

How were decisions reviewed?

The right of review can be exercised by the original information access applicant or by third parties where information about or concerning them is the subject of the application

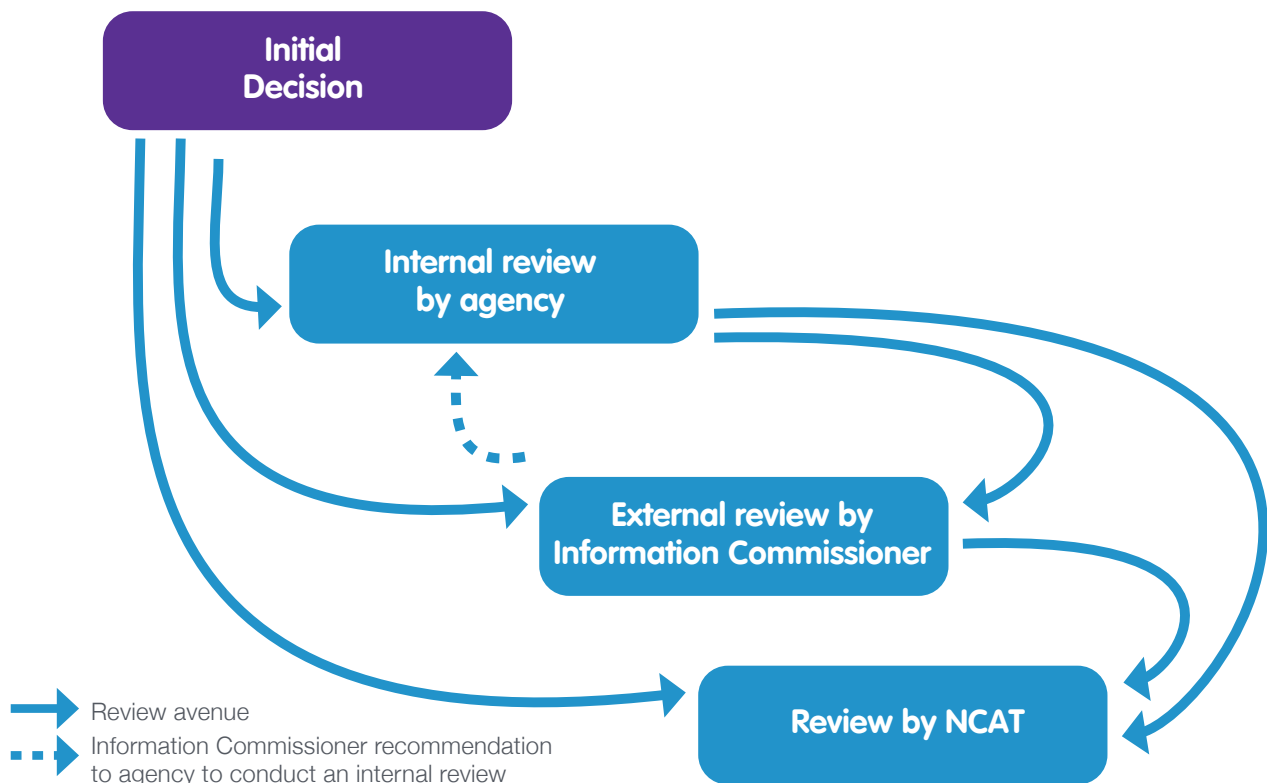
This section reports on the:

- number of reviews as a percentage of the number of relevant applications – a ‘review rate’
- number of reviews by type of review
- composition of reviews by type of review.

The distribution of reviews across all review avenues as reported by agencies is shown in Figure 33. If the most reliable source for each review avenue is used to calculate the total number of reviews, a total of 883 reviews were conducted in 2022/23. This result is a moderate decline of 6% from the 943 reviews conducted in 2021/22.

This is a significantly higher number of reviews than reported by agencies (736), particularly in respect of external reviews by the Information Commissioner and external reviews by NCAT. The distribution of reviews using the best available data is shown in Figure 34.

Figure 31: The different pathways available for reviews in the GIPA Act



‘How were decisions reviewed?’ is reported and measured by the requirement for agencies to report on the number of applications reviewed under Part 5 of the GIPA Act in Tables G and H of Schedule 2 to the GIPA Regulation.

Figure 32: Agency, IPC and NCAT data on internal and external reviews, 2022/23

Review type	A: Agency reported data for all reviews closed	B: Using agency, IPC and NCAT data on reviews closed
Agency internal review of initial decision	321	321
External review by the Information Commissioner	267	362
Review by NCAT	66	118
Agency internal review/reconsideration following a recommendation by the Information Commissioner	82	82
Total	736	883

Figure 33: Distribution of review by type, as reported by agencies, 2022/23

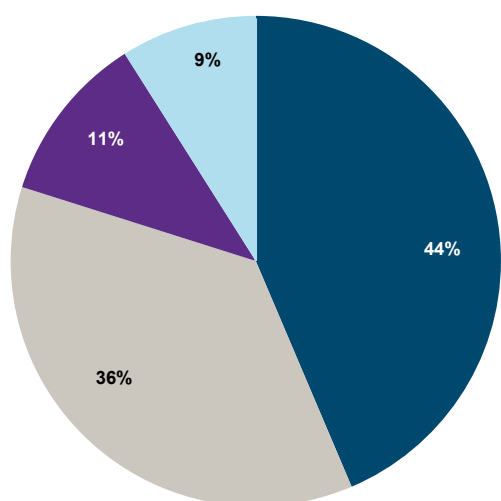
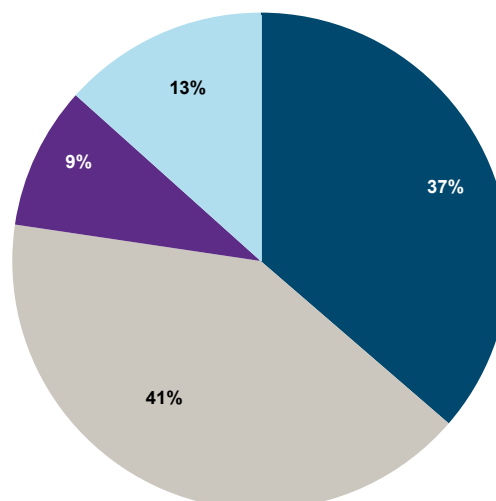


Figure 34: Distribution of review by type, using agency, IPC and NCAT data, 2022/23



- Internal review
- Review by Information Commissioner
- Internal review following recommendation under section 93 of Act
- Review by NCAT

Source: Agency, IPC and NCAT data. Note this data applies to cases reported as closed in the year.

The completion of reviews during this reporting period that were received in the previous financial year may be a factor contributing to under-reporting of external reviews by agencies.

Using IPC internal data, the number of external reviews conducted by the Information Commissioner was consistent in 2022/23, with 362 reviews, compared with 374 reviews in 2021/22.

External reviews by the Information Commissioner remain consistent as a proportion of all reviews conducted

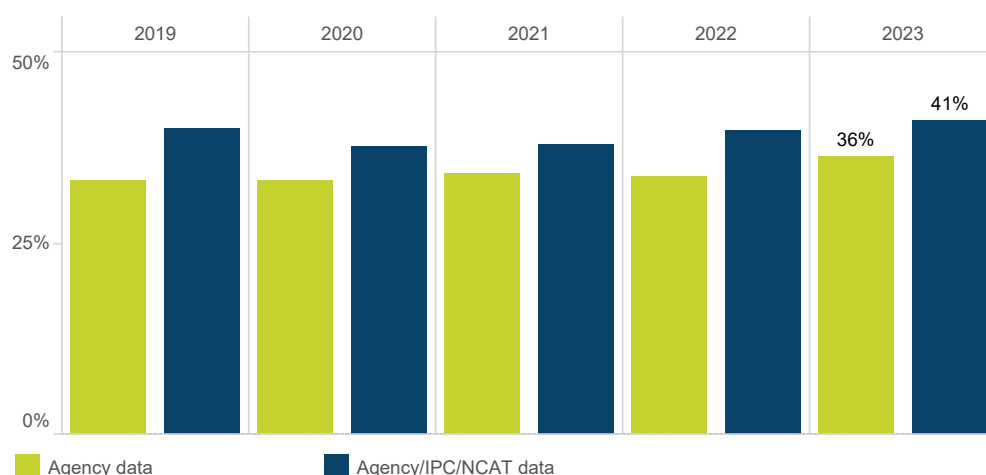
Due to ongoing disparity between agency reported data and the IPC data, only IPC data will be used for this section of the Report.

Using the IPC data, external reviews by the Information Commissioner accounted for 41% of all reviews conducted, consistent with 40% in 2021/22 (Figure 35).

Accordingly, the review pathway most frequently used is external review by the Information Commissioner.

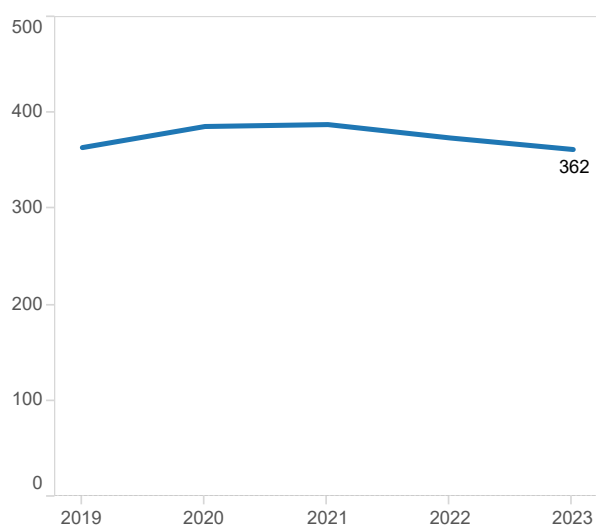
The 118 review applications reported by NCAT is significantly higher than the 66 reviews reported by agencies.

Figure 35: External reviews by the Information Commissioner as a percentage of all reviews, 2018/19 to 2022/23



Source: agency, NCAT and IPC data

Figure 36: Number of external reviews conducted by the Information Commissioner, 2018/19 to 2022/23



Source: IPC data

Review rates have remained stable in the Government, Council and State-Owned Corporations sectors

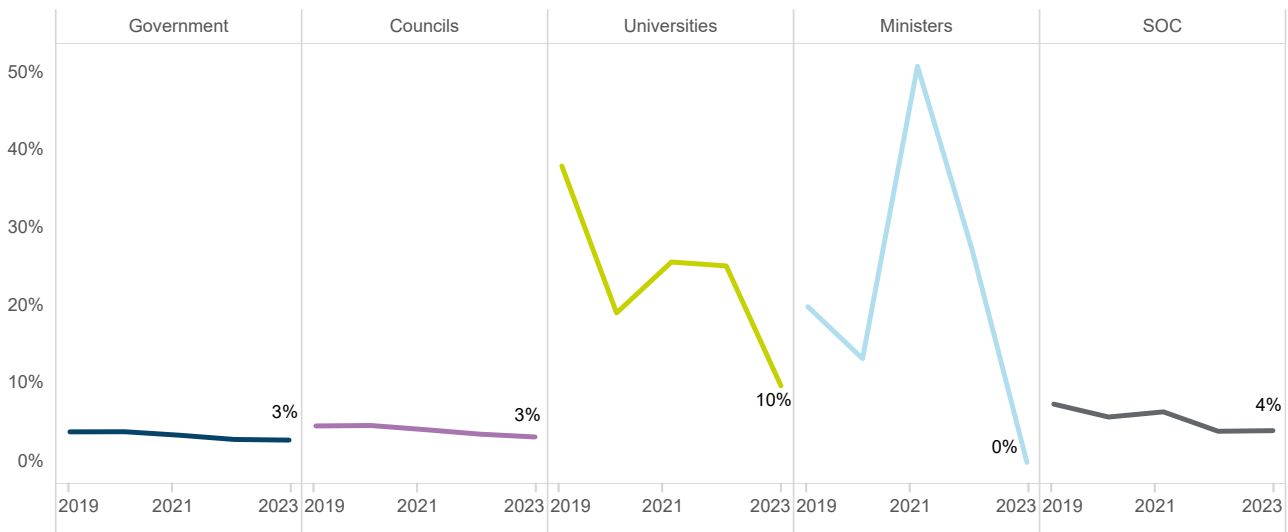
The percentage of applications for review received by the Government sector, as a percentage of all applications to that sector, remained stable at 3% in 2022/23, consistent with 3% in 2021/22. The Council (3%) and State-Owned Corporations (4%) sectors also remained stable (Figure 37).

For universities, the percentage significantly declined to 10% from 25% in 2021/22 and 26% in 2020/21.

For the reasons referred to earlier in this Report, for the Minister sector there was no data available. As a result, this Report cannot provide analysis on the performance of the Minister sector as compared to previous years.

These trends will remain under observation by the IPC to identify any appropriate sector-specific regulatory response.

Figure 37: Total number of reviews, as a percentage of all applications received, by sector, 2018/19 to 2022/23



Source: agency data

The majority of applications for review were made by the original applicant for information

In 2022/23, 92% of applications for review were made by the original applicant, rather than a third party objector. This is consistent with levels observed in 2021/22, when 93% of applications for review were made by the original applicant.

The number of applications made by third party objectors was 8% in 2022/23, consistent with 7% in 2021/22.

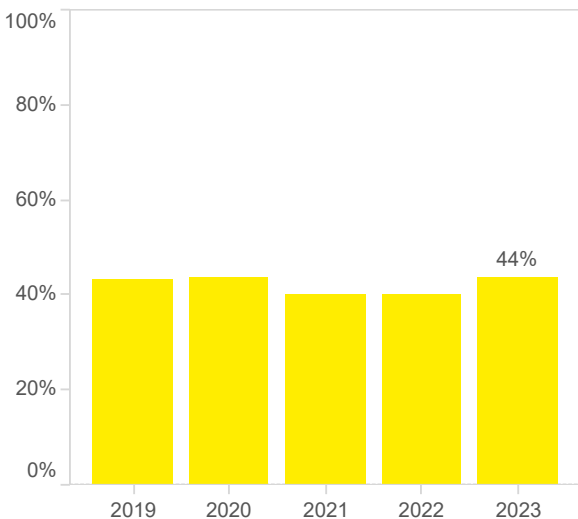
Internal reviews as a percentage of all reviews conducted remained stable

Internal reviews represented 44% of all reviews conducted in 2022/23 (Figure 38), consistent with 40% of all reviews conducted in 2021/22.

Reviews by NCAT have declined

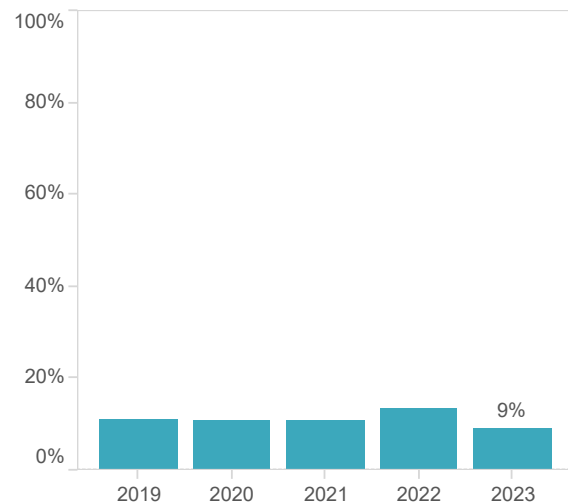
Using data reported by agencies, reviews by NCAT represented 9% of all reviews conducted in 2022/23 (Figure 39). This is a moderate decline from the previous year (14%).

Figure 38: Internal review as a percentage of all reviews, 2018/19 to 2022/23



Source: agency data

Figure 39: NCAT reviews as a percentage of all reviews, 2018/19 to 2022/23

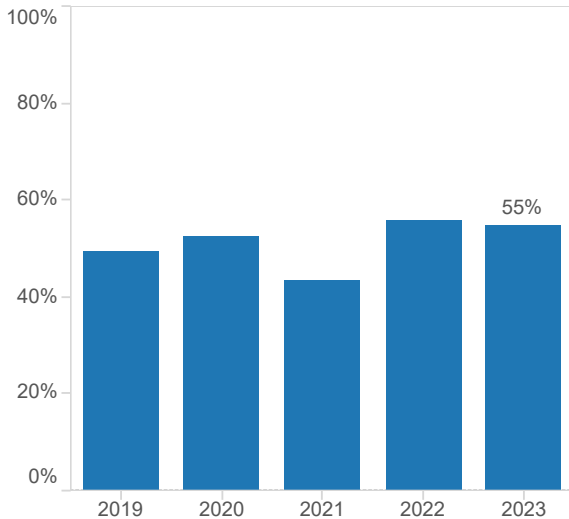


Source: agency data

The balance between decisions upheld and overturned on external review has remained consistent

In 2022/23, 55% of all internal and external reviews conducted upheld agencies' decisions. This is consistent with 56% in 2021/22 (Figure 40).

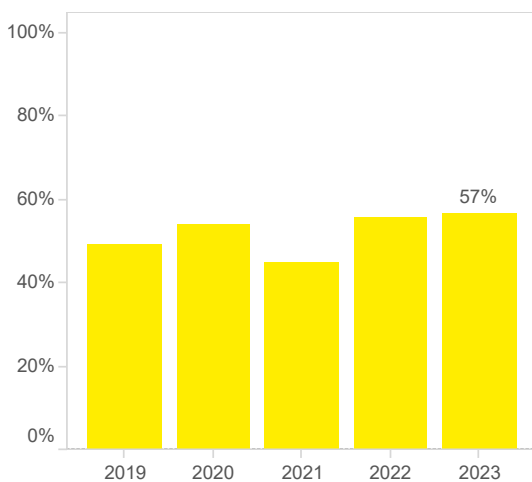
Figure 40: Percentage of all reviews that upheld the original decision, 2018/19 to 2022/23



Internal reviews were closely balanced between upholding and overturning the original decisions

In 2022/23, 57% of all internal reviews upheld agencies' decisions, consistent with the 56% reported in 2021/22 (Figure 41).

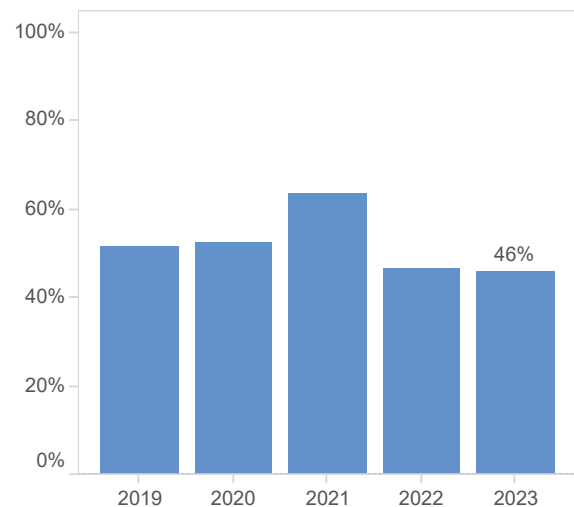
Figure 41: Internal reviews where the decision was upheld as a percentage of all internal reviews, 2018/19 to 2022/23



Reviews by the Information Commissioner that recommended agencies reconsider their decision remained consistent

In 2022/23, agencies reported that 46% of reviews by the Information Commissioner recommended that agencies reconsider their decisions, consistent with 47% reported in 2021/22 (Figure 42).

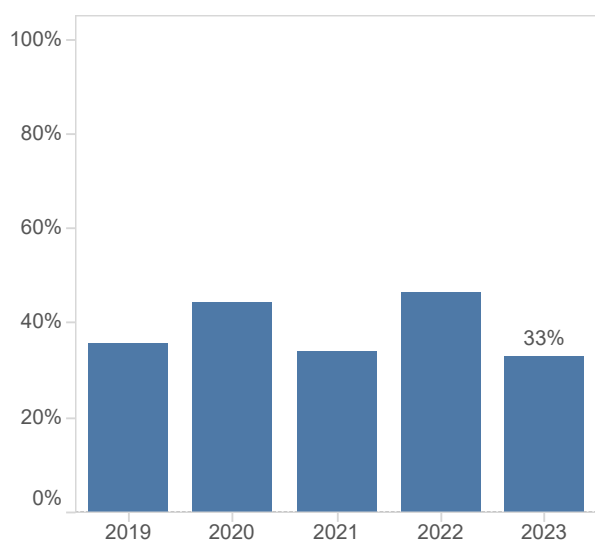
Figure 42: Reviews by the Information Commissioner where there was a recommendation to reconsider the decision as a percentage of all reviews by the Information Commissioner, 2018/19 to 2022/23



Internal reviews following a section 93 recommendation by the Information Commissioner which upheld the original decision increased

In 2022/23, agencies reported 33% of internal reviews that followed a section 93 GIPA Act recommendation (a recommendation from the Information Commissioner that the agency reconsider its decision) arrived at the same decision as the original decision. This is a moderate decline on the 46% reported in 2021/22 (Figure 43).

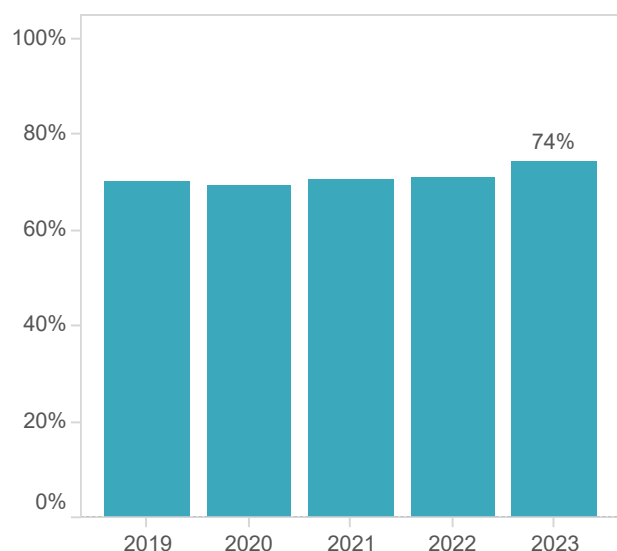
Figure 43: Internal reviews following a section 93 recommendation that upheld agencies' original decisions as a percentage of all internal reviews, 2018/19 to 2022/23



Reviews by NCAT of agency decisions

In 2022/23, agencies reported that 74% of reviews by NCAT upheld agency decisions, consistent with the results across the previous four years (Figure 44).

Figure 44: Reviews by NCAT where the decision was upheld as a percentage of all reviews by NCAT, 2018/19 to 2022/23



External review by the Information Commissioner of agencies' use of CPOPIADs and OPIADs

The IPC's internal data provides further insight into external reviews by the Information Commissioner in relation to the application of the considerations against disclosure by agencies.

The Information Commissioner conducts external reviews that cover a range of different issues that go to the process for dealing with applications and agencies' decisions to provide or refuse access to information.

The proportion of all reviews conducted by the Information Commissioner relating to CPOPIADs remained consistent at 9% in 2022/23 compared to 12% in 2021/22.

The proportion of all reviews conducted by the Information Commissioner relating to OPIADs remained consistent at 41% compared to 43% in 2021/22. Other issues that were the subject of review by the Information Commissioner include:

- personal information
- searches
- effective exercise of agency functions.

Reviews conducted by the Information Commissioner can provide insights into the operational and cultural environment in which access decisions are made within agencies. Data gathered through conducting these reviews is analysed to inform the Information Commissioner's forward work program.

CPOPIADs: Legal professional privilege remains the primary CPOPIAD subject of external review by the Information Commissioner

In 2022/23, the top three CPOPIADs that were relied on by agencies that were subject to the Information Commissioner's review were:

- legal professional privilege (34%), was stable compared to 33% reported in 2021/22
- cabinet information (16%), was stable compared to 15% reported in 2021/22
- excluded information (24%) increased moderately compared to 10% reported in 2021/22.

CPOPIADs: There has been significant changes for the top three CPOPIADs in number of external reviews by the Information Commissioner of CPOPIADs that resulted in a recommendation to agencies to reconsider the decision

In 2022/23, 44% of all the CPOPIADs that were the subject of review by the Information Commissioner resulted in a recommendation to agencies to reconsider the decision, compared to 42% in 2021/22, 35% in 2020/21, 46% in 2019/20, 38% in 2018/19 and 45% in 2017/18.

In the reporting year, the top three CPOPIADs claimed in reviews to which the Information Commissioner recommended agencies reconsider their decision:

- legal professional privilege consideration: 62% resulted in a recommendation to agencies to reconsider the decision, a significant increase from 47% in 2021/22
- overriding secrecy laws consideration: 50% resulted in a recommendation to agencies to reconsider the decision, consistent with 50% in 2021/22
- complaints handling & investigative information: 25% resulted in a recommendation to agencies to reconsider the decision. This CPOPIAD was not represented in the top three in 2021/22.

OPIADs: Responsible and effective government was the main OPIAD subject to external review by the Information Commissioner

The top three OPIADs that were relied on by agencies and subject to the Information Commissioner's review were:

- responsible and effective government (42%)
- individual rights, judicial processes and natural justice (38%)
- business interests of agencies and other persons (12%).

OPIADs: The number of external reviews by the Information Commissioner of OPIADs that resulted in a recommendation to agencies to reconsider overall has increased

In 2022/23, 53% of all the OPIADs that were the subject of review by the Information Commissioner resulted in a recommendation to agencies to reconsider the decision, a significant increase from 39% in 2021/22.

Following a review, the Information Commissioner's findings in respect of the top three OPIADs were for reviews of the:

- individual rights, judicial processes and natural justice consideration: 48% resulted in a recommendation to agencies to reconsider the decision, a significant increase compared to 33% in 2021/22
- responsible and effective government consideration: 57% resulted in a recommendation to agencies to reconsider the decision, representing a moderate increase compared to 43% in 2021/22
- business interests of agencies and other persons consideration: 65% resulted in a recommendation to agencies to reconsider the decision, representing a significant increase compared to 47% in 2021/22.