

Information Commissioner's Update

Presentation to the Practitioners' Network Forum

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Elizabeth Tydd

IPC CEO, Information Commissioner
NSW Open Data Advocate



information and
privacy commission
new south wales

Right to Know Week NSW 2022

26 Sep – 2 Oct 2022

Artificial Intelligence, e-Governance & Access to Information

Next steps in NSW digital government



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www.ipc.nsw.gov.au/RTK2022



RTK 2022 wrap-up

UNESCO's Global Conference on Universal Access to Information 2022: the role of e-Governance and artificial intelligence in promoting inclusive approaches for access to information (28 September - Tashkent, Uzbekistan)



New resources

Animations

**e-Governance and
Digital Government**

**Artificial Intelligence,
e-Governance & Access
to Information**

Other resources highlighted for RTK 2022

- Information Governance Agency Self-assessment Tools
- Fact Sheet on Automated decision-making, digital government and preserving information access rights – for agencies
- Fact Sheet on Automated decision-making, digital government and preserving information access rights – for citizens
- Fact Sheet on Digital records and the GIPA Act
- Fact Sheet on Timeframes and extensions for deciding access applications under the GIPA Act
- Fact Sheet on Creating new records under the GIPA Act
- Fact Sheet on Open access information for agencies
- Fact Sheet on What is an agency?
- Fact Sheet on What is the public interest test?
- Digital Restart Fund: assessing information access and privacy impacts

54 Champion agencies supported the campaign

Armidale Regional Council

Bayside Council

Burwood Council

Camden Council

Canterbury Bankstown Council

Central Coast Council

Cessnock City Council

Charles Sturt University

City of Parramatta

Clarence Valley Council

Council of the City of Sydney

Cumberland City Council

Data.NSW

Department of Communities and Justice

Department of Customer Service

Department of Planning and Environment

Department of Premier and Cabinet

Department of Regional NSW

Fairfield City Council

Federation Council

Fire and Rescue NSW

Hunter Water Corporation

Hunter's Hill Council

icare

Independent Review Office

Kiama Municipal Council

Ku-ring-gai Council

Lake Macquarie City Council

Legal Aid NSW

Local Land Services

Long Service Corporation

Mid-Coast Council

Mid-Western Regional Council

Murray River Council

Northern Beaches Council

NSW Education Standards Authority

NSW Environmental Protection Agency

NSW Fair Trading

NSW Treasury

NSW Trustee and Guardian

Penrith City Council

Revenue NSW

SafeWork NSW

Service NSW

State Archives and Records

Authority NSW and Sydney Living

Museums

State Insurance Regulatory

Authority (SIRA)

Sutherland Shire Council

Sydney Water

Tenterfield Shire Council

The Personal Injury Commission

University of Newcastle

Upper Hunter Shire Council

Walgett Shire Council

#RTK2022 #RightToKnow

IPC Annual Report 2021/22

Tabled in Parliament on 31 October 2022

Highlights:

- 40 strategic and regulatory initiatives finalised
- finalisation of 764 information access and privacy reviews and complaints
- 387 information access and privacy advices provided
- finalisation of 4 proactive information access audits and 1 privacy audit
- 112 advices provided to projects seeking funding under DRF
- Commissioners provided submissions to 9 reviews and inquiries by government, including 5 joint submissions
- 3,140 enquiries dealt with from the public
- 460,319 page views and a 4.8% increase in website visits
- 28 new publications, and 34 updated publications
- 4 new animations on citizens' rights & agency obligations under GIPA, PPIPA & HRIPA

Significant regulatory matters

- IPC has published the compliance reports for the agencies captured by its MoG GIPA compliance audit (Department of Enterprise, Investment and Trade & State Records and Archives Authority)
- IPC is finalising its audit related to acquisitions and disposals (Schedule 6 GIPA)
- IPC continues its progress with the research into the informal access pathway. A survey of sample agencies across the four sectors is complete, with UNSW undertaking a literature review
- A tremendously generous response from agencies.

IPC scan of the AI regulatory landscape

- The IPC published a high-level scan of the national and international regulatory landscape relevant to artificial intelligence (AI) with a focus on the preservation of information access and privacy rights
- Seeks to inform a future best practice regulatory approach for NSW
- The regulatory scan was requested by the Hon. Victor Dominello MP, Minister for Customer Service and Digital Government, Minister for Small Business, Minister for Fair Trading
- It considered:
 - governance models used internationally in regulating AI
 - an assessment of the risks to the fundamental information access and privacy rights in the use of AI
 - various treatment options available to address this risk
- Available on the IPC website: www.ipc.nsw.gov.au/media/3538

GIPA case study - Section 94 recommendation

Burcher v Transport for NSW

- The decision under review was the decision to **refuse access to information under considerations 3(a), 3(b), and 6(1)**.
- The matter raised significant public interest factors in favour of disclosure regarding:
 - workplace health and safety (WHS) concerns
 - care and protection of the environment
 - the proper application of the law and legal processes
- Section 94(1) of the GIPA Act empowers the Information Commissioner to make a recommendation against the decision of an agency, when that agency has recommended that there is an overriding public interest against disclosure.
- Section 94(2) requires the Information Commissioner to **consult the Privacy Commissioner** before making a recommendation about a decision that concerns a privacy-related public interest consideration.



Photograph of the abandoned vehicle, submitted by the Applicant

Information access case note

Eric Anthony Foster v Department of Planning and Environment [2022] NSWCATAD 235

- Applicant sought access to a list of addresses of social housing properties in specified allocation zones.
- Information which would not ordinarily be personal information under the GIPA Act may become personal information when combined with other information or enquiries.

Information access publications

NEW

- Fact Sheet – Frequently asked questions for citizens: What the IPC can and cannot do
- Fact Sheet – Microsoft 365 platforms and agencies' compliance obligations

UPDATED

- Essential guidance toolkit on information access and privacy fundamentals
- Essential guidance toolkit on information access and privacy fundamentals - Local Government
- Guide to reporting on agency GIPA operations
- Digital Restart Fund: assessing information access and privacy impacts
- Various other guidance as part of Right to Know Week

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www.ipc.nsw.gov.au



ipcinfo@ipc.nsw.gov.au



1800 472 679



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