

Information Commissioner's Update

Presentation to the Practitioners' Network Forum

15 November 2023

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NSW Open Data Advocate



information and
privacy commission
new south wales

Right to Know Week NSW 2023



information and
privacy commission
new south wales

The importance of the online
space for access to information

25 Sep – 1 Oct 2023

www.ipc.nsw.gov.au/RTK2023



Right to Know Week NSW 2023



2023 theme: The importance of the online space for access to information

What happened during the week?

- Release of the new IPC Training Webinar for Informal Release of Information
- Release of new suite of guidance for Informal Release
- IPAA National Summit – 26 September
- OIC QLD – Solomon Lecture – 27 September
- OVIC IAID Panel Event – 28 September
- Sydney Water Event – 28 September

OVIC IAID Panel Event

- The Information Commissioner featured on an OVIC panel expert panel discussing the role the online space plays in promoting information access rights and the benefits and barriers to using the online space to provide access to information.

OVIC event: The importance of the online space for access to information

28 September



Sydney Water event:

28 September

The right to access information

How does it manifest?

- Centre for Law and Democracy – RTI Rating
- www.rti-rating.org
- 61 indicators: independent, appointment, funding, qualifications, jurisdiction incl. public funding, exemptions

What risks does it mitigate?

- Unexplainability
- Unaccountability
- Corruption/maladministration
- Democratic failures
- Unintended consequences:
 - inability to assert rights
 - service failure
 - discrimination
 - illegality

Elizabeth Tydd



Lisa Howell



View all

New resource:

Right to Know Week 2023 Training Webinar: Informal Release

IPC Right to Know Week
2023 Training Webinar

Informal Release



With IPC CEO & NSW
Information Commissioner





Other resources highlighted during RTK week:

To assist agencies in their understanding and improve their informal release practices, during Right to Know Week the Information Commissioner released new and updated resources including:

- [Templates for Informal Release Decision Letters](#)
- [Checklist on Informal Access](#)
- [Information Access Guideline 11 – Informal Release of Information](#)
- [Template for Agency Informal Release Records](#)
- [Updated Fact Sheet for citizens on Frequently asked questions – Informal Release of Information](#)



NSW Community Attitudes Survey

Results published during RTK. Key findings:

- **89%** of respondents felt that their right to access government information was important, consistent with 89% in 2022 and 90% in 2021
- **67%** of respondents were aware that they had the right to access information from at least one of the agencies under NSW information access laws, an increase from 55% in 2022
- Significantly, the proportion of those who indicated that the agencies were very helpful doubled from 2021 to 2023 (**40%** in 2023; up from 19% in 2021).

62 Champion agencies supported the campaign:

Armidale Regional Council
Bland Shire Council
Camden Council
Canterbury Bankstown Council
Central Coast Council
Cessnock City Council
Charles Sturt University
City of Canada Bay Council
City of Coffs Harbour
City of Ryde
City of Sydney
Clarence Valley Council
Cootamundra-Gundagai Regional Council
Cumberland City Council
Department of Communities and Justice
Department of Education
Department of Planning and Environment
Department of Regional NSW
Fair Trading
Federation Council
Georges River Council

Gwydir Shire Council
Health Care Complaints Commission
Hunter's Hill Council
icare
Independent Pricing and Regulatory
Tribunal (IPART)
Independent Review Office
Kiama Municipal Council
Lake Macquarie City Council
Legal Aid NSW
Museums of History NSW
New South Wales Police Force
North Sydney Council
Northern Beaches Council
NSW Department of Customer Service
NSW Education Standards Authority
NSW Environment Protection Authority
NSW Health Pathology
NSW Treasury
NSW Trustee & Guardian
Penrith City Council

Port Stephens Council
SafeWork
Service NSW
Shellharbour City Council
Singleton Council
State Insurance Regulatory
Authority
State Records NSW
Strathfield Council
Sutherland Shire Council
Sydney Local Health District
Sydney Water Corporation
Tenterfield Shire Council
The Cabinet Office
Tweed Shire Council
Upper Hunter Shire Council
Uralla Shire Council
Wingecarribee Shire Council
Wollongong City Council
Woollahra Municipal Council

IPC Annual Report 2022/23

Tabled in Parliament on 16 October 2023

Highlights:

- 22 strategic and regulatory initiatives finalised across the IPC's Strategic Plan
- finalisation of 704 information access and privacy reviews and complaints
- 449 information access and privacy advices provided to support compliance by agencies
- finalisation of 5 proactive information access audits and 1 privacy audit
- release of the updated Information Governance Agency Self-assessment Tools
- Commissioners provided submissions to 6 reviews and inquiries conducted by government
- 3,096 enquiries dealt with from the public
- 547,220 page views and an 18.9% increase in website visits
- raising awareness of privacy and information access rights with the release of 34 new information access, privacy and corporate publications, and 66 updated publications during 2022/23
- research into informal release of information completed.

Significant regulatory matters

- IPC provided a joint submission to the AI Inquiry, available via the IPC website
- Open Government Forum and NAP3 in progress
- Revised delegations from the Information Commissioner that considered new statutory functions under the MNDB Scheme and the PID Act 2022
- IPC received its first DRF advice request since early July
- Information Commissioner referred the six identified councils in the Local Government Audit to the Office of Local Government for non-compliance
- IPC has completed implementation of Informal Release reporting via the IPC GIPA Tool & commenced reminders for agencies to submit their GIPA data to the IPC
- AIAC met on 3 November, discussion included:
 - The operation of the Cabinet- in-Confidence provisions
 - Joint work to examine exemptions, COPIADs and OPIADs
 - New case management systems

Public Interest Disclosures Act 2022

- The *Public Interest Disclosures Act 2022* (PID Act) commenced on 1 October and applies to all NSW public sector agencies.
- The PID Act provides a framework for public officials to report serious wrongdoing in the public sector, and to be protected when they do so.
- Under the PID Act, the NSW Information Commissioner is responsible for receiving complaints made as PIDs about government information contraventions under the *Government Information (Public Access) Act 2009* (GIPA Act).
- IPC has resources to assist:
 - Checklist for reporting a public interest disclosure (PID) alleging a government information contravention
 - Flowchart - Public Interest Disclosure (PID) Decision Tree
 - **NEW** What is serious wrongdoing? Government Information Contravention
- More information and resources are available via the NSW Ombudsman's website: www.ombo.nsw.gov.au/guidance-for-agencies/pid-act-2022

Information access NCAT matter

Stephanie Zillman v NSW Treasury

- Administrative review of NSW Treasury's decision under the GIPA Act
- The government information is correspondence between NSW Treasury, Catholic Metropolitan Cemeteries Trust (CMCT) and the NSW Auditor-General
- CMCT was consulted under s. 54 of the GIPA Act and objects to the release of the information
- CMCT is now heard in the NCAT proceedings and also applied to be a party
- The issue is whether CMCT can:
 - no longer rely on the objections to the release of the information given by s. 54 consultation
 - now claim that the information is the excluded information of the Auditor-General
 - now claim that the information is subject to secrecy laws which apply to the Auditor-General.

Speaking Engagements

The Information Commissioner presented at the following engagements last quarter:

- Corruption Prevention Network Lunchtime Seminar – 16 August
- NSW Parliament: Member Development Sessions – 13 September
- IPAA NSW | IPAA National Pride in Purpose – 26 September 2023
- OVIC IAID Panel Discussion – RTK Week – 28 September 2023
- Sydney Water Event – 28 November 2023
- Executive Leaderships Essentials – 11 October
- FOI in WA Conference – 2 November

Information access publications

NEW

- Fact Sheet – GIPA Annual Reporting FAQ

UPDATED

- Template – Informal release decision templates
- Fact Sheet – Frequently asked questions for citizens – Informal release of information
- Information Access Guideline 4: Personal information as a public interest consideration under the GIPA Act
- Information Commissioner – Executed Instrument of Delegation

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