

Follow-up audit of the local council sector finds significant improvements in compliance with information access requirements by majority and persistent non-compliance by identified minority of councils

The NSW Information Commissioner, Elizabeth Tydd, today issued a follow-up audit which re-examined the local government sector's compliance with the open access requirement under the *Government Information (Public Access) Act 2009* (GIPA Act) to publish returns disclosing the interests of councillors and designated persons.

In July 2021, the Information and Privacy Commission (IPC) completed an audit in accordance with section 21 of the *Government Information (Information Commissioner) Act 2009* (GIIC Act), with the results demonstrating significant compliance failures.

The 2023 follow-up audit found that while there had been an elevation in compliance by the vast majority of councils with their mandatory reporting requirements, six councils failed to take action to rectify their non-compliance with publication of disclosures of interest.

Information Commissioner, Elizabeth Tydd, said, "The disclosure of interests is an important requirement of councillors and designated persons as it furthers openness, transparency, and accountability in local government. It also facilitates the identification and management of potential conflicts of interest that might arise where councillors and other key staff participate in decisions from which they may directly or indirectly derive, or be perceived to derive, personal or financial benefit.

"The six councils identified as repeatedly non-compliant through this follow-up audit demonstrated a disregard of their duties and the public's right to know. These councils failed to take action to rectify their non-compliance notwithstanding legislative requirements, the guidance provided by the IPC and the Office of Local Government (OLG), and the additional training and promotional materials provided since 2021.

"I commend the efforts of the vast majority of councils in elevating their compliance and adherence with their mandatory reporting requirements. Their response in applying IPC guidance is testament to their 'in practice' and 'in spirit' compliance posture which is overwhelmingly positive."

Pleasingly, the follow-up audit found increases to compliance with:

- public availability of returns of interests by councillors and designated persons - a significant increase from 61% to 88% (46) fully compliant (+27%)
- the ease of accessibility of their returns of interests - significant improvements from 52% (27) to 88% (46) (+36%)
- making returns of interests fully accessible without conditions – again a significant increase from 65% to 88% (46) (+23%).

The follow-up audit also identified that regrettably, the returns of interest of 19% (10) of councils were either not up to date or had not been published at all.



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This finding is significant as currency of returns of interest is required to combat the risk of corruption. Outdated returns do not serve the objective of the disclosure requirements.

Commissioner Tydd said, "Ongoing non-compliance with open access requirements by select councils continues to be the subject of complaints to the IPC, and this has resulted in the need for a consistent application of regulatory engagement and significant resources by the IPC.

"In response to the findings of the follow-up audit, the IPC engaged and those councils consistently demonstrating non-compliance. The IPC will also engage directly with the OLG.

"Current regulatory tools and mechanisms available under the GIIC Act do not appear to be sufficient in addressing instances of systemic non-compliance. Further regulatory reform would therefore be welcome to assist the Information Commissioner in directing, reporting, referring and/or enforcing compliance across the local government sector."

The follow-up audit and the 2021 compliance audit are available for download via the [IPC website](#).

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About the Information and Privacy Commission:

The Information and Privacy Commission NSW (IPC) is an independent statutory authority that administers New South Wales' legislation dealing with privacy and access to government information. The IPC supports the Information Commissioner and the Privacy Commissioner in fulfilling their legislative responsibilities and functions and to ensure individuals and agencies can access consistent information, guidance and coordinated training about information access and privacy matters.

About the NSW Information Commissioner

The NSW Information Commissioner's statutory role includes promoting public awareness and understanding of the *Government Information (Public Access) Act 2009* (GIPA Act); providing information, advice, assistance and training to agencies and the public; dealing with complaints about agencies; investigating agencies' systems, policies and practices; and reporting on compliance with the GIPA Act.

The *Government Information (Information Commissioner) Act 2009* (GIIC Act) establishes the procedures for appointing the Information Commissioner and sets out the Commissioner's powers and functions. It outlines the method for people to complain about the conduct of agencies when undertaking their duties under the GIPA Act, and the way in which the Information Commissioner may deal with the complaint. The GIIC Act also enables the Information Commissioner to investigate and report on how agencies carry out their functions under the GIPA Act.

For further information about the IPC visit our website at www.ipc.nsw.gov.au