



Media release

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Information is a public asset: 10 Years of reporting on the GIPA Act

The NSW Information Commissioner, Elizabeth Tydd, has released the tenth Report on the Operation of the *Government Information (Public Access) Act 2009* (GIPA Act) for 2019–2020, which has been tabled in Parliament – marking a decade of reporting.

Under section 37 of the *Government Information (Information Commissioner) Act 2009* (GIIC Act), the Information Commissioner is required to provide Parliament with an annual report on the operation of the GIPA Act. The Report examines the performance of over 240 government agencies, provides important guidance to policy makers and agency heads, and promotes greater transparency for the NSW community.

Information Commissioner, Elizabeth Tydd, said, “The change that we have witnessed in the ten years of reporting on the operation of the GIPA Act provides meaningful opportunities to realise the ambition of legislators to ensure that New South Wales has the nation's best freedom of information laws.”

- Applications from members of the public have increased from 6,000 in 2010/11 to 13,690 in 2019/20. Demonstrating the increasing importance of the right to access information.
- The number of applications received by agencies increased by 9% in 2019/20 with 17,246 valid applications received compared to 15,774 in the previous financial year.
- Overall release rates remained stable at 69%, similar to the 70% in 2018/19 and 68% in 2017/18. However, in considering long terms trends, it is noted that after reaching a peak of 80% in 2012/13, the overall release rate has remained static at an average of 65% over the six years since 2014/15.
- Timeliness of decisions has remained stable, with 91% of decisions made within the statutory timeframe consistent with 2018/19 (87%). However, viewed in the context of a 9% increase in valid applications this is a positive outcome. The government sector decided 91% of applications within the statutory time frame, a moderate increase from 85% in 2018/19.
- The rate of deemed refusals has decreased from 8% in 2018/19 to 3% in 2019/20. This decrease is of note given the steady increase in deemed refusals previously reported between 2015/16 and 2018/19 and in the context of the 9% increase in valid applications received in 2019/20.
- Compliance by government departments with their requirements to meet their five additional open access requirements was low. Given the significant role government departments perform, their acquisition and disposal of public assets and their inherent risk of corruption it is concerning that in 2020:



- 22% (two departments) had a full or partial list of major assets and acquisitions (consistent with 2018-19).
- 11% (one department) 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 while another 67% (six departments) had information only on the value of properties disposed of, mostly included in the department's annual report.
- 11% (one department) had the department's guarantee of service (consistent with 2018/19).
- Equally, low levels of compliance by the council sector in respect of their requirement to make available on their websites disclosures of pecuniary and other interests also represents a significant failure of systems, process, and culture.
- Reviews by the Information Commissioner represent 38% of all reviews conducted demonstrating the importance of low-cost independent review. The number of external reviews conducted by the Information Commissioner increased by 6% between 2018/19 (364 reviews) and 2019/20 (386 reviews).

10 Years of reporting on the GIPA Act

In his 2009 announcement of the Government Information (Public Access) or GIPA Bill, then-Premier of NSW shared a compelling vision for the Act: "Our public sector must embrace openness and transparency and governments must forever relinquish their habitual instinct to control information."

The GIPA Act was to put power in citizens' hands via information release. Three principles informed the framework of GIPA: proactive disclosure, consistent presumption in favour of public interest, and oversight by an independent Information Commissioner. The framework sought to transform culture from within, through sharing details of an agency's structure and functions; understanding services via disclosure of policy documents; a register of significant private sector contracts with a list of department assets and their value; and specific disclosure of pecuniary and other interests at local council level.

Commissioner Tydd said, "After 10 years of reporting annually on the operation of the GIPA Act, we possess data to examine how the Act has delivered on its vision. The statistics provide compelling insights that must guide our future commitment to opening this public asset."

Citizens value their right to know and are increasingly exercising that right, but more needs to be done to release the personal information of an applicant

The 128% growth in applications from members of the public is unparalleled by any other applicants. In 2010 there were 6,000 applications from members of the public and in 2020 there were 13,690. This growth is supported by community attitude studies, which report that more than 85% of NSW citizens value their right to access information.

There was a staggering 230% increase in applications seeking personal information between 2010 (3,000) and 2020 (10,000). The release rate for members of the public is around 70%.



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Private sector business applications effected the highest rates of information release at 75%, with business consistently outperforming private citizens in successful applications. Is the GIPA Act operating as intended? What needs to be done to ensure that the public's right to know truly comes first?

Action is required to provide seamless, low-cost access to personal information of the applicant at a time when so much information is held in digital form by government.

While progress has been made, much remains to be done to proactively disclose information

From an all-time low of 60% in 2010, compliance with proactive disclosure requirements by government departments and sampled smaller agencies rose to 72% in 2019/20. However, that figure reflects a downward trend from an all-time high of 83% in 2017/18.

Importantly, mandated proactive release is calibrated to address corruption risks in sectors.

Commissioner Tydd said, "We could reasonably expect that after 10 years, significant cultural change had permeated government agencies to achieve mandated proactive disclosure, but that has not uniformly occurred.

"Immature systems and process and more broadly, culture, impedes compliance with disclosure of assets by government departments and declarations of interests by local councils.

"Engaged and committed leadership is required to realise the objective of open government. Leaders must make obvious their commitment to open government and call for regular assessments of compliance within their agencies. The IPC information governance tools make this a seamless task.

"Self-audit tools support agencies on their journey to cultural transformation, and increased uptake will benefit citizens and agencies alike."

The onus is on agencies to proactively deliver information to the public

Commissioner Tydd said, "In an environment that recognises information as a public asset, that asset should, like all public assets, be preserved against reckless destruction or interference. It is the responsibility of individual agencies to achieve high standards of disclosure and release to promote transparent government and elevate public trust in government."

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About the Information and Privacy Commission:

The Information and Privacy Commission NSW (IPC) is an independent statutory authority that administers New South Wales' legislation dealing with privacy and access to government information.



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The IPC supports the Information Commissioner and the Privacy Commissioner in fulfilling their legislative responsibilities and functions and to ensure individuals and agencies can access consistent information, guidance and coordinated training about information access and privacy matters.

About the NSW Information Commissioner

The NSW Information Commissioner's statutory role includes promoting public awareness and understanding of the *Government Information (Public Access) Act 2009* (GIPA Act); providing information, advice, assistance and training to agencies and the public; dealing with complaints about agencies; investigating agencies' systems, policies and practices; and reporting on compliance with the GIPA Act.

The *Government Information (Information Commissioner) Act 2009* (GIIC Act) establishes the procedures for appointing the Information Commissioner and sets out the Commissioner's powers and functions. It outlines the method for people to complain about the conduct of agencies when undertaking their duties under the GIPA Act, and the way in which the Information Commissioner may deal with the complaint. The GIIC Act also enables the Information Commissioner to investigate and report on how agencies carry out their functions under the GIPA Act.

For further information about the IPC visit our website at www.ipc.nsw.gov.au

See these case studies which demonstrate how citizens' rights have been preserved under the GIPA Act: <https://www.ipc.nsw.gov.au/information-access/gipa-case-studies>