

Annual Report 2021/22



information
and privacy
commission
new south wales

Acknowledgement of Country

The Information and Privacy Commission NSW acknowledges, respects and values Aboriginal peoples as the Traditional Custodians of the lands on which we live, walk and work. We pay our respects to Elders past, present and future. We recognise and remain committed to honouring Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships, and continuing connection to their lands, waters and seas. We acknowledge their history here on these lands and their rich contribution to our society.

We also acknowledge our Aboriginal colleagues within the public sector who are an integral part of our diverse workforce, and recognise the knowledge embedded forever in Aboriginal and Torres Strait Islander custodianship of Country and cultures.



information
and privacy
commission
new south wales

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Letters to the President and Speaker

The Hon. Matthew Ryan Mason-Cox MLC
President of the Legislative Council
Parliament House
Macquarie Street
Sydney NSW 2000

The Hon. Jonathan O’Dea MP
Speaker of the Legislative Assembly
Parliament House
Macquarie Street
Sydney NSW 2000

31 October 2022

Dear Mr President and Mr Speaker,

In accordance with the *Annual Reports (Departments) Act 1985*, the *Government Information (Information Commissioner) Act 2009*, and the *Privacy and Personal Information Protection Act 1998*, I am pleased to present the Annual Report of the Information and Privacy Commission NSW.

This report provides an account of the work of the Information and Privacy Commission NSW during the 2021/22 financial year.

The report meets the requirements for annual reports as required by the NSW Premier in *Ministerial Memorandum M2013-09*. This report demonstrates our agency’s performance and activities while incurring minimal production costs.

Yours sincerely,

Elizabeth Tydd
IPC CEO, Information Commissioner
NSW Open Data Advocate

Dear Mr President and Mr Speaker,

In accordance with section 61A of the *Privacy and Personal Information Protection Act 1998*, I am pleased to present the following report on the work and activities of the Privacy Commissioner for the 12 months ended 30 June 2022.

In addition, under section 61B of the *Privacy and Personal Information Protection Act 1998*, this Annual Report includes a report on the operation of the *Privacy and Personal Information Protection Act 1998* across all public sector agencies for 12 months ended 30 June 2022.

A copy of the report will be provided to the Attorney General and the Minister for Customer Service and Digital Government, Minister for Small Business, and Minister for Fair Trading as Ministers responsible for this legislation, as specified under sections 61A (2) and 61B (2) of the *Privacy and Personal Information Protection Act 1998*.

Yours sincerely,

Samantha Gavel
Privacy Commissioner

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Highlights for 2021/22

Privacy Awareness Week 2-8 May 2022	1 privacy audit finalised	
Right to Know Week 27 September – 3 October 2021	4 proactive information access audits finalised	112 advices on projects seeking funding under the Digital Restart Fund
Release of 4 new animations on citizens' rights and agency obligations under the GIPA Act and PPIP Act	Commencement of the IPC Strategic Plan 2022 – 2024 and IPC Regulatory Plan 2022 – 2024	Release of a Practice Guide for agencies about redacting signatures on public facing documents
Launch of the IPC Facebook page	Release of Information Commissioner Guideline 10 on the obligations of Ministers and Ministerial Officers under the GIPA Act	40 strategic and regulatory initiatives finalised across the previous and current Strategic and Regulatory Plans
Memorandum of Understanding (MOU) signed with the Department of Customer Service for the delivery of corporate services	Migration of case management and document management servers for improved service	

Performance report card 2021/22

Pillar 1: Service Delivery & Excellence

- ✓ GIPA – 1542 enquiries finalised / 168 advices finalised / 374 reviews finalised / 48 complaints finalised / 4 proactive audits finalised
- ✓ Privacy – 1604 enquiries finalised / 219 advices finalised / 231 reviews finalised / 111 complaints finalised
- ✓ 189 voluntary breach notifications were made to the Privacy Commissioner

Pillar 2: Engagement & Influence

- ✓ Commissioners provided submissions to 9 reviews and inquiries conducted by government including 5 joint submissions by the Information Commissioner and the Privacy Commissioner
- ✓ 143 tweets on Twitter / 150 posts on LinkedIn / 26 posts on Facebook / 84 e-alerts to stakeholders / 15 media releases / 4 public statements / 28 new publications

Pillar 3: Rights Promotion & Impact

- ✓ 460,319 page views and a 4.8% increase in website visits to ipc.nsw.gov.au
- ✓ 1963 phone enquiries and 1177 enquiries handled in writing or in person
- ✓ 28 new information access, privacy and corporate publications were delivered
- ✓ 34 publications updated by the Publications Review Working Group
- ✓ Major campaigns conducted for Right to Know Week and Privacy Awareness Week
- ✓ 538 new e-learning registrations by agencies and members of the public

Pillar 4: Operational Excellence

- ✓ 100% of staff have a Performance and Development Plan (PDP) in place
- ✓ Over 1346 hours of staff training to improve service delivery and rebalance capabilities to be an effective, contemporary regulator

Overview



Elizabeth Tydd Chief Executive Officer, Information Commissioner and NSW Open Data Advocate

Achievements and Report to NSW Parliament

Maintaining and advancing a responsible and representative democratic government

Globally we are experiencing transformation of both government processes and our systems of government. Not only have we witnessed significant threats to democracy and conduct corrosive to our systems of government, we have irrefutable evidence of the decline of democracy:

The level of democracy enjoyed by the average global citizen in 2021 is down to a low point not registered since 1989. From this perspective, the last ten years set the world back 32 years. The far-reaching expansion of rights and freedoms around the world over that period has been eradicated.¹

The bedrock of the *Government Information (Public Access) Act 2009* (GIPA Act) is enshrined in the object of the Act: *to maintain and advance a system of responsible and representative democratic Government that is open, accountable, fair and effective.* Government information is opened by the GIPA Act and its statutory presumption in favour of disclosure of government information.

Government information is the primary source of government accountability. Not only must government information be created but it must be vigilantly guarded and protected. Access to government information safeguards our democracy against the arbitrary use of power and it provides the lens through which we can gauge fairness. Globally, the right to access information has been reduced in some way by governments over the past decade. *A record of 35 countries suffered significant deteriorations in freedom of expression at the hands of governments – an increase from only 5 countries 10 years ago.²*

The GIPA Act provides the primary mechanism for citizen engagement and government accountability; it should be strengthened in response to rapid changes in government processes and in line with public expectations regarding open government and factors in favour of disclosure of

government information. Significantly, matters of paramount public importance such as the care and protection of the environment are not legislated public interest factors in favour of disclosure.

Progress to ensure effectiveness has been made in other jurisdictions. *Let the sunshine in - the Coaldrake Review³* provides valuable insights and recommendations to progress integrity, openness and trust in government. All recommendations have been accepted by the Queensland Government and accordingly, work is underway to further advance the current approach to proactive release of Cabinet documents. In NSW, there is no mechanism to release the more broadly described Cabinet Information. These developments in other jurisdictions present a genuine opportunity to advance information access rights and ensure they are fit for purpose.

Government information is the primary source of government accountability. Not only must government information be created but it must be vigilantly guarded and protected. Access to government information safeguards our democracy against the arbitrary use of power and it provides the lens through which we can gauge fairness.

The channels through which government transacts have dramatically changed.⁴ e-Government has accelerated in recent years to deliver services, and importantly funding, in response to dire climatic events. The benefits of digital service delivery by government to citizens at a transactional level are manifest.

¹ https://v-dem.net/media/publications/dr_2022.pdf

² https://v-dem.net/media/publications/dr_2022.pdf

³ <https://www.coaldrakereview.qld.gov.au/assets/custom/docs/coaldrake-review-final-report-28-june-2022.pdf>

⁴ <https://www.un.org/en/desa/new-global-survey-shows-e-government-emerging-powerful-tool>

However, the opportunity created by e-Government must not be reduced to a transactional level. Government is more than a kiosk and concierge function. Government is the custodian of our social and economic resources; it implements the policies and programs that transcend all aspects of our lives; and establishes the settings for our current and future society through thought leadership and an unwavering commitment to serving the public interest.⁵ Those settings include our educational and health systems, transportation, housing, cyber security and digital infrastructure, and our justice system. These vast areas of responsibility demand transparency and accountability by government to the citizens they serve. Importantly, they require new modes of engagement to promote a participative democracy.

Concurrent with the implementation of e-Government, government has a responsibility to simultaneously systematise e-Governance.

e-Governance is described by UNESCO as the public sector's use of the most innovative information and communication technologies to deliver citizens with improved services, reliable information and greater knowledge in order to facilitate access to the governing process and encourage deeper participation.

Citizens must not be alienated from government because of a focus on the transactional elements of government and a failure to focus on the pillars of Open Government:

- Transparency
- Accountability
- Integrity
- Citizen participation.

*Democracy is more than policies, institutions, and election cycles. It is about active citizenship, honest dialogue, and two-way trust between governments and people. A system in which citizens have a real say in how their society is run and what choices are made, not once every four to five years, but daily.*⁶

As a Member of Australia's OGP Working Group, I led the delivery of a commitment under the Third NAP by the State, Territory and Commonwealth Information Commissioners and Ombudsmen to issue a Statement of Principles to support the proactive release of government information.⁷

Effective oversight of fundamental human rights

In NSW, we have firmly established e-Government to better deliver funds, services and transact with citizens. These new channels present efficiencies, facilitate instantaneous engagement and introduce new risks. Risks and realised harms require an expert, comprehensive and calibrated response. Within NSW, the solution lies in fortifying our existing integrity agencies and systems.

The Information and Privacy Commission (IPC) is now a well-established and respected integrity agency and one which is responsive to a dynamic government environment. Our expertise in information governance has provided unique insights into emerging harms and risks and importantly informed the customisation of effective and practical treatments.

As new risks emerge because of the efficiencies delivered by digital government, it is essential that we recognise the impact on enshrined human rights – the right to information and privacy. Information access rights can be impacted adversely in the everyday operation of government internally through the use of:

- instant messaging software and encrypted and/or irrecoverable communication for purposes that give rise to a requirement for creation and retention of government records
- portals to combine data sets that are accessible to participating agencies under federated models but preclude any agency from 'holding' all of the information for reproduction to citizens or potentially oversight bodies⁸
- cross agency records management systems that introduce barriers to information access through 'cluster' arrangements and archiving approaches⁹
- digital records that require treatment to bring them into existence for the purposes of providing access in circumstances where agencies are entitled to refuse to produce a 'new' government record in response to an access application¹⁰
- machine-enhanced decision-making software and artificial intelligence systems that operate absent recognised safeguards, including notice and explainability.¹¹

In the context of the GIPA Act, digital government has presented challenges that were not contemplated by the drafters and as such may not be overcome by the extant statute. A more expansive approach to legislation to accommodate e-Government would better preserve the right to access information and ensure that NSW remains at the forefront of recognised leaders in information access.

⁵ GIPA Act section 13

⁶ <https://www.opengovpartnership.org/stories/tipping-the-balance-towards-openness-reflections-and-suggestions-after-10-years-at-ogp/>

⁷ <https://www.ipc.nsw.gov.au/information-access/open-government-open-data-public-participation/statement-of-principles>

⁸ GIPA Act section 4

⁹ GIPA Act sections 53 and 60

¹⁰ GIPA Act section 75

¹¹ GIPA Act sections 20 and 23

The reputation of the NSW IPC continues to grow internationally. This year, we hosted another international delegation and assisted in establishing the Asian Access to Information Alliance. Additionally, this year I will have the honour of presenting at the invitation of UNESCO to the Global Right to Information Conference 2022 focusing on 'Artificial Intelligence, e-Governance and Access to Information' in Uzbekistan in September 2022.

Within the IPC, we are well positioned to provide a comprehensive and forward-thinking approach to information governance. This year, we have a strong and engaged Information and Privacy Advisory Committee (IPAC). The expertise they generously bring to our work is unparalleled. Our proactive compliance program enables us to detect and respond to emerging threats to the fundamental human rights we oversee: the right to information and the right to privacy.¹²

In major digital projects, the IPC provides advice under the *Digital Restart Fund Act 2020* to preserve and promote rights. The IPC has applied its expertise to provide recommendations for remediation of potential harms. Importantly, we have published guidance for agencies embarking on digital projects to facilitate the preservation of information access and privacy rights.¹³

Operationally, the IPC's positive performance outcomes over the past year are clearly demonstrated in our ability to deal with high case volumes and retain both timeliness and importantly quality outcomes. We have undertaken more proactive work and will continue to publish related reports to guide agencies towards compliance. Our budgetary arrangements including unforeseen escalations in corporate charges require vigilance and ongoing advocacy to secure the effective exercise of statutory functions.

Strategically, we have proactively promoted information access and privacy rights in an increasingly digital environment with audits and advices that provide contemporary insights and strategies to preserve citizens' fundamental rights and position agencies to protect those rights in digital government. Our communication and engagement with citizens are increasingly sophisticated, targeted and responsive to identified needs. Harnessing technology to better fulfill our statutory responsibilities will be a focal point of our future success.

Forward focus – Promoting democracy

Our established operating model, reputation and effectiveness ensure our credibility in preserving and promoting information governance in e-Government. The solutions to the challenges presented by e-Government must be designed to address real and potential harms to these fundamental human rights with the authority that only an independent integrity commission can offer.

The antidote to the erosion of trust in contemporary governments is e-Governance. As CEO and Information Commissioner, my forward focus will be to ensure that we inform NSW's progress from a transactional e-Government model to a mature e-Governance approach that institutionalises democratic processes and values in all manifestations of digital government.

The solutions to the challenges presented by e-Government must be designed to address real and potential harms to these fundamental human rights with the authority that only an independent integrity commission can offer.

Central to the achievement of this now essential transition are:

- integrating the object of the GIPA Act within e-Government to inculcate digital democracy, transparency, online citizen participation and online public discussion alongside online public service delivery
- ensuring that the GIPA Act remains fit for purpose in an e-Government environment
- building upon the reputation of the IPC as a conscientious contributor to integrity in NSW and entrenching the IPC as a recognised integrity agency.

The IPC's capacity to achieve these objectives is guaranteed by the expert and dedicated IPC staff and my valued fellow Commissioner, Ms Samantha Gavel. In offering my gratitude to them I acknowledge their unwavering commitment to the rights we promote and protect.

I look forward to working with government and agencies to build their capacity to preserve and promote the right to access information and foster a healthy participatory democracy that serves the people of NSW with transparency, accountability and integrity.

Elizabeth Tydd
IPC CEO, Information Commissioner
NSW Open Data Advocate

Dip Social Welfare, B Laws, Grad Dip Legal Practice,
M Laws
Cert of Governance, Governance Institute
GAICD
Executive Certificate in Public Policy,
Harvard Kennedy School

¹² Universal Declaration of Human Rights Article 19 and Article 12

¹³ https://www.ipc.nsw.gov.au/sites/default/files/2020-10/Fact_Sheet_Digital_projects_for_agencies_October_2020.pdf

Overview



Samantha Gavel Privacy Commissioner

Achievements and Report to NSW Parliament

Introduction

The COVID-19 pandemic has significantly changed the way that many people live and work. It has accelerated existing trends towards the greater use of data and digital technology and has also increased the preference by the public to access services, including government services, through digital channels. These trends are likely to persist into the future.

The NSW government has made a strong commitment to digital government and developing digital products and services to enable the public to interact with government and government services in a more seamless and customer-focused way.

Digital technology provides us with many benefits, such as faster and easier access to services, but it also significantly increases the risk of privacy harms. This is because digital technology enables the collection and use of personal information on a far greater scale than is possible with paper-based systems. Personal information held in digital systems is also at risk of cyber breaches, if it is not appropriately secured.

This means that privacy protection needs to be at the heart and centre of our increasingly connected and digital world. This is particularly important in the context of NSW government services and technology, to ensure the community can have confidence in these services and systems. Putting privacy at the centre through a privacy-by-design approach and implementing robust privacy protections ensures that digital systems and services are safe and secure and engender community trust, so that people will engage with and use these services.

During 2021/22, a key focus for the IPC was to work with NSW government agencies to promote and protect privacy rights and reduce privacy risks, particularly in relation to projects and services involving the use of digital technology.

Privacy protection needs to be at the heart and centre of our increasingly connected and digital world.

COVID-19 pandemic

During the reporting period, the ongoing COVID-19 pandemic required a continuation of public health measures by government to assist in keeping the community safe. Some of these measures required careful consideration of privacy issues. The IPC provided advice and assistance to agencies to ensure privacy rights of citizens were considered and preserved in measures and initiatives to manage the pandemic.

In the previous reporting period, the IPC consulted with the Department of Customer Service (DCS) and Service NSW in the development of the QR code check-in tool, to ensure privacy risks were considered and mitigated through appropriate measures, such as the deletion of contact information after 28 days if not needed for contact tracing.

These consultations continued into the current reporting period, as changes and new features were added to the tool. This included the feature to enable the importation of digital COVID-19 vaccination certificates from Medicare into the Service NSW app to show proof of vaccination where this was required to enter a venue. It also included changes to the Service NSW website and app to enable the registration of positive Rapid Antigen Tests.

The IPC also consulted with Service NSW and the Department of Education regarding the implementation of a digital solution to enable visitors to check into schools and, while public health orders required, the provision of contact tracing data. From November 2021, the need to collect contact tracing data ceased as COVID-19 check-in requirements were wound back.

³ Additional funding for the Digital Restart Fund (DRF) was announced in the 2021 Budget, bringing the total allocation to \$2.1B

Additional safeguards for COVID-19 check-in data

In November 2021, the NSW Parliament passed legislation to ensure that contact information collected by Service NSW for contact tracing purposes could only be used for that purpose and related purposes – and not for any other purpose. This provided legislative safeguards and assurances to the public to assist in promoting trust in the systems set up to enable them to comply with Public Health Orders and provide contact information for contact tracing purposes.

As Privacy Commissioner, this initiative had my full support, as an important way for the NSW government to enhance the trustworthiness of these systems.

Mandatory Notification of Data Breaches Scheme

In May 2021, the Attorney General and the Minister for Customer Service and Digital Government, Minister for Small Business, and Minister for Fair Trading announced the release of the exposure draft of the Privacy and Personal Information Protection Amendment Bill 2021 for public consultation. The consultation period closed in late June 2021.

The aim of the bill is to strengthen privacy protection in NSW by establishing a Mandatory Notification of Data Breaches (MNDB) Scheme and to extend coverage of the *Privacy and Personal Information Protection Act 1998* (PPIP) Act to state-owned corporations (SOCs) that are not regulated by the Commonwealth *Privacy Act 1988*.

During 2021/22, the Department of Communities and Justice (DCJ) continued to develop and refine the bill, in order to incorporate information received through the consultation process. DCJ consulted with the IPC as this work to refine the bill has proceeded.

The IPC has received additional funding to implement the MNDB Scheme and has taken a number of steps to facilitate the implementation of the scheme, including development of a project plan and work program which includes drafting of guidance for agencies, consideration of technology enhancements and adjustments to IPC IT systems and case work mapping and workflows.

The work plan addresses three key areas:

- Resources to assist agencies and citizens, including the development of guidelines and other resources to assist agencies to prepare for the implementation of the Scheme
- IT infrastructure, including tailored case management and reporting systems, as well as systems to facilitate the receipt of notifications by the IPC
- Compliance and reporting, including tailored investigation and reporting procedures, as well as systems to support collection and reporting of statistical data and periodic reporting to Parliament and citizens on the outcomes of the Scheme.

Much of this work will need to be undertaken once the legislation to support the Scheme has been passed by the Parliament and prior to the Scheme coming into effect.

Cyber security and data breaches

The cyber security threat environment deteriorated significantly at the start of the pandemic in early 2020. During 2021 and throughout the reporting period, the cyber security threat level remained elevated, with a number of cyber breaches perpetrated by malicious actors based overseas, impacting organisations in Australia, including NSW government agencies.

An example of this was a cyber incident that affected the Department of Education's information technology systems in July 2021.

The IPC provided advice to the Department and other agencies to assist them to respond to, mitigate and notify those affected by data breaches, including breaches caused by cyber-attacks, as well as human error and other causes.

The IPC also consulted with the Department of Education on a proposed Public Interest Direction to enable the Department to check with the Australian Death Check (ADC) Service to confirm whether people who needed to be notified about the breach were deceased. This was to reduce the risk of psychological harm or distress to family members of deceased individuals if they were to receive a notification for their family member.

The Public Interest Direction was time-limited and included appropriate safeguards for the sharing of information with the ADC service. These included encryption of data, temporary storage of data and data minimisation.

As Privacy Commissioner, I was satisfied of the public interest in making the Direction for this purpose and made the Direction on 27 January 2022 with approval from the Attorney General, who consulted with the Minister for Customer Service and Digital Government, Minister for Small Business, and Minister for Fair Trading.

Data breaches caused by human error constituted the majority of breaches reported to the IPC under its voluntary notification scheme, but NSW agencies continue to face threats from well-resourced, malicious global actors.

Ensuring personal information is appropriately secured is a requirement of NSW privacy law. Robust cyber security measures are critical to keeping personal information held in digital systems safe and secure.

This heightened threat environment is likely to continue into the future and it poses significant challenges to NSW agencies, as well as organisations across the globe.

Robust cyber security measures are critical to keeping personal information held in digital systems safe and secure.

A whole-of-government approach is required to manage these challenges. The IPC contributes to this approach through the provision of guidance, tools and advice to agencies and citizens, promotion of good information governance and oversighting internal privacy reviews about privacy breaches by agencies.

Privacy Awareness Week NSW 2022

The IPC celebrated Privacy Awareness Week (PAW) NSW 2022 from 2-8 May 2022. PAW is an international campaign that highlights the importance of privacy. The IPC's PAW campaign was focused on both public sector agencies and citizens with the aim of improving understanding and awareness of NSW privacy legislation, and to raise awareness of a person's privacy rights and agency obligations.

The theme for this year's campaign was 'Privacy: The Foundation of Trust – we all have a role to play'.

The IPC hosted its annual PAW event for NSW public sector leaders on Tuesday, 3 May 2022. The event was held in a hybrid format, with people attending in-person or online. The event, titled 'Insights and Lessons – Preparing for the MNDB', was focused on assisting NSW public sector agencies to prepare for the upcoming MNDB Scheme. The session covered insights and lessons learned across government agencies with respect to data breaches, and the types of systems, policies and procedures agencies will need to prepare ahead of the MNDB Scheme's introduction in order to report privacy breaches and notify those affected.

The Attorney General opened the event and speakers at the event included Professor Lyria Bennett Moses from UNSW and Professor David Lacey from IDCARE. The IPC's Sonia Minutillo participated in a facilitated Question & Answer session with Scott Johnston, Chief Commissioner of State Revenue, Commissioner of Fines Administration and Deputy Secretary, Revenue NSW.

Over 200 people attended online and comments from the smaller number of people who attended in person were very positive about the quality of the speakers and the insights and advice provided. Feedback provided by attendees was very positive.

During PAW, the IPC released a number of resources for agencies and citizens, including two animations outlining the Information Privacy Principles (IPPs) and Health Privacy Principles (HPPs) in an engaging format and a new tool to assist agencies to conduct a Privacy Impact Assessment (PIA) of their websites. Over 60 agencies signed up as PAW Champions, to assist in spreading the PAW message within their agencies. A number of agencies held PAW events, as well as the NSW Privacy and Right to Know Practitioners' Network.

The results of the IPC's latest two-yearly survey of NSW community attitudes towards privacy and privacy breaches were also published during PAW. The results provide a broad and indicative sense of the public's view of how privacy is regarded in areas such as data breaches by NSW government agencies, citizens' awareness of their right to access their personal information, where to go to report the misuse of personal information or how to make a privacy complaint. More information about the results of the survey are provided on page 53 of this report.

Looking forward

The importance of enhancing public trust in government services has been demonstrated throughout the pandemic.

The IPC has worked effectively with NSW government agencies to ensure that digital services and projects developed by government incorporate robust privacy protections.

The pace of development and innovation in the digital space is likely to continue and even increase into the future. Ensuring that privacy is at the centre of digital technology and digital innovation will enable NSW government agencies to secure the benefits of this technology, while minimising the risk of harm to privacy rights. The IPC will continue to promote the need for agencies to focus on incorporating good privacy practice into the projects and services they provide for the benefit of the NSW public.

Ensuring that privacy is at the centre of digital technology and digital innovation will enable NSW government agencies to secure the benefits of this technology, while minimising the risk of harm to privacy rights.

In closing, I would like to pay tribute to the work of the staff and Directors of the IPC, all of whom make a significant contribution to ensuring that privacy rights in NSW are promoted and protected. I would also like to thank my colleague, Elizabeth Tydd, CEO of the IPC and Information Commissioner, for her dedicated leadership of the agency and unfailing support during the year.

Samantha Gavel
Privacy Commissioner

B Arts, GAICD

Section 61B Report on the Operation of the Privacy and Personal Information Protection Act 1998

The PPIP Act provides the legislative framework for protecting privacy in NSW by (inter alia) placing obligations on NSW government agencies to comply with the IPPs (and the HPPs) outlined in the Act and conferring privacy rights on citizens in relation to breaches of the IPPs by NSW government agencies.

Section 61B of the PPIP Act provides for the Privacy Commissioner to prepare and publish a report on the operation of the PPIP Act each year.

Of particular relevance to the operation of the PPIP Act during the 2021/22 reporting year was the continuation of work to consult on and refine the Privacy and Personal Information Protection Amendment Bill 2021 and the enactment of amendments to the PPIP Act to authorise the sharing of personal information during emergencies. These developments are discussed in more detail below.

Proposed legislation to strengthen the PPIP Act

In May 2021, the NSW government released a draft exposure bill, the Privacy and Personal Information Protection Amendment Bill 2021 (the Bill), for public consultation. The aim of the Bill is to strengthen privacy protection in NSW by establishing a MNDB Scheme and to extend coverage of the PPIP Act to SOCs that are not regulated by the Commonwealth *Privacy Act 1998*.

In late June 2021, the Privacy Commissioner provided a submission in response to the consultation on the Bill, supporting the establishment of the MNDB Scheme and the proposal to extend the PPIP Act to SOCs.

The submission also addressed a number of issues relating to the proposed MNDB Scheme, including the threshold for notification, the timeframe for notification, exemptions from notification and the potential resourcing impact of the proposals on the IPC.

During the 2021/22 reporting period, DCJ continued to develop and refine the Bill, in order to incorporate information received through the consultation process. DCJ consulted with the IPC as this work proceeded, as well as DCS and NSW Health.

Sharing of personal information during emergencies

Following consultation with the Privacy Commissioner, legislation was introduced into Parliament in October 2021 to amend the PPIP Act and the *Health Records and Information Privacy Act 2002* (HRIP Act) to authorise the collection, use and disclosure of personal and health information:

- where it is reasonably necessary to assist in a stage of an emergency, as defined by the *State Emergency and Rescue Management Act 1989* (NSW), and
- it is impracticable or unreasonable to seek the consent of the individual to whom the information relates.

The amendments limit disclosure to where required to assist in a stage of an emergency. Personal information collected for this purpose must not be held for longer than eighteen months and must not be used for prosecuting an offence.

These changes implemented recommendations of the NSW Bushfire Inquiry held following the 2019-20 bushfires.

Additional safeguards for COVID-19 check-in data

The Privacy Commissioner consulted with DCS late last year on a draft bill to provide legislative safeguards for personal information and health information collected by Service NSW in relation to COVID-19, including data collected via the Service NSW QR Code and check-in app.

The Service NSW (One-stop Access to Government Services) Amendment (COVID-19 Information Privacy) Bill 2021 was introduced into Parliament on 10 November 2021 and received assent on 29 November 2021. The aim of the legislation is to promote public trust in the collection of personal and health information by Service NSW for contact tracing and other purposes related to the management of COVID-19 and strengthen the government's commitment to robust privacy protections for this information.

The legislation will assist in supporting the continued acceptance by the community of any future public health requirements for the collection of personal and health information by Service NSW or via the QR code and check-in tool, should these be required in future to manage the on-going COVID-19 pandemic.

Although this bill made amendments to the *Service NSW (One-stop Access to Government Services) Act 2013* and not to the PPIP Act, it is included in this report, due to its importance in strengthening privacy protections in NSW.

Privacy complaints under the PPIP Act

The PPIP Act provides two avenues for complaints about privacy issues. Where the complaint is about an alleged privacy breach by a NSW government agency, the PPIP Act provides for an internal review under Part 5 of the PPIP Act to be undertaken by the agency. This pathway enables the agency to investigate the breach and provide an explanation or resolution of the complaint. The Privacy Commissioner has an oversight role in relation to internal reviews and the complainant has the right to seek a review by the NSW Civil and Administrative Tribunal (NCAT) if they are not satisfied with the outcome of the review.

Internal reviews are required to be completed in a timely manner by agencies to enable the Privacy Commissioner's oversight role to be exercised prior to the review being finalised. The IPC has procedures to follow up with agencies at regular intervals to assist with enabling matters to be finalised in a timely manner. These procedures have proven to be effective, as demonstrated by the timeframes for closure of privacy reviews by the IPC since the procedures were introduced.

Internal reviews constitute about two thirds of the IPC's privacy casework.

In 2021/22, there was a 16% decline in the number of privacy reviews received by the IPC. This followed consistent increases in the number of reviews received in recent years, including an 11.8% increase in 2020/21 and a 36% increase in 2019/20. The decline in privacy reviews during the current reporting period may indicate the number of reviews stabilising, after significant increases during the last two years. These increases may have resulted from heightened concern about privacy issues during the pandemic, due to the introduction of public health measures and an elevated cyber threat environment. It is notable that this year's figures are still higher than those of the year before the pandemic emerged and therefore a continuation of the trend towards an increasing caseload for the IPC.

The top three issues raised in internal reviews during 2021/22 were in relation to the following IPPs:

- Principle 11 (limits on disclosure of personal information)
- Principle 5 (retention and security of personal information)
- Principle 10 (limits on use of personal information).

The PPIP Act also provides a pathway for a complaint to be considered by the Privacy Commissioner. If the Privacy Commissioner decides to deal with a complaint, the PPIP Act requires that the Privacy Commissioner must try to conciliate the complaint. The complainant does not have a right of review to the Tribunal where a complaint is dealt with by the Privacy Commissioner.

The Privacy Commissioner only deals with a relatively small number of complaints under the complaint pathway each year, because the majority of complaints under the PPIP Act are dealt with via the internal review pathway.

The Privacy Commissioner also has complaint handling functions under the HRIP Act. More information about privacy complaints under the HRIP Act is available on page 38 of this report.

Regulated sectors

The PPIP Act regulates NSW state government agencies, including government departments and agencies, public universities and local councils. The Act's remit is broad, and regulated entities range in size from large government cluster agencies, through to small, regional and remote local councils.

Most privacy complaints received by the Privacy Commissioner relate to applications for internal review by NSW government departments and agencies. This is the largest sector regulated by the Privacy Commissioner and therefore higher numbers of complaints than other sectors are within expectations. Cluster agencies account for the majority of the internal review applications, due to their size and functions, which include the handling of personal information of NSW citizens. The Council sector and University sector account for lower numbers of complaints, due to the smaller size of these sectors.

In order to assist agencies to comply with the PPIP Act, the IPC provides guidance and tools on its website, including guidance about conducting internal reviews under the PPIP Act, learning modules for agency staff and self-assessment tools to assist agencies with identifying areas where compliance could be improved and elevating their compliance.

The IPC has a Compliance Committee that meets quarterly to consider a range of factors in order to identify areas of focus for regulatory activity by the IPC.

Privacy Management Plans

During the reporting period, the IPC conducted a desktop audit to measure the existence and currency of agency Privacy Management Plans (PMPs). NSW public sector agencies are required under section 33 of the PPIP Act to have a PMP. An agency's PMP should also be made publicly available on the agency's website and made available in other ways on request. Section 33 of the PPIP Act further provides that agencies must provide a copy of their PMP to the Privacy Commissioner as soon as practicable after preparation or amendment.

⁵ For more information about SOCs and the PPIP Act see the IPC Fact Sheet at <https://www.ipc.nsw.gov.au/fact-sheet-state-owned-corporations-socs-and-your-right-government-and-personal-information>

⁶ Service NSW suffered a cyber incident in early 2020. The Ministry of Health and Transport for NSW were impacted by the global breach of Accellion software in early 2021.

A PMP is a strategic planning document in which each public sector agency describes the measures it proposes to take to ensure that it complies with the PPIP Act and the HRIP Act.

The desktop audit provided important insights to enable the IPC to consider current and future regulatory engagement with agencies in relation to their PMPs.

Further information about the audit and its outcomes is available on the IPC website.

The IPC's Guide to making PMPs is currently being updated and will assist agencies to ensure they are complying with their obligations and producing PMPs that achieve the objective of promoting compliance with NSW privacy legislation.

Samantha Gavel
Privacy Commissioner
B Arts, GAICD

Priorities for 2022/23

Deliver collaborative pieces of guidance with relevant agencies on how technologies link to compliance obligations

Review existing format of review report templates to better communicate outcomes and findings with a focus on accessibility and audience

Investigate and establish a secure digitally enabled platform/s for agencies to share information with the IPC relevant to IPC case work

Complete brand awareness tests

Undertake roadshows and other proactive communication strategies, using available resources across the organisation to promote education around key strategic issues for IPC

Implement External Audit Checklist and Timetable

Implement Governance Framework and Action Plan

Undertake comprehensive exit surveys of staff

Organise training to assist staff with developing skills for Service Delivery including best practice record keeping

Identify opportunities for automation in reporting and systems including dashboards

Implement improvements to systems and website as outlined in the IPC IT Plan to meet IPC current and future needs

Our organisation



About the IPC



Ian Naylor
Director, Business Improvement



Sonia Minutillo
Director, Investigation and Reporting



Jessica Kavanagh
Director, Legal Counsel and Regulatory Advice

Our purpose
To champion
information access
and privacy rights
for the people
of NSW.

Who we are

The IPC is an independent statutory authority that administers NSW legislation dealing with privacy and access to government information. The IPC was established on 1 January 2011 to provide a single point of service with respect to information access and privacy rights, ensuring that agencies and individuals can access consistent information, guidance and coordinated training about information access and privacy matters.

The IPC is recognised as a separate agency under Schedule 1 of the *Government Sector Employment Act 2013* (GSE Act).

What we do

The IPC promotes and protects privacy and information access rights in NSW by providing information, advice, assistance and training for agencies and individuals on privacy and information access matters. The IPC reviews the performance and decisions of agencies and investigates and conciliates complaints relating to government agencies, health service providers (both public and private) and some large organisations that deal with health information. The IPC also provides feedback to government about the legislation and relevant developments in the law and technology.

Our service charter

We are committed to providing you with the best service we can and to ensuring that you are able to provide feedback by:

1. delivering the best standard of service that reflects our values
2. ensuring that you can provide us with feedback on the service you received, how we treated you and how we dealt with your information.

Our vision

The people of NSW can be confident that their access to information and privacy rights are upheld and protected.

Our values

The IPC's Values Framework was developed in line with the Government Sector Core Values. The IPC's Values are: Accountable, Service Focused, Proactive, Independent, Integrity and Trust. Please see the next page for more information.

Our stakeholders

- NSW Parliament
- Members of the public
- NSW Government (Premier, Attorney General, and Minister for Customer Service and Digital Government, Minister for Small Business, and Minister for Fair Trading)
- NSW Parliamentary Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission
- NSW public sector agencies including state government bodies, councils, SOCs* and universities
- Non-Government Organisations delivering contracted services to the public on behalf of NSW Government agencies
- Ministers and their staff
- Members of Parliament and their staff
- Other Information and Privacy Commissioners and Ombudsmen
- IPAC
- Other oversight accountability agencies
- Media
- Staff.

* Exempted under the PPIP Act



information
and privacy
commission
new south wales

Our Values Framework

Accountable

- Taking responsibility for our decisions and actions individually and as a group, using transparent process and making defensible decisions.
- When displayed, we feel confident, secure, respected and respectful. On an organisational level, we feel obligations are being fulfilled.
- We demonstrate it when we take ownership of actions and decisions to deliver our business objectives.

Service focused

- Recognising what clients/colleagues want and need, being transparent, communicative and articulate when delivering outcomes, and putting others first.
- When displayed, we feel able to provide direction and focus. Providing truthful and honest advice can be confronting. We feel a sense of accomplishment and satisfaction, that we have made a difference to a person's life.
- We demonstrate it when we are aware, and make ourselves aware of customer needs, setting and managing expectations and boundaries, and upholding our responsibilities to others.

Proactive

- Identifying opportunities and taking the initiative to plan constructively and implement practices, demonstrating leadership.
- When displayed, we feel personally and professionally prepared, confident and respected, leading to a sense of achievement and empowerment.
- We demonstrate it when we think about the big picture, initiate ideas and act on opportunities, flexibly and thoughtfully.

Independent

- Being impartial and objective.
- When displayed, we feel confident in our decisions, and that our actions can be relied on and trusted.
- We demonstrate it when we have open and transparent decision-making which involves listening to both sides, making a decision on available evidence, keeping accurate records, being open-minded in our approach.

Integrity

- Demonstrating our values through consistent and appropriate actions and holding ourselves to a recognised high standard.
- When displayed, we feel confident and reassured.
- We demonstrate it when we behave consistently in line with our commitments and values.

Trust

- A relationship built on honesty. It means being reliable and being able to rely on others.
- When displayed, we feel confident, secure and supported.
- We demonstrate it when we take responsibility for our actions, act with honesty and integrity, and show confidence in others and in our colleagues.

Developed by IPC staff, December 2014 using the Government Sector Core Values (Accountability, Service, Trust, Integrity) and the IPC Values (Accountable, Service focussed, Proactive, Independent).

Our organisation

Accountability

Role of the Information Commissioner

The Information Commissioner is appointed by the Governor as an independent office holder under section 4 of the *Government Information (Information Commissioner) Act 2009* (NSW) (GIIC Act). The Information Commissioner is also the CEO of the IPC.

The role of the Information Commissioner is to promote public awareness and understanding of the right to access government information in NSW, and provide information, support, advice, assistance and training to agencies and the general public. The Information Commissioner has the power to conduct reviews of decisions made by other NSW government agencies and deal with complaints about information access. The Information Commissioner also monitors agencies' functions, reports to Parliament on the operation of the GIPA Act, and reports to the Attorney General, and Minister for Customer Service and Digital Government, Minister for Small Business, and Minister for Fair Trading about proposals for legislative or administrative change.

When necessary, the Information Commissioner can issue guidelines to assist agencies and the public on:

- public interest considerations in favour of disclosure of government information
- public interest considerations against disclosure of government information
- agencies' functions
- the public's rights to access information
- an agency's information guide
- reductions in processing charges.

The Information Commissioner can investigate agencies and compel them to provide information in the conduct of inquiries.

Since September 2020, the Information Commissioner also provides advice on projects seeking funding through the Digital Restart Fund (DRF).

Participation in committees

During the reporting period, the Information Commissioner was a member of the following committees:

- Association of Information Access Commissioners (AIAC)
- Public Interest Disclosures Steering Committee – under section 6A(1) of the *Public Interest Disclosures Act 1994* (PID Act 1994)
- Open Government Partnership Working Group

- Information and Privacy Advisory Committee (IPAC) (Chair)
- State Records and Archives Board (Deputy Chair)
- The Gradient Institute Advisory Board Member.

Role of the Privacy Commissioner

The Privacy Commissioner is appointed by the Governor as an independent office holder under section 34 of the PPIP Act.

The role of the Privacy Commissioner is to promote, protect and enhance the privacy rights of the NSW community, resolve complaints and ensure agencies uphold the privacy principles in the PPIP Act and the HRIP Act.

A key function is to educate the people of NSW about the meaning and value of privacy by:

- responding to enquiries and educating the community about privacy issues and possible remedies for breaches of their privacy
- advising government agencies, businesses and other organisations on how to ensure that the right to privacy is protected
- receiving, investigating and conciliating complaints about breaches of privacy
- appearing in NCAT and advising on privacy law in privacy cases
- overseeing NSW government agency reviews of reported privacy breaches
- researching developments in policy, law and technology that may impact on privacy, and making reports and recommendations to relevant authorities
- issuing guidelines on privacy principles.

Since September 2020, the Privacy Commissioner also provides advice on projects seeking funding through the DRF.

Participation in committees

During the reporting period, the Privacy Commissioner was a member of the following committees:

- Asia Pacific Privacy Authorities (APPA)
- Privacy Authorities Australia (PAA)
- NSW Integrity Agencies Collaboration Group
- IPAC.

Governance and legislative responsibilities

Our governance

In 2010, the NSW Parliament passed the Privacy and Government Information Legislation Amendment Bill 2010. The Explanatory Note to the Bill provides:

The object of this Bill was to amend the *Privacy and Personal Information Protection Act 1998* (PPIPA), the *Government Information (Information Commissioner) Act 2009* (GIICA), the *Government Information (Public Access) Act 2009* (GIPAA) and other Acts to provide for the following:

- a) An Information and Privacy Commission (the Commission) will be established by merging the Office of the Information Commissioner and Privacy NSW (with the Information Commissioner to be head of the Commission and responsible for the management of the staff of the Commission)...

The IPC is recognised as a separate agency under Schedule 1 to the GSE Act. The Information Commissioner is appointed as agency head and is responsible to the relevant Ministers and has responsibility for ensuring that the IPC and its staff operate in accordance with all government sector requirements.

The IPC's activities are supported by the IPC Audit and Risk Committee (ARC).

The Information Commissioner reports to the NSW Parliament on the operation of the GIPA Act.

The Privacy Commissioner reports to the NSW Parliament on the operation of the PPIP Act and the HRIP Act.

The Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission oversees the functions of the Information Commissioner and the Privacy Commissioner and reports to Parliament. The role of the Committee does not provide for it to:

- investigate a matter relating to particular conduct
- reconsider a decision to investigate, not to investigate or to discontinue investigation of a particular complaint or matter of conduct
- reconsider the findings, recommendations, determinations or other decisions the Information Commissioner or the Privacy Commissioner has made in relation to a particular investigation, matter or complaint.

Our legislation

The IPC administers the following legislation:

- *Government Information (Public Access) Act 2009* (NSW) (GIPA Act)
- *Government Information (Public Access) Regulation 2018* (NSW) (GIPA Regulation)
- *Government Information (Information Commissioner) Act 2009* (NSW) (GIIC Act)
- *Privacy and Personal Information Protection Act 1998* (NSW) (PPIP Act)

- *Privacy and Personal Information Protection Regulation 2014* (NSW) (PPIP Regulation)
- *Health Records and Information Privacy Act 2002* (NSW) (HRIP Act)
- *Health Records and Information Privacy Regulation 2022* (NSW) (HRIP Regulation).

New legislation and amendments

During the reporting period, there was one proposed and four enacted legislative changes that impacted the Commissioners' functions.

Privacy and Personal Information Protection Amendment Bill

The Privacy and Personal Information Protection Amendment Bill 2021 was released for public consultation on 7 May 2021. The draft exposure bill proposes to:

- establish a MNDB Scheme to require public sector agencies bound by the PPIP Act to notify the Privacy Commissioner and affected individuals of data breaches of personal or health information, which are likely to result in serious harm, and
- applies the PPIP Act to all SOCs that are not regulated by the Commonwealth *Privacy Act 1988*.

The Commissioners made a joint submission to the public consultation on the draft exposure bill on 25 June 2021. In 2021/22, DCJ consulted further with the IPC on the draft bill. The IPC and the Privacy Commissioner provided significant commentary and assistance through the course of the development of the draft Bill.

Service NSW (One-Stop Access to Government Services) Amendment (COVID-19 Information Privacy) Bill 2021

The *Service NSW (One-Stop Access to Government Services) Act 2013* was amended to include Part 3A which provides for additional protections for information collected by Service NSW under a public health order for the purpose of COVID-19 contact tracing.

The personal information and health information to which Part 3A applies can only be used for:

- the purposes for which it was collected, or
- contact tracing, or
- investigating or prosecuting a breach of a public health order relating to a travel permit or a declaration provided when entering or leaving NSW.

Governance and legislative responsibilities

Customer Service Legislation Amendment Bill 2021

The PPIP Act and HRIP Act were amended to authorise the collection, use and disclosure of personal and health information:

- where it is reasonably necessary to assist in a stage of an emergency, as defined by the *State Emergency and Rescue Management Act 1989* (NSW),
- only for the purposes of assisting in the stage of the emergency, and
- it is impracticable or unreasonable to seek the consent of the individual to whom the information relates.

If personal or health information is collected, used or disclosed to assist with a stage of an emergency:

- the agency must not hold the information for longer than 18 months, unless extenuating circumstances apply or consent has been obtained, and
- if the agency is a law enforcement agency, the information must not be used for the purpose of prosecuting an offence.

These changes implemented recommendations of the NSW Bushfire Inquiry held following the 2019–20 bushfires.

Public Interest Disclosures Act 2022

The *Public Interest Disclosures Act 2022* (PID Act 2022) was assented on 13 April 2022 and will commence 18 months after the date of assent.

As a member of the Public Interest Disclosure Steering Committee, the Information Commissioner joined with Committee members in welcoming the Act, which represents a significant enhancement in whistleblower protections in NSW, helping to ensure that reports of wrongdoing are acted upon, and that reporters are encouraged to come forward and are protected when they do.

The Privacy Commissioner was consulted during the development of the Bill and supports in particular those aspects relating to privacy, including:

- a 'privacy contravention' being included in the definition of 'serious wrongdoing' relating to the exercise of functions by agencies and public officials under the PPIP Act and the HRIP Act
- the Privacy Commissioner being specified as an 'integrity agency' with powers under NSW privacy laws to investigate a 'privacy contravention', and
- the Privacy Commissioner being a member of the Steering Committee.

Both Commissioners look forward to working with the Steering Committee to support the implementation of the new legislation. This will include:

- supporting the Ombudsman's Office as it develops new public and agency guidelines, reporting tools, templates and training, and
- providing advice to government on draft regulations under the Act.

Museums of History NSW Bill 2022

As a member of the Steering Committee considering the approach to the proposed merger to the State Records and Archives Authority (SARA) and the Historic Houses Trust, the Information Commissioner contributed to the development of the Museums of History NSW Bill 2022 (the Bill) which was introduced into the Legislative Assembly on 22 June 2022 and passed on 10 August 2022.

The Bill would create and confer functions on the Museums of History NSW, including functions currently exercised by the Historic Houses Trust, incorporating Sydney Living Museums, and the SARA. The Bill would rename SARA as the State Records Authority with responsibility to administer Parts 2 and 3 of the *State Records Act 1998*.

A key reform introduced by the Bill is an amendment to the access provisions for State records to reduce the open access period from 30 years to 20 years. This reform promotes the principle of open government and brings the access period into line with other commensurate jurisdictions in Australia and internationally.

Objectives of our legislation

The GIPA Act establishes an open approach to gaining access to government information. NSW government agencies, including SOCs, NSW government Ministers, local councils and universities are covered by the GIPA Act. The object of the GIPA Act is to maintain and advance a system of responsible and representative democratic government that is open, accountable, fair and effective, by:

- authorising and encouraging the proactive release of government information by agencies
- giving members of the public an enforceable right to access government information
- providing that access to government information is restricted only where there is an overriding public interest against disclosure.

The intent of Parliament to create the IPC as a 'one-stop-shop' is supported by the legislation which provides a legal framework in which access to information and protection of privacy can be appropriately balanced. The GIPA Act confirms that information sharing must commence from the position of granting access to information. However, this commitment to sharing information must also balance factors including the protection of personal information.

Governance and legislative responsibilities

Practical mechanisms to promote information sharing and protect personal information are also provided under the GIPA Act. The PPIP Act contains provisions to confirm that the PPIP Act does not operate to lessen any obligations under the GIPA Act in respect of a public sector agency, which provides the vehicle for release of government held information of a personal and non-personal nature.

Under the GIPA Act, the Information Commissioner must complete her review of agency decisions within 40 days of receipt of all information. To ensure equity of service delivery this timeframe is also applied, by convention, to the conduct of privacy reviews by the Privacy Commissioner.

The GIIIC Act establishes the role of the Information Commissioner and provides the legislative framework through which the Information Commissioner and IPC staff as delegates, exercise functions in relation to the investigation of complaints and the conduct of enquiries.

The PPIP Act establishes the role of the Privacy Commissioner and gives effect to Parliament's intention that privacy and information access are separate and discrete functions. It also gives legal recognition to the public interest in the protection of privacy – the right of individuals to exercise control over the availability and use of personal information about them. The PPIP Act protects privacy by regulating the way NSW public sector agencies (including local councils and universities) deal with personal information. The key to the PPIP Act is the IPPs.

The HRIP Act protects the privacy of people's health information in NSW. It covers information created and collected by hospitals and other health service providers. It also covers other public and private organisations that hold health information. The HRIP Act contains HPPs.

Our strategic objectives

In December 2021, the IPC finalised its Strategic Plan for 2022-2024. The Strategic Plan's structure follows the previous 2020-2022 plan, which is formed around the four pillars of:

- Service Delivery & Excellence
- Engagement & Influence
- Rights Promotion & Impact
- Operational Excellence.

The IPC's Regulatory Plan 2022 – 2024 commenced in 2022, following the conclusion of the 2020-22 plan in December 2021. As with previous Plans, the IPC's regulatory efforts continue to be guided by a risk-based and intelligence-informed approach to regulation and align to its regulatory objectives to:

- guide safe and effective information sharing by agencies and build public awareness and understanding
- protect information access and privacy rights of the citizens of NSW
- report on and foster agency compliance with information access and privacy obligations.

Further information about the Plans, including their development, can be found on page 57.

IPC Strategic Plan 2022 – 2024 Summary

IPC Strategic Plan 2022 – 2024 Framework

Pillar 1: Service Delivery & Excellence

What are we doing to improve services to the community

Objective

Deliver quality, timely and effective services to promote regulatory objectives and compliance, enabled by effective and accessible resources supported by well managed and efficient systems and processes.

Pillar 2: Engagement & Influence

What are we doing to directly influence regulated agencies and engage with the public

Objective

Influence agencies and citizens through strategic engagement to promote information access and privacy rights, identify risks and authoritatively promote compliance to achieve regulatory goals.

Pillar 3: Rights Promotion & Impact

What are we doing to anticipate and address emerging regulatory issues

Objective

Continually improve citizen and agency understanding of their information access and privacy rights and obligations now and into the future through provision of timely, accurate, informative and innovative guidance, advice, intelligence and tools.

Pillar 4: Operational Excellence

What are we doing to support an effective, efficient one-IPC

Objective

Deliver respected, quality and comprehensive services with professionalism, supported by expert operational capability and sound good governance.

IPC Values

Accountable • Service Focused • Proactive • Independent • Integrity • Trust

Reporting against our strategic objectives – Summary

IPC	Reviews & Complaints	2021/22	2020/21	2019/20
	Received	682	897	815
Closed	764	850	814	

GIPA	Reviews & Complaints	2021/22	2020/21	2019/20
	Received	362	538	465
Closed	422	497	464	

Privacy	Reviews & Complaints	2021/22	2020/21	2019/20
	Received	320	359	350
Closed	342	353	350	

Enquiries received by type		2021/22	2020/21	2019/20
	Phone	1963	2242	1927
In writing and in person*	1177	1165	855	

Advices	2021/22	2020/21	2019/20
	GIPA (closed)	168	285
Privacy (closed)	219	284	235

DRF Advices***	2021/22	2020/21
	Information access and privacy advices (closed)	112

Submissions	2021/22	2020/21	2019/20
	GIPA	6**	6
Privacy	8**	9	9

Research (includes surveys)	2021/22	2020/21	2019/20
	GIPA	2	1
Privacy	1	0	1

Committees	2021/22	2020/21	2019/20
	GIPA	7	5
Privacy	4	4	3

Publications	2021/22	2020/21	2019/20
	GIPA	13	13
Privacy	5	11	7

* Includes in person, emails, letters, faxes and website forms

**This is made up of 5 joint submissions

***Information access and privacy advices provided

Reporting against our strategic and regulatory objectives

The reporting against our strategic and regulatory objectives relates to the IPC Strategic Plan 2022 – 2024 which commenced in January 2022. For more information on the plan and initiatives see page 23.

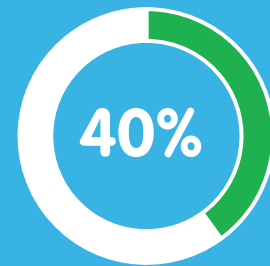
Pillar 1: Service Delivery & Excellence

What are we doing to improve services to the community

Objective:

Deliver quality, timely and effective services to promote regulatory objectives and compliance, enabled by effective and accessible resources supported by well managed and efficient systems and processes.

Strategic Initiatives completed



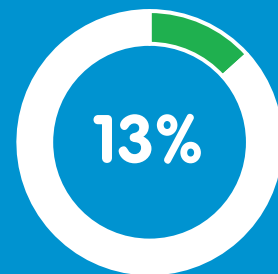
Pillar 2: Engagement & Influence

What are we doing to directly influence regulated agencies and engage with the public

Objective:

Influence agencies and citizens through strategic engagement to promote information access and privacy rights, identify risks and authoritatively promote compliance to achieve regulatory goals.

Strategic Initiatives completed



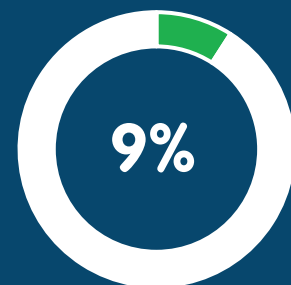
Pillar 3: Rights Promotion & Impact

What are we doing to anticipate and address emerging regulatory issues

Objective:

Continually improve citizen and agency understanding of their information access and privacy rights and obligations now and into the future through provision of timely, accurate, informative and innovative guidance, advice, intelligence and tools.

Strategic Initiatives completed



Pillar 4: Operational Excellence

What are we doing to support an effective, efficient one-IPC

Objective:

Deliver respected, quality and comprehensive services with professionalism, supported by expert operational capability and sound good governance.

Strategic Initiatives completed



Reporting against our strategic objectives – Outcomes

Pillar 1: Service Delivery & Excellence

No.	Strategy	Outcome measures (KPIs)	Outcomes
1.1	Provide effective advice to agencies, citizens and other entities (e.g. NSW Parliament and the NCAT)	<p>Increased agency and citizen engagement with IPC materials measured through monthly dashboard reporting</p> <p>Improved record of agency implementation of IPC advice, including implementing privacy by design on digital and other projects. This will be captured via audit or follow-up surveys</p>	<ul style="list-style-type: none"> • 460,319 page views and 235,322 visits to the IPC website • 10,927 total downloads of IPC materials for 2021/22 • 112 DRF advices provided to agencies promoting improved access to information and privacy • 70% of practitioners surveyed indicated that they had used IPC online resources within the past 3 months to assist them in their work • 80% of agencies surveyed agreed that it was easy to find information such as fact sheets, guidance and guidelines on the IPC website, an increase of 17% from 2020/21 • 70% of agencies surveyed agreed that the IPC officer/s had the knowledge to answer their questions, an increase of 13% from 2020/21
1.2	Flexibly apply resources to meet increasing demand	Average timeframe for closures remains stable within a margin of 10% (+/-) of 2021 levels	<ul style="list-style-type: none"> • Information access: <ul style="list-style-type: none"> – 62% of advices were completed within 14 calendar days, a decrease from 69% in 2020/21 – 73% of complaints were completed within 90 calendar days, consistent with 76% in 2020/21 – 100% of reviews were completed within 40 working days, consistent with 100% in 2020/21 – 84% of enquiries were completed within 1 calendar day, an increase from 75% in 2020/21 • Privacy: <ul style="list-style-type: none"> – 65% of advices were completed within 14 calendar days, an increase from 60% in 2020/21 – 67% of complaints were completed within 90 calendar days, a decrease from 82% in 2020/21 – 100% of reviews were completed within 40 working days, consistent with 100% in 2020/21 – 69% of enquiries were completed within 1 calendar day, an increase from 66% in 2020/21
1.3	Proactively set citizen expectations of the services and advice we can offer at their point of engagement with the IPC	<p>Improved outcomes of customer surveys using previous benchmarks (+/- 10% of 2021 levels)</p> <p>Improved agency and citizen engagement with IPC materials (monthly dashboard)</p>	<ul style="list-style-type: none"> • 55% of clients surveyed were satisfied with the service provided by the IPC, an increase of 2% from 2020/21 • 57% of clients surveyed indicated that IPC officers had the knowledge to answer their questions, an increase of 2% from 2020/21 • 70% of clients surveyed indicated that the outcome of their case was clearly communicated by the IPC, a decrease of 5% from 2020/21 • 58% of clients surveyed indicated that they received a timely outcome from the IPC, a decrease of 4% from 2020/21 • 10,927 total downloads of IPC materials from the IPC website in 2021/22

Reporting against our strategic objectives – Outcomes

Pillar 2: Engagement & Influence

No.	Strategy	Outcome measures (KPIs)	Outcomes
2.1	Anticipate, shape and respond to the digitisation of government	More government information being released by agencies to citizens through digital projects incorporating information access measured through surveys	<ul style="list-style-type: none"> Overall information release rate of 73% across the NSW government in 2020/21 92% of agencies reported a review of their proactive release program in 2020/21 112 DRF advices provided promoting improved access to information and privacy
2.2	Improve understanding of impacts of technology on IPC legislation to build internal IPC capacity to assist agencies	Review currency of publications, including advice on new technologies	<ul style="list-style-type: none"> 34 IPC resources reviewed in 2021/22 by the Publications Review Committee 9 submissions to government reviews and inquiries on issues including digital technologies The IPC implemented new taxonomy labels in 2021/22 to identify cases involving new technology Cyber security presentation to IPC staff from the NSW Chief Cyber Security Officer
2.3	Continue to demonstrate IPC's proactive, independent leadership in the management and promotion of data and information	Improved IPC brand awareness around reach and reputation (brand awareness survey used to measure % increase in agency awareness of IPC services and responsibility)	<ul style="list-style-type: none"> Commencement of IPC Brand Awareness Survey in 2021/22 73% of the community surveyed were aware that they had the right to access information from at least one of the agencies under NSW information access laws in 2021, a decrease from 77% in 2019 387 advices provided to agencies in 2021/22 IPC Bulletin sent to over 1,500 stakeholders each quarter. 91,038 total reach for the IPC's boosted social media posts in 2021/22 235,322 total visits to the IPC website in 2021/22, an increase of 4.8% since the previous reporting period
2.4	Encourage agencies to act on the guidance IPC provides	Improved record of agency implementation of IPC advice, including their implementation of privacy by design on digital and other projects (captured via audit or follow-up surveys)	<ul style="list-style-type: none"> 112 DRF advices provided promoting improved access to information and privacy 387 advices provided to agencies in 2021/22 70% of agencies surveyed said they were satisfied with the advice provided to them by the IPC, an increase of 3% from 2020/21 14 e-alerts sent to practitioners promoting IPC guidance 82% of practitioners surveyed indicated they had used IPC resources in the past 3 months 70% of practitioners surveyed indicated that they had used IPC online resources within the past 3 months to assist them in their work

Reporting against our strategic objectives – Outcomes

Pillar 2: Engagement & Influence

No.	Strategy	Outcome measures (KPIs)	Outcomes
2.5	Ensure greater consistency of agency understanding and awareness of existing and emerging legislation / case law	Overall improvement in agency understanding and awareness (captured via audit or follow-up surveys)	<ul style="list-style-type: none"> • 387 advices provided to agencies in 2021/22 • 12 information access and privacy NCAT case notes published to the IPC website • 10,927 total downloads of IPC materials for 2021/22 • Over 400 agencies using the IPC GIPA Tool in 2021/22 • 538 new registrations in the IPC's e-learning portal, an increase from 450 in 2020/21 • 82% of practitioners surveyed indicated they had used IPC resources in the past 3 months • 70% of practitioners surveyed indicated that they had used IPC online resources within the past 3 months to assist them in their work
2.6	Effectively prepare for and deliver Mandatory Notification of Data Breach Scheme	100% of voluntary notifications are registered and acknowledged within 5 business days of receipt	<ul style="list-style-type: none"> • The IPC commenced planning for the MNDB Scheme in 2021/22, including project scoping, development of reporting measures, planning IT requirements, consultation with agencies and development of templates
2.7	Strengthening engagement using new and comprehensive ways of engaging agencies, partners, experts and citizens	Improved 'understandability' score on communication activities or materials (via micro-surveys)	<ul style="list-style-type: none"> • 75% of practitioners surveyed indicated that IPC guidance was 'easy' or 'very easy' to understand • 67% of clients surveyed agreed that information such as fact sheets and guidelines were easy to find on the IPC website, an increase of 4% from 2020/21 • New diverse resource types developed in 2021/22, including 4 animations, 1 checklist, 1 agency template letter, 1 questionnaire and 1 practice guide
2.8	Seek to develop further external agency maturity around their use of the self-assessment tool	Increase in the number of agencies responding to IPC surveys saying that they are using self-assessment tools	<ul style="list-style-type: none"> • 31.9% of agencies surveyed have used the IPC's information access self-assessment tool, an increase from 12.3% in 2020 • 22.1% of agencies surveyed have used the IPC's privacy self-assessment tool, an increase from 10.6% in 2020

Reporting against our strategic and regulatory objectives

Pillar 3: Rights Promotion & Impact

No.	Strategy	Outcome measures (KPIs)	Outcomes
3.1	Elevate agency and citizen awareness of rights and pathways for accessing information including MNDB	Improved record of agency implementation of IPC advice, including establishment of pathways being used by citizens (captured via audit or follow-up surveys)	<ul style="list-style-type: none"> 73% of the community surveyed were aware that they had the right to access information from at least one of the agencies under NSW information access laws in 2021, a decrease from 77% in 2019 The IPC developed an animation on the ways to access government information in NSW featuring the four GIPA pathways The IPC developed animations on the Information Protection Principles and Health Privacy Principles The IPC published a new simplified guide to information access 87% of citizen formal GIPA applications were valid in 2020/21, consistent with 88% in 2019/20 59% invalid GIPA applications subsequently became valid in 2020/21, a decrease from 66% in 2019/20 30% increase in GIPA applications to NSW public sector agencies in 2020/21 and consistency in the number of reviews (an increase of 1% from 2019/20)
3.2	Identify and manage emerging issues to inform guidance and thought leadership	Report number of IPC thought leadership pieces on a quarterly basis, noting that the dashboard also includes analysis of stakeholder engagement with materials around new trends and technologies	<ul style="list-style-type: none"> The Information Commissioner released the GIPA 10 year data analysis overview report (2010-2020) in 2021/22 The IPC implemented new taxonomy labels in 2021/22 to identify cases involving new technology 4 statements released by the Information Commissioner and the Privacy Commissioner on contemporary issues 49 Commissioner presentations to stakeholders on information access and privacy The Privacy Commissioner hosted the public sector leader session 'Insights and lessons – Preparing for MNDB' The Information Commissioner hosted the discussion session 'Open Government – Transparency and Accountability'
3.3	Continually ensure agencies and citizens have effective access to up-to-date information	Improved agency and citizen engagement with IPC materials (monthly dashboard)	<ul style="list-style-type: none"> 28 new IPC resources published in 2021/22 34 IPC resources reviewed in 2021/22 by the Publications Review Committee 10,927 total downloads of IPC materials for 2021/22 319 total social media posts which included promotion of IPC resources with 4,527 total engagements on the posts 14 e-alerts sent to practitioners and citizens promoting IPC guidance 31.9% of agencies surveyed have used the IPC's information access self-assessment tool, an increase from 12.3% in 2020 22.1% of agencies surveyed have used the IPC's privacy self-assessment tool, an increase from 10.6% in 2020

Reporting against our strategic and regulatory objectives

Pillar 4: Operational Excellence

No.	Strategy	Outcome measures (KPIs)	Outcomes
4.1	Implement best practice systems, processes and resources	Improved internal user satisfaction with system and resources (staff survey)	<ul style="list-style-type: none"> The IPC made various upgrades to its Resolve case management system in 2021/22 Overall IPC staff score was 70% for learning and development in the 2021 People Matter Employee Survey (PMES) 95.8% of IPC staff surveyed rated their experience of working remotely as 'good' or 'excellent' 91.7% of IPC staff surveyed agreed they have all the equipment they need to work from home
4.2	Work in a supportive, cross functional way across the whole of IPC, including to deliver systems improvement and agency advice	Overall staff satisfaction with experience of collaborating with other teams on Strategic Plan initiatives (360-degree survey)	<ul style="list-style-type: none"> Commencement of IPC collaboration survey in 2021/22 87.5% of IPC staff surveyed rated their team's ability to work together effectively while remote as 'good' or 'excellent' 91.6% of IPC staff surveyed said they 'often' or 'always' feel supported by their manager and team to do their work effectively
4.3	Ensure human resources and finance management meets IPC requirements and commitments	Decrease in the number of financial issues, increase in staff training hours measured and reported on the monthly dashboard	<ul style="list-style-type: none"> The IPC secured additional funding for 2021/22 and will roll over unspent data breach funding into 2022/23 Over 1,346 hours invested in IPC staff training, an increase from 1,132 hours in 2020/21 Number of financial issues captured as a benchmark for future years and engagement with DCS regarding corporate service charges ongoing Increased engagement with Treasury and Audit Office to improve financial management

Report on regulatory achievements

The IPC's Regulatory Plan 2020 – 2022 contains a total of 33 identified regulatory initiatives. The plan commenced in January 2020 and between January 2020 and December 2021, 31 (93.9%) regulatory initiatives were finalised and 2 (6.1%) were reassessed. There were no outstanding regulatory initiatives, thus concluding the Regulatory Plan 2020 – 2022.

Regulatory initiatives from the 2020-22 Regulatory Plan that were finalised in the reporting period are listed below:

- Contribute to review of Agency fees and charges and lead the development of guidance
- Develop a Fact Sheet on privacy and open access with a particular focus on councils
- Develop resources for the exercise of functions of Ministers and Ministerial Offices under the IPC's legislation
- Examine the operation of the GIPA Act in the context of digital government; increased outsourcing and partnership arrangements and new administrative models for service delivery
- Develop a Fact Sheet on access to information about public officials under the GIPA Act
- Promote improved access to information at the lowest reasonable cost through digital solutions that impact processing and other charges

- Review the privacy governance framework
- Develop a Fact Sheet about privacy offences
- Create infographics and/or video clips on specific topics
- Develop a Fact Sheet to assist people with reduced decision-making to make an application under the GIPA Act.

The IPC's Regulatory Plan 2022 – 2024 commenced in 2022 and contains a total of 23 identified regulatory initiatives. At the end of the reporting period, 4 (17.4%) regulatory initiatives were finalised.

Regulatory initiatives from the Regulatory Plan 2022 – 2024 that were finalised in the reporting period are listed below:

- Build upon the agency self-evaluation model by enhancing use of self-assessment tools and governance models to embed requirements
- Identify cases (including test cases), conduct research and prepare briefings for responsible Ministers to assist in maintaining currency of legislation
- Review the existing published voluntary data breach resources and tools for currency and continued application
- Further develop relationship with IPAC to support delivery of strategic IPC priorities.

The IPC's Regulatory Plan 2022 – 2024



Pillar 1: Service Delivery & Excellence



Pillar 1: Service Delivery & Excellence

What are we doing to improve services to the community?

Objective

Deliver quality, timely and effective services to promote regulatory objectives and compliance, enabled by effective and accessible resources supported by well managed and efficient systems and processes.

The IPC met the objectives of this pillar by:

- reviewing and updating the Voluntary Data Breach process, procedures, guidance and impact for any business systems changes
- reviewing the IPC privacy governance framework
- examining opportunities to improve the accessibility and reach of the IPC website including: a readability checker, search engine optimisation, URL aliases with simple URLs to highlight subjects
- rolling out the use of ‘boosts’ for social media content
- improving the digital and social media capability of the communications team
- establishing and maintaining and register of key contacts and functional units under the IPC Service Level Agreement
- updating the IPC Business Continuity Plan to reflect transition to Customer Service Cluster
- establishing an IPC cyber-security incident response plan relevant to impacted agencies
- identifying cases (including test cases), conducting research and preparing briefings for responsible Ministers to assist in maintaining currency of legislation
- expanding the IPC Rotation Policy to include capacity for flexibility in the I&R team for hybrid work arrangements.

Information access

Advice to agencies

The IPC provides information to agencies to assist with compliance, their decision-making and to support public access to information. With the increasing application of digital technologies across government, agencies sought advice about the application of information access and privacy legislation to the implementation of those new technologies both within government and in the provision of services to the citizens of NSW.

GIPA advices to agencies

During the year agencies sought advice on many aspects of information access under the GIPA Act including:

- handling formal applications
- proposed amendments to legislation and regulations
- applying GIPA legislation to digital technology and related projects, including cyber projects
- preparing Agency Information Guides (AIGs)
- managing disclosure requirements such as contract registers
- meeting open access requirements including through publication of information on websites as open access data
- updating publicly available general advice for agencies.

Closed: GIPA advice by sector for 2021/22

Stream and sector	2021/22	2020/21	2019/20
Total GIPA	168	285	340
State Government	117	156	111
Local Government	33	97	192
University	3	9	7
Minister	0	1	0
State-Owned Corporation	1	3	3
Other	14	19	27

Pillar 1: Service Delivery & Excellence

Information access complaints

Under the GIIC Act, a complaint may be made to the Information Commissioner about the action or inaction of an agency in the exercise of their functions under the GIPA Act. Matters which may be the subject of a review under section 80 of the GIPA Act cannot be the subject of a complaint under the GIIC Act, even if the person may be out of time to apply for a review of a decision. The Information Commissioner may decline to deal with the complaint or may provide information to assist the complainant in understanding the application of the legislation where this occurs.

In 2021/22, the IPC received 45 information access complaints. This represents a significant reduction of 61% in the number of complaints received as compared to the previous year. Prior to this, the IPC had experienced a year on year increase for two consecutive years.

The IPC uses information from the trends and systemic issues identified in complaints to inform the Information Commissioner's risk-based proactive regulatory initiatives, such as compliance audits, which are then included in the Information Commissioner's published program of regulatory activity.

During 2021/22, 73% of complaints were finalised within 90 days, compared with 76% in the previous reporting year. The average number of days to finalise a complaint has further decreased from 62 days in 2020/21 to 57 days in 2021/22. At the conclusion of the reporting period, only four complaints received remained open. A reduction in the number of complaints together with the continued efforts by the IPC to review and refine its complaints approach have contributed to the improvement in timeliness.

Like previous years, of the 48 complaints finalised, the majority were focused in the Government and Council sectors, with the Council sector representing 56% of all the complaints finalised.

For the previous reporting year, most complaints lodged related to:

- decision-making processes
- open access information not being made available or not provided.

Although decision-making processes remained one of the key areas of complaints, the number of complaints recorded as relating to decision-making processes has decreased by comparison to previous years. Complaints associated with decision-making timeframes, including not making a decision within the statutory timeframes, has also declined as a cause of complaint.

Reviews of agency information access decisions

During the reporting period, the IPC continued to enhance its systems and procedures for the exercise of external review functions. Since November 2018, the Information Commissioner has been required to complete her external review function within 40 working days of when the Information Commissioner has determined that she has all the information necessary to complete the review.

In 2021/22, the Information Commissioner finalised 100% of all reviews received within the statutory requirements, which is consistent with the 2020/21 reporting period. The Information Commissioner received 317 applications for external review, representing a 25% decrease compared with the previous reporting period. Despite the decrease, the number of external reviews closed was comparable to last year, with 374 reviews closed during the 2021/22 reporting period. As at the conclusion of the reporting period, 19 reviews remained open.

The top public interest considerations in reviews that were finalised are listed in the table on page 36. The top three considerations for the 2021/22 reporting period are the same considerations reported in the previous reporting period.

Closed: Information access complaints and reviews by sector for 2021/22

Sector	Complaints	Reviews
Government	18	232
Council	27	115
University	1	17
Minister	1	6
State-Owned Corporation	0	1
Other*	1	3

* Includes sectors which by particular operation of legislation are designated to comply with the GIPA Act e.g. independent schools for the purpose of working with children investigations.

Pillar 1: Service Delivery & Excellence

GIPA external reviews for 2021/22

Top Public Interest Considerations applied by agencies	Number
s14T(3)(a) personal information	109
Information Not Held/Searches	99
s14T(1)(f) effective exercise agency function	66
s14T(1)(d) supply of confidential information/ agency function	51
s14T(3)(b) IPP/HPP	50
s14T(4)(d) business/professional interests	33
s14T(1)(e) deliberative process of government	29
s14T(1)(g) breach of confidence	19
Sch1(5) Legal professional privilege	17
Form of Access	16
Grand total for all issues	489

Information Commissioner audits

During 2021/22, the IPC continued its proactive audit compliance program and proactively published its proactive calendar of upcoming audit activity on the IPC website. The audit process is intended to maximise the effectiveness of a proactive approach to elevating compliance across the regulated sectors. The identification of audits is informed by risk/impact and intelligence assessments. The process uses a mix of quantitative and qualitative data metrics, risk/impact assessments, and consideration of environmental/contextual factors for the selection of targeted audits and informing the scope of the audit.

In the reporting period, the Information Commissioner finalised four audits into agency compliance with the GIPA Act. Three compliance reports were issued:

- NSW Police Force – Follow Up GIPA Compliance Audit Phase 2 – September 2021
- Notices of advance deposit and processing charges applied by agencies under the GIPA Act – Compliance Audit Report – July 2021
- Local Government Sector – Compliance Report – July 2021

The external environment and unique circumstances presented by COVID-19 again necessitated some changes to the timing and approach for the conduct of the audits identified.

The majority of the audits have been conducted as desktop audits. A desktop audit may also form the basis of a preliminary assessment for future compliance activity.

A desktop audit is distinguishable from an onsite audit which can adopt a more direct inquisitorial approach. In general, the IPC conducts desktop audits to elevate compliance by way of guidance, raising awareness and in some cases making recommendations to an agency. However, poor results or lack of cooperation by an agency may result in further and escalated compliance action.

While the scope of the audits may vary, depending on the risk/impact and intelligence assessments that have informed the audit, the methodology applied is generally consistent and includes:

- assessment of overall GIPA compliance using publicly available annual reports and other publicly available data
- IPC Compliance Data
- agency GIPA Dashboard
- onsite audit of a random sample selection of GIPA files against legislation
- review of policies, procedures and processes.

Following the completion of an audit, the IPC continues to engage with the agency to monitor implementation of any recommendations made arising from the audit.

Two of the audits completed during the reporting period were undertaken as a broader sector review of compliance as distinct from an agency audit. A broader sector or issue audit has the benefit of providing insights more generally based on a sampling of the sector, which can inform opportunities for improvement in practice across regulated entities, or to identify drivers that might inform the provision of advice and assistance to members of the public.

Of the two audits, the Local Government Sector Audit was undertaken in response to identified risks with compliance with the open access requirements for disclosure of interests by councillors and other designated persons. The audit of 52 councils observed that there was inadequate compliance across the local government sector and the categories of councils. As a result, a follow-up audit has been included in the IPC's program of audit activity.

The second audit on Advance Deposits and Processing Charges focused on an examination of the factors that inform the calculation of charges and the legislative requirements of a notice to require an advanced deposit. The outcome of the audit included the development of informed and revised guidance to regulated entities.

The audit reports are publicly available on the [IPC website](#).

Pillar 1: Service Delivery & Excellence

NCAT activities

If an individual is not satisfied with a decision on a formal access application, under the GIPA Act they may apply for a review by NCAT. Applications must be made within 40 working days from being notified of the decision by an agency, or within 20 working days from being notified of the decision by the Information Commissioner.

The Information Commissioner has the right to appear and be heard in NCAT proceedings in the role of *amicus curiae* (“friend” of the Tribunal). The Commissioner’s representatives can appear in proceedings to assist the Tribunal with interpretation of the relevant legislation and issues of law. IPC officers cannot assist the parties to the litigation.

During the reporting period, the Information Commissioner was represented in NCAT (and NCAT Appeal Panel) proceedings, including in matters that progressed to hearing. The Information Commissioner made 25 written submissions during the reporting period (a moderate increase from 18 written submissions made in 2020/21), including in the following matters:

- *O’Brien v Secretary, Department Communities and Justice* [2022] NSWCATAD 100
 - *Moran v Shellharbour City Council* [2022] NSWCATAD 112
 - *Christopher v Independent Commission Against Corruption* [2022] NSWCATAP 118
 - *Douglas v Commissioner of Police* [2022] NSWCATAD 152
 - *FlyBlue Management Pty Ltd v NSW Crown Lands Department (Department of Planning and Environment)* [2022] NSWCATAD 167
 - *Giblin v Department of Planning and Environment* [2022] NSWCATAD 232
 - *Eric Anthony Foster v Department of Planning and Environment* [2022] NSWCATAD 235.
- Case summaries of significant decisions of interest have been published on the [IPC website](#).

- *Redfern Legal Centre v Commissioner of Police* [2021] NSWCATAD 288
- *Hickey v Secretary, Department of Education* [2021] NSWCATAD 306
- *FlyBlue Management Pty Ltd v NSW Crown Lands Department* [2021] NSWCATAD 322
- *Norkin v University of New England (No. 2)* [2021] NSWCATAD 371
- *Walton v Eurobodalla Shire Council* [2022] NSWCATAD 46
- *Australian Education Union, NSW Teachers Federation Branch v New South Wales Department of Education* [2022] NSWCATAD 97

GIPA NCAT activities for 2021/22

	No. files opened 2021/22	No. files closed 2021/22
GIPA	104	111

COVID-19 information access matters

Matters concerning COVID-19 continued during 2021/22. There was a significant increase in information access matters concerning COVID-19 with 36 received in total, compared with 28 in 2020/21.

GIPA case activities and performance for 2021/22

Case type	Number received	Number closed	Number open at 30 June 2022	Average days to finalise 2021/22	Average days to finalise 2020/21	% Complete within target 2021/22
Advices	166	168	0	18	16	62%
Audits (combined)	53	55	5	N/A	157	N/A
Audit-AIG	49	51	3	46	N/A	29%
Audit-other*	4	4	2	140	157	N/A
Complaints	45	48	4	57	62	73%
Reviews	317	374	19	75	67	100%
Enquiries	1546	1542	0	1	2	84%
Own motion	0	0	0	N/A	N/A	N/A

* Includes general compliance audits in accordance with section 17(g) of the GIPA Act. These audits are not subject to a target time frame.

Pillar 1: Service Delivery & Excellence

Privacy

Advice to agencies

The IPC provides information to agencies to assist with their compliance, decision-making, and to support them to adopt best practice when collecting, storing, using and disclosing personal information.

Privacy advices to agencies

During the reporting period, topics included:

- application of privacy principles, legislation and regulation to the introduction of new digital services and technology-related projects, including cyber projects
- the development of digital identity and verifiable credentials projects
- the collection, use and disclosure of information including personal and health information
- proposed amendments to legislation and regulations
- handling of privacy breaches
- use of data collection techniques
- conduct of privacy impact assessments
- public interest directions and privacy codes of practice.

Closed: Privacy advice by sector for 2021/22

Stream and sector	2021/22	2020/21	2019/20
Total Privacy	219	284	235
State Government	172	213	156
Local Government	9	31	43
University	2	5	4
Minister	0	2	1
State-Owned Corporation	2	1	2
Other*	34	32	29

* Note: the above advices are exclusive of IPC corporate advice

Privacy complaints

In the 2021/22 reporting period, 96 complaints were received compared with 93 in the previous reporting period. This represented a small increase of 3% over the previous period.

During 2021/22, 67% of complaints were finalised within 90 days compared with 82% the previous reporting period. The average days to completion increased to 80 from 66 the previous period, with six complaints open at the end of

the reporting period. A total of 111 complaints were finalised compared with 84 the previous period, and the increase in completions is also reflected in the increase in overall days to completion.

The small increase in the number of complaints received was accompanied by an overall increased processing time, in part attributable to increased case complexity, specifically relating to private health providers. These cases will often result in the issuance of a report under the HRIP Act that requires the IPC to ensure procedural fairness to all parties.

The complaints finalised by the Privacy Commissioner overwhelmingly relate to:

- access or refusal of access to health information – examples include individuals seeking access to their personal health information or in seeking to transfer their health information to another health provider
- disclosure of personal/health information
- retention and security of personal/health information.

The majority of complaints received were about private health service providers and individual health practitioners where there is dual jurisdiction with the Commonwealth regulator. Some of the complaints being lodged are by legal representatives who are seeking information in potential litigation matters. Complaints relating to public sector agencies about personal information under the PPIP Act are generally dealt with as an internal review.

Submissions on internal agency privacy reviews

The Privacy Commissioner exercises her oversight function under section 54 of the PPIP Act, following application for an internal review by an individual to an agency. In practice, the IPC receives a report from the agency that outlines:

- the issues;
- the investigation of the complaint; and
- the findings and proposed recommendations.

The IPC is notified of the application outcomes from the agency and undertakes an assessment of the report. Under section 54(2) of the PPIP Act, the Privacy Commissioner may make submissions for consideration by the agency if warranted.

In the reporting period, the Privacy Commissioner received 224 privacy reviews, a 16% decrease in the number of privacy reviews received compared with the previous reporting period. This contrasts with the previous reporting period, where there was an increase of 12% in the number of privacy reviews received. This represents the first year of decrease reported since the 2017/18 reporting period.

Pillar 1: Service Delivery & Excellence

The top issues/privacy principles raised in privacy reviews are listed in the table on the right.

During 2021/22, 100% of all reviews were finalised within the target date of 40 working days. Although there is no statutory timeframe for completion of privacy reviews by the Privacy Commissioner, in the reporting period, the Privacy Commissioner continued to apply a timeframe for completion of within 40 days. This is consistent with the requirements for information access ensuring a consistent and single point of service delivery standard across both information access and privacy.

The number of average days for completing a privacy review increased by three days, compared with the previous reporting period. This meant the average number of days for a privacy review to be open rose from 54 days to 57 days from the time of notification from the agency to the time of closure. This is the same number of average days as the 2019/20 reporting period.

The exercise of the oversight function is dependent on the receipt from the agency of its findings. The IPC has in place measures to monitor and follow up receipt of finalised reports from agencies.

Privacy Management Plans

Under Part 3 Division 2 of the PPIP Act, public sector agencies are required to prepare and implement a PMP and provide a copy to the Privacy Commissioner. The PMP is an integral part of public sector agencies' governance frameworks as it documents how privacy obligations are integrated into the functions and activities of the agency. A PMP sets out the agency's policies and procedures for complying with privacy and the principles contained in NSW privacy legislation. PMPs are publicly available and assist staff in their day-to-day handling of personal and health information, and are to be available to clients who wish to understand how their privacy is protected and managed by public sector organisations.

The number of PMPs received for review each year varies from year-to-year, depending on whether agencies have new or changed responsibilities that affect their obligations under privacy legislation, requiring an update to their PMPs.

In the reporting period, the Privacy Commissioner received a total of 31 PMPs for consideration. This is an 82% increase from the previous reporting period. The substantial increase in the number of audits flows from the proactive regulatory initiative foreshadowed in the previous reporting period and undertaken in 2021/22 to measure the existence and currency of PMPs.

Closed: Privacy complaints and reviews by sector for 2021/22

Sector	Complaints	Reviews
Government	24	176
Council	6	39
University	0	12
Minister	0	0
State-Owned Corporation	0	0
Other*	81	4

* Includes complaints about access to health information by private providers under section 26 of the HRIP Act

Privacy reviews for 2021/22

Top Issues/Privacy Principle	Number
IPP 11 Limits on disclosure of personal information	117
IPP 5 Retention and security of personal information	72
IPP 10 Limits on use of personal information	64
HPP 11 Limits on disclosure of health information	55
HPP 10 Limits on use of health information	47
HPP 5 Retention and Security	47
HPP 9 Accuracy	31
IPP 9 Agency must check accuracy of personal information before use	26
IPP 1 Collection of personal information for lawful purposes	25
HPP 2 Information must be relevant, not excessive, accurate and not intrusive	18
IPP 12 Special restrictions on disclosure of personal information	18
IPP 3 Requirements when collecting personal information	18
Grand total of all issues	538

Pillar 1: Service Delivery & Excellence

The PMPs are reviewed against the checklists and feedback provided to agencies as required. As at 30 June 2022, 29 had been reviewed and feedback provided to the relevant agency. The average days to review a plan in the reporting period was 36 days. This represents an increase in the number of days taken to review a plan from the previous reporting year of 22 days.

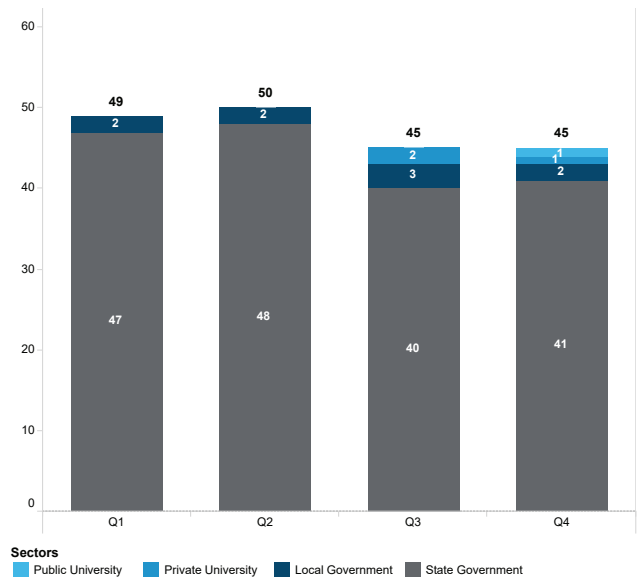
Privacy voluntary breach notifications

Under the PPIP and HRIP Acts, agencies have obligations to take reasonable steps to protect the personal and health information they hold. A data breach occurs when a failure has caused, or has the potential to cause, a loss of the protection of personal or health information. Although malware, hacking and data theft are examples of data breaches, simple human or technical errors rather than malicious intent are often the cause of breaches. In the reporting period, a number of these incidences reported to the IPC were also widely reported in the media.

While not required by law, the Privacy Commissioner encourages agencies to make voluntary notifications of data breaches to her. During 2021/22, the Privacy Commissioner received a total of 189 breach notifications, which represents a decrease of 14% from the previous reporting period. By virtue of its voluntary nature, the scheme relies on the regulated entities to self-report. Of the data breach notifications received, the majority came from the Government sector. Notifications made in accordance with section 117 of the *Fines Amendment Act* continue to represent a large number of the notifications made.

The data breach notifications for the reporting period are detailed in the graph on the right.

Voluntary breaches notified to the IPC - FY2021/22



During the reporting period, some of the notable matters the Privacy Commissioner also engaged directly with included:

- DCS concerning the COVID-19 Business Registration Check-In
- A NSW Local Health District (LHD) concerning its use of recycled paper
- Snowy Valleys Council concerning a systems compromise
- icare concerning a data breach caused by human error
- NSW Education concerning systems compromise.

Included in the notifications to the Privacy Commissioner were breaches attributed to human error which continue to include the use of carbon copy instead of blind copy in bulk email communications.

The Privacy Commissioner also initiated engagement in the reporting period with the Department of Education in response to the Human Rights Watch EdTech Report which remains ongoing.

During the reporting period, the Privacy Commissioner engaged with DCJ and DCS over the introduction of a MNDB Scheme for NSW.

Pillar 1: Service Delivery & Excellence

Privacy Commissioner proactive regulatory initiatives

During the reporting period, the Privacy Commissioner finalised her proactive regulatory review of compliance with the existence and currency of PMPs. The review included NSW government agencies, local councils and universities. While in general PMPs are publicly available on websites, the review observed instances of out-of-date PMPs, indicating an absence of consideration of the purposes and role of PMPs as part of broader governance arrangements, and there were opportunities for improvement.

The IPC engaged with all entities captured by the review which led to an increased review and updating of PMPs. The Privacy Commissioner foreshadowed a follow-up review to measure the extent of improvement which had occurred since the initial review was undertaken.

The audit report is published on the [IPC website](#).

NCAT activities

Under the PPIP Act, if an individual is not satisfied with the outcome of a privacy internal review, or if their application is not dealt with by the relevant agency within 60 days of the agency's receipt of their application, they may apply to NCAT for a review of the conduct giving rise to the internal review application.

The Privacy Commissioner has the right to appear and be heard in NCAT proceedings in the role of *amicus curiae* ("friend" of the Tribunal). The Commissioner's representatives can appear in proceedings to assist the Tribunal with interpretation of the relevant legislation and issues of law. IPC officers cannot assist the parties to the litigation.

During the reporting period, the Privacy Commissioner was represented in NCAT proceedings with some matters settling prior to hearing. The Privacy Commissioner made two written submissions during the reporting period, including in Appeal Panel proceedings *Commissioner of Police (NSW Police Force) v DVT* [2022] NSWCATAP 23.

Case summaries of significant decisions of interest have been published on the IPC website, including:

- [EMF v Cessnock City Council \[2021\] NSWCATAD 219](#)
- [FCZ v Illawarra Shoalhaven Local Health District \[2022\] NSWCATAD 79](#)
- [EIG v North Sydney Council \[2022\] NSWCATAD 127](#).

Privacy NCAT activities for 2021/22

	No. files opened 2021/22	No. files closed 2021/22
Privacy	53	53

COVID-19 privacy matters

Matters concerning COVID-19 continued during 2021/22. There was a significant increase in privacy matters concerning COVID-19 with 101 received in total, compared with 60 in 2020/21.

Privacy case activities and performance for 2021/22

Case type	Number received	Number closed	Number open at 30 June 2022	Average days to finalise 2021/22	Average days to finalise 2020/21	% Completed within target 2021/22
Advices	220	219	1	18	16	65%
Audits (PMP and other audits combined)	32	30	1	N/A	22	N/A
Audit-PMP	31	29	1	36	22	52%
Audit-other*	1	1	0	71	N/A	N/A
Voluntary breaches	189	199	1	24	12	79%
Complaints	96	111	6	80	66	67%
Reviews	224	231	16	57	54	100%
Enquiries	1594	1604	1	5	5	69%
Own motion	0	1	0	N/A	N/A	N/A

* Refers to an agency specific audit that is neither a PMP nor voluntary breach. These audits are not subject to a target time frame.

Pillar 1: Service Delivery & Excellence

Digital Restart Fund

The NSW government has allocated \$2.1B over a three-year term to invest in digital transformation projects through the DRF. It funds iterative, multi-disciplinary approaches to planning, designing and developing digital products and services in NSW.

The IPC reviews all digital projects to assess the privacy and information access impacts and provides advice to the Minister for Customer Service and Digital Government, Minister for Small Business, and Minister for Fair Trading. Under section 10 of the *Digital Restart Fund Act 2020* (DRF Act), before approving funding under the DRF for a project, the Minister must obtain and have regard to advice from the Information Commissioner and the Privacy Commissioner. This advice is required at each stage of a project, prior to funding being released.

With the widespread increase in digital service delivery by government, the IPC has reviewed diverse digital projects from a range of agencies involving both government and non-government providers. These projects can contribute to more effective outcomes through digital service delivery. They can also impact information access and privacy rights.

Human Research Ethics Committees (HRECs) reporting

Under the HRIP Act, the Privacy Commissioner has issued legally binding statutory guidelines on the use or disclosure of health information for research purposes that require HRECs to provide a compliance report to the Privacy Commissioner after 30 June each year.

Human Research Ethics Committee reports received for 2021/22

No.	HREC carried out between July 2021 and June 2022	Proposals	Without consent	Outweighed public interest
1	South Western Sydney Local Health District HREC	207	Yes	207
2	The University of Newcastle HREC	0	N/A	0
3	NSW Population and Health Services Research Ethics Committee	72	Yes	51
4	Hunter New England HREC	42	Yes	42
5	Greater Western Area HREC	26	Yes	26
6	St Vincent's Hospital Sydney HREC	4	Yes	3
7	Aboriginal Health and Medical Research Council HREC	0	N/A	0
8	Nepean Blue Mountains Local Health District HREC	65	Yes	65
9	Sydney Children's Hospitals Network HREC	99	Yes	83
10	Justice Health and Forensic Mental Health Network HREC	16	Yes	5
11	University of Wollongong and Illawarra Shoalhaven Local Health District Social Sciences HREC	0	N/A	0
12	University of Wollongong and Illawarra Shoalhaven Local Health District Health and Medical HREC	6	Yes	4
13	Adventist HealthCare Limited HREC	5	Yes	5
14	South Eastern Sydney Local Health District HREC	12	Yes	12
15	Northern Sydney Local Health District HREC	67	Yes	67
16	Sydney Local Health District Ethics Review Committee (RPAH Zone)	126	Yes	126
17	Sydney Local Health District (CRGH) HREC	26	Yes	26
18	Western Sydney Local Health District HREC	4	Yes	4
19	North Coast NSW HREC	0	N/A	0
TOTAL		777	0	726

Pillar 1: Service Delivery & Excellence

The compliance report identifies where HRECs have approved research proposals seeking to use or disclose personal or health information without consent, on the basis that the public interest in the research substantially outweighs the public interest in maintaining the level of privacy protection provided by the HRIP Act.

Of the 19 HRECs currently operating, all submitted compliance reports for 2021/22, covering a total of 777 research proposals. Of these research proposals, 519 (67%) used personal or health information without consent, based on the public interest value of the proposed research substantially outweighing the public interest in the protection of privacy.

Public interest disclosures and government information contraventions

Under the PID Act 1994, the IPC is required to collect and report on information about PIDs.

The IPC website includes a fact sheet of frequently asked questions about PIDs, and the IPC's internal policy for PIDs.

Under the PID Act, a public sector official can report a government information contravention, which is defined as a failure to exercise functions in accordance with any provision of the GIPA Act, to the Information Commissioner.

The IPC includes information about the PIDs that it has dealt with as an investigating authority in the six monthly and annual reporting of PIDs to the NSW Ombudsman. During the reporting period, no matters were included in the Information Commissioner's report to the NSW Ombudsman.

The Information Commissioner is a member of the Public Interest Disclosures Steering Committee, which has a number of roles in overseeing the PID Act 1994, including advising the Premier on the operation of the Act. When the PID Act 2022 commences in October 2023, the Privacy Commissioner will also become a member of the Public Interest Disclosures Steering Committee. The Steering Committee is chaired by the NSW Ombudsman and issues its own annual report regarding the PID Act and PIDs received by various investigating agencies. The PID annual report can be found on the [NSW Ombudsman's website](#).

Number of PIDs received by category during 2021/22

Category	Made by public officials performing day to day functions	Under a statutory or other legal obligation	All other PIDs
Corrupt conduct	0	0	0
Maladministration	0	0	0
Serious and substantial waste	0	0	0
Government information contravention	0	0	0
Local government pecuniary interest contravention	0	0	0
Total	0	0	0

PIDs received during 2021/22

Category	Made by public officials performing day to day functions	Under a statutory or other legal obligation	All other PIDs
Number of public officials who made PIDs directly	0	0	0
Number of PIDs received	0	0	0

Pillar 2: Engagement & Influence



Pillar 2: Engagement & Influence

What are we doing to directly influence regulated agencies and engage with the public?

Objective

Influence agencies and citizens through strategic engagement to promote information access and privacy rights, identify risks and authoritatively promote compliance to achieve regulatory goals.

The IPC met the objectives of this pillar by:

- contributing to the review of agency fees and charges and leading the development of guidance
- developing a Fact Sheet on privacy and open access with a particular focus on councils
- developing a Fact Sheet on access to information about public officials under the GIPA Act
- developing resources for the exercise of functions of Ministers and Ministerial Offices under the IPC's legislation
- developing a Fact Sheet about section 121 GIPA Act/AI/contracts/service to the public by private entities
- conducting research about opening government
- creating infographics and/or video clips on specific topics
- reviewing feedback and content of Executive attendance at agency-specific fora and making recommendations to enhance engagement
- developing a framework to identify important themes that will inform roadshows to select areas and other activities, with input from LCRA and I&R as relevant
- incorporating and implementing key service relationships, roles and responsibilities under the MOU with DCS and maintaining currency of external contacts and functional units

- further developing IPC's relationship with IPAC to support delivery of strategic IPC priorities
- building upon the agency self-evaluation model by enhancing use of self-assessment tools and governance models to embed requirements.

Stakeholder engagement

Right to Know Week NSW launch event: Open Government – Transparency and Accountability

On 27 September 2021 as part of Right to Know Week NSW 2021, the Information Commissioner hosted an online session for public sector leaders, information access practitioners and interested citizens on [Open Government – Transparency and Accountability](#). The Attorney General, the Hon. Mark Speakman SC MP, launched the event. The event celebrated the 10 years of the operation of the GIPA Act in NSW and involved a discussion about the findings from an analysis of 10 years of data. The discussion sought to determine if the ambitions of legislators had been achieved and how the right to know under the GIPA Act is operating in practice. The discussion featured government and non-government perspectives from the Information Commissioner, Elizabeth Tydd; Serena Lillywhite, CEO, Transparency International Australia; The Hon. Peter Hall QC, Chief Commissioner, NSW Independent Commission Against Corruption; and was facilitated by Tom Burton, Government Editor, Australian Financial Review. There were 511 public sector staff and citizens who viewed the online event.

Privacy Awareness Week Public Sector Leaders Event: Insights and lessons – preparing for the MNDB

On 3 May 2022 as part of Privacy Awareness Week NSW 2022, the Privacy Commissioner hosted the public sector leaders event: *Insights and lessons – preparing for the MNDB*. The event was held at The Mint in Sydney for senior leaders and hosted online for practitioners and public sector staff. The event sought to assist agencies in preparing for the upcoming Mandatory Notification of Data Breaches Scheme, and covered insights and lessons learned across government agencies with respect to data breaches, and the types of systems, policies and procedures agencies will need to prepare ahead of the Scheme's introduction.

Pillar 2: Engagement & Influence

The Attorney General, the Hon. Mark Speakman SC MP, formally opened the event and it was facilitated by Martin Stewart Weeks, Founder and Principal, Public Purpose. Speakers at the event included Lyria Bennett Moses, Director Allens Hub for Technology, Law and Innovation, UNSW; David Lacey, Managing Director, IDCARE; Scott Johnston, Chief Commissioner of State Revenue, Commissioner of Fines Administration and Deputy Secretary, Revenue NSW; and the IPC's Sonia Minutillo, Director, Investigation and Reporting. Kate Watts, Exec Director Legal, Government Regulatory & Prosecutions, Transport for NSW was also scheduled to speak but was unable to attend on the day. There were 274 virtual and 22 in-person attendees at the event.

IPC Brand Awareness Survey

In April 2022, the IPC commenced work on a brand awareness survey of NSW public sector agencies to gauge their perception of the IPC as a brand across the sector including the IPC's role and function, and agency engagement with the IPC. The findings of the survey will be reported on in the 2022/23 Annual Report.

Surveys on the use of IPC resources

In 2021, the IPC completed its review of recent publications, intended to better understand their impact in terms of audience, reach and readability. As a part of the review, the IPC conducted two surveys requesting feedback on the identified IPC publications: one for NSW citizens and another for public sector agency staff.

As a result of the review, the IPC made seven recommendations to improve the effectiveness and efficacy of future resources. These included utilising checklists more frequently, preparing separate resources for topics aimed at multiple audiences instead of duplicating the same resource across audience groups, and including an explanation of terms and legislation, practical application, case studies, etc. to provide practical information about topics that may not be familiar to the reader.

Speaking engagements

During the 2021/22 reporting period, the NSW Information Commissioner and Open Data Advocate addressed stakeholders, participated on panels and briefed agencies at 29 speaking engagements regarding the right to information and best practice in information and data management.

The Information Commissioner also spoke at the Public Service Commission's (PSC) Executive Leadership Essentials (ELE) program quarterly throughout the reporting period. ELE is an executive development program designed

to build capacity in the public sector and is open to public sector employees new to an executive role and new executives to the public sector. These presentations focus on building capacity to navigate digital government and promote information governance.

The Privacy Commissioner addressed stakeholders on privacy, participated on panels and briefed agencies at 28 speaking engagements.

Of these, the Information Commissioner and Privacy Commissioner jointly presented at nine speaking engagements. Both Commissioners also addressed the NSW Right to Information and Privacy Practitioners' Network Forum at four quarterly meetings.

Co-regulatory engagements

During the year, both Commissioners enhanced relationships with other regulators and independent agencies to achieve legislative objectives including:

- OGP
- APPA Forum
- AIAC
- PAA
- Public Interest Disclosures Steering Committee
- Board of the State Archives and Records Authority
- Office of Local Government (OLG)
- NSW Ombudsman
- Independent Commission Against Corruption (ICAC)
- Audit Office of NSW.

The Privacy Commissioner was represented at regular meetings of the National COVID-19 Privacy Team. These meetings provided an opportunity to share insights and intelligence on privacy matters arising during the pandemic and to ensure privacy rights were maintained in projects and initiatives responding to the pandemic.

A risk-based and intelligence-informed approach to tailored regulatory initiatives

The IPC Regulatory Compliance Committee continues to oversee delivery of the IPC's commitment to effective risk-based regulation. The purpose of the Committee is to oversee and advise upon proactive compliance activities set out in the annual IPC Regulatory Plan to ensure that they remain guided by a risk-based and intelligence-informed approach to regulation, focusing its attention and activity upon emerging issues, entities and sectors that pose the greatest risk to achieving IPC's regulatory objectives.

Pillar 2: Engagement & Influence

The Committee operates in the context of the IPC Regulatory Framework. The Committee comprises the Information Commissioner (Chair); Privacy Commissioner; Director, Investigation and Reporting; Director, Business Improvement; and the Director, Legal Counsel and Regulatory Advice. During 2021/22, the Committee met three times.

The role of the Committee is to:

1. review intelligence and post-case analysis to advise on emerging risks to the annual Regulatory Plan
2. review proposals for new or changed proactive compliance activities to address the changed environment
3. advise on any proposed amendments to the annual Regulatory Plan required as a result of a change in the risk environment or agency/sector performance
4. consider and recommend strategies for regulatory action that may be suitable for consideration through future regulatory planning processes.

The Committee considered:

- information access complaints and reviews trends in issues and referrals
- privacy reviews and complaints trends
- health complaints trends
- data breaches
- PMP compliance
- relevant NCAT decisions
- disclosure of interests for local government as required by the Information Commissioner in Guideline 1
- legislative compliance broadly
- the development of systems/resources to support intelligence
- identified proactive audits in information access and a program of delivery of those audits.

Additionally, during the reporting period, the Committee considered reports on the number of reviews and complaints closed by the IPC for each of its legislated sectors in both information access and privacy. The consideration informed the approach to identified audits and follow up audits.

Communication and consultation

The IPC is committed to maintaining ongoing communication with all its stakeholders. Communication is managed via the IPC website, through social media and other channels. During the reporting period the IPC published:

- 143 tweets on Twitter
- 150 posts on LinkedIn
- 26 posts on Facebook

- 84 e-alerts to stakeholders
- 15 media releases
- 4 public statements
- 28 new publications.

Social media

Through the use of social media channels Twitter, LinkedIn and Facebook, the IPC is able to communicate with stakeholders directly. The IPC social channels provide opportunities to raise awareness of information access and privacy rights to citizens across NSW and remind public sector agency staff of their obligations to citizens. The use of social media also helps publicise key IPC resources and drives stakeholders to the IPC website for more detailed news and resources.

The IPC launched its Facebook page in February 2022 to provide information to citizens on information access and privacy matters and raise public awareness about their rights under NSW information access and privacy legislation.

Twitter

The IPC Twitter page ([@IPCNSW](#)) had 1,022 followers at the end of the reporting period, an increase of 63 followers from the previous year. There was a total of 1,138 engagements on posts in 2021/22 with 38,933 impressions. In 2021/22, the Twitter engagement rate averaged 3.97%, an increase from 2.34% in 2020/21 and exceeding the industry benchmark of 0.33-1%.

LinkedIn

The [IPC LinkedIn page](#) had 1,521 followers at the end of the reporting period, an increase of 207 from the previous year. There was a total of 2,689 engagements on posts in 2021/22 with 32,383 impressions. The IPC boosted posts on LinkedIn to promote Right to Know Week NSW 2021, its video animation for councils on the publication of disclosure of interest returns and Privacy Awareness Week NSW 2022. For its boosted posts, there was a total of 19,516 impressions and 103 link clicks. In 2021/22, the IPC's LinkedIn engagement rate averaged 5.10%, an increase from 4.11% in 2020/21 and exceeding the industry benchmark of 2%.

Facebook

The [IPC Facebook page](#) had 55 followers at the end of the reporting period. There was a total reach of 709 for posts in 2021/22 and 700 engagements. The IPC boosted one post on Facebook to promote the privacy rights of NSW citizens which had a total reach of 45,001, 93,353 impressions and 405 link clicks.

Pillar 2: Engagement & Influence

Parliamentary engagement

Parliamentary inquiries and reports

Both Commissioners have an important responsibility to keep the NSW Parliament informed of their activities and of broader trends in their respective jurisdictions.

Consistent with this responsibility, the Information Commissioner and the Privacy Commissioner both appeared before the Joint Parliamentary Committee on the Office of the Ombudsman, Law Enforcement Conduct Commission and the Crime Commission.

The Information Commissioner and the Privacy Commissioner were also called to appear with DCS before Parliament for Budget Estimates.

In addition, the Commissioners made joint written submissions to the following public consultations:

- Consultation on the Public Interest Disclosures Bill 2021
- Inquiry into the Adequacy of the Funding Allocation of the NSW Electoral Commission for the 2023 State General Election
- Department of Communities and Justice Multicultural Plan 2022-2025
- Parliament of Victoria's Integrity and Oversight Committee Inquiry review into witness welfare management during integrity agency investigations.

Pillar 3: Rights Promotion & Impact



Pillar 3: Rights Promotion & Impact

What are we doing to anticipate and address emerging regulatory issues?

Objective

Continually improve citizen and agency understanding of their information access and privacy rights and obligations now and into the future through provision of timely, accurate, informative and innovative guidance, advice, intelligence and tools.

The IPC met the objectives of this pillar by:

- developing a Fact Sheet on the rights of deceased people in respect of information access and privacy
- developing a Fact Sheet on the application of information access and privacy legislation on the use of new forms of digital communications such as Whatsapp, Facebook, Google Messenger
- developing guidance for agencies on new technologies like AI, machine learning in the information access and privacy context
- reviewing and updating the IPC's Fact Sheet on privacy and people with reduced decision-making capacity
- developing a Fact Sheet to assist people with reduced decision-making capacity to make an application under the GIPA Act
- co-ordinating and leading the publications review
- reviewing operations and support for the Resolve Steering Committee to support timely delivery of key change projects
- developing and maintaining a register to capture administrative solutions
- reviewing the existing published voluntary data breach resources and tools for currency and continued application.

Informing the public of their rights

IPC website

The IPC website at www.ipc.nsw.gov.au is the central communication and service channel for IPC stakeholders. It houses a suite of online resources, access to the IPC e-learning portal and general information about the organisation. The website is also used to promote new publications and significant campaigns and events that champion the right to access government information and the protection of privacy in NSW. During the reporting period, page views decreased by 5.3% from 2020/21, however website visits increased by 4.8%.

During the reporting period, the highest demographic of users of the IPC website were aged 25-34, with 29% in this age range. Users aged between 25-34 and 35-44 represented just under half (49%) of website users, while 9% of users were aged 55-64 and 6% of users were aged 65+. During the reporting period, the IPC had 157,012 new visitors to its website and 36,425 returning visitors. There continues to be a year-on-year increase in visits to the IPC website since 2013/14.

Website metrics for 2021/22

	2021/22	2020/21	2019/20
Page views	460,319	485,989	513,794
Website visits	235,322	224,578	211,569
Unique visits	157,561	144,298	135,963
Average visit duration	2m 39s	1m 57s	2m 16s
New visitors	157,012	143,936	139,445

Public enquiries

The IPC continues to receive and respond to enquiries from members of the public, businesses and other organisations about information access and privacy rights in NSW. Enquiries include how to access government, personal and health information and the exercise of review rights. The IPC aims to support 'self-service' more effectively, complementing the website with customer assistance by phone, email or mail.

During the reporting period, recorded enquiry numbers decreased by 8% compared with the previous reporting period. The decrease in enquiries came from enquiries made by phone which recorded a stand-alone decrease of 12% from the previous year. The number of written or in-person enquiries made was consistent with the previous reporting period, with no notable increases or decreases.

Pillar 3: Rights Promotion & Impact

Enquiries received by type for 2021/22

	2021/22	2020/21	2019/20
Phone	1963	2242	1927
In writing and in person*	1177	1165	855

* Includes in person, emails, letters, faxes and website forms

Right to Know Week

The IPC celebrated [Right to Know Week NSW 2021](#) (RTK) from 27 September – 3 October 2021. The theme was ‘Open by Design: integrity through greater transparency and accountability in government’.

The theme explored how Open by Design requires agencies to actively address access to all forms of information from the inception of any initiative, where embedding access, transparency and accountability from the outset means better information governance and a more open government.

During RTK:

- the Information Commissioner hosted the online session ‘[Open Government – Transparency and Accountability](#)’
- the Information Commissioner released [a report with analysis, key findings, and recommendations from 10 years of GIPA data](#)
- the IPC developed a video for NSW citizens, which included a message from the Minister for Customer Service and Digital Government, Minister for Small Business, and Minister for Fair Trading, together with the IPC animation on ways to access government information, and was featured in Service NSW centres across the state
- the Information Commissioner published [the results of research on cross-jurisdictional](#) and [NSW Community Attitudes to accessing government information](#)
- the Information Commissioner addressed the UTS Senior Managers’ Forum on 29 September where she spoke on the 2019/20 Report on the Operation of the GIPA Act and the learnings for universities
- the Information Commissioner, together with the Victorian Information Commissioner, spoke at the InfoGovANZ webinar on ‘Opening Government – Contemporary Opportunities and Challenges’
- the IPC published new resources including:
 - [a joint animation](#) with other Australian information access jurisdictions on the right to access government information
 - an animation for citizens on the [ways to access government information in NSW](#)

- a guideline on the [obligations of Ministers and Ministerial Officers under the GIPA Act](#)
- a fact sheet on [accessing a deceased person’s information under the GIPA Act](#)
- a checklist on [open access information under the GIPA Act and GIPA Regulation and agency requirements](#)
- the [IPC Processing Charges GIPA Compliance Report](#), updated [Notice of Decision Template](#) and new [Request for Advance Deposit Template](#) for agencies

- the IPC published a regional newspaper advertorial in the Bega District News to promote citizens’ information access rights which highlighted an example of a successful GIPA application in the region where a citizen was able to exercise his rights under the Act and achieve a positive outcome for his community
- the IPC published two boosted posts on LinkedIn on citizens’ information access rights, and open government and the 10 years of operation of the GIPA Act.

There were 53 RTK Champion agencies in 2021, which exceeded the number of champions in 2020. The IPC also supplied a range of communications to promote the campaign including a Champion Communications Pack for use by Champion agencies. This contained digital images, blog posts, social media posts, a staff PowerPoint presentation and internal and external messaging.

Privacy Awareness Week

The IPC celebrated [PAW NSW 2022](#) from 2 – 8 May 2022 and the theme was ‘Privacy: The foundation of trust – we all have a role to play’.

The theme highlights citizens’ expectations that organisations that collect their personal information use it appropriately and keep it secure, and how agencies have a key role in safeguarding the personal information of NSW citizens.

During PAW:

- the Privacy Commissioner released the results of the [2022 NSW Community Attitudes Survey into privacy and data breaches](#)
- the Privacy Commissioner spoke at PAW events hosted by DCS including a DCS-wide event for staff and a privacy practitioners network meeting
- the Privacy Commissioner was interviewed by Macquarie University Hospital on the importance of protecting health information and the upcoming MNDB Scheme

Pillar 3: Rights Promotion & Impact

- the IPC published new resources including animations for citizen on the [12 principles NSW government agencies must follow to protect personal information](#) and the [15 principles they must follow to protect health information](#), and for agencies a [Privacy Impact Assessment Questionnaire for Assessing Websites](#)
- the IPC published two boosted posts across LinkedIn and Facebook to improve citizen's awareness of their rights under NSW privacy legislation.

There were 67 PAW Champion agencies in 2022, which exceeded the number of champions in 2021. The IPC also supplied a range of communications to promote the campaign including a Champion Communications Pack for the use of Champion agencies. This contained digital images, blog posts, social media posts, a staff PowerPoint presentation and internal and external messaging.

Information Awareness Month and Open Government Week

Information Awareness Month (IAM) was held in May 2022. IAM is a collaborative event between various bodies within the records, archives, library, knowledge, information, and data management communities. This year's theme for IAM was 'Building Trust in Information' which highlighted the importance of trust in information across all aspects of our professional life, from people to technology.

Open Government Week (OGW) was also held in May and took place between 16 – 20 May.

For IAM and OGW, the IPC highlighted various resources for agencies to assist them to build trust in their information access management. The IPC published a new [Practice Guide on redacting signatures on public facing documents](#). The guide provides public sector agencies with a framework to consider the redaction of signatures from information to be made publicly available and provides an overview of contemporary public interest considerations, including cybercrime and the risk of identity theft.

During IAM, the Information Commissioner also announced she will be undertaking research to examine the use of the Informal Release pathway under the GIPA Act. In undertaking the research, the IPC will:

- examine past information access data since 2014
- complete a literature review to examine extant FOI reporting for formal and informal access schemes globally
- engage with select NSW agencies to examine their information access systems and documentation

- make recommendations to support informal release including reporting requirements to monitor the use of informal release and inform proactive release of information.

The research is scheduled to be conducted in late 2022 and the findings will be reported on in the next annual report.

Open Government Partnership National Action Plan

The OGP is a multilateral initiative that aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance.

In 2020, the Information Commissioner and NSW Open Data Advocate worked with other representatives of governments and civil society organisations to develop the Open Government Partnership Australian Third National Action Plan.

During 2021/22, the former Commonwealth Government did not progress the NAP3.

Community Attitudes Survey

Community Attitudes Survey 2021

In June 2021, Information Commissioners from NSW, Victoria, Queensland, Western Australia and the Ombudsman from the ACT undertook a cross-jurisdictional study of community attitudes towards access to government information. Led by NSW, the jurisdictions sponsored the research for a second time, having conducted their inaugural study in 2019. The study measured citizens' awareness of the right to access government information, and their experiences and outcomes in exercising that right.

The Information Commissioner released the NSW results of the research during Right to Know Week NSW 2021. Key findings include that 90% of respondents felt that their right to access government information was important and 73% were aware that they had the right to access information from at least one of the agencies under NSW information access laws.

They were most aware that they could access information held by local government (56%) and state government agencies (55%), and four out of 10 respondents reported that they contacted at least one agency to obtain information in the last three years. Of these, 56% were from the CALD (culturally and linguistically diverse) community and three quarters (74%) were successful in accessing information from at least one agency.

Pillar 3: Rights Promotion & Impact

Respondents also said agencies could do more to assist applicants with 56% stating that agencies were helpful in providing advice and assistance; 16% thought agencies were not helpful.

The [full findings of the study](#) are available on the IPC website.

Community Attitudes Survey 2022

In March 2022, the IPC commissioned its biannual survey of NSW community attitudes towards information access and privacy. Since 2020 additional questions were included on data sharing and agency assistance, and in 2022, additional questions were included on data breaches. Citizens were surveyed in February and March 2022.

The results provide a broad and indicative sense of citizen awareness about their information access and privacy rights in NSW as well as attitudes towards data sharing by government, and experience with breaches.

In March 2022 as part of PAW 2022, the Privacy Commissioner released the results of the IPC Community Attitudes Survey 2022 on privacy and data breaches.

The [full findings of the study](#) are available on the IPC website and key findings are outlined below.

Privacy

Key findings include that 93% of respondents felt that it is important that NSW agencies protect their personal or health information and 80% were concerned about data being shared or released inappropriately.

Over half (57%) were aware of their right to lodge a complaint or seek a review with an agency if they feel their privacy has been breached, and 65% were aware of their right to access personal information from a relevant agency.

Respondents continued to have uncertainty about where they would go to access their personal information with 26% indicating that they were unsure, a slight increase from 24% on 2020.

Data breaches

Key findings include that 17% of respondents indicated that they had been impacted by a data breach, and of those, 37% of the instances occurred at a NSW government agency.

Respondents impacted reported that the agency assisted them by informing them of the breach (59%) and providing advice on what to do next (54%). Over half (56%) of the impacted respondents were notified within six months of the data breach, 34% between six to 12 months and 10% being notified more than 12 months later.

Respondents indicated that common effects resulting from a breach were the need to replace identity documents (40%), identity theft/fraud (37%) and the need to change passwords of online accounts (29%).

Information access

The Information Commissioner will publish the results of the NSW Community Attitudes Survey towards information access, data sharing and agency assistance in September 2022 as a part of RTK 2022.

Community events

The IPC supported and celebrated 24 community events including:

2021

- NAIDOC Week, 4-11 July
- Local Government Week, 2-8 August
- International Day of the World Indigenous People, 9 August
- Indigenous Literacy Day, 1 September
- R U OK Day, 9 September
- International Day of Democracy, 15 September
- Right to Know Week NSW, 27 September – 3 October
- International Day for Universal Access to Information (United Nations), 28 September
- United Nations Day, 24 October
- International Day of Persons with Disabilities, 3 December
- Human Rights Day, 10 December

2022

- Data Privacy Week, 24-28 January
- Safer Internet Day, 8 February
- Multicultural March, 1-31 March
- Zero Discrimination Day, 1 March
- Open Data Day, 6 March
- International Women's Day, 8 March
- Harmony Week, 21-27 March
- Information Awareness Month, 1-31 May
- Privacy Awareness Week NSW, 2-8 May
- Open Government Week, 16-20 May
- National Law Week, 16-22 May
- Global Accessibility Awareness Day, 19 May
- National Reconciliation Week, 27 May – 3 June

Pillar 3: Rights Promotion & Impact

Resources

Since July 2021, the IPC has produced 28 new publications in addition to 34 updated publications to promote community and agency understanding of privacy and information access rights in NSW. New resources and publications have included:

- 9 information access resources, including guidance, fact sheets, checklists and animations
- 3 privacy resources, including fact sheets and animations
- 1 combined information access and privacy resource
- 2 statutory reports and 4 regulatory reports
- 5 corporate resources, including plans and policies
- 4 newsletters.

See the full list at Appendix 1. All resources are published in accessible formats and are available for download on the IPC website.

Publications review

The IPC has continued its review of all publications and resources available on its website since commencement of the work in July 2019. During the reporting period, 34 publications were updated by the IPC, a decrease from the 64 updated in the previous reporting period. The publications review is ongoing to ensure that the information provided on the IPC website is accurate, up to date and in line with legislative changes.

Publications are prioritised for review based on several factors. These include, but are not limited to, changes to legislation, alignment with the IPC Strategic Plan and Regulatory Plan or other policies/procedures that have been developed or amended. Other considerations include the date that the publication was last reviewed and identification of regulatory risk.

Information access resources

For RTK 2021, the Information Commissioner released [a report with key findings and analysis from ten years' of GIPA data](#) since inception of the Act. The report offers key insights and recommendations to ensure that the Right to Know is preserved in NSW.

During the week, the IPC also published new resources for agencies including [Guideline 10 on the obligations of Ministers and Ministerial Officers under the GIPA Act](#), which focuses on some of the key areas applicable to public interest determinations involved in processing an access application. The guideline was developed in consultation with the Department of Premier and Cabinet.

In the reporting year, the IPC published new animations including its animation for members of the public on the [ways to access government held information in NSW under the GIPA Act](#), and for local government councillors and designated persons on the [requirement to publish disclosures of interest returns on council websites](#).

As part of its proactive audit program, the IPC regularly published [GIPA compliance reports](#) for agencies in the reporting year to elevate and influence compliance with GIPA legislation. These reports included the Local Government Sector Compliance Report, Compliance Report on Notices of advance deposit and processing charges applied by agencies under the GIPA Act and NSW Police Force Follow-up Compliance Report Phase 2. A list of these resources is located at Appendix 1.

Privacy resources

For PAW 2022, the IPC released new animations for citizens on the [12 IPPs under the PPIP Act](#) which agencies must follow to protect personal information, and on the [15 HPPs under the HRIP Act](#) which agencies must follow to protect health information.

The IPC also published a [PIA Questionnaire for Assessing Websites](#) in collaboration between the IPC and elevenM to support agencies in assessing their websites for privacy risks and identifying remediation actions. It was developed to bring best-practice approaches and methodologies to NSW public sector agencies and is supplementary to a PIA.

As part of its [proactive regulatory initiatives program](#), the IPC published its Desktop Audit of PMPs Report which involved a desktop review of the PMPs of agencies that fall under the jurisdiction of the PPIP Act.

Information access and privacy resources

For IAM 2022, the IPC published its [Practice Guide on redacting signatures on public facing documents](#). The guidance was developed noting the increasing digitisation of government information and potential to unintentionally disclose personal information for which there is an overriding public interest against disclosure under the GIPA Act or in breach of an IPP under the PPIP Act. The purpose of the guidance is to provide public sector agencies with a framework to consider the redaction of signatures from information to be made publicly available and provide an overview of contemporary public interest considerations, including cybercrime and the risk of identity theft.

Pillar 3: Rights Promotion & Impact

In the reporting period, the IPC commenced work to review its [Information Governance Self-assessment Tools](#) including consultation with agencies on their engagement with the tools to identify opportunities to enhance and embed their use. The tools assist agencies in measuring the maturity of their information governance systems and implementing plans to further develop those systems and confidently meet their information access and privacy requirements. An update of the tools is scheduled for completion in the next reporting period.

e-Learning

In the reporting period, the [IPC e-learning portal](#) had 538 new registrations to access the available e-learning modules compared with 450 in the previous reporting year. There are five modules currently available as of 30 June 2022. The new registrations came from government agencies (304), councils (194), the general public (22), universities (8), the private sector (7), and NGO sector (3).

Submissions or reports to Parliament

Information access

Report on the operation of the GIPA Act

Under section 37 of the GILC Act, the Information Commissioner is required to provide Parliament with an annual report on the operation of the GIPA Act. The 2020/21 Report was tabled in Parliament in March 2022 and reported on an unprecedented 30% increase in applications to access government information, representing the largest increase in over a decade of reporting.

In addition to joint submissions, the Information Commissioner also made a written submission to the Consultation Paper on Councillor Conduct Accountability in NSW Local Government.

Privacy

In addition to joint submissions, the Privacy Commissioner also made written submissions to the following public consultations:

- [Digital Identity Legislation Position Paper](#)
- [Enhancing Online Privacy Bill 2021](#)
- [Discussion Paper on the Review of the Privacy Act 1988](#).

Codes of Practice and Public Interest Directions

During the reporting period, the Privacy Commissioner consulted with several agencies in relation to whether a Code of Practice or Public Interest Direction may be necessary to support a particular project or policy initiative. In some cases, the projects could be implemented in compliance with the IPPs or HPPs such that a code or direction was not needed. The Privacy Commissioner continues to engage with agencies on these matters as required.

One Code of Practice was made during the reporting period and another was made shortly after the reporting period:

- Privacy Code of Practice for the Judicial Commission of NSW made under section 31 of the PPIP Act on 22 October 2021. This Code applies to the Commission's activities relating to monitoring and reporting on sentences imposed by courts for the purpose of assisting courts to achieve consistency in imposing sentences.
- Privacy Code of Practice for IDSupport NSW made under section 31 of the PPIP Act on 1 July 2022. This Code applies to the identity remediation activities that IDSupport provides to affected individuals and affected agencies.

Three Public Interest Directions were made during the reporting period:

- **Direction relating to the Human Services Dataset** – this direction was made under section 41(1) of the PPIP Act to facilitate study, analysis, research and government service design and delivery to help ensure that effort and funding across government is focused on interventions that will improve the long-term outcomes for Vulnerable Children or Young Persons and their families at the earliest opportunity. This direction was made on 9 July 2021 and will expire on 13 July 2023.
- **Direction relating to the Human Services Dataset** – this direction was made under section 62(1) of the HRIP Act to facilitate study, analysis, research and government service design and delivery to help ensure that effort and funding across government is focused on interventions that will improve the long-term outcomes for Vulnerable Children or Young Persons and their families at the earliest opportunity. This direction was made on 9 July 2021 and will expire on 13 July 2023.
- **Direction relating to the Department of Education** – this direction was made under section 41(1) of the PPIP Act to facilitate a time-limited data exchange process between the Department of Education and the Queensland Registry of Births, Deaths and Marriages. The purpose of the data exchange was to check whether any individuals subject to the identified data breach were deceased. This direction was made on 27 January 2022 and expired on 28 February 2022.

Pillar 4: Operational Excellence



Pillar 4: Operational Excellence

What are we doing to support an effective, efficient one-IPC?

Objective

Deliver respected, quality and comprehensive services with professionalism, supported by expert operational capability and sound good governance.

The IPC met the objectives of this pillar by:

- conducting a review of the impact of publications e.g. new statutory guidance for fact sheets, and establishing baselines for evaluations
- providing timely and relevant advice regarding significant issues affecting IPC operations (e.g. weekly corporate updates)
- reviewing and updating the recognition and reward process
- S&CS regularly engaging with other teams by meeting attendance, administrative communication and feedback to understand needs and issues
- developing and implementing best practice record keeping for the IPC email inbox
- integrating the IPC Enterprise Risk Management into systems and processes

The Plan recognises the rapid changes in the information management landscape and addresses challenges to the information access and privacy regime flowing from local and global trends including the digitisation of government services, the introduction of a mandatory data breach scheme and the impact of technology on legislation.

The framework for the Strategic Plan can be found on page 24 and the [full Strategic Plan](#) is available on the IPC website.

IPC Regulatory Plan 2022 – 2024

The IPC's Regulatory Plan 2022 – 2024 commenced in 2022, following the conclusion of the 2020-22 plan in December 2021.

As with previous Plans, the IPC's regulatory efforts continue to be guided by a risk-based and intelligence-informed approach to regulation. Risk-based regulation using intelligence to inform regulatory activities will enable the IPC to prioritise and target resources to those areas which pose higher risks to the achievement of its regulatory objectives. New approaches to service delivery by government agencies present challenges and opportunities in promoting safe and effective information sharing.

The IPC will continue to provide a responsive complaint and review service (reactive work), and a continued focus of its attention and resources upon emerging issues that pose the greatest risk to upholding privacy rights, and promoting and protecting public access to government information (proactive work).

Further information on the current Plan can be found on page 32 and the [full Regulatory Plan](#) is available on the IPC website. The IPC also reports quarterly on the progress of the plan, which are published to the [IPC website](#).

IPC Strategic Challenges 2022 – 2024

The IPC will need to address a number of strategic challenges as the information and privacy landscape continues to evolve over the coming years. These challenges will impact the way the IPC needs to operate in order to achieve its legislated remit and respond to community expectations.

The IPC's strategic challenges are included over the next page and can also be found in the [IPC Strategic Plan 2022 – 2024](#).

Our planning framework

IPC Strategic Plan 2022 – 2024

In December 2021, the IPC finalised its Strategic Plan for 2022-2024. The Strategic Plan's structure follows the previous 2020-2022 plan, which is formed around the four pillars of:

- Service Delivery & Excellence
- Engagement & Influence
- Rights Promotion & Impact
- Operational Excellence.

Pillar 4: Operational Excellence

IPC strategic challenges by pillar for the IPC Strategic Plan 2022 – 2024

Pillar 1: Service Delivery & Excellence	Pillar 2: Engagement & Influence	Pillar 3: Rights Promotion & Impact	Pillar 4: Operational Excellence
<ul style="list-style-type: none"> • Being independent, accountable but flexible in a changing service delivery environment • Meeting citizen expectations around trusted sources of information • Remaining effective in a dynamic environment full of new developments and consequent increased volume of work • Being ahead of the landscape by identifying and delivering through new research opportunities • Applying new processes, especially around the MNDB Scheme 	<ul style="list-style-type: none"> • Responding to the changing scope of regulatory powers • Independently responding to laws which require guidance and further definition to promote accountability and integrity in government • Delivering on government expectations for heightened engagement and ensuring all partners and experts are identified • Collaborating with these experts, agencies and clusters by being trusted influencers and ensuring they have their own effective feedback loops • Identifying and responding to the effect and pace of digitisation • Harnessing the influence of IPAC 	<ul style="list-style-type: none"> • Preserving and better understanding citizen rights amidst changing service delivery options, PPPs, privatisation, and COVID rules • Strengthening our engagement and effectively measuring our impact • Drawing upon external expertise including promoting self-assessment by agencies • Promoting proactive disclosure of government information • Responding to the resourcing and education requirements of the MNDB • Being part of the definition of an 'archive' or 'backup system' 	<ul style="list-style-type: none"> • Effectively identifying and supporting new collaboration tools and future ways of working • Meeting greater expectations made possible by the additional 2-year funding package • Improving IPC's KPI reporting including identification of – and response to – staff needs • Understanding the requirements of an IT Strategy which will serve the present and the future of the IPC • Delivering on the need for cross functional collaboration • Attracting and retaining staff in a competitive environment

GSE Act 2013

The GSE Act recognises the IPC in Schedule 1, as a separate agency with the Information Commissioner appointed as the Agency Head. Under the GSE Act, staff members are appointed to the IPC and are responsible to the Agency Head to assist with the discharge of the statutory responsibilities of the Information Commissioner and the Privacy Commissioner.

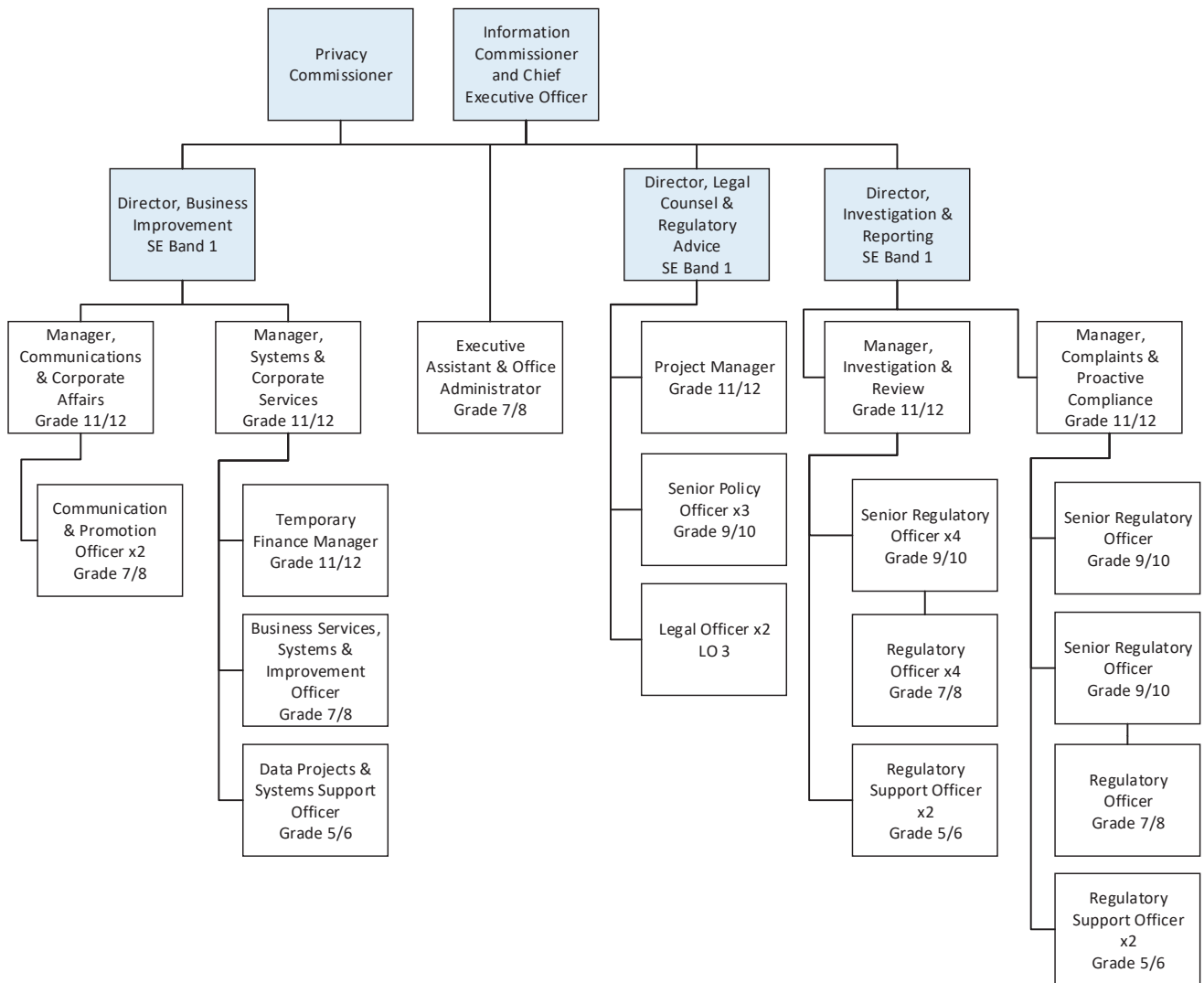
The GSE Act confers additional statutory responsibilities to the Information Commissioner as Agency Head, including the power of delegation and the requirement to be fiscally responsible, effective and efficient.

In 2021/22, the IPC met its compliance requirements with the GSE Act by:

- developing and implementing staff PDPs
- developing a staff training schedule
- continuing to support staff training and development in both legislative/technical areas and broader development. The IPC invested over 1346 hours of training for staff (excluding the Commissioners who are statutory appointees)
- supporting capability development through secondment arrangements
- reinforcing commitment to ethical conduct, public sector and IPC values, including through a Code of Conduct
- supporting formal and informal mentoring arrangements.

Pillar 4: Operational Excellence

Organisational structure as at 30 June 2022



Our people

Senior executive

During the reporting period, the IPC had five senior executive positions – four of which were held by women. Two of these senior executives were statutory officers. The number of staff in the levels of IPC executive positions and the corresponding remuneration is shown in the table on the right. Although the Commissioners are not subject to the GSE Act, they are included to complete the table.

The percentage of total employee-related expenditure in the reporting year that relates to senior executives is 30%, compared with the percentage at the end of the previous reporting year of 31%.

Senior executives and salaries by band for 2021/22

	Female	Male	Range \$	Average Range \$
Band 4	0	0	499,251 to 576,700	0
Band 3	1	0	354,201 to 499,250	360,815
Band 2	1	0	281,551 to 354,200	348,190
Band 1	2	1	197,400 to 281,550	216,173
Total	4	1	-	-

Pillar 4: Operational Excellence

Workplace diversity

The IPC has processes in place to recruit people from the Equal Employment Opportunity target groups where possible, and the distribution of diversity groups is below.

Equal Employment Opportunity (EEO) and staff numbers^{1,2}

Employee by category	2021/22	2020/21	2019/20	2018/19
Statutory	2	2	2	2
Administration	28	27	26	22
Professional	5	5	5	2
Total	35	34	33	26

Note 1: Employee by category includes all permanent and temporary staff and excludes casual employees. Definitions of the categories are: Administration (clerical and other officers), Professionals (SES officers, librarians, DPOs, Legal Officer).

Note 2: These figures refer to head count not positions in the organisational chart.

Workforce Diversity Group

	Benchmark	2022	2021	2020	2019
Women	50.00%*	72.00%	76.90%	75.00%	62.00%
Aboriginal and/or Torres Strait Islander People	4.00%	0.00%	0.00%	0.00%	0.00%
People whose First Language Spoken as a Child was not English	22.30%	18.80%	11.50%	0.00%	12.00%
People with Disability	5.60%	3.20%	0.00%	0.00%	0.00%
People with Disability Requiring Work-Related Adjustment	N/A	0.00%	N/A	0.00%	0.00%

* The NSW Premier has a target of 50% women in Senior Executive roles. The IPC exceeds this target.

People Matter Employee Survey

The 2021 PMES was conducted by the Public Service Commission and ran from 23 August to 17 September 2021. The results for the IPC were particularly favourable for the employee engagement, job satisfaction; wellbeing, health and safety; senior managers; communication and change management, recognition, innovation and risk and employee voice sections. Survey participation rate was 57%, a decrease from the previous year of 72%.

The IPC scored much higher than the public sector average over the entire survey.

- Engagement with work:** Overall employee engagement score is slightly down 3% at **72%**, however higher than 67% score in the public service. This measure is built on positive results in a few areas, notably that **100%** of staff reported that they were proud to tell others they work at the IPC, compared to 74% in the public service and **69%** agree that they have a strong personal attachment to the IPC – an improvement of 11%. **88%** of staff are satisfied with their job, compared to 71% in the public service.
- Customer Service:** The overall score is **90%** - down 10% from last year and yet much higher than the public sector score of 73%. This includes the communication of the importance and delivery of the best customer experience.
- Diversity and inclusion:** The score for diversity and inclusion was one of the top three classifications with a **90%** score, compared to 74% in the public sector. **88%** of staff agree that people in their team treat each other with respect, compared to 81% in the public sector. **100%** of staff said that personal background is not a barrier to participate in the IPC, compared to 80% in the public sector.
- Values:** **81%** of staff believe that people at the IPC take responsibility for their own actions, compared to 50% in the public sector and **88%** of staff have confidence in the decision their manager makes, which is 15% higher than the public sector score.
- Wellbeing, health and safety:** The overall score for Wellbeing was **90%**, which is consistent with last year and the total score for Health and Safety is **97%**, compared to 73% in the public sector.

Pillar 4: Operational Excellence

Amongst the many improvements are some notable highlights:

- **Flexible working:** The overall score was **94%** - up 9% from 2020, compared to 67% in the public sector, with **88%** satisfied with the ability to access and use flexible working arrangements, compared to 65% in the public sector and **100%** of staff reported that their manager supports flexible working in their team – an increase of 10% compared to 2020 and 32% higher than the public sector.
- **Communication and change management:** Total score was **88%** compared with 59% in the public sector, **94%** believe that senior managers provide clear direction for the future of the organisation – up 3% compared with 55% in the public sector and **94%** believe that senior managers keep employees informed about what is going on – up 8% and compared with 59% in the public sector.
- **Senior management:** There was an overall favourable senior management score of **92%**, up from 91% in 2020 and 33% higher than the public sector score of 59%. **100%** believe their manager encourages and values employee input – up 5% and compared to 76% in the public sector. **94%** agree that their manager involves their workgroup in decisions about their work, compared to 79% in the public sector and 94% of staff feel their manager listens to them, compared to 79% in the public sector and **81%** feel that senior managers listen to employees, compared to 49% in the public sector.
- **Recognition:** The overall score is **91%**, compared to 63% for the public sector, which comes from factors including: their manager providing recognition for the work they do, **94%** and staff receive adequate recognition for their contributions from the IPC, **88%**.
- **Risk and Innovation:** The total score was **97%** - up 3% compared to 2020, compared to 75% for the public sector. Supporting this, **100%** of staff reported that they are comfortable notifying their manager if they become aware of any risks at work – up 5% and **100%** agree that their manager encourages people in their workgroup to keep improving the work they do – up 5%.
- **Feedback and performance:** Although the overall score was **76%** - down 10% from 2020, compared to 61% for the public sector score, **88%** of staff reported having a current PDP in place – up 3% from last year, compared to 73% in the public service. **94%** of staff said they have scheduled feedback conversations with their manager – an increase of 8% from 2020 and 15% more than the overall public sector.

The results demonstrated the following areas for improvement:

- **Dealing with poor performance:** The score for dealing with poor performance has reduced significantly compared to 2020: **44%** of staff believe that managers appropriately deal with employees who perform poorly – a decrease of 32% on our 2020 results, compared to 50% in the public service.
- **Dealing with grievances:** The score for dealing with grievances has deteriorated from 2020: **63%** of staff have confidence in the ways the IPC handles grievances – a decrease of 15% on our 2020 results, compared to 47% in the public sector.
- **Learning and development:** The overall score was **70%** which was a 2% decrease compared to 2020, and higher than the result of 57% for the total public service. However, **82%** report that they have received the training and development they need to do their job well, compared to 64% in the public sector. There was also a drop in the score for satisfaction with the opportunities available for career development at the IPC, which was **47%**, a decline of 10% and 3% lower than the public sector. However **81%** of staff feel the organisation is committed to developing its employees – an increase of 8%, compared to 56% in the public sector.

The IPC Executive Team identified opportunities and incorporated initiatives into the IPC Strategic Plan 2022 – 2024 in response to the survey results.

Work health and safety (WHS)

The IPC is committed to providing a safe, equitable and productive working environment that supports the requirements of the *Work Health and Safety Act 2011*, as well as providing a supportive environment for employees injured at work, ensuring effective treatment and management of the return-to-work process.

During the reporting year, the IPC undertook the following actions to strengthen its WHS arrangements:

- participating in weekly/fortnightly and ad hoc DCS Pandemic Response Team (COVID-19) meetings
- participating in quarterly IPC Health and Safety Committee meetings
- focused on key priority areas from the WHS Framework and Action Plan for 2020-2022 including:
 - a clear and ongoing process that identifies Musculoskeletal Disorders (MSDs) risks, assesses them, and priorities actions to eliminate or reduce these
 - consulted with DCS on guidelines regarding WHS
- developed the following IPC policies and procedures:
 - WHS actions tracking register
- two COVID-19 risk assessments in consultation with all staff

Pillar 4: Operational Excellence

- all staff participated in a Benestar burnout, fatigue and self-care workshop
- carrying out regular workplace inspections.

No workers' compensation claims were reported in 2021/22.

The IPC will continue to actively monitor WHS and staff wellbeing.

Governance

Legislative Compliance Register

The Legislative Compliance Register is a standing item on the agenda for the ARC meetings. The Register clearly identifies responsible members of the IPC Executive and Management for key risks and to include an annual attestation by responsible officers. It also outlines how the IPC addresses its obligations to ensure legislative compliance is achieved and maintained.

Insurances

The NSW Treasury Managed Fund (TMF) provides insurance cover for all of the IPC's activities. This includes workers' compensation, motor vehicle, public liability, property and miscellaneous claims. This insurance cover helps to mitigate IPC's major insurance risks such as the security of its staff, property and other assets, and the risk of work-related injuries.

Consultants

The IPC commissioned nine engagements during the 2021/22 reporting period, at a total cost of \$168,224 as per note 2 in the notes to the financial statements, for the provision of legislative and management consulting services.

Litigation

In the 2021/22 reporting period, the IPC was the respondent to two applications for review to NCAT, one made under the GIPA Act and one under the PPIP Act.

International travel

There was no international travel undertaken during the reporting period.

IPC Diversity and Inclusion Action Plan

In December 2020, the IPC released its Diversity and Inclusion Action Plan for 2021-2023 which outlines how the organisation will work with its diverse stakeholders to better deliver on its strategic goals to champion the right to access government information and protect privacy as enshrined in the legislation it administers. The Plan also seeks to support and instil a workplace culture that values diversity in skills and perspectives and offers fair and inclusive work practices for all staff.

The IPC Diversity and Inclusion Action Plan 2021 – 2023 adopts a consolidated approach to cover disability, multicultural services and Aboriginal engagement. The Plan meets its legislative requirements under the *Anti-Discrimination Act 1977* (NSW), the *Disability Discrimination Act 1992* (Cth), the *Disability Services Act 1993* (NSW), the *Carers (Recognition) Act 2010* (NSW), the GSE Act, *Government Employment (General) Rules 2014*, and Annual Reports (Departments) Regulation 2015.

Details of the Plan, and a summary of our achievements against the Plan, can be found at Appendix 2.

Information security management

The IPC has adopted the Information Security Policy of DCS as the major ICT provider of ICT services to the IPC. The policy is owned and managed by the DCS's Chief Information Officer and approved by the Secretary, and details the organisational responsibilities for information security.

Please see the next page for the Cyber Security Policy Attestation Statement for 2021/22.

Corporate systems and IT enhancements

The IPC has a robust case management system that enables the management of enquiries and cases.

In 2021/22, the IPC undertook a program of work to further improve the efficiency, integrity and security of its ICT systems and infrastructure.

The IPC released the following enhancements to its case management system in 2021/22:

- Introduced a Complaint Outcome field
- Deployed a Case form exit macro to fix slow speeds which significantly increased the responsiveness of the application
- Introduced a Taxonomy field for additional reporting
- Introduced a Joint Advices field to further categorise advice types.

The IPC also made the following changes to improve the security of ICT systems and the upgrade infrastructure:

- Migrated the case management system hosting and server to be managed by its application vendor
- Implemented a version upgrade to improve the case management application stability and workability
- Migrated the electronic document record management system (EDRMS) servers to a new infrastructure provider
- Acquired Tableau cloud licences.

The IPC will continue to invest in its ICT systems to ensure security and stability.

Pillar 4: Operational Excellence

Cyber Security Policy Attestation Statement



Cyber Security Annual Attestation Statement for the 2021-2022 Financial Year for the Department of Customer Service (DCS), Information and Privacy Commission NSW (IPC)

I, Elizabeth Tydd, Information and Privacy Commission NSW Chief Executive Officer, am of the opinion that IPC has managed the cyber security risks in a manner consistent with the Mandatory Requirements set out in the NSW Government Cyber Security Policy.

Risks to the information and systems of IPC have been assessed, appropriately managed and recorded in the IPC Risk Register.

Governance is in place to manage the cyber security risks of IPC's information and systems and IPC has established a Cyber Security Framework.

IPC adopts the DCS ICT security incident management response plan in place to effectively managed any incidents related to ICT and cyber security incidents.

IPC consumes managed services from DCS corporate services, GovConnect and its maturity is in line with the DCS cluster.

IPC is working with its service provider DCS GovConnect and is aware enhancements are in progress to appropriately manage the cyber security maturity and initiatives of the GovConnect platform to meet the requirements of this policy and further strengthen to cyber security platform.

Yours sincerely

Elizabeth Tydd
**IPC CEO, Information Commissioner
NSW Open Data Advocate**

Date: 9 August 2022

Pillar 4: Operational Excellence

Gifts and Benefits Attestation Statement



Gifts and Benefits Policy Attestation Statement

I, Elizabeth Tydd, Information and Privacy Commission NSW Chief Executive Officer, am of the opinion that IPC has managed gifts and benefits in a manner consistent with the IPC's Code of Conduct and Gifts and Benefits Policy and that there is no evidence of attempts to improperly influence the decisions or actions taken by its employees.

The IPC provides transparency and accountability of gifts and benefits by publishing its Gifts and Benefits Policy and Register on its website.

Governance is in place to manage any offers of gifts and benefits through the policy framework, annual staff training and annual reporting to the Audit and Risk Committee on trends in Gifts and Benefits.

Yours sincerely

Elizabeth Tydd
IPC CEO, Information Commissioner
NSW Open Data Advocate

Date: 9 August 2022

Pillar 4: Operational Excellence

Internal Audit and Risk Management Attestation Statement



Internal Audit and Risk Management Attestation Statement for the 2021-2022 Financial Year for the Information and Privacy Commission

I, Elizabeth Tydd, am of the opinion that the Information and Privacy Commission has internal audit and risk management processes in operation that are, excluding the exemptions or transitional arrangements described below, compliant with the seven (7) core requirements set out in the Internal Audit and Risk Management Policy for the NSW Public Sector, specifically:

Core Requirements	Status
Risk Management Framework	
1.1 The Accountable Authority shall accept ultimate responsibility and accountability for risk management in the agency.	Compliant
1.2 The Accountable Authority shall establish and maintain a risk management framework that is appropriate for the agency. The Accountable Authority shall ensure the framework is consistent with AS ISO 31000:2018.	Compliant
Internal Audit Function	
2.1 The Accountable Authority shall establish and maintain an internal audit function that is appropriate for the agency and fit for purpose.	Compliant
2.2 The Accountable Authority shall ensure the internal audit function operates consistent with the International Standards for Professional Practice for Internal Auditing.	Compliant
2.3 The Accountable Authority shall ensure the agency has an Internal Audit Charter that is consistent with the content of the 'model charter'.	Compliant
Audit and Risk Committee	
3.1 The Accountable Authority shall establish and maintain efficient and effective arrangements for independent Audit and Risk Committee oversight to provide advice and guidance to the Accountable Authority on the agency's governance processes, risk management and control frameworks, and its external accountability obligations.	Compliant
3.2 The Accountable Authority shall ensure the Audit and Risk Committee has a charter that is consistent with the content of the 'model charter'.	Compliant

Membership

The independent chair and members of the Audit and Risk Committee are:

- Independent Chair, Mr Paul Crombie
Initial term – 16/09/2019 to 16/6/2022
- Independent Member 1, Mr Malcolm Clinch
Initial term - 06/07/2015 to 05/07/2018 – Reappointed to 5/07/2023
- Independent Member 2, Ms Marcia Doheny
Initial term – 28/6/2019 to 28/6/2022
Appointed Chair – 17/06/2022 to 17/6/2025
Independent Member, Mr Peter Scarlett
Initial term – 17/06/2022 to 17/6/2025

These processes demonstrate that the Information and Privacy Commission has established and maintained frameworks, including systems, processes and procedures for appropriately managing audit and risk within the Information and Privacy Commission.

Elizabeth Tydd
IPC CEO, Information Commissioner
NSW Open Data Advocate

Date: 21 September 2022

Pillar 4: Operational Excellence

Risk management

Audit and Risk Committee (ARC) report on activity

This annual report of the IPC's Audit and Risk Committee (ARC) covers the activities of the ARC for the period 1 July 2021 to 30 June 2022. This is in line with the requirements of the ARC Charter and Treasury Policy *Internal Audit and Risk Management Policy for the General Government Sector* (TPP 20-08).

1. Meetings held and attendance by members:

There were seven meetings of the ARC held during the 2021/22 reporting year:

No. of meetings	Meeting date	Malcolm Clinch	Paul Crombie	Marcia Doheny	Peter Scarlett
1	2/7/21	✓	✓	✓	NA
2	22/7/21*	✓	✓	✓	NA
3	24/9/21	✓	✓	✓	NA
4	8/10/21*	✓	✓	✓	NA
5	26/11/21	✓	✓	✓	NA
6	25/3/22	✓	✓	✓	NA
7	9/6/22	✓	✓	✓	NA
Total	7	7	7	7	

* The meetings on 8 October 2021 and 22 July 2021 were special meetings for review of Financial Statements.

The term for the following members of the ARC expired in the reporting year:

- Mr Paul Crombie – Chair – June 2022
- Ms Marcia Doheny – Member – June 2022.

Ms Doheny assumed the position of Chair of the ARC effective from 17 June 2022. Mr Peter Scarlett filled the vacant independent member of the ARC commencing his appointment on 17 June 2022. No meetings were held in the reporting period of the ARC following Mr Scarlett's appointment. No appointment terms will expire in the next reporting period.

In-camera sessions were conducted with the internal and external audit service providers. Additionally, the Chair met with the CEO throughout the year as required. Meetings of the Committee were conducted online and in person where possible in response to the challenges around COVID-19.

All members have completed written conflict of interest declarations.

2. Key outcomes

- O'Connor Marsden and Associates (OCM) provide independent internal audit assurance and advice. The Chief Audit Executive (CAE) reports to the ARC quarterly on the risk-based internal audit plan and progress towards completion, as well as implementation of audit issues and recommendations.
- Two internal audits carried over from the previous reporting period were completed for:
 - Governance Health Check
 - Development of Engagement Strategies.
- One new internal audit was conducted by OCM to provide assurance that key internal controls operating with respect to the IPC functions are appropriately designed and have operated effectively. The audit was in the stages of finalisation as at 30 June 2022. The audit was for IPC Records Management.
- In accordance with core requirements of *TPP 20-08 Internal Audit and Risk Management Policy for the NSW Public Sector*, the IPC developed and maintained an Internal Audit Manual and Internal Audit Charter. The Internal Audit Manual and Internal Audit Charter were reviewed and updated during the reporting period.
- The ARC provided advice to the CEO/Information Commissioner on identification and management of financial, operational and other key risks.

3. Key outputs

- Reviewed and endorsed the 2022/23 internal audit plan.
- Reviewed the Risk Register at each meeting and monitored risk treatment/mitigation actions.
- Reviewed all audit reports and monitored the implementation of recommendations.
- Monitored the impact of COVID-19 upon IPC operations.
- Reviewed the Audit Office Client Services Plan.
- Endorsed the 5 year Independent Quality Assessment of Internal Audit Functions to be completed.
- Reviewed the draft 2020/21 Financial Statements for submission to the NSW Audit Office and the audited Statements together with supported Attestations and Certifications and recommended the Statements for signature by the CEO.
- Reviewed the draft Early Close Financial Statements for the period ending 31 March 2022 at pre and post audit stages.
- Reviewed and discussed the Performance Management Dashboard at each meeting.
- Reviewed the IPC Fraud Control Framework and Policy.
- Reviewed and endorsed the IPC Audit and Risk Committee Charter.
- Monitored the IPC Policy Framework Processes.

Pillar 4: Operational Excellence

- Endorsed the progress of a comprehensive review of the IPC Enterprise Risk Management Framework and development of an IPC Risk Appetite.

4. ARC acquittal of Treasury requirements

The ARC confirmed the following Treasury requirements are understood and in effect for the IPC:

- internal control systems are in place and effective
- inaccuracies are promptly identified and addressed progressively through the year
- within year financial reporting is used to identify and address issues that have full year impact
- appropriate action has been taken to address audit recommendations.

5. ARC overall assessment

During 2021/22, the ARC performed its functions and responsibilities, as outlined in the ARC Charter, regarding risk management and control frameworks, compliance, internal audit, external audit and its external accountability requirements. The ARC's overall assessment is that the arrangements in these areas were operating soundly during 2021/22.

The ARC believes that the IPC has continued to enhance its management of strategic and operational risks, financial and other internal controls and compliance obligations as well as adapt to changes in the IPC's operations. The ARC also believes that the IPC is adequately supporting its internal and external audit functions and meet its external accountability requirements.

6. ARC effectiveness

A self-assessment was completed in August 2021 to evaluate the ARC's performance. It covered questions about the ARC's charter, roles and responsibilities, skills and experience, communications and reporting, and meeting and administrative arrangements. The assessment was completed by all ARC members. Out of the 34 questions, 100% were rated as 'agree' or 'strongly agree', confirming the ARC continues to perform well overall against the core responsibilities contained in its charter, and in the categories outlined above.

The IPC ARC has been established from a skilled and experienced membership that is suitably qualified and works in a collegiate fashion. The ARC is well supported by senior management including the IPC Executive team, CAE, Secretariat and the professionally skilled internal and external audit service.

7. Priorities for year ending 30 June 2023

- Monitor financial management and financial reporting arrangements for the IPC.
- Monitor performance against budget and impact of efficiency reforms and increasing work volumes upon performance.
- Continued oversight of performance against the IPC Strategic Plan 2022 – 2024.
- Monitor Cyber Security maturity.
- Review and monitor implementation of recommendations arising from the Independent Quality Assessment of Internal Audit.
- Review of the Internal Audit Plan including audit findings and recommendations.
- Monitor the implementation of the Review of the Enterprise Risk Management Framework including adoption of a risk appetite and risk tolerance.
- Monitor compliance with Treasury *TPP 20-08 Internal Audit and Risk Management Policy*.
- Review the Business Continuity Plan.
- Review the Legislative Compliance Register.

GIPA Act compliance

Decisions made on formal access applications

Under section 125 of the GIPA Act, the IPC is required to report annually on its GIPA obligations. Clause 8 of the GIPA Regulation lists the information against which agencies must report. Schedule 2 of the GIPA Regulation provides tables for the reporting of statistical information about access applications.

Review of proactive release program

Under section 7(1) of the GIPA Act, the IPC is authorised to proactively release any government information it holds, as long as there is no overriding public interest against disclosure. As part of the IPC's proactive release program, the IPC reviews its information as it is produced to see whether it is in the public interest to make the information available, or whether there is an overriding public interest against disclosure.

Information that can be released is made available as soon as practicable on the IPC website and in other forms as appropriate. The IPC's disclosure log was updated consistent with release decisions.

Clause 8(a) of the GIPA Regulation requires details about the review under section 7(3) of the GIPA Act to be included in this annual report, along with information that has been developed and proactively released under this program.

Pillar 4: Operational Excellence

Information made available by the IPC under this program in this financial year included:

- fact sheets and guidelines
- reports on reviews of decisions the IPC has conducted
- submissions to inquiries and discussion papers made by the Information Commissioner and the Privacy Commissioner
- infographics and animations prepared for campaigns based on statutory reports and survey outcomes
- event listings and campaigns championed by the Information Commissioner, Privacy Commissioner or as an organisation
- regulatory reports
- notifications of approvals under legislation
- media releases and public statements
- compliance audit reports
- statistical information on voluntary data breaches
- delegations of the Information Commissioner and the Privacy Commissioner
- notifications by agencies to the Privacy Commissioner
- release of open data, including via the GIPA Agency Dashboard.

Decisions made on formal access applications

Of the six formal access applications received and dealt with by the IPC this financial year, there were no applications transferred to other agencies. The IPC received two invalid applications for the reporting period. The two applications did not comply with formal requirements in accordance with the GIPA Act. Where possible, the IPC worked with applicants to comply with formal requirements to make the application valid.

Statistical information about access applications made

See Appendix 3 for statistical information about access applications made during the year.

Submission of GIPA report

Section 125(1) of the GIPA Act requires agencies to submit a copy of their GIPA annual report to the Minister responsible for the agency. A copy of the IPC's report will be submitted to the Attorney General, and the Minister for Customer Service and Digital Government, Minister for Small Business, and Minister for Fair Trading as the Ministers responsible for the GIPA Act.

Contracts register compliance

The IPC has also:

- maintained a contract register in accordance with Division 5 of the GIPA Act
- ensured that any relevant contracts were entered appropriately and accurately
- made this register publicly available on the [IPC website](#)
- reviewed the accuracy and completeness of the register regularly during the year.

PPIP Act compliance

The IPC's privacy-specific expertise is applied to facilitate compliance with the PPIP Act and HRIP Act. The IPC has a PMP as required by section 33(3) of the PPIP Act and which includes the IPC's obligations under the HRIP Act. The IPC's PMP outlines how the IPC complies with the principles of the PPIP Act and the HRIP Act. The PMP was reviewed during the reporting period to recognise changes in the IPC's operation and to be a model of best practice for agencies. It can be found on the [IPC website](#).

Client Satisfaction Survey

In 2021/22, the IPC continued to gain valuable feedback from its Client Satisfaction Survey across the complaint and review case types. Data from the survey shows that there was improvement in several areas compared with the previous reporting period. In 2021/22:

- 55% of respondents were satisfied with the service provided by the IPC, an increase of 2% from 2020/21
- 57% of respondents indicated that IPC officers had the knowledge to answer their questions, an increase of 2% from 2020/21
- 70% of respondents indicated that the outcome of their case was clearly communicated by the IPC, a decrease of 5% from 2020/21
- 58% of respondents indicated that they received a timely outcome from the IPC, a decrease of 4% from 2020/21
- 67% of respondents agreed that information such as fact sheets and guidelines were easy to find on the IPC website, an increase of 4% from 2020/21.

When compared to the previous reporting period, there were 44 fewer responses in 2021/22, totalling 118. In response to the decrease in survey feedback, the IPC will monitor completions in the coming reporting period and develop actions to improve the completion rate.

Pillar 4: Operational Excellence

In almost all cases the results observe a positive improvement in client satisfaction as compared to the previous reporting period but there continues to remain work for the IPC in improving its overall timeliness and to further build on this year's positive improvements. The IPC will continue to identify opportunities to improve upon overall client satisfaction with particular emphasis on timeliness.

Agency Advice Satisfaction Survey

In 2021/22, the IPC continued to gain valuable feedback from its Agency Advice Satisfaction Survey across its advices.

Data from the survey shows that there was improvement in most areas when compared with the previous reporting year, the highlights including:

- 90% of respondents agreed that the IPC officer/s were polite and helpful
- 80% of respondents agreed that it was easy to find information such as Fact Sheets, Guidance and Guidelines on the IPC website
- 80% of respondents agreed that advice was communicated clearly
- 75% of respondents agreed that they were satisfied with the IPC's service
- 75% of respondents agreed that they received a timely response from the IPC.

The survey identified areas for improvement including the understandability of information such as Fact Sheets, Guidance and Guidelines which decreased by 7%. In 2021/22, the IPC commenced regular feedback mechanisms with agency practitioners to improve upon its guidance as an initiative of the IPC Strategic Plan 2022 – 2024.

When compared to the previous reporting period, there were 10 fewer responses in 2021/22, totalling 20 agency responses. As with the Client Satisfaction Survey, the IPC will monitor completions of the Agency Advice Satisfaction Survey in the coming reporting period and develop actions to improve the completion rate.

Pillar 4: Operational Excellence

Client Satisfaction Survey results for 2021/22

	% Agree		
	2021/22	2020/21	2019/20*
It was easy to find information such as Fact Sheets and Guidelines on the IPC website	67%	63%	71%
Information such as Fact Sheets and Guidelines I read were easy to understand	66%	63%	73%
IPC officers had the knowledge to answer my questions	57%	55%	69%
I was kept up-to-date with progress	58%	57%	65%
I received a timely outcome from the IPC	58%	62%	67%
The outcome was communicated to me clearly	70%	65%	77%
I was satisfied with the outcome	50%	44%	58%
The process was fair	57%	57%	67%
IPC officer/s were polite and helpful	70%	62%	76%
Overall, I was satisfied with the service provided by the IPC	55%	53%	67%

Agency Advice Satisfaction Survey results for 2021/22

	% Agree	
	2021/22	2020/21
It was easy to find information such as fact sheets, guidance and guidelines on the IPC website	80%	63%
Information such as fact sheets, guidance and guidelines I read were easy to understand	70%	77%
Overall, I was satisfied with the service provided by the IPC	75%	67%
I was satisfied with the advice provided	70%	67%
The IPC officer/s had the knowledge to answer my questions	70%	57%
The advice was communicated to me clearly	80%	83%
The IPC officer/s were polite and helpful	90%	83%
I received a timely response from the IPC to my request for advice	75%	73%
The information was helpful in addressing my question or enquiry	70%	63%

* Minor amendments to the survey were undertaken and completed on 1 July 2019, including additional questions of demographics and changes to the layout and functionality of the survey.

Our financial performance



Our financial performance

Statement by the Information Commissioner



information
and privacy
commission
new south wales

STATEMENT BY INFORMATION COMMISSIONER

For the Year Ended 30 June 2022

Pursuant to section 7.6(4) of the *Government Sector Finance Act 2018* ("the Act"), I state that these financial statements:

- a) have been prepared in accordance with the Australian Accounting Standards and the applicable requirements of the Act, the *Government Sector Finance Regulation 2018* and the Treasurer's directions, and
- b) present fairly the Information and Privacy Commission's financial position, financial performance and cash flows.

Elizabeth Tydd
IPC CEO, Information Commissioner
NSW Open Data Advocate

Date: 23 September 2022

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Our financial performance

Independent Auditor's Report



INDEPENDENT AUDITOR'S REPORT

Information and Privacy Commission

To Members of the New South Wales Parliament

Opinion

I have audited the accompanying financial statements of the Information and Privacy Commission (the Commission), which comprise the Statement by the Accountable Authority, the Statement of Comprehensive Income for the year ended 30 June 2022, the Statement of Financial Position as at 30 June 2022, the Statement of Changes in Equity and the Statement of Cash Flows, for the year then ended, notes comprising a Statement of Significant Accounting Policies, and other explanatory information.

In my opinion, the financial statements:

- have been prepared in accordance with Australian Accounting Standards and the applicable financial reporting requirements of the *Government Sector Finance Act 2018* (GSF Act), the *Government Sector Finance Regulation 2018* (GSF Regulation) and the Treasurer's Directions
- presents fairly the Commission's financial position, financial performance and cash flows.

My opinion should be read in conjunction with the rest of this report.

Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under the standards are described in the 'Auditor's Responsibilities for the Audit of the Financial Statements' section of my report.

I am independent of the Commission in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants (including Independence Standards)' (APES 110).

I have fulfilled my other ethical responsibilities in accordance with APES 110.

Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies
- precluding the Auditor-General from providing non-audit services.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Our financial performance

Independent Auditor's Report

Information Commissioner's Responsibilities for the Financial Statements

The Information Commissioner is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards, the GSF Act, GSF Regulation and Treasurer's Directions. The Information Commissioner's responsibility also includes such internal control as the Information Commissioner determines is necessary to enable the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Information Commissioner is responsible for assessing the Commission's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting.

Auditor's Responsibilities for the Audit of the Financial Statements

My objectives are to:

- obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: www.auasb.gov.au/auditors_responsibilities/ar4.pdf. The description forms part of my auditor's report.

The scope of my audit does not include, nor provide assurance:

- that the Commission carried out its activities effectively, efficiently and economically
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about any other information which may have been hyperlinked to/from the financial statements.



Somaiya Ahmed
Director, Financial Audit

Delegate of the Auditor-General for New South Wales

26 September 2022
SYDNEY

Financial statements



Our financial performance

Financial statements for the year ended 30 June 2022

Start of audited financial statements

Statement of comprehensive income

For the year ended 30 June 2022

	Notes	Budget 2022 \$	Actual 2022 \$	Actual 2021 \$
Continuing operations Expenses excluding losses				
Employee related expenses	2(a)	5,641,000	4,807,886	4,326,205
Operating expenses	2(b)	698,000	2,303,710	1,797,018
Depreciation and Amortisation	2(c)	629,000	138,075	218,138
Finance Cost		13,000	-	-
Total expenses excluding losses		6,982,000	7,249,671	6,341,361
Revenue				
Appropriation Revenue		(700,000)	-	-
Grants and other contributions	3(a)	7,605,000	8,199,988	6,000,000
Acceptance by the Crown of employee benefits and other liabilities	3(b)	133,000	(12,689)	30,645
Investment revenue		1,000	-	-
Other revenue		26,000	-	-
Total revenue		7,066,000	8,187,299	6,030,645
Operating result		84,000	937,628	(310,716)
Gain/(losses) on disposal	4	-	-	(55,591)
Net result from continuing operations		84,000	937,628	(366,307)
Total comprehensive income		84,000	937,628	(366,307)

The accompanying notes form part of these financial statements.

Our financial performance

Financial statements for the year ended 30 June 2022

Statement of financial position

As at 30 June 2022

	Notes	Budget 2022 \$	Actual 2022 \$	Actual 2021 \$
Assets				
Current assets				
Cash and cash equivalents	6	913,000	1,715,320	652,255
Receivables	7	43,000	149,534	164,775
Total current assets		956,000	1,864,854	817,030
Non-current assets				
Property, plant and equipment	8	37,000	-	934
Right-of-use assets		(388,000)	-	-
Intangible assets	9	486,000	267,316	359,621
Total non-current assets		134,000	267,316	360,555
Total assets		1,090,000	2,132,170	1,177,585
Liabilities				
Current liabilities				
Payables	10	551,000	273,161	365,525
Borrowings		15,000	-	-
Provisions	11	668,000	619,986	510,670
Total current liabilities		1,234,000	893,147	876,195
Non-current liabilities				
Borrowings		(413,000)	-	-
Provisions	11	-	9,857	9,852
Total non-current liabilities		(413,000)	9,857	9,852
Total liabilities		821,000	903,004	886,047
Net assets		269,000	1,229,166	291,538
Equity				
Accumulated funds		269,000	1,229,166	291,538
Total equity		269,000	1,229,166	291,538

The accompanying notes form part of these financial statements.

Our financial performance

Financial statements for the year ended 30 June 2022

Statement of changes in equity

For the year ended 30 June 2022

	Accumulated funds \$
Balance at 1 July 2021	291,538
Net result for the year	937,628
Other comprehensive income	-
Total comprehensive income for the year	937,628
Transaction with owners in their capacity as owners	-
Balance at 30 June 2022	1,229,166
Balance at 1 July 2020	657,845
Net result for the year	(366,307)
Other comprehensive income	-
Total comprehensive income for the year	(366,307)
Transaction with owners in their capacity as owners	-
Balance at 30 June 2021	291,538

The accompanying notes form part of these financial statements.

Our financial performance

Financial statements for the year ended 30 June 2022

Statement of cash flows

For the year ended 30 June 2022

	Notes	Budget 2022 \$	Actual 2022 \$	Actual 2021 \$
Cash flow from operating activities				
Payments				
Employee related		(5,508,000)	(4,698,565)	(4,383,672)
Suppliers for goods and services		(698,000)	(2,425,052)	(2,135,240)
Finance Costs		(13,000)	-	-
Total payments		(6,219,000)	(7,123,617)	(6,518,912)
Receipts				
Appropriation		(700,000)	-	-
Grants and contributions		7,605,000	8,231,518	6,000,000
Interest received		1,000	-	-
Other		26,000	-	240,278
Total receipts		6,932,000	8,231,518	6,240,278
Net cash flows from operating activities	12	713,000	1,107,901	(278,634)
Cash flows from investing activities				
Other investing		(315,000)	-	-
Purchases of intangible assets		-	(44,836)	-
Net cash flows from investing activities		(315,000)	(44,836)	-
Cash flows from financing activities				
Net cash flows from financing activities		(398,000)	-	-
Net increase/(decrease) in cash and cash equivalents		-	1,063,065	(278,634)
Opening cash and cash equivalents		913,000	652,255	930,889
Closing cash and cash equivalents	6	913,000	1,715,320	652,255

The accompanying notes form part of these financial statements.

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

1. Statement of significant accounting policies

(a) Reporting entity

The Information and Privacy Commission (the Commission) is a NSW government agency and is controlled by the State of New South Wales which is the ultimate parent entity. The Commission is a not-for-profit entity (as profit is not its principal objective) and it has no cash generating units.

The financial statements for the period ended 30 June 2022 have been authorised for issue by the Information Commissioner on 23 September 2022.

(b) Basis of preparation

The Commission's financial statements are general purpose financial statements which have been prepared on an accrual basis and in accordance with:

- applicable Australian Accounting Standards (which include Australian Accounting Interpretations)
- the requirements of the *Government Sector Finance Act 2018* (GSF Act) and Government Sector Finance Regulation 2018
- Treasurer's Directions issued under the GSF Act.

Other financial statement items are prepared in accordance with the historical cost convention except where specified otherwise.

Judgements, key assumptions and estimations management have made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest dollar and are expressed in Australian currency, which is the Commission's presentation and functional currency.

(c) Statement of compliance

The financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

(d) Accounting for goods and services tax

Income, expenses, and assets are recognised net of the amount of goods and services tax (GST), except that the:

- amount of GST incurred by the Commission as a purchaser that is not recoverable from the Australian Taxation Office (ATO) is recognised as part of an asset's cost of acquisition or as part of an item of expense and
- receivables and payables are stated with the amount of GST included.

Cash flows are included in the statement of cash flows on a gross basis. However, the GST components of the cash flows arising from investing and financing activities which are recoverable from, or payable to, the ATO are classified as operating cash flows.

(e) Comparative information

Except when an AAS permits or requires otherwise, comparative information is presented in respect of the previous period for all amounts reported in the financial statements.

(f) Changes in accounting policies, including new or revised Australian Accounting Standards

(i) Effective for the first time in FY2021-22

The accounting policies applied in 2021-22 are consistent with those of the previous financial year except as a result of the following new or revised AAS that have been applied for the first time in 2021-22.

- AASB 2020-5 Amendments to Australian Accounting Standards – Insurance Contracts
- AASB 2020-7 Amendments to Australian Accounting Standards – COVID-19-Related Rent Concessions: Tier 2 Disclosures
- AASB 2020-8 Amendments to Australian Accounting Standards – Interest Rate Benchmark Reform – Phase 2
- AASB 2020-9 Amendments to Australian Accounting Standards – Tier 2 Disclosures: Interest Rate Benchmark Reform (Phase 2) and Other Amendments
- AASB 2021-1 Amendments to Australian Accounting Standards – Transition to Tier 2: Simplified Disclosures for Not-for-Profit Entities
- AASB 2021-3 Amendments to Australian Accounting Standards – COVID-19-Related Rent Concessions beyond 30 June 2021
- AASB 1060 General Purpose Financial Statements – Simplified Disclosures for For-Profit and Not-for-Profit Tier 2 Entities

The standards above have no impact on the Commission's financial statements.

(ii) Issued but not yet effective

NSW public sector entities are not permitted to early adopt new AAS, unless Treasury determines otherwise.

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

1. Statement of significant accounting policies (continued)

The following new AAS have not been applied and are not yet effective:

- AASB 17 Insurance Contracts
- AASB 1060 General Purpose Financial Statements – Simplified Disclosures for For-Profit and Not for-Profit Tier 2 Entities
- AASB 2020-1 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current
- AASB 2020-6 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current
- AASB 2020-3 Amendments to Australian Accounting Standards – Annual Improvements 2018–2020 and Other Amendments .

The above issued but not yet effective AAS have no impact on the Commission's financial statements.

(g) Superannuation on leave loading

The Commission has determined that it is not probable a liability arises to pay superannuation on annual leave loading. This position has been formed based on current inquiries, other information currently available to management, and after considering the facts from a decision in the *Federal Court of Australia: Finance Sector Union of Australia v Commonwealth Bank of Australia* [2022] FedCFamC2G 409. That decision confirmed that, in relation to the industrial agreement considered in that case, annual leave loading did not form part of ordinary time earnings and therefore, did not require superannuation contributions to be made under superannuation guarantee legislation because the obligation to pay annual leave loading was not referable to ordinary hours of work or to ordinary rates of pay. Rather, it was paid by reference to the period of annual leave, and for the purpose of compensating employees for their loss of opportunity to work additional hours at higher rates during this period. This position will be re-assessed in future reporting periods as new information comes to light on this matter.

(h) Impact of COVID-19 on Financial Reporting for 2021-22

The primary area of heightened risk from COVID-19 is to the Commission's workforce, in both public-facing and office-based roles. As a result, significant focus has been placed on managing work health and safety (WHS) risks, physical, mental and social. Most office-based staff have moved to working from home arrangements, and the Commission has acted to reduce any adverse impact on staff arising from these work arrangements. Frontline staff have also been provided with guidance in relation to hygiene, travel, illness prevention, and flexible working. The Commission continues to support the health and safety of its staff.

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

2. Expenses excluding losses

(a) Employee related expenses

	2022 \$	2021 \$
Salaries and wages (including annual leave)	4,257,225	3,835,970
Payroll tax & fringe benefit tax	220,496	195,946
Superannuation - defined contribution plans	293,208	296,846
Superannuation - defined benefit plans	69,255	65,824
Workers' compensation insurance	50,935	17,201
Long service leave*	(86,592)	(88,862)
Payroll tax assumed by Crown	3,359	3,280
Total	4,807,886	4,326,205

* The negative balances in long service leave expenses in both financial years 2022 and 2021 were the result of Treasury's end of year Present Value LSL top-up process, based on actuarial review. Movements in PV discount factor is adjusted back to the profit and loss as a debit/(credit) depending on whether the discount factor is higher or lower than prior year.

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

2. Expenses excluding losses (continued)

(b) Other operating expenses

	2022 \$	2021 \$
Administration fees*	205,000	200,000
Advertising and publicity	145,907	34,393
Agency staff fees	395,138	270,615
Audit and Risk Committee fees	37,822	38,900
Auditor's remuneration		
- audit of the financial statements	47,100	28,280
- internal audit	38,200	18,810
Computer related expenses	488,236	391,865
Consultants and contractors	168,224	155,350
Legal services	43,251	11,743
Miscellaneous fees	79,223	24,060
Motor vehicle expense	-	(11,243)
Other	8,375	23,172
Postage	1,223	(153)
Rental	421,579	457,160
Repair and maintenance	6,640	285
Staff expenses	141,438	112,285
Stores and stationary	13,481	3,048
Subscription and membership	45,393	48,826
Telephone	15,290	(10,772)
Travel	2,190	394
Total**	2,303,710	1,797,018

* Relates to Corporate Services provided to the Commission by the Department of Customer Service.

** Total costs to the Commission for services provided by the Department of Customer Service for the year ended 30 June 2022 was \$570,790. This includes direct consumption passthrough charges of \$365,790 and Corporate Service charges of \$205,000.

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

2. Expenses excluding losses (continued)

Recognition and measurement

Insurance

The Entity's insurance activities are conducted through NSW Treasury Managed Fund Scheme of self-insurance for Government entities. The expense (premium) is determined by the Fund Manager based on past claims experience.

Maintenance expense

Day-to-day servicing costs or maintenance are charged as expenses as incurred, except where they relate to the replacement or an enhancement of a part or component of an asset, in which case the costs are capitalised and depreciated.

(c) Depreciation and amortisation expense

	2022 \$	2021 \$
Depreciation		
Computer equipment	-	3,491
Furniture and fittings	934	8,563
Total depreciation expense	934	12,054
Amortisation		
Intangible assets - software	137,141	206,084
Total amortisation expense	137,141	206,084
Total	138,075	218,138

Recognition and measurement

Depreciation is provided for on a straight-line basis so as to write off the depreciable amount of each asset as it is consumed over its useful life.

All material separately identifiable components of assets are depreciated over their shorter useful lives.

The depreciation/amortisation rates used for each class of assets are as follows:

Asset Class	Rate of Depreciation
Computer Equipment - Portable	33%
Office Equipment	20%
Furniture & Fittings	10%
Intangible Assets - Software	25%

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

3. Revenue

Recognition and measurement

Income is recognised in accordance with the requirements of AASB 15 *Revenue from Contracts with Customers* or AASB 1058 *Income of Not-for-Profit Entities*, dependent on whether there is a contract with a customer defined by AASB 15 *Revenue from Contracts with Customers*. Comments regarding the accounting policies for the recognition of income are discussed below.

Parliamentary Appropriations/the Summary of Compliance

The *Appropriation Act 2021* (Appropriations Act) (and the subsequent variations) appropriates the sum of \$17,029,595,000 (2021: \$2,187,754,000) to the Minister of the Consolidated Fund for the services of the Department of Customer Service for the year 2021-22. The spending authority of the Minister for Customer Service from the Appropriations Act has been delegated or subdelegated to officers of the Department of Customer Service and entities that it is administratively responsible for, including the Commission.

The responsible Minister for each GSF agency is taken to have been given an appropriation out of the Consolidated Fund under the authority s4.7 of the GSF Act, at the time the GSF agency receives or recovers any deemed appropriation money, for an amount equivalent to the money that is received or recovered by the GSF agency. The spending authority of the responsible Minister(s) from deemed appropriation money has been delegated or sub-delegated to officers of the Commission for its own services.

A summary of compliance is disclosed in the financial statements of the Annual Report of the Department of Customer Service. It has been prepared based on aggregating the spending authorities of both the Minister for Customer Service for the services of the Department of Customer Service and the responsible Ministers for the services of the entities the principal department is administratively responsible for that receives or recovers deemed appropriation money. It reflects the status at the point in time this disclosure statement is being made. The Commission's spending authority and expenditure is included in the summary of compliance.

The delegation/sub-delegations for FY21/22 and FY20/21, authorising officers of the Commission to spend Consolidated Fund money, impose limits to the amounts of individual transactions, but not the overall expenditure of the Commission. However, as it relates to expenditure in reliance on a sum appropriated through an annual Appropriations Act, the delegation/sub-delegations are referable to the overall authority to spend set out in the relevant Appropriations Act. The individual transaction limits have been properly observed. The information in relation to the limit from the Appropriations Act is disclosed in the summary of compliance table included in the financial statements of the Annual Report of the Department of Customer Service.

(a) Grants and contributions

	2022 \$	2021 \$
<i>Grants without sufficiently specific performance obligations</i>		
Government grants - recurrent	7,344,988	5,850,000
Government grants - capital	315,000	150,000
Other grants*	540,000	-
Total	8,199,988	6,000,000

* Other grants relate to Digital Restart Fund (DRF) received from the NSW DRF in FY22 for ongoing administration costs to administer the Commission's programs over a three-year period, commencing from FY22 ending on FY24.

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

3. Revenue (continued)

Recognition and measurement

Revenue from grants with sufficiently specific performance obligations are recognised as and when the Commission satisfies a performance obligation by transferring the promised goods. Revenue from these grants is recognised based on the grant amount specified in the funding agreement/funding approval, and revenue is only recognised to the extent that it is highly probable that a significant reversal will not occur.

Income from grants without sufficiently specific performance obligations are recognised when the Commission obtains control over the granted assets (e.g. cash).

(b) Acceptance by the Crown of employee benefits and other liabilities

The following liabilities and/or expenses have been assumed by the Crown:

	2022 \$	2021 \$
Superannuation - defined benefit	69,255	65,826
Long service leave*	(85,303)	(38,461)
Payroll tax	3,359	3,280
Total	(12,689)	30,645

* The negative balances in FY22 and FY21 were due to a year-on-year decline in the actuarial value at the end of the financial year compared to prior year's, resulting in the reduction of PV top-up by \$176,979. This results in a reduction in the LSL expense and revenue accounts.

4. Gain/(loss) on disposal

	2022 \$	2021 \$
Gain/(loss) on disposal of assets		
Written down value of Computer equipment and Furniture & Fittings disposed	-	55,591
Net gain/(loss) on disposal of assets	-	55,591

5. State outcomes group

The Commission state outcomes group covers the provision of assistance and advice to agencies and the public, the conduct of legislative and administrative reviews, and other activities to ensure compliance with the *Government Information (Public Access) Act 2009* and NSW privacy legislation. The expenses, revenues, assets and liabilities of the program group are presented in the primary financial statements.

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

6. Current assets – cash and cash equivalents

	2022 \$	2021 \$
Cash at bank	1,715,320	652,255
Closing cash	1,715,320	652,255

For the purposes of the Statement of Cash Flows, cash and cash equivalents include cash at bank and cash on hand. Cash and cash equivalent assets recognised in the statement of financial position are the same as cash and cash equivalents assets recognised in the statement of cash flows.

Refer Note 14 for details regarding credit risk and market risk arising from financial instruments.

7. Current assets – receivables

	2022 \$	2021 \$
GST receivable	91,400	53,708
Prepayments*	51,376	86,128
Other receivables	6,758	24,939
Total	149,534	164,775

Details regarding credit risk of trade debtors that are neither past due nor impaired, are disclosed in Note 14.

* Prepayments as at 30 June 2022 relate to the purchase of annual subscriptions in advance. The subscriptions are amortised to the statement of comprehensive income over the period of the subscription.

Recognition and measurement

Receivables are initially recognised at fair value plus any directly attributable transaction costs. Trade receivables that do not contain a significant financing component are measured at the transaction price.

Subsequent measurement

The Commission holds receivables with the objective to collect the contractual cash flows and therefore measures them at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

Impairment of financial assets

The Commission recognises an allowance for expected credit losses (ECLs) for all debt financial assets not held at fair value through profit or loss. ECLs are based on the difference between the contractual cash flows and the cash flows that the entity expects to receive, discounted at the original effective interest rate.

For trade receivables, the entity applies a simplified approach in calculating ECLs. The entity recognises a loss allowance based on lifetime ECLs at each reporting date. The entity has established a provision matrix based on its historical credit loss experience for trade receivables, adjusted for forward-looking factors specific to the receivable.

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

8. Property, Plant and Equipment

	Computer equipment \$	Furniture & fittings \$	Plant and equipment \$	Total \$
At 1 July 2020 - fair value				
Gross carrying amount	122,255	98,499	34,749	255,503
Accumulated depreciation and impairment	(115,458)	(36,717)	(34,749)	(186,924)
Net carrying amount	6,797	61,782	-	68,579

Year ended 30 June 2021				
Net carrying amount at beginning of year	6,797	61,782	-	68,579
Additions	-	-	-	-
Disposals	(2,372)	(53,219)	-	(55,591)
Depreciation expense	(3,491)	(8,563)	-	(12,054)
Net carrying amount at end of year	934	-	-	934

	Computer equipment \$	Furniture & fittings \$	Plant and equipment \$	Total \$
At 1 July 2021 - fair value				
Gross carrying amount	4,482	5,076	34,749	44,307
Accumulated depreciation and impairment	(3,548)	(5,076)	(34,749)	(43,373)
Net carrying amount	934	-	-	934

Year ended 30 June 2022				
Net carrying amount at beginning of year	934	-	-	934
Additions	-	-	-	-
Disposals	-	-	-	-
Depreciation expenses	(934)	-	-	(934)
Net carrying amount at end of year	-	-	-	-

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

8. Property, Plant and Equipment (continued)

	Computer equipment \$	Furniture & fittings \$	Plant and equipment \$	Total \$
At 30 June 2022 - fair value				
Gross carrying amount	4,482	5,076	34,749	44,307
Accumulated depreciation and impairment	(4,482)	(5,076)	(34,749)	(44,307)
Net carrying amount	-	-	-	-

The Commission's assets are non-specialised assets and therefore, the depreciated cost is a surrogate for fair value.

Recognition and measurement

Acquisition of plant and equipment

Property, plant and equipment are initially measured at cost and subsequently revalued at fair value less accumulated depreciation and impairment. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to the asset when initially recognised in accordance with the requirements of other AAS.

Fair value is the price that would be received to sell an asset in an orderly transaction between market participants at measurement date.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent, the deferred payment amount is effectively discounted over the period of credit.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

Capitalisation threshold

Property, plant and equipment costing \$5,000 and above individually (or forming part of an IT network costing more than \$5,000) are capitalised.

Revaluation of plant and equipment

Physical non-current assets are valued in accordance with the 'Valuation of Physical Non-Current Assets at Fair Value' Policy and Guidelines Paper (TPP21-09) and Treasurer's Direction 'Valuation of Physical Non-Current Assets at Fair Value' (TD21-05). TD21-05 and TPP21-09 adopt fair value in accordance with AASB 13, AASB 116 and AASB 140 *Investment Property*.

Plant and equipment are non-specialised assets with short useful lives. They are measured at depreciated historical cost, as an approximation of the fair value. The Commission has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

As the Commission does not own land, buildings and infrastructure assets, revaluations of plant and equipment are not warranted. The residual values, useful lives and methods of depreciation of plant and equipment are reviewed at each financial year end.

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

8. Property, Plant and Equipment (continued)

Impairment of plant and equipment

As a not-for-profit entity with no cash generating units, impairment under AASB 136 *Impairment of Assets* is unlikely to arise. As plant and equipment is carried at fair value or an amount that approximates fair value, impairment can only arise in the rare circumstances where the costs of disposal are material.

The Commission assesses at each reporting date, whether there is an indication that an asset may be impaired. If any indication exists, or when annual impairment testing for an asset is required, the Commission estimates the asset's recoverable amount. When the carrying amount of an asset exceeds its recoverable amount, the asset is considered impaired and is written down to its recoverable amount.

Specialised assets held for continuing use of their service capacity are rarely sold and their cost of disposal is typically negligible. Their recoverable amount is expected to be materially the same as fair value, where they are regularly revalued under AASB 13.

As a not-for-profit entity, an impairment loss is recognised in the net result to the extent the impairment loss exceeds the amount in the revaluation surplus for the class of asset.

After an impairment loss has been recognised, it is reversed only if there has been a change in the assumptions used to determine the asset's recoverable amount. The reversal is limited so that the carrying amount of the asset does not exceed its recoverable amount, nor exceed the carrying amount that would have been determined, net of depreciation, had no impairment loss been recognised for the asset in prior years. Such reversal is recognised in net result and is treated as a revaluation increase. However, to the extent that an impairment loss on the same class of asset was previously recognised in net result, a reversal of that impairment loss is also recognised in net result.

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

9. Intangible assets

	Software \$	Total \$
At 1 July 2020		
Cost (gross carrying amount)	2,027,929	2,027,929
Accumulated amortisation and impairment	(1,462,223)	(1,462,223)
Net carrying amount	565,706	565,706
Year ended 30 June 2021		
Net carrying amount at beginning of year	565,706	565,706
Additions	-	-
Disposal	-	-
Amortisation	(206,084)	(206,084)
Net carrying amount at end of year	359,621	359,621
At 1 July 2021		
Cost (gross carrying amount)	2,027,929	2,027,929
Accumulated amortisation and impairment	(1,668,308)	(1,668,308)
Net carrying amount	359,621	359,621
Year ended 30 June 2022		
Net carrying amount at beginning of year	359,621	359,621
Additions	44,836	44,836
Disposal	-	-
Amortisation (recognised in 'depreciation and amortisation')	(137,141)	(137,141)
Net carrying amount at end of year	267,316	267,316
At 30 June 2022		
Cost (gross carrying amount)	2,072,764	2,072,764
Accumulated amortisation and impairment	(1,805,448)	(1,805,448)
Net carrying amount	267,316	267,316

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

9. Intangible assets (continued)

Recognition and measurement

The Commission recognises intangible assets only if it is probable that future economic benefits will flow to the Commission and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition. Following the initial recognition, intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the Commission's intangible assets, the assets are carried at cost less any accumulated amortisation and impairment losses.

All research costs are expensed. Development costs are only capitalised when certain criteria are met.

The useful lives of intangible assets are assessed to be finite.

The Commission's intangible assets are amortised using the straight-line method over a period of four years. The amortisation period and amortisation method for an intangible asset with a finite useful life are reviewed at least at the end of each reporting period.

Intangible assets with indefinite useful lives are not amortised but are tested for impairment annually. The assessment of indefinite life is reviewed annually to determine whether the indefinite life continues to be supportable. If not, the change in useful life from indefinite to finite is made on a prospective basis.

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount, the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss.

Capitalisation threshold

Intangible assets costing \$30,000 and above individually (or forming part of an IT network costing more than \$30,000) are capitalised. As at 30 June 2022, the Commission incurred capital expenses of \$44,836 software enhancements that currently added to computer software.

10. Current liabilities – payables

	2022 \$	2021 \$
Accrued salaries, wages and on-costs	91,278	23,912
Sundry accruals and creditors	181,883	341,613
Total	273,161	365,525

Details regarding liquidity risk, including a maturity analysis of the above payables, are disclosed in Note 14.

Recognition and measurement

Payables represent liabilities for goods and services provided to the Commission and other amounts. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial. Payables are financial liabilities at amortised cost, initially measured at fair value, net of directly attributable transaction costs. These are subsequently measured at amortised cost using the effective interest method. Gains and losses are recognised in net result when the liabilities are derecognised as well as through the amortisation process.

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

11. Current/non-current liabilities – provisions

	2022 \$	2021 \$
Employee benefits and related on-costs		
Current		
Annual leave	520,316	411,060
Long service leave	99,670	99,610
Total current provisions	619,986	510,670
Non-current		
Long service leave	9,857	9,852
Total non-current provisions	9,857	9,852
Total provisions	629,843	520,522
Aggregate employee benefits on-costs		
Provisions - current	520,316	510,670
Provisions - non-current	109,527	9,852
Total	629,843	520,522
Provisions expected to be settled within 12 months from reporting date		
Annual leave	474,528	374,882
Total	474,528	374,882
Provisions expected to be settled in more than 12 months from reporting date		
Annual leave	45,788	36,179
Long service leave	109,527	109,461
Total	155,315	145,640

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

11. Current/non-current liabilities – provisions (continued)

Recognition and measurement

Employee Benefits and related on-costs

Salaries and wages, annual leave and sick leave

Salaries and wages (including non-monetary benefits) and paid sick leave that are expected to be settled wholly within 12 months after the end of the period, in which the employees render the service, are recognised and measured at undiscounted amounts of the benefits. Annual leave is not expected to be settled wholly before 12 months after the end of the annual reporting period in which the employees render the related service. As such, it is required to be measured at present value in accordance with AASB 119 *Employee Benefits* (although short-cut methods are permitted).

Actuarial advice obtained by Treasury has confirmed that using the nominal annual leave balance plus the annual leave entitlements accrued while taking annual leave (calculated using 8.4% of the nominal value of annual leave) can be used to approximate the present value of the annual leave liability. The Commission has assessed the actuarial advice based on the Commission's circumstances and has determined that the effect of discounting is immaterial to annual leave. All annual leave is classified as a current liability even where the Commission does not expect to settle the liability within 12 months as the Commission does not have an unconditional right to defer settlement.

Unused non-vesting sick leave does not give rise to a liability, as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

Long service leave and superannuation

The Commission's liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. The Commission accounts for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as 'Acceptance by the Crown Entity of employee benefits and other liabilities'.

Long service leave is measured at present value of expected future payments to be made in respect of services provided up to the reporting date. Consideration is given to certain factors based on actuarial review, including expected future wage and salary levels, experience of employee departures, and periods of services. Expected future payments are discounted using Commonwealth government bond rate at the reporting date.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (i.e. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (i.e. State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

Consequential costs

Consequential costs to employment are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised. This includes outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax.

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

12. Reconciliation of cash flows from operating activities to net result

	2022 \$	2021 \$
Net cash flows from operating activities	1,107,901	(278,634)
Depreciation and amortisation expense	(138,075)	(218,138)
Loss on sale of plant and equipment and intangibles	-	(55,591)
(Decrease)/increase in receivables and prepayments	(15,241)	(7,310)
(Increase)/decrease in provisions	(109,321)	48,583
(Increase)/decrease in payables	92,364	144,783
Net result	937,628	(366,307)

13. Budget review

The budgeted amounts are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period. Subsequent amendments to the original budget (e.g. adjustment for transfer of functions between entities as a result of Administrative Arrangements Orders reflected in the budgeted amounts). Major variances between the original budgeted amounts and the actual amounts disclosed in the financial statements are explained below.

Net result

The actual net result for the year ended 30 June 2022 was \$937,628 above budget by \$853,628 due to 3 year DRF grants being recognised as revenue in current year.

Assets and liabilities

The actual net asset was \$933,166 higher than budget primarily due to higher cash on hand at the end of the financial year, led by savings from underspend in staffing costs.

Cash flows

The final cash position was higher than budget by \$802,320. This result was driven by underspend in employee related costs as 3 year DRF grants being recognised as revenue in current year.

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

14. Financial instruments

The Commission's principal financial instruments are outlined below. These financial instruments arise directly from the Commission's operations or are required to finance the Commission's operations. The Commission does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

The Commission's main risks arising from financial instruments are outlined below, together with the Commission's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout the financial statements.

The Information Commissioner has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Commission, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the Commission on a continuous basis.

Financial instrument categories

As at 30 June 2022

Class	Note	Category	Carrying amount \$
Financial assets			
Cash and cash equivalents	6	Amortised cost	1,715,320
Receivables ¹	7	Amortised cost	6,759
Financial liabilities			
Payables ²	10	Financial liabilities measured at amortised cost	255,125

¹ Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

² Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

As at 30 June 2021

Class	Note	Category	Carrying amount \$
Financial assets			
Cash and cash equivalents	6	Amortised cost	652,255
Receivables ¹	7	Amortised cost	24,939
Financial liabilities			
Payables ²	10	Financial liabilities measured at amortised cost	403,367

¹ Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

² Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

The Commission determines the classification of its financial assets and liabilities after initial recognition and, when allowed and appropriate, re-evaluates this at each financial year end.

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

14. Financial instruments (continued)

Credit risk

Credit risk arises when there is the possibility that the counterparty will default on their contractual obligations, resulting in a financial loss to the Commission. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

Credit risk arises from the financial assets of the Commission, including cash and receivables. No collateral is held by the Commission. The Commission has not granted any financial guarantees.

The Commission considers a financial asset in default when contractual payments are 90 days past due. However, in certain cases, the Commission may also consider a financial asset to be in default when internal or external information indicates that the Commission is unlikely to receive the outstanding contractual amounts in full before taking into account any credit enhancements held by the Commission.

Based on management's assessment on natural disasters (including COVID-19), there was no impact on the receivables and other assets in the balance sheet. The Commission has assessed the recoverability of its debtors and there was no additional impact on the ECL calculation that has been performed at 30 June 2022.

Cash and cash equivalents

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System. The Commission does not earn interest on its daily bank balances.

Receivables – trade debtors

Accounting policy for impairment of trade debtors and other financial assets

Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand.

The Commission applies the AASB 9 simplified approach to measuring expected credit losses which uses a lifetime expected loss allowance for all trade receivables.

To measure the expected credit losses, trade receivables have been grouped based on shared credit risk characteristics and the days past due.

The expected loss rates are based on historical observed loss rates. The historical loss rates are adjusted to reflect current and forward-looking information on macroeconomic factors affecting the ability of the customers to settle the receivables. The Commission has identified the unemployment rate, wages growth rate and CPI inflation to be the most relevant factors, and accordingly adjusts the historical loss rates based on expected changes in these factors.

Trade receivables are written off when there is no reasonable expectation of recovery. Indicators that there is no reasonable expectation of recovery for non-government trade receivables amongst others a failure to make contractual payments for a period of greater than 120 days past due.

The loss allowance for trade debtors as at 30 June 2022 and 1 July 2021 was determined to be \$nil.

The Commission is not materially exposed to concentrations of credit risk to a single trade receivables or group of debtors as at 30 June 2022. Most of the Commission's trade receivables have a AAA credit rating.

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

14. Financial instruments (continued)

Liquidity risk

Liquidity risk is the risk that the Commission will be unable to meet its payment obligations when they fall due. The Commission continuously manages risk through monitoring future cash flows and maturities planning to ensure adequate holding of high-quality liquid assets. The objective is to maintain a balance between continuity of funding and flexibility through the use of overdrafts, loans and other advances.

During the current and prior year, there was no default of borrowings. No assets have been pledged as collateral. The Commission's exposure to liquidity risk is deemed insignificant based on prior period data and current assessment of risk.

Liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in TC11-12. For small business suppliers, where terms are not specified, payment is made not later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. For small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise.

For payments to other suppliers, the Head of an authority (or a person appointed by the Head of an authority) may automatically pay the supplier simple interest which is based on benchmark bank rate.

For small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For payments to other suppliers, the payment of simple interest is at the discretion of the Information Commissioner. The rate of interest applied during the year was 2.5% (FY21:2.5%).

The table below summarises the maturity profile of the Commission's financial liabilities based on contracted undiscounted payments, together with the interest rate exposure.

	Weighted average effective interest rate	Nominal amount \$	Interest rate exposure		Maturity dates		
			Fixed interest rate \$	Non-interest bearing \$	< 1 year \$	1-5 years \$	> 5 years \$
2022							
Payables		255,125	-	255,125	255,125	-	-
		255,125	-	255,125	255,125	-	-
2021							
Payables		403,367	-	403,367	403,367	-	-
		403,367	-	403,367	403,367	-	-

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

14. Financial instruments (continued)

Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The Commission's exposures to market risk are primarily through interest rate risk on cash balances.

Interest rate risk

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates.

The Commission's exposure to interest rate risk through cash at bank is immaterial. The Commission does not account for any fixed rate financial instruments at fair value through profit or loss or as at fair value through other comprehensive income. Therefore, for these financial instruments, a change in interest rates would not affect the carrying value or interest paid/earned.

In 2015-16, Treasury introduced cash management reforms that apply to the Commission. Under the reforms, and in comparison, to previous years, the Commission no longer earns interest from Treasury on its financial assets.

Fair value measurement

i. Fair value compare to carrying amount

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The fair value measurement is based on the presumption that the transaction to sell the asset or transfer the liability takes place either in the principal market for the asset or liability or in the absence of a principal market, in the most advantageous market for the asset or liability.

The Commission does not hold financial assets and financial liabilities where the fair value differs from the carrying amount.

ii. Fair value recognised in the statement of financial position

Management assessed that cash, trade receivables, trade payables and other current liabilities approximate their fair values, largely due to the short-term maturities of these instruments.

The Commission does not hold financial assets and liabilities that are valued at fair value using valuation techniques.

Financial assets

Derecognition of financial assets and financial liabilities

A financial asset (or, where applicable, a part of a financial asset or part of a group of similar financial assets) is derecognised when the contractual rights to the cash flows from the financial assets expire; or if the Commission transfers its rights to receive cash flows from the asset or has assumed an obligation to pay the received cash flows in full without material delay to a third party under a 'pass-through' arrangement; and either:

- the Commission has transferred substantially all the risks and rewards of the asset; or
- the Commission has neither transferred nor retained substantially all the risks and rewards of the asset but has transferred control.

When the Commission has transferred its rights to receive cash flows from an asset or has entered a pass-through arrangement, it evaluates if, and to what extent, it has retained the risks and rewards of ownership. Where the Commission has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset continues to be recognised to the extent of the Commission's continuing involvement in the asset. In that case, the Commission also recognises an associated liability. The transferred asset and the associated liability are measured on a basis that reflects the rights and obligations that the Commission has retained.

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

14. Financial instruments (continued)

A financial liability is derecognised when the obligation specified in the contract is discharged or cancelled or expires. When an existing financial liability is replaced by another from the same lender on substantially different terms, or the terms of an existing liability are substantially modified, such an exchange or modification is treated as the derecognition of the original liability and the recognition of a new liability. The difference in the respective carrying amounts is recognised in the net result.

Offsetting financial instruments

Financial assets and financial liabilities are offset and the net amount is reported in the Statement of Financial Position if there is a currently enforceable legal right to offset the recognised amounts and there is an intention to settle on a net basis, or to realise the assets and settle the liabilities simultaneously.

15. Contingent liabilities and contingent assets

The Commission has no contingent liabilities or contingent assets as at 30 June 2022 (2021: \$nil).

16. Related party disclosure

Key management personnel

	Actual 2022 \$	Actual 2021 \$
Short-term employee benefits:		
Salaries	709,005	699,260
Non-monetary benefits	-	-
Post-employment benefits	34,893	32,685
Total remuneration	743,898	731,945

The Commission did not enter into any transactions with key management personnel, their close family members, and controlled or jointly controlled entities of key management personnel.

Our financial performance

Notes to the financial statements for the year ended 30 June 2022

Other related party transactions

The Commission entered into transactions with other entities that are controlled/jointly controlled/significantly influenced by the NSW Government. These transactions in aggregate are a significant portion of the Commission's activities.

These transactions include:

- grants and contributions received from the Department of Customer Service
- Long Service Leave and Defined Benefit Superannuation assumed by Crown
- transactions relating to the Treasury Banking System
- employer contributions paid to Defined Benefit Superannuation funds
- total costs to the Commission for services provided by the Department of Customer Service for the year ended 30 June 2022 was \$570,790. This includes corporate service charge of \$205,000 and direct consumption pass-through charges of \$365,790 from the Department of Customer Service for costs such as IT licenses, user support, IT services, taxation services and telecommunication services are material disclosures
- the Commission's accommodation charges paid to the Department of Customer Service totalled \$421,579 for the year ended 30 June 2022
- payments into the Treasury Managed Fund for workers' compensation insurance and other insurances.

17. Events after the reporting period

Non-adjusting events

There are no known events after the reporting period which would give rise to a material impact on the reported results or financial position of the Commission as at 30 June 2022.

End of audited financial statements.

Appendices



Appendix 1 – Publications and resources issued in 2021/22

Statutory reports

- IPC Annual Report 2020/21
- Report on the Operation of the Government Information (Public Access) Act 2009: 2020 – 2021

IPC corporate resources

- IPC Strategic Plan 2022 – 2024
- IPC Regulatory Plan 2022 – 2024
- IPC Continuous Disclosure Policy
- IPC Statement of Business Ethics
- IPC Policy Framework

Information access resources

- Guideline 10 – Obligations of Ministers and Ministerial Officers under the GIPA Act
- NSW Information Commissioner's 10 Year GIPA Data Analysis Overview 2010 – 2020
- Fact Sheet – Public officials and personal information under the GIPA Act
- Fact Sheet – Accessing a deceased person's information under the GIPA Act
- Fact Sheet – Simplified guide to information access
- Practice Guide: Redacting signatures on public facing documents*
- Checklist – Open access information under the GIPA Act and GIPA Regulation – agency requirements
- Template Letter – Request for advance notice of processing charges
- Animation – Ways to access government information in NSW
- Animation – Disclosure of interest returns by councils

Information access regulatory reports

- Local Government Sector Compliance Report
- Notices of advance deposit and processing charges applied by agencies under the GIPA Act – Compliance Report
- NSW Police Force Follow-up Compliance Report Phase 2

Privacy resources

- Privacy Impact Assessment questionnaire for assessing websites
- Practice Guide: Redacting signatures on public facing documents*
- Animation – 12 principles NSW government agencies must follow to protect your personal information
- Animation – 15 principles NSW public and private sector organisations must follow to protect your health information

Privacy regulatory reports

- Desktop Audit of PMPs Report

IPC newsletters

- IPC Bulletin – September 2021
- IPC Bulletin – December 2021
- IPC Bulletin – March 2022
- IPC Bulletin – June 2022

* Resources that are classified as both information access and privacy

Appendix 2 – Diversity and inclusion

The [IPC's Diversity and Inclusion Action Plan 2021 – 2023](#) outlines how the organisation will work with its diverse stakeholders to better deliver on its strategic goals to champion the right to access government information and protect privacy as enshrined in the legislation it administers. The Plan also seeks to support and instil a workplace culture that values diversity in skills and perspectives and offers fair and inclusive work practices for all staff.

There are four priorities listed in the Plan:

1. Identify the needs of people within diverse communities in NSW to promote their right to accessing government held information and the protection of privacy.
2. Enhance information about how to access government held information and protection of privacy rights for people within diverse communities in NSW.
3. Promote the needs of our diverse communities in NSW when developing and delivering resources to support the work of our regulated sectors in providing access to information and the protection of privacy rights.
4. Enhance the organisation's capacity and individual competency to understand and respond to population diversity.

Priority 1 activities

In June 2021, the IPC commissioned the NSW Community Attitudes Survey on information access. The survey is biannual and undertaken concurrently with participating Information Commissioners and Ombudsmen from around Australia. It investigates the NSW community's awareness of their information access rights under NSW legislation. By undertaking the survey, the IPC has been able to better identify the needs of people within diverse communities in NSW to promote their right to accessing government held information and the protection of privacy. The results were released during RTK 2021. The key findings can be found on page 53 and the [full findings](#) are available on the IPC website.

The IPC measures and reports on the feedback it receives from its clients and agency contacts. This is completed through the Client Satisfaction Survey and Agency Advice Satisfaction Survey. The results from the surveys can be found on page 69.

Priority 2 activities

In September 2021, the IPC published a new [fact sheet on accessing a deceased person's information under the GIPA Act](#) which outlines factors relevant to an application to access a deceased person's records under the GIPA Act.

In November 2021, the IPC updated its [guide for public sector agencies on privacy and persons with reduced decision-making capacity](#), taking into account shifts in legal approaches and understanding of disability rights since the guide was first issued in 2004. The guide is intended to assist NSW public sector agencies to meet their privacy obligations in a manner that protects, and supports to the greatest extent possible, the privacy rights of adults with reduced decision-making capacity.

In November 2021, the IPC also published a [simplified guide to information access for citizens](#), with information and flowcharts about the GIPA Act and government information, and the pathways for citizens to use to access government information.

The development and update of these resources were initiatives of the IPC Strategic Plan 2020 – 2022.

In the reporting period, the IPC developed four animations for practitioners and members of the public, to assist them in understanding their rights and obligations under information access and privacy law in a format that is accessible and digestible, and complementary to existing resources on the IPC website, e.g. fact sheets and guides.

Through the IPC Publications Review, the IPC has reviewed and updated 34 publications in the reporting period. This has ensured that information released by the IPC is current, accessible and understandable to a diverse audience.

Priority 3 activities

In the reporting period, as part of the IPC Strategic Plan 2020 – 2022, the IPC completed its initiative on examining opportunities to improve the accessibility and reach of its website. As a result of the review, the IPC made seven recommendations to improve the effectiveness and efficacy of future resources and better meet the needs of its diverse stakeholders. In 2022, the IPC also surveyed practitioners to better understand their experience with IPC resources, and reported on the number of downloads and views of its publications, to identify opportunities to improve its resources.

Appendix 2 – Diversity and inclusion

In September 2021, the IPC published a new [checklist for agencies on open access information under the GIPA Act and GIPA Regulation](#), to promote compliance with agency open access obligations.

In the reporting period, the IPC continued its work to improve access and increase participation by regional and rural practitioners and improve upon the accessibility of presentations made by the IPC. The IPC has been collecting feedback from Commissioner speaking engagements since 2021 and makes quarterly recommendations to enhance the quality of the presentations. The IPC also livestreamed its RTK 2021 event to practitioners and citizens across the state to support increased participation, and publishes recordings of events participated by the Commissioners, where possible, on the [IPC's YouTube channel](#) and shares external links on the IPC's social media channels. In March 2022, the Information Commissioner also met with Clarence Valley Council to promote proactive compliance by the council with their obligations under the GIPA Act.

Priority 4 activities

The IPC continues to promote itself as a diverse employer of choice. More information about IPC's workforce diversity can be found on page 60.

The [IPC's Diversity and Inclusion Action Plan 2021 – 2023](#) is available on the IPC website.

Appendix 3 – Access applications under Schedule 2 of the GIPA Regulation

Statistical information about access applications made to IPC

Statistical information about access applications made to our office during the reporting year is set out in the following tables – the form required by Schedule 2 to the GIPA Regulation.

Clause 8A: Details of the review carried out by the agency under section 7(3) of the Act during reporting year and details of any information made publicly available by the agency as a result of the review

Reviews carried out by the agency	Information made publicly available by the agency
Yes	Yes

Clause 8B: The total number of access applications received by the agency during the reporting year (including withdrawn applications but not including invalid applications)

Total number of applications received
6

Clause 8C: Total number of access applications received by agency during reporting year that agency refused either wholly or partly, because the application was for the disclosure of information referred to in Schedule 1 to the Act (information for which there is conclusive presumption of overriding public interest against disclosure)

	Wholly	Partly	Total
Number of applications refused	0	0	0
% of Total	0%	0%	0%

Table A: Number of applications by type of applicant and outcome*

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn	Total	% of Total
Media	0	0	0	0	0	0	0	0	0	0%
Members of Parliament	0	0	0	0	0	0	0	0	0	0%
Private sector business	0	0	0	0	0	0	0	0	0	0%
Not for profit organisations or community groups	0	0	0	0	0	0	0	0	0	0%
Members of the public (application by legal representative)	0	0	0	0	0	0	0	0	0	0%
Members of the public (other)	5	0	0	1	0	0	0	0	6	100%
Total	5	0	0	1	0	0	0	0	6	-
% of Total	83%	0%	0%	17%	0%	0%	0%	0%	-	-

* More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to Table B.

Table B: Number of applications by type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn	Total	% of Total
Personal information applications*	0	0	0	0	0	0	0	0	0	0%
Access applications (other than personal information applications)	5	0	0	1	0	0	0	0	6	100%
Access applications that are partly personal information applications and partly other	0	0	0	0	0	0	0	0	0	0%
Total	5	0	0	1	0	0	0	0	6	-
% of Total	83%	0%	0%	17%	0%	0%	0%	0%	-	-

* A personal information application is an access application for personal information (as defined in clause 4 of Schedule 4 to the Act) about the applicant (the applicant being an individual).

Table C: Invalid applications

Reason for invalidity	No. of applications	% of Total
Application does not comply with formal requirements (section 41 of the GIPA Act)	2	100%
Application is for excluded information of the agency (section 43 of the GIPA Act)	0	0%
Application contravenes restraint order (section 110 of the GIPA Act)	0	0%
Total number of invalid applications received	2	100%
Invalid applications that subsequently became valid applications	0	0%

Table D: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to Act

	Number of times consideration used*	% of Total
Overriding secrecy laws	0	0%
Cabinet information	0	0%
Executive Council information	0	0%
Contempt	0	0%
Legal professional privilege	0	0%
Excluded information	0	0%
Documents affecting law enforcement and public safety	0	0%
Transport safety	0	0%
Adoption	0	0%
Care and protection of children	0	0%
Ministerial code of conduct	0	0%
Aboriginal and environmental heritage	0	0%
Total	0	

* More than one public interest consideration may apply in relation to a particular access application and if so, each such consideration is to be recorded (but only once per application). This also applies in relation to Table E.

Table E: Other public interest considerations against disclosure: matters listed in table to section 14 of Act

	Number of occasions when application not successful	% of Total
Responsible and effective government	0	0%
Law enforcement and security	0	0%
Individual rights, judicial processes and natural justice	0	0%
Business interests of agencies and other persons	0	0%
Environment, culture, economy and general matters	0	0%
Secrecy provisions	0	0%
Exempt documents under interstate Freedom of Information legislation	0	0%
Total	0	

Table F: Timeliness

	Number of applications	% of Total
Decided within the statutory timeframe (20 days plus any extensions)	6	100%
Decided after 35 days (by agreement with applicant)	0	0%
Not decided within time (deemed refusal)	0	0%
Total	6	

Table G: Number of applications reviewed under Part 5 of the Act (by type of review and outcome)

	Decision varied	Decision upheld	Total	% of Total
Internal review	0	0	0	0%
Review by Information Commissioner	0	0	0	0%
Internal review following recommendation under section 93 of Act	0	0	0	0%
Review by NCAT	0	0	0	0%
Total	0	0	0	

Table H: Applications for review under Part 5 of the Act (by type of applicant)

	Number of applications for review	% of Total
Applications by access applicants	0	0%
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	0	0%
Total	0	

Table I: Applications transferred to other agencies under Division 2 of Part 4 of the Act (by type of transfer)

	Number of applications transferred	% of Total
Agency-initiated transfers	0	0%
Applicant-initiated transfers	0	0%
Total	0	

Appendix 4 – Data statement

The IPC undertakes continual review and quality assurance of its data holdings. This includes:

- monitoring case activity and outcome data to identify possible errors
- improving guidance to staff on the correct recording of case information
- regular dashboard reporting to managers and Executive.

Appendix 5 – Credit card certification

In accordance with the Treasurer's Direction 205.01 - 205.08, it is hereby certified that the use of Corporate Purchasing Cards has been in accordance with the Premier's Memoranda and Treasurer's Directions.

Appendix 6 – Payment of accounts

For the year ended 30 June 2022.

Supplier accounts paid on time				
Quarter	Target %	Actual %	Current	Total payments
Sep-21	95%	91%	\$123,384.97	\$135,265.00
Dec-21	95%	100%	\$114,631.52	\$114,631.52
Mar-22	95%	93%	\$108,738.70	\$116,565.00
Jun-22	95%	99%	\$493,989.25	\$501,293.25

NSW Treasury Circular NSW TC 11/12 sets out the requirements for payment of accounts by NSW agencies and states that the day of payment is the day that funds are transferred into the banking system for payment to the supplier or a cheque is sent.

The IPC accounts payable function is performed by DCS as part of shared corporate services arrangements within the Customer Service Cluster. The % figures above reflect the payment **time within the IPC, the reporting entity** for the Reporting Period. Time for payment of accounts is delayed in circumstances where DCS journals intra-agency transactions several months after the document date of the transaction and these payments are shown as not current but IPC has no control over the timing of these journals. DCS is also classified as a small business supplier so the reporting for the payment of small business suppliers is also affected by the delay in DCS journaling intra-agency transactions.

The IPC in conjunction with DCS minimises processing delays and monitors and improves payment performance by the:

- review of payment performance reports on a quarterly basis to identify any procedural issues
- increased use of electronic funds transfer (EFT) and Purchasing Card for payment of creditors
- payment of major suppliers by way of consolidated billing
- amalgamation of processing and payment functions into the DCS cluster.

Executive management reviews the quarterly payment performance reports to identify any issues arising and takes appropriate measures to improve compliance in accordance with NSW Treasury guidelines. Delays have been identified and systems reviewed and enhanced to ensure the timely payment of accounts. There was no penalty interest for late payment during the financial year ended 30 June 2022.

Appendix 7 – Time for payment of accounts

For the year ended 30 June 2022.

Aged analysis at the end of each quarter					
Quarter	Current (i.e. within due date)	Less than 30 days overdue	Between 30 and 60 days overdue	Between 61 and 90 days overdue	More than 90 days overdue
All suppliers					
Sep-21	\$123,384.97	\$11,880.00	\$ -	\$ -	\$ -
Dec-21	\$114,631.52	\$ -	\$ -	\$ -	\$ -
Mar-22	\$108,738.70	\$7,826.08	\$ -	\$ -	\$ -
Jun-22	\$ -	\$7,304.00	\$ -	\$ -	\$ -
Small business suppliers					
Sep-21	\$4,620.00	\$ -	\$ -	\$ -	\$ -
Dec-21	\$462.00	\$ -	\$ -	\$ -	\$ -
Mar-22	\$3,009.00	\$ -	\$ -	\$ -	\$ -
Jun-22	\$185,093.00	\$7,304.00	\$ -	\$ -	\$ -

Accounts due or paid within each quarter				
Measure	September 2021	December 2021	March 2022	June 2022
All suppliers				
Number of accounts due for payment	23	26	18	78
Number of accounts paid on time	22	26	17	77
Actual percentage of accounts paid on time (based on no. of accounts)	96%	100%	94%	99%
Dollar amount of accounts due for payment	\$135,265	\$114,632	\$116,565	\$501,293.25
Dollar amount of accounts paid on time	\$123,384.97	\$114,632	\$108,738	\$493,989.25
Actual percentage of accounts paid on time (based on \$)	91%	100%	93%	99%
Number of payments for interest on overdue accounts	0	0	0	0
Interest paid on overdue accounts	0	0	0	0
Small business suppliers				
Number of accounts due for payment to small businesses	2	2	16	22
Number of accounts due to small businesses paid on time	2	2	16	21
Actual percentage of small business accounts paid on time (based on no. of accounts) (by the IPC see page 109)	100%	100%	100%	95%
Dollar amount of accounts due for payment to small businesses	\$4,620	\$462	\$3,009	\$192,397
Dollar amount of accounts due to small businesses paid on time	\$4,620	\$462	\$3,009	\$185,093
Actual percentage of small business accounts paid on time (based on \$)	100%	100%	100%	96%
Number of payments to small business for interest on overdue accounts	0	0	0	0
Interest paid to small businesses on overdue accounts	0	0	0	0

Appendix 8 – Annual report compliance requirements

Under the *Annual Reports (Departments) Act 1985*, the Annual Reports (Departments) Regulation 2010, *Annual Reports (Statutory Bodies) Act 1984*, Annual Reports (Statutory Bodies) Regulation 2010, Premier's Circular, Premier's Memoranda and various Treasury Circulars and Treasurer's Directions, the IPC is required to include the following information in this Annual Report, as per the NSW Annual Report Compliance Checklist, September 2021.

Requirement	Note	Page
Letter of submission	Letters to the President and Speaker	3
Application for extension of time	N/A	-
Charter	About the IPC	18
Aims and objectives	About the IPC	18
Access	Address, telephone, business hours	2, back cover
Management and structure	Names, offices and qualifications of principal officers Organisational Chart	9, 12 59
Summary review of operations	CEO and Information Commissioner – Overview Financial statements	7 76
Funds granted to non-government community organisations	N/A	-
Legal change	New legislation and amendments	21
Economic or other factors	Pillar 4: Governance	57
Management and activities	Strategic Plan 2022 – 2024	23
	Pillar 1: Service Delivery & Excellence What are we doing to improve services to the community?	33
	Pillar 2: Engagement & Influence What are we doing to directly influence regulated agencies and engage with the public?	44
	Pillar 3: Rights Promotion & Impact What are we doing to anticipate and address emerging regulatory issues?	49
	Pillar 4: Operational Excellence What are we doing to support an effective, efficient one-IPC?	56
Research and development	Pillar 3: Community Attitudes Survey	52
Human resources	Pillar 4: Our people	59
Consultants	Pillar 4: Governance	62
Workforce Diversity	Pillar 4: Our people	60
Disability Inclusion Action Plans	Reported on a triennial basis*	62, 104
Land Disposal	N/A	-
Promotion (overseas visits)	Pillar 4: Governance	62
Consumer response	Pillar 3: Informing the public of their rights Pillar 4: Client Satisfaction Survey	50 68
Payment of accounts	Appendix 6	109
Time for payment of accounts	Appendix 7	110
Risk management and insurance activities	Pillar 4: Risk Management Pillar 4: Governance	66 62
Internal audit and risk management policy attestation	Pillar 4: Risk Management Pillar 4: Internal Audit and Risk Management Attestation statement	66 65
Disclosure of controlled entities	The IPC has no controlled entities	-
Disclosure of subsidiaries	The IPC has no subsidiaries	-
Multicultural policies and services program	Reported on a triennial basis*	-

Requirement	Note	Page
Agreements with Multicultural NSW	The IPC has an agreement with Multicultural NSW to include its reporting in the Diversity and Inclusion Action Plan	104
Work health and safety (WHS)	Pillar 4: Our people	59
Budgets	N/A	-
Financial statements	Financial statements	75
Identification of audited financial statements	Our financial performance	76
Inclusion of unaudited financial statements	N/A	-
Additional matters – statement of the action taken to comply with PPIP Act	Pillar 4: Risk management	66
Additional matters – after balance date events having significant effect in succeeding year on financial operations; other operations; clientele/community served	N/A	-
Additional matters – total external costs incurred in the production of this annual report	External designer costs \$4081.00 incl. GST.	-
Additional matters – the website at which the annual report may be accessed	www.ipc.nsw.gov.au	-
Investment performance	N/A	-
Liability management performance	N/A	-
Exemptions	Nil	-
Numbers and remuneration of senior executives	Pillar 4: Our people	59
Implementation of Price Determination	N/A	-
<i>Government Information (Public Access) Act 2009</i>	Appendix 3	106
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Requirements arising from employment arrangements	N/A	-
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Submission of annual report to appropriate Minister	31 October 2022	-
Submission of annual report to the Treasurer	31 October 2022	-
Presentation of annual report to Parliament	31 October 2022	-
Annual report size – presentation to Parliament	ISO A4	-
Printing and distribution requirements	Printing in-house, no cost	-
Public availability of annual reports	www.ipc.nsw.gov.au and as per requirements	-

* Small departments need only report on triennial basis. See Appendix 2 for the Diversity and Inclusion.

Complaining to the IPC

The IPC aims to provide a high level of service. If you are dissatisfied with the level of service, you have received from the IPC there are complaint mechanisms available to you.

Step 1 – seek to resolve the issue informally

To enable us to deal with your complaint promptly, please raise the issue with the relevant staff member when it occurs. If you are unhappy with their response, ask to speak to their supervisor. The supervisor will listen to your concerns and try to resolve them. If appropriate, the supervisor will escalate the matter internally. If the supervisor is not immediately available, they will contact you by phone or in writing as soon as possible with a view to promptly resolving your issue.

If you still remain dissatisfied, you can make a formal complaint.

Step 2 – make a formal complaint

To make a formal complaint, please write or email us, or you can ask us to help you write it down. Include, if appropriate, whether your complaint is to do with services you have received from our information access or our privacy areas.

What to include in your letter of complaint

Briefly explain your concerns, include enough information for us to assess your complaint and decide what we will do. For example, describe what happened and when, who was involved and anything else that is relevant.

Remember to tell us what action you have already taken (such as making an informal complaint) and what you would like to happen. Include copies of all relevant correspondence.

How the IPC deals with formal complaints

Your complaint will always be dealt with by someone more senior than the person you have complained about. The person who looks into the matter will:

- acknowledge your complaint within three business days
- discuss the complaint with the relevant staff member
- if required, escalate the complaint to a manager
- respond to you in writing within 15 working days.

If after receiving a response to your formal complaint you are still dissatisfied, you can ask the relevant Commissioner to review the matter.

Step 3 – contact the NSW Ombudsman

If you are dissatisfied with the handling of your complaint by the IPC, you can contact the NSW Ombudsman, which has responsibility for dealing with complaints about conduct that is illegal, unreasonable, unjust, oppressive, discriminatory, based on improper or irrelevant grounds, based on a mistake of law or fact, or otherwise wrong.

1800 451 524 (Toll free) or visit www.ombo.nsw.gov.au

Step 4 – contact the NSW Civil and Administrative Tribunal (NCAT)

If you are still dissatisfied with the handling of your complaint, you can ask NCAT to assist you in resolving your complaint. The Administrative and Equal Opportunity Division within NCAT includes the review of administrative decisions made by NSW Government agencies and resolution of discrimination matters. This will incur a cost.

1300 006 228 or visit www.ncat.nsw.gov.au

Independent Commission Against Corruption (ICAC)

If you believe there has been corruption or serious misconduct the Independent Commission Against Corruption (ICAC) has primary responsibility for dealing with complaints about corrupt conduct. Corrupt conduct is intentional or deliberate misdoing, such as a staff member improperly using their knowledge, power or resources for personal gain or the advantage of others.

1800 463 909 (Toll free) or visit - www.icac.nsw.gov.au

For more information

Freecall: 1800 472 679

Email: ipcinfo@ipc.nsw.gov.au

Website: www.ipc.nsw.gov.au

Post: Information and Privacy Commission NSW
GPO Box 7011
Sydney NSW 2001

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Glossary

Glossary

AIAC	Association of Information Access Commissioners
APPA	Asia Pacific Privacy Authorities
DCS	Department of Customer Service
DCJ	Department of Communities and Justice
DRF	Digital Restart Fund
GIIC Act	<i>Government Information (Information Commissioner) Act 2009</i>
GIPA Act or GIPA	<i>Government Information (Public Access) Act 2009</i>
GIPA Regulation	Government Information (Public Access) Regulation 2009
GSE Act	<i>Government Sector Employment Act 2013</i>
HPPs	Health Privacy Principles
HREC	Human Research Ethics Committee
HRIP Act or HRIPA	<i>Health Records and Information Privacy Act 2002</i>
ICAC	Independent Commission Against Corruption
IPAC	Information and Privacy Advisory Committee
IPPs	Information Protection Principles
IPC	Information and Privacy Commission
I&R	Investigation & Review (team within IPC)
LCRA	Legal Counsel & Regulatory Advice (team within IPC)
MOU	Memorandum of Understanding
MNDB Scheme	Mandatory Notification of Data Breaches Scheme
NCAT	NSW Civil and Administrative Tribunal
OGP	Open Government Partnership
OLG	Office of Local Government
PAA	Privacy Authorities Australia
PPIP Act or PPIPA	<i>Privacy and Personal Information Protection Act 1998</i>
S&CS	Systems & Corporate Services (team within IPC)
SOCS	State-owned corporations

About this annual report

The Information and Privacy Commission NSW Annual Report 2021/22 has been prepared in accordance with the provisions of the *Annual Reports (Departments) Act 1985*, the *Government Information (Information Commissioner) Act 2009*, and the *Privacy and Personal Information Protection Act 1998*.

This annual report sets out the IPC's activities, accomplishments and challenges in promoting our responsibilities to the community of NSW.

It provides an account of our performance against the key result areas set for it by NSW Parliament, and provides information to our stakeholders on how we manage our organisation to best deliver on our accountabilities and strategic outcomes.

This annual report was first published in October 2022 on the basis of all corporate GIPA and privacy specific information available and provided to the IPC by 14 October 2022. This report complies with NSW Treasury requirements.





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