



information
and privacy
commission
new south wales

Information Commissioner's Regulatory Plan

2016 – 2017



In 2016/17 the IPC's regulatory efforts will increasingly 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. We 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 promoting and protecting public access to government information (proactive work).

REGULATORY OBJECTIVES

Promote proactive public release of government information by agencies	Protect information access rights	Report on and foster agency compliance with information access obligations
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REGULATORY PRIORITY ONE:

Deliver regulatory guidance to assist agencies to improve compliance with the *Government Information (Public Access) Act 2009*

KEY RISK	Poor agency understanding of obligations leading to the object of the GIPA Act not being fully realised.
KEY PERFORMANCE INDICATORS	Five per cent growth in IPC website sessions.

Over 2015/16, the IPC analysed performance data and identified a number of areas where agency performance could be enhanced. The 2014/15 IPC *Report on The Operation of the Government Information (Public Access) Act 2009* identified that full compliance with the mandatory requirements of the GIPA Act is not being achieved and therefore the strategic intent of the GIPA Act is not being fully realised. This is particularly significant given requirements to promote proactive release mechanisms to support transparency. In 2016/17, the IPC will examine identified process and legislative requirements to inform the development of resources, in consultation with agencies, to support improvements in decision making and compliance in the following areas:

- Training and guidance for clear and consistent agency decision making on access applications
- Dealing with third parties in decision making on access applications and internal reviews
- Contract register compliance
- Dealing with fees and processing charges
- Releasing CCTV and other video and audio recordings
- Proactively releasing government information
- Adopting and reviewing Agency Information Guides

**REGULATORY PRIORITY TWO:
Examine and elevate effective information release**

KEY RISK	Not fully realising the potential of the GIPA regime to support Open Government.
KEY PERFORMANCE INDICATORS	Increase in release rate from 69%. Improved Agency Information Guide compliance rates.

In 2015/16, the IPC identified a range of opportunities to improve connections between the operation of the GIPA regime and the objective to maintain and advance a system of Open Government. In particular, the June 2016 IPC Report on *Towards a NSW Charter for Public Participation* recognised that public participation is integral to Open Government. The GIPA Act contains a number of mechanisms to ensure that citizens have a knowledge of and access to government information that is both current and significant in relation to the formulation of policy and service delivery by agencies, together with access to arrangements to participate in the formulation of policy and service delivery by agencies. These mechanisms are promoted through the Agency Information Guide (AIG) scheme established under Part 3 – Open Access Information.

Additionally, the 2015 IPC Report on *Universities' Compliance with the GIPA Act: Contract Register Audit* recognised that open access to government contract dealings with the private sector promotes the principles of transparency and accountability underpinning our democratic system of government.

In 2016/17, the IPC will work to advance public participation and Open Government through monitoring and reporting on agency performance, raising awareness and providing assistance to ensure that agencies and citizens realise the benefits of meaningful engagement supported by the GIPA Act.

The IPC will:

1. Deliver a contract register compliance programme
2. Monitor and report on legislative mechanisms to promote proactive and informal release including an examination of disclosure logs
3. Deliver a program to elevate use of and compliance with Part 3 Divisions 1-4 of the GIPA Act Agency Information Guides
4. Lead state and territory Information Access Commissioner involvement in Australia's implementation of the Open Government Partnership and National Action Plan
5. Examine the operation of provisions for the immediate right of access to prescribed information where contractors provide services to the public on behalf of an agency
6. Deliver a program of work to support and promote Open Data through research, guidance and leadership to leverage the Open Data Advocate role.

REGULATORY PRIORITY THREE:
Continue to deliver effective protection and promotion of
information access rights

KEY RISK	Ineffective regulatory outcomes and poor public knowledge of information access rights.
KEY PERFORMANCE INDICATORS	Eighty per cent of IPC external reviews finalised within 90 days. Agency and citizen engagement in the development of an increased utilisation of IPC resources. Increased reach of Right to Know Week campaign.

The NSW State Priorities identifies a commitment to “working across government to achieve the results that will make this state better for all of our citizens”. The current statutory review of the GIPA Act provides an opportunity to identify the aspects of the statute that are effective and aspects that could be improved. The IPC looks forward to being an active participant and partner in making improvements to the GIPA regime to support and promote the citizen-centric concept of ‘Open Government’ and public participation. The *IPC Annual Report* for 2014/15 recognised that more timely and consistent processes deliver more effective regulatory outcomes, and that with the clearance of a backlog in GIPA cases the IPC would focus on timeliness. In 2016/17, the IPC will work to:

- Improve timeliness of IPC information access external review reports
- Co-create a Charter for Public Participation
- Work in partnership with the Department of Justice to respond to GIPA Act statutory review outcomes
- Deliver campaigns to support Right To Know Week and other initiatives to promote information access rights.

REGULATORY PRIORITY FOUR:

Improve our capacity to deliver risk-based proactive regulatory action to drive improved compliance by agencies

KEY RISK	The IPC does not have sufficient insight on the operation of the information access regime and agency performance.
KEY PERFORMANCE INDICATORS	Improved integrity (quantity and quality) of intelligence holdings and minimised possibility of IPC failing to act on systemic non-compliance.

The IPC must allocate its limited resources in response to non-compliance based on an effective understanding of agency performance and expectations of the public. The priorities and discretion available to the IPC is best exercised within a structured, risk-based and intelligence-informed approach to compliance so that we clearly act in accordance with our regulatory principles. In 2016-17, the IPC will improve its capacity and intelligence by:

1. Conducting a survey of agency and public attitudes to Agency Information Guides
2. Establishing measures to evaluate Open Data holdings and drive increased release rates
3. Holding a summit on public participation and Agency Information Guides
4. Conducting a survey of public opinion on information access rights in NSW
5. Researching and modelling a risk profiling approach based on intelligence to support responsive targeting of compliance activities.

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