



information
and privacy
commission
new south wales

Sydney Cricket and Sports Ground Trust

GIPA Act – Follow-up Compliance Report
May 2020



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1 Purpose

This review examined the policies and processes of the Sydney Cricket and Sports Ground Trust (SCSGT) in relation to its compliance with the requirements of the [Government Information \(Information Access\) Act 2009](#) (GIPA Act).

The review was undertaken in accordance with section 17(g) of the GIPA Act, to monitor, audit and report on the exercise by agencies of their functions, and compliance with the GIPA Act. Its purpose was to review and assess the SCSGT's assessment of its compliance with the GIPA Act in fulfilling its responsibilities under the GIPA Act following a previous audit undertaken by the Information Commissioner in 2018. This review was limited to a review of the SCSGT's progress of compliance against the recommendations made in the October 2018 report.

Accordingly, the focus of this review included the content or application of the policies and procedures that SCSGT had developed to fulfil its requirements under the GIPA Act.

2 Background

In May 2018, the NSW Information Commissioner received a complaint under the *Government Information (Information Commissioner) Act 2009* (GIIC Act) in relation to the way in which the SCSGT dealt with applications for access to information made by the complainant.

The Information Commissioner decided to deal with the complaint by undertaking a review of the SCSGT's GIPA Act process in accordance with section 17(g) of the GIPA Act, which provides the Information Commissioner with monitoring, auditing and reporting functions regarding the exercise, by agencies of their functions under, and compliance with, the GIPA Act.

In October 2018, the IPC published its report of the SCSGT's GIPA Act compliance. That report made eight recommendations for improvement by the SCSGT and also advised that the Information Commissioner would undertake a follow-up audit in twelve months' time to review the SCSGT compliance post audit.

Since November 2018, SCSGT has provided the IPC with details of the steps and the progress it has made in the implementation of the recommendations made by the IPC in its October 2018 compliance report. This has included the provision of copies of its policies and procedures that it has developed. This report reflects the outcome of the IPC further review of the progress made by SCSGT and outlines further opportunities for the SCSGT to improve its suite of policies and procedures to better enable the Agency to fulfil its responsibilities under the GIPA Act. These further recommendations were communicated to SCSGT in April 2020.

In response to the IPC's identification of further opportunities for improvement, the SCSGT advised the additional recommendations were not challenged but that its priorities and resources have been impacted by COVID-19 and therefore the implementation will occur over the coming months.

The IPC recognises the impact of COVID-19 on agencies generally and that in the coming months resources may be deployed to address new, and immediate priorities. However, the current situation also highlights the importance of sound information management practices. The IPC remains available to assist the SCSGT as it implements the recommendations outlined in this report designed to assist it in complying with obligations under the *Government Information (Public Access) Act 2009* (GIPA Act).

This report outlines the findings and proposed recommendations as a result of the IPC's review.

The SCSGT responded to the draft report on **20 May 2020 and on the 27 May 2020 provided further response**. In responding to the draft report, SCSGT confirmed that the recommended changes made by the IPC in this report have been implemented and are now completed. That response has informed the finalisation of this report.

3 Methodology

3.1 Sample selection

In undertaking this review the IPC assessed the publicly available data provided by SCSGT which outlines the number of formal access applications that it dealt with in the reporting period 2018/19.¹ That data identified that for the full reporting period, the SCSGT had received one access application only. In that application, the outcome recorded that the application was:

- for release of the information
- for information other than personal information
- decided on time
- determined, resulting in the release of the information sought in full.

The IPC also reviewed the applications for external review made to the Information Commissioner for a decision made by the SCSGT² along with any complaints made under the *Government Information (Information Commissioner) Act 2009* (GIIC Act) about the conduct of the SCSGT in the exercise of its functions under the GIPA Act.³ This review did not identify any applications for external review or complaints about the SCSGT subsequent to the October 2018 compliance report.

Accordingly, the IPC determined that an onsite audit of the application of its GIPA functions for such a small number would be an insufficient sample and therefore the follow-up compliance audit focused on the review of the policies developed in response to the eight recommendations made in the 2018 Compliance Report.

3.2 Assessment Criteria

The IPC assessed SCSGT's compliance with the GIPA Act against the recommendations made in the 2018 compliance report.

3.3 Conduct of the analysis

The analysis of SCSGT's compliance was finalised by the IPC in April 2020.

4 Acknowledgments

The IPC appreciates the assistance and co-operation provided by the SCSGT and its officers during the ongoing monitoring, review and assessment of its compliance.

¹ 2018/19 GIPA Agency Dashboard available at <https://www.ipc.nsw.gov.au/information-access/agency-gipa-dashboard/gipa-dashboard>

² Section 89 GIPA Act

³ Section 17 GIIC Act

5 Review of prior report recommendations

Comments, findings and recommendations

Comment: The IPC’s review and assessment of the steps taken to implement the recommendations from the 2018 compliance report are summarised in Table 5.1 below.

Observations: The review concluded that: two recommendations were completed in full, one remained valid, and observed significant progress across the remaining five that relate in the main to SCSGT’s procedures manual and is related to the further recommendations (outlined at Table 5.2 below).

This assessment identified that the SCSGT had taken active and positive steps to fulfil the requirements of the recommendations made. In the main, the IPC observed that the recommendations had been actioned, but there was further opportunity to build upon the work undertaken to maximise the SCSGT’s compliance.

The IPC has detailed at Table 5.2 the further opportunities identified through this review for SCSGT.

5.1 Summary of prior report recommendations relevant to the 2018 Compliance report

Recommendation	Outcome and further recommendations
<p>Recommendation 1: SCSGT should have in place a written GIPA delegation so as to comply with section 9(3) of the GIPA Act. This should be in place within 4 weeks of receipt of this report.</p>	<p>Complete.</p>
<p>Recommendation 2: The SCSGT should consider developing a manual to assist officers with processing GIPA applications. This should include and centralise all templates, processes and procedures. The manual could include guidance sheets that include sample responses and communications regarding specific issues, which can assist officers in determining access applications.</p>	<p>See attached table containing recommended changes to GIPA Manual.</p> <p>Complete.</p>
<p>Recommendation 3: The SCSGT should continue to ensure that appropriate searches for information are conducted for each access application, and recorded in a search template pursuant to section 53(2) of the GIPA Act.</p>	<p>See attached table containing recommended changes to GIPA Manual at ‘2. Record of Search Form Template’ – for recommendations specific to the template search form.</p> <p>Complete.</p>

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Recommendation	Outcome and further recommendations
<p>Recommendation 4: The SCSGT should ensure that each time a search for information is requested, the officer processing the access application receives written confirmation from the relevant business unit to certify that searches have been conducted and information found or not found.</p>	<p>The email template is a request form sent by the SCSGT GIPA Officer to relevant business units.</p> <p>Recommend:</p> <ul style="list-style-type: none"> • Additional template be created for business units to write back with confirmation they have conducted the search, enclosing search record form. • Update GIPA Manual at 5.0 to provide guidance on this confirmation process. <p>Complete.</p>
<p>Recommendation 5: The SCSGT should develop a search template having regard to the guidance issued by the Information Commissioner in the fact sheet: The GIPA Act: Agency systems, policies and practices – guidance for principal officers.</p>	<p>As for Recommendation 3 above.</p> <p>Complete.</p>
<p>Recommendation 6: The SCSGT review and customise its approach to template letters for communicating with applicants. This includes all template letters used by the SCSGT, such as for communications with applicants regarding general matters arising under the GIPA Act; and template letters regarding the notice of decision made.</p> <p>Where necessary, the SCSGT should develop additional templates to promote internal knowledge and capacity to respond to applicants. These could be included in the manual recommended in Recommendation 2. The template letters should be applied to address specific issues relating to GIPA applications, as they arise.</p> <p>This review should be commenced within 4 weeks of receipt of this report and progress of the development advised to the IPC on a quarterly basis until completed.</p>	<p>A comprehensive set of template letters has been included in the GIPA Manual.</p> <p>See attached table detailing recommended changes to the GIPA Manual including template letters at '3. Template Letters and Decisions' – for recommendations specific to template letters and NODs.</p> <p>Complete.</p>
<p>Recommendation 7: The SCSGT should ensure that training is provided to all officers who has or will have responsibility for processing access applications.</p>	<p>Complete.</p>

Recommendation	Outcome and further recommendations
<p>Recommendation 8: The SCSGT should ensure suitable guidance and/or training is available for all officers requested to search for information in response to an access application.</p>	<p>The Training Recommendation includes a general summary of the following training <i>to be</i> implemented and made available:</p> <ul style="list-style-type: none"> • online training modules for general managers and right to information officers; and • face to face training to be provided to select employees including general managers. <p>It is unclear whether this training has since been implemented, or when it will be, and whether the planned training adequately covers searching for information in response to an access application. This recommendation remains applicable.</p> <p>Complete.</p>

5.2 Further recommendations

The below table summarises the further recommendations that the IPC identified during the course of this review that would enhance the SCSGT with their compliance relevant to their policies and manual.

Content heading	Document section	Outcome and further recommendations
<p>1. Appendix – templates (Audit Recommendation 2)</p>		
<p>GIPA access application</p>	<p>13.0</p>	<p>Summary of further recommendation: That the SCGT include additional information from the IPC access application template regarding the grounds on which a person can object to the publication of details about their access application and the considerations the decision maker must take into account when dealing with an objection.</p> <p>Outcome: That the SCGT review the GIPA access application to include further information adapted from the IPC Template available at https://www.ipc.nsw.gov.au/information-access/information-access-resources-public-sector-agencies/fact-sheets-guidelines-and-other-resources.</p> <p>Complete.</p>

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Content heading	Document section	Outcome and further recommendations
Internal review application	13.0	<p>Summary of further recommendation: That the SCGT include in section '2. Decision details' the following additional questions regarding decision details consistent with the IPC internal review application template, which asks:</p> <ul style="list-style-type: none"> a) Would you like the entire decision reviewed b) Yes – What is the decision to be reviewed c) No – What particular aspect of the decision would you like reviewed? <p>Currently this section only asks for 'Decision to be reviewed'.</p> <p>Outcome: SCGT review its internal review application form to include additional questions as outlined above and with reference to the IPC Template available at https://www.ipc.nsw.gov.au/information-access/information-access-resources-public-sector-agencies/fact-sheets-guidelines-and-other-resources.</p> <p>Complete.</p>
Government information access application – release of your information (third party consultation)	13.0	<p>Background: There are four unique templates for third party consultation as required by section 54 –</p> <ul style="list-style-type: none"> • Government information access application – release of your business information • Government information access application – information related to government affairs • Government information access application – release of your personal information • Government information access application – release of research commissioned by <p>Each of these template letters includes a section quoting part of the table at section 14 of the GIPA Act indicating that the third party is entitled to object on the listed grounds. This information as presented may misrepresent the operation of the GIPA Act in suggesting that third parties are confined to a limited set of considerations within the section 14 table as the grounds on which they can object. Rather any objection to release can be made in the context of any relevant consideration in the section 14 table.</p> <p>Summary of further recommendation: That the SCGT remove these boxed quotes and instead adopt the approach in the corresponding IPC template – which provides a full copy of the section 14 table, noting that these are the only public interest considerations that can be taken into account in assessing a third-party objection. In addition, the template would benefit from revision to include a description of the information that relates to the person, or attach a copy of the information.</p> <p>Outcome: SCGT review its template and update against the IPC template available at https://www.ipc.nsw.gov.au/information-access/information-access-resources-public-sector-agencies/fact-sheets-guidelines-and-other-resources.</p> <p>Complete.</p>

Content heading	Document section	Outcome and further recommendations
2. Record of Search Form Template (Audit Recommendations 3 and 5)		
Electronic Search Departmental Search Physical Search	13.0	<p>Summary of further recommendation: including the following additional information in the template search record form for each category (electronic, departmental and physical):</p> <ul style="list-style-type: none"> • Details of all search officers. • Where information of this kind is usually stored. • List each specific location searched, for each category, to show exactly which systems and sources were searched and where each piece of information was found. <ul style="list-style-type: none"> ○ Currently the form for each category includes a 'search location' field, which may capture this information if a new form is used to record each piece of information. However, if only one form is used for each, this level of detail may not always be captured. The Templates should be revised to indicate that sufficient information should be included to identify each location searched within each category, where relevant. Alternatively, '5.0 Search for information' could be revised to provide this clarification. <p>Outcome: SCGT review and update its existing template to include further details as identified relevant to the search process.</p> <p>Complete.</p>
3. Template Letters and Decisions (Audit Recommendation 6)		
Third party advice of agency decision to release information – Government information application – release of your information	13.0	<p>Summary of further recommendation: including a section advising third parties that information relating to them may be published in the agency's disclosure log – see corresponding IPC template available at https://www.ipc.nsw.gov.au/information-access/information-access-resources-public-sector-agencies/fact-sheets-guidelines-and-other-resources.</p> <p>Outcome: SCGT review and update its existing template to include advice to third parties as to the publication of information in the agency's disclosure log.</p> <p>Complete.</p>

Content heading	Document section	Outcome and further recommendations
Advice in template letters about timeframe for seeking internal review	13.0	<p>The following template letters contain advice about the timeframe for seeking an internal and/or external review of an agency’s reviewable decisions that is inconsistent with the GIPA Act:</p> <ul style="list-style-type: none"> • Invalid application • Advance deposit required • Non-payment of deposit • Agency initiated transfer – ‘Transfer of your information access application’ • Government information access application – non-payment of deposit • Third party consultation templates (release of business information, information related to government affairs, personal information, commissioned research) • Third party advice of decision to release information • All templates for ‘notice of decision’ <p>These templates state that the timeframe for seeking review is four weeks for internal review and/or eight weeks for external review.</p> <p>Summary of further recommendation - SCGT revise these sections of templates so that the timeframe provided exactly matches the statutory period in section 20 for internal review (i.e. 20 working days after the notice of the decision is given to the access applicant ...) and/or section 90 for external review (i.e. 40 working days after the notice of the decision to which the review relates is given to the applicant). It may also be useful to reference the legislative amendments made in 2018 regarding the <i>Christmas Shutdown</i> period.</p> <p>Some of these templates state that they enclose a brochure summarising the applicant’s review rights. The IPC has not been provided with a copy of this brochure.</p> <p>Outcome : that the SCSGT review the IPC’s Fact Sheet – Your review rights under the GIPA Act and make any changes considered necessary having regard to that resource to ensure relevant advice is provided to applicants or alternatively may decide to utilise the IPC’s fact sheet as the intended enclosure.</p> <p>Complete.</p>

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Content heading	Document section	Outcome and further recommendations
All Notices of Decision	13.0	<p>Currently the templates for notices of decision do not adequately reflect the application of the public interest test in section 13 of the GIPA Act.</p> <p>Summary of further recommendation - SCGT expand the 'Statement of Reasons' section, where applicable, to make clear that decision makers need to expressly identify the public interest considerations in favour of disclosure and those against disclosure, and explicitly weigh those factors to decide whether there is an overriding public interest against disclosure, in addition to noting any relevant personal factors of the applicant (see section 4 of the IPC notice of decision template available at https://www.ipc.nsw.gov.au/information-access/information-access-resources-public-sector-agencies/fact-sheets-guidelines-and-other-resources)</p> <p>It may also assist to have regard to the IPC Fact Sheet – What is the public interest test?</p> <p>Outcome: That the SCGT review and update the Notices of Decision statement of reasons section to explicitly make clear the identification and application of the public interest considerations in favour and against having regard to available IPC Guidance.</p> <p>Complete.</p>
4. Suggested Additional Content		
References to statutory provisions	Throughout Manual	<p>Summary of further recommendation: SCGT review the GIPA Manual, to identify any places in the general guidance or templates where it would be useful to reference specific provision in the GIPA Act to provide clearer guidance.</p> <p>For example in 'Section 3.0 Invalid applications' it is stated that a notification that an application is invalid must include, firstly, 'A reason why the application is not valid, including a reference to the relevant section of the <i>GIPA Act 2009</i>'. This section could be revised to refer expressly to section 41 of the GIPA Act, which contains the requirements for a valid access application.</p> <p>Outcome: That the SCGT review and update its GIPA Manual to provide particular and specific cross references to the applicable legislative provisions in the GIPA Act.</p> <p>Complete.</p>

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Content heading	Document section	Outcome and further recommendations
Informal release of information – overview	1.2 (Suggested new section after 1.0)	<p>Currently there is brief mention that an agency may release information informally in response to a request at 1.2.</p> <p>Summary of further recommendation: The manual would benefit from inclusion of a dedicated section regarding informal release, with reference to section 8 of the GIPA Act (Informal release of government information). The Agency may wish to consult the IPC's Knowledge Update - Informal Release of Information to supplement its manual.</p> <p>Outcome: That SCGT review and update its guidance on informal release of information.</p> <p>Complete.</p>
Search for Information	5.0	<p>Summary of further recommendation: That the SCGT include a link to the IPC Knowledge Update – Reasonable searches under the GIPA Act in the footnote referring to IPC guidance on records of searches.</p> <p>Outcome: That the SCSGT include a link to the IPC Knowledge Update.</p> <p>Complete.</p>
Possible additional templates	13.0	<p>Summary of further recommendation: The templates at 13.0 would benefit from including all templates on the IPC website at https://www.ipc.nsw.gov.au/information-access/information-access-resources-public-sector-agencies/fact-sheets-guidelines-and-other-resources.</p> <p>Outcome: That the SCSGT review this list of templates and consider whether it is appropriate to include any additional templates in the GIPA Manual having regard to its functions and operations.</p> <p>Complete.</p>

6 Conclusions

6.1 Conclusions

This audit was informed by:

- A review of the GIPA Agency Dashboard 2018/19
- A review of the IPC's review and complaint data holdings
- An assessment of the SCSGT implementation of recommendations
- the legislative requirements of the GIPA Act.

In summary, this audit has identified:

- a high level of commitment to implementing changes to fulfill the requirements of GIPA Act
- further opportunities for SCSGT in achieving compliance in respect its GIPA functions particularly in relation to the provision of training.

6.2 Recommendations and Monitoring

I am satisfied that the Agency has demonstrated a willingness to comply and that its leadership has demonstrated its commitment to compliance through the steps taken to implement the recommendations from the 2018 Compliance Report and acceptance of the further recommendations outlined in this report. On this basis the IPC's regulatory engagement and monitoring of the SCSGT is concluded however, the IPC remains available to assist SCSGT as it implements the additional recommendations outlined in this report.

7 Audit chronology

Date	Event
March 2020	IPC Review of policies and response to Compliance Audit
21 April 2020	IPC correspondence to SCSGT outlining its assessment outcome
27 April 2020	Correspondence from SCSGT in response to IPC review
30 April 2020	IPC – Response to SCSGT and provision of draft report
11 May 2020	SCSGT request for extension of time to reply to draft report
13 May 2020	IPC – response to request granting extension of time
20 May 2020	SCSGT response to draft report
22 May 2020	Provision of final Report
27 May 2020	Minor additional revisions requested by SCSGT
30 May 2020	Final report released (inclusive of minor revisions)

The following table lists the commonly used abbreviations within this report.

Acronym or abbreviation	Explanation
GIIC Act	<i>Government Information (Information Commissioner) Act 2009</i>
GIPA Act	<i>Government Information (Public Access) Act 2009</i>
SCSGT	Sydney Cricket and Sports Ground Trust
IPC	Information and Privacy Commission, NSW

8 Legislation

The following legislation is relevant to the conduct of this audit.

Government Information (Public Access) Act 2009 – relevant sections:

- Section 17 – Role of the Information Commissioner
- Section 89 – External Review by the Information Commissioner

Government Information (Information Commissioner) Act 2009 – relevant sections:

- Section 17 – Making a complaint
- Section 21 – Investigation of agency systems, policies and practices
- Section 24 – Report on compliance with an Information Act