

# Information Governance for Local Government

Local Government Professionals Conference  
23 March 2022

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information and  
privacy commission  
new south wales

# Promoting Integrity - Regulatory Outcomes



# Compliance Made Easy

## Audience specific

- Elected Officials
- Executive leadership
- Staff
- **Rate payers – citizens**

## Function specific

- **Overarching obligations – Why?**
- General Open Access
- Specific Open Access
- Authorised Proactive Release
- Informal Release
- Formal Release
- Digital Restart Fund Act 2020

# Democracy & Integrity in Government

## Why?

- Democracy means rule by the people

## How?

- Systemic institutionalised accountability, transparency and engagement

## Who?

- Us

# Self-assessment Tools

The on-line tools are publicly available and can be accessed on the IPC website:

- [www.ipc.nsw.gov.au/information-governance-agency-self-assessment-tools-information](http://www.ipc.nsw.gov.au/information-governance-agency-self-assessment-tools-information)
- There are two tools available: one for information access and one for privacy
- Agencies assess compliance of their organisation against key categories of information access and privacy requirements which provides a dashboard with a compliance rating for each category
- These dashboards can then be reported to your ARC or governance teams on a regular basis to show progress towards full compliance.

# Information Access Self-assessment Tool

## Supporting tools and systems

Staff in your agency are supported to comply with the GIPA Act through the availability of appropriate training, documented processes and delegations, and processes to ensure requests are handled in a timely and appropriate way.

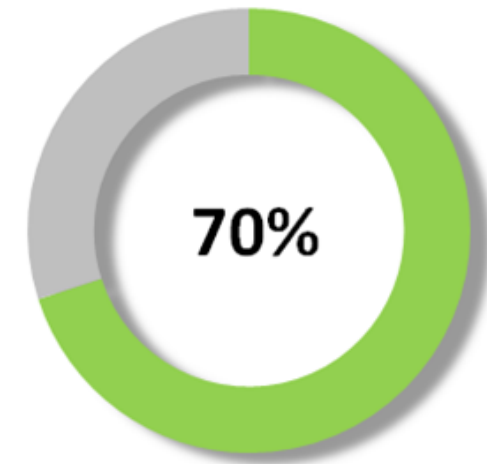
Select the response that best reflects your agency from the drop down list next to each requirement

## Level of compliance

### Agencies should:

- a) Provide training on a regular basis for officers authorised to exercise for GIPA functions
- b) Provide regular communication providing updates on policies or guidance on GIPA responsibilities
- c) Have in place a case management tool for managing GIPA applications
- d) Provide documented procedures for meeting GIPA requirements which are updated as required and communicated to staff
- e) Have in place procedures to assist in managing the risks associated with searches for information including:
  - guidance on conducting searches, and
  - templates for issuing search requests and for return of documentation and certification

- Every 3 months
- Processes/procedures absent
- Processes/procedures under development
- Processes/procedures in place
- Processes/procedures in place



Agency comments:

Culture and Leadership	Level of compliance	Compliance References and Guidelines
<p>Select the response that best reflects your agency from the drop-down list next to each requirement</p> <p><b>Agencies with an open access/data culture:</b></p> <ul style="list-style-type: none"> <li>a) Support and advocate an open access/data culture as a priority from the Board and executive to all levels of the organisation</li> <li>b) Have established governance around access to open information and data</li> <li>c) Reflect and monitor and regularly update what is open access and open data and how it may be made available to citizens</li> <li>d) Provide training and support to ensure staff are aware of open access and open data policies and requirements</li> <li>e) Promote the fair pathways for access to information</li> <li>f) Promote a pro-disclosure culture</li> <li>g) Support informed and independent decision making by Right to Information officers</li> </ul>	<p>Processes/procedures in place</p> <p>Processes/procedures under development</p> <p>Processes/procedures in place</p> <p>Processes/procedures in place</p> <p>Processes/procedures in place</p> <p>Processes/procedures in place</p> <p>86%</p> <p>Agency comments:</p>	<p><b>IPC Resources to improve performance and achievement</b></p> <p>Conditions Enabling Open Data and Promoting a Data Sharing Culture</p> <p>Fact Sheet - The role of senior officer and senior executives in supporting the objectives of the GIPA Act</p> <p>Fact Sheet - Information or publication of GIPA Act functions</p>

Governance	Level of compliance	Compliance References and Guidelines
<p>Schedule 3 of the Government Information (Public Access) Regulation 2016 sets out the statistical information about access applications to be included in the annual report. This information informs the Information Commissioner's annual report on the operation of the GIPA Act.</p> <p>Select the response that best reflects your agency from the drop-down list next to each requirement</p> <p><b>Agencies should:</b></p> <ul style="list-style-type: none"> <li>a) Have in place procedures to comply with schedule 2</li> </ul>	<p>Compliant</p> <p>100%</p> <p>Agency comments:</p>	<p><b>IPC Resources to improve performance and achievement</b></p> <p>IPC GIPA Tool</p>

Legislative compliance and achievement	Level of compliance	Compliance References and Guidelines
<p><b>1. Open access information</b></p> <p>Open Access Information is defined in section 18 of the GIPA Act and includes: the agency's information guide, policy documents, disclosure log of access applications, register of government contracts and record of open access information not made publicly available. Agencies are required to make open access information publicly available, unless there is an overriding public interest against disclosure (s18). The open access requirements vary according to the type of agency (see Parts 2, 3 and Schedule 1 GIPA Regulation).</p> <p>Select the response that best reflects your agency from the drop-down list next to each requirement</p> <p><b>Agencies should have in place arrangements to ensure it:</b></p> <ul style="list-style-type: none"> <li>a) Makes its open access information publicly available, unless there is an overriding public interest against disclosure</li> <li>b) Makes Open Access Information available free of charge on a website maintained by the agency (unless to do so would impose unreasonable additional costs on the agency)</li> <li>c) Ensures there is at least one way that people can access this information free of charge</li> <li>d) Keeps a record of the open access information that an agency does not make publicly available on the basis of an overriding public interest against disclosure</li> <li>e) Has an Agency Information Guide that meets the requirements specified in section 20 of the GIPA Act and the IPC's AIG guideline</li> <li>f) Reviews and updates the AIG every 12 months</li> <li>g) Notifies the Information Commissioner before amendment to, or release of, an AIG (section 22)</li> </ul>	<p>Compliant</p> <p>Compliant</p> <p>Compliant</p> <p>Compliant</p> <p>Compliant</p> <p>Compliant</p> <p>Compliant</p> <p>100%</p> <p>Agency comments:</p>	<p><b>IPC Resources to improve performance and achievement</b></p> <p>Fact Sheet - Open Access Information for Agencies</p> <p>Checklist - Agency Information Guide self-assessment checklist for agencies</p> <p>Guideline 6 - Agency Information Guides</p>

Contract register (Division 3)	Level of compliance	Compliance References and Guidelines
<p>All public sector agencies, Ministers, public authorities, public officers, local authorities and courts who enter into a contract with the private sector, must publish a register of all contracts that have a value, or are likely to have a value, of \$150,000 (including GST) or more. There are some exemptions to this requirement.</p> <p>Select the response that best reflects your agency from the drop-down list next to each requirement</p> <p><b>Agencies should:</b></p> <ul style="list-style-type: none"> <li>a) Maintain a register of all class 1 contracts with a value of \$150,000 (including GST) or more that identifies the name and business address of the contractor, the commencement date and duration of the contract, details of the project, project cost, basis for variations and selection process</li> <li>b) Update the register within 65 working days of the contract coming into effect</li> <li>c) Ensure that the contract register includes all additional information required for class 2 contracts (see section 30)</li> <li>d) Ensure that the register fully meets the requirements for Class 3 contracts (those with a value of \$5 million or more) (see section 31)</li> <li>e) Ensure that if a copy of a contract is not included on the agency register or only some of the provisions are included because it contains confidential information (see section 32), agencies place on the register:             <ul style="list-style-type: none"> <li>- the reasons why the contract or provisions have not been included on the register</li> <li>- a statement as to whether it is intended to include the contract or provisions at a later date, and when this is likely to occur</li> <li>- a general description of the types of provisions that have not been included.</li> </ul> </li> <li>f) Ensure that processes are in place to update the register in the case of material variations to the contract. Material variations should be included in the register within 45 working days after the variation becomes effective.</li> </ul>	<p>Compliant</p> <p>Compliant</p> <p>Compliant</p> <p>Compliant</p> <p>Compliant</p> <p>Compliant</p> <p>100%</p> <p>Agency comments:</p>	<p><b>IPC Resources to improve performance and achievement</b></p> <p>Checklist - Agency Contract Register self-assessment checklist</p> <p>Contract register alignment module</p>

Authorised proactive release (s7)	Level of compliance	Compliance References and Guidelines
<p>The GIPA Act authorises agencies to release information through proactive release programs, which must be reviewed each year and the outcomes of this review reported to the IPC.</p> <p>Select the response that best reflects your agency from the drop-down list next to each requirement</p> <p><b>Agencies should:</b></p> <ul style="list-style-type: none"> <li>a) Make government information held by the agency publicly available unless there is an overriding public interest against disclosure</li> <li>b) Make the information available either free of charge or at the lowest reasonable cost</li> <li>c) Review its program for release of government information at intervals of no more than 12 months to identify the information that it holds that should be made publicly available</li> <li>d) Have in place clear governance arrangements to manage proactive release of information</li> <li>e) Incorporated proactive release into records management processes, including processes at creation of the document or information to determine if it should be proactively released</li> <li>f) Have processes in place to determine release priorities, such as stakeholder consultation and analysis of requests</li> </ul>	<p>Compliant</p> <p>Compliant</p> <p>In Progress</p> <p>Compliant</p> <p>Processes/procedures under development</p> <p>Processes/procedures in place</p> <p>83%</p> <p>Agency comments:</p>	<p><b>IPC Resources to improve performance and achievement</b></p> <p>Fact Sheet - Authorised proactive release of government information</p>

4. Informal release (s8)	Level of compliance	Compliance References and Guidelines
<p>Agencies are authorised to release government information following an informal request for access unless there is an overriding public interest against disclosure. Agencies can determine what responsible conditions may apply to an informal request, or the means by which they release the information, provided that it occurs with the authority of the Agency's principal officer.</p> <p>Select the response that best reflects your agency from the drop-down list next to each requirement</p> <p><b>Agencies should:</b></p> <ul style="list-style-type: none"> <li>a) Have a process in place to manage informal requests for government information</li> <li>b) Ensure staff understand, through a documented guideline or manual, what information can be released on the basis of an informal request, and what types of information require a formal application under Part 4 of the GIPA Act</li> <li>c) Have defined approval processes and delegations or authorisations for permitting the release of information informally</li> <li>d) Maintain a record of informal requests to inform the future program for proactive release (section 7)</li> </ul>	<p>Compliant</p> <p>Processes/procedures under development</p> <p>In Progress</p> <p>Compliant</p> <p>75%</p> <p>Agency comments:</p>	<p><b>IPC Resources to improve performance and achievement</b></p> <p>Knowledge Update - Informal release of information</p>

5. Formal access applications (s9)	Level of compliance	Compliance References and Guidelines
<p>Under the GIPA Act, people have a right to access government information through a formal access application, unless there is an overriding public interest against disclosure.</p> <p>Select the response that best reflects your agency from the drop-down list next to each requirement</p> <p><b>Agencies should:</b></p> <ul style="list-style-type: none"> <li>a) Have staff who are authorised to manage formal access applications including the authority to make a reviewable decision (Right to Information Officers)</li> <li>b) Have processes in place to determine if the request is valid, or if the information is available via any alternative means</li> <li>c) Provide assistance and advice to the applicant to facilitate the making of a valid application (see section 16)</li> <li>d) Provide an access application form available to download on your website, or accessible in some other way and have processes for payment of the application fee and any processing charges, which can include electronic facilities</li> <li>e) Have systems and processes in place to undertake searches for information, such as identification of parameters of GIPA applications and established records storage and retrieval systems.</li> <li>f) Have systems and processes in place to undertake consultations with third parties (see sections 54 and 54A)</li> <li>g) Monitor the timely finalisation of requests (as the GIPA Act specifies timeframes for decisions)</li> <li>h) Have processes in place to manage an internal review if the individual is not satisfied with the decision about release of the information</li> <li>i) Provide decision templates and ensure processes are in place to inform decisions about waiver or reduction of fees or charges on the basis of hardship</li> <li>j) Provide decision templates and ensure processes are in place to inform the making of the allowable decisions (section 58)</li> </ul>	<p>Compliant</p> <p>Compliant</p> <p>Compliant</p> <p>Processes/procedures in place</p> <p>Compliant</p> <p>Compliant</p> <p>Compliant</p> <p>Compliant</p> <p>Processes/procedures in place</p> <p>Processes/procedures in place</p> <p>100%</p> <p>Agency comments:</p>	<p><b>IPC Resources to improve performance and achievement</b></p> <p>Guide - Managing formal GIPA applications</p> <p>Fact Sheet - What is the public interest test?</p> <p>Fact Sheet - Digital records and the GIPA Act</p> <p>IPC Templates - Notice of decision</p>

6. Disclosure Logs (s25)	Level of compliance	Compliance References and Guidelines
<p>Agencies are required to keep a disclosure log which publishes details of information released in response to access applications that the agency considers may be of interest to other members of the public.</p> <p>Select the response that best reflects your agency from the drop-down list next to each requirement</p> <p><b>Agencies should:</b></p> <ul style="list-style-type: none"> <li>a) Keep an up-to-date agency disclosure log which contains the following information:             <ul style="list-style-type: none"> <li>- the date the application was decided</li> <li>- a description of the information released</li> <li>- a statement as to whether the information is now available to other members of the public and how it can be accessed</li> </ul> </li> <li>b) Make the disclosure log available free of charge on their agency website</li> </ul>	<p>Compliant</p> <p>Compliant</p> <p>100%</p> <p>Agency comments:</p>	<p><b>IPC Resources to improve performance and achievement</b></p> <p>Fact Sheet - Good practice for disclosure logs</p> <p>Template - Disclosure log example</p>

Supporting tools and systems	Level of compliance	Compliance References and Guidelines
<p>Staff in your agency are supported to comply with the GIPA Act through the availability of appropriate training, documented processes and delegations, and processes to ensure requests are handled in a timely and appropriate way.</p> <p>Select the response that best reflects your agency from the drop-down list next to each requirement</p> <p><b>Agencies should:</b></p> <ul style="list-style-type: none"> <li>a) Provide training on a regular basis for officers authorised to exercise for GIPA functions</li> <li>b) Provide regular communication providing updates on policies or guidance on GIPA responsibilities</li> <li>c) Have in place a case management tool for managing GIPA applications</li> <li>d) Provide documented procedures for managing GIPA requirements which are updated as required and communicated to staff</li> <li>e) Have in place procedures to assist in managing the risks associated with searches for information including:             <ul style="list-style-type: none"> <li>- guidance on conducting searches, and</li> <li>- templates for issuing search requests and for return of documentation and certification</li> </ul> </li> </ul>	<p>Every 6-8 months</p> <p>Processes/procedures under development</p> <p>Processes/procedures in place</p> <p>Processes/procedures in place</p> <p>Processes/procedures in place</p> <p>85%</p> <p>Agency comments:</p>	<p><b>IPC Resources to improve performance and achievement</b></p> <p>Fact Sheet - The role of principal officers and senior executives in supporting the objectives of the GIPA Act</p> <p>Fact Sheet - The GIPA Act: Agency systems, policies and practices - guidelines for principal officers</p> <p>Fact Sheet - Delegation or authorisation of functions under the GIPA Act</p> <p>Guides - Quick guide to my responsibilities under the GIPA Act</p> <p>FactSheet - Searches to prevent misuse of the GIPA Act</p> <p>Guides - Managing formal GIPA applications</p> <p>Knowledge Update - Reasonable searches under the GIPA Act</p>

GIPA Functions	Level of compliance	Compliance References and Guidelines
<p>The agency has clearly defined the roles and responsibilities of staff in the exercise of GIPA functions.</p> <p>Select the response that best reflects your agency from the drop-down list next to each requirement</p> <p><b>Agencies have in place:</b></p> <ul style="list-style-type: none"> <li>a) Appropriate delegations/ authorisations</li> <li>b) Processes to ensure that delegations/authorisations are regularly reviewed</li> <li>c) Delegations/ authorisations are regularly reviewed</li> </ul>	<p>Compliant</p> <p>Compliant</p> <p>Compliant</p> <p>100%</p> <p>Agency comments:</p>	<p><b>IPC Resources to improve performance and achievement</b></p> <p>Fact Sheet - Delegation or authorisation of functions under the GIPA Act</p> <p>Fact Sheet - The role of principal officers and senior executives in supporting the objectives of the GIPA Act</p>

# Open access information for councils

## Under the GIPA Act, additional open access information for councils include:

- information about the local authority, such as annual reports, EEO management plans and any codes referred to in the *Local Government Act 1993*
- information in *returns of interests* (pecuniary interests or otherwise)
- agendas and papers of council meetings
- land registers, registers of delegations and current declarations of disclosures of political donations
- plans and policies such as for approvals, management of community land and environmental planning instruments
- information about development applications made on or after 1 July 2010 including associated documents and records of decisions.



# IPC Resources: Elected officials, Council Executive & Staff

- Fact Sheet – Open access information for agencies  
[www.ipc.nsw.gov.au/media/840](http://www.ipc.nsw.gov.au/media/840)
- Information Access Guideline 1: For local government on the disclosure of information  
[www.ipc.nsw.gov.au/node/167](http://www.ipc.nsw.gov.au/node/167)
- Animation – Disclosure of Interest Returns by Councils  
[www.ipc.nsw.gov.au/media/3368](http://www.ipc.nsw.gov.au/media/3368)
- E-learning [www.ipc.nsw.gov.au/information-access/e-learning](http://www.ipc.nsw.gov.au/information-access/e-learning)
- GIPA Compliance Reports [www.ipc.nsw.gov.au/node/70](http://www.ipc.nsw.gov.au/node/70)
- Essential Guidance Toolkit on information access and privacy fundamentals  
[www.ipc.nsw.gov.au/node/1697](http://www.ipc.nsw.gov.au/node/1697)
- GIPA Tool [www.ipc.nsw.gov.au/node/281](http://www.ipc.nsw.gov.au/node/281)
- Agency GIPA Dashboard [www.ipc.nsw.gov.au/node/414](http://www.ipc.nsw.gov.au/node/414)
- Digital Restart Fund: assessing information access and privacy impacts  
[www.ipc.nsw.gov.au/media/3221](http://www.ipc.nsw.gov.au/media/3221)
- Fact Sheet – Digital records and the GIPA Act [www.ipc.nsw.gov.au/node/1652](http://www.ipc.nsw.gov.au/node/1652)

# Animation – Disclosure of interest returns by councils

- This animation provides guidance to councils on the requirement to publish returns of interest of councillors, designated staff and delegates in accordance with the GIPA Act.

## Disclosure of Interests – Councils

# IPC Resources: Citizens

- **Animation – Ways to access government held information in NSW**  
[www.ipc.nsw.gov.au/node/2227](http://www.ipc.nsw.gov.au/node/2227)
- **Simplified guide to information access** [www.ipc.nsw.gov.au/node/2251](http://www.ipc.nsw.gov.au/node/2251) This fact sheet can assist citizens to make an application for information under the GIPA Act.
- **Open access information for citizens** [www.ipc.nsw.gov.au/node/1502](http://www.ipc.nsw.gov.au/node/1502)  
A guide to open access information that agencies must make available.
- **Agency Information Guides and the public** [www.ipc.nsw.gov.au/node/684](http://www.ipc.nsw.gov.au/node/684)  
Provides information for members of the NSW public about what an AIG is, where an agency's AIG can be found, and how to make a complaint about an AIG.
- **Frequently asked questions: informal release of information** [www.ipc.nsw.gov.au/node/423](http://www.ipc.nsw.gov.au/node/423)  
This fact sheet is designed to address issues or questions citizens may have when considering asking for information from an agency informally or when an agency offers to release information informally.
- **Fact Sheet – Automated decision-making, digital government and preserving information access rights – for citizens** [www.ipc.nsw.gov.au/node/1688](http://www.ipc.nsw.gov.au/node/1688)
- **Agency GIPA Dashboard** [www.ipc.nsw.gov.au/node/414](http://www.ipc.nsw.gov.au/node/414)

# Ways to access government held information in NSW

- Open access is one of the **four “push-pull” pathways** to accessing information in NSW.
- The IPC has developed an animation to outline these pathways that can be downloaded for use on your council’s website.



# Digital Restart Fund (DRF): Commissioner advisory role

- August 2020 *Digital Restart Fund Act 2020* (DRF Act) – initial funding of \$1.6 billion, increased to \$2.1 billion in May 2021 budget
- DRF Act S.10 – before approving funding for a project, the Minister must obtain and have regard to advice from the Information Commissioner and the Privacy Commissioner
- IPC risk assessment
- Mitigation strategies
- Information Commissioner statutory advice

# New risks and possible mitigation strategies

Risk	Mitigation strategy
Declining Transparency/Rising Opacity of Technological Processes, Decisions, Risks, Limitations, and Effects	Contractual provisions and technical management e.g. audits
Algorithmic Bias and Injustice: Use of Algorithmic Decision-Making to Conceal, Legitimise, or Perpetuate Harmful or Unjust Human Biases	Contractual provisions to ensure access to information, import privacy rights, recognise and report information held
Growing Machine Autonomy/Declining Human Control and Accountability	Human included in design, identify machine enhanced decision-making, policies and procedures

# New risks and possible mitigation strategies (cont.)

Risk	Mitigation strategy
Technological 'Psyops'/Manipulation: The use of techniques such as AI, targeted digital advertising, and behavioural 'nudging' to alter our beliefs, desires, emotions, habits, and values in ways that we do not control or want	Focus on transparency, clear inputs and controls
Democracy vs. Technocracy/Tech 'Solutionism' – potential risk to open government	How is information made available to citizens, who holds it and how are policies published

## Other potential risks

- Alienation of non-digital members of society and concentration of single technological solutions
- Increase in citizen surveillance both capability and use of surveillance
- Technological addiction and other mental/physical harms



## Expert Regulation

### Models of Regulation

- Rule Based
- Performance Based
- Self Regulation
- Industry Self regulation
- IPC - Risk Control mission oriented

## Identifying High Risks Areas and Targeting Regulation

### Addressing types of Harms

- High Level Harms – transcend the scope of existing control system
- Slow Acting harms
- Where the risk-control function finds itself in a hostile context



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