision-making.

Case study

Access applicants can use any or all of the four review mechanisms. The following case study follows a review process through two external review pathways. It also highlights how the public interest test was consistently applied by the agency, the Information Commissioner and the NSW Civil and Administrative Tribunal (NCAT).

An applicant made an informal request by email to an educational agency for information regarding her children's performance in a school placement assessment test. The agency provided a range of information about the children's performance but did not release the test booklet itself.

The applicant then made an access application for the release of the test booklet.

The agency refused access on the basis that disclosure of the information could reasonably be expected to prejudice the conduct, effectiveness or integrity of the placement test.

In its notice of decision, the agency identified several considerations in favour of disclosure such as assisting parents and students to understand the testing system, how students performed and in informing the public about the operation of the agency and its policies.

The agency relied on the OPIAD Responsible and Effective Government and identified two public interest considerations against disclosure.

Firstly, it considered that the booklets if released would prejudice the effective exercise of the agency's function in that the test questions were an important part of the contingency pool of questions from which a back-up test could be assembled in the case of a security breach. If released, the agency could not reuse the test questions.

Secondly, it considered that release would prejudice the conduct, effectiveness or integrity of any test by revealing its purpose, conduct or results. The agency stated that the community has an expectation that the tests will be conducted fairly and that the release of the test booklet containing the questions would compromise this expectation.

The applicant then requested an external review of the agency's decision by the Information Commissioner.

In its review of the agency's notice of decision, the Information Commissioner noted that the agency had properly demonstrated the application of the public interest test by identifying public interest considerations both for and against disclosure and had adequately explained how these and other considerations had resulted in an overriding public interest against disclosure.

The review found that the integrity of future tests would be called into question if the booklet was disclosed by giving an unfair advantage to those who knew the questions and that the agency could not subsequently use the publicly revealed questions.

The review concluded that disclosure of the booklet would prejudice future placement testing by revealing its purpose and conduct. Accordingly the Information Commissioner did not make any recommendation against the agency's decision.

The applicant then sought a review by NCAT. The Tribunal decision noted that the key issue in the application was whether the agency was correct in its decision that there was an overriding public interest against disclosure of the test questions.

The decision canvassed issues such as parental concern, education as an issue of public importance, the competitiveness of placement testing, the correlation between coaching and test outcomes, the security and integrity of the test and the agency's need to recycle questions.

It further noted that the GIPA Act provides no set formula for calculating the weight of the various considerations and that it was a matter of placing identified considerations in order of priority or importance.

The Tribunal found that, on balance, the public interest considerations in favour of disclosure were outweighed by the public considerations against disclosure and affirmed the agency's decision.

Appendices



Appendix 1

Financial Year 2013 – 2014 Total aggregation of all sectors

Clause 7(a): details of the review carried out by the agency under section 7 (3) of the Act during the reporting year and the details of any information made publicly available by the agency as a result of the review

	Reviews carried out by the agency	Information made publicly available by the agency
7(a)	166	118

Table A: number of applications by type of applicant and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held
Media	99	92	29	33
Members of Parliament	45	45	10	15
Private sector business	1,643	548	156	156
Not for profit organisations or community groups	575	2,144	473	368
Members of the public (application by legal representative)	1,047	1,741	280	460
Members of the public (other)	1,012	970	179	241
Total	4,421	5,540	1,127	1,273
% of Total	33%	41%	8%	10%

Clause 7(b): the total number of access applications received by the agency during the reporting year (including withdrawn applications but not including invalid applications)

	Total number of applications received
7(b)	12,945

Clause 7(c): the total number of access applications received by the agency during the reporting year that the agency refused, either wholly or partly, because the application was for the disclosure of information referred to in Schedule 1 to the Act (information for which there is conclusive presumption of overriding public interest against disclosure)

Total number of applications refused	Wholly	Partly	Total
	70	133	203
% of Total	34%	66%	

Information already available	Refuse to deal with application	Refuse to confirm or deny whether information is held	Application withdrawn	Total	% of Total
6	15	0	38	312	2%
2	7	0	2	126	1%
65	13	1	53	2,635	20%
96	17	14	178	3,865	29%
44	35	8	151	3,766	28%
31	68	11	173	2,685	20%
244	155	34	595	13,389	
2%	1%	0%	4%		

Table B: number of applications by type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held
Personal information applications	1,723	4,133	703	693
Access application (other than personal information applications)	2,476	917	375	423
Access applications that are partly personal information applications and partly other	149	449	7	143
Total	4,348	5,499	1,085	1,259
% of Total	33%	42%	8%	10%

Table C: invalid applications

	Number of Applications	% of Total
Application does not comply with formal requirements (s.41)	1,223	41%
Application is for excluded information of the agency (s.43)	70	2%
Application contravenes restraint order (s.110)	0	0%
Total number of invalid applications received	1,263	42%
Invalid applications that subsequently become valid applications	420	14%
Total	2,976	

Information already available	Refuse to deal with application	Refuse to confirm or deny whether information is held	Application withdrawn	Total	% of Total
121	52	13	337	7,775	59%
115	94	19	211	4,629	35%
3	8	1	43	803	6%
239	154	33	591	13,207	
2%	1%	0.2%	4%		

Table D: conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to Act

	Number of times consideration used	% of Total
Overriding secrecy laws	70	8%
Cabinet information	37	4%
Executive council information	1	0.1%
Contempt	8	1%
Legal professional privilege	267	32%
Excluded information	153	19%
Documents affecting law enforcement and public safety	36	4%
Transport safety	2	0.2%
Adoption	0	0%
Care and protection of children	249	30%
Ministerial code of conduct	0	0%
Aboriginal and environmental heritage	1	0.1%
Total	824	

Table E: other public interest considerations against disclosure:
matters listed in table to section 14 of Act

	Number of occasions when application not successful	% of Total
Responsible and effective government	1,089	14%
Law enforcement and security	538	7%
Individual rights, judicial processes and natural justice	5,394	71%
Business interests of agencies and other persons	372	5%
Environment, culture, economy and general matters	5	0.1%
Secrecy provisions	232	3%
Exempt documents under interstate Freedom of Information legislation	8	0.1%
Total	7,638	

Table F: timeliness

	Number of applications	% of Total
Decided within the statutory time frame (20 days plus any extensions)	10,281	80%
Decided after 35 days (by agreement with applicant)	661	5%
Not decided within time (deemed refusal)	1,949	15%
Total	12,891	

Table G: number of applications reviewed under Part 5 of the Act (by type of review and outcome)

	Decision varied	Decision upheld	Total	% of Total
Internal review	348	81	429	75%
Review by Information Commissioner	33	53	86	15%
Internal review following recommendation under section 93 of Act	18	8	26	5%
Review by NCAT	15	17	32	6%
Total	414	159	573	
% of Total	72%	28%		

Table H: applications for review under Part 5 of the Act (by type of applicant)

	Number of applications	% of Total
Applications by access applicants	518	96%
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	24	4%
Total	542	

Appendix 2

Financial Year 2013 – 2014 Total aggregation of Government sector

Clause 7(a): details of the review carried out by the agency under section 7 (3) of the Act during the reporting year and the details of any information made publicly available by the agency as a result of the review

	Reviews carried out by the agency	Information made publicly available by the agency
7(a)	48	38

Table A: number of applications by type of applicant and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held
Media	79	87	24	33
Members of Parliament	37	38	7	12
Private sector business	1,522	509	144	143
Not for profit organisations or community groups	550	2,137	469	365
Members of the public (application by legal representative)	852	1,628	263	427
Members of the public (other)	666	731	115	171
Total	3,706	5,130	1,022	1,151
% of Total	31%	43%	9%	10%

Clause 7(b): the total number of access applications received by the agency during the reporting year (including withdrawn applications but not including invalid applications)

	Total number of applications received
7(b)	11,517

Clause 7(c): the total number of access applications received by the agency during the reporting year that the agency refused, either wholly or partly, because the application was for the disclosure of information referred to in Schedule 1 to the Act (information for which there is conclusive presumption of overriding public interest against disclosure)

Total number of applications refused	Wholly	Partly	Total
	27	42	69
% of Total	39%	61%	

Information already available	Refuse to deal with application	Refuse to confirm or deny whether information is held	Application withdrawn	Total	% of Total
4	12	0	35	274	2%
0	6	0	2	102	1%
63	8	1	33	2,423	20%
95	14	14	176	3,820	32%
29	30	8	125	3,362	28%
12	29	8	110	1,842	16%
203	99	31	481	11,823	
2%	1%	0%	4%		

Table B: number of applications by type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held
Personal information applications	1,662	4,098	691	685
Access application (other than personal information applications)	1,880	566	295	319
Access applications that are partly personal information applications and partly other	101	395	5	136
Total	3,643	5,059	991	1,140
% of Total	31%	43%	9%	10%

Table C: invalid applications

	Number of applications	% of Total
Application does not comply with formal requirements (s.41)	1,131	41%
Application is for excluded information of the agency (s.43)	70	3%
Application contravenes restraint order (s.110)	0	0%
Total number of invalid applications received	1,185	43%
Invalid applications that subsequently become valid applications	384	14
Total	2,770	

Information already available	Refuse to deal with application	Refuse to confirm or deny whether information is held	Application withdrawn	Total	% of Total
121	50	13	322	7,642	66%
79	42	18	116	3,315	28%
0	7	0	41	685	6%
200	99	31	479	11,642	
2%	1%	0%	4%		

Table D: conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to Act

	Number of times consideration used	% of Total
Overriding secrecy laws	69	10%
Cabinet information	35	5%
Executive council information	1	0%
Contempt	5	1%
Legal professional privilege	195	27%
Excluded information	128	18%
Documents affecting law enforcement and public safety	28	4%
Transport safety	2	0%
Adoption	0	0%
Care and protection of children	248	35%
Ministerial code of conduct	0	0%
Aboriginal and environmental heritage	1	0%
Total	712	

Table E: other public interest considerations against disclosure:
matters listed in table to section 14 of Act

	Number of occasions when application not successful	% of Total
Responsible and effective government	1,076	14%
Law enforcement and security	537	7%
Individual rights, judicial processes and natural justice	5,372	71%
Business interests of agencies and other persons	364	5%
Environment, culture, economy and general matters	5	0%
Secrecy provisions	232	3%
Exempt documents under interstate Freedom of Information legislation	8	0%
Total	7,594	

Table F: timeliness

	Number of applications	% of Total
Decided within the statutory time frame (20 days plus any extensions)	8,961	78%
Decided after 35 days (by agreement with applicant)	580	5%
Not decided within time (deemed refusal)	1,884	16%
Total	11,425	

Table G: number of applications reviewed under Part 5 of the Act (by type of review and outcome)

	Decision varied	Decision upheld	Total	% of Total
Internal review	332	54	386	82%
Review by Information Commissioner	17	21	38	8%
Internal review following recommendation under section 93 of Act	16	6	22	5%
Review by NCAT	11	13	24	5%
Total	376	94	470	
% of Total	80%	20%		

Table H: applications for review under Part 5 of the Act (by type of applicant)

	Number of applications	% of Total
Applications by access applicants	446	97%
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	15	3%
Total	461	

Appendix 3

Financial Year 2013 – 2014 Total aggregation of Council sector

Clause 7(a): details of the review carried out by the agency under section 7 (3) of the Act during the reporting year and the details of any information made publicly available by the agency as a result of the review

	Reviews carried out by the agency	Information made publicly available by the agency
7(a)	109	71

Table A: number of applications by type of applicant and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held
Media	14	3	3	0
Members of Parliament	1	1	0	0
Private sector business	119	38	12	13
Not for profit organisations or community groups	21	6	3	3
Members of the public (application by legal representative)	192	111	16	32
Members of the public (other)	321	230	58	57
Total	668	389	92	105
% of Total	46%	27%	6%	7%

Clause 7(b): the total number of access applications received by the agency during the reporting year (including withdrawn applications but not including invalid applications)

	Total number of applications received
7(b)	1,403

Clause 7(c): the total number of access applications received by the agency during the reporting year that the agency refused, either wholly or partly, because the application was for the disclosure of information referred to in Schedule 1 to the Act (information for which there is conclusive presumption of overriding public interest against disclosure)

Total number of applications refused	Wholly	Partly	Total
	32	62	94
% of Total	34%	66%	

Information already available	Refuse to deal with application	Refuse to confirm or deny whether information is held	Application withdrawn	Total	% of Total
2	2	0	1	25	2%
1	0	0	0	3	0%
1	5	0	20	208	14%
1	3	0	1	38	3%
15	5	0	24	395	27%
15	38	2	60	781	54%
35	53	2	106	1,450	
2%	4%	0%	7%		

Table B: number of applications by type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held
Personal information applications	53	28	7	5
Access application (other than personal information applications)	564	330	73	92
Access applications that are partly personal information applications and partly other	44	47	1	5
Total	661	405	81	102
% of Total	46%	28%	6%	7%

Table C: invalid applications

	Number of applications	% of Total
Application does not comply with formal requirements (s.41)	85	45%
Application is for excluded information of the agency (s.43)	0	0%
Application contravenes restraint order (s.110)	0	0%
Total number of invalid applications received	72	38%
Invalid applications that subsequently become valid applications	34	18%
Total	191	

Information already available	Refuse to deal with application	Refuse to confirm or deny whether information is held	Application withdrawn	Total	% of Total
0	1	0	14	108	7%
32	50	1	89	1,230	85%
2	1	1	2	103	7%
34	52	2	105	1,441	
2%	4%	0%	7%		

Table D: conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to Act

	Number of times consideration used	% of Total
Overriding secrecy laws	1	1%
Cabinet information	0	0%
Executive council information	0	0%
Contempt	0	0%
Legal professional privilege	61	71%
Excluded information	15	17%
Documents affecting law enforcement and public safety	8	9%
Transport safety	0	0%
Adoption	0	0%
Care and protection of children	1	1%
Ministerial code of conduct	0	0%
Aboriginal and environmental heritage	0	0%
Total	86	

Table E: other public interest considerations against disclosure:
matters listed in table to section 14 of Act

	Number of occasions when application not successful	% of Total
Responsible and effective government	65	15%
Law enforcement and security	22	5%
Individual rights, judicial processes and natural justice	283	64%
Business interests of agencies and other persons	56	13%
Environment, culture, economy and general matters	3	1%
Secrecy provisions	11	3%
Exempt documents under interstate Freedom of Information legislation	0	0%
Total	440	

Table F: timeliness

	Number of applications	% of Total
Decided within the statutory time frame (20 days plus any extensions)	1,256	92%
Decided after 35 days (by agreement with applicant)	61	4%
Not decided within time (deemed refusal)	52	4%
Total	1,369	

Table G: number of applications reviewed under Part 5 of the Act (by type of review and outcome)

	Decision varied	Decision upheld	Total	% of Total
Internal review	16	23	39	42%
Review by Information Commissioner	14	29	43	47%
Internal review following recommendation under section 93 of Act	2	2	4	4%
Review by NCAT	3	3	6	7%
Total	35	57	92	
% of Total	38%	62%		

Table H: applications for review under Part 5 of the Act (by type of applicant)

	Number of applications	% of Total
Applications by access applicants	60	91%
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	6	9%
Total	66	

Appendix 4

Financial Year 2013 – 2014 Total aggregation of Ministerial sector

Clause 7(a): details of the review carried out by the agency under section 7 (3) of the Act during the reporting year and the details of any information made publicly available by the agency as a result of the review

	Reviews carried out by the agency	Information made publicly available by the agency
7(a)	N/A	N/A

Table A: number of applications by type of applicant and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held
Media	5	2	2	0
Members of Parliament	6	6	0	1
Private sector business	2	1	0	0
Not for profit organisations or community groups	2	1	1	0
Members of the public (application by legal representative)	0	0	0	1
Members of the public (other)	2	4	0	1
Total	17	14	3	3
% of Total	40%	33%	7%	7%

Clause 7(b): the total number of access applications received by the agency during the reporting year (including withdrawn applications but not including invalid applications)

	Total number of applications received
7(b)	42

Clause 7(c): the total number of access applications received by the agency during the reporting year that the agency refused, either wholly or partly, because the application was for the disclosure of information referred to in Schedule 1 to the Act (information for which there is conclusive presumption of overriding public interest against disclosure)

Total number of applications refused	Wholly	Partly	Total
	0	0	22*
% of Total	N/A	N/A	

* Ministers only reported on the total number of wholly or partly refused applications received.

Information already available	Refuse to deal with application	Refuse to confirm or deny whether information is held	Application withdrawn	Total	% of Total
0	1	0	2	12	29%
0	1	0	0	14	33%
0	0	0	0	3	7%
0	0	0	0	4	10%
0	0	0	1	2	5%
0	0	0	0	7	17%
0	2	0	3	42	
0%	5%	0%	7%		

Table B: number of applications by type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held
Personal information applications	0	1	2	0
Access application (other than personal information applications)	16	13	1	3
Access applications that are partly personal information applications and partly other	0	1	0	0
Total	16	15	3	3
% of Total	38%	36%	7%	7%

Table C: invalid applications

	Number of applications	% of Total
Application does not comply with formal requirements (s.41)	0	0%
Application is for excluded information of the agency (s.43)	0	0%
Application contravenes restraint order (s.110)	0	0%
Total number of invalid applications received	0	0%
Invalid applications that subsequently become valid applications	1	100%
Total	1	

Information already available	Refuse to deal with application	Refuse to confirm or deny whether information is held	Application withdrawn	Total	% of Total
0	0	0	0	3	7%
0	2	0	3	38	90%
0	0	0	0	1	2%
0	2	0	3	42	
0%	5%	0%	7%		

Table D: conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to Act

	Number of times consideration used	% of Total
Overriding secrecy laws	0	0%
Cabinet information	2	13%
Executive council information	0	0%
Contempt	3	20%
Legal professional privilege	2	13%
Excluded information	8	53%
Documents affecting law enforcement and public safety	0	0%
Transport safety	0	0%
Adoption	0	0%
Care and protection of children	0	0%
Ministerial code of conduct	0	0%
Aboriginal and environmental heritage	0	0%
Total	15	

Table E: other public interest considerations against disclosure: matters listed in table to section 14 of Act

	Number of occasions when application not successful	% of Total
Responsible and effective government	2	25%
Law enforcement and security	0	0%
Individual rights, judicial processes and natural justice	5	63%
Business interests of agencies and other persons	1	13%
Environment, culture, economy and general matters	0	0%
Secrecy provisions	0	0%
Exempt documents under interstate Freedom of Information legislation	0	0%
Total	8	

Table F: timeliness

	Number of applications	% of Total
Decided within the statutory time frame (20 days plus any extensions)	28	70%
Decided after 35 days (by agreement with applicant)	10	25%
Not decided within time (deemed refusal)	2	5%
Total	40	

Table G: number of applications reviewed under Part 5 of the Act (by type of review and outcome)

	Decision varied	Decision upheld	Total	% of Total
Internal review	0	0	0	0%
Review by Information Commissioner	0	1	1	100%
Internal review following recommendation under section 93 of Act	0	0	0	0%
Review by NCAT	0	0	0	0%
Total	0	1	1	
% of Total	0%	100%		

Table H: applications for review under Part 5 of the Act (by type of applicant)

	Number of applications	% of Total
Applications by access applicants	5	100%
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	0	0%
Total	5	

Appendix 5

Financial Year 2013 – 2014 Total aggregation of University sector

Clause 7(a): details of the review carried out by the agency under section 7 (3) of the Act during the reporting year and the details of any information made publicly available by the agency as a result of the review

	Reviews carried out by the agency	Information made publicly available by the agency
7(a)	9	9

Table A: number of applications by type of applicant and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held
Media	1	0	0	0
Members of Parliament	1	0	3	2
Private sector business	0	0	0	0
Not for profit organisations or community groups	2	0	0	0
Members of the public (application by legal representative)	3	2	1	0
Members of the public (other)	23	5	6	12
Total	30	7	10	14
% of Total	41%	9%	14%	19%

Clause 7(b): the total number of access applications received by the agency during the reporting year (including withdrawn applications but not including invalid applications)

	Total number of applications received
7(b)	109

Clause 7(c): the total number of access applications received by the agency during the reporting year that the agency refused, either wholly or partly, because the application was for the disclosure of information referred to in Schedule 1 to the Act (information for which there is conclusive presumption of overriding public interest against disclosure)

Total number of applications refused	Wholly	Partly	Total
	1	6	7
% of Total	14%	86%	

Information already available	Refuse to deal with application	Refuse to confirm or deny whether information is held	Application withdrawn	Total	% of Total
0	0	0	0	1	1%
1	0	0	0	7	9%
1	0	0	0	1	1%
0	0	0	1	3	4%
0	0	0	1	7	9%
4	1	1	3	55	74%
6	1	1	5	74	
8%	1%	1%	7%		

Table B: number of applications by type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held
Personal information applications	8	6	3	3
Access application (other than personal information applications)	16	8	6	9
Access applications that are partly personal information applications and partly other	4	6	1	2
Total	28	20	10	14
% of Total	34%	24%	12%	17%

Table C: invalid applications

	Number of applications	% of Total
Application does not comply with formal requirements (s.41)	7	50%
Application is for excluded information of the agency (s.43)	0	0%
Application contravenes restraint order (s.110)	0	0%
Total number of invalid applications received	6	43%
Invalid applications that subsequently become valid applications	1	7%
Total	14	

Information already available	Refuse to deal with application	Refuse to confirm or deny whether information is held	Application withdrawn	Total	% of Total
0	1	0	1	22	27%
4	0	0	3	46	56%
1	0	0	0	14	17%
5	1	0	4	82	
6%	1%	0%	5%		

Table D: conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to Act

	Number of times consideration used	% of Total
Overriding secrecy laws	0	0%
Cabinet information	0	0%
Executive council information	0	0%
Contempt	0	0%
Legal professional privilege	9	82%
Excluded information	2	18%
Documents affecting law enforcement and public safety	0	0%
Transport safety	0	0%
Adoption	0	0%
Care and protection of children	0	0%
Ministerial code of conduct	0	0%
Aboriginal and environmental heritage	0	0%
Total	11	

Table E: other public interest considerations against disclosure:
matters listed in table to section 14 of Act

	Number of occasions when application not successful	% of Total
Responsible and effective government	11	31%
Law enforcement and security	1	3%
Individual rights, judicial processes and natural justice	17	47%
Business interests of agencies and other persons	7	19%
Environment, culture, economy and general matters	0	0%
Secrecy provisions	0	0%
Exempt documents under interstate Freedom of Information legislation	0	0%
Total	36	

Table F: timeliness

	Number of applications	% of Total
Decided within the statutory time frame (20 days plus any extensions)	36	63%
Decided after 35 days (by agreement with applicant)	10	18%
Not decided within time (deemed refusal)	11	19%
Total	57	

Table G: number of applications reviewed under Part 5 of the Act (by type of review and outcome)

	Decision varied	Decision upheld	Total	% of Total
Internal review	0	4	4	40%
Review by Information Commissioner	2	2	4	40%
Internal review following recommendation under section 93 of Act	0	0	0	0%
Review by NCAT	1	1	2	20%
Total	3	7	10	
% of Total	30%	70%		

Table H: applications for review under Part 5 of the Act (by type of applicant)

	Number of applications	% of Total
Applications by access applicants	7	70%
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	3	30%
Total	10	



information and
privacy commission

new south wales

www.ipc.nsw.gov.au

Level 11, 1 Castlereagh Street, Sydney 2000

GPO Box 7011, Sydney NSW 2001

1800 IPC NSW (1800 472 679)

Fax: (02) 8114 3756

ipcinfo@ipc.nsw.gov.au

www.ipc.nsw.gov.au

Our business hours are 9am to 5pm
Monday to Friday (excluding public holidays)

