



information  
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# Information Commissioner's Update

## Presentation to Practitioners' Network Forum

27 March 2019

Parliament House Sydney - Jubilee Room

### Elizabeth Tydd

NSW Information Commissioner, IPC CEO

NSW Open Data Advocate

# Information Access – Legislative Updates

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## Key amendments to the GIPA Act...

- ✓ Legislated 21 November – came into effect 28 November
- ✓ 40-day timeframe for external reviews by Information Commissioner...
  - NSW is the only jurisdiction to have a statutory timeframe for the Information Commissioner's review function
  - Changes at the IPC because of this amendment:
    - ✓ Dedicated fast-track team for new applications
    - ✓ Review of internal case management process
    - ✓ Undergoing structural and organisational change



# Information Access – Legislative Updates

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## Key amendments to the GIPA Act...

- Contracts register
- Making an access application
- Transfer of applications between agencies
- Deemed refusals and refund of fees
- Decision to refuse to deal with an application
- Timeframe to complete an internal review
- Administrative review of decisions by NCAT
- Annual reports
- Definition of “working day”



# Report on the Operation of the Government Information (Public Access) Act 2009: 2017 – 2018

## Key findings...

- ✓ No. applications received by agencies has continued to increase - steady upward trend since 2014/15, reflecting increasing value the community is placing on their right to access government information
- ✓ The overall information release rate declined slightly from 71% in 2016/17 to 68% in 2017/18
- ✓ Government Sector decided 87% of applications within the statutory time frame, consistent with 2016/17



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## Information Access – 2017/2018 data

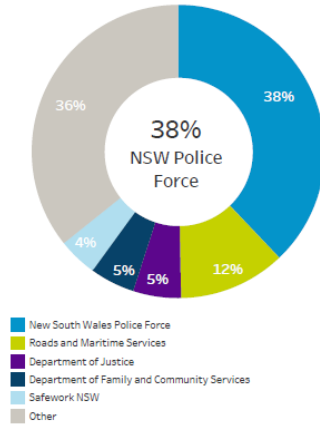
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### Appreciable improvement in compliance with ‘push pathways’ – 3 proactive measures:

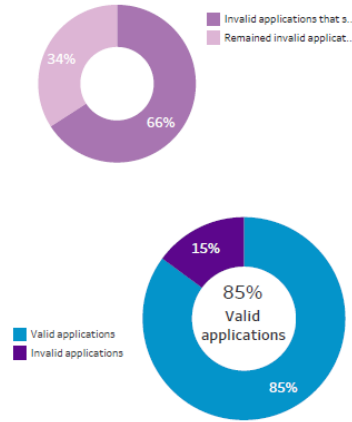
- ✓ **Increase** in no. agencies reporting that they had conducted the review of their program for release of information
- ✓ **Increase** in more information released publicly
- ✓ **Increase** in mandatory proactive release requirements

# Information Access 2017/18 Year at a Glance

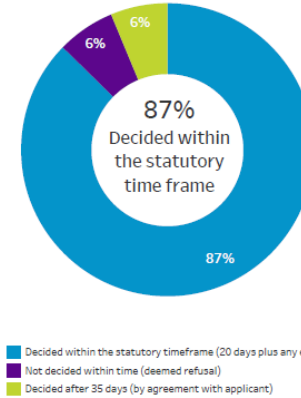
Where were applications lodged?



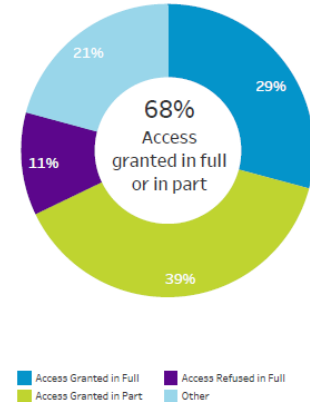
Were applications invalid?



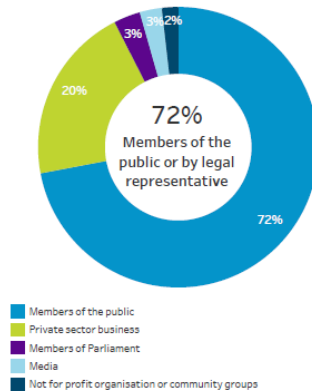
How quickly were decisions made?



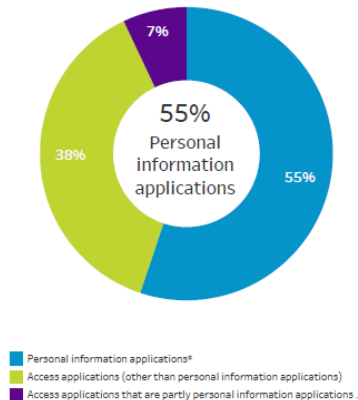
Did applicants get what they asked for?



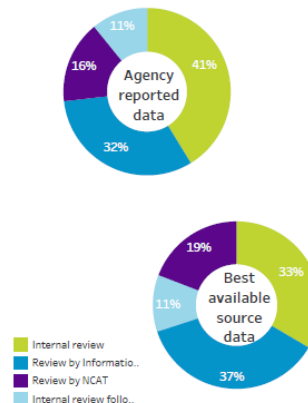
Who applied?



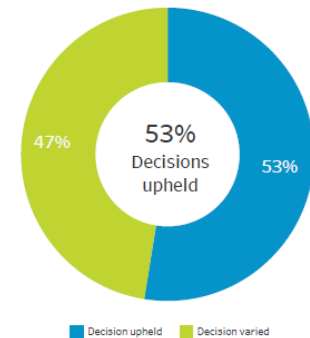
What was asked for?



How were decisions reviewed?



What were the main review outcomes?





# Information Access - Future focus

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## Going forward the IPC will...

### IPC Strategies

- ✓ Conduct a further high level audit of the Office of Sport and the Sydney Cricket and Sports Ground within 12 months
- ✓ Engage with agencies that experienced a decline in the percentage of invalid applications compared to 2016/17 and seek to share insights with agencies experiencing increases, to assist in the receipt of valid applications



# Information Access - Future focus

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## Going forward the IPC will...

### Agency Strategies

- ✓ Review available data and good practices to elevate timeliness
- ✓ At an executive level, promote engagement, training and a collaborative approach to investigate, analyse and respond to issues identified in this report, apply an intelligence-led approach to meeting obligations under the GIPA Act and maximise achievements of Open Government



# Information Access - IPC Resources

## Publications...

## Updated

- ✓ GIPA Guidelines 4 & 6
- ✓ Select fact sheets reflecting GIPA amendments

## Under review

- ✓ GIPA Guidelines 1 & 3
- ✓ *Guideline: Access to Out-of-Home Care Records*
- ✓ *Guideline: Open Data*



# Information Access - IPC Resources

## Publications...

### New

- ✓ *Fact Sheet – Changes to the GIPA Act for Agencies*
- ✓ *Fact Sheet – Changes to the GIPA Act for Citizens*
- ✓ *Report on the Operation of the GIPA Act 2009: 2017 – 2018*
- ✓ *Fact Sheet - Applying for Government recruitment information*

### Upcoming

- ✓ IPC to provide guidance on searches, including a workshop to gain increased insight and understanding



# Information Access – Campaigns & Events

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## Recently...Open Government Week 2019

- ✓ A global call to action to transform the way governments serve their citizens
- ✓ 11 – 17 March 2019
- ✓ Aiming to make governments more inclusive, responsive, and accountable
- ✓ #OpenGovWeek #OpenGov #CitizENGAGE
- ✓ IPC preparing a Stakeholder Engagement Plan
- ✓ AIAC Citizen Engagement Survey – April 2019





# Information Access - Regulatory Engagements

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## Recent engagements...

### Compliance Audits

- ✓ NSW Office of Sport
- ✓ WaterNSW
- ✓ Sydney Cricket Ground

### Agency Self-Assessment Tool

- ✓ Currently in development
- ✓ Will be used by agencies to evaluate and assess their compliance with the Information and Privacy Acts



# Information Access - Public Interest Test

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## Recent cases...

*Gun Control Australia & Roland Browne v the Honourable William Hodgman [2019] TASSC 3*

- Mandatory considerations not taken into account
- Factors in favour of disclosure do not operate against disclosure

*McEwan and Webb v Port Stephens Council*

- Mandatory release requirement substantially qualified such that it does not apply if there is an OPIAD
- Where the information is **open access** information, this is an important factor in favour of disclosure

## Information and Privacy Commission NSW

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



### Information access

Find out more about laws in NSW relating to accessing government held information, including your rights as a citizen and your obligations as a public sector agency



### Privacy

Find out more about the laws in NSW that protect personal and health information held by government and other organisations, including your rights as a citizen and your obligations as a public sector agency

## Latest News



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