



information
and privacy
commission
new south wales

Information and Privacy Commission's Regulatory Plan

2017 – 2019



In 2017 – 2019 the Information and Privacy Commission's (IPC) regulatory efforts will continue to be guided by a risk-based and intelligence-informed approach to regulation. Risk-based regulation using intelligence to inform our regulatory activities will enable us to prioritise and target resources to those areas which pose higher risks to the achievement of our regulatory objectives. New approaches to service delivery by government agencies present challenges and opportunities in promoting safe and effective information sharing. The IPC will continue to provide a responsive complaint and review service (reactive work), as we increasingly focus our attention and resources upon emerging issues that pose the greatest risk to upholding privacy rights and promoting and protecting public access to government information (proactive work).

REGULATORY OBJECTIVES

<p>Guide safe and effective information sharing by agencies and build public awareness and understanding</p>	<p>Protect information access and privacy rights of the citizens of NSW</p>	<p>Report on and foster agency compliance with information access and privacy obligations</p>
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REGULATORY PRIORITY ONE:

Ensure the IPC has the capacity to identify risks and effectively support agencies to uphold privacy and information access rights in contemporary models of service delivery.

<p>KEY RISK</p>	<p>Limited understanding and agency capacity to ensure that new service delivery models effectively reflect privacy and information access rights.</p>
<p>KEY PERFORMANCE INDICATORS</p>	<p>Improved regulatory insights to better identify risks and deliver better regulatory outcomes. % uptake of self-audit tools by agencies. Number of IPC engagements to support new service delivery arrangements.</p>

Over 2016 – 2017, the IPC analysed performance data and identified a number of areas where agency performance could be enhanced. Additionally the IPC was consulted in the development of new service delivery arrangements. In 2017 – 2019, the IPC will further examine agency performance against

identified legislative requirements and engage with agencies to ensure processes support improvements in decision-making and compliance through the following initiatives:

- Develop and implement a simple self-audit tool by agencies to establish and develop information governance systems and practices across information access and privacy
- Develop performance audit capability within the IPC through partnerships with co-regulators
- Identify information governance arrangements to support implementation of the National Disability Insurance Scheme (NDIS), and report on and develop guidance as required
- Continue to develop frameworks, guidelines and other information to promote secure information sharing enablers across agencies that comply with information access and privacy requirements
- Develop and promote guidance to clearly identify the public interest in information sharing
- Contribute to information governance awards to recognise safe information sharing
- Develop guidelines for information release for out of home care services
- Review/develop guidelines on the following topics:
 - *Government Information (Public Access) Act 2009* (GIPA Act) guidelines – access to personal information in the context of out of home care, the public interest test, GIPA extensions
 - Privacy guidelines – privacy codes of practice and public interest directions, data-sharing and research guidance
 - Other relevant guidelines – cabinet CPOPIAD (conclusive presumption of overriding public interest against disclosure), bundled consent, managing access to information in non-government organisation (NGO) service provision, General Data Protection Regulation (GDPR), and the *Privacy and Personal Information Protection Act 1998* (PPIP Act) and *Health Records and Information Privacy Act 2002* (HRIP Act).

REGULATORY PRIORITY TWO: Maximise strategic and operational regulatory engagement with all sectors and demonstrate value to citizens and agencies.	
KEY RISK	Failure to be recognised as a trusted authority in balancing and supporting both privacy and information access rights.
KEY PERFORMANCE INDICATORS	Strategic and operational stakeholder contacts identified. Improved engagement with agencies (strategic and operational) and clear regulatory messaging. Increasing community awareness of information access and privacy rights. Customer satisfaction increasing.

In 2017 – 2019, the IPC will work to advance public participation and strategic engagement through building communication channels and stakeholder networks that can be used effectively to promote the strategic and operational intent of our legislation. The IPC will build on its regulatory expertise in promoting public participation to ensure that agencies and citizens realise the benefits of meaningful engagement supported by the IPC and the legislation we administer.

The IPC will:

- Develop a strategic engagement framework that incorporates:
 - Key strategic messages for the IPC, information access and privacy streams of work
 - Stakeholder analysis to identify key networks for citizens, regulated entities and other stakeholders to deliver strategic and operational messaging and to promote meaningful engagement and collaboration
 - Implementation of a practitioner engagement strategy to effect sector-specific improvements
 - Identify strategic engagement opportunities for the IPC and both statutory streams within all business and regulatory activities
- Consult, develop and promote a suite of targeted information governance e-learning modules for implementation by agencies including privacy management, GIPA decision-making, Open Data, and information management
- Undertake and publish 2018 community attitudes survey on information access and privacy
- Undertake and publish 2018 community attitudes survey on Open Data
- Continue to progress the IPC's client satisfaction survey and to cover information access and privacy

- Finalise and promote the NSW Charter for Public Participation to assist agencies in community engagement and information sharing practices
- Develop community information materials (including guidance on Information Commissioner complaints, jurisdiction for applications, statement of privacy jurisdiction, and statement of IPC functions).

REGULATORY PRIORITY THREE: Citizens have confidence in the way in which the NSW Government handles their personal and health information.	
KEY RISK	Ineffective regulatory outcomes and poor agency understanding of obligations leading to the object of privacy legislation not being fully realised.
KEY PERFORMANCE INDICATORS	Increased utilisation of IPC privacy resources and increased reach of Privacy Awareness Week campaign.

It is essential that citizens have confidence in the way in which the NSW Government handles their personal and health information, and that they are aware of and able to exercise their rights under NSW privacy legislation. In 2017 – 2019, the IPC will work in collaboration with regulated entities to maximise capability and commitment to incorporating privacy respectful design features into projects and service delivery.

The IPC will:

- Develop guidance for accessing medical records under the *Health Records and Information Privacy Act 2002* (HRIP Act)
- Develop guidance for agencies in relation to data-sharing and data breach notification
- Develop guidelines for accessing e-health records
- Develop a statement of privacy jurisdiction in NSW
- Review and revise all privacy instruments to promote information governance
- Review and monitor timeliness of IPC privacy internal reviews and complaints.

REGULATORY PRIORITY FOUR:

Assist agencies in maximising opportunities to guide the safe and effective release of information and data to citizens.

KEY RISK	Not fully realising the potential of information access rights to support Open Government in the digital age.
KEY PERFORMANCE INDICATORS	Improved integrity (quantity and quality) of intelligence holdings to minimise the possibility of IPC failing to act on systemic non-compliance.

Championing Open Government and access to information is fundamental to the role of the Information Commissioner and the NSW Open Data Advocate. The IPC has evaluated opportunities to develop the IPC's capacity to meet the demands of contemporary service delivery by agencies and further promote an open and ethical approach to government information and its management by NSW public sector agencies. In 2017 – 2019, the IPC will maximise and harness the IPC's collective regulatory knowledge to better identify risks in information access and deliver better regulatory outcomes.

The IPC will:

- Apply regulatory intelligence to target regulatory investigations and guide agencies in mitigating identified risks to compliance
- Develop, in consultation, an index of optimal features for freedom of information (FOI) laws
- Develop guidelines to promote the public interest in accessing Open Data under the *Government Information (Public Access) Act 2009* (GIPA Act)
- Develop metrics to examine, and guidance to support, application of unreasonable and substantial diversion of resources under the GIPA Act
- Deliver a forum on GIPA search requirements.

Document information

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1.1	December 2017	Feedback from DIR, CEO/Information Commissioner and Privacy Commissioner incorporated.