# Invalid applications

The level and trend in invalid applications is an indicator of the extent to which the GIPA Act is understood by applicants and agencies. It can also be interpreted to measure the flexibility offered to applicants to amend their applications so that they can be considered.

Figure 8 shows the flow of applications from receipt to initial assessment and subsequent processing, together with the number of valid applications received in 2020/21.

Section 52(3) of the GIPA Act requires agencies to provide reasonable advice and assistance to enable applicants to make a valid application.

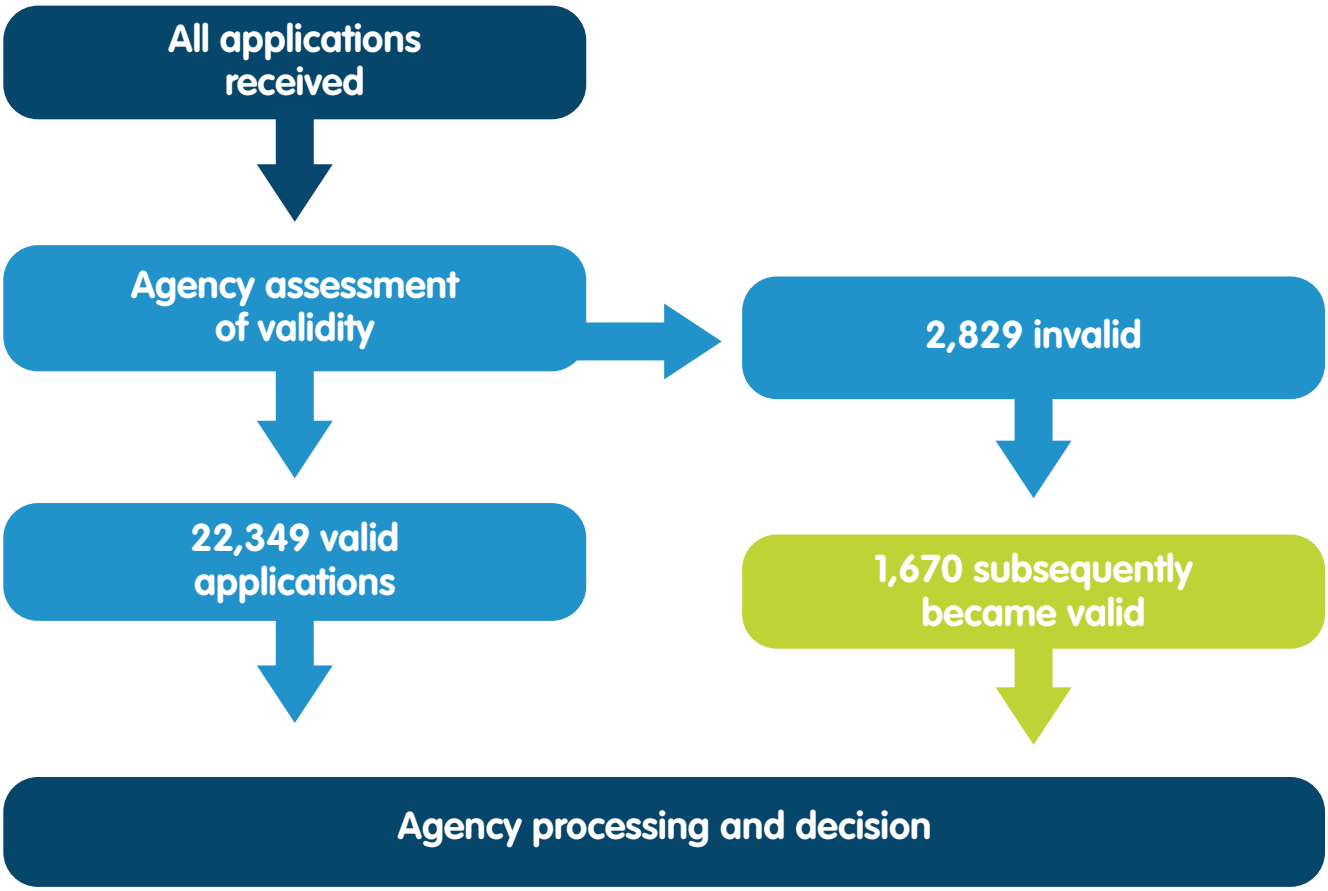
## The rate of invalid applications received remains high

In 2020/21, agencies received 2,829 invalid applications, equivalent to 13% of all formal applications received (Figure 9).

This is consistent with the 2,027 or 12% of invalid applications reported in 2019/20.

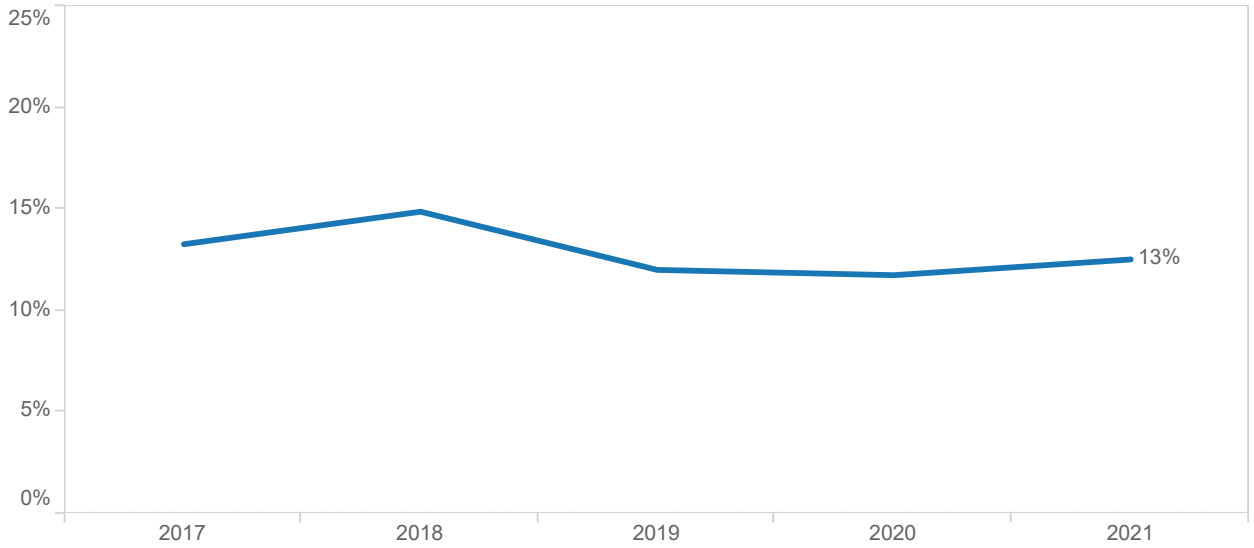
Consistent with previous years, in 2020/21 the most common reason for invalidity (applying in 98% of invalid applications) was that the application did not comply with formal requirements.

***Figure 8: Flow of valid and invalid formal applications, 2020/21***




*'Invalid applications' are reported and measured by the requirement for agencies to report on the number of invalid applications specified in Table C of Schedule 2 to the GIPA Regulation.*

*Figure 9: Invalid applications as a percentage of all formal applications received, 2016/17 to 2020/21*




The continuing high number of applications that were invalid is concerning. As noted in previous reports, clear agency communication can help minimise the number of invalid applications and reduce time and effort that may be spent on preparing or assessing applications.

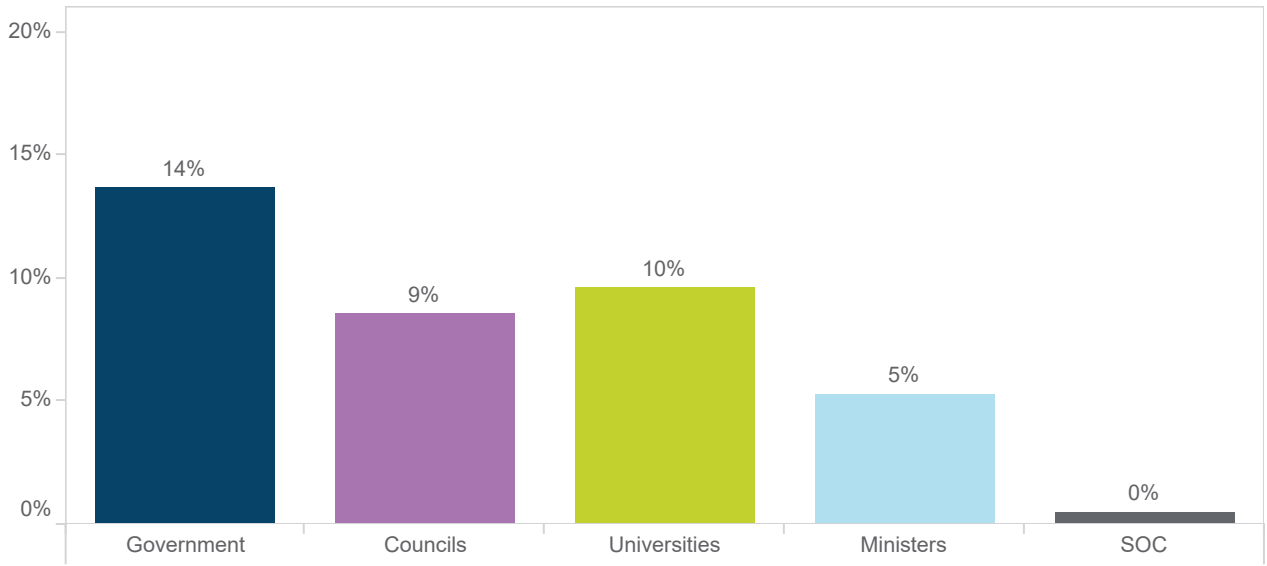
The GIPA Act requires an agency to provide advice and assistance to help an applicant make a valid application. Accordingly, opportunities to assist applicants through guided application processes, including electronic lodgement, should be promoted.

The Government sector had the highest percentage of invalid applications. The consistency of the percentage of invalid applications should be viewed in the context of increasing prevalence of online lodgement facilities.

These systems, if designed optimally, have the capacity to increase the number of valid applications by guiding applicants to meet the statutory requirements of a valid application. In response to the data reported for invalid applications in 2019/20, the IPC developed and published the Simplified guide for information access, which provides guidance in a simplified form on how to make an application under the GIPA Act, including outlining the five requirements to make a valid application.

The percentage of invalid applications remained stable across all sectors. Consistent with other years, the Government sector continued to have a high percentage of invalid applications at 14% (Figure 10).

*Figure 10: Invalid applications as a percentage of all formal applications received, by sector, 2020/21*



There was a decline in invalid applications in the University sector from 14% in 2019/20 to 10% in 2020/21. The Minister sector also recorded a decline with invalid applications, falling from 10% in 2019/20 to 5% in 2020/21.

**The number of invalid applications received remained largely stable**

The number of invalid applications remained stable for most agencies, however, some government agencies experienced a moderate decline in the percentage of applications that were invalid compared with 2019/20. This included:

- the Department of Communities and Justice, from 38% in 2019/20 to 27% in 2020/21
- the Department of Customer Service, from 22% in 2019/20 to 12% in 2020/21
- the Department of Planning, Industry and Environment, from 10% in 2019/20 to 3% in 2020/21.

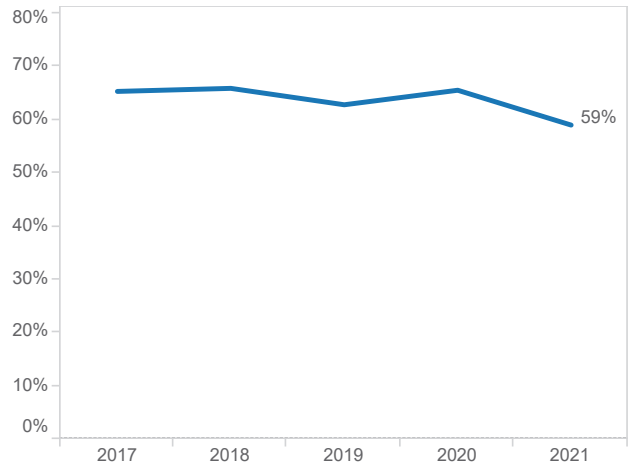
It should be noted that many invalid applications subsequently became valid.

## Invalid applications that have subsequently become valid have declined this year

Agencies are required to assist applicants to make a valid access application, and compliance with this requirement of the GIPA Act is reflected in the percentage of applications that subsequently become valid.

In 2020/21, 59% of invalid applications subsequently became valid. This represents a moderate decline from 66% in 2019/20 (Figure 11). This decrease is a change from the relatively stable numbers of applications that subsequently became valid which had remained stable at over 60% across the previous four years.

***Figure 11: Invalid applications that became valid as a percentage of all invalid applications, 2016/17 to 2020/21***

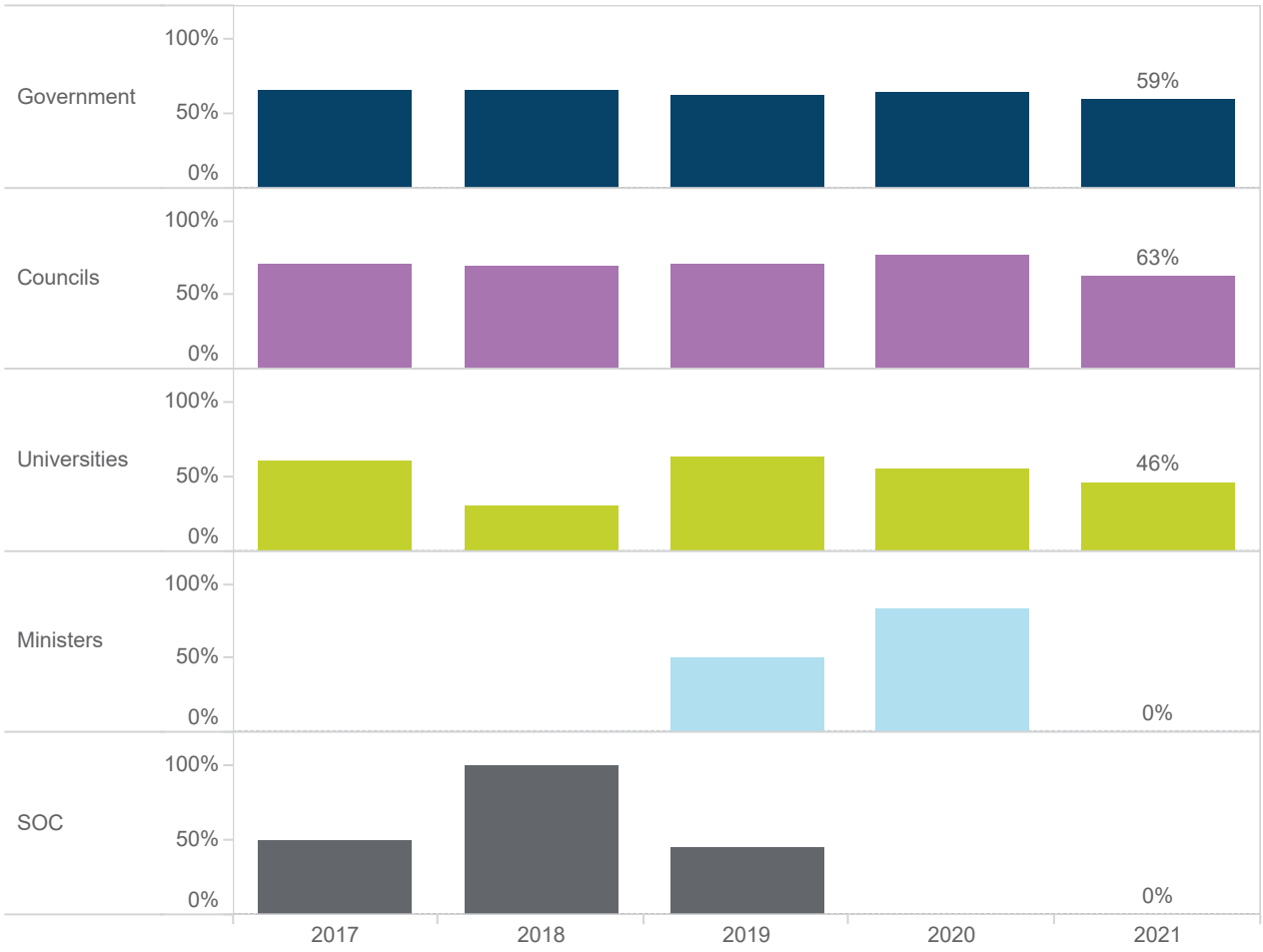



As Figure 12 shows, the percentage of invalid applications that subsequently became valid has:

- remained relatively stable in the Government sector, with a slight decline from 64% in 2019/20 to 59% in 2020/21
- significantly declined in the Council sector, from 78% in 2019/20 to 63% in 2020/21
- moderately declined in the University sector, from 56% in 2019/20 to 46% in 2020/21
- has been consistent in State-Owned Corporations sector over the past two years with 0% in both 2019/20 and 2020/21.

The overall decline this year in the rate of invalid applications that subsequently became valid will continue to be monitored to consider for inclusion in IPC's forward work program.

***Figure 12: Invalid applications that became valid as a percentage of all invalid applications, by sector, 2016/17 to 2020/21***



### Case Study: *Zonnevylle v Department of Customer Service; Zonnevylle v Secretary, Department of Education* [2021] NSWCATAD 35 – when is an access application 'actually received'?

This case dealt with the issue of when an access application made under the GIPA Act is 'actually received' by an agency pursuant to section 41(3) of the GIPA Act.

This question arose because the applicant was subject to a restraint order made on 3 April 2020 under section 110 of the GIPA Act and made an application for information to each agency by emails on 2 April 2020, sent at 6:29pm and 10:50pm.

Both agencies decided that the applications were invalid by section 110(7) because a restraint order was in force against the applicant and that any application for government information made to an agency in contravention of the order is not a valid access application.

The Tribunal did not agree that the applications were invalid.

In determining the review application, the question before the Tribunal was whether the access applications sent by the applicant were invalid because they were received at a time when the applicant was prohibited from making an access application by the restraining orders and section 110(7). The Tribunal considered when the applications were made according to the words 'actually received' in section 41(3).

The Tribunal found that the words 'actually received' in section 41(3) should be given their ordinary meaning and be construed as meaning actual receipt. The Tribunal rejected the agencies' contention that receipt required the agencies to be able to act upon the application, which would be on 3 April 2020. The Tribunal determined that the access applications were made and actually received by the agencies on 2 April 2020, not on 3 April 2020.

The Tribunal was not required to determine the question of when the restraint order against the applicant would take effect.

See IPC Case Notes for more information about this case.