

The Year in Review

The 2015/16 Report identified a range of future focus priority actions to be taken by the IPC and agencies. The outcomes of the IPC strategies identified in that report, as they are aligned with the information access pathways, are outlined below.

Mandatory proactive release

The 2015/16 Report identified that there were opportunities to enhance regulatory guidance and compliance with mandatory proactive release obligations, particularly for contract register requirements and the additional open access information requirements prescribed in Part 3, Clause 5 of the *Government Information (Public Access) Regulation 2009*. The IPC also continued implementing steps towards a Charter for Public Participation.

Action	Outcome
Produce enhanced regulatory guidance and continue to promote compliance with mandatory proactive release obligations, particularly for contract register requirements and the additional open access information requirements prescribed in Part 3, Clause 5 of the <i>Government Information (Public Access) Regulation 2009</i> .	<ul style="list-style-type: none"> Published guidance in August 2017 on open access information for agencies. The guidance explains additional open access requirements for agencies, including ministers, statutory bodies and local government. The fact sheet was developed in consultation with agencies prior to publication.
Implement steps towards a Charter for Public Participation, including: <ul style="list-style-type: none"> engaging with principal departments to improve the quality of their Agency Information Guides (AIGs) hosting a summit on public participation and AIGs co-creating a Charter for Public Participation promoting how agencies can connect AIGs with Open Government Plans monitoring agencies' use of AIGs to understand the trends in AIGs facilitating public participation monitoring disclosure logs and identification of the various kinds of government information held by agencies and made available by agencies with the objective of promoting Open Government and Open Data. 	<ul style="list-style-type: none"> Met with all departments to discuss AIGs, and how agencies can connect AIGs with Open Government Plans. Departments subsequently submitted amended AIGs for IPC review IPC has provided feedback to agencies to support improved AIG compliance Implemented a new procedure for assessment of and feedback on agency AIGs. The new procedure includes consideration of Open Data references and public participation Hosted a summit on public participation and AIGs on 26 May 2017. A learnings report was developed and provided to Summit attendees, and published on the IPC website in June 2017 The co-creation of a Charter for Public Participation guide to assist agencies is in progress Published the <i>Monitoring of Agency Disclosure Log Practices Report</i>.

Action	Outcome
<p>Contract register requirements: the IPC will continue to work with co-regulators and with the Audit Office to ensure transparency through a collaborative regulatory approach and through the provision of guidance to agencies to support compliance.</p>	<ul style="list-style-type: none"> • Collaborated with the Audit Office in undertaking their compliance audit during 2016 and engaged in responding to the Audit Office report and recommendations • Released IPC e-learning module on contract registers in 2016 • Ongoing participation in the Contract Disclosure Capability Development Working group • Provided feedback to NSW Procurement in the development of their E-learning module • Developed an IPC Self-Assessment Checklist for compliance with the Contract Register requirements, published in September 2017 • Corresponded with all state owned corporations and advised of the IPC E-learning module for contract registers • Partnered with the OLG to communicate about contract register requirements via an OLG Circular.

Issue Highlight: Summit on Public Participation

The IPC hosted a *Summit on Public Participation and Agency Information Guides* for senior NSW public sector leaders in May 2017. NSW Information Commissioner and Open Data Advocate Elizabeth Tydd hosted the half-day Summit by stating the compelling case for public participation and Open Government. The strategic intent of the GIPA Act, to open government, was highlighted. Operational mechanisms contained within the GIPA Act and, in particular, Agency Information Guides (AIGs), were identified as key tools that can serve as a platform for innovation and effective public participation.

Commissioner Tydd urged agencies to start from a consistent basis so there was certainty for the citizens the IPC serves. In applying consistent mechanisms through which citizens can obtain information the public sector is able to create opportunities for citizens to participate in policy formulation and service delivery. Commissioner Tydd reminded participants that the work they do every day can promote a fairer, more participatory democracy.

Opened by the Attorney General, keynote addresses were delivered by NSW Public Service Commissioner Graeme Head, and social researcher and author Dr Rebecca Huntley. A panel discussion was facilitated by strategic thinker Martin Stewart-Weeks, with panellists including Tom Burton of *The Mandarin*, Iain Walker of the newDemocracy Foundation, and NSW Open Data Advocate and Information Commissioner Elizabeth Tydd.

The event was an outcome of the IPC's June 2016 report, *Towards a NSW Charter for Public Participation*, and progressed the Open Data Advocate's commitment to promote public participation and assist agencies in achieving success in their engagement with NSW citizens. A report on the Summit was published following the event and was disseminated to Summit attendees and agency heads.

[The report is available on the IPC's website.](#)

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Authorised proactive release

A priority for the IPC continues to be the provision of guidance on the legislative provisions that support the GIPA Act's 'push' model of information release, including authorised proactive release.

Action	Outcome
Work with the Secretaries Board to promote Open Data and a positive data sharing culture.	<ul style="list-style-type: none"> Engaged with the Department of Finance, Services and Innovation on its draft guidance on Open Data initiatives for the Secretaries Board Provided input on a new information sharing framework.
Engage in targeted regulatory action to promote authorised proactive release programs for the release of government information.	<ul style="list-style-type: none"> Issued a Fact Sheet on <i>The role of principal officers and senior executives in supporting the object of the GIPA Act</i> Developed guidance material for the Public Service Commission on Senior Executive Obligations – Information Management – Access to Government Information (GIPA).
Identify improvements to the GIPA Tool to drive improved compliance and to improve ease and accuracy of agency reporting.	<ul style="list-style-type: none"> The latest phase of the IPC GIPA Case Management and Reporting Tool was released on 10 August 2017. The new features in Release 3 of enhancements include: <ul style="list-style-type: none"> updated General Details section correct Application Due Date calculations updated valid/invalid section corrected the use of Discounts in the Fees and Charges section. An updated user manual was forwarded to all registered users and made available on the IPC's website GIPA Tool presentations were provided on 1 August and 2 August 2017 for users.

Informal release

The 2015/16 Report highlighted the benefits for agencies and citizens of the informal release pathway. This included improving accessibility of information and providing flexibility in responding to informal requests for information.

Action	Outcome
Continue to promote the appropriate use of the informal access pathway with agencies.	<ul style="list-style-type: none"> Promoted appropriate use of informal access pathway in IPC's resources including guidance on release of audio visual information, advice on data sharing, and fees and charges fact sheet.

Formal access applications

The GIPA Act provides citizens with an enforceable right to apply for and access government information, unless there is an overriding public interest against disclosure. The findings in the 2015/16 Report informed areas of future focus for the formal access application pathway.

Action	Outcome
<p>Engage with agencies to investigate and respond to the:</p> <ul style="list-style-type: none"> • drivers behind release rate trends • reasons for the increase in the percentage of agencies that uphold their original decision following a section 93 GIPA Act recommendation (see page 58); • transfers of applications; and • use of the top three overriding public interest against disclosure (OPIAD) considerations. 	<ul style="list-style-type: none"> • An engagement with relevant agencies to understand the drivers behind release rates was completed and is reported on in this Report • A review of the drivers behind the increase in the percentage of agencies that uphold a decision following a section 93 recommendation was completed and is reported on in this Report • Intelligence about transfers of applications and the use of the top three overriding public interest against disclosure (OPIAD) considerations is reported on in this Report.
<p>Develop regulatory guidance on the release of audio visual information under the GIPA Act.</p>	<ul style="list-style-type: none"> • Published a new fact sheet in November 2017 on managing access to audio visual information under the GIPA Act. The guidance was developed in consultation with IPC stakeholders including agencies, public consultation and the Privacy Commissioner.
<p>Lead work under Australia's first Open Government National Action Plan to develop uniform metrics to better measure and improve our understanding of the public's use of rights under freedom of information laws.</p>	<ul style="list-style-type: none"> • National metrics on FOI were agreed following work that the IPC led in consultation with our peers across Australia. This included an online feedback survey during July-August 2017 to seek community views on the metrics • The metrics are finalised and were released in November on the IPC website.
<p>Examine opportunities for digitisation of the GIPA application process and online lodgement.</p>	<ul style="list-style-type: none"> • The IPC provided submissions to the statutory review to promote consideration of online lodgement facilities by agencies • The IPC has explored opportunities to partner with agencies in developing on line lodgement facilities to ensure greater public access to this pathway • Recommendation 3 of the <i>Statutory Review: Government Information (Public Access) Act 2009 and the Government Information (Information Commissioner) Act 2009 Report</i> includes an amendment to section 41 of the GIPA Act so agencies have the discretion to accept access applications lodged electronically without having to seek prior approval from the Information Commissioner.
<p>The IPC will continue to engage with agencies across all sectors to examine the discrepancy in the number of reviews reported by agencies versus using agency, IPC and NCAT data, and to improve reporting of GIPA data.</p>	<ul style="list-style-type: none"> • Addressed in the IPC's Agency Guide on GIPA reporting for 2016 – 2017. The level of under-reporting by agencies has reduced (see page 56 of this Report).

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Issue Highlight: Engagement with the Open Government Partnership Action Plan

NSW leads first national snapshot of the use of freedom of information (FOI) access rights

A major project for the IPC during 2016/17 was to lead the development of metrics and a national dashboard on public use of freedom of information (FOI) access rights. This work was conducted by the IPC on behalf of and with the involvement of the Commonwealth, state and territory Information Access Commissioners and Ombudsmen within the remit of their jurisdictions (the Australian Association of Information Access Commissioners – AIAC).

The metrics are the first of their kind and will enable the community to examine the performance of their local FOI laws and to advocate accordingly, as well as improving community understanding of how FOI laws work and how to access them.

The metrics reflect the currently available data that is reasonably comparable across jurisdictions and the priorities agreed in Australia's first Open Government National Action Plan; to develop uniform metrics on public use of FOI access rights (Commitment 3.2) to promote the importance of better measuring and improving our understanding of the public's use of rights under freedom of information laws.

The development of the metrics and dashboard involved broad consultation with civil society representatives and the general public. The metrics received general support and respondents suggested additional metrics such as applicant satisfaction with redaction, and fees and charges, withdrawal rates and reasons for refusal. A description of the metrics and summary of the consultation feedback has also been published and this feedback is being considered in the further development of the metrics.

The inaugural dashboard covers data from 2014/15 and 2015/16, including:

- count of formal applications by type of applicant;
- formal applications received per capita;
- percentage of decisions on formal applications where access was granted in full or part;
- percentage of all decisions made on formal applications where access was refused in full;
- percentage of all decisions made within the statutory timeframes; and
- percentage of applications received which are reviewed by the jurisdiction's Information Commissioner/Ombudsman.

Although it is difficult to compare jurisdictions given the variation in legislation between jurisdictions, the Dashboard does indicate:

- the relatively low level of formal applications received by NSW agencies, with NSW having the second lowest rate per capita of any state/territory (see Metric 2) in 2015/16. This likely reflects the benefits of the 'push' model embodied in the GIPA Act encouraging proactive release and open data rather than requiring formal applications for all information;
- NSW information release rates are lower than a number of other jurisdictions with 86% of decisions granting access in full or part (Metric 3); and
- the high levels of timeliness in processing applications, with 97% of decisions made within statutory timeframes (Metric 5).

[The dashboard data, description of the metrics and data sources and summary of the results of community consultation are available on the IPC's website.](#)

Developing 'optimal features' of information access laws

The IPC is also helping to identify the 'optimal features' of right to information laws. This will support the commitment in Australia's Open Government National Action Plan, which states:

Australia will ensure our information access laws, policies and practices are modern and appropriate for the digital information age.

As part of this, we will consider and consult on options to develop a simpler and more coherent framework for managing and accessing government information that better reflects the digital era, including the Freedom of Information Act 1982 (FOI Act), the Archives Act 1983 (Archives Act) and, where relevant, the Privacy Act 1988 (with primary focus on the Archives Act and FOI Act), which is supported by efficient and effective policies and practices.

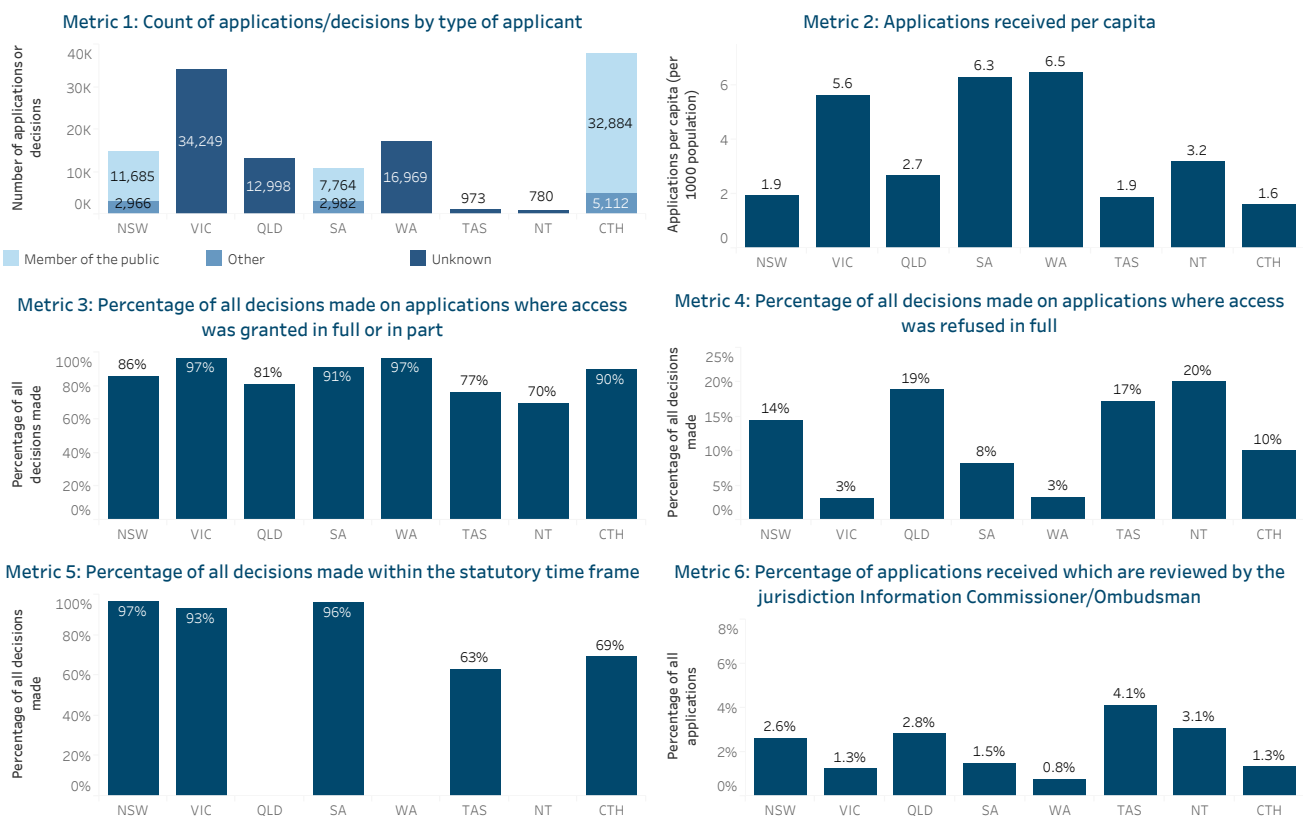
Working with the OGP Forum

A crucial part of Open Government is ensuring the community and civil society have a strong voice. As part of implementing the National Action Plan, an Open Government multi-stakeholder forum has been established, as required in the Open Government Partnership (OGP) Participation and Co-Creation Standards, to:

- monitor and drive implementation of Australia’s first Open Government National Action Plan;
- help develop the next Open Government National Action Plan; and
- raise awareness about Open Government.

The IPC is engaging with the Forum to support its work and learn how the IPC can improve its own engagement processes.

National Dashboard - Utilisation of Information Access Rights - 2015-16



Data on the number of decisions made within a jurisdiction’s statutory time frame is not available from QLD, WA and the NT.