



Media release

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Audit of Publication of Returns of Interest demonstrates low level of compliance by councils

The Information and Privacy Commission (IPC) has completed a proactive audit into the compliance of councils with publishing returns of interest of councillors, designated staff and delegates in accordance with the *Government Information (Public Access) Act 2009* (GIPA Act) and has published a compliance report on its website. The audit follows extensive consultation and publication in 2019 of an Information Commissioner Guideline to support compliance by councils with the requirement to publish returns of interests.

The results of this audit demonstrate that the majority of councils were compliant but there was a high level of non-compliance by councils with the open access requirements of the GIPA Act, in particular:

- 61% of councils (32) were fully compliant with the requirement to publish the returns of the interests of councillors, designated persons and delegates
- 29% of councils (15) failed to comply with the requirement to publish the returns of the interests of councillors, designated persons and delegates.

NSW Information Commissioner, Elizabeth Tydd, said, “The low levels of compliance by 52 sampled councils indicate a fundamental failure by almost a third of the councils audited to provide citizens with their legislated right to know about returns of interest.

“The completion and publication of returns of interests by councillors and designated persons provides an essential aid to councils to ensure that conflicts of interest are identified and managed. Likewise, citizens can only have confidence in elected officials and senior staff if they are demonstrably transparent and accountable in the exercise of their functions.

“There is an inherent and significant power imbalance between administrative staff charged with collecting and managing returns of interest from councillors and designated staff. To address the resultant vulnerability, consistent and visible leadership is required. Within each local council general managers provide that leadership for implementing effective training, systems and policies. Those policies together with leadership enable the risks associated with the systemic power imbalance to be mitigated so that the public’s right to know is preserved.

“In this context it is concerning that:

- 33 (63%) councils did not have systems, policies and practices to support the exercise of functions under the GIPA Act.
- Only 5 (10%) of councils had policies and procedures for the completion and collection of interests.”

Policies and procedures provide guidance to council staff responsible for carrying out this important function. They enable a consistent application of process and confirm the exercise of discretion. In the absence of policies and procedures decision-making can be arbitrary or vulnerable to extraneous factors and subject to risks including corruption.



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“These significant failings impede the public’s right to access information and the object of the GIPA Act to maintain and advance a system of responsible and representative democratic government”, she said.

The IPC has actively engaged with councils and the OLG to promote knowledge and awareness of the importance of proactive disclosure of the returns of interests of councillors and designated persons.

Some councils have adopted compliant practices and they are commended but non-compliance remains at a concerning high level. Whilst this will remain a priority for the IPC, councils must now prioritise compliance with this fundamental aid to advance our democratic system of government.

The guidance provided in the report is both practical and pragmatic. In this context swift and decisive action by councils is required to ensure that they perform their mandate within our democratic system of government.

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For further information, please contact:

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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. 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