



information
and privacy
commission
new south wales

Greyhound Racing NSW

GIPA Act – Compliance Report
September 2020



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1. Purpose

This desktop review examined the systems and processes of Greyhound Racing NSW (GRNSW) in relation to its compliance with the requirements of the [Government Information \(Public Access\) 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 under, and compliance with, the GIPA Act. Its purpose was to review and assess GRNSW's assessment of its compliance with the GIPA Act. This review was limited to a desktop assessment of GRNSW's self-assessment of its compliance alongside a desktop review of its website.

As a regulatory tool, a desktop audit is applied in areas of small to moderate risk of non-compliance and may also form the basis of a preliminary assessment. The methodology of a desktop audit should be recognised as constrained by factors including:

- independent remote assessment;
- non-inquisitorial;
- focused on identified compliance risks and informed by agency responses.

It is distinguishable from an onsite audit which can adopt a more direct inquisitorial approach. The IPC conducts desktop audits to elevate compliance by way of guidance, awareness-raising and in some cases recommendations to an agency. Poor results or lack of co-operation by an agency may result in further and escalated compliance action.

Accordingly, the focus of this review did not include the content or application of the policies and procedures that GRNSW has developed or is developing to fulfil its requirements under the GIPA Act or GRNSW's processing of formal access applications made under the GIPA Act.

2. Background

In October 2016, the NSW Government established the Greyhound Industry Reform Panel to provide recommendations on potential new animal welfare and governance arrangements to reform the industry. At its conclusion, the Greyhound Industry Reform Panel made 122 recommendations to the NSW Government, of which, 121 were adopted. In April 2017, the NSW Parliament passed the *Greyhound Racing Act 2017* which established a new regulatory regime for greyhound racing in NSW.

The new reforms distinguished between the commercial and regulatory functions previously carried out by Greyhound Racing NSW (GRNSW). Under the new regime, GRNSW would retain its commercial functions, while the newly established Greyhound Welfare Integrity Commission (GWIC), would administer welfare and other regulatory functions.

Individual complaint

The decision to undertake this audit was also informed by an individual complaint about GRNSW. The complaint by a member of the Commonwealth Parliament highlighted concerns with the conduct of GRNSW's exercise of information access functions.

Relevant to the audit the complaint highlighted concerns with the processing of an access application and imposition of conditions on the release of information by GRNSW. The issues raised in the complaint informed the conduct of the IPC audit.

The results of this desktop audit together with the agency self-assessment have demonstrated that some systems, policies and practices of GRNSW remain under development.

However, I am satisfied that GRNSW has demonstrated a willingness to comply and has demonstrated its commitment to compliance by acknowledging through its self-assessment audit those areas where policies or procedures are absent or in development.

Considering these findings there is no factor that would motivate an escalation of regulatory action by the IPC. This report outlines the findings and proposed recommendations as a result of the IPC's review.

GRNSW responded to the draft report on 11 September 2020 in correspondence from the Office of Legal Counsel. That response has informed the finalisation of this report. GRNSW's response to the recommendations made by this report are summarised at Table 1 at part 6.3 of the report. GRNSW has advised that it adopts all of the recommendations made.

The correspondence from GRNSW observed:

- *that GRNSW is not a normal state agency in the sense that the relevant Act constituting GRNSW makes it clear that GRNSW is not and does not represent the state of New South Wales nor is it entitled to any immunity or privilege that would normally be afforded to a state agency.*

The Information Commissioner notes that GRNSW has been established and continued for a public purpose under the *Greyhound Racing Act 2017* and is therefore an agency within the meaning of clause 2(1)(b) of Schedule 4 to the GIPA Act and subject to regulatory oversight by the Information Commissioner. Accordingly, the obligations imposed under the GIPA Act apply to GRNSW in full and the agency head, Mr Tony Mestrov, Chief Executive Officer is responsible under the GIPA Act for all acts and omissions under the GIPA Act. Likewise, protections and offences under the GIPA Act attach to Mr Tony Mestrov as principal officer.

The draft report was also provided to the Minister for Better Regulation and Innovation (the Minister) in accordance with section 23(3) of the GIIC Act. The Minister did not provide any comments for consideration in the finalisation of the draft report.

In relation to recommendation 3, GRNSW has provided the IPC with a copy of its updated Agency Information Guide (AIG).

The IPC welcomes the response from GRNSW and will continue to engage with GRNSW in relation to the implementation of the recommendations made.

The IPC will work with GRNSW and monitor its progress and has requested that GRNSW report back to the IPC about the implementation of the recommendations by 1 December 2020. This report also recommends that GRNSW undertake a further self-assessment of its compliance under the GIPA Act in 12 months' time.

3. Methodology

3.1 Sample selection

In undertaking this review, the IPC requested that GRNSW conduct a self-assessment of its compliance with the GIPA Act using the [IPC's Self-Assessment Tool](#). The IPC reviewed GRNSW compliance with the GIPA Act as described in its self-assessment against a sample of information that was publicly available on its website on the date of the assessment.

For the purpose of the methodology adopted during this review, it is to be noted that for some criteria the IPC was not able to measure each category within the self-assessment tool against publicly available information as the criteria did not lend themselves to such a measure. This is because such criterion related to policies or a procedure to support a function and such a procedure was not publicly available and nor was it required to be. Where this is the case, the IPC has observed that the criterion was "Not measurable" and informed its assessment based on the responses provided by GRNSW.

3.2 Assessment Criteria

The IPC assessed GRNSW's compliance with the GIPA Act against the criteria identified in the self-assessment tool. The criteria are set out in the table below.

Assessment criteria
1. Culture and Leadership
2. Governance
3. Legislative Compliance and achievement <ul style="list-style-type: none"> I. Open Access II. Contract register III. Authorised proactive release IV. Informal release V. Formal access applications VI. Disclosure logs
4. Supporting tools and systems
5. GIPA functions

3.3 Conduct of the analysis

The analysis of GRNSW's compliance was conducted by the IPC on 10 July 2020. GRNSW provided to the IPC a copy of its completed self-assessment.

IPC staff examined GRNSW's responses in the self-assessment tool in conjunction with the publicly available information on GRNSW's website. The assessment of GRNSW was performed with reference to the self-assessment tool, with data and observations recorded.

The IPC recorded and retained data in undertaking the audit. For the purposes of this report it was deemed not necessary to provide a breakdown as the findings and recommendations are applicable generally and not specifically.

4. Acknowledgments

The IPC acknowledges the co-operation provided by GRNSW to the IPC's audit.

5. Observations

5.1 GIPA Culture and Leadership

Criterion		Result
i.	Agencies with an open access/data culture	
a.	Support and advocate an open access/data culture as a priority from the Board and the executive to all levels of the organisation	Not measurable
b.	Have established governance around access to open information and data	Not measurable
c.	Reflect and monitor and regularly update what is open access and open data and how it may be available to citizens	Not measurable
d.	Provide training and support to ensure staff are aware of open access and open data policies and requirements	Not measurable
e.	Promote the four pathways for access to information	Not measurable
f.	Promote a pro-disclosure culture	Not measurable
g.	Support informed and independent decision-making by Right to Information officers	Not measurable

Comments, findings and recommendations

Comment: Under the GIPA Act, leaders have an important role in promoting awareness and fostering an organisational culture that advances and promotes the objects of the GIPA Act. This can be achieved by adoption of an open access and open data culture by promoting of releasing information supported by a governance framework that demonstrates a commitment to open access and data.

Observations: In undertaking its assessment of GRNSW against this criteria, the IPC's review was limited to an assessment of the agency's response against the information publicly available on its website. This meant that the IPC was not able to measure each category within the self-assessment tool against publicly available information as the criteria did not lend themselves to such a measure.

However, GRNSW's own self-assessment measure of compliance identified this to be at 93%. It identified that for all of the criterion above it had processes/procedure in place, with the exception of providing training and support to ensure staff are aware of open access and open data policies and requirements for which it identified that processes and procedures are under development.

GRNSW is encouraged to continually self-assess its open access/data culture to promote a pro-disclosure culture and compliance with the GIPA Act. While GRNSW's own self-assessment has concluded that its policies and procedures are mostly already developed, GRNSW should assess and review its policies and procedures considering the findings and recommendations made in this report.

In terms of training GRNSW may wish to refer to the available suite of e-learning modules that the IPC has developed, which includes:

1. Access Training for Decision Makers under the GIPA Act;
2. Towards Open Government Information in NSW
3. Open Data
4. The Contract Register and Contract Disclosures.

The IPC's module on Toward Open Government Information in NSW and Open Data may assist GRNSW to elevate the understanding, culture and awareness of open access/ open data across GRNSW.

In terms of open data this review did observe that GRNSW makes available on its website general statistical information about race injuries and other information. However, these updates have not been made since **June 2018**. GRNSW's intention to proactively releasing such statistical information is consistent with a positive approach to a pro-disclosure culture. However an intention and commitment to pro disclosure can only be effectively realised through active review and updates that are embedded into the organisations policies and procedures.

Recommendation 1 GRNSW should undertake a further self-assessment of its compliance under the GIPA Act, in 12 months' time.

Recommendation 2: GRNSW should develop a plan to assess and review all policies and procedures relevant to open access/data culture and compliance with the GIPA Act in light of the other recommendations made in this report within three months of the finalisation of this report.

5.2 Governance

Criterion	Result
I. Have procedure in place to comply with schedule 2 of the <i>Government Information (Public Access) Regulation 2018</i>	Compliant This finding is based upon the annual reporting requirements and a review of GRNSW Annual Report 2019.

Comments, findings and recommendations
<p>Comment: Schedule 2 of the GIPA Regulation provides for statistical information about the formal access applications that an agency has received to be captured and included in the annual report. This statistical information informs the preparation of the Information Commissioner's annual report on the operation of the GIPA Act in accordance with section 37 of the <i>Government Information (Information Commissioner) Act 2009</i> (GIIC Act).</p> <p>Section 37 of the GIIC Act requires that the Information Commissioner, as soon as practicable after 30 June in each year, prepares and publishes a report on the operation of the GIPA Act (generally, across all agencies) for the preceding 12 months. The Information Commissioner is further required to furnish that report to the Presiding Officer at each House of Parliament and a copy of the report to be provided to the Minister responsible for the IPC.</p> <p>Observations: The IPC's desktop review observed that GRNSW included information about the total number of access application made to GRNSW in its 2019 Annual Report.¹ This information includes all of the required statistical information set out in Schedule 2 of the GIPA Regulation. It therefore appears that GRNSW has the necessary procedures in place to support the agency to meet the requirements under Schedule 2 of the GIPA Regulation.</p> <p>The IPC has established the GIPA Tool which assists all agencies and organisations regulated by the GIPA Act to comply with the legislation when processing and reporting on government information access applications. Although no recommendations are made in relation to this criterion on the basis that GRNSW continues to include relevant statistical data in its future annual reports as required by Schedule 2 of the GIPA Act, the IPC does encourage GRNSW to consider adopting the GIPA Tool as a means of assisting it to meet the requirements of reporting on its annual GIPA activities under section 125 of the GIPA Act.</p>

¹ GRNSW Annual Report 2019 at page 20

5.3 Legislative compliance and achievement

Criterion		Result
I.	Open Access Information	
a.	Makes its open access information publicly available, unless there is an overriding public interest against disclosure	Non-compliant
b.	Makes open access information available free of charge on a website maintained by the agency (unless to do so would impose unreasonable additional costs on the agency)	Compliant
c.	Ensures there is at least one way that people can access this information free of charge	Compliant
d.	Keeps a record of the open access information that an agency does not make publicly available on the basis of an overriding public interest against disclosure	Non-compliant
e.	Has an Agency Information Guide that meets the requirements specified in section 20 of the GIPA Act and the IPC's AIG guideline	Compliant
f.	Reviews and updates the AIG every 12 months	Non-compliant
g.	Notifies the Information Commissioner, before amendment to, or release of, an AIG (section 22)	Non-compliant

Comments, findings and recommendations

Comment: The GIPA Act requires a range of open access information to be made publicly available unless there is an overriding public interest against disclosure of the information. Open access information is to be publicly available free of charge on an agency's website (unless to do so would impose unreasonable additional costs on the agency).

The mandatory public release of open access information under the GIPA Act promotes consistent and transparent information and helps to foster responsible and representative government that is open, accountable, fair and effective. The type of information that is *open access* includes; the agency's information guide, policy documents, disclosure log of access applications, register of government contracts and record of open access information not made publicly available.²

² GIPA Act section 18

Comments, findings and recommendations

Agencies are required to make open access information publicly available, unless there is an overriding public interest against disclosure (s6). The open access requirements vary according to the type of agency (see Parts 2, 3 and Schedule 1 GIPA Regulation).

Observations: This review observed that GRNSW has a website in which it makes open access information available free of charge. That open access information included, its Agency Information Guide (AIG), Annual Reports and Policy Documents. The types of policies that are made publicly available include:

- Code of Practice – Training
- Code of Practice - Breeding
- Return to Racing Policy
- Public Comment Policy

The types of Corporate and Club policies that are publicly available include:

- Staff Code of Conduct
- Board Code of Conduct
- Club Registration Policy
- Club Compliance Framework

In this regard GRNSW has taken positive steps to meet the requirements of section 6 of the GIPA Act.

GRNSW's website provides a link to an undated AIG and therefore it is unclear when the AIG was last updated. It is therefore unclear whether the AIG has been recently reviewed in accordance with section 21 of the GIPA Act which requires an agency to review its publication guide and adopt a new publication guide at intervals of not more than 12 months.

At the time of this review it does not appear that the Agency had notified the Information Commissioner in accordance with section 22 the GIPA Act of any review of its AIG. This would be consistent with GRNSW self-assessment of its compliance to the requirements of section 22 which is listed as 'in progress'. GRNSW should take steps to finalise its review of its AIG and in doing have regard to the IPC's guidance for AIG's. Additionally, it should ensure that it provides timely notification to the Information Commissioner consistent with the requirements of section 22.

GRNSW's self-assessment tool also identified that the review and update of GRNSW's AIG was 'in progress'. This review did not undertake an analysis of the compliance of GRNSW's AIG with the requirements of the legislation as it was outside of the scope of this review.

GRNSW's self-assessment tool identified itself as compliant in relation to making open access information publicly available. However, as discussed under Criterion II below, it is unclear whether GRNSW keeps a register of government contracts which is prescribed as *open access* information by the GIPA Act.

Comments, findings and recommendations	
<p>GRNSW assessed itself as compliant in respect of the record of open access that the agency does not make publicly available on the basis of an overriding public interest against disclosure (OPIAD). However, the IPC's review of the website was unable to locate such a record.</p> <p>A record of the information that the agency does not make publicly available is an important mechanism to assist members of the public in understanding the full scope of the agency's information holdings and the information which has not been made available publicly on account of an OPIAD. GRNSW should consider whether it is required to keep a record under section 6(5) of the GIPA Act and make that record publicly available. If GRNSW has not withheld any open access information on the basis of an OPIAD, a statement should be included on the Access to Information page on the website to explain that a record under section 6(5) is therefore currently not kept, but that a record will be created if any decision is made to withhold open access information on the basis of an OPIAD. This action should be included in GRNSW's remediation plan.</p> <p>Recommendation 3: In undertaking its AIG review, GRNSW should have regard to the IPC's guidance on AIG's to assist it in meeting the requirements for AIG's under the GIPA Act. Additionally, it should ensure that it takes steps to meet the requirements of section 22 of the GIPA Act for notification to the Information Commissioner.</p> <p>Recommendation 4: GRNSW reviews prescribed <i>open access</i> information under the GIPA Act and reassesses whether it is complying with the open access information requirements and implement action to ensure compliance with section 6(5) of the GIPA Act and maintain a register of government contracts.³</p>	
Criterion	Result
II. Contract register	
a. Maintain a register of all class 1 contracts with a value of \$150,000 (including GST) or more that identifies the name and business address of the contractor, the commencement date and duration of the contract, details of the project, project cost, basis for variations and selection process.	Absent - Not measured
b. Update the register within 45 working days of the contract coming into effect	Absent - Not measured
c. Ensure that the contract register includes all additional information required for class 2 contracts (see section 30)	Absent - Not measured

³ GIPA Act section 18(e) and (f).

Comments, findings and recommendations		
d.	Ensure that the register fully meets the requirements for Class 3 contracts (those with a value of \$5 million or more) (see section 31)	Absent - Not measured
e.	<p>Ensure that if a copy of a contract is not included on the agency register or only some of the provisions are included because it contains confidential information (see section 32), agencies place on the register:</p> <ul style="list-style-type: none"> - the reasons why the contract or provisions have not been included in the register - a statement as to whether it is intended to include the contract or provisions at a later date, and when this is likely to occur - a general description of the types of provisions that have not been included 	Absent - Not measured
f.	<p>Ensure that processes are in place to update the register in the case of material variations to the contract. Material variations should be included in the register within 45 working days after the variation becomes effective.</p>	Absent - Not measured

Comments, findings and recommendations		
<p>Comment: The GIPA Act requires that all public sector agencies that enter into a contract with the private sector keep a register of all government contracts that have a value, or are likely to have a value, of \$150,000 inclusive of GST or more. These requirements upon agencies are set out in sections 27 – 40 of the GIPA Act and includes exemptions where that may be relevant.</p> <p>Observations: In reviewing GRNSW website, the IPC desktop review could not identify any information on its website detailing its register of government contracts or a link to the e-tenders website. In reviewing the e-tenders website, the desktop review did not identify any contracts that are either active or archived for GRNSW. This may mean that GRNSW has not entered into a government contract for which it is captured within the definition of a government contract and/ or meets the requirements of either a class 1,2 or 3.</p> <p>It is noted that GRNSW's Annual Report for 2019 at page 8 notes an increase in marketing and media expenditure of \$1,582,028 over the financial year.</p> <p>However, without further information this desktop review cannot undertake an assessment of whether this expenditure relates to contracts that meet the threshold definition of a government contract for the purposes of the GIPA Act and if so, whether such contracts were of a value that would require inclusion on the contracts register.</p>		

Comments, findings and recommendations

GRNSW's self-assessment identifies that the requirement to update the register within 45 working days of a contract coming into effect was 'in progress'. In addition, GRNSW's self-assessment identifies that action to meet the requirements of section 32 of the GIPA Act were also 'in progress'.

It therefore appears that GRNSW is currently assessing whether it has entered into government contracts that should be made publicly available on the contract register. The publicly availability of information on the contract register improves transparency and helps to ensure that contracts are awarded fairly, public expenditure is appropriate and that resources are used efficiently and effectively.

GRNSW should therefore take steps to ensure that it is complying with the contract register requirements of the GIPA Act. This should include completion of the IPC Agency Contracts Register self-assessment checklist to assess whether it is required to keep a contract register and to ensure its published contract register is presented in compliance with the GIPA Act as soon as possible. GRNSW should also consider whether its staff would benefit from completing the IPC e-learning module on the contracts register.

Recommendation 5: In undertaking its continued work to fulfil the requirements for contract register reporting, GRNSW should have regard to the IPC's contract register assessment checklist. GRNSW should undertake a review to identify any contracts which would require publication in accordance with the GIPA Act. That review and any associated publication should be completed by no later than 1 October 2020. Additionally, GRNSW may wish to consider ensuring that responsible officers complete the IPC e-learning training module on contracts registers.

Criterion		Result
III.	Authorised proactive release	
a.	Make government information held by the agency publicly available unless there is an overriding public interest against disclosure	Not measured
b.	Make the information available either free of charge or at the lowest reasonable cost	Compliant
c.	Review its program for release of government information at intervals of no more than 12 months to identify the information that it holds that should be made publicly available	Not measured
d.	Have in place clear governance arrangements to manage proactive release of information	Not measured

e.	Incorporate proactive release into records management processes, including processes at creation of the document or information to determine if it should be proactively released	Not measured
f.	Have processes in place to determine release priorities, such as stakeholder consultation and analysis of requests	Not measured

Comments, findings and recommendations

Comment: A key intention of the GIPA Act is to encourage proactive public release of government information by NSW public sector agencies. This is one of the major ways to meet the GIPA Act’s broader goal of advancing democratic government that is open, accountable, fair and effective. The GIPA Act authorises agencies to have proactive release programs in place and requires these to be reviewed each year, with outcomes reported to the IPC. The GIPA Act authorises agencies to release information through proactive release programs which must be reviewed each year, and outcomes reported to the IPC.

Observations: This desktop review identified that GRNSW appears to make information available through proactive release. For example, it was observed that GRNSW website includes data about racing injury on a quarterly basis, however, this information has not been updated since **30 June 2018**.

In this context, the agency appears to proactively release information on its data holdings. It is not possible to ascertain from a review of its website whether it meets (a) and (c) – (f) of the requirements for proactive release. However, it is noted that the Agency self-identified that it is compliant with (a) and (b), that the development of processes/procedures in relation to (c) and (d) is in progress and that it has processes/procedures in place for (e) and (f) above.

Regarding item (c) section 7(3) of the GIPA Act states that an agency must, at intervals of not more than 12 months, review its program for the release of government information. GRNSW’s self-assessment describes this review as ‘in progress’. Completion of the review of its program for the release of government information should be included in GRNSW remediation plan, including the development of a process to ensure that the review is undertaken at intervals of no more than 12 months as required by the GIPA Act. Regarding item (d) GRNSW’s self-assessment tool has identified that it is the process of putting in place clear governance arrangements to manage the proactive release of information. To assist GRNSW in achieving this, the agency could consider the following:

- establishing a working group;
- include proactive release as a standard agenda item in senior management meetings;
- place responsibility for proactive release in specific roles including risk management and audit functions.

Comments, findings and recommendations
<p>The IPC notes that GRNSW has self-identified that it has in progress work to further fulfil its compliance requirements in this regard and draws to GRNSW's attention the resources published by the IPC and available on its website that can support GRNSW in this endeavour.</p> <p>More information about how GRNSW can improve governance practices around the proactive release of information can be found here: 'Fact Sheet - Authorised proactive release of government information'.</p> <p>Recommendation 6: GRNSW finalises the remaining work it has identified in its self-assessment to ensure compliance with section 7 of the GIPA Act by no later than 30 September 2020.</p>

Criterion		Result
IV.	Informal Release	
a.	Have a process in place to manage informal requests for government information	Not measured
b.	Ensure staff understand, through a documented guideline or manual, what information can be released on the basis of an informal request, and what types of information require a formal application under Part 4 of the GIPA Act	Not measured
c.	Have a defined approval processes and delegations or authorisations for permitting the release of information informally	Not measured
d.	Maintain a record of informal requests to inform the future program for proactive release (section 7)	Not measured

Comments, findings and recommendations
<p>Comment: The GIPA Act allows agencies to release information to citizens in response to an informal request. Section 8 of the GIPA Act enables agencies to release information informally. The informal release of information provides benefits for agencies and citizens and increases access to information consistent with the objects of the GIPA Act to facilitate access to government information.</p> <p>Informal release of information can be more efficient, flexible and timely for agencies and citizens. The effectiveness of this pathway can be enhanced through sound agency practices, recognising the safeguards for staff who release information and by linking the pathway to agency access mechanisms Agency Information Guides.</p>

Comments, findings and recommendations
<p>Observations: In its AIG, GRNSW provides information about how an informal request can be made and the types of information that may be released informally. The AIG also includes information about how information may be informally released. This information describing informal access is consistent with the requirements of section 8 of the GIPA Act.</p> <p>In its self-assessment GRNSW identified that it is developing processes to manage informal requests for government information. GRNSW should aim to finalise the work underway as a priority to better position the agency in receiving and processing informal access applications. The information that is available about the Informal Access avenue is only available through GRNSW's AIG. As informal access can be an efficient and effective pathway for access to information, GRNSW should consider whether it would be feasible to include specific information under its access to information link on each of the individual pathways available under the GIPA Act to access information.</p> <p>Recommendation 7: GRNSW finalises the remaining work it has identified in its self-assessment to ensure compliance with section 8 of the GIPA Act by no later than 30 September 2020. Concurrently GRNSW should consider the feasibility of publication of information about the four access pathways under the agency Access to Information page.</p>

Criterion	Result
V. Formal Release	
a. Have staff who are authorised to manage formal access applications including the authority to make a reviewable decision (Right to Information officers)	Compliant
b. Have processes in place to determine if the request is valid, or if the information is available via any alternative means	Not measured
c. Provide assistance and advice to the applicant to facilitate the making of a valid application (see section 16)	Not measured
d. Provide an access application form available to download on your website, or accessible in some other way and have processes for payment of the application fee and any processing charges, which can include electronic facilities.	Compliant
e. Have systems and processes in place to undertake searches for information, such as identification of parameters of GIPA applications and established records storage and retrieval systems.	Not measured

Criterion		Result
f.	Have systems and processes in place to undertake consultations with third parties (see sections 54 and 54A).	Not measured
g.	Monitor the timely finalisation of requests (as the GIPA Act specifies timeframes for decisions).	Not measured
h.	Have processes in place to manage an internal review if the individual is not satisfied with the decision about release of the information.	Not measured
i.	Provide decision templates and ensure processes are in place to inform decisions about waiver or reduction of fees or charges on the basis of hardship.	Not measured
j.	Provide decision templates and ensure processes are in place to inform the making of the allowable decisions (section 58).	Not measured

Comments, findings and recommendations
<p>Comment: The GIPA Act provides a legally enforceable right to access most government information unless there is an OPIAD. The GIPA Act also outlines the processes that applicants and agencies must follow in dealing with access applications and the options for the review of those decisions.</p> <p>Observations: It was not possible through the exercise of a desktop audit to confirm the level of compliance by GRNSW to all the elements that would be necessary to ensure that the requirements of the GIPA Act relating to formal access applications are being met.</p> <p>GRNSW's website provides for an access application form to be downloaded and completed by the applicant. It also provides the contact details of the GIPA Coordinator for questions about lodging an application.</p> <p>However, there is no publicly available information about the policies and procedures that GRNSW has in place to support its formal access functions.</p> <p>A review of GRNSW Annual Report for 2019 indicates that 10 formal access applications were received, with one application going to internal review.</p> <p>In its self-assessment GRNSW identified that the management of its internal review process was 'in progress'. GRNSW should ensure that relevant staff are familiar with the requirements of Part 5, Division 1 and Division 2 of the GIPA Act which relate to the kinds of decision that can be reviewed and the requirements for the internal review process.</p>

Comments, findings and recommendations
<p>The IPC encourages GRNSW to avail itself of the resources and templates on the IPC website which have been developed to support agencies in the exercise of their functions in dealing with formal access applications.</p> <p>Recommendation 8: GRNSW finalises the remaining work it has identified in its self-assessment to ensure that it has a process in place to manage an internal review in accordance with the requirements of the GIPA Act by no later than 30 September 2020.</p> <p>Recommendation 9: GRNSW should provide relevant staff with regular training to ensure that they are familiar with the process relating to the management of internal review applications and relevant provisions of the GIPA Act.</p>

Criterion		Result
VI.	Disclosure Logs	
a.	Keep an up-to-date agency disclosure log which contains the following information: <ul style="list-style-type: none"> - the date the application was decided - a description of the information released - a statement as to whether the information is now available to other members of the public and how it can be accessed 	Compliant
b.	Make the disclosure log available free of charge on their agency website	Compliant

Comments, findings and recommendations
<p>Comment: Section 25 of the GIPA Act requires that agencies must keep a disclosure log as part of their mandatory open access information. The disclosure log publishes details of information released in response to access applications that the agency considers may be of interest to other members of the public. Each NSW government agency must publish a disclosure log on its website. Section 26 of the GIPA Act requires agencies to record the following information about each access application in the disclosure log:</p> <ul style="list-style-type: none"> a) the date the application was decided b) description of the information to which access was provided in response to the application, and

Comments, findings and recommendations	
c)	statement as to whether the agency intends to make the information available to other members of the public and, if so, how it can be accessed.
<p>Observations: GRNSW includes its disclosure log on the website. The disclosure log includes the relevant information as is required by section 26 of the GIPA Act. Information can be accessed 'on request' by contacting GRNSW's GIPA Officer.</p> <p>At the time of the desktop audit there are four entries on the disclosure log, with the latest entry being from October 2016. It is not apparent from the information available from its website whether this information is current and up to date or was last entered in 2016. This desktop audit does not enable an assessment of whether GRNSW has a process in place to ensure that the disclosure log is regularly updated. However, given GRNSW's statutory reporting in its Annual Report as to the lodgement of GIPA Act applications in 2019 together with the statutory timeframes under the GIPA Act it appears that further entries in 2019 may be required. In particular for all 10 applications to be exempt from the disclosure log reporting one of two circumstances would be required. Firstly, access would need to be refused in full and in the alternative GRNSW would need to decide that any information that was released in response to an access application would <u>not</u> be of interest to other members of the public. Given the contemporary events that led to the formation of the entity it would appear unlikely that information held by GRNSW does not inspire some level of public interest.</p> <p>Recommendation 10: GRNSW should review whether its disclosure log is up to date and in compliance with sections 18(d), 25 and 26 of the GIPA Act.</p> <p>Recommendation 11: GRNSW institute a process to facilitate regular update of its disclosure log in response to formal access applications.</p>	

5.4 Supporting tools and systems

Criterion	Result
a. Provide training on a regular basis for officers authorised to exercise for GIPA functions	Not measured
b. Provide regular communication providing updates on policies or guidance on GIPA responsibilities	Not measured
c. Have in place a case management tool for managing GIPA applications	Not measured
d. Provide documented procedures for meeting GIPA requirements which are updated as required and communicated to staff	Not measured
e. Have in place procedures to assist in managing the risks associated with searches for information including: <ul style="list-style-type: none"> – guidance on conducting searches, and 	Not measured

Criterion	Result
<ul style="list-style-type: none"> – templates for issuing search requests and for return of documentation and certification 	

Comments, findings and recommendations
<p>Comment: The GIPA Act does not stipulate the training or tools that agencies must have in place to fulfil their legislative requirements of the GIPA Act. However, it is apparent that for those legislative requirements to be met, staff need to be supported in order to comply with the GIPA Act through the availability of appropriate training, documented processes and delegations, and processes to ensure requests are handled in a timely and appropriate way.</p> <p>Observations: This desktop audit was limited to consideration of GRNSW's self-assessment. GRNSW self-assessment identified that training has been provided to staff on the exercise of GIPA functions every 6 to 12 months. Further, GRNSW's self-assessment identifies that all other criterion has been met with processes and procedures in place.</p> <p>The IPC notes the small number applications that GRNSW received in the 2019 reporting year. Consistent with the Information Commissioner's role in providing assistance in connection with the exercise of their functions under the GIPA Act, including by providing services to assist with the lodgement, handling and processing of access applications,⁴ the IPC has made available the GIPA tool for this purpose without the need for an investment in a dedicated system. If not already using the GIPA Tool GRNSW should consider whether the GIPA tool would assist in managing its functions under the GIPA Act, including to efficiently manage GIPA applications and meeting the requirements of reporting on annual GIPA activities under section 125 of the GIPA Act.</p> <p>Agencies need to ensure systems are in place to monitor staff training and ensure that new staff receive base line training. The IPC has developed a suite of free eLearning modules, including for decision makers. The Crown Solicitors Office (CSO) also delivers GIPA training.</p> <p>Additionally, GRNSW may wish to look to a cluster lead for the purposes of sharing this information. It may also be of use for it to access the practitioner network to assist in the development of these resources.</p> <p>Recommendation 12: GRNSW considers whether GIPA Tool and eLearning would assist GRNSW in managing its functions and obligations under the GIPA Act.</p>

⁴ Section 17(d) GIPA Act 2009.

5.5 GIPA Functions

The audit results reflect information obtained at the time of conducting the audit.

Criterion		Result
a.	Appropriate delegations/authorisations are in place	Not measured
b.	Processes to ensure that delegations/authorisations are regularly reviewed	Not measured
c.	Delegations/Authorisations are regularly reviewed	Not measured

Comments, findings and recommendations
<p>Comment: The exercise of functions under the GIPA Act needs to be supported by clear and established delegations/authorisations, accompanied by processes to ensure that any delegations remain current and valid. The roles and responsibilities of staff with GIPA functions are clearly defined and communicated.</p> <p>Section 9 of the GIPA Act provides that the making of a reviewable decision in connection with an access application may only be exercised by or with the authority (given either generally or in a case) of the principal officer of the agency.</p> <p>Observations: A copy of GRNSW's delegations for the exercise of GIPA functions was not available to the IPC as part of this desktop audit.</p> <p>GRNSW's self-assessment identifies it has appropriate delegations and processes to ensure delegations are reviewed but indicates that it does not currently have a process in place for the regular review of the delegations. GRNSW should put in place a process for an annual review of its delegations, and this should be included in its annual review of policies.</p> <p>Recommendation 13: GRNSW publish its delegations for the exercise of GIPA functions as part of its proactive release of information.</p> <p>Recommendation 14: GRNSW develop a process to review to ensure that delegations/authorisations are regularly reviewed by 30 September 2020.</p>

6. Conclusions & recommendations

6.1 Conclusions

This audit was informed by:

- A self-assessment completed by GRNSW
- A desktop audit of GRNSW's publicly available material published to its website
- the legislative requirements of the GIPA Act.

In summary, this audit has identified:

- a high level of commitment and engagement with the GIPA Act
- areas of non-compliance by GRNSW particularly relevant to *open access* requirements and the systems, policies and practices that support compliance with those requirements
- opportunities to support and enable GRNSW to better achieve compliance in respect of its GIPA functions.

6.2 Recommendations

Based on the findings of this audit, it is recommended that GRNSW implement the following within the timeframes specified:

Recommendations	
Recommendation 1	GRNSW should undertake a further self-assessment of its compliance under the GIPA Act, in 12 months' time.
Recommendation 2	GRNSW should develop a plan to assess and review all policies and procedures relevant open access/data culture and compliance with the GIPA Act in light of the other recommendations made in this report within three months of the finalisation of this report.
Recommendation 3	In undertaking its AIG review, GRNSW should have regard to the IPC's guidance on AIG's to assist it in meeting the requirements for AIG's under the GIPA Act. Additionally, it should ensure that it takes steps to meet the requirements of section 22 of the GIPA Act for notification to the Information Commissioner.
Recommendation 4	GRNSW reviews what information is prescribed as open access information under the GIPA Act and reassesses whether it is complying with the open access information requirements, including with consideration to the requirement to keep a record under section 6(5) of the GIPA Act and to keep a register of government contracts.
Recommendation 5	In undertaking its continued work to fulfil the requirements for contract register reporting, GRNSW should have regard to the IPC's contract register assessment checklist. Additionally, GRNSW may wish to consider including completion of the IPC training on contracts register available as an e-learning module.
Recommendation 6	GRNSW finalises the remaining work it has identified in its self-assessment to ensure compliance with section 7 of the GIPA Act by no later than 30 September 2020.

Recommendations	
Recommendation 7	GRNSW finalises the remaining work it has identified in its self-assessment to ensure compliance with section 8 of the GIPA Act by no later than 30 September 2020.
Recommendation 8	GRNSW finalises the remaining work it has identified in its self-assessment to ensure that it has a process in place to manage an internal review in accordance with the requirements of the GIPA Act by no later than 30 September 2020.
Recommendation 9	GRNSW should provide relevant staff with training to ensure that they are familiar with the process relating to the management of internal review applications and relevant provisions of the GIPA Act.
Recommendation 10	GRNSW should review whether its disclosure log is up to date.
Recommendation 11	GRNSW should consider whether it has a process in place to consider whether the disclosure log needs to be updated each time a decision is made on a formal access application.
Recommendation 12	GRNSW considers whether GIPA Tool and eLearning would assist GRNSW in managing its functions and obligations under the GIPA Act.
Recommendation 13	GRNSW publish its delegations for the exercise of GIPA functions as part of its proactive release of information.
Recommendation 14	GRNSW develop a process to review to ensure that delegations/authorisations are regularly reviewed by 30 September 2020.

6.3 GRNSW Response to Implementation of Recommendations

Table 1 summarises the response by GRNSW to the recommendations. The explanation for the status is explained at Table 2 below.

Table 1

Recommendation	Status			
	Adopted in Full	Adopted in part	Alternate action adopted	Not Adopted
1.	x			
2.	x			

Recommendation	Status			
	Adopted in Full	Adopted in part	Alternate action adopted	Not Adopted
3.	X			
4.	X			
5.	X			
6.	X			
7.	X			
8.	X			
9.	X			
10.	X			
11.	X			
12.	X			
13.	X			
14.	X			

Table 2 – Implementation and status ratings

Rating	Description
Adopted in full	The agency has accepted the recommendation in its entirety and will implement in full.
Adopted in part	The agency has accepted the recommendation in part. However, it has not fully realised the intent of the recommendation or only proposes to implement part of the recommendation.
Alternate action adopted	The agency has addressed the underlying issue by taking action different to the recommended action and that action is deemed acceptable to the IPC.

Rating	Description
Not accepted	The agency has not accepted the recommendation.

6.4 Monitoring

The IPC will continue to assist GRNSW as it adopts these recommendations and requests a report back regarding implementation by 1 December 2020.

7. Audit chronology

Date	Event
20 December 2019	IPC Preliminary Engagement with GRNSW
20 December 2019	Correspondence from IPC to GRNSW of proposed audit and request for completion of self-assessment tool
30 January 2020	GRNSW provides completed Information Access Self- Assessment
4 May 2020	IPC notification to GRNSW that desk top audit would be undertaken
13 July 2020	IPC conduct of GRNSW desk top assessment
28 August 2020	Provision of draft report to GRNSW and the Minister
11 September 2020	GRNSW response to draft report
21 September 2020	Provision of final report to GRNSW

8. Abbreviations

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

Acronym or abbreviation	Explanation
AIG	Agency Information Guide
CSO	Crown Solicitor's Office
GIIC Act	<i>Government Information (Information Commissioner) Act 2009</i>
GIPA Act	<i>Government Information (Public Access) Act 2009</i>
GSE Act	<i>Government Sector Employment Act 2013</i>
GWIC	Greyhound Welfare and Integrity Commission
GRNSW	Greyhound Racing NSW
IPC	Information and Privacy Commission, NSW
OPIAD	Overriding public interest against disclosure
RIO	Right to Information Officer

9. 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
- Division 1 – Ways of accessing government information
- Division 2 – Part 3 – Agency information guides
- Division 4 – Part 3 – Disclosure logs
- Division 5 - Part 3 – Government contracts with private sector

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

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