REPORT ON THE OPERATION OF THE GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009

2023-24

Open Government, Open Access, Open Data

Letter of Transmission

The Hon. Ben Franklin, MLC
President, Legislative Council
Parliament House
Macquarie Street
Sydney NSW 2000

The Hon. Greg Piper, MP
Speaker, Legislative Assembly
Parliament House
Macquarie Street
Sydney NSW 2000

20 May 2025

Dear Mr President and Mr Speaker,

In accordance with section 37 of the *Government Information (Information Commissioner) Act 2009*, I am pleased to present the *Report on the Operation of the Government Information (Public Access) Act 2009: 2023-24*.

I recommend that the Report be made public forthwith pursuant to section 39(2) of the *Government Information (Information Commissioner) Act 2009*.

Yours sincerely,

[Signed]

Chris Clayton

**Acting Information Commissioner and CEO
Information and Privacy Commission NSW**

Contents

Commissioner's Overview

As the *Government Information (Public Access) Act* (GIPA Act) approaches the 15th anniversary of its commencement, and in the face of modern challenges, safeguarding the right to information access has never been more important.

At the commencement of the GIPA Act on 1 July 2010, the government landscape was markedly different. In the years since, the rapid transformation of government services in the face of emerging technologies, the utilisation of grants schemes as a mechanism for distributing public funds and the growing use of private contractors to deliver services have enlivened new challenges for the public service. While the fundamental principles of information access remain more relevant than ever, the specific mechanisms to uphold these rights must be continuously reviewed and updated to address the complexities of the modern digital age.

In the context of these challenges, this annual report to Parliament captures the operation of the GIPA Act for the reporting year 2023-24, providing important guidance to policy makers and agencies and promoting greater transparency for the people of NSW.

Key trends and analysis for 2023-24

The number of valid applications received by agencies continues to increase, with access applications increasing a further 12% from 24,476 in 2022-23 to a new record of 27,485 in 2023-24. In observing the type of information applied for, outcomes for applications that sought partly personal and partly other information continue to increase significantly to 6,897 compared with 5,255 in 2022-23. This reflects a 277% increase between 2019-20 to 2023-24. These results highlight the strong ongoing interest from the public in exercising their right to access government-held information.

Consistent with previous years, the number of invalid applications remains high. In 2023-24, invalid applications were equivalent to 12% of all formal applications received. Notably, the Council sector had the highest percentage of invalid applications this year at 21%. However, invalid applications that subsequently became valid increased to 67% from 62% in 2022-23, indicating that efforts by agencies to help applicants make their applications valid have been effective.

Timeliness of decision-making has moderately increased across most sectors, which may be reflective of improved processes for dealing with applications. However, complaints about decision-making timeframes continue to be received by the Information and Privacy Commission (IPC), indicating opportunities for agencies to review their internal processes for efficiencies and engage with IPC published guidance on how the decision period is calculated and how and when extensions may be sought.

The right of review is an important mechanism in the GIPA framework, offering an opportunity for applicants to seek reconsideration of decisions made regarding access to information. Overall, while review rates have remained stable in most sectors, the volume of external reviews by the Information Commissioner as a percentage of all reviews conducted declined moderately to 34%. Furthermore, reviews where the Information Commissioner recommended that agencies reconsider their decisions moderately declined to 39%. Meanwhile, internal reviews as a percentage of all reviews increased moderately to 52% this year compared with 44% in 2022-23.

Transparency in grants administration

Government grants are an increasingly common way of distributing public money to the community. Transparency of this process is essential – to allow the public access to information about how grants administration is being carried out, and to assess whether public money is being spent in the public interest.

For the first time since the *Government Information (Public Access) Regulation 2018* (GIPA Regulation) was amended, agencies that administer grant schemes are required to make certain information about those grants publicly available. The Grants Administration Guide[1] requires information to be published about any upcoming grant opportunities, guidelines for open grant opportunities, all grants awarded, ministerial discretion

in making grant decisions that vary from the recommendation of officials, including the reasons for any such decision, and program evaluations.

To monitor compliance with these requirements, the IPC conducted a desktop audit of principal departments and a sample of smaller agencies. This proved to be a challenging exercise due to the limited search functionalities of the grants website. Further work is required to explore enhancements to the website and other mechanisms that may assist in monitoring compliance.

Authorised proactive release: The 'push' mechanism

While the IPC has continued to support agencies with their proactive release programs, the 2023-24 reporting year saw a moderate decline in agency reviews of programs for release of government information from 91% in 2022-23 to 81% in 2023-24. Across the sectors, this decline was particularly significant in the University and Council sectors. Furthermore, the release of additional information following a review has also declined across all sectors. It remains an important role of the IPC to support proactive release and promote compliance by agencies with the requirement to conduct an annual review of their authorised proactive release program.

Authorised proactive release is an important 'push' pathway that encourages agencies to continuously make as much information publicly available as possible. This requires agencies to cultivate and foster a culture where information release is prioritised. The benefits of effective proactive release are significant and ensure an engaged and informed community that is better able to participate in democratic government and decision-making.

This year, the IPC also included additional questions on proactive release in the IPC's GIPA Tool to enable agencies to voluntarily provide information on their annual review of their proactive release program. It is pleasing to see a positive uptake, with 106 agencies

providing self-reporting of this information. This report covers some of the initial insights on the kinds of information agencies are proactively releasing, and enhancements aimed at improving access.

Looking ahead: The importance of information access in a new technological age

The transformative nature of emerging technologies such as artificial intelligence (AI) and automated decision-making (ADM) continues to drive significant changes in how government decisions are made, and how public services are delivered. This was a focal point of discussion at the November 2024 meeting of Information Commissioners and Ombudsmen from around Australia and New Zealand as part of the Association of Information Access Commissioners (AIAC) held in Melbourne. While there are significant benefits to the adoption of new technologies, AIAC members emphasised the need to ensure adequate regulation of the use of new AI technologies and that information access rights are preserved and protected.

As part of the IPC's Regulatory Priorities for 2024-28, and following consultation and feedback from stakeholders, the IPC plans to proactively engage with stakeholders to elevate the importance of transparency when using emerging technologies and ensure information access risks are understood and mitigated for new technology projects.

While the GIPA Act is understandably technology neutral, the increasing use of new technologies requires specific consideration to preserve and protect the information access rights of the public.

As the GIPA Act approaches the 15th anniversary of its commencement, now more than ever there is a need to ensure that NSWs information access laws are modern and fit for purpose for years to come.

Chris Clayton
Acting Information Commissioner and CEO

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1   https://www.nsw.gov.au/sites/default/files/2024-03/grants-administration-guide-2024_0.pdf

Future Focus for Agencies

The IPC encourages agencies to implement specific strategies that respond to the 2023-24 reporting outcomes.

1 MANDATORY PROACTIVE RELEASE

- Comply with the GIPA Act's Open Access requirements, with a focus by government departments on taking action to provide the first three requirements under clause 6(2) of the GIPA Regulation (a list of the Department's major assets, the total number and value of properties disposed of, and the Department's guarantee of service).
- Review and apply the guidance provided in the Information Commissioner's Information Access Guideline 6: Agency Information Guides[2] and the IPC's Checklist – Open Access requirements under the GIPA Act.[3]

2 AUTHORISED PROACTIVE RELEASE

- Ensure compliance with the requirement to conduct an annual review of proactive release under section 7(3) of the GIPA Act.
- Embed key practices that promote proactive release, including establishing governance arrangements to support proactive release, engaging with stakeholders to identify and prioritise information of community interest for release and analysing data from requests for information to identify trends and documents that could be proactively released.
- Consider and implement IPC resources, including the Fact Sheet Authorised proactive release of government information[4] and the Information access self-assessment tool.[5]

3 INFORMAL RELEASE

- Consider and apply IPC published guidance including the Information Access Guideline 11 – Informal Release of Information[6] in the development and implementation of agency specific policies and procedures that support informal release.
- Continue to capture and report data on informal release applications via the GIPA Tool.

4 FORMAL ACCESS APPLICATIONS

- Engage with citizens to provide guidance on making a valid formal application under the GIPA Act and undertake actions to reduce the volume of invalid applications.
- Review internal processes for efficiencies and engage with IPC published guidance on how the decision period is calculated[7] and how and when extensions may be sought.[8]
- Review and apply the guidance provided in the IPC Fact Sheet - The GIPA Act: Agency systems, policies and practices - guidance for principal officers.[9]
- Review and implement internal processes to identify efficiencies available in reviewing formal applications.

[2] https://www.ipc.nsw.gov.au/information-access-guideline-6
[3] https://www.ipc.nsw.gov.au/checklist-open-access-information-under-gipa-act-and-gipa-regulation-agency-requirements-september-2021
[4] https://www.ipc.nsw.gov.au/sites/default/files/2020-01/Fact_Sheet_Authorised_proactive_release_of_government_information_September_2019.pdf
[5] https://www.ipc.nsw.gov.au/information-governance-agency-self-assessment-tools-information
[6] https://www.ipc.nsw.gov.au/information-access-guideline-11-informal-release-information
[7] https://www.ipc.nsw.gov.au/fact-sheet-calculation-time-under-gipa-act
[8] https://www.ipc.nsw.gov.au/fact-sheet-timeframes-and-extensions-deciding-access-applications-under-gipa-act
[9] https://www.ipc.nsw.gov.au/fact-sheet-gipa-act-agency-systems-policies-and-practices-guidance-principal-officers

Year in
Review

Year in Review

The 2022-23 Report identified a range of priority actions for the IPC and agencies. The outcomes of the IPC actions identified in that Report, as they are aligned with the information access pathways, are reported below.

Mandatory proactive release

The 2022-23 Report identified that there were opportunities to enhance regulatory guidance and compliance with mandatory proactive release obligations.

Action	Outcome
Engage with agencies on the outcome of the desktop audit of compliance with Open Access information requirements.	The IPC is carrying this action forward for assessment under its new regulatory framework and priorities.
Engage with agencies to request phrasing, consistent with GIPA Act terminology, be used when publishing AIGs. The website scanning tool that the IPC used to assess agency compliance with their Open Access information obligations found that several agencies have AIGs that were difficult to locate on their websites.	Testing of the website scanning tool was undertaken to maximise results. While no engagement was undertaken, the terminology used for the website scanning tool was modified, which improved overall search results.
Monitor compliance with the amendment to the *Government Information (Public Access) Regulation 2018* that requires agencies to publish information on the administration of grants as Open Access information.	The IPC has conducted a desktop audit of agency compliance with the requirement to publish grants information. The results of the audit are analysed in this report.

Authorised proactive release

A priority for the IPC continues to be the promotion of the GIPA Act's 'push' model of information release, including authorised proactive release.

Action	Outcome
Analyse and report on agency compliance with the obligation to conduct an annual review of their proactive release program.	The IPC GIPA Tool was enhanced to include questions for agencies on their proactive release programs on a voluntary basis. Analysis of agency responses to these questions is included in this report.
Continue to promote the recently updated agency Self-assessment Tool to assist with the development of agency compliance maturity.	Following the release of the updated Information Access Agency Self-assessment Tool in May 2023, the IPC continued to actively promote the Tool to assist agencies in developing their compliance maturity. The Tool was promoted directly to agencies via the quarterly IPC Bulletin, social media and other direct communications.

Year in Review

Informal release

The GIPA Act authorises agencies to release government information in response to an informal request by a person unless there is an overriding public interest against disclosure of the information.

Action	Outcome
Review informal release data received from agencies through the GIPA Tool and consider recommendations to inform guidance and advice on informal release and collection of data in relation to the 2023-24 reporting year.	The IPC reviewed informal release data submitted by agencies through the GIPA Tool to assess compliance and effectiveness under the GIPA Act. For the 2022-23 reporting year, the IPC analysed this data to identify trends, challenges, and best practices in informal release processes. Based on these insights, the IPC formulated recommendations to enhance guidance and advice for agencies, aiming to streamline informal release procedures and improve data collection methods. This iterative review process ensures that agencies are better equipped to handle informal information requests efficiently and transparently, fostering greater public access to government information. In 2024, the IPC included additional informal release questions in the GIPA Tool for agencies to voluntarily provide their data for the 2023-24 reporting period.
Promote IPC resources on informal release and encourage agencies to adopt improved policies and procedures in relation to informal release.	The IPC actively promoted resources on informal release on social media throughout 2023-24 to encourage agencies to adopt improved policies and procedures. As part of Right to Know Week in September 2023, the IPC released a training webinar on informal release[10] best practice featuring former NSW Information Commissioner Elizabeth Tydd, and launched an informal release website hub page highlighting the resources related to the topic. In March 2024, the IPC promoted the following resources as part of Information Awareness Week 2024: • Informal release of information frequently asked questions[11] • Informal Access Guideline 11 – Informal Release of Information.[12]

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10   https://www.youtube.com/watch?v=uhLUdBOa1K4
11   https://www.ipc.nsw.gov.au/frequently-asked-questions-citizens-informal-release-information
12   https://www.ipc.nsw.gov.au/information-access-guideline-11-informal-release-information

Year in Review

Formal access applications

The GIPA Act provides individuals and organisations with an enforceable right to apply for, and access, government information in NSW, unless there is an overriding public interest against disclosure.

Action	Outcome
Engage with The Cabinet Office, Premier's Department, Department of Communities and Justice and the Department of Customer Service to explore options for improving the reporting of information by ministers' offices following a change of Government or Machinery of Government changes. One option may be for all ministers' offices to use the GIPA Tool.	IPC met with staff from The Cabinet Office to provide a demonstration of the GIPA Tool, and is providing ongoing support and engagement to encourage ministers' offices to use the GIPA Tool to report annual data.
Engage with State-Owned Corporations (SOCs) to address the increase of invalid applications received during 2022-23.	The IPC is carrying this action forward for assessment under its new regulatory framework and priorities.

Information Release Pathways

Pathway 1: Mandatory proactive release of information

Since 2010-11, the IPC has conducted an annual desktop audit of agency compliance with mandatory proactive release requirements under the GIPA Act (also known as Open Access information).

For 2023-24, the IPC conducted a desktop audit of the principal departments and a sample of 20 smaller agencies. The desktop audit identified whether each department and sampled smaller agency had complied with the GIPA Act to publish on its website:

- an Agency Information Guide (AIG);
- agency policy documents;
- an agency disclosure log; and
- an agency contracts register.

The desktop audit did not examine the comprehensiveness of the information made available, such as whether an agency had published all its policy documents or whether the information is up to date.

The number of principal departments increased from 10 in 2022-23, to 12 in 2023-24 due to the following Machinery of Government changes:

- on 1 July 2023, The Cabinet Office was created, and the Department of Premier and Cabinet was renamed to the Premier's Department
- on 1 January 2024, the Department of Climate Change, Energy, the Environment and Water was created, and the Department of Planning and Environment was renamed to the Department of Planning, Housing and Infrastructure.

From 1 July 2024, the Department of Regional NSW and the Department of Enterprise, Investment and Trade were renamed to the Department of Primary Industries and Regional Development and the Department of Creative Industries, Tourism, Hospitality and Sport respectively. These agencies have not been included in the desktop audit of principal departments.

When comparing the audit results from 2023-24 with past years, it is important to note that changes in the number of departments have affected the overall audit sample, which does not allow for accurate direct comparisons from year to year.

Compliance with Open Access requirements is relatively stable

Across the departments and sampled smaller agencies, the desktop audit found 77% compliance with the mandatory proactive release requirements this year, broadly consistent with 73% in 2022-23 (Figure 1).

Figure 1: Departments and sampled government agency compliance with mandatory proactive release requirements, 2019-20 to 2023-24
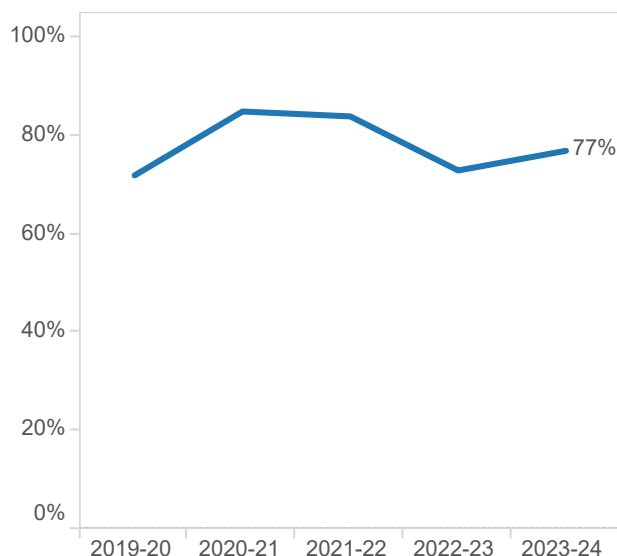
The desktop audit also showed the following:

- 80% of sampled agencies had an AIG; a moderate increase from 70% in 2022-23 and moderately lower than 86% in 2021-22.
- 83% of sampled agencies had policy documents available; a moderate decline from the 90% reported in both 2022-23 and 2021-22.
- 87% of sampled agencies had a disclosure log; a significant increase from 63% in 2022-23 and consistent with 86% in 2021-22.
- 87% of sampled agencies had a contract register; a significant increase from 67% in 2022-23 and moderately higher than 79% in 2021-22.

Compliance by departments was moderately higher at 95% than the rate for sampled agencies, which was 84% overall.

For sampled agencies other than departments, there was a significant improvement, with a compliance rate of 79% in 2023-24 compared with 60% in 2022-23.

The results of the 2023-24 desktop audit demonstrated improved compliance with mandatory reporting requirements by agencies overall, when compared with the 2022-23 desktop audit.

In 2023, the IPC announced that an automated website scanning tool had been developed and deployed to identify the existence of AIGs on agency websites. In 2024, this automated tool was incorporated into the IPC Audit Work Program and monthly scans were undertaken. In 2023-24, the website scanning tool returned similar results to the desktop audit on AIGs. Overall, 72% of agencies were determined to have published an AIG, consistent with 70% in the 2023-24 desktop audit.

Compliance with additional Open Access requirements for departments improving but still low

Principal departments are subject to a number of additional requirements for Open Access as set out in clause 6(2) of the GIPA Regulation. These are to make available:

(a) a list of the Department's major assets, other than land holdings, appropriately classified and highlighting major acquisitions during the previous financial year;

(b) the total number and total value of properties disposed of by the Department during the previous financial year;

(c) the Department's guarantee of service (if any);

(d) the Department's code of conduct (if any); and

(e) any standard, code or other publication that has been applied, adopted or incorporated by reference in any Act or statutory rule that is administered by the Department.

The IPC conducted a desktop audit of compliance by departments with these 5 additional Open Access requirements. The audit found that compliance with these additional requirements remains low.

The following results of compliance were met by the audited principal departments:

- 20% (2 departments) fully met the requirement in relation to major assets and acquisition, a significant improvement from no departments having fully met the requirements in 2022-23. 70% (7 departments) only partially met the requirement in relation to major assets and acquisitions, a moderate improvement from the 60% that partially met requirements in 2022-23.[13]

- Amend to: 40% (4 departments) fully met and 60% (6 departments) only partially met the requirement in relation to both the total number and the total value of properties the department disposed of during the previous financial year. This is a significant improvement from the 10% that fully met the requirements in 2022-23, and consistent with the 60% that partially met requirements in 2022-23.[14]

- 30% (3 departments) had the department's guarantee of service. This is a moderate decline from 40% (4 departments) in 2022-23.

- 100% had the department's code of conduct, consistent with 100% in 2022-23.

- 90% (9 departments) had a number of documents or webpages marked as 'standard' or 'code' available on the website, a moderate decline from 100% in 2022-23.

Compliance with the first two additional Open Access requirements saw a significant improvement, with more departments having fully met the requirements. This uplift follows the IPC's GIPA Act - Additional Open Access – Assets and Acquisitions audit[15] reported on in May 2023.

However, compliance with the first three additional Open Access requirements remains low, with the majority of departments either failing to publish the required Open Access information in full on their website or provide it via alternate means.

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13 To fully comply with this requirement, a list of major assets, appropriately classified and with major acquisitions highlighted, must be easily found on the department's website. Partial compliance refers to where a complete list of assets is available but only in the annual report (and not published on the department's website), or where an incomplete list is available either on the website or in the annual report but the assets are either not appropriately classified or major acquisitions are not highlighted.

14 To fully comply with this requirement, the total number and total value of properties disposed of by the department during the previous financial year must be easily found on the department's website. Partial compliance refers to where both the total number and the total value of properties disposed of is only available in the annual report (and not published on the department's website) or where only some of the required information is available (that is, only the total number of properties disposed of, or only their total value), either on the website or in the annual report.

15 https://www.ipc.nsw.gov.au/sites/default/files/2023-06/Agency_reporting_on_expenditure_of_public_funds_by_disclosing_the_acquisition_disposal_and_value_of_major_assets_as_required_by_the_GIPA_Act_GIPA_Compliance_Report_May_2023_0.pdf

The IPC will explore the development of resources to assist agencies and departments in uplifting their compliance with their Open Access obligations, and will continue to promote the checklist Open Access information under the GIPA Act – agency requirements[16] which informs agencies and departments about Open Access information required to be released.

The IPC will also continue to consider other ways in which it can support agencies to improve compliance with their mandatory proactive release obligations.

Compliance with additional Open Access requirements for grants administration

2023-24 is the first reporting year since the GIPA Regulation was amended requiring agencies that administer grant schemes to make certain information about those grants publicly available.

The Grants Administration Guide[17] (Grants Guide) sets out the mandatory information requirements. The prescribed website for the publication of grants information is www.nsw.gov.au/grants-and-funding.[18]

The Grants Guide requires information to be published about upcoming grant opportunities, open grant opportunity guidelines, all grants awarded, the exercise of Ministerial discretion in making grant decisions that vary from the recommendation of officials, including the reasons for any such decision, and program evaluations.

The IPC encountered difficulties in conducting a desktop audit of whether the principal departments and a sample of smaller agencies published grants information, primarily because it was not possible to obtain a definitive list of which agencies had administered grants (see 'Issue Highlight' at the end of this section for more detail). The IPC will explore additional mechanisms for monitoring compliance with the publication of grants administration information.

Complaints to the IPC about mandatory proactive release

Complaints to the IPC identified some concerns regarding compliance with the mandatory requirements for proactive release of information.

In 2023-24, 21% of complaints finalised by the IPC concerned Open Access information, an increase from 16% reported in 2022-23. As in previous years, Open Access related complaints mainly concerned agencies not making Open Access information available.

Issue Highlight: Audit of the open access requirement for grants administration information

From 1 July 2023, the GIPA Regulation required agencies to comply with additional Open Access requirements in relation to grants administration information. Information is to be published on the prescribed website, www.nsw.gov.au/grants-and-funding[19] (the grants website).

The IPC's desktop audit identified that the grants website does not facilitate searching for grants issued by a specific agency. Further, the grants website does not allow grants to be identified by agency.

In addition to keyword searching, searches can be conducted by location (postcode or suburb), by category of grant recipient (business, individual, local government, not-for-profit), by subject matter, or by status (open, opening soon, closed, or announcements). A keyword search using an agency's name, did not produce a comprehensive list of grants relevant to that agency.

Direct searches were conducted of department websites to identify information about the grants they administered. This information obtained from these searches was used to find information on the grants website to verify agency compliance with the requirement to publish grants information. For smaller agencies, the same approach was less successful, as only 31% of the sampled smaller agencies provided grants information on their websites.

The inability to search for grants information by agency limits the ability of the IPC to monitor agency compliance with this Open Access obligation. The IPC will seek enhancements to the functionality of, and information on, the grants website during 2025.

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[16]   https://www.ipc.nsw.gov.au/node/2235
[17]   https://www.nsw.gov.au/grants-and-funding/grants-administration-guide
[18]   https://www.nsw.gov.au/grants-and-funding
[19]   https://www.nsw.gov.au/grants-and-funding

Pathway 2: Authorised proactive release of information

Agency reviews of programs for release of government information has declined

Agencies are required to conduct reviews of their program for the release of government information at least annually.

In 2023-24, 81% of agencies self-reported having conducted a review of their program for the release of government information. This is a moderate decline from 91% in 2022-23 (Figure 2).

Figure 2: Agencies that conducted annual information release reviews as a percentage of all agencies that reported, 2019-20 to 2023-24
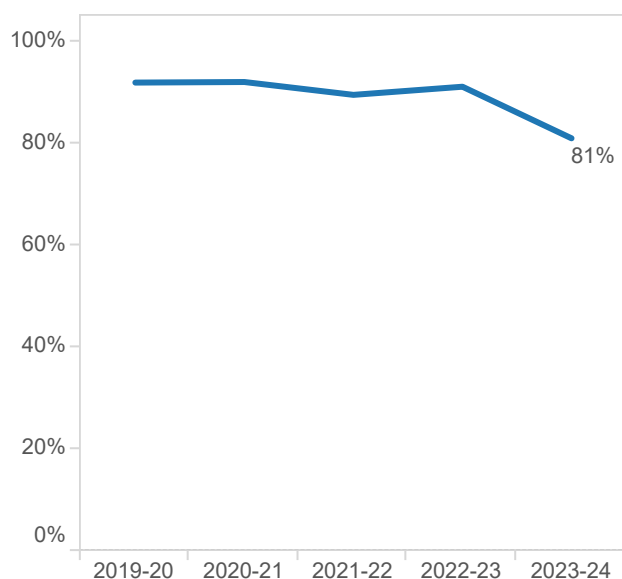
Results across the sectors varied (Figure 3):

- 86% of agencies in the Government sector conducted reviews, consistent with the 87% reported to the IPC in 2022-23.
- 80% of universities conducted reviews, a significant decline from 100% in 2022-23.
- 75% of councils conducted reviews, a significant decline from 88% in 2022-23.
- 71% of SOCs conducted reviews, consistent with 71% in 2022-23.

During 2023-24, the IPC has continued to support agencies with their proactive release programs. For example, when undertaking reviews of AIGs, the IPC has recommended practices such as providing details about agency proactive release strategies, establishing a committee for the review of information for proactive release, and giving consideration to how the public may participate in these functions.

The IPC encourages agencies to utilise the resources provided by the IPC, including the GIPA Tool and Information Access Self-assessment Tool, to assist them to comply with their proactive release obligations.

Figure 3: Agencies that conducted annual information release reviews as a percentage of all agencies that reported, by sector, 2019-20 to 2023-24
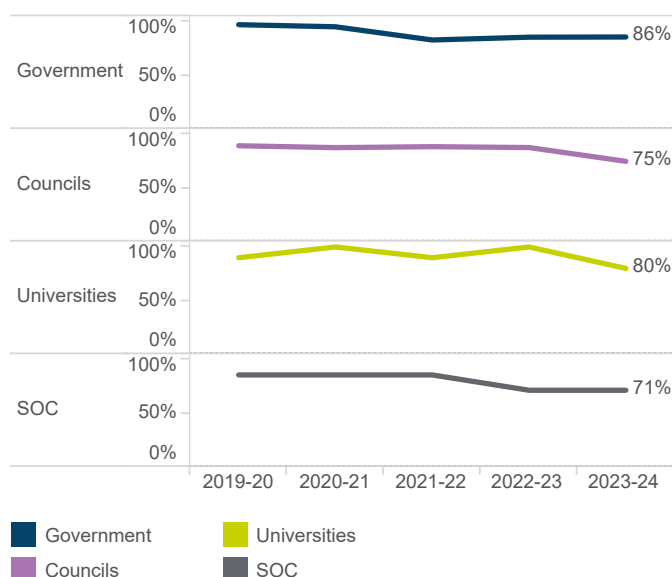
Overall release of additional information following a review has declined

Figure 4 shows the trends in the percentage of reviews leading to the release of additional information and shows:

- 69% of agencies in the Government sector released additional information following review, a moderate decline from the 79% reported in 2022-23.

- 62% of councils released additional information following review, a moderate decline from the 75% reported in 2022-23.

- 75% of universities released additional information following review, a significant decline from 90% in 2022-23.

- 80% of SOCs released additional information following review, a significant decline from 100% in 2022-23.

Legend: Government, Universities, Councils, SOC
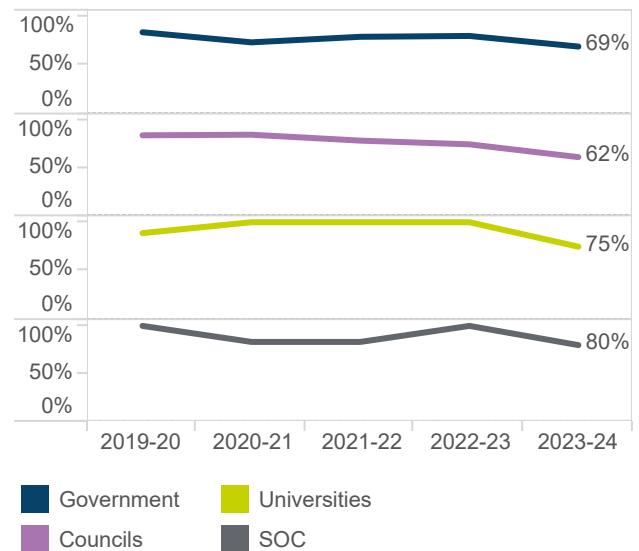
Issue Highlight: Enhancements to the IPC GIPA Tool enable agencies to voluntarily provide information on the annual review of its proactive release program

In 2024, the IPC included questions on proactive release in the IPC's GIPA Tool to enable agencies to voluntarily provide additional information on the annual review of their proactive release program. Data available from the voluntary reporting has shown a positive uptake, with 106 agencies providing data to the IPC on the additional questions, representing 40% of agencies that provided annual GIPA reporting to the IPC.

The data showed that 40% of the agencies who self-reported, published a register of information that was publicly available as a result of its annual reviews.

The data also showed that agencies who self-reported took the following steps as part of its annual review:

- provided a briefing to the chief executive/executive leadership team recommending what, if any, additional information should be proactively released (38%)
- analysed agency data on applications for access to information, to identify trends and documents that could be released proactively (34%)
- followed a policy or procedure on how their proactive release program is reviewed (26%)
- engaged with stakeholders to establish information release priorities (e.g. through community surveys, workshops and consultation processes) (15%)
- established a working group to identify additional information that could be proactively released (14%)
- undertook a survey of staff to identify additional information that could be proactively released (10%)
- received attestations from team leaders that they had reviewed information in their area to identify material suitable for proactive release (9%).

Information proactively released by agencies as a result of its annual review

Agencies reported a broad range of information released as part of their proactive release program. Across the sectors, this included:

Government sector

- agency policies, strategies and action plans
- statistics and information about the agency's functions including operational performance, scheme performance and operational expenses
- environmental statistics and other information about public goods; for example, water storage, delivery and quality of dams
- modelling, scientific studies and research reports
- information about agency initiatives, community programs or projects of public interest
- evaluation reports
- datasets from innovative or smart technology
- information about significant public incidents
- disciplinary decisions
- submissions to inquiries and discussion papers, external reviews or recommendations
- fact sheets, guidelines and presentations
- event listings and campaigns
- compliance audit reports
- media release and public statements
- open data dashboards
- information about government assistance programs and services.

Council sector

- datasets captured through smart technology such as the locations of public WiFi, parks and facilities, and public toilets
- planning documents, such as planning submissions, development applications, environmental planning instruments
- land registers
- business papers such as financial statements, Council resolutions, contract registers, external registers of data breach notifications
- Council policies, plans and strategies
- project reports
- information about the history of the local community.

State-Owned Corporations

- policies and operational guides
- Geographic Information Systems (GIS) data, including maps and spatial data
- information about projects and initiatives the community may be interested in, such as major infrastructure projects.

University sector

- policy documents, plans, strategies, governance documents and frameworks
- information about projects, programs, community and research initiatives and studies
- operational and performance data including information on student numbers, diversity, performance, completion rates and university ratings
- research and teaching strategies.

The IPC also asked agencies about whether certain kinds of government information were released as part of the agency's annual review. Of the agencies that self-reported, the data showed that they proactively released information about:

- how members of the public could participate in the formulation of the agency's policies and the exercise of the agency's functions (11%)
- the use or planned use of artificial intelligence (2%)
- the use or planned use of automated decision-making (1%).

Agencies also reported on improvements to business practices aimed at enhancing the proactive release of information, including:

- establishing governance structures such as steering committees, working groups and regular reviews by executive leadership
- improvements to technology and websites to enable easier access to information
- reviewing information frequently requested via formal access and informal release, to determine whether that information should be made readily available to all members of the public
- developing a proactive release strategy
- engaging with the community and stakeholders, including utilising communication channels such as social media.

Issue Highlight: Proactive release of information about a Council project following community interest

On 27 May 2024, in response to community interest, Shoalhaven City Council proactively released information about its dealings with Bioelektra Australia Pty Ltd (Bioelektra) regarding a project to build a resource recovery facility.

The information released included correspondence with the NSW Office of Local Government (OLG) about managing the construction before Bioelektra went into administration in May 2023. The correspondence provides details of due diligence undertaken by the Council in the procurement of the project and outlines how the risk allocation model adopted by the Council transferred the project risks to the contractor, Bioelektra. Information about the Council's internal review was also released with findings that Bioelektra did not provide a $2 million bank guarantee as contractually required, and milestone payments were made without meeting specific conditions of the contract.

Shoalhaven City Council reported it has since improved its contract management procedures, including setting up a project management office and reviewing its financial and risk management policies.

The proactive release of the information helps address public concern and provide transparency around the Council's actions, including risk mitigation to ensure responsible use of public funds.

Due to public interest considerations including, but not limited to, confidentiality, legal professional privilege and privacy, some of the information was redacted prior to release.

Pathway 3: Informal release of information

The informal release of information benefits both agencies and stakeholders by increasing options for access to information outside formal application processes. The effectiveness of this pathway depends on sound agency practices, including linking those processes to other access mechanisms, such as AIGs.

Agency practices

The GIPA Act authorises agencies to release government information informally unless there is an overriding public interest against disclosure of the information.

Informal release under the GIPA Act is a quicker and cheaper access option for both the applicant and the agency. Agencies have flexibility in deciding how information is to be informally released. Conditions can also be imposed on the use of the information released this way, unlike formal access decisions. Additionally, the GIPA Act provides other legal protections for agencies using this pathway.

By highlighting the role of the informal release pathway, agencies can create opportunities to streamline the handling of common requests for information and ensure that citizens are able to avoid the cost, time and effort required to prepare and lodge a formal access application. Agencies should also use these insights to determine what information can be proactively released.

The IPC recommends that agencies exercise their discretion to deal with requests informally wherever possible, to facilitate timely access to government information at the lowest reasonable cost. However, review rights should also be considered by agencies in discussions with applicants regarding the option to deal with a request for information informally.

Informal release reporting

Since March 2023, the IPC has included questions on informal release in the IPC's GIPA Tool. Agencies are asked to respond to those questions on a voluntary basis. There has been a significant increase in voluntary reporting by agencies, with 154 agencies (57%) providing data to the IPC on informal access applications in 2023-24 compared with 73 agencies (27%) providing data in 2022-23.

The data shows that agencies are receiving a higher volume of informal access applications compared with formal access applications. Agencies that provided voluntary reporting received 45,492 informal requests in 2023-24. While the voluntary reporting only represented 57% of all agencies, the number of informal applications received was equivalent to 166% of the total access applications under the formal pathway received by all agencies in 2023-24.

The data also shows that agencies finalised 88% of informal requests received in 2023-24, a moderate decline compared with 97% in 2022-23. However, 60% of those requests were finalised within 20 business days, a moderate increase compared with 48% in 2022-23. In 2023-24, 29% of informal access requests were granted in full, a moderate increase compared with 22% in 2022-23. 7% of informal access requests were granted in part, a moderate decline compared with 14% in 2022-23.

Information about the outcomes of informal requests is incomplete, as agencies only reported on the outcomes of 43% of the informal release requests received, consistent with 40% in 2022-23. This suggests an ongoing need for agencies to develop policies and procedures to support informal release applications and to better capture data on the outcomes.

The results are summarised in the following table.

Number of Informal Requests Received	Number of Informal Requests Closed	% of Informal Access Requests completed in 20 Business Days	% of Informal Access Requests where access granted in full	% of Informal Access Requests where access granted in part	% of Informal Access Requests where access was refused
45,492	40,208	60%	29%	7%	1%

Pathway 4: Formal applications

Valid applications continue to increase

In 2023-24, there was a record number of formal applications to NSW agencies: 27,485. That number exceeds the number of applications received in 2022-23 by 12%, following a 3% increase in 2021-22 and 6% increase in 2020-21.

The GIPA Act provides a legally enforceable right to access government information upon application, unless there is an overriding public interest against disclosure.

Agencies must assess the validity of each formal application for information that is received. For valid access applications, agencies must then apply the public interest test and balance the factors for, and against, the disclosure of the information that is requested.

The main benefits of the formal access pathway include:

- The right to seek access is legally enforceable.
- Agencies must process applications within statutory timeframes.
- Agencies are not subject to the direction or control of any Minister when dealing with an access application.
- Agencies must apply the public interest balancing test and consult with third parties to whom the information relates.
- Applicants have a right to seek review of an agency's decision about the application through a number of review avenues: an internal review by the agency, an external review by the Information Commissioner and an external review by the NSW Civil and Administrative Tribunal (NCAT).

The IPC continues to publish a dashboard on its website, enabling easy access and understanding of NSW agencies' operation of the formal pathway.
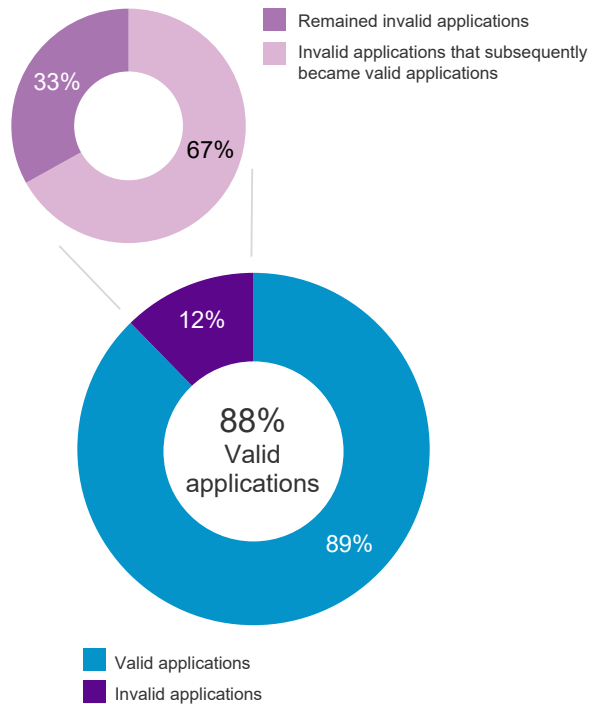
Year at a glance

Where were applications lodged?*
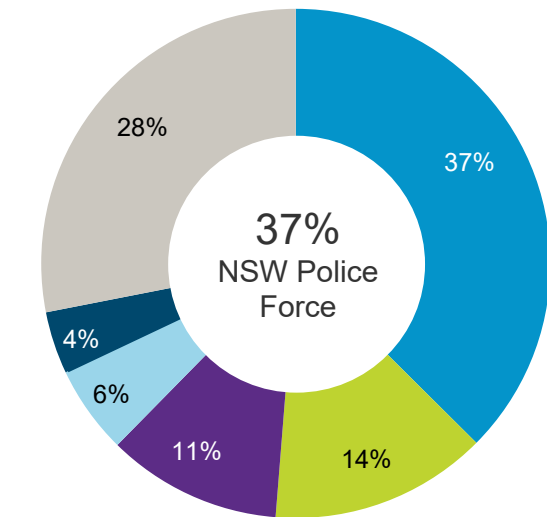
28%
37%
37%
NSW Police
Force
14%
11%
6%
4%

- New South Wales Police Force
- Department of Education
- Department of Communities and Justice
- Transport for NSW
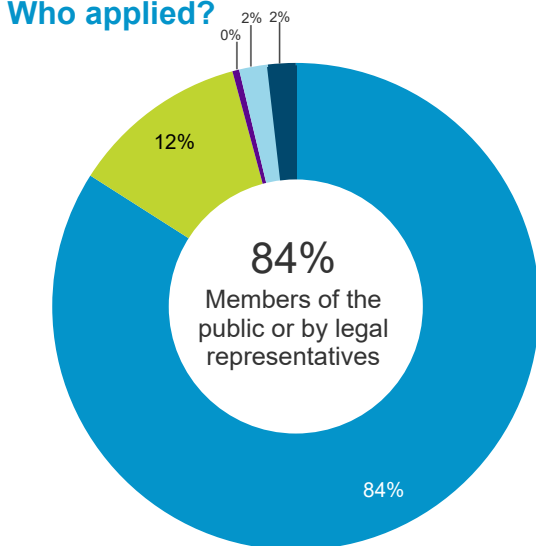- Department of Customer Service
- Other

* This graph represents applications lodged to government agencies

Were applications invalid?
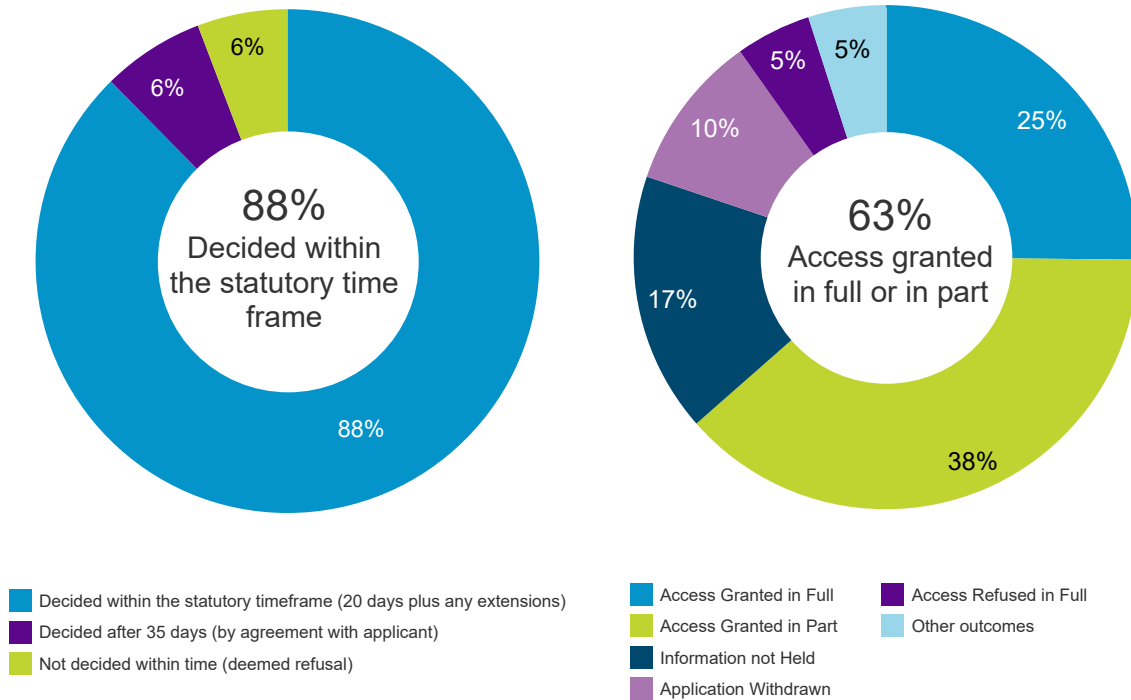
- Remained invalid applications
- Invalid applications that subsequently became valid applications

33%
67%

12%
88%
Valid
applications
89%

- Valid applications
- Invalid applications

Who applied?

0% 2% 2%
12%
84%
Members of the
public or by legal
representatives
84%

- Members of the public
- Private sector business
- Members of Parliament
- Media
- Not for profit organisation or community groups

What was asked for?
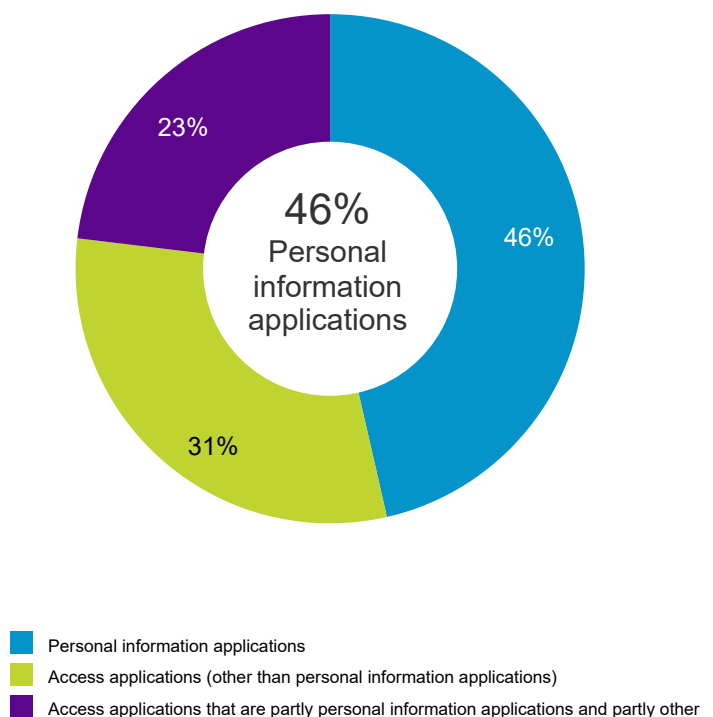
23%
46%
Personal
information
applications
46%
31%

- Personal information applications
- Access applications (other than personal information applications)
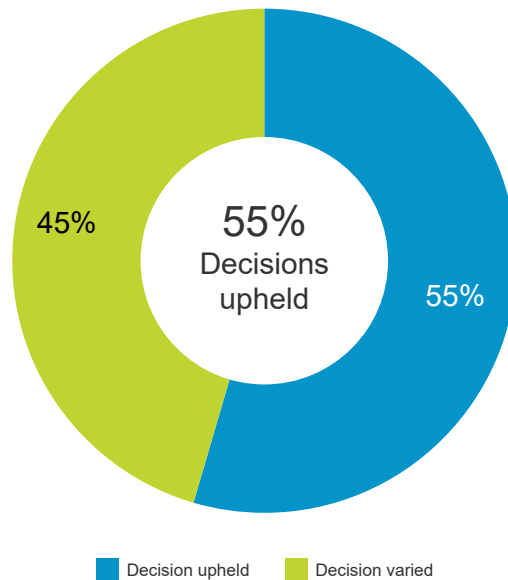- Access applications that are partly personal information applications and partly other

How quickly were decisions made?

88%
Decided within the statutory time frame

6%
6%
88%

- ■ Decided within the statutory timeframe (20 days plus any extensions)
- ■ Decided after 35 days (by agreement with applicant)
- ■ Not decided within time (deemed refusal)

Did applicants get what they asked for?

63%
Access granted in full or in part

5%
5%
10%
17%
25%
38%

- ■ Access Granted in Full
- ■ Access Granted in Part
- ■ Information not Held
- ■ Application Withdrawn
- ■ Access Refused in Full
- ■ Other outcomes

How were decisions reviewed?**

46%
Internal reviews

15%
6%
34%
46%

- ■ Internal review
- ■ Review by the Information Commissioner
- ■ Internal review following recommendation under section 93 of the Act
- ■ Review by NCAT

**Distribution of review by type, using best available source data (agency, IPC and NCAT data)

What were the main review outcomes?

55%
Decisions upheld

45%
55%

- ■ Decision upheld
- ■ Decision varied

How many applications were lodged?

The total number of valid applications received by NSW agencies increased by 12%, a moderate increase compared with the previous reporting period

Agencies advised the IPC they received 27,485 valid applications during 2023-24. This compares with 24,476 valid applications in the previous financial year and represents a total increase of 3,009 or 12% in valid applications received. The trend in applications is shown in Figure 5.

Most applications were made to the Government sector[20]

Consistent with previous years, the Government sector continued to account for most (23,091 or 84%) valid applications (Figure 7). The overall proportion of valid applications received by the Government sector was similar to 2022-23 (81%).

In 2023-24, the NSW Police Force received 37% of all valid applications, consistent with 38% in 2022-23 (Figure 6). The NSW Police Force again continued to receive the largest proportion of valid applications across all sectors. The Department of Education experienced a significant increase in the number of valid applications received; accounting for 67% of the increase in the overall number of valid applications within the Government sector.
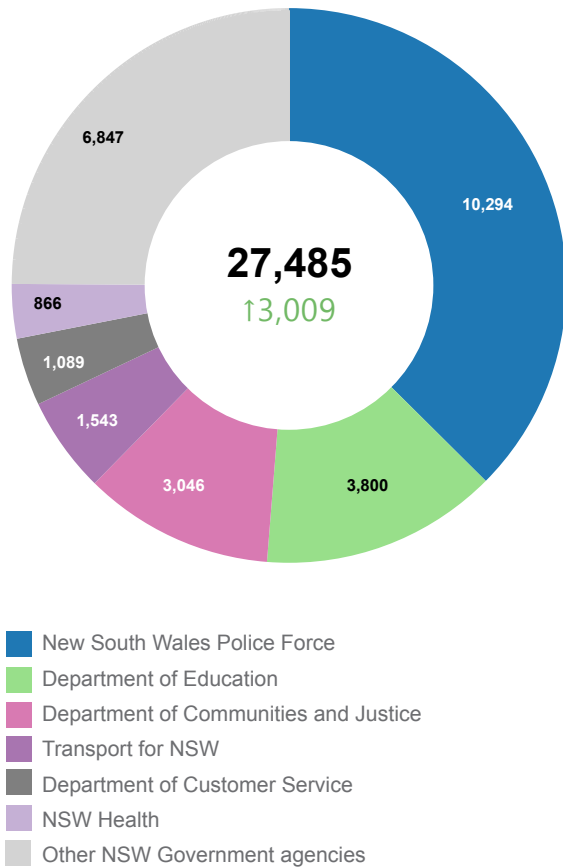
The top six government agencies by number of applications received is similar to last year (Figure 6).

Figure 5: Total number of valid applications received, 2019-20 to 2023-24

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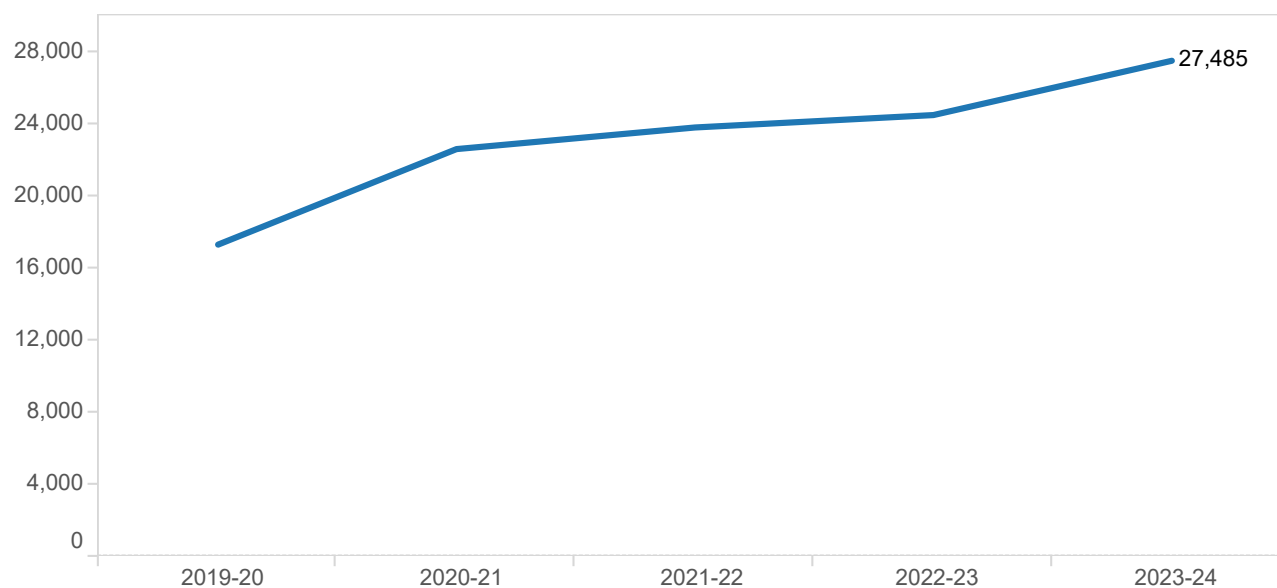
20   Since 2016-17 data has been reported across five sectors, including state-owned corporations. This will affect comparisons with the published reports in earlier years.

Figure 6: Distribution of valid applications received, by government agency, 2023-24

27,485
↑3,009

6,847

10,294

866

1,089

1,543

3,046

3,800

- New South Wales Police Force
- Department of Education
- Department of Communities and Justice
- Transport for NSW
- Department of Customer Service
- NSW Health
- Other NSW Government agencies

Notable changes in valid applications received across these agencies were[21] a:

- 112% increase in applications received by the Department of Education, from 1,793 in 2022-23 to 3,800 in 2023-24 .
- 12% increase in applications received by the NSW Police Force, from 9,226 in 2022-23 to 10,294 in 2023-24.

Applications in the Government and University sectors increased

The number of applications received by the Council sector decreased by 9% compared with results reported in 2022-23 (Figure 7).

The number of applications received by the Government sector increased by 17% compared with the 2022-23 results.

Applications received in the University sector increased by 14% in 2023-24 compared with the previous year.

Applications received in the State-Owned Corporations sector increased by 1% compared with the previous year.

Applications received by the Minister sector increased from 1 application reported in 2022-23 to 22 in 2023-24. The data reported in 2022-23 was impacted by the State general election in March 2023. The number of applications received in 2023-24 was significantly lower than the number of applications received in 2021-22 (45), representing a reduction of 51%.

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21   These figures do not take into account any change in the functions of these agencies between reporting years, such as through Machinery of Government changes.

22   For 2023-24, the Department of Education commenced reporting to the IPC on a financial year basis. While this data still reflects a 12-month period, there is an overlap with the 2022-23 Report due to the reporting period changes this year.

Figure 7: Number of applications received, by sector, 2019-20 to 2023-24
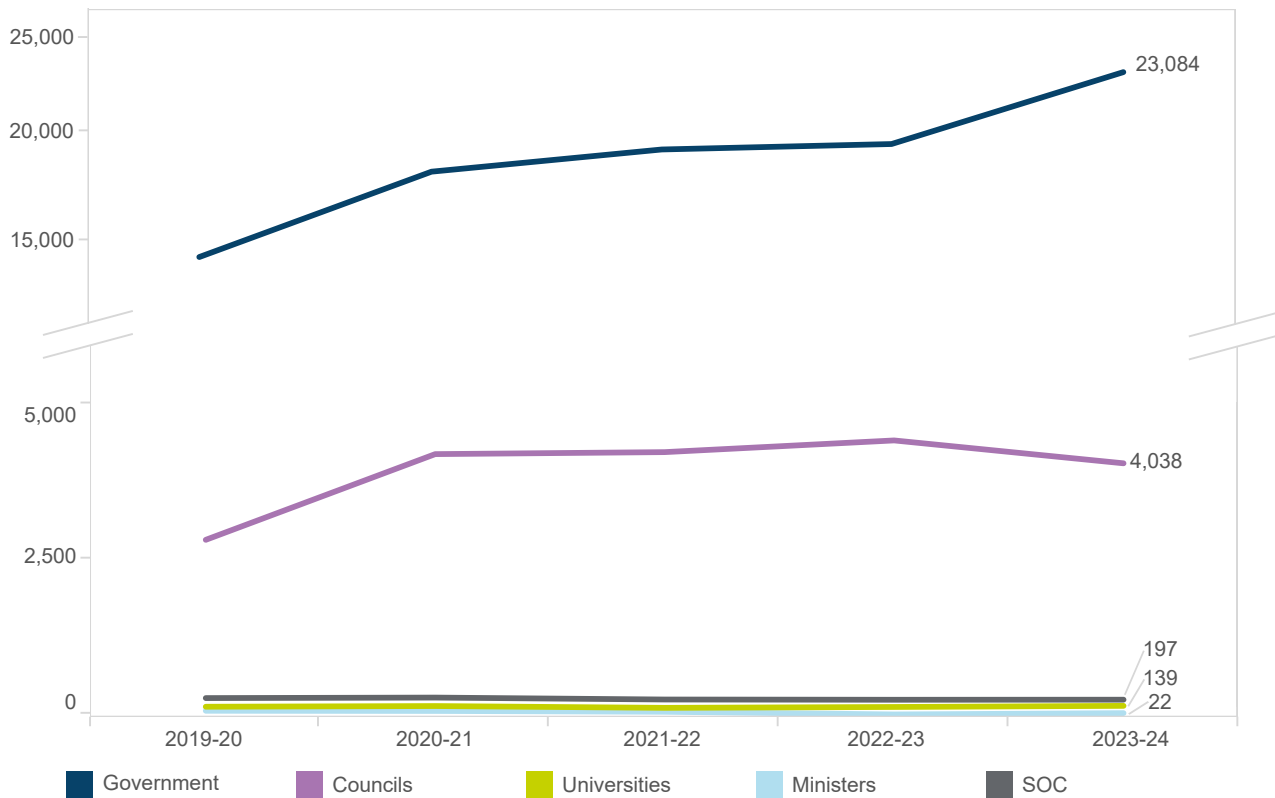
How many applications were lodged?' is reported and measured by the requirement for agencies to report on the total number of formal applications received during the year and that were assessed as valid in clause 8(b) of the GIPA Regulation.

Invalid applications

Invalid applications

The number of invalid applications can be an indicator of the extent to which the GIPA Act is understood by applicants and agencies. It also provides insight into the level of flexibility offered by agencies to applicants to amend their applications so that they can be considered. Section 52(3) of the GIPA Act requires agencies to provide reasonable advice and assistance to enable applicants to make a valid application.

Figure 8 shows the flow of applications from receipt to initial assessment and subsequent processing, together with the number of valid applications received in 2023-24.

The rate of invalid applications received remains high

In 2023-24, agencies received 3,378 invalid formal applications, equivalent to 12% of all formal applications received (Figure 9).

This is consistent with the proportion of invalid applications reported in 2022-23 (3,163 or 13%).

Consistent with previous years, the most common reason for invalidity continues to be that the application did not comply with formal requirements (applying in 96% of invalid applications).

Figure 8: Flow of valid and invalid formal applications, 2023-24
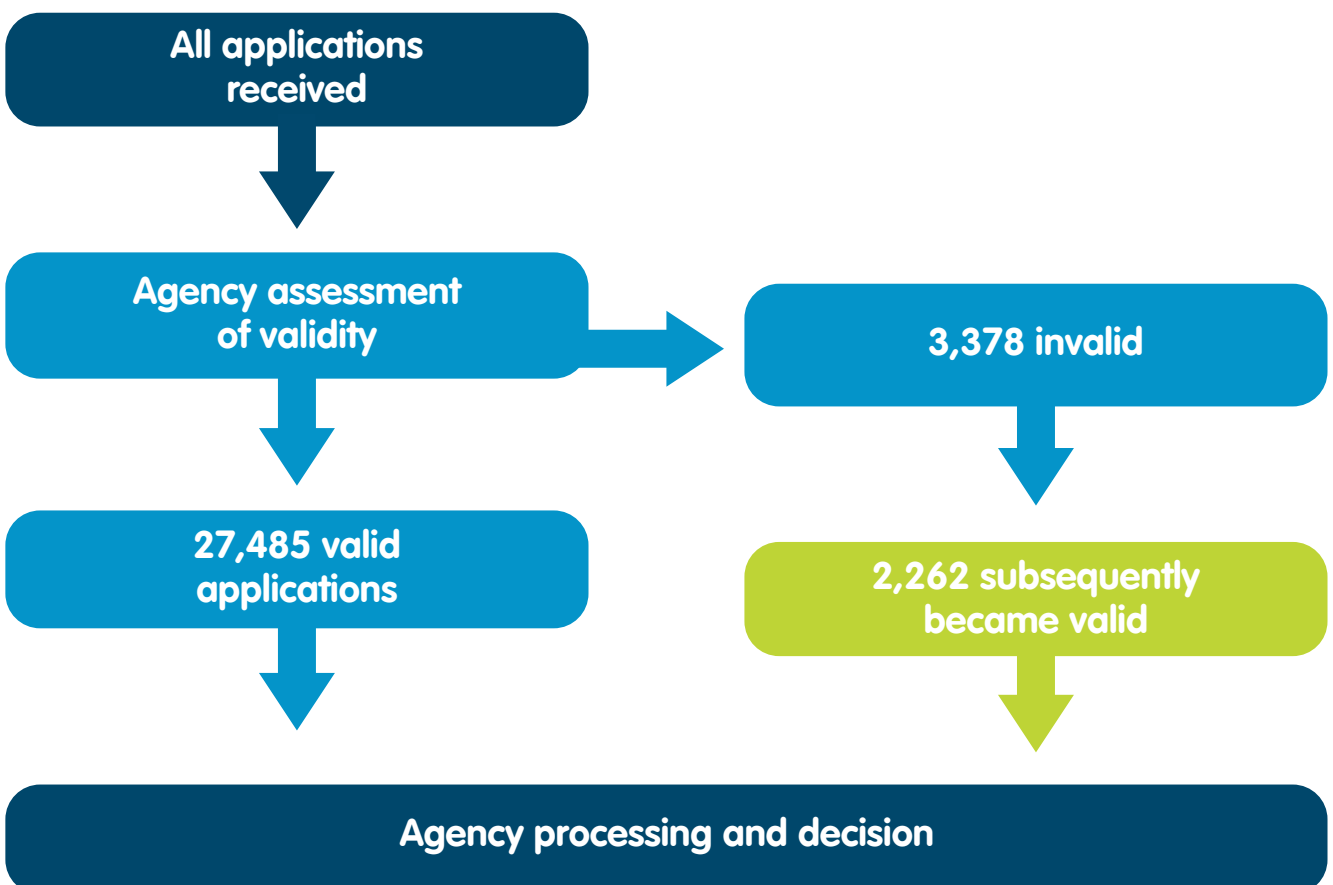
'Invalid applications' are reported and measured by the requirement for agencies to report on the number of invalid applications specified in Table C of Schedule 2 to the GIPA Regulation.

Figure 9: Invalid applications as a percentage of all formal applications received, 2019-20 to 2023-24
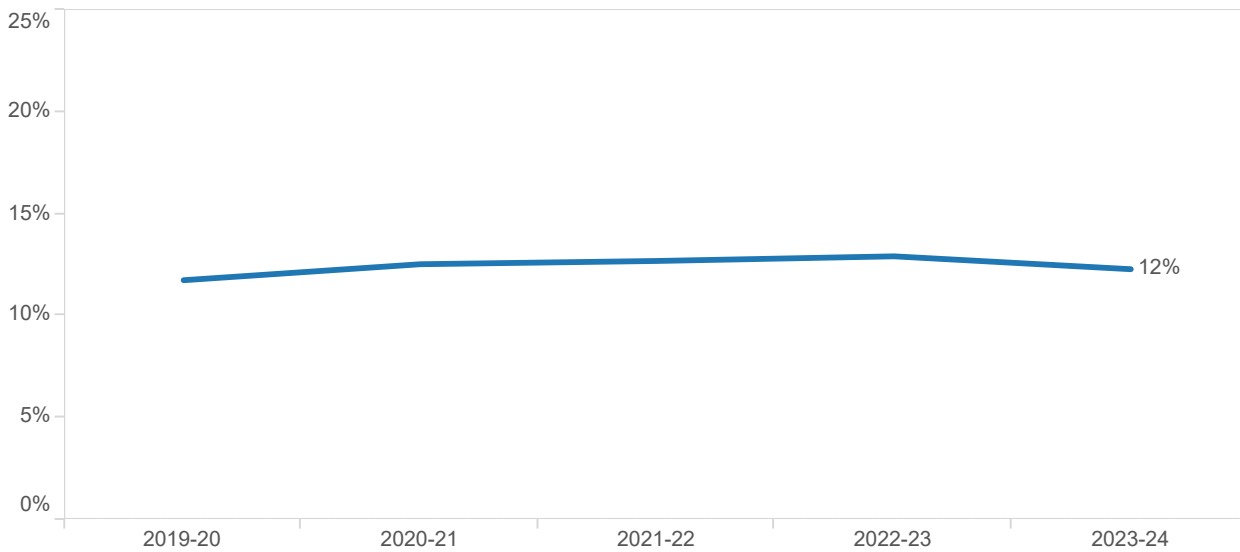

The reasons for why an invalid application arises is varied, with applicants not having met either one or more of the requirements at section 41 of the GIPA Act or having made an application for excluded information (section 43 of the GIPA Act).

Agency websites and forms which clearly explain the mandatory requirements, and agency processes which facilitate the meeting of these mandatory requirements, can help minimise the number of invalid applications received and reduce the 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 Council sector had the highest percentage of invalid applications at 21% (Figure 10); a moderate increase compared with 13% in 2022-23.

Figure 10: Invalid applications as a percentage of all formal applications received, by sector, 2023-24
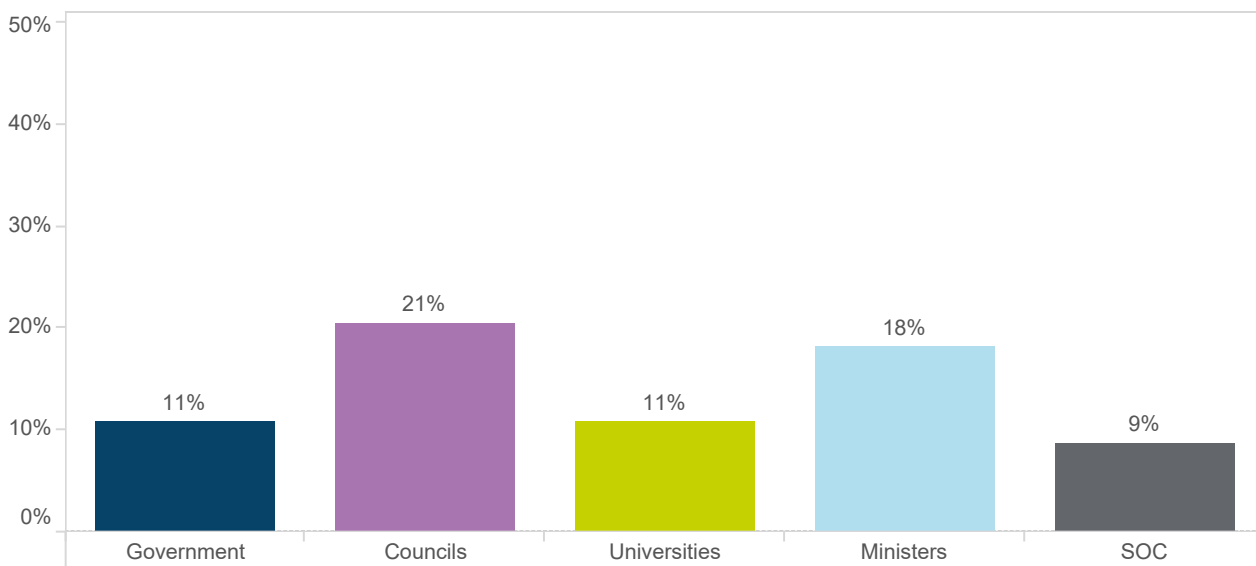
There was a significant decline in invalid applications in the State-Owned Corporations sector from 35% in 2022-23 to 9% in 2023-24. The overall number of applications received by SOCs is still relatively low at 197 applications. As noted in previous reports, the trend is consistent with the observation that smaller population sizes lead to more noticeable percentage changes due to the number of applications having a greater distortionary effect.

The percentage of invalid applications in the University sector moderately declined from 18% in 2022-23 to 11% in 2023-24. The overall number of total applications received by universities is low at 122 applications and also appears to be subject to more noticeable percentage changes.

The number of invalid applications received by the Government sector remained broadly stable

The number of invalid applications remained stable for the Government sector, however some agencies within the Government sector experienced more significant changes in the percentage of applications that were invalid compared with 2022-23. This included:
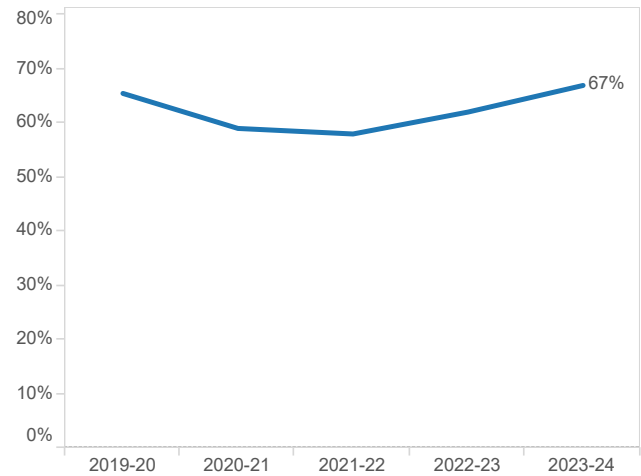
- Department of Education – declined from 20% in 2022-23 to 3% in 2023-24
- NSW Treasury – increased from 0% in 2022-23 to 13% in 2023-24
- NSW Health – increased from 20% in 2022-23 to 27% in 2023-24.

As noted in Figure 8, many invalid applications subsequently became valid applications.

Invalid applications that have subsequently become valid is increasing

Agencies are required to assist applicants to make a valid access application. In 2023-24, 67% of invalid applications subsequently became valid. This is a slight increase from 62% in 2022-23 (Figure 11).

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

- remained largely consistent in the Government sector, with 62% reported in 2023-24 and 58% in 2022-23
- increased slightly in the Council sector, with 83% reported in 2023-24, compared with 78% in 2022-23
- significantly increased in the University sector, from 50% in 2022-23 to 67% in 2023-24
- moderately declined in the State-Owned Corporations sector from 94% in 2022-23 to 82% in 2023-24.

Figure 12: Invalid applications that became valid as a percentage of all invalid applications, by sector, 2019-20 to 2023-24
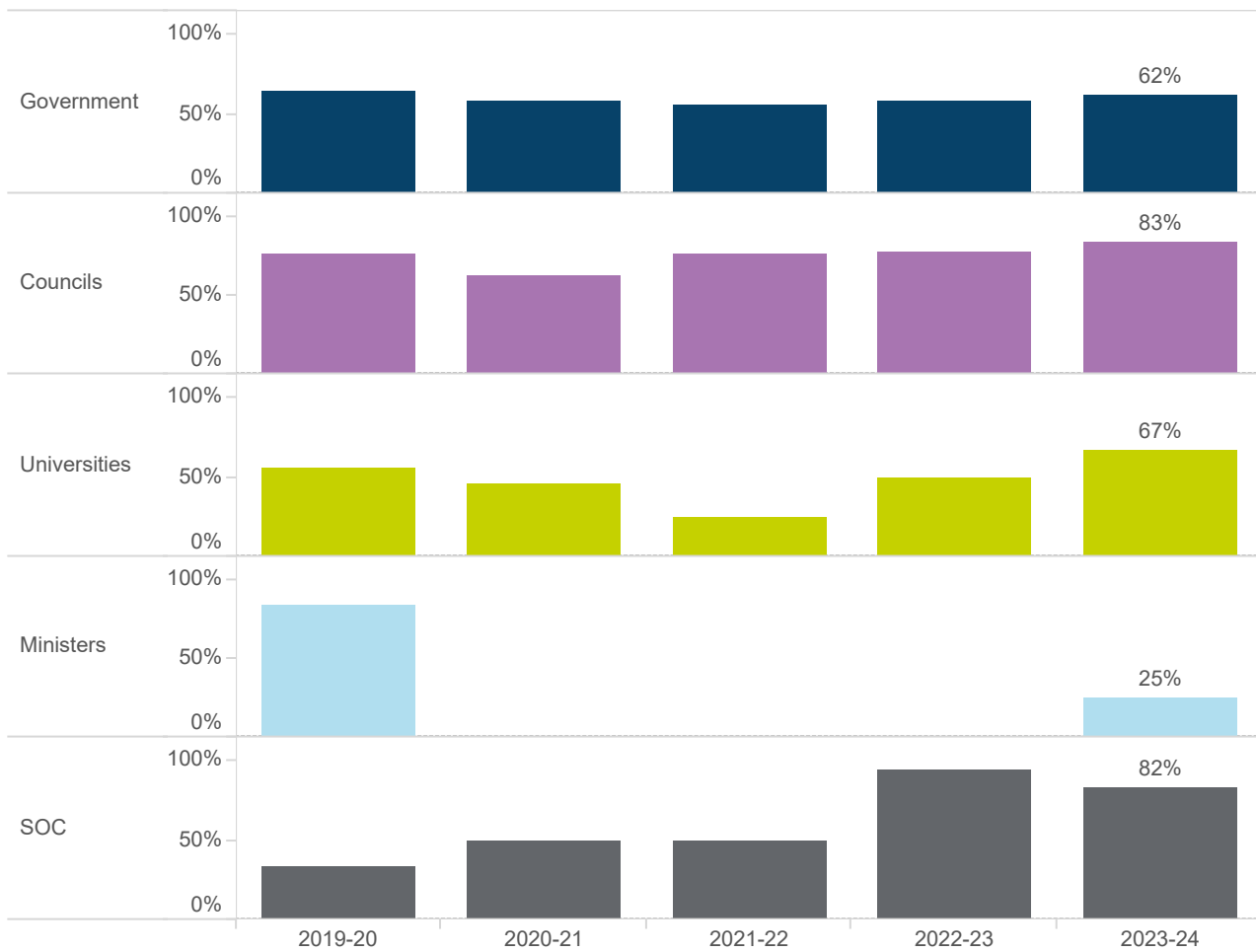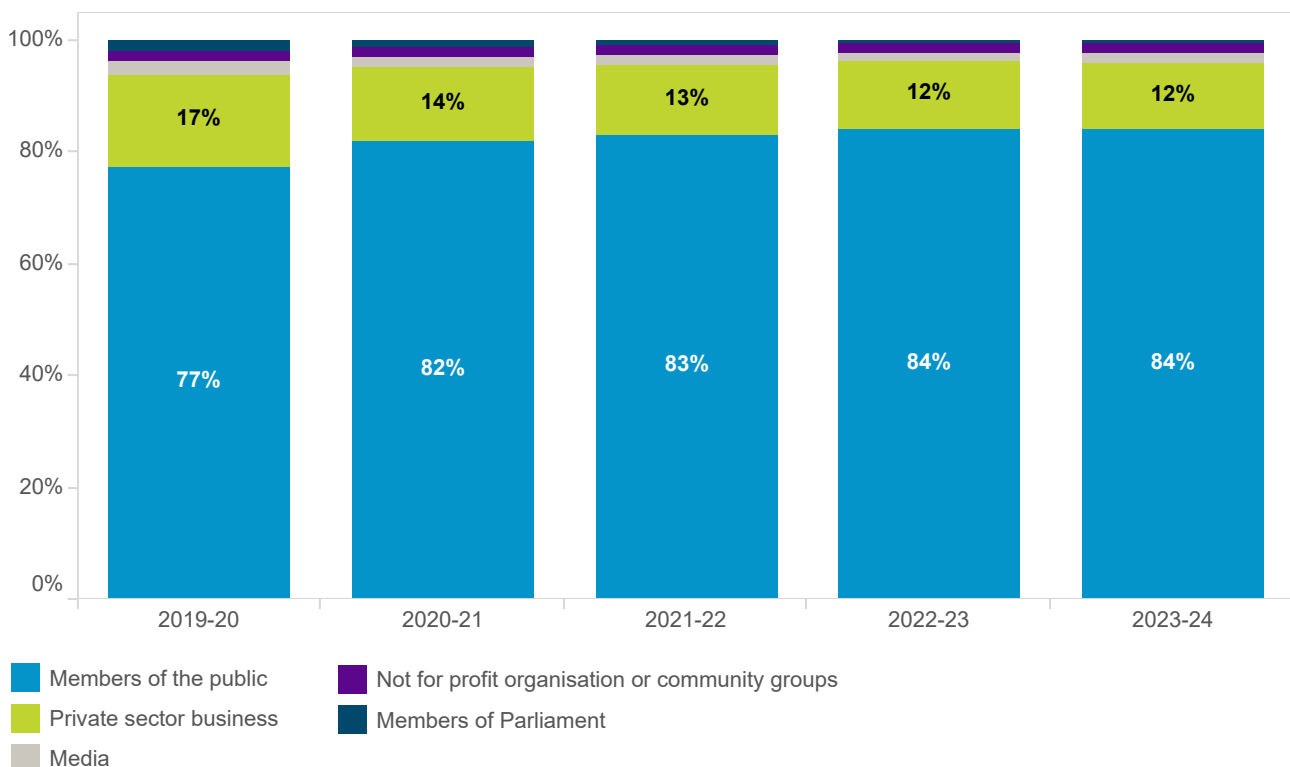
Who applied?

Application outcomes for members of the public remain highest

In 2023-24, 84% of all outcomes were related to applications from either a member of the public or their legal representative. This is consistent with the 84% reported in 2022-23. Within this group, the largest single applicant type (48%) continued to be members of the public represented legally.

Figure 13: Trend in the proportion of outcomes, by type of applicant, 2019-20 to 2023-24

Legend:
- Members of the public
- Private sector business
- Media
- Not for profit organisation or community groups
- Members of Parliament

What is an outcome?

The GIPA regime provides for a number of possible outcomes in relation to a formal access application. These are reported as:

- *access granted in full – where the applicant receives all information applied for*
- *access granted in part – where the applicant receives some of the information applied for*
- *access refused in full – where the applicant receives none of the information applied for because it is subject to an overriding public interest against disclosure*
- *information not held – where an agency does not hold the information applied for*
- *information already available – where an agency has determined that the information is already available to the applicant via other means*
- *refuse to deal with the application – where an agency does not deal with an application in reliance on one of the reasons set out in section 60(1) of the GIPA Act*
- *refuse to confirm or deny whether information is held – where there is an overriding public interest against disclosure of information confirming or denying that fact*
- *application withdrawn.*

Outcomes for members of the public, Members of Parliament and media increased significantly relative to the prior year

In 2023-24 (as in all years), the greatest number of outcomes was for applications by members of the public, increasing significantly by 16% from 21,556 in 2022-23 to 25,014 in 2023-24 (Figure 14).

Outcomes for Members of Parliament increased significantly by 15%, from 118 in 2022-23 to 136 in 2023-24, following a 40% decline in 2022-23.

Outcomes for not-for-profit organisations or community groups increased moderately by 10% from the previous year; from 489 in 2022-23 to 538 in 2023-24.

The number of outcomes for media significantly increased in 2023-24 (51%); from 378 in 2022-23 to 570 in 2023-24.

The number of outcomes for private sector businesses increased moderately (12%); from 3,144 in 2022-23 to 3,509 in 2023-24.

Figure 14: Number of outcomes by type of applicant, 2019-20 to 2023-24

Legend:
- Members of the public
- Private sector business
- Media
- Members of Parliament
- Not for profit organisation or community groups
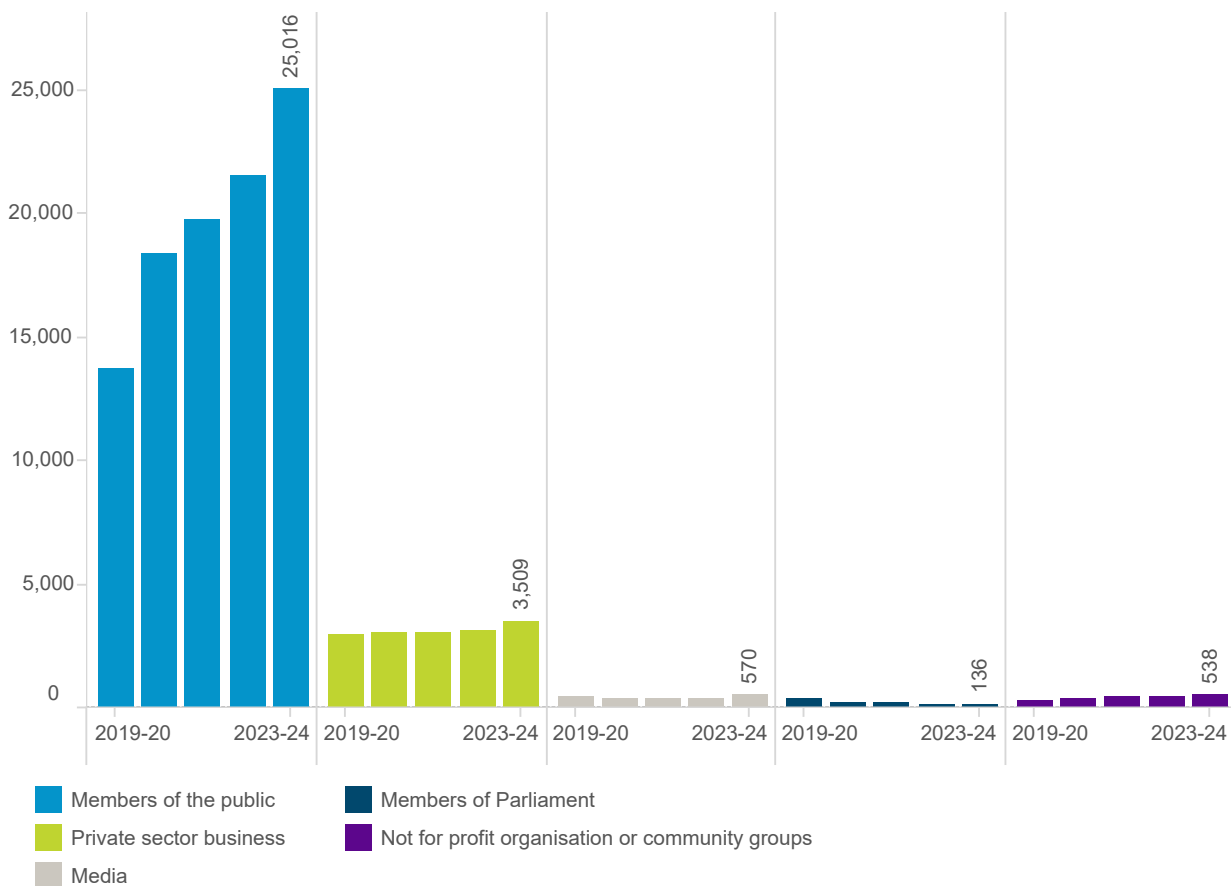
'Who applied?' is reported and measured by the requirement for agencies to report on the number of outcomes for applications by type of applicant. As an application can have multiple outcomes, the total number of outcomes reported in this section will usually be higher than the number of applications reported. This section draws on data from Table A of Schedule 2 to the GIPA Regulation.

There was a marked change in the distribution of applicant types in the Minister sector
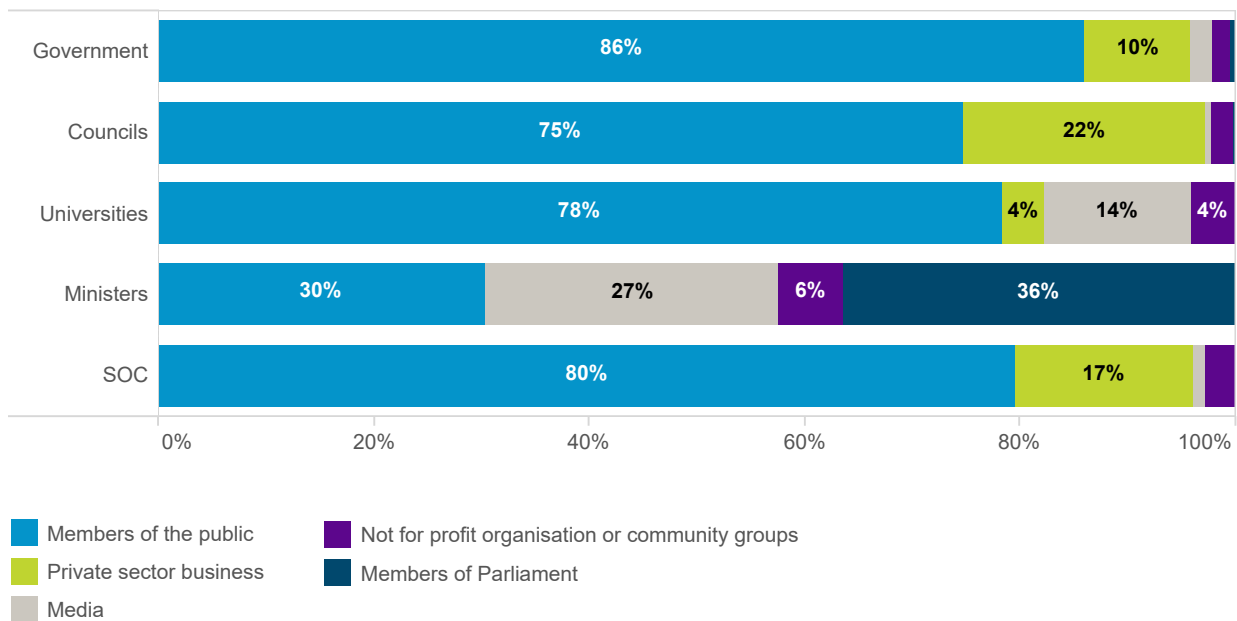
Similar to previous reporting periods, in 2023-24 the distribution of applicant types varied across sectors (Figure 15).

Notable changes by sector this reporting year were:

- In the Minister sector, while there were no outcomes reported for 2022-23 due to the impact of the State general election, there was a marked change in the distribution of applicant types when compared with 2021-22. There was a significant decrease in outcomes for members of the public; from 82% in 2021-22 to 30% in 2023-24. There was a significant increase in outcomes for media; from 12% in 2021-22 to 27% in 2023-24. There were no outcomes for Members of Parliament in 2021-22 and 36% in 2023-24.

- In the State-Owned Corporations sector, there was a moderate increase in outcomes for members of the public, with 80% reported in 2023-24 compared with 76% reported in 2022-23.

Figure 15: Percentage of outcomes by sector and type of applicant, 2023-24

Legend:
- Members of the public
- Private sector business
- Media
- Not for profit organisation or community groups
- Members of Parliament

What information was asked for?

Outcomes for applications that sought partly personal and partly other information continues to increase significantly

As Figure 16 shows, in 2023-24:

- Application outcomes for partly personal information and partly other information increased significantly again in 2023-24, from 5,255 outcomes in 2022-23 to 6,897 in 2023-24. This continues the trend observed in previous years, resulting in a 277% increase from 2019-20 to 2023-24.

- Personal information application outcomes increased significantly by 15% from the previous year, with 13,855 outcomes in 2023-24 compared with 12,081 in 2022-23.

- Outcomes for access applications that sought information other than personal information increased moderately from the previous year, with 9,017 outcomes in 2023-24 compared with 8,349 in 2022-23.

Figure 16: Number of outcomes by type of information applied for, 2019-20 to 2023-24
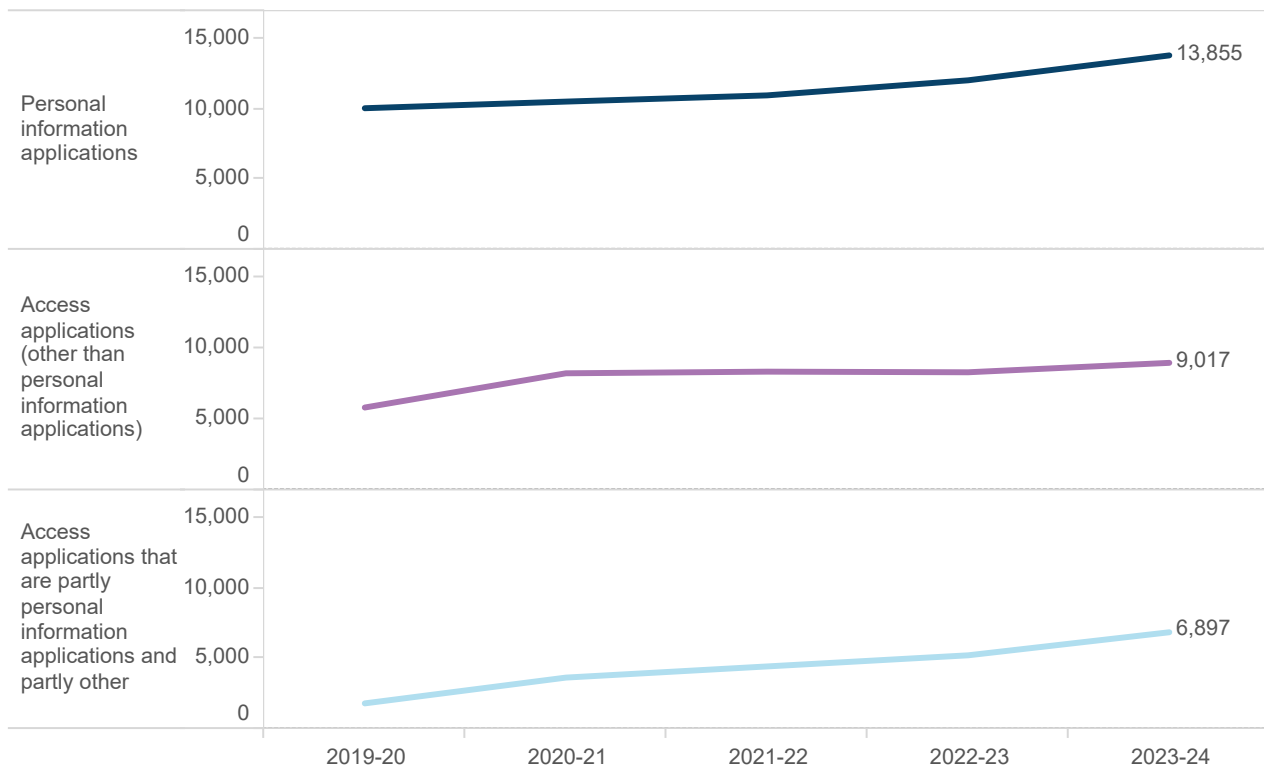
## The type of information sought varied across sectors

The percentage of outcomes remained consistent with the previous year.

In 2023-24:

- 47% of outcomes related to applications for personal information, consistent with 47% in 2022-23
- 30% of outcomes related to applications for 'other than personal information', similar to 33% in 2022-23
- 23% of outcomes related to applications for both types of information, similar to 20% in 2022-23 (Figure 17).

All sectors experienced different patterns of outcomes by type of information applied for in 2023-24, however these patterns remained mostly consistent with those reported in 2022-23, except the State-Owned Corporations which experienced significant changes and the Universities sector which experienced moderate changes. A comparison with 2022-23 is not possible for the Minister sector as no data was reported due to the State general election on 25 March 2023, however the outcome in 2023-24 is consistent with 2021-22.

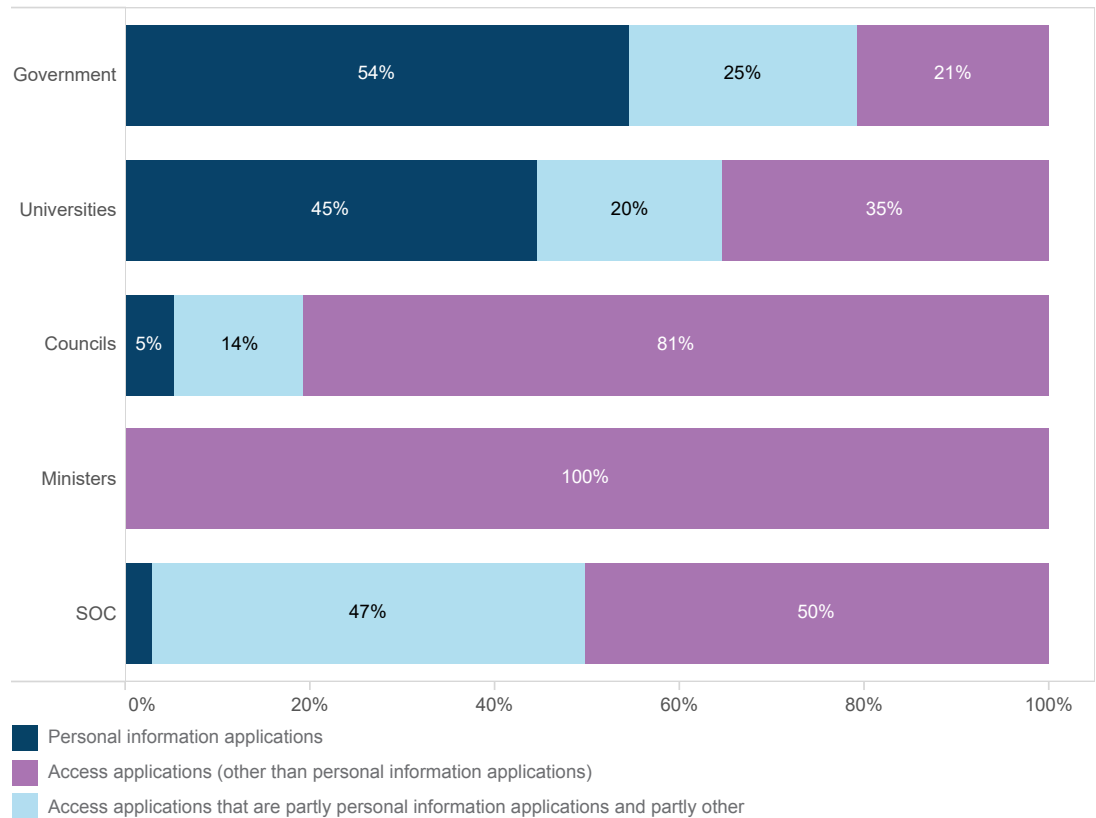*Figure 17: Outcomes by type of information applied for, 2023-24*
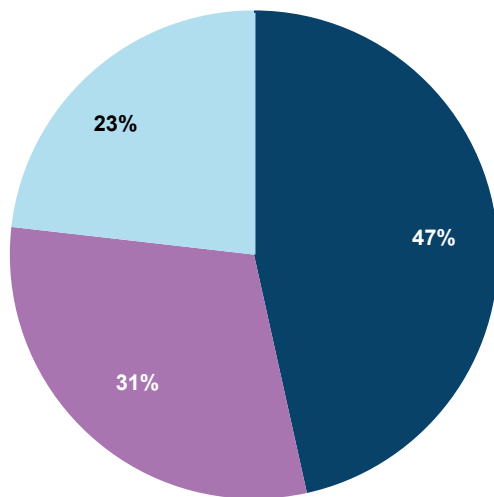
- Personal information applications
- Access applications (other than personal information applications)
- Access applications that are partly personal information applications and partly other

For 2023-24:

- In the Government sector, 54% of outcomes related to applications for personal information, consistent with 57% in 2022-23; 25% of outcomes related to applications for 'partly personal information', consistent with 22% in 2022-23; and 21% of outcomes related to applications for 'other than personal information', consistent with 21% in 2022-23.
- In the University sector, 45% of outcomes related to applications for personal information, consistent with 42% in 2022-23; 35% of outcomes related to applications for 'other than personal information', which is a moderate decline compared with 44% in 2022-23; and outcomes related to applications that are 'partly personal information and partly other information' increased moderately to 20% in 2023-24 compared with 14% in 2022-23.
- In the Council sector, 81% of outcomes related to applications for 'other than personal information', consistent with 80% in the previous year; 14% of outcomes related to applications for 'partly personal information', consistent with 14% in 2022-23; and 5% of outcomes related to personal information, which is consistent with 6% in 2022-23.
- In the State-Owned Corporations sector, 50% of outcomes related to applications for 'other than personal information', which is a significant decline compared with 86% in 2022-23; and 47% of outcomes related to applications for 'partly personal information and partly other information', which is a significant increase compared with 8% in 2022-23.
- In the Minister sector, 100% of outcomes related to applications for 'other than personal information', consistent with 2021-22.

Figure 18: Percentage of all outcomes, by type of information applied for, 2023-24

Figure 18 shows a horizontal stacked bar chart:

Category	Personal information applications	Access applications that are partly personal information applications and partly other	Access applications (other than personal information applications)
Government	54%	25%	21%
Universities	45%	20%	35%
Councils	5%	14%	81%
Ministers			100%
SOC		47%	50%

Legend:
- Personal information applications
- Access applications (other than personal information applications)
- Access applications that are partly personal information applications and partly other

'What information was asked for?' is reported and measured by the requirement for agencies to report on the number of outcomes for applications made for personal information, other than personal information, or a combination of both types of information from Table B, Schedule 2 to the GIPA Regulation.

Did applicants get what they asked for?

Overall 'release rates' stable

In 2023-24, the overall release rate was 64%, representing the combined access granted in full and in part outcomes (Figure 19). This has remained stable with a rate of 64% also reported in 2022-23

Compared with 2022-23, release rates for 2023-24 were mostly consistent across all sectors except for a significant increase in the Minister sector. Due to the impact of the State general election in March 2023, no meaningful comparison can be made to the release rate reported in 2022-23, however compared with the 42% rate reported in 2021-22, the rate in 2023-24 has increased significantly to 60%.

At the sector level (Figure 20), in 2023-24, the State-Owned Corporations sector had the highest overall release rate of 83%, the rate of full and partial release remained stable and consistent with the 86% reported in 2022-23.

For the Council sector, 77% of outcomes granted access in full and in part in 2023-24. This is consistent with the 79% reported in 2022-23.

For the Government sector, 61% of outcomes resulted in access being granted in full and in part in 2023-24. This is consistent with the 60% reported in 2022-23.

For the University sector, 66% of outcomes resulted in access being granted in full and in part in 2023-24. This is consistent with the 63% reported in 2022-23.

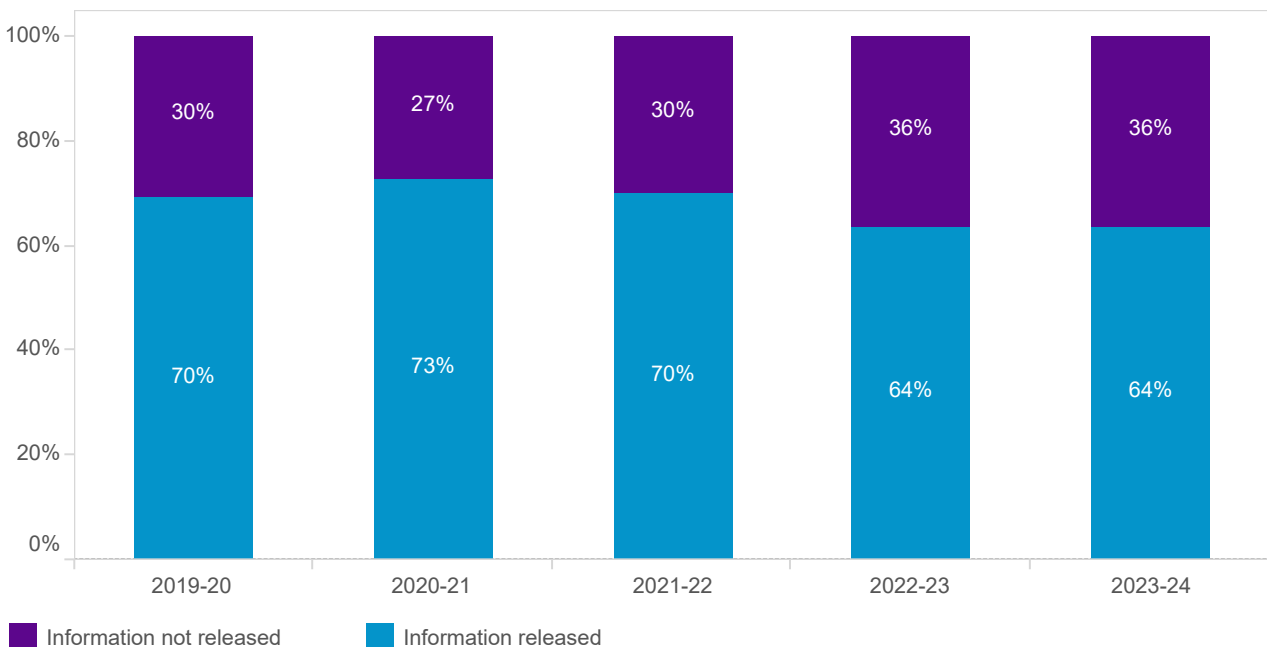*Figure 19: Overall release rate across all sectors, 2019-20 to 2023-24*

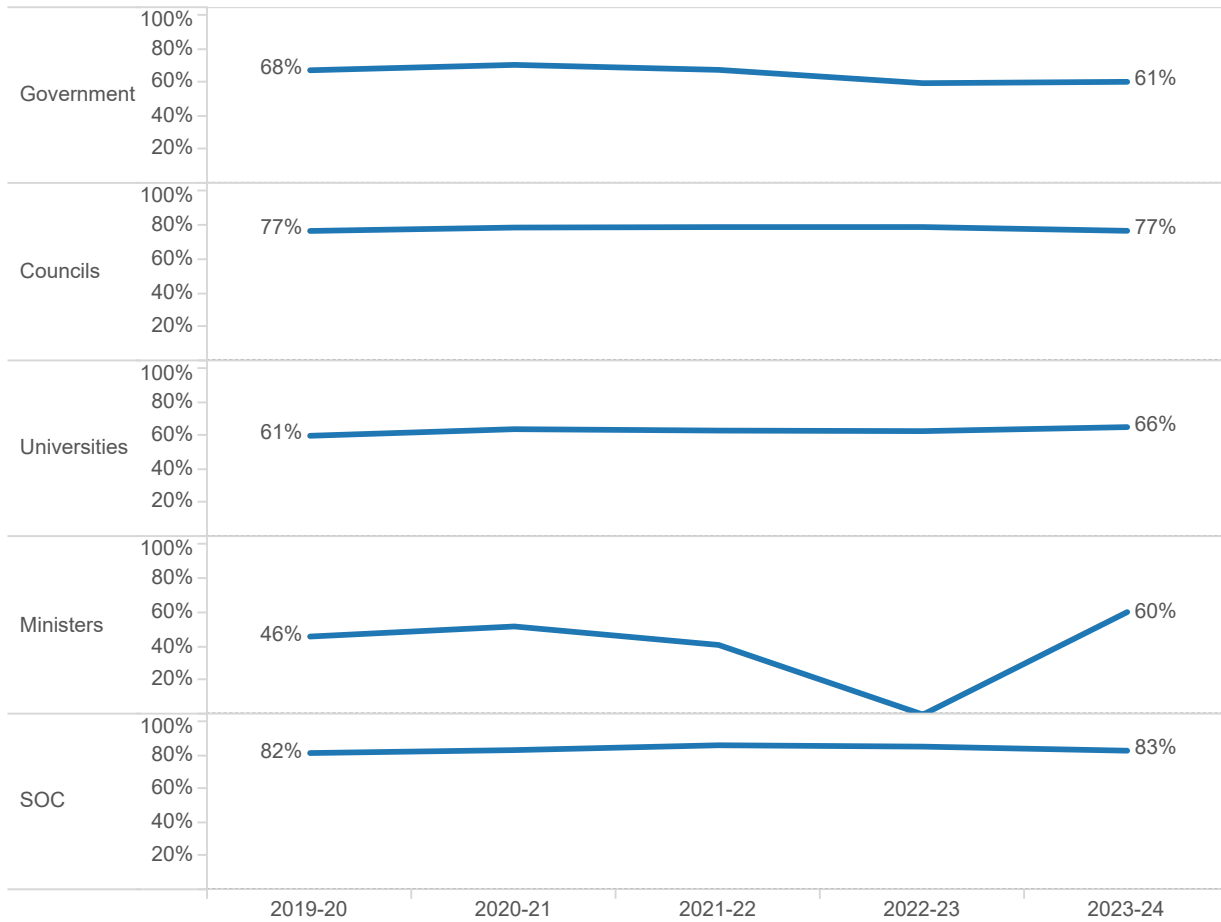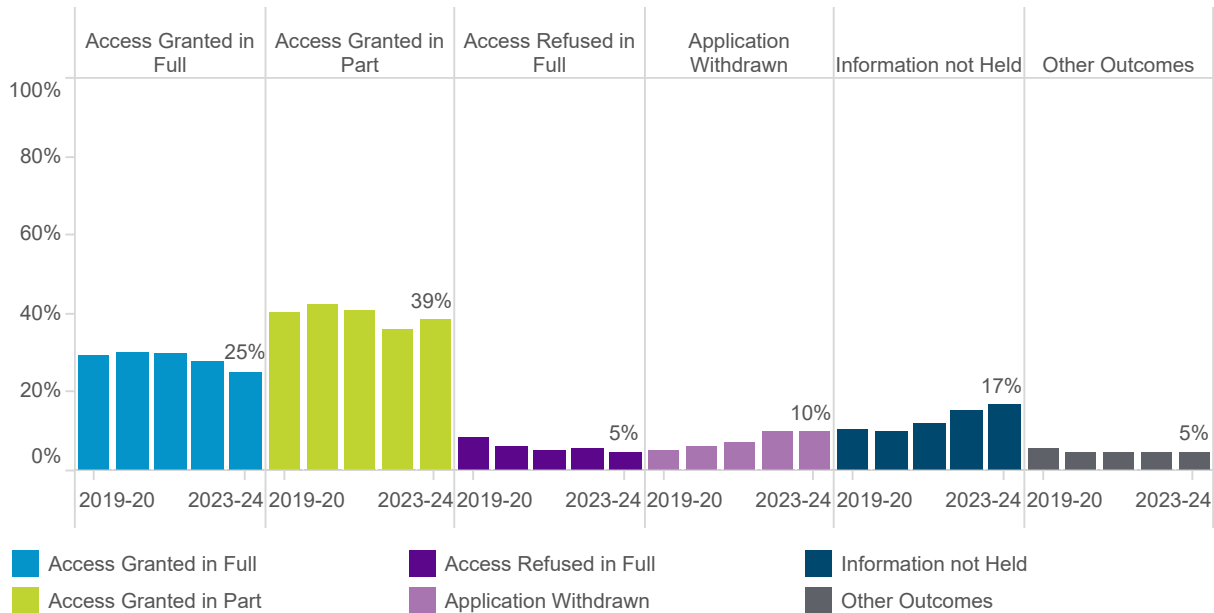## Figure 20: Overall release (access granted in full and in part) rate, by sector, 2019-20 to 2023-24

Government: 68% → 61%
Councils: 77% → 77%
Universities: 61% → 66%
Ministers: 46% → 60%
SOC: 82% → 83%

(x-axis: 2019-20, 2020-21, 2021-22, 2022-23, 2023-24)

Figure 21: Release outcomes across all sectors, 2019-20 to 2023-24

Access Granted in Full	Access Granted in Part	Access Refused in Full	Application Withdrawn	Information not Held	Other Outcomes
25%	39%	5%	10%	17%	5%

Legend:
- Access Granted in Full
- Access Granted in Part
- Access Refused in Full
- Application Withdrawn
- Information not Held
- Other Outcomes

'Did applicants get what they asked for?' is reported and measured by the requirement for agencies to report on the outcomes of applications for information by the type of applications (listed in Table A of Schedule 2 to the GIPA Regulation) and the type of information that is applied for (listed in Table B of Schedule 2 to the GIPA Regulation). The term 'other outcomes' refers to the following outcomes – information already available, refuse to deal with application, and refuse to confirm or deny whether information is held.
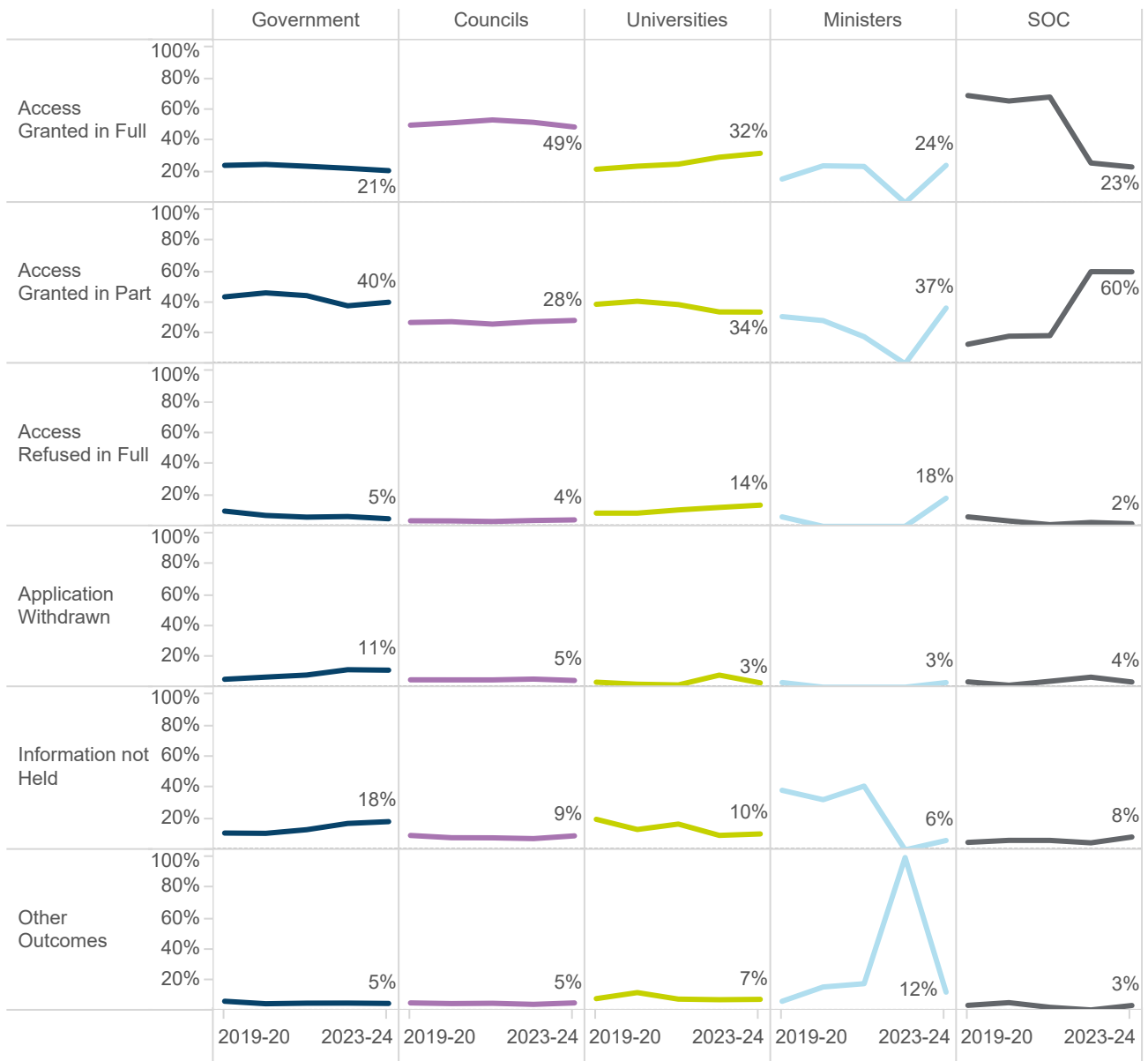
The overall release rate remained stable across information types

The overall release rate for applications for personal information was 61% in 2023-24, consistent with 60% in 2022-23. This represents a moderate decline from 70% in 2021-22 and 74% in 2020-21.

The overall release rate for 'other than personal information' was 66% in 2023-24, consistent with results over the previous reporting periods: 68% in 2022-23 and 71% in 2021-22. The overall release rate for applications that sought partly personal and partly other information was 65% in 2023-24, consistent with 66% in 2022-23 (Figure 23).

Release rates by applicant type remain stable

In 2023-24, the lowest overall release rate was for applications made by media industry representatives at 49%, compared with 48% in 2022-23. The overall release rate for Members of Parliament was 54%, similar to the 50% reported in 2022-23 (Figure 24).

The highest release rate in 2023-24 continued to be for applications made by private sector business at 74%, consistent with 75% in 2022-23 and 74% in 2021-22.

The release rate for members of the public was 63%, consistent with 62% reported in 2022-23.

Not-for-profit organisations or community groups also experienced a similar release rate at 70% in 2023-24 compared to 66% in 2022-23.

The 2022-23 Report noted that the composition of outcomes had fluctuated somewhat, however, in 2023-24 the composition of outcomes remained mostly stable. The release rate for access granted in part for applications made by not-for-profit organisations and community groups increased moderately from 31% in 2022-23 to 38% in 2023-24.

Figure 23: Release outcomes by application type, 2019-20 to 2023-24
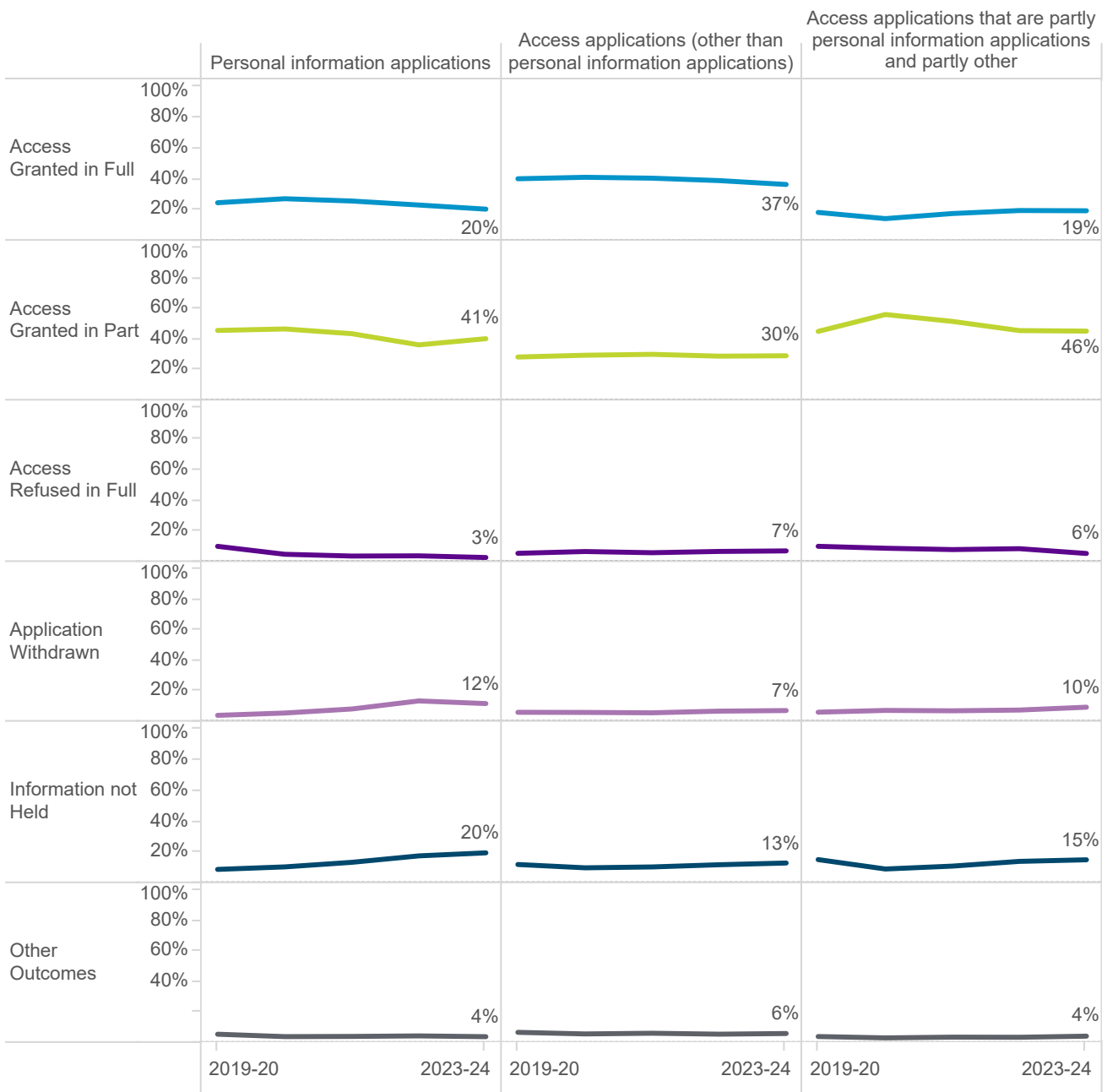
Figure 24: Outcomes by applicant type, 2019-20 to 2023-24
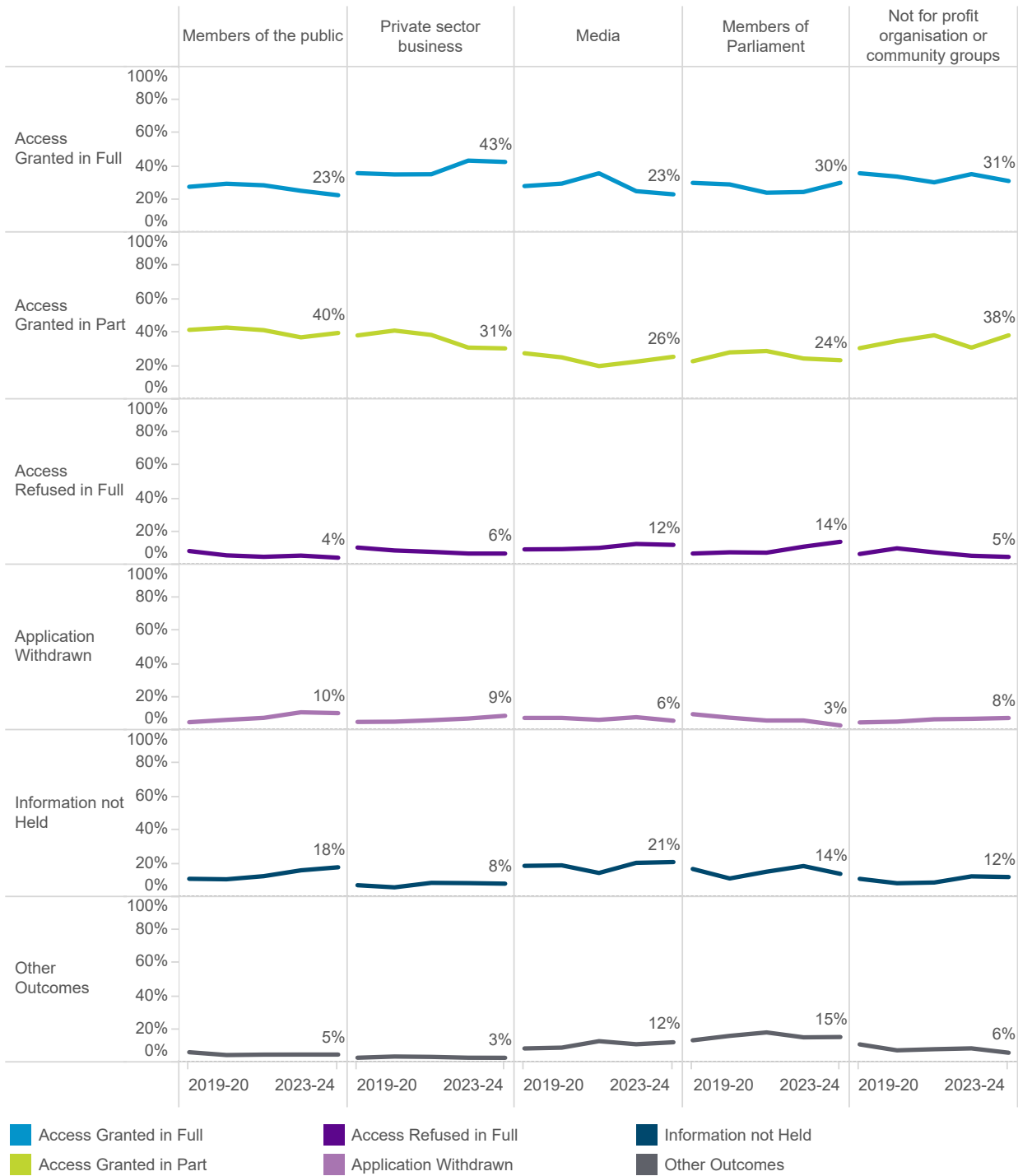
How quickly were decisions made?

Overall timeliness of decisions has remained stable

In 2023-24, 88% of decisions by agencies were made within the statutory timeframe (Figure 25). This result is consistent with 88% in 2022-23 and 90% in 2021-22.

The number of applications decided after 35 days by agreement with the applicant was 7% in 2023-24, consistent with 6% in 2022-23.

The rate of deemed refusals was 6%, stable with the 6% reported in 2022-23.

Timeliness has moderately increased across most sectors

In 2023-24 (Figure 26):

- The Government sector decided 87% of applications within the statutory timeframe, consistent with 88% reported in 2022-23.
- The Council sector decided 92% of applications within the statutory timeframe, consistent with the 92% reported in 2022-23.

- The University sector decided 87% of applications within the statutory timeframe, continuing the trend of year-on-year moderate increases from 67% in 2021-22 to 80% reported in 2022-23.
- The Minister sector experienced a moderate increase in 2023-24, with 86% of applications decided within the statutory timeframe compared with 79% in 2021-22.
- The State-Owned Corporations sector decided 95% of applications within the statutory timeframe, continuing the trend of a moderate increase from the 83% reported in 2022-23 and 74% in 2021-22.

Timeliness reported for most principal departments was consistent with the previous reporting period, and while the Department of Communities and Justice had a moderate increase in timeliness of 31% in 2023-24 from 21% in 2022-23, this remains significantly lower than the 52% reported in 2021-22.

Figure 25: Applications that were decided within the statutory time frame as a percentage of all applications decided, 2019-20 to 2023-24
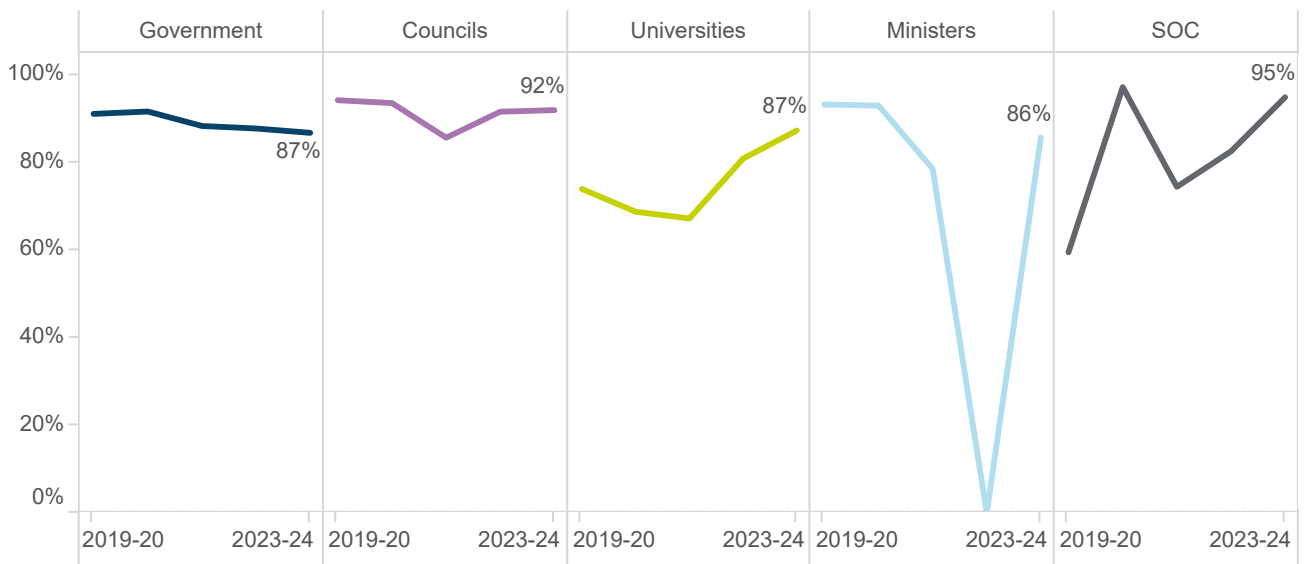
Figure 26: Applications that were decided within the statutory time frame, by sector, as a percentage of all applications decided, by sector, 2019-20 to 2023-24

Whilst timeliness continues to improve across most sectors, complaints about decision-making timeframes continue to be received by the IPC. The IPC has published guidance to assist agencies in understanding how the decision period is calculated as well as how and when extensions may be sought. Agencies are encouraged to review their internal processes for opportunities to create efficiencies and improve timeliness.

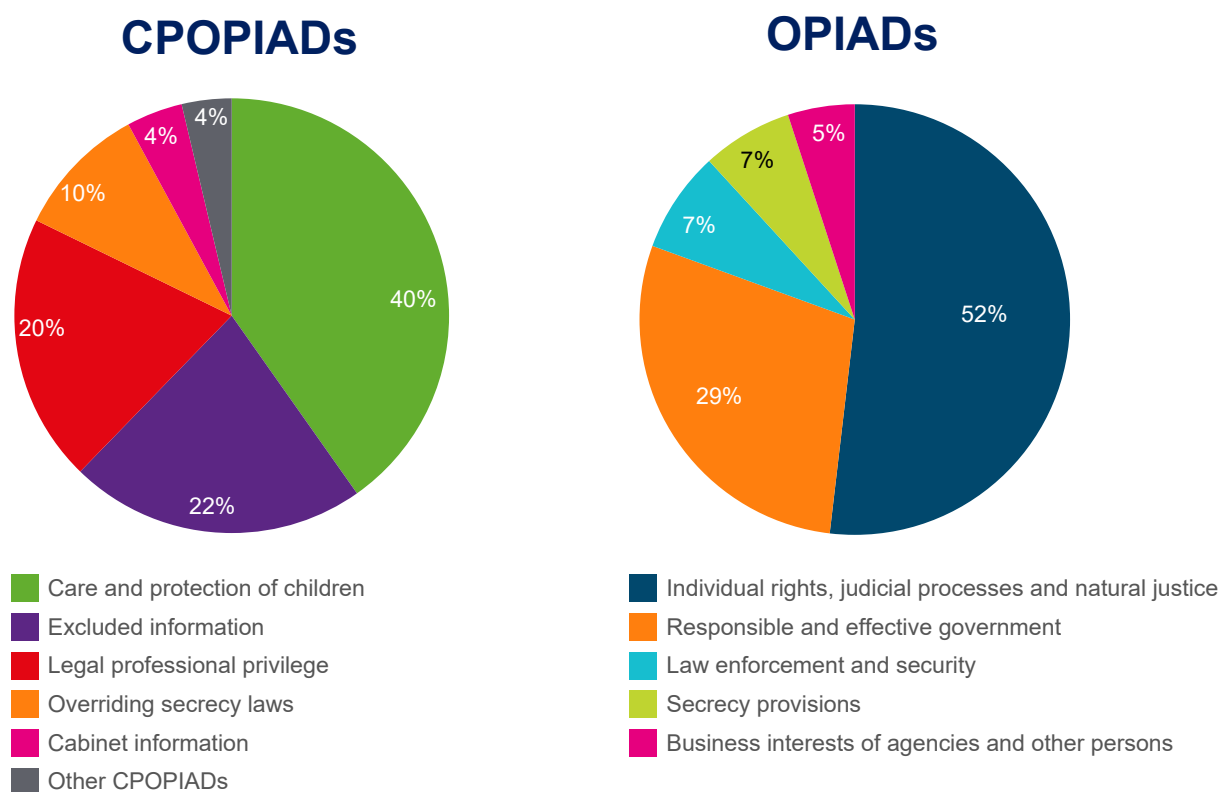# How was the public interest test applied?

This section examines:

- the number of applications that were refused because of a conclusive presumption of an overriding public interest against disclosure (CPOPIAD)
- which categories of CPOPIADs were applied
- the use of categories of considerations for which there is an overriding public interest against disclosure of information (OPIAD).

More than one CPOPIAD and OPIAD may apply in respect of an application. Each consideration is recorded only once per application.

More applications were refused because of a CPOPIAD

In 2023-24, 2,245 applications (7% of total applications received) were refused wholly or partly because of a CPOPIAD. This is more than double the number refused in 2022-23 (1,060 applications; 4% of total applications received).

Figure 27: A snapshot of the use of CPOPIADs and OPIADs, 2023-24

CPOPIADs

- 40% Care and protection of children
- 22% Excluded information
- 20% Legal professional privilege
- 10% Overriding secrecy laws
- 4% Cabinet information
- 4% Other CPOPIADs

Legend:
- Care and protection of children
- Excluded information
- Legal professional privilege
- Overriding secrecy laws
- Cabinet information
- Other CPOPIADs

OPIADs

- 52% Individual rights, judicial processes and natural justice
- 29% Responsible and effective government
- 7% Law enforcement and security
- 7% Secrecy provisions
- 5% Business interests of agencies and other persons

Legend:
- Individual rights, judicial processes and natural justice
- Responsible and effective government
- Law enforcement and security
- Secrecy provisions
- Business interests of agencies and other persons

'How was the public interest test applied?' is reported in Tables D and E of Schedule 2 to the GIPA Regulation.

Care and protection of children was the most applied CPOPIAD

In 2023-24, the care and protection of children was the most applied CPOPIAD across all sectors (Figure 28). The care and protection of children CPOPIAD was applied 40% of all the times that CPOPIADs were applied. This is consistent with 42% in 2022-23.

The excluded information consideration was the second most applied CPOPIAD, being applied 22% of the time; a moderate increase compared with 16% in 2022-23.

The legal professional privilege consideration was the third most applied CPOPIAD, being applied 20% of all the times that CPOPIADs were applied; a decrease from 25% in 2022-23.

The use of the Cabinet information consideration was applied on 4% of occasions in 2023-24; a reduction from 7% in 2022-23.

The application of the legal professional privilege CPOPIAD significantly increased in the University and State-Owned Corporations sectors and significantly declined in the Council sector

Consistent with the three previous reporting periods, the most applied CPOPIAD across the University and State-Owned Corporations sectors in 2023-24 was legal professional privilege, accounting for 100% in the University sector, and 86% in the State-Owned Corporations sector (Figure 29).

There has been a significant increase in the use of the legal professional privilege CPOPIAD in both the University sector from 83% in 2022-23 to 100% in 2023-24, and the State-Owned Corporations sector from 63% in 2022-23 to 86% in 2023-24.

The use of the legal professional privilege CPOPIAD significantly declined in the Council sector from 68% in 2022-23 to 31% in 2023-24. The use of this CPOPIAD remained stable in the Government sector from 22% in 2022-23 to 17% 2023-24.

Figure 28: Percentage distribution of the use of CPOPIADs, 2019-20 to 2023-24
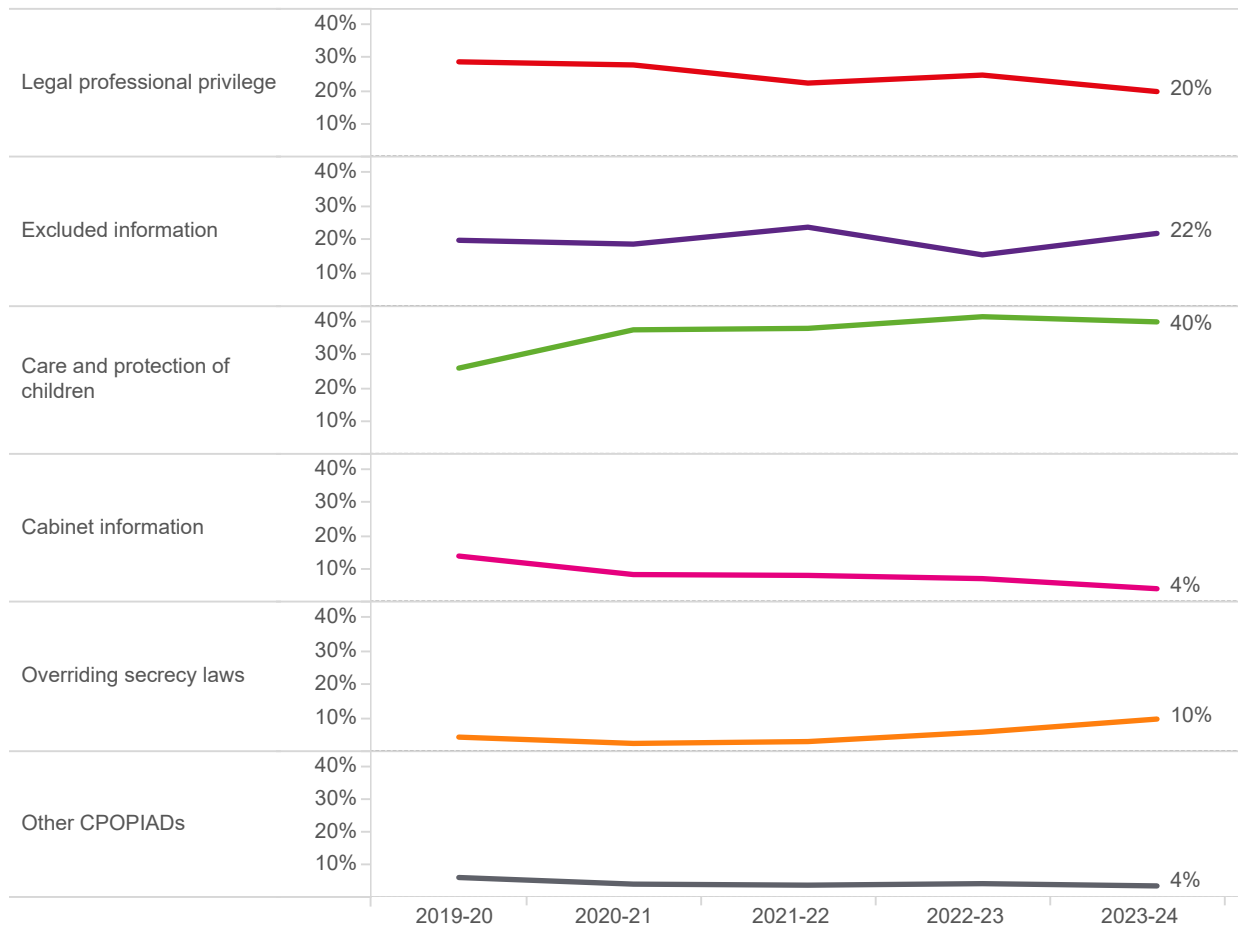
The Department of Communities and Justice primarily applied the care and protection of children CPOPIAD. The NSW Police Force was the main agency that applied the excluded information CPOPIAD and the Department of Education was the main agency that applied the legal professional privilege CPOPIAD.

In the State-Owned Corporations sector, reliance upon the Cabinet information CPOPIAD significantly declined from 67% in 2019-20 to 0% in 2023-24.

Figure 29: Percentage distribution of CPOPIADs applied, by sector, 2019-20 to 2023-24
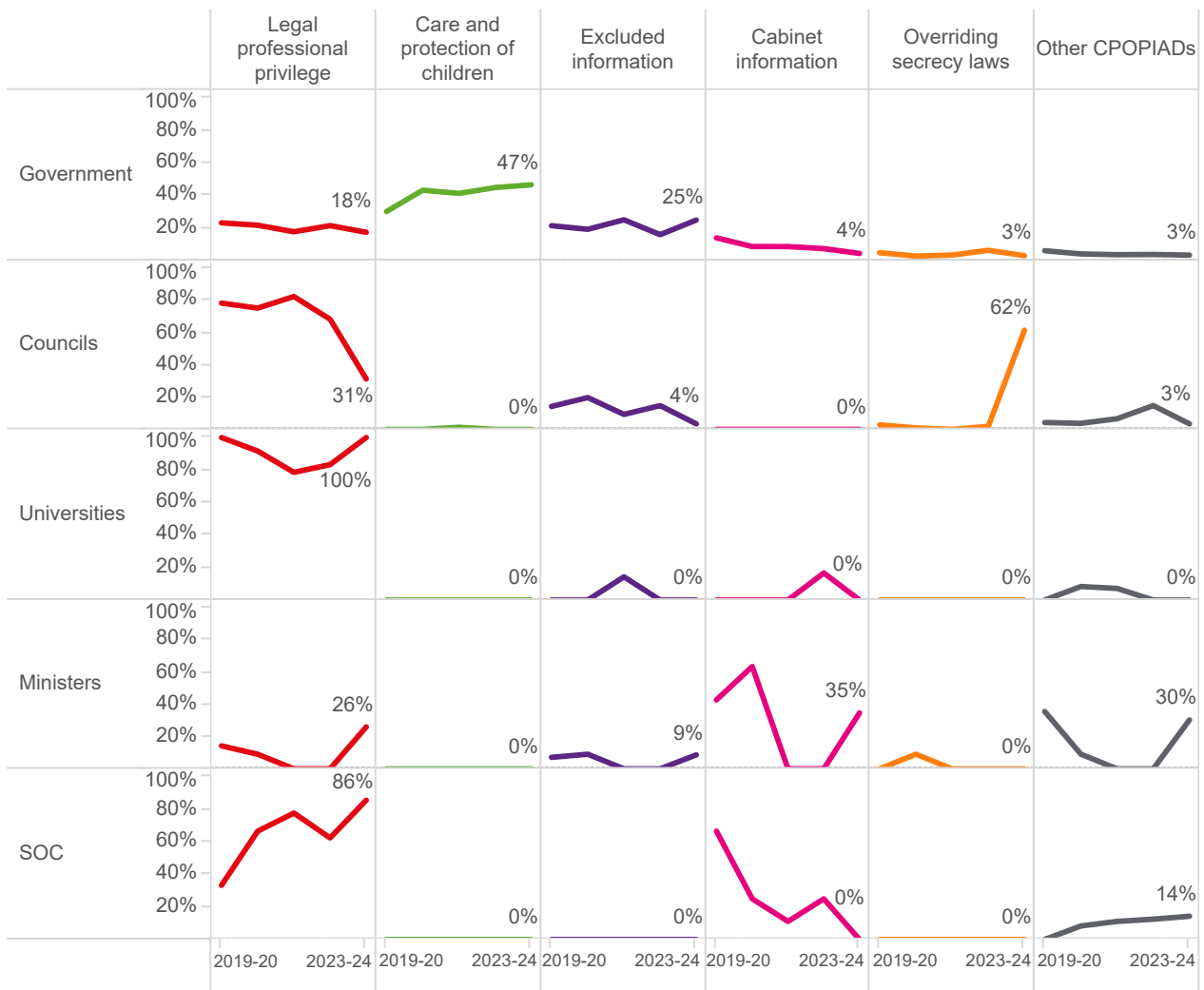
Individual rights, judicial processes and natural justice was the most applied OPIAD

Consistent with the last five years, the most frequently applied OPIAD in 2023-24 was individual rights, judicial processes and natural justice (rights and justice OPIAD). This year, it was the most applied OPIAD for all sectors (Figure 30). Reliance on this OPIAD is consistent with all previous years since 2016-17.

The rights and justice OPIAD was applied on 76% of occasions in the State-Owned Corporations sector, 60% in the Minister sector, 59% in the Council sector, 51% in the Government sector, and 41% in the University sector.

These patterns mostly remained consistent with those reported in 2022-23, except the Government sector and the Minister sector. There was a moderate decline in reliance on the rights and justice OPIAD in the Government sector from 57% in 2022-23 to 51% in 2023-24. While there was no data for the Minister sector in 2022-23 following the State general election on 25 March 2023, there was a significant increase from 33% in 2021-22 compared with 60% in 2023-24.

For agencies that received more than 40 applications, the rights and justice OPIAD was most often considered and applied by both the SAS Trustee Corporation and NSW Ambulance (100% of the time), 85% by the Sydney Water Corporation and 84% by NSW Health.

This category of OPIAD contains a broad range of specific considerations, from personal information and privacy through to court proceedings, a fair trial, and unsubstantiated allegations. As such, the application of this OPIAD by agencies could have been related to any of these specific considerations in this category.

Figure 30: Percentage distribution of OPIADS applied, by sector, 2019-20 to 2023-24
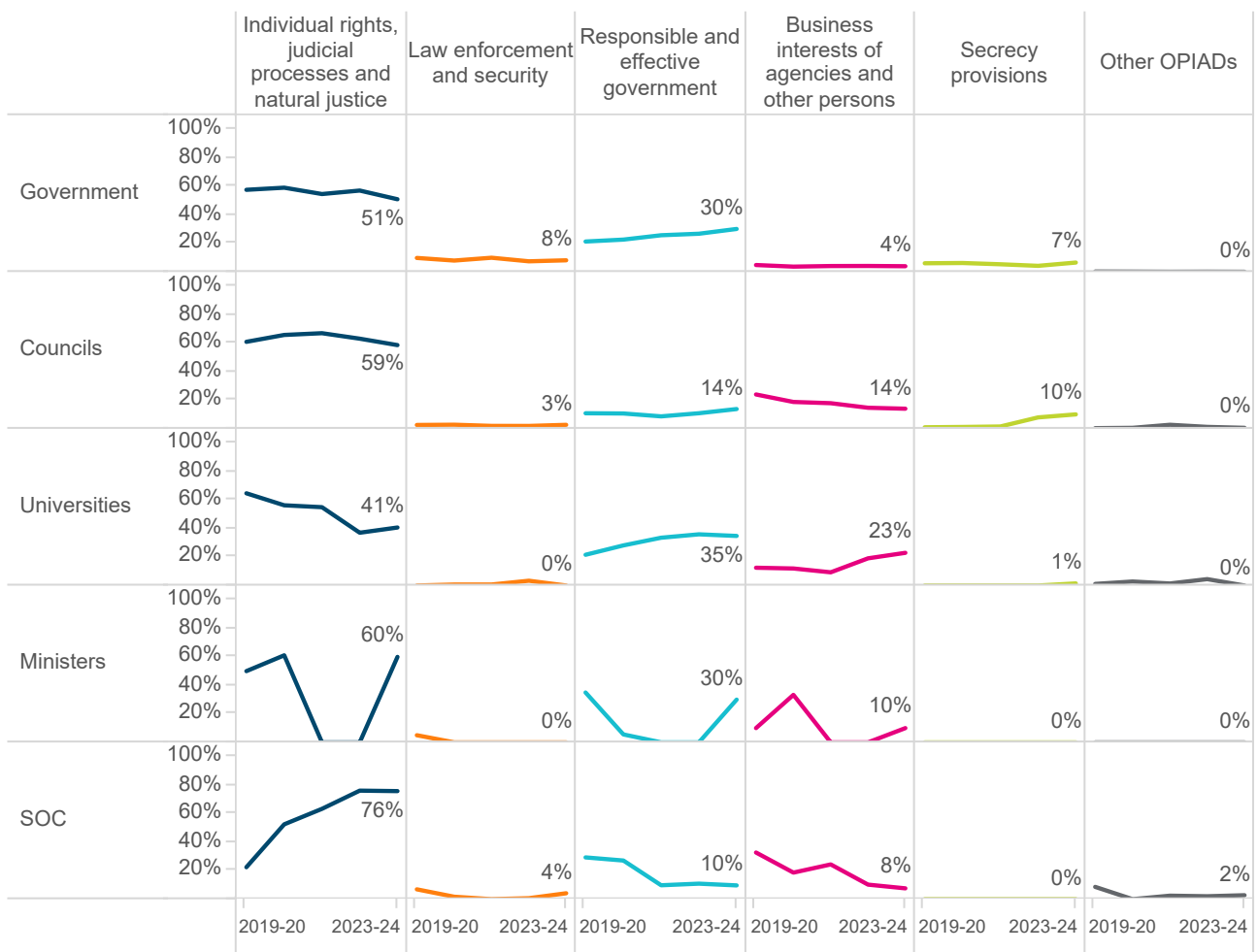
Issue Highlight: 109 Foreshore Drive, Salamander Bay classified as community land

For over five years, conservation and community groups have led efforts to prevent the sale of a small lot of land by Port Stephens Council, 109 Foreshore Drive, Salamander Bay, to preserve vital habitat for endangered koalas and twelve other threatened species.

The lot had been classified as operational land and zoned residential by Port Stephens Council and put forward by the Mayor for sale to fund a list of community projects.

Campaigns to keep the land public were supported by evidence from an ecological report obtained by the Mambo Wanda Conservation group via a GIPA request. The council-commissioned 'Wildthing Ecological Report' provided evidence of the endangered koalas moving between the Mambo wetlands and 109 Foreshore Drive, strengthening the case for its preservation.

In July 2023, a motion to reclassify the lot as community land was supported by a majority of councillors, marking a significant milestone for local conservation efforts. This case highlights the important role of the GIPA Act in enabling access to information in support of a public interest in protecting environmental assets.

How were decisions reviewed?

The right of review can be exercised by the original information access applicant or by third parties where information about or concerning them is the subject of the application
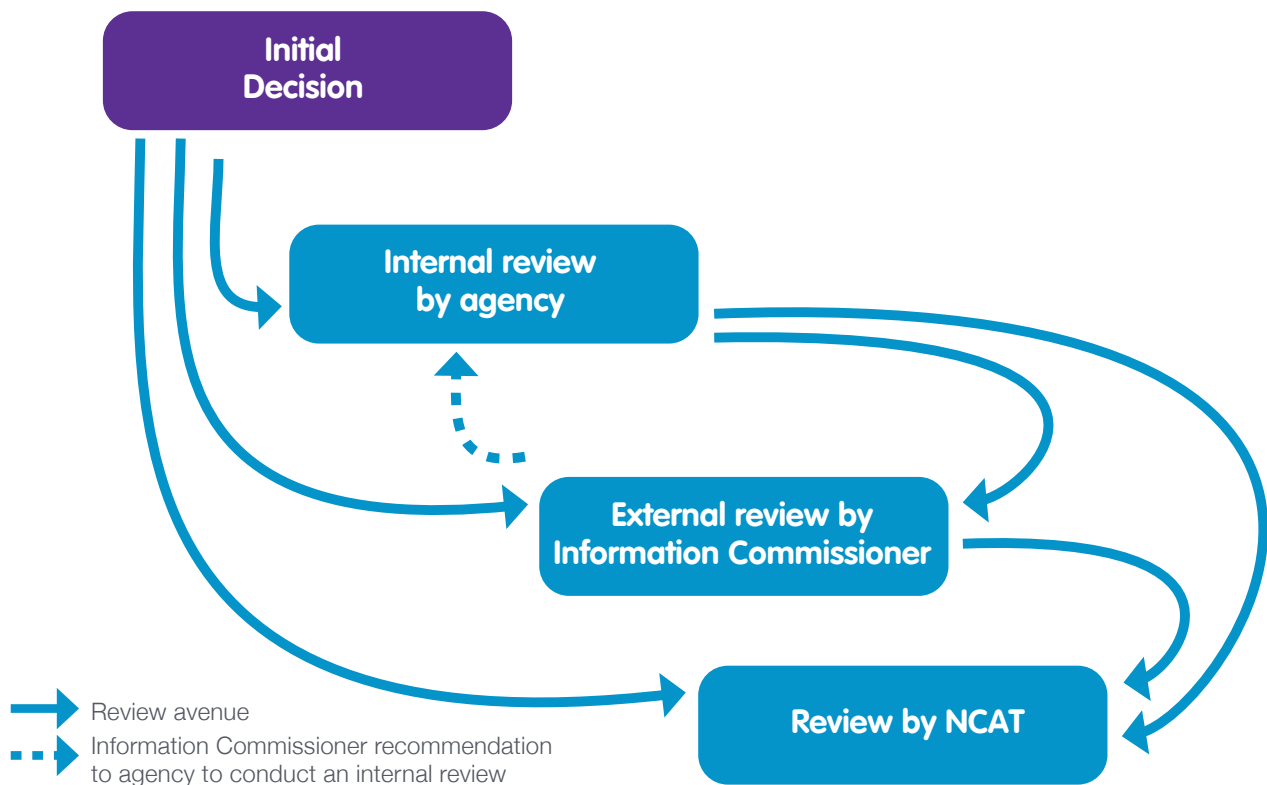
This section reports on the:

- number of reviews as a percentage of the number of relevant applications – a 'review rate'
- number of reviews by type of review
- composition of reviews by type of review.

The distribution of reviews across all review avenues as reported by agencies is shown in Figure 33. If the most reliable source for each review avenue is used to calculate the total number of reviews, a total of 885 reviews were conducted in 2023-24. This result is consistent with the 883 reviews conducted in 2022-23.

This is a significantly higher number of reviews than reported by agencies (770), particularly in respect of external reviews by the Information Commissioner and external reviews by NCAT. The distribution of reviews using the best available data is shown in Figure 34.

*Figure 31 shows the different pathways available for reviews in the GIPA Act*

Initial Decision

Internal review by agency

External review by Information Commissioner

Review by NCAT

→ Review avenue

┈► Information Commissioner recommendation to agency to conduct an internal review

'How were decisions reviewed?' is reported and measured by the requirement for agencies to report on the number of applications reviewed under Part 5 of the GIPA Act in Tables G and H of Schedule 2 to the GIPA Regulation.

*Figure 32: Agency, IPC and NCAT data on internal and external reviews, 2023-24*

Review type	A: Agency reported data for all reviews closed	B: Using agency, IPC and NCAT data on reviews closed
Agency internal review of initial decision	404	404
External review by the Information Commissioner	225	297
Review by NCAT	87	130
Agency internal review/reconsideration following a recommendation by the Information Commissioner	54	54
Total	**770**	**885**

Figure 33: Distribution of review by type, as reported by agencies, 2023-24
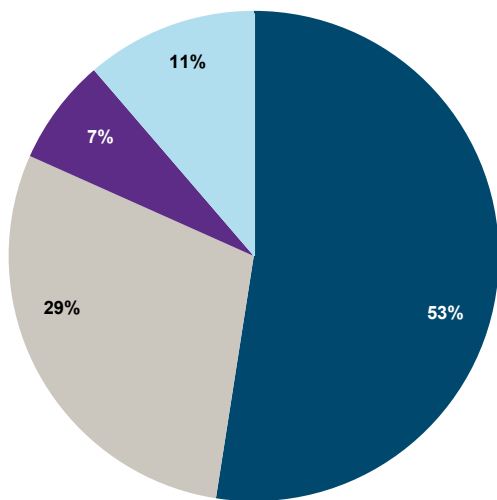
- ■ Internal review
- ■ Review by Information Commissioner
- ■ Internal review following recommendation under section 93 of Act
- ■ Review by NCAT

Figure 34: Distribution of review by type, using agency, IPC and NCAT data, 2023-24
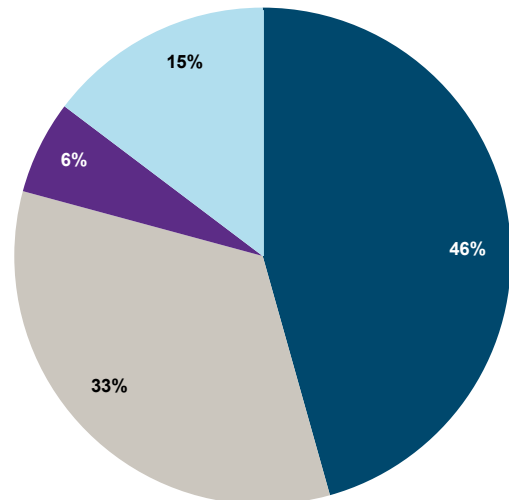
Source: Agency, IPC and NCAT data. Note this data applies to cases reported as closed in the year.

The completion of reviews during this reporting period that were received in the previous financial year may be a factor contributing to under-reporting of external reviews by agencies.

Using IPC internal data, the number of external reviews conducted by the Information Commissioner significantly declined in 2023-24, with 297 reviews, compared with 362 reviews in 2022-23.

External reviews by the Information Commissioner as a proportion of all reviews conducted declined moderately

Using the IPC data, external reviews by the Information Commissioner accounted for 34% of all reviews conducted, which is a moderate decline from 41% in 2022-23 (Figure 35).
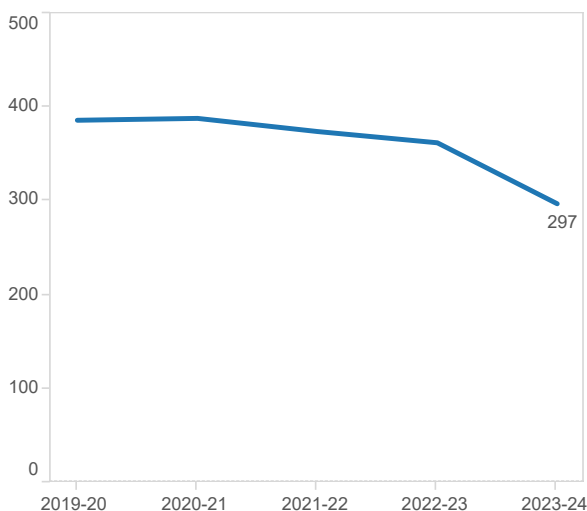
The review pathway most frequently used remains external review by the Information Commissioner.

Figure 35: External reviews by the Information Commissioner as a percentage of all reviews, 2019-20 to 2023-24
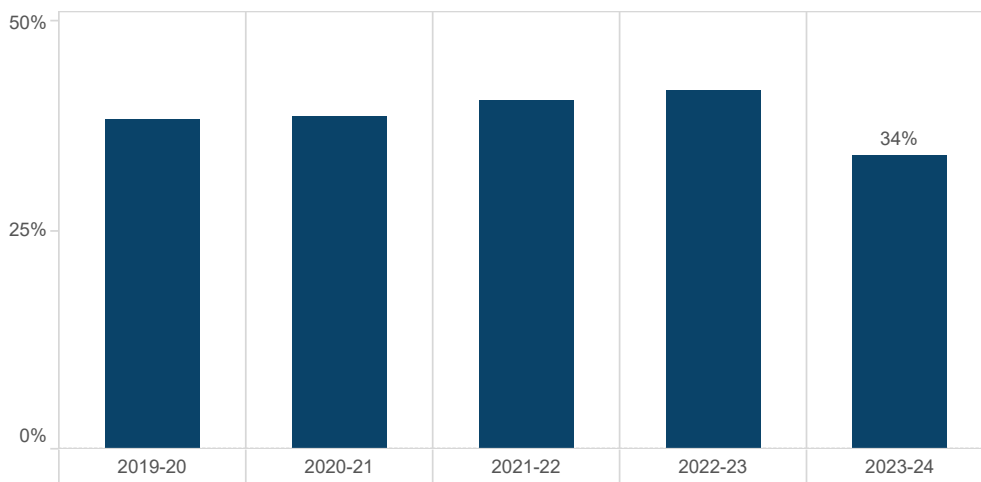
Source: agency, NCAT and IPC data

Figure 36: Number of external reviews conducted by the Information Commissioner, 2019-20 to 2023-24


Source: IPC data

Review rates have remained stable in most sectors

The percentage of applications for review received by the Government sector, as a percentage of all applications to that sector, remained stable at 3% in 2023-24, consistent with 3% in 2022-23. The Council (3%), State-Owned Corporations (9%) and University (9%) sectors also remained stable (Figure 37).

This Report does not provide analysis on the performance of the Minister sector compared to 2022-23 due to limited data available for that reporting year. However, the percentage declined moderately to 18% in 2023-24 compared with 27% in 2021-22.

These trends will remain under observation by the IPC to identify any appropriate sector-specific regulatory response.

Figure 37: Total number of reviews, as a percentage of all applications received, by sector, 2019-20 to 2023-24
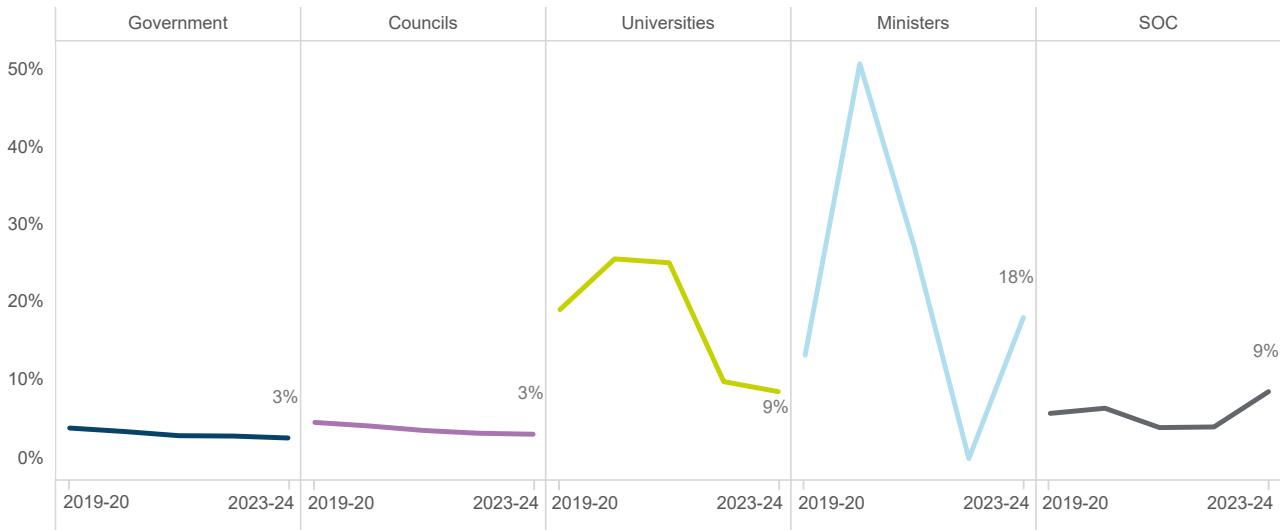
Source: agency data

The majority of applications for review were made by the original applicant for information

In 2023-24, 94% of applications for review were made by the original applicant, rather than a third party objector. This is consistent with levels observed in 2022-23, when 92% of applications for review were made by the original applicant.

The number of applications made by third party objectors was 6% in 2023-24, consistent with 8% in 2022-23.

Internal reviews as a percentage of all reviews conducted increased moderately

Internal reviews represented 52% of all reviews conducted in 2023-24 (Figure 38), which is a moderate increase from 44% of all reviews conducted in 2022-23.

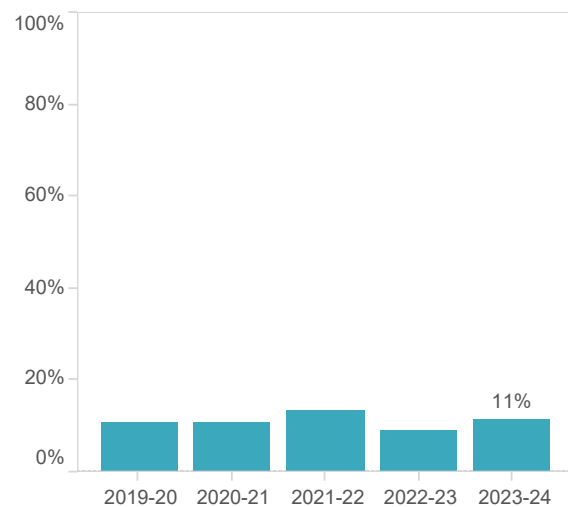## Reviews by NCAT remained stable

Using data reported by agencies, reviews by NCAT represented 11% of all reviews conducted in 2023-24 (Figure 39). This is consistent with the previous year (9%).

Figure 38: Internal review as a percentage of all reviews, 2019-20 to 2023-24
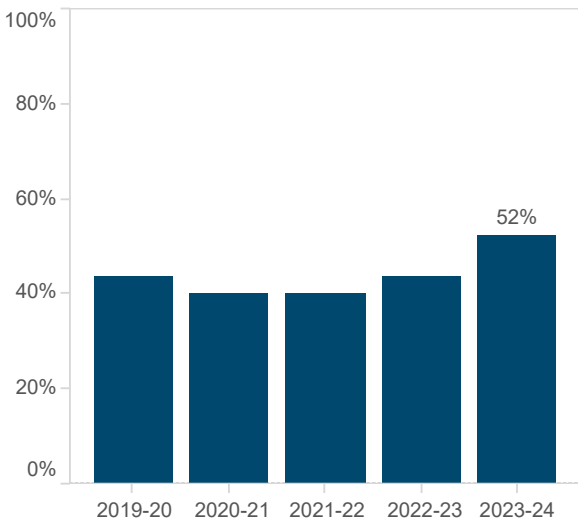
Source: agency data

**Figure 39: NCAT reviews as a percentage of all reviews, 2019-20 to 2023-24**

Source: agency data

The balance between decisions upheld and overturned on review has remained consistent

In 2023-24, 55% of all internal and external reviews conducted upheld agencies' decisions. This is consistent with 55% in 2022-23 (Figure 40).

Figure 40: Percentage of all reviews that upheld the original decision, 2019-20 to 2023-24
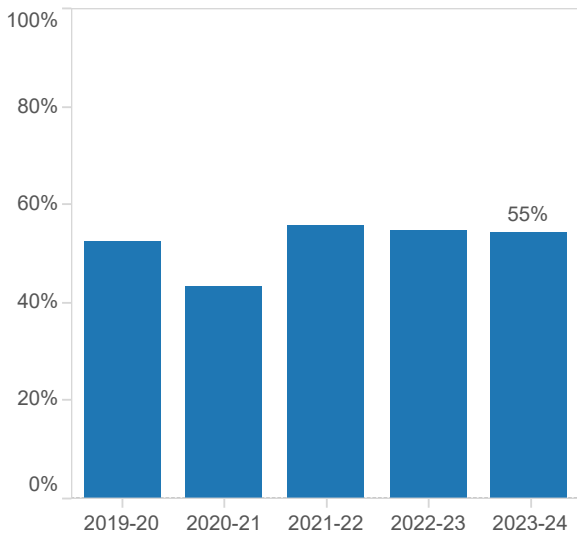
Internal reviews were equally balanced between upholding and overturning the original decisions

In 2023-24, 50% of all internal reviews upheld agencies' decisions, which is a moderate decline compared with the 57% reported in 2022-23 (Figure 41).

Figure 41: Internal reviews where the decision was upheld as a percentage of all internal reviews, 2019-20 to 2023-24
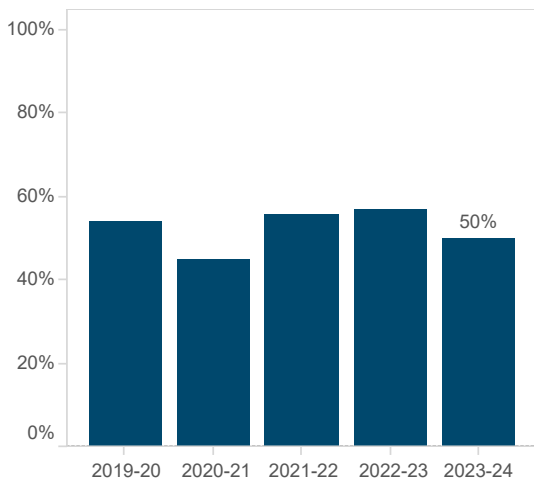
Reviews by the Information Commissioner that recommended agencies reconsider their decision moderately declined

In 2023-24, agencies reported that 39% of reviews by the Information Commissioner recommended that agencies reconsider their decisions. This is a moderate decline from 46% reported in 2022-23 and 47% reported in 2021-22, and a significant decrease from the 64% reported in 2020-21 (Figure 42).

Figure 42: Reviews by the Information Commissioner where there was a recommendation to reconsider the decision as a percentage of all reviews by the Information Commissioner, 2019-20 to 2023-24
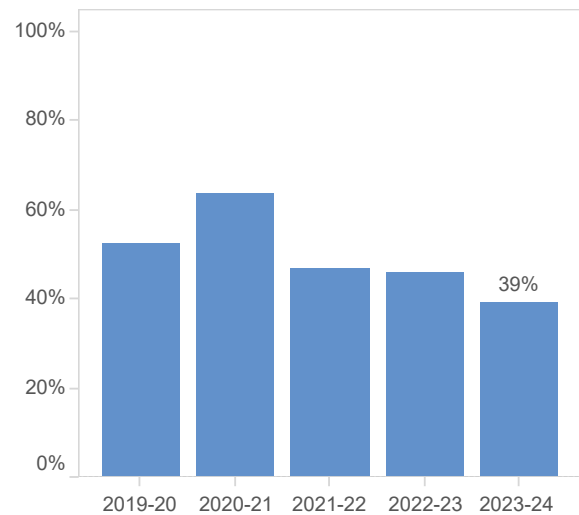
Internal reviews following a section 93 recommendation by the Information Commissioner which upheld the original decision increased

In 2023-24, agencies reported 42% of internal reviews that followed a section 93 GIPA Act recommendation (a recommendation from the Information Commissioner that the agency reconsider its decision) arrived at the same decision as the original decision. This is a moderate increase from the 33% reported in 2022-23 (Figure 43).

A section 93 recommendation does not necessarily indicate the agencies' original decision was wrong. Rather, a section 93 recommendation could be made where the Information Commissioner concludes the agency has not sufficiently justified the reasons for its decision.

Figure 43: Internal reviews following a section 93 recommendation that upheld agencies' original decisions as a percentage of all internal reviews, 2019-20 to 2023-24
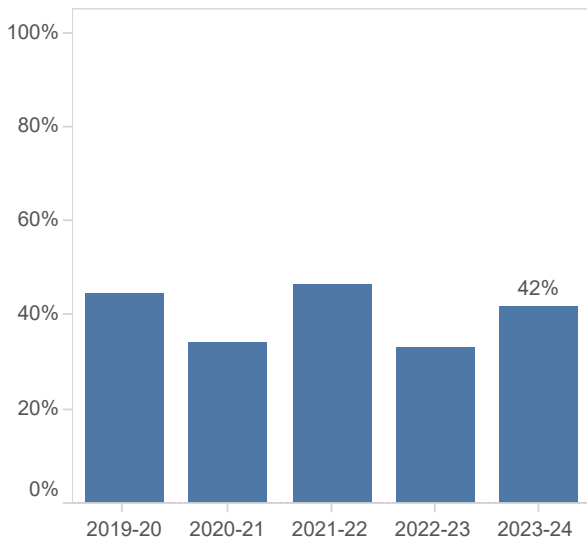
Reviews by NCAT of agency decisions

In 2023-24, agencies reported that 68% of reviews by NCAT upheld agency decisions. This is a moderate decline compared with 74% reported in 2022-23.

Figure 44: Reviews by NCAT where the decision was upheld as a percentage of all reviews by NCAT, 2019-20 to 2023-24
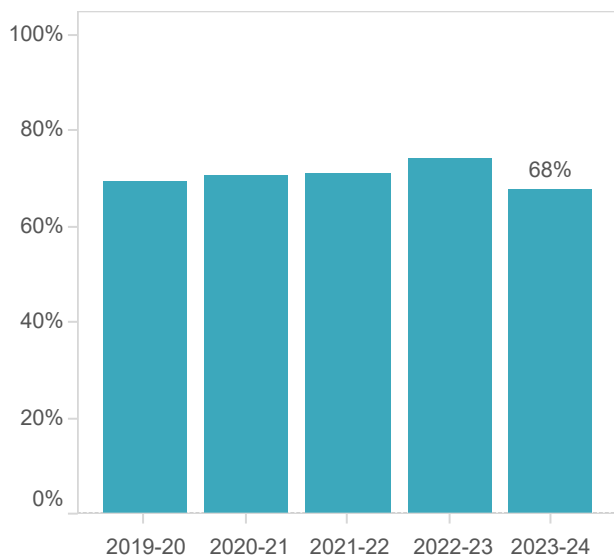
External review by the Information Commissioner of agencies' use of CPOPIADs and OPIADs

The IPC's internal data provides further insight into external reviews by the Information Commissioner in relation to the application of the considerations against disclosure by agencies.

The Information Commissioner conducts external reviews that cover a range of different issues that go to the process for dealing with applications and agencies' decisions to provide or refuse access to information.

The proportion of all reviews conducted by the Information Commissioner relating to CPOPIADs increased moderately to 17% in 2023-24 from 9% in 2022-23.

The proportion of all reviews conducted by the Information Commissioner relating to OPIADs remained consistent at 41% compared with 41% in 2022-23. Other issues that were the subject of review by the Information Commissioner include:

- disclosure of an individual's personal information
- adequacy of searches for information held
- effective exercise of agency functions.

Reviews conducted by the Information Commissioner can provide insights into the operational and cultural environment where access decisions are made within agencies. Data gathered through conducting these reviews is analysed to inform the Information Commissioner's forward work program.

CPOPIADs: Legal professional privilege remains the primary CPOPIAD subject of external review by the Information Commissioner

In 2023-24, the top two CPOPIADs that were relied on by agencies that were subject to the Information Commissioner's review were:

- legal professional privilege (48%), increased moderately compared with 34% reported in 2022-23
- excluded information (17%) declined moderately compared with 24% reported in 2022-23.

CPOPIADs: There has been significant changes in the top CPOPIADs claimed in reviews where the Information Commissioner recommended agencies reconsider their decision

In 2023-24, 34% of all the CPOPIADs that were the subject of review by the Information Commissioner resulted in a recommendation to agencies to reconsider the decision, compared with 44% in 2022-23.

In the reporting year, the top four CPOPIADs claimed in reviews to which the Information Commissioner recommended agencies reconsider their decision:

- Cabinet information consideration: 50% resulted in a recommendation to agencies to reconsider the decision, consistent with 50% in 2022-23

- excluded information consideration: 44% resulted in a recommendation to agencies to reconsider the decision, a significant increase from 22% in 2022-23

- complaints handling & investigative information: 33% resulted in a recommendation to agencies to reconsider the decision, a moderate increase from 25% in 2022-23

- care and protection of children consideration: 33% resulted in a recommendation to agencies to reconsider the decision.

OPIADs: Individual rights, judicial processes and natural justice was the main OPIAD subject to external review by the Information Commissioner

The top three OPIADs that were relied on by agencies and subject to the Information Commissioner's review were:

- individual rights, judicial processes and natural justice (45%)

- responsible and effective government (36%)

- business interests of agencies and other persons (10%).

OPIADs: The number of external reviews by the Information Commissioner of OPIADs that resulted in a recommendation to agencies to reconsider overall has decreased

In 2023-24, 39% of all the OPIADs that were the subject of review by the Information Commissioner resulted in a recommendation to agencies to reconsider the decision, a moderate decrease from 53% in 2022-23.

Following a review, the Information Commissioner's findings in respect of the top three OPIADs were for reviews of the:

- business interests of agencies and other persons consideration: 65% resulted in a recommendation to agencies to reconsider the decision, consistent with 65% in 2022-23

- individual rights, judicial processes and natural justice consideration: 40% resulted in a recommendation to agencies to reconsider the decision, a moderate decrease compared with 48% in 2022-23

- responsible and effective government consideration: 34% resulted in a recommendation to agencies to reconsider the decision, representing a significant decrease compared with 57% in 2022-23.

Were applications transferred between agencies?

Transfers between agencies remained stable

During 2023-24, agencies reported that 489 applications were transferred to another agency (Figure 46). This is consistent with the 480 transfers reported in 2022-23. This result represents a 43% decline from the highest number of transfers, 854 reported in 2017-18.
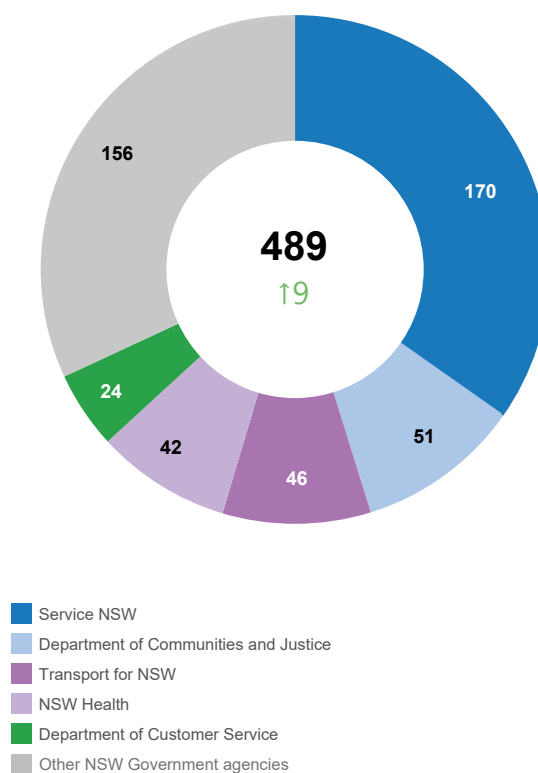
Figure 45 shows that the Government sector accounted for most transfers with 95%, which is consistent with 2022-23. Most transfers were agency-initiated with 89%, which is a moderate increase from 79% in 2022-23.

In 2023-24, Service NSW accounted for 35% of transferred applications, consistent with 36% in 2022-23. The second highest number of transfers was reported by the Department of Communities and Justice with 10% of transferred applications, which is consistent with 13% in 2022-23. The third highest was reported by both Transport for NSW and NSW Health with 9% followed by the Department of Customer Service with 5% (Figure 46).

Figure 45: Number of applications that were transferred, by sector and by whether agency or applicant initiated, 2023-24

Sector	Agency initiated transfers	Applicant initiated transfers	Total
Government	415	50	465
Council	12	5	17
University	2	0	2
Minister	0	0	0
State-Owned Corporations	4	1	5
Total	433	56	489

Figure 46: Distribution of applications transferred, by agency, 2023-24

- Service NSW
- Department of Communities and Justice
- Transport for NSW
- NSW Health
- Department of Customer Service
- Other NSW Government agencies

The transfer mechanism facilitates an applicant-centric approach to information access. The inclusion of this data provides a means of examining the assistance provided by agencies to applicants.

Appendices

Appendix 1
Notes on data sources and previous reports

The IPC's annual report on the Operation of the *Government Information (Public Access) Act 2009* (GIPA Act) is based on information submitted by NSW public sector agencies and analysed within the IPC. Data has been collected since 2010-11.

For the first four years, data was submitted by agencies in a variety of formats, and then manually entered into a database within the IPC.

In mid-2015, the IPC introduced a new online GIPA Tool as a way for agencies to manage their applications, provide their annual reports to the IPC and directly upload data.

The data analysed for this Report should be considered as a snapshot of agencies' compliance for the reporting year as available at 30 January 2025 (the date when the IPC commenced downloading agencies' reported data from the GIPA Tool).

Data updates by agencies may affect historical data and future reports. This is particularly relevant to data regarding timeliness reported in the 2017-18 Report and 2021-22 Report. On 29 April 2019, 7 July 2023 and 17 November 2023, the Information Commissioner tabled an erratum notice to correct data reported by an agency.

Since 2016-17, data has been reported from the following sectors:
• Government
• Council
• University
• Minister
• State-Owned Corporations.

Previously, SOC data had been included with that of the Government sector. Since 2016-17, SOCs have been separately identified in order to give greater insight into their GIPA operations and those of the Government sector. Accordingly, data for the Government sector reported prior to 2016-17 is not comparable to data in this Report.

In March 2018, the IPC published an online, interactive Agency GIPA Dashboard to facilitate agency and community access to this data. This Dashboard was updated in 2023 to enable a five-year comparison of data for agencies against their respective sectors and all agencies' reported figures. This enables better trend identification for each agency. This online data may be updated to take account of changes advised by agencies. Accordingly, the online GIPA Dashboard will represent the most up-to-date and accurate source of data on agency GIPA operations.

The annual reporting period for universities is a calendar year. Data for universities is calendar year data, however is presented as financial year data to assist with cross-sector comparability. For example, GIPA data from universities' 2022 annual reporting has been treated as for the 2022-23 financial year. In 2023-24, the Department of Education has reported on a financial year basis for the first time. In prior years, the Department of Education has reported on a calendar year basis.

Data reported in relation to mandatory proactive release reflects the number and composition of the principal departments for each financial year. Periodic changes to the number and functions of principal departments alters the overall audit population for that reporting period and therefore does not allow for direct comparisons with previous years' results.

Data reported for 2023-24 reflects the structure of agencies as of 30 June 2024.

In 2022-23, limited data was supplied from the Minister sector. The lack of data was attributable to the changes that occurred after the State general election on 25 March 2023.

Appendix 2
The Legislative Framework

Government Information (Public Access) Act 2009

The object of the *Government Information (Public Access) Act 2009* (GIPA 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
- ensuring that access to government information is restricted only when there is an overriding public interest against disclosure.

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

The guiding principle of the GIPA Act is to make information more accessible to the public. 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.

1. Mandatory proactive release

The mandatory proactive release of information is one of the GIPA Act's four pathways for information release and access. Through this pathway, the GIPA Act requires NSW public sector agencies to release a prescribed set of information to the public, known as Open Access information. This information must be made publicly available online and free of charge. Open Access information of ministers may be made available on the website of the relevant department.

The benefit of mandatory proactive release is that the pathway ensures that a minimum, consistent set of information that is regularly reviewed and updated to maintain relevance and currency, is freely available to the public. Mandatory proactive release is an important vehicle in achieving better service delivery through information access, transparency and increased citizen input to government policy and service delivery.

2. Authorised proactive release

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

Agencies (except Ministers) are required under the GIPA Act to review their program for the proactive release of information at least annually, and identify additional kinds of information that should be made publicly available. These agency reviews are not merely a reporting obligation. They provide the mechanism to drive the continuous release of information under this pathway. This information can be made publicly available in any manner that the agency considers appropriate either free or at the lowest reasonable cost.

Through this pathway, agencies have a responsibility to promote policies and practices that ensure as much information as possible is made publicly available.

The aim of proactive release is to maximise the amount of information that is released by agencies. This requires creating a culture where information release is a matter of course. The proactive release of information has many benefits, including a more informed community that is better able to engage and influence the development and delivery of services, agency operations and broader policy and community debates.

3. Informal release

The GIPA Act enables agencies to release government information in response to an informal request for information, unless there is an overriding public interest against disclosure.

This pathway promotes the transition to a system which will result in the general release of government information.

4. Formal access applications

The GIPA Act provides individuals and organisations with a right to apply for, and access most government information, unless there is an overriding public interest against disclosure (section 9). The GIPA Act outlines a formal process that must be followed by applicants and agencies. The steps for applicants include:

• putting an application in writing

• stating that the application is seeking information under the GIPA Act

• including a postal address or email address

• explaining clearly the information that is being requested

• paying an application fee of $30.

Agencies must assess each application that is received. For valid access applications, agencies must apply the public interest balancing test and consider the factors for and against the disclosure of the information that is being requested.

The main benefits of the formal access pathway include:

• the right to seek access is legally enforceable

• agencies are not subject to the direction or control of any Minister in the exercise of the agency's functions when dealing with an access application

• agencies must apply the public interest balancing test and consult with third parties to whom the information relates, and also may consult with other agencies

• applicants have a right to seek review of an agency's decision about the application through an internal review by the agency, an external review by the Information Commissioner or an external review by NCAT.

Section 125 of the GIPA Act requires agencies to report to Parliament annually on their obligations under the GIPA Act, including reporting on GIPA data. A copy of the Report is to be provided to the Information Commissioner after the Report has been tabled in Parliament. This mandated information is set out in clauses 8(a), (b), (c) and (d) of the GIPA Regulation. Schedule 2 of the GIPA Regulation sets out the prescribed form for clause 8(d) reporting through Tables A – I.

Government Information (Public Access) Regulation 2018

The *Government Information (Public Access) Regulation 2018* (GIPA Regulation):

• prescribes additional Open Access information that local authorities, ministers, departments and statutory bodies must make publicly available

• sets out the statistical information regarding formal applications that agencies must include in their annual reports

• in the case of an access application relating to a school, extends the period in which the application must be decided if the usual 20-day period for deciding the application occurs during the school holidays

• specifies the corresponding access to information laws of other Australian jurisdictions under which information may be exempt (this is a relevant public interest consideration against disclosure under section 14)

• declares certain bodies to be public authorities for the purpose of the GIPA Act

• declares certain entities to be sub-agencies and parent agencies for the purpose of access applications

• provides that records held by the Audit Office or the Ombudsman's Office that were originally created or received by another agency, are taken to be held by the original agency.

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* (GIIC Act). Under the GIIC 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 GIIC Act, the Information Commissioner is required to provide an annual report to Parliament on the operation of the GIPA Act, generally, across all agencies.

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

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