



office of the  
information  
commissioner  
new south wales

annual report  
**2009/2010**

promoting open government

[www.oic.nsw.gov.au](http://www.oic.nsw.gov.au) • 1800 INFOCOM (1800 463 626)



## Contents

The Hon. Amanda Fazio MLC  
President Legislative Council  
Parliament House  
Macquarie Street  
Sydney NSW 2000

The Hon. Richard Torbay MP  
Speaker Legislative Assembly  
Parliament House  
Macquarie Street  
Sydney NSW 2000

26 October 2010

### Dear Madam President and Mr Speaker

In accordance with s.36 of the *Government Information (Information Commissioner) Act 2009*, I am pleased to present this, the first annual report of the Office of the Information Commissioner, to the NSW Parliament.

This report provides an account of the work of the Office for the period from 17 July 2009 to 30 June 2010, during which time the focus of our activities was to prepare for the commencement of the *Government Information (Public Access) Act 2009* on 1 July 2010.

The report also provides updated material on developments and issues current at the time of writing (July – September 2010).

Yours sincerely

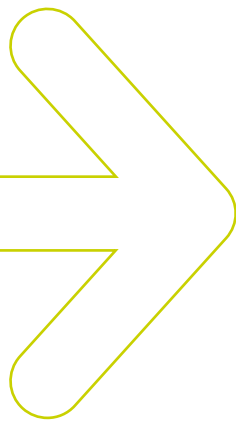


**Deirdre O'Donnell**  
Information Commissioner

Information Commissioner's foreword	2
1. About the OIC	3
2. Our organisation	10
3. Our performance	17
4. Our financial performance	27
5. Appendices	52
6. Contacting the OIC	55
Glossary	60
Index	61

# Information Commissioner's foreword

The New South Wales Office of the Information Commissioner was established by the NSW Government in response to a comprehensive review of the *Freedom of Information Act 1989* conducted by the NSW Ombudsman. In his report, entitled *Opening up government: Review of the Freedom of Information Act 1989 – A special report to Parliament under s.31 of the Ombudsman Act 1974*, the Ombudsman stated in his foreword that “everyone should be able to access the information their government holds quickly, easily, at minimal cost and subject to few restrictions”.



Those words encapsulate the approach that was taken by Government in developing comprehensive new legislation to make access to government information simple, streamlined and, above all, focused on being responsive to citizens. Legislation to completely overhaul Freedom of Information laws in NSW was developed, resulting in the new *Government Information (Public Access) Act 2009* (the GIPA Act), which focused on encouraging proactive disclosure of government information. In parallel, an independent Information Commissioner was set up, in accordance with the *Government Information (Information Commissioner) Act 2009*. I took up the role of Commissioner in May 2010, with the responsibility to act as an independent champion of open government by promoting an open government culture.

I and my staff have embraced our ‘champion’ mandate, and the office’s first 12 months have been focused on preparing for the commencement of the GIPA Act by actively promoting the objectives of the Act and developing resources to assist government agencies meet their obligations under the Act.

The element of cultural transformation is both the greatest challenge and potentially the most rewarding aspect of our work, and so we have undertaken a very proactive, engaged and open approach to communicating with and responding to our key stakeholders. This is a hallmark of the OIC’s philosophy and will continue to be central to the way we operate.

I would like to acknowledge the tremendous work undertaken by Judge Ken Taylor, who took on the role of Acting Information Commissioner in July 2009, and to Maureen Tangney, Assistant Director General of the Department of Justice and the Attorney General, who took over as Acting Commissioner from November 2009 until my appointment in May 2010. Judge Taylor, Ms Tangney and the staff who worked with them to set up the office made a tremendous contribution, and I sincerely thank them for their efforts.

I would also like to thank my hard-working, enthusiastic, committed and talented staff for their dedication to the objectives of the GIPA Act and to fulfilling our mandate under the Act.

We are all looking forward to the year ahead and, most importantly, to assessing whether the citizens of New South Wales are in fact receiving access to government information “quickly, easily, at minimal cost and subject to few restrictions”.

**Deirdre O’Donnell**  
Information Commissioner

# About the OIC

## Who we are and what we do

The Office of the Information Commissioner (OIC) was established in July 2009. We are an independent statutory authority that champions right to information reforms in NSW under the *Government Information (Public Access) Act 2009 (GIPA Act)*.

The Information Commissioner's role is to promote public awareness and understanding of the new right to information legislation in NSW, and to provide information, advice and assistance to government agencies, the public, community organisations and the media.

Since the GIPA Act took effect on 1 July 2010, we monitor agency compliance, review decisions made by government agencies and receive and investigate complaints.

The Information Commissioner may report to the Minister responsible for the GIPA Act about proposals for legislative or administrative change and may also issue guidelines to assist agencies and the public on matters such as:

- the public interest considerations agencies may apply in favour of disclosing government information
- the public interest considerations agencies may apply when deciding not to disclose government information
- agencies' functions in terms of responding to information applications
- individuals' rights to accessing government information, including their right to seek a review of decisions
- publication guides created by agencies
- reductions in costs charged by agencies to process information applications.

In carrying out these roles, the Information Commissioner has broad powers to investigate, and can request agencies to provide information. The Commissioner may also conduct formal inquiries.



The OIC team for 2009 – 2010.

# About the OIC

## Our governance

The Joint Committee on the Office of the Ombudsman and Police Integrity Commission oversees some of our functions. The committee's jurisdiction was extended under the *Government Information (Information Commissioner) Act 2009* (GIIC Act).

The committee's functions are explained in section 31B of the *Ombudsman Act*, section 95 of the *Police Integrity Commission Act* and section 44 of the GIIC Act. However, the committee cannot:

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

## Our vision

We want better access to government information for the people of NSW.

## Our purpose

We are committed to:

- supporting access to and disclosure of government information
- encouraging an open government culture and ensuring compliance with right to information laws
- defending the public's right to information.

## The Information Commissioner's powers

The Commissioner is responsible for:

- promoting public awareness of right to information laws in NSW
- providing information, advice, assistance and training to agencies and the general public
- issuing guidelines to assist agencies and the public on various matters
- monitoring agencies' functions
- proposing legislative or administrative change
- investigating right to information issues and conducting inquiries.

## Objectives of the GIPA Act

The GIPA Act aims to make government information easier for the public to access by:

- authorising and encouraging the proactive release of information
- giving members of the public an enforceable right to obtain government information
- only restricting access to government information when there is an overriding public interest against disclosure.

## Our mission

Our mission is to ensure the aims of the GIPA Act are achieved by:

- promoting the Act
- assisting government and the public to understand and use the Act
- reviewing agency performance and
- providing feedback about the Act.

These key elements – promote, assist, review and feedback – underpin everything we do.

'These key elements – promote, assist, review and feedback – underpin everything we do'

## Our values

We value being:

- knowledgeable – about the Act, as the key source of knowledge about GIPA
- helpful – for agencies and the public, by providing relevant and clear advice and guidance
- efficient – in handling complaints, conducting reviews, responding to requests for advice, undertaking investigations and providing reports to Parliament
- independent – by ensuring our actions are fair and impartial, and that we act with integrity.

## Our stakeholders

Our stakeholders include the public, non-government organisations, agencies and their staff, local councils, state-owned corporations, the media, Parliament, Ministers and their staff, the Joint Parliamentary Committee that oversees our office, independent bodies including ICAC and the NSW Ombudsman and other Information Commissioners.



## Our business plan

The business plan is a key document in communicating our strategies. To enable us to monitor our progress, a report is tabled at weekly staff meetings. The business plan also forms part of the induction package given to all new starters at the OIC to ensure they have a clear understanding of our business and direction for the financial year. A business plan summary is available on the OIC website.

## Our strategic goals

From 2010 to 2011, our primary focus will be on three activities:

### Strategic goal 1

Promoting the GIPA Act to our key stakeholders and assisting in its implementation by providing information to:

- the public
- government agencies
- Ministers and their staff
- the media.

This will be achieved by offering a broad range of communication material, advice and guidance to ensure the Act is understood and its benefits realised.

### Strategic goal 2

Establishing a baseline for monitoring agencies' compliance with the Act, so we can report on how well government agencies are complying with the new law. This will be achieved by an initial stock-take of the current state of play, focusing on three elements:

- a) complaints
- b) agency websites
- c) responses from agencies about senior executives' responsibility for ensuring compliance.

### Strategic goal 3

In order to help reinforce the cultural change envisaged by the Act, building strong links with key NSW stakeholders, including the Ombudsman, Auditor General and State Records, and Information Commissioners in other jurisdictions, to harmonise 'integrity' objectives, and to share effective strategies.

# About the OIC

## Measuring our success

The following factors will help us measure our success:

- state and local government agencies comply with the Act
- more government information is readily accessible to the public
- complaints about accessing government information decline
- stakeholders value our service.

## Legislation relating to the Information Commissioner and our functions

Two pieces of legislation are fundamental to the operation and functions of the OIC – the GIIC Act and the GIPA Act.

The genesis of both pieces of legislation was a special report to Parliament delivered by the NSW Ombudsman in February 2009, entitled *Opening up government: Review of the Freedom of Information Act 1989 – A special report to Parliament under s.31 of the Ombudsman Act 1974*, which argued for legislation that promoted a more proactive culture of disclosure, championed by an Information Commissioner.

The NSW Government agreed with most of the Ombudsman's 88 recommendations, and signalled its intention to introduce legislation as a matter of priority. The Government specifically disagreed with recommendation 84, to establish the Office of the Information Commissioner within the Office of the Ombudsman. In this respect, the Government accepted the advice of the NSW Law Reform Commission, which argued that the Information Commissioner should be wholly independent in both practice and perception, and that housing the Commissioner within the Office of the Ombudsman could compromise the perceived independence of both offices.<sup>1</sup>

When introducing the GIPA and GIIC Bills into Parliament, the then Premier Nathan Rees noted that:

the Ombudsman recommended that the Information Commissioner be established in his office. The Government has decided instead to establish the new Commissioner as a separate government agency. Although there may be some marginal cost savings associated with the Ombudsman's proposal, the Government considers that these reforms are too important to be driven by cost considerations alone. Establishing a new independent office will give greater prominence and emphasis to the role of the Commissioner. It will also give the Commissioner greater scope to act as a true champion of open government.<sup>2</sup>

The Government also decided that consideration of the Ombudsman's other recommendations concerning personal information and the intersection between FOI laws and privacy legislation would be considered following the completion of the reviews being conducted by the NSW Law Reform Commission into privacy.

### *Government Information (Information Commissioner) Act 2009 (NSW)*

Proclaimed on 17 July 2009, the GIIC Act establishes the procedures for appointing the Information Commissioner. It sets out the Commissioner's powers and functions, and names the Joint Committee on the Office of the Ombudsman and the Police Integrity Commission constituted under the *Ombudsman Act 1974* as the body responsible for the oversight of the commission's functions.

The GIIC Act prescribes a basis for people to complain about the conduct of agencies when exercising their functions under the GIPA Act, and the way in which the Information Commissioner may deal with complaints.

In exercising her functions under the GIIC Act or the GIPA Act, the Information Commissioner has the power to:

- require agencies to provide information and copies of any record (section 25)
- enter agency premises for the purpose of inspecting any record or thing (section 26)
- apply to the Supreme Court for an injunction to prevent a contravention of the GIPA Act, or to compel compliance with the GIPA Act (section 28).

The GIIC Act also enables the Information Commissioner to investigate and report on how agencies carry out their functions under the GIPA Act. In undertaking an investigation, the Information Commissioner may conduct formal inquiries, with the same powers, authorities, protections and immunities conferred on a commissioner by Division 1 of Part 2 of the *Royal Commissions Act 1923* (NSW) (see section 29).

The GIIC Act provides for the Information Commissioner to furnish information, in appropriate circumstances, to:

- the Ombudsman
- the Independent Commission Against Corruption
- the Director of Public Prosecutions
- the Police Integrity Commission
- individual agencies (Part 3, Division 5).

The Ombudsman is also required to consult with the Information Commissioner on any complaint he receives that would be dealt with more properly under the GIIC Act (section 40).

1. See NSW Law Reform Commission, *The Ombudsman's Review of the Freedom of Information Act 1989 (NSW)* (March 2009).

2. NSW, *Parliamentary Debates, Legislative Assembly*, 17 June 2009, 16224.



The GILC Act requires the Information Commissioner to report annually to Parliament on the OIC's activities and the operation of the GIPA Act across all agencies (section 36 and 37). The Information Commissioner may also deliver special reports to Parliament at any time relating to any aspect of her functions (section 38).

A number of offences are also created by the GILC Act. Section 43 provides that it is an offence for a person to:

- wilfully obstruct, hinder or resist the Commissioner or a member of staff of the Commissioner in the exercise of functions under the GILC Act or any other Act without lawful excuse
- refuse or wilfully fail to comply with any lawful requirement of the Commissioner under the GILC Act or any other Act without lawful excuse
- wilfully make any false statement to or mislead, or attempt to mislead, the Commissioner or a member of staff of the Commissioner in the exercise of functions under the GILC Act or any other Act
- falsely represent him or herself as the Information Commissioner or staff of the OIC
- use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage to any person for complaining to or assisting the Information Commissioner
- dismiss an employee, or prejudice his or her employment, on account of the employee assisting the Information Commissioner.

#### ***Government Information (Public Access) Act 2009 (NSW)***

The GIPA Act was passed by NSW Parliament in June 2009. The Act establishes a freer, more open approach to gaining access to government information in NSW, replacing the FOI legislation that existed since 1989.

The object of the GIPA Act, as set out in section 3, is to maintain and advance a system of responsible and representative democratic government that is open, accountable, fair and effective.

The GIPA Act applies to all NSW government departments, and also extends to Ministers and their staff, local councils, state-owned corporations, courts in their non-judicial functions, and to certain public authorities such as universities.

The guiding principle of the GIPA Act is the public interest, with a general presumption that disclosure of information is in the public interest, unless a strong case to the contrary can be demonstrated. Under the GIPA Act, it is compulsory for agencies to disclose certain information (known as open access information) about their structure, functions and policies, and the proactive and informal disclosure of other information is promoted and encouraged.

Formal access applications should only need to be lodged as a last resort. Where formal applications are required, the Act sets out the process that applicants and agencies need to follow, as well as the options for review of access decisions.

The GIPA Act remained unproclaimed for the 2009 – 2010 reporting period. On 29 April 2010, the government announced that the Act would commence operation on 1 July 2010.

**‘the guiding principle of the GIPA Act is the public interest, with a general presumption that disclosure of information is in the public interest’**

#### **Legislative changes**

During 2009 – 2010, the OIC was engaged in preparing NSW government agencies for the changes brought about by GIPA Act, which took effect on 1 July 2010. Other regulatory developments included:

- the *Government Information (Public Access) Regulation 2009* (GIPA Regulation)
- the *Government Information (Public Access) (Consequential Amendments and Repeal) Act 2009*
- the introduction of the *Privacy and Government Information Legislation Amendment Bill 2010*.

#### ***Government Information (Public Access) Regulation 2009***

Published on 18 June 2010, the GIPA Regulation:

- prescribes additional open access information that Ministers, departments and statutory bodies must make publicly available
- sets out the information regarding formal access applications that agencies must include in their annual reports
- in the case of an access application relating to a school, extends the period in which the application must be decided if the usual 20-day period for deciding the application occurs during the school holidays
- specifies the corresponding FOI laws of other Australian jurisdictions under which information may be exempt, as this is a relevant public interest consideration against disclosure under section 14
- declares certain bodies to be public authorities for the purpose of the GIPA Act

# About the OIC

- declares certain entities to be sub-agencies and parent agencies for the purpose of access applications
- provides that records held by the Audit Office or the Ombudsman's Office that were originally created or received by another agency are taken to be held by that other agency.

The GIPA Regulation took effect on 1 July 2010 in tandem with the GIPA Act. At the same time, Schedule 5 to the GIPA Act, which sets out the additional open access information that local councils must make publicly available, was also incorporated into the Regulation.

## ***Government Information (Public Access) (Consequential Amendments and Repeal) Act 2009***

The *Government Information (Public Access) (Consequential Amendments and Repeal) Act 2009* was enacted on 1 July 2010, at the same time as the GIPA and GILC Acts. On this date, the *Amendment and Repeal Act* repealed the *Freedom of Information Act 1989*, and transferred the provisions concerning amendment of personal information to the *Privacy and Personal Information Protection Act 1998* (PPIP Act). A series of amendments to a number of other Acts and Regulations also occurred as a consequence of the GIPA Act taking effect.

## ***Privacy and Government Information Legislation Amendment Bill 2010***

The *Privacy and Government Information Legislation Amendment Bill 2010* (NSW) was introduced into the NSW Legislative Assembly on 24 June 2010. The Bill gave effect to some of the recommendations made by the NSW Law Reform Commission in Report 125, entitled *Offices of the Information and Privacy Commissioners*.

The Bill made amendments to both the GIPA Act and the PPIP Act to bring the Privacy Commissioner and the Information Commissioner together within a single office. The two roles will remain functionally independent within a combined office. The Bill was passed by Parliament in the Spring Session of 2010. Specifically, the new Act provides for:

- the merger of 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 staff)
- the Privacy Commissioner to be appointed and removed in the same manner as the Information Commissioner (with the same person not being permitted to hold both offices)
- the Privacy Commissioner to report to Parliament on the operation of the PPIP Act

- the Privacy Advisory Committee under the PPIP Act to be replaced with an Information and Privacy Advisory Committee having the function of advising on matters relevant to the functions of the Privacy Commissioner and the Information Commissioner
- the Joint Committee on the Office of the Ombudsman and the Police Integrity Commission to oversee the Privacy Commissioner's functions, and consult with the Privacy Commissioner on any review of the public interest provisions of the GIPA Act that concern a privacy-related public interest consideration
- the Information Commissioner to consult with the Privacy Commissioner before issuing guidelines or making a recommendation about a privacy-related public interest consideration against disclosure under the GIPA Act
- the Privacy Commissioner to consult with the Information Commissioner before issuing guidelines about the information protection principle that limits the disclosure of personal information by a public sector agency
- a right of appearance in proceedings before the Administrative Decisions Tribunal on a review under the GIPA Act or the PPIP Act to be conferred on the Privacy Commissioner (in relation to privacy-related public interest considerations against disclosure) and on the Information Commissioner (in relation to the provision of access to government information)
- the Minister to consult with the Privacy Commissioner before a regulation is made under the GIPA Act that concerns the protection of individual privacy or a privacy-related public interest consideration against disclosure
- the repeal of Part 6A of the PPIP Act (regarding amendment of records), leaving section 15 of the PPIP Act as the only mechanism for the alteration of personal information in government records.

The OIC is liaising with Privacy NSW concerning the integration of the two offices, and other reform measures.

## How it all began

*by principal policy officer Donna Hayward*

The GIPA Act and its companion legislation, the GIIC Act, were passed by NSW Parliament in June 2009. The GIPA Act remained unproclaimed for the 2009 – 2010 reporting period, but the GIIC Act commenced on 17 July 2009, enabling the establishment of the OIC.

In that same month, the then Privacy Commissioner Judge Ken Taylor AM RFD was appointed acting Information Commissioner until a permanent appointment could be made. The birth of the OIC was an inauspicious event. The Judge remembers his first day, sitting alone on a packing crate in temporary premises in Elizabeth Street, with no telephone, thinking “Well mate, after all these years, it’s come to this”.

A small team of two staff seconded from DJAG and the Crown Solicitor’s Office and an external consultant assisted the Judge with the set up of the fledgling office. The learning curve was steep, but enthusiasm was high. The team set to work on the task of preparing agencies for the transition from FOI to GIPA.

### ‘the Commissioner’s appointment was an event more anticipated than Jessica Watson’s homecoming’

Key contacts were formed within super departments, sub-agencies, local councils, state-owned corporations and public authorities. Consultants were engaged for a short time to help identify how best to meet the initial needs of agencies. An interim website was developed, and other jurisdictions with equivalent OICs were examined. The team published preliminary advice to agencies on preparing for the introduction of the GIPA Act, and devised a series of templates to assist agencies when drafting contracts with private sector entities and processing formal access applications under the GIPA Act. In November 2009, Maureen Tangney, the Assistant Director General of DJAG, took over the role of acting Information Commissioner after Judge Taylor went on leave. Negotiations were also underway to relocate to permanent premises at 1 Castlereagh Street.

Momentum gathered with the appointment of the first four permanent staff members, and work began in earnest, with the team producing fact sheets alerting the public to their rights to government information under the new law, and knowledge updates to assist government agencies. Phones ran hot with questions from FOI officers eager to do the groundwork to ensure their agencies were ready to comply with the new law when it took effect. Many meetings were held with, and presentations given to, agency staff outlining the impending changes.

We also consulted with agencies that received a large volume of FOI applications on how they met their reporting requirements, with a view to developing a model for a standardised web-based system for recording and reporting on access applications received under the GIPA Act.

We developed a communications strategy to promote the message of open access to information. We briefed graphic designers and developed a new OIC brand to reinforce the fresh, pro-disclosure approach to government information signalled by the new law. Work also began on the development of a permanent OIC website, with discussions focused on how to present useful information to agencies, the public and the media in a clear and accessible format.

The end of April brought exciting news, with two long-awaited announcements: the first being that Deirdre O’Donnell was to be appointed the state’s inaugural Information Commissioner. Starting work on 10 May 2010, the Commissioner’s appointment was described at a meeting of the FOI/Privacy Practitioners’ Network as an event “more anticipated than Jessica Watson’s homecoming”. The second announcement was the commencement date for the GIPA Act, which was set for 1 July 2010.

As 1 July approached, the OIC established its Casework and Compliance team, recruiting seven more staff. We also employed a Learning and Development manager to identify training needs and build strategies, and engaged an IT consultant to manage the development and implementation of the GIPA case management and reporting tool and the OIC’s internal information management systems.

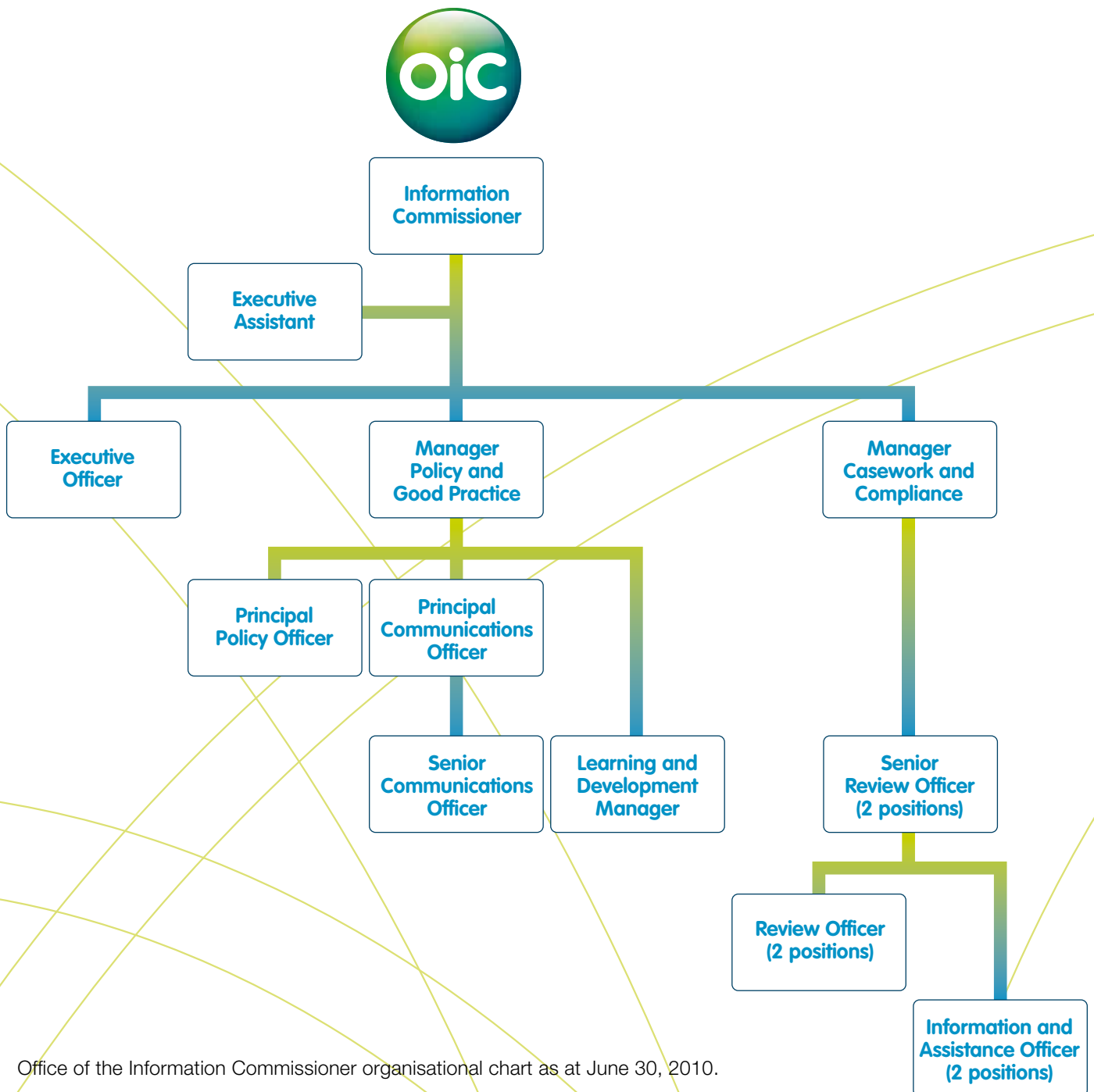
The close of the 2009 – 2010 reporting period saw the OIC transformed into an energised organisation equipped and ready to meet the challenges ahead.



*Information Commissioner Deirdre O’Donnell and former acting Information Commissioner Judge Ken Taylor AM RFD.*

# Our organisation

## OIC organisational structure



Office of the Information Commissioner organisational chart as at June 30, 2010.

## Our people



*The OIC's executive team – Brad James, Shirley Southgate, Deirdre O'Donnell and Linda Tucker.*

### Deirdre O'Donnell

*BA, Dip Ed, MBA, M Comm Law*  
**Information Commissioner**

Deirdre O'Donnell is New South Wales' inaugural Information Commissioner. Prior to taking up this role, for almost three years Deirdre held the position of Telecommunications Industry Ombudsman, where she led a period of unprecedented growth. From 2002 to 2007, she was the Western Australian Ombudsman, a position with wide investigative powers, including those of a Royal Commission. Western Australia was the first state to establish an ombudsman's office in 1972, and Deirdre was the first woman to be appointed to the position.

Deirdre was also a State Records Commissioner, a member of the Western Australian Integrity Coordinating Group, and the Energy Ombudsman in Western Australia. In recognition of her work in Western Australia, she received a public service medal in the Australia Day Honours for 2008. Deirdre has qualifications in arts, education and French, as well as an MBA and a Masters in Commercial Law from Melbourne University.

### Shirley Southgate

*BA LLB (Hons)*  
**Manager, Policy and Good Practice**

Shirley has been a solicitor for the past 14 years, working in the private, community and government sectors in Western Australia and NSW. She was the principal solicitor at Kingsford Legal Centre from 2005 to 2009, specialising

in anti-discrimination law. Immediately prior to relocating to NSW, she was the managing solicitor of Client Services at Legal Aid Western Australia. She was the first permanent employee of the OIC, taking up her position as manager of Policy and Good Practice in January 2010.

### Linda Tucker

*BA LLB PhD*  
**Manager, Casework and Compliance**

Linda started as manager of Casework and Compliance in May this year after five years running the Kingsford Legal Centre's employment law clinic at the University of NSW. Prior to this she was a barrister, an appeals advocate for the Refugee Legal Centre in the United Kingdom and an academic specialising in international environmental law. Before her legal career, Linda was a journalist in Sydney, Perth and the UK.

### Brad James

*Accounting Certificate, Six Sigma certified,  
Prince2 – Practitioner*  
**Acting Executive Officer**

Brad has extensive experience in the NSW public sector, working for a range of small and large organisations including the State Library of NSW, Australian Museum, TAFE and most recently the Department of Justice and Attorney General. He has worked broadly across corporate services and business support functions, along with a number of significant corporate projects. Brad was part of the OIC establishment team brought together in August 2009.

# Our organisation

## Corporate services

Establishing the new office and developing the business services required for the OIC's effective operation was a key corporate services focus for the 2009 – 2010 financial year. The Department of Justice and Attorney General (DJAG) provided support across a broad range of corporate services during our set-up.

## Our office

The OIC began in August 2009 in temporary offices at 60-70 Elizabeth Street, sharing premises with the Legal Services Branch of DJAG.

A priority for the establishment team was to find suitable accommodation for the full team of around 24 staff, with the addition of six people from Privacy NSW, who would be located on the same floor as the OIC.

Acting executive officer Brad James worked closely with Keith Atterton from DJAG's Asset Management team and Mark Vickers from the State Property Authority. After an extensive review of available properties, the Castlereagh Street site was selected for its practical work environment, proximity to key stakeholders and a fit-out that was easily adaptable to the needs of the OIC and Privacy NSW.

The State Property Authority negotiated the lease on behalf of the OIC, delivering savings in excess of \$100,000 per annum over the three-year lease period. Fit-out work began at the end of January and the OIC moved into its new office on 29 March 2010.

## Human resource management

During our establishment year, the OIC adopted a number of DJAG policies while developing policies specific to our requirements. These include the code of conduct, Aboriginal Employment Strategy and an Equal Employment Opportunity (EEO) Management Plan for 2010 – 2013, which aims to establish a foundation of equity and diversity throughout the growth of the organisation. EEO principles are integrated into training and development programs. The OIC supports arrangements that help staff meet their family and personal commitments. These include flexible working hours, child vacation care subsidies and financial assistance for work-related study.

## Major HR activities planned

The OIC is committed to promoting equity and diversity, which will be included in the new EEO Management Plan for 2010 – 2013.

Some of the programs and initiatives planned include:

- development and implementation of an Aboriginal and Torres Strait Islander Employment Strategy
- development and implementation of a Disability Employment, Development and Retention Strategy. The strategy will detail initiatives for improving the employment rate and employment experiences for people with a disability
- continued executive and managerial support of EEO staff networks
- development and implementation of an Employing People with a Disability and Reasonable Adjustments Guidelines policy
- continued facilitation and evaluation of leadership and management development programs to address issues involved in workforce diversity, equity and good working relationships.

## Recruitment and selection

After the GIPA Act took effect on 1 July 2010, we initiated an evaluation of our business needs to finalise our recruitment plans. Legislative changes dealing with the establishment of the Information and Privacy Commission will impact on the business services required to support a larger agency.

There were a number of staff movements in 2009 – 2010. Our acting business manager Belinda Padovan was appointed as Business Planning manager with DJAG, while former legal officer Kaye Sato is now a senior solicitor with the Crown Solicitor's Office. Project officer Karina Ponne moved to a position with the Commonwealth Director of Public Prosecutions, while Lauren Judge returned to her role as policy advisor with DJAG. Our former acting Information Commissioners have also moved on, with Judge Ken Taylor currently on leave and Maureen Tangney returning to her role as Assistant Director General (Policy and Legal) with DJAG.

## Professional development

All staff participate in an induction on commencing with the OIC. Other internal training has focused on finance and accounting, effective telephone techniques and records management.

Most of our staff attended Crown Solicitor's Office training on the GIPA Act. Staff also had the opportunity to hear a joint presentation on Protected Disclosures by the Independent Commission Against Corruption and the NSW Ombudsman. The New Zealand Deputy Ombudsman and NSW Ombudsman have both delivered presentations to the OIC team. A number of senior staff attended Grievance Policy Awareness training with the DJAG's Employee Relations team. Specialist training included staff management and employee relations seminars, records management training, complaints response training and web content management and graphic design training.

We are planning a range of training for the 2010 – 2011 financial year, including occupational health and safety and recruitment and selection training for managers. All staff will have the opportunity for professional development in achievement planning, investigating skills, managing behaviours and working with interpreters.

**'internal training has focused on finance and accounting, effective telephone techniques and records management'**

## Donation makes a difference



*Kooloora Community Centre volunteer Bill Johns and Kooloora regular Isabella Silveira use the chairs and tables from the OIC.*

The lease of our new office in Castlereagh Street included an extensive array of furniture, not all of it appropriate to our needs. Rather than consigning the surplus desks, chairs, tables and cupboards to storage we contacted local community centres to see if they could use them. This offer was taken up with huge enthusiasm and all the furniture went to good homes around the Sydney metropolitan area. Kooloora Community Centre in Malabar is now the proud owner of two large folding tables on wheels, several chairs and a large noticeboard.

Centre coordinator Julie Spies describes the impact of having good quality furniture and the large easy-to-move tables as "blissful".

"We didn't know things like this existed," she says. "We don't use the old tables any more as they were really difficult to use. Even the older men and women can move these which means they can set up their own classes and meetings without waiting for one of the volunteers. We also make a lot of use of the chairs as they provide much better support. The new furniture has changed our lives."

# Our organisation

## Information and communication technology

The OIC has established a website at [www.oic.nsw.gov.au](http://www.oic.nsw.gov.au) and promotes a general enquiries email address: [oinfo@oic.nsw.gov.au](mailto:oinfo@oic.nsw.gov.au). Our website design and function meet NSW government accessibility standards. We also have a free call information line: 1800 INFOCOM (1800 463 626).

An online case management and reporting tool was developed during the reporting period for agencies to use once the GIPA Act commenced. The resource was available for agencies in late July 2010.

## Research and development

In 2009 – 2010, the OIC conducted research and development into a case management and reporting system to help agencies to comply with the GIPA legislation. The aim was to address a number of key operational requirements such as dealing with access applications, assisting agencies to meet their obligations under the GIPA Act, achieving consistency across agencies' reporting of access applications, streamlining the accuracy of agencies' reporting practices and providing an online tool for lodgement of access applications.

Following a market assessment, the Roads and Traffic Authority was engaged under a memorandum of understanding to provide a web-based system. The research and development expenditure for Phase 1 of the project was \$446,600 (including GST).

## Risk management

The Information Commissioner is developing an Enterprise Risk Management Framework in compliance with Treasury policy TTP09-05. Over the coming year, an Audit and Risk Committee will be set up to oversee an annual program of internal audits and to assist us to fully comply with Treasury policy.

## Insurance

Major insurance risks for the OIC are the security of its staff, property and other assets, and the risk of work-related injuries, which may result in workers' compensation insurance claims. The OIC was covered under DJAG in 2009 – 2010 for full workers' compensation, motor vehicle accident, property, liability and miscellaneous insurance cover provided by the Treasury Managed Fund.

Allianz Australia Limited manages the OIC's workers' compensation insurance and GIO General Ltd manages the government's other insurances. Risk management policies and procedures for the OIC are being developed for separate coverage under the Enterprise Risk Management Framework. The OIC has no motor vehicles.

## Senior executive

Our office has one senior executive position – filled by the Information Commissioner Deirdre O'Donnell, who took up her role on May 10. Prior to that Judge Ken Taylor and Maureen Tangney acted in the Commissioner's role during the 2009 – 2010 reporting year.

This position is a statutory appointment and is listed under section 11A of the *Statutory and Other Offices Remuneration Act 1975*, not included in Schedule 2 for the *Public Sector Employment and Management Act 2002*. For details of remuneration for this role as at 30 June 2009, see Figure 1.

Figure 1

### Executive remuneration

Position	Information Commissioner
Occupant	Deirdre O'Donnell
Total remuneration package	\$275,000
Value of remuneration paid as a performance payment	nil
Criteria used for determining total performance payment	n/a

## Consultants and contractors

The OIC commissioned the services of a number of consultants and contractors during the 2009 – 2010 financial year. Details of these arrangements are set out in Appendix 1.

## Employee salary movement

### Crown Employees (Public Sector – Salaries 2008) Award

The award provided for a four-per cent salary increase from the first pay period on or after 1 July 2009 for the following classifications within the OIC:

- clerks
- departmental professional officers
- legal officers.

### Statutory officers

Section 13 of the *Statutory and Other Offices Remuneration Act 1975* requires the Statutory and Other Offices Remuneration Tribunal (SOORT) each year to determine the remuneration to be paid to public office holders on and from 1 October in that year.

The SOORT made a determination to increase the remuneration paid to all public office holders by three per cent on and from 1 October 2009.



### Enterprise industrial relations

During the reporting period the Information Commissioner wrote to the Public Service Association advising of the commencement of the OIC as an independent statutory authority and its intention to create a local consultative committee to meet, discuss and review local issues or matters.

## Equal Employment Opportunity (EEO) and staff numbers

Number of officers and employees by category  
2009 – 2010

Employee by category	2007 – 08	2008 – 09	2009 – 10
Statutory	n/a	n/a	1
Administration	n/a	n/a	9
Professional	n/a	n/a	5
<b>Total</b>	<b>n/a</b>	<b>n/a</b>	<b>15</b>

Note: 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).

### Statistical information on EEO target groups

EEO group	Benchmark or target	2007 – 08	2008 – 09	2009 – 10
Women	50%			87%
Aboriginal and Torres Strait Islander people	2%	n/a	n/a	0%
People whose first language was not English	20%	n/a	n/a	0%
People with a disability	12%	n/a	n/a	0%
People with a disability requiring work adjustments	7%	n/a	n/a	0%

Note: The OIC has a total projected staffing level of 24. The determination and setting of an appropriate target or benchmark for the OIC will be finalised and published on its website by mid 2010 – 2011. Further work will be undertaken during the 2010 – 2011 year to assess weightings of categories, their targets and or benchmarks.

The targets stated in the above table are in line with those of DJAG and are used as a guide for the initial 2009 – 2010 statistics.

## Code of conduct

The OIC is currently operating under the code of conduct issued by DJAG in the 2009 – 2010 financial year. The code of conduct sets out the obligations and required standards of ethical conduct and decision-making. All staff receive a copy of the code of conduct and are required to abide by its principles. Workplace ethics training is a compulsory component of the OIC's induction process. A code of conduct specific to the OIC is currently being developed.

## Flexible work agreement

We are committed to providing flexible working hours arrangements for the benefit of our organisation and our people. The flexible work agreement aims to provide the community with consistent high-quality service, while helping employees to balance their work and personal responsibilities. This agreement was developed as a result of negotiations between the Public Service Association and DJAG and has been successfully implemented within the OIC.

# Our organisation

## Record-keeping

We are currently developing an appropriate case management system, an electronic document management system and a telephony system that captures call data and links to the case management system.

## Leave liabilities

As at 30 June 2010, the OIC's leave liabilities included \$86,747 in recreation leave.

## Health and safety services

During 2009 – 2010, we adopted DJAG's health and safety services policies. These will be revised to accommodate issues specific to the OIC's workplace. Our OHS Management System Framework, which is currently under development, will align with Australian Standard 4801 and provide a framework to systematically manage, measure and improve OHS within the OIC.

## Workers' compensation

The OIC was covered under DJAG in 2009 – 2010 for full workers' compensation. Our workers' compensation premium will be determined in the next reporting period once the full establishment has been recruited.

## Occupational health and safety

There were no reported incidents within the OIC during the reporting period.

## Waste management

The OIC is working on a waste management policy to capture the measures already in place to reduce the use of paper and encourage recycling. In the spirit of recycling and as a reflection of our community values, the OIC donated furniture replaced during the fit-out of our new offices to a number of community organisations, including Kooloora Community Centre.

## International travel

No staff undertook international travel during the 2009 – 2010 financial year.

## Freedom of information

One FOI request was managed through DJAG's Legal Services Branch from the office of Andrew Stoner MP. This request was responded to within specified timelines.

## Litigation

No litigation was carried out by or on behalf of the OIC during the 2009 – 2010 reporting period.

## External legal advice sought

The OIC sought external legal advice on five matters over the 2009 – 2010 reporting period. Advice was obtained from the Crown Solicitor's Office on three occasions. This included advice on the definition and function of 'agencies' under the GIPA Act and two separate memoranda of understanding. Advice was also obtained from Deacons/Norton Rose on a draft template for contractual clauses and the preparation of materials on statutory processes and timeframes under the GIPA Act.

## Annual report production costs

The total external costs incurred in the production of the 2009 – 2010 annual report were \$8080 (+GST). This included consultancy fees for design and printing costs to produce 100 full copies of the reports to comply with NSW Treasury requirements. A bookmarked PDF of the report, including the text, appendices and the 2009 – 2010 audited financial statements, is available on the OIC website: [www.oic.nsw.gov.au](http://www.oic.nsw.gov.au).

## Privacy

We are developing a privacy management plan as required by section 33(3) of the *Privacy and Personal Information Protection Act (1998)*. This will be available on our website in late 2010.

# Our performance

## Our service commitment

In keeping with our values, we will:

- be courteous, friendly and professional
- listen to our clients
- treat our clients fairly and with respect
- respond to our clients promptly
- keep our clients informed of how their enquiry, complaint or review is progressing
- provide our clients with accurate information in a way they can understand
- where appropriate, investigate our clients' matters and tell them of the outcome
- tell our clients when no further action will be taken and the reason why
- respond to feedback to improve our services
- respect our clients' privacy.

## Our consumer response

The OIC had a great deal of contact with stakeholders prior to the commencement of the GIPA Act. The majority of enquiries came from state and local government agencies seeking information and advice on preparing for the new legislation to take effect. In response to these enquiries, we helped agencies work through their compliance issues and advised on the requirements of the Act. We also identified potential opportunities for OIC staff to address networks of government staff on the reforms and their impact on agencies. The issues raised by stakeholders through their enquiries also informed the resources we developed to help agencies prepare to comply with the GIPA Act. During this time, individuals were still exercising their rights under the FOI system, so our contact with the public was limited. Once the Act came into effect, however, interaction with the general public increased significantly.

## Our achievements

Our two business teams – Policy and Good Practice and Casework and Compliance – were established to address the OIC's objectives under the GIPA Act. They are assisted by the Corporate Services team, which provides services to enable the OIC to operate effectively.

## Performance highlights: Policy and Good Practice team

'we are facilitating cultural change across government and building public awareness'

The OIC is committed to supporting access to and disclosure of government information, encouraging an open government culture, and defending the public's right to information. The main responsibilities of the Policy and Good Practice team in fulfilling these commitments are to:

- promote public awareness of the new right to information laws
- provide information, support, advice, assistance and training to agencies and the general public to encourage and facilitate a new culture of open government
- develop OIC Guidelines
- monitor, review and report on the functioning of the GIPA Act and the GIIC Act
- monitor, research and report on systemic inadequacies in disclosure of government information
- participate in the preparation of reports to Parliament.

The 2009 – 2010 year opened with seconded officers from other government agencies and consultants on short-term contracts beginning the business of creating the OIC. The initial priority was to establish good communication and effective relationships with key groups, such as state and local government information and privacy practitioners, principal officers of government agencies and the media. A great deal of work was done on developing resources that would assist agencies to prepare for the commencement of the legislation. Template documents were drafted, an interim website was set up, and research was undertaken to find a viable case management and reporting tool.

Late 2009 saw the recruitment of the initial complement of staff for the team, who took up their positions in early 2010. This comprised the manager, principal policy officer, principal and senior communications officers, and the learning and development manager.

The focus for the team was to:

- continue to build effective working relationships with practitioners in local and state government agencies
- be readily available to answer questions and provide assistance
- develop and distribute tools and resources to assist agencies to implement the new legislation

## Our performance

- develop a case management and reporting tool that would be freely available to all agencies and provide consistent and accurate data on the response of government agencies to formal applications for information
- create a unique and recognisable OIC brand to assist the public and government agencies to identify the new office and the new legislation
- develop an effective and user-friendly website.

### Plans for 2010

As we move into the first year of the operation of the GIPA Act, the Policy and Good Practice team will move to recruit the remainder of the team to bring us to a full complement of nine. This will enable us to build on our existing work and undertake the longer-term work necessary for facilitating cultural change across government and building public awareness about right to information reforms across NSW.

### Official visits bring new insights

The OIC hosted its first international delegate in May with a visit from New Zealand's Deputy Ombudsman Leo Donnelly. Mr Donnelly delivered an engaging presentation for the entire OIC team, detailing the history of New Zealand's right to information system and sharing the rich knowledge gained during his 25 years with the Office of the New Zealand Ombudsman. A visit by NSW Ombudsman Bruce Barbour in June was equally valuable for OIC staff, particularly with regard to understanding the issues that faced government agencies under the FOI system.



*New Zealand's Deputy Ombudsman Leo Donnelly.*

### Performance highlights: Casework and Compliance team

*'planning our approach to casework and compliance has been a focus for the team'*

The Casework and Compliance team started operating in May 2010 and immediately began dealing with calls and emails, developing compliance materials for agencies and planning our internal casework management processes. By the end of June 2010, the team comprised seven staff: two information and assistance officers, two review officers, two senior review officers and the manager.

We immediately started looking at software systems to support our records, telephony and case management.

The initial work of the team focused on frontline assistance, responding to counter enquiries, telephone calls and emails. As the GIPA Act was not yet in force, we did not have review or investigation work. This gave us time to start setting up casework and compliance systems and materials. The information and assistance officers deal with the bulk of our frontline work, but all members of the team have regular shifts on the telephones to both share the load and to hear about issues our stakeholders face.

In its first full month of operation in June 2010, the Casework and Compliance team was already fielding calls and emails from agencies and the public about the impending change to right to information, responding to a total of 177 queries. During this time, individuals were still exercising their rights under the FOI system, so contact with the public was not as high as our contact with agencies.

Planning our approach to casework and compliance has been a focus for the team, with an emphasis on building stakeholders' understanding of their rights and responsibilities under the new legislation. For compliance, we have developed materials for agencies, including a compliance overview and checklist, and started agency 'health checks', where Casework and Compliance team members visit offices and review websites. Our aim is for agencies to be fully aware of what we will look at when assessing compliance. We plan to eventually meet or interact with all government agencies in NSW, either via our reviews of agency websites or our visits, which may be in person or by telephone.

We aim to assess current agency compliance to:

- help determine where we need to do more work in promoting the GIPA Act as well as capacity building
- provide a snapshot against which we can measure in 12 months, to assess whether we are achieving cultural change.

Our casework comprises responses to enquiries, applications for reviews and complaints. Our aim is to develop an efficient and productive casework management system that allows all parties to have a clear understanding of the roles and responsibilities of the OIC, agencies and applicants.

We started work on a casework process and will continue to develop this in response to demands on the team.

In all dealings with stakeholders' enquiries, requests for reviews and complaints, if an immediate reply is not possible or appropriate we will provide an expected date for our response or the next action. We aim to keep parties informed and involved in their matters.

## Plans for 2010

Our focus for 2010 – 2011 is to establish an independent team that works with agencies and the public to encourage cooperative and productive approaches to open government. We will consider the capacity and needs of all stakeholders when developing our procedures, with a focus on keeping stakeholders informed through each phase of a process. Another priority for the team is to give stakeholders the opportunity to be involved in OIC processes, providing them specifically with the chance to respond to preliminary findings. We also hope to have building blocks for our internal casework management system in place by the end of 2010.

**'our focus is to establish an independent team that works with agencies and the public to encourage open government'**

## Performance report – how we are working to achieve our mission

The entire staff of the OIC has carried out work this year to address all elements of our mission – promote, assist, review, feedback.

### 1 promote

Promoting the state's right to information reforms to government agencies, the community and the media is one of the OIC's key priorities. In order to prepare to implement the GIPA Act, government agencies required an understanding of their responsibilities under the new law. Similarly, members of the public, the non-government sector and the media needed to understand both the benefits of the new system and the best ways to access government information once the Act commences.

The OIC's promotion activities are primarily the responsibility of the Policy and Good Practice Team, with additional support from other OIC staff. The key achievements under this element of our mission have included:

- developing and implementing the OIC's comprehensive communication and stakeholder engagement strategies
- creating the OIC's visual identity and tagline "promoting open government", supported by accessible and clear language and presentation
- establishing the website ([www.oic.nsw.gov.au](http://www.oic.nsw.gov.au)) and free call information line (1800 INFOCOM) as a public contact point
- developing an information brochure available in alternative formats and in 39 community languages, with more than 60,000 copies distributed across the state to community centres
- communicating regularly with NSW state government, local council, university, state-owned corporations and NGO agency staff via email updates
- preparing a range of presentations and informative materials for agencies, the media and the public, all available on the OIC website
- conducting briefings and training sessions for the key target groups of agency heads, FOI practitioners (who are now known as Right to Information Officers), the media and local government
- operating an OIC information booth in Martin Place Sydney as part of Law Week 2010
- planning a 'Right to Information Roadshow', which begins in August 2010 and will see the Information Commissioner visit regional centres and locations in greater Sydney to engage with agencies, local government, community groups, local media and the public about right to information reforms.

## Our performance

In the coming year, we plan to continue our public engagement strategy through media and print advertising campaigns designed to raise awareness about individuals' new rights to accessing government information.

Government agencies, individuals and community organisations and the media will also be encouraged to subscribe to a monthly electronic newsletter to be developed in late 2010. The aim of this publication will be to communicate the latest developments in the NSW right to information system directly to our stakeholders. The benefits of such direct engagement with stakeholders will be measured by increased public awareness and understanding of individuals' rights to access government information and the role played by the OIC as a champion of open government. NSW government agencies will benefit from the continued support and advice of OIC staff through the roadshow and the newsletter. We aim to create more resources for agencies, the public and the media as stakeholder engagement helps us to continue to monitor emerging issues with the implementation of the GIPA Act. Creating opportunities to share examples of good practice will be a focus in many of our planned activities.

### Speaking engagements

Registers have been established and maintained for all requests for OIC speakers or training assistance. Since this register was established in May 2010, all requests have been met.

The Information Commissioner and other key OIC staff delivered 14 speaking engagements between May and June 2010.

Stakeholders addressed include:

- FOI/Practitioners Network
- Ministerial staff
- Directors General and heads of agencies in organisations including the Department of Human Services, Department of Services, Technology and Administration, and Department of Environment, Climate Change and Water
- Catchment Management Authorities business managers
- Various legal firms
- Internal auditors from Sydney and regional local councils
- Metropolitan Councils Risk Management Group
- Journalists from Fairfax and Network Ten.



*The OIC staged a display at Law Week in Martin Place in May 2010 to kick off its public awareness campaign.*

### Railcorp training popular with staff

State government agencies across NSW staged a range of activities to prepare for the GIPA Act to take effect on 1 July and promote the new law.

Railcorp embraced the challenge with a two-month training blitz for staff to ensure they understood their responsibilities under the new legislation.

Communications Director Matthew Vane-Tempest says more than 300 staff took part in training sessions between May and June 2010.

“The training sessions, run by Railcorp’s FOI coordinator Ann Gibson and her team, provided agency staff with a comprehensive overview of how the new legislation would impact on their work,” he says.

“Staff also took the opportunity to ask questions about how they could ensure they complied with the GIPA Act when responding to requests for information.”

The sessions proved so popular that the program was extended to accommodate the large number of staff who wanted to attend.

Mr Vane-Tempest says material the OIC created for government agencies was valuable in planning the training sessions and participants were encouraged to visit the OIC website for additional assistance.

## 2 assist

### 'we are helping agencies deliver the benefits of greater and simpler access to government information'

Both the Policy and Good Practice and Casework and Compliance teams have worked to meet the 'assist' function as stated in our mission during the reporting period. Policy and Good Practice maintains the OIC's website as its key information channel. The team also provided information to stakeholders in the form of frequently asked questions, knowledge updates, sample letters and documents and templates designed to help agencies comply with the GIPA Act and to help the public understand their right to access government information.

In addition, the Casework and Compliance team developed a self-assessment checklist and a compliance guide that have been provided to agencies and are available on the OIC website.

In the early days of our operation we have focused strongly on our 'assist' function, demonstrating our commitment to helping agencies deliver the benefits of greater and simpler access to government information for the public. We believe that this will lay a good foundation for our subsequent reviews of agency compliance and to reinforce the cultural change at the heart of achieving the right to information reforms.

The Information Commissioner places great emphasis on the 'cultural change' dimension of our role. The consistent message to agency heads emphasises the value of the new right to information system as part of the suite of good administrative practices such as effective record-keeping, use of technology to inform and engage citizens, and heightened transparency of resource management and decision-making through open access to information. The OIC believes that the service focus and enhanced accountability that will flow from greater access to government information can only serve to strengthen public confidence in the machinery of government.

One major system initiated under the leadership of Maureen Tangney, who acted as Information Commissioner from November 2009 until the appointment of Deirdre O'Donnell, is the development of a web-based reporting tool for gathering data to report on individual agency performance and the overall operation of the GIPA Act. This reporting tool is being developed by the OIC in partnership with the Roads and Traffic Authority (RTA), and will be made available free for all agencies by late July 2010. It will provide a secure and simple way to capture data that agencies are required to keep and that will allow them to

track formal access applications. This will be a significant benefit to agencies to help them transition to a new and simpler mode of operation, post-FOI. We are pleased that the extensive development activity undertaken by the OIC in partnership with the RTA is set to deliver this benefit to the NSW public sector.

### Assisting agencies

In its first year of operation, the OIC provided a significant amount of advice to agencies to assist them to prepare for the GIPA Act. Specifically, we:

- informed the Directors General of each super department of the impact of the new legislation and outlined the OIC's role to help agencies prepare for the commencement of the GIPA Act
- provided regular updates from the Information Commissioner with advice and resources to help agencies prepare for the new legislation
- answered in excess of 500 email, written and phone enquiries from state government agencies, local councils, universities, state-owned corporations and public authorities
- provided written advice to the 32 agencies that submitted their publication guides to the Information Commissioner prior to 30 June 2010
- identified information needs and produced appropriate resources tailored to those needs, such as:
  - knowledge updates providing agencies with more information on specific aspects of the GIPA Act
  - compliance checklists to assist agencies to fulfil their obligations under the GIPA Act
  - a comprehensive list of frequently asked questions
  - 30 templates to help agencies process formal applications for access to information under the GIPA Act
  - e-learning modules for agencies
  - sample web pages demonstrating examples of open access information.

A number of meetings were held with FOI practitioners from various agencies to discuss implementation plans and roll-out issues. Various presentations were also made to agencies and practitioners on request.

Following her appointment in May 2010, the Information Commissioner met with the executive units of a number of super departments. The OIC attended meetings of the FOI/Privacy Practitioners' Network, with Judge Taylor and Maureen Tangney each presenting on different occasions as Acting Information Commissioner, while the Policy and Good Practice manager and the Information Commissioner delivered presentations at two subsequent meetings.

# Our performance

## Resource set to benefit agencies



*Working together: the RTA project team Vicky Zolotas, Jenny Tran, Rob Hanson and Niamh Birthistle.*

The OIC and the Roads and Traffic Authority (RTA) joined forces to develop a resource to help government agencies capture data on formal applications under the GIPA Act.

Policy and Good Practice manager Shirley Southgate says the resource was identified early on as a key priority.

“From the time the OIC began to operate, it was clear that one of the greatest needs in evaluating the accessibility of government information was the availability of accurate, consistent data from all NSW agencies on the processing of formal access applications,” Ms Southgate says.

“While the annual reporting requirements would be set out in the regulations to the GIPA Act, the capacity to easily and accurately fulfil those requirements varied enormously across state and local government agencies.

“Some agencies would be easily able to manage these requirements. Others would struggle to do so, and that risked compromising the quality of the available data.”

A solution was needed to help agencies manage their formal information access applications, and comply with the reporting requirements, while also ensuring the OIC had reliable data to carry out its functions.

“We decided to develop a case-management and reporting tool that would be made freely available to all agencies,” Ms Southgate says.

A nation-wide research exercise identified the NSW RTA’s system for processing FOI applications as the best model for the OIC resource as the RTA handled the greatest number of FOI applications by far of any NSW government agency. Once the system requirements had been determined, the OIC and the RTA were able to enter into a memorandum of understanding to jointly develop the GIPA case management and reporting tool.

Ms Southgate commended the RTA project team for its outstanding contribution to the development of the resource.

“Their hard work, enthusiasm and expertise has seen the work progress quickly on a resource that is certain to benefit government agencies across the state,” she says.

RTA project manager Vicky Zolotas says the RTA welcomed the opportunity to work with OIC to develop and deploy a tool that the whole of the NSW government sector could use.

“The development of a single central application for use by the NSW government agencies was the most efficient and cost-effective way to meet the requirement of capturing, storing and reporting on the GIPA data,” Ms Zolotas says.

“The OIC and RTA teams worked productively together and the joint dedication and commitment resulted in the successful delivery of the GIPA tool within the proposed timeframe.”

The GIPA case management and reporting tool was released on schedule in late July 2010.



## Training

We developed and implemented an interim training strategy in January 2010 that outlines the training and guidance materials available to our stakeholders and is available on the OIC website. The strategy was developed through consultation with external trainers such as Megan Carter, Philip Youngman and the Crown Solicitor's Office, especially Anina Johnson. Learning and development professionals from within DJAG also helped inform the strategy.

A comprehensive review of the interim training strategy has been undertaken following commencement of the GIPA Act and a final learning and development strategy document will be available when our 2010 – 2011 business plan is finalised.

A list of external providers delivering training in the GIPA Act is maintained by the OIC and is available on request.

## E-learning resources

An introductory presentation on the GIPA Act was developed and published on the OIC website alongside an e-learning package for agencies introducing the GIPA Act and providing a guide to key responsibilities.

More targeted e-learning packages were made available in August 2010 including:

- detailed information for the public and non-government agencies on how to access rights to government information
- detailed information for agencies on managing the public's right to government information
- specific responsibilities for local government.

Train the trainer packages for target audiences are also planned for a number of government employees. These include frontline staff, right to information officers, employees responsible for the records management function, staff responsible for communications and information technology functions related to managing agency websites.

## Sector-specific assistance

While the OIC provides general advice and assistance to all agencies about their obligations under the GIPA Act, we also provided specific assistance to some sectors. For example, the GIPA Act includes Ministers and their staff as agencies for the purposes of the Act. To help Ministerial staff understand their responsibilities as agencies under the GIPA Act, we conducted two briefing sessions in June 2010.

The OIC also paid particular attention to the information needs of local councils as holders of significant amounts of government information. Schedule 5 to the GIPA Act, which is now part of the GIPA Regulation, contained

an extensive list of additional open access information that local councils must make publicly available on their websites and at council offices. These requirements expand upon the disclosure provisions in section 12 of the *Local Government Act 1993* (NSW), which the GIPA Act repealed and replaced on 1 July 2010. Information that must be made available includes codes of practice, financial reports, management plans, minutes of meetings, information relating to development applications, approvals, orders and other documents. The OIC received a number of enquiries from councils concerning the nature and type of information that must be disclosed, and how to manage the disclosure on their websites.

The OIC also provided advice to Local Government Managers Australia (NSW) on a regular basis, and to the Local Government Shires Association. Our staff attended two conferences held by local government records managers to address the specific impact the new legislation would have on local government records managers.

The OIC helped clarify the operation of the GIPA Act in particular respects, publishing advice specific to local government. A feature story on page 26 demonstrates our work with Local Government Managers Australia (NSW) to publish guidelines for local government.

## Assisting the community

The OIC engaged in a number of initiatives to help the public and non-government organisations to understand their new rights. We produced a range of resources including:

- fact sheets explaining the various facets of right to information reforms in NSW
- a PowerPoint presentation and an e-learning package explaining how to access government information under the GIPA Act
- a brochure entitled *Your rights to government information are changing*, produced in hard copy, online, and translated into 39 community languages.

The OIC also conducted information sessions for a number of non-government organisations, including:

- the Homeless Persons' Legal Service
- Sydney Legal Counsel conference.

## Our performance

### Helping NGOs to help their clients

This year the OIC has helped a wide range of community organisations prepare for the commencement of the GIPA Act.

Like many non-government organisations, the Homeless Persons' Legal Service (HPLS) plays a vital role in helping their clients access information from government departments.

The HPLS provides free legal advice and ongoing representation to people who are homeless or at risk of homelessness.

A substantial portion of the work of HPLS involves accessing information on behalf of clients from government agencies using provisions of the access to information legislation.

HPLS coordinator Julie Hourigan Ruse (pictured) says the OIC's assistance has proved valuable in preparing for the new legislation.

"In May 2010, Shirley Southgate, manager of the OIC's Policy and Good Practice team, conducted a training session for HPLS solicitors on the *Government Information (Public Access) Act 2009 (NSW)*," she says.

"The session highlighted how information could be accessed under GIPA; exposed differences with the former Freedom of Information system; and demonstrated practical examples of open access to information."

Ms Hourigan Ruse says she expects the relationship between HPLS and the OIC to benefit her clients when the GIPA Act takes effect.

The HPLS is funded by the NSW Public Purpose Fund through the support of the NSW Attorney General. It was established in 2003 by the Public Interest Advocacy Centre and the Public Interest Law Clearing House NSW.



HPLS coordinator Julie Hourigan Ruse.

### 3 review

In the lead-up to the commencement of the GIPA Act, much of the work done on the 'review' component of our mission was to develop procedures to investigate complaints and conduct reviews into agencies' compliance with the legislation.

As anticipated, initial complaints began arriving in August 2010, following the GIPA Act's first month of operation. In preparation, the Casework and Compliance team defined and researched an appropriate case-management system for use by the OIC. In this endeavour, we are building strong and useful links with other oversight agencies, such as the NSW Ombudsman, the Queensland Information Commissioner and the Commonwealth Information Commissioner Designate, as well as our New Zealand colleagues.

The OIC's reviews and investigations will be conducted with a view to reinforcing cultural change by involving agencies in the process as much as possible while maintaining the OIC's independence. To best meet the needs of stakeholders we will manage their expectations from the beginning, ensuring initial contact with applicants clearly states:

- what we do
- what we don't do
- our expected timelines
- when/how/why we reach the end of our process.

The Casework and Compliance team aims to deal with all matters from beginning to end within 60 working days, so as to accommodate any complications and delays arising in dealings with applicants and agencies. However, this initial timeframe will be monitored to ensure it is fair to all parties, as well as being efficient and effective.

As review work increases the Casework and Compliance team aims to recruit more review officers and another information and assistance officer. The team will also recruit a principal review officer.

'much work has been done to develop procedures to investigate and review agencies' compliance'

## 4 feedback

Under section 17(h) of the GIPA Act, the Information Commissioner has the function of making reports and providing recommendations to the Minister responsible for the Act about proposals for legislative and administrative changes to further the objectives of the Act. This is part of our feedback function, and we look forward to providing relevant, evidence-based feedback about the Act following its first year of operation.

The OIC also values feedback as a mechanism to drive improvements in the way we work and assist agencies and the public.

In the 2009 – 2010 reporting period, we established links with Local Government Managers Australia (NSW). This network provided a comprehensive issues register, highlighting areas of concern for councils, for which we provided a range of solutions. This feedback also informed the development of several resources we produced for agencies and members of the public.

As the OIC began its public awareness campaign, we experienced an increasing level of contact from agencies and the public. The OIC maintained a record of questions, concerns and feedback and tracked key issues and recurring themes. From this we were able to produce tools and resources for agencies and the community, including knowledge updates, fact sheets, presentations, e-learning, checklists, compliance material and frequently asked questions.

The OIC also used the GIPA legislation and information contained in the NSW Ombudsman's report, *Opening up government: Review of the Freedom of Information Act 1989 – A special report to Parliament under s.31 of the Ombudsman Act 1974*, to inform and guide the way in which we developed our procedures and resources for assisting agencies and the public.

Key links have been established between the OIC and the state government CEO network. Work has also been conducted to engage Ministerial staff across all portfolios. These relationships form a strong basis for effective communication about the right to information reforms across government.

To keep abreast of issues, the Information Commissioner has actively participated in the national Information Commissioner network, which presently comprises the Commonwealth, Queensland, Western Australia, Tasmania, South Australia, the Northern Territory and NSW.

The Joint Committee on the Ombudsman and Police Integrity Commission will continue to play an important role, with its specific function to review the public interest provisions of the Act.

The OIC has a number of channels for receiving feedback from agencies and the public. We operate a free information line 1800 INFOCOM (1800 463 626) and have a general email address. The OIC's office is also open to the public from Monday to Friday from 9am to 5pm.

We continue to use feedback received over the phone and in person, via email, from training sessions and presentations to inform the development of resources to assist agencies and the public. In 2010 – 2011 we plan to develop an online feedback form on the OIC website, which will enable stakeholders to submit enquiries, share information or raise concerns about right to information in NSW.

**'as the OIC began its public awareness campaign, we experienced an increasing level of contact from agencies and the public'**

# Our performance

## Council recognises OIC support

The OIC has been working to help local councils prepare for the commencement of the GIPA Act and so far the results look good.

With its emphasis on proactive release of information, the new legislation brings changes to the way councils publish information and the type of information they release.

Providing resources for local government to ensure agencies comply with the new legislation is a key focus for the OIC.

Blacktown City Council's Governance Services coordinator Ken Marsh says a working party comprising members of Local Government Managers Australia (LGMA) was established late in 2009.

"The OIC volunteered a staff member to be a contact person to liaise with the working party and to provide answers to any matters raised via an 'issues log'," Mr Marsh says.

He gives the example of the annual returns made by councillors and designated persons on their disclosures of pecuniary interests and other items required under the *Local Government Act 1993*.

The personal details featured in these documents meant that the GIPA Act's focus on proactively releasing information through council websites raised significant privacy issues.

"Through the excellent contacts at the OIC, the issue has been resolved to the point where a *GIPA Act Guidelines 1: local councils* was issued by the OIC," Mr Marsh says.

"The guidelines advise councils, among other things, that the information contained in the returns should not be placed on the website of the local council, but should still be made available for inspection."

Mr Marsh says the working party appreciated the efforts of the OIC staff who became the contacts for councils throughout NSW.

"Many of the questions asked and issues raised were quickly resolved by the OIC staff or were able to be debated to the point where the unique circumstances of the GIPA Act impacting on councils were understood and addressed," he says.

The OIC has also consulted council representatives about new materials produced specifically for local government.

"Council staff are grateful for this mentoring role adopted by the Information Commissioner Ms Deirdre O'Donnell and her excellent staff," he says. "It is essential that it continue."



*Blacktown City Council Governance Services coordinator Ken Marsh.*

## Our financial performance

The OIC began operations in July 2009. The initial set-up of the OIC included the provision of accounts payable processing by DJAG. This may result in the delayed payment of some accounts. The OIC in conjunction with DJAG 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) for payment of creditors
- payment of major suppliers, such as Australia Post, Corporate Express and electricity suppliers by way of consolidated billing
- amalgamation of processing and payment functions as part of ongoing corporate services reform.

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. There were no instances of penalty interest for late payment during the year ended 30 June 2010.

### Budget outline for 2010 – 2011

<b>Recurrent funding</b>	<b>\$000</b>
Employee-related expenses	2,913
Operating expenses	987
Depreciation and amortisation	66
<b>Total recurrent funding</b>	<b>3,966</b>
<b>Capital funding</b>	
Minor capital works	500
<b>Total capital works</b>	<b>500</b>
<b>Total budget</b>	<b>4,466</b>

### Accounts performance for year ended 30 June 2010

<b>Quarter</b>	<b>Target</b>	<b>Actual %</b>	<b>Current \$000</b>	<b>Total payments \$000</b>
September 2009	100%	n/a	n/a	n/a
December 2009	100%	100%		
March 2010	100%	100%		
June 2010	100%	100%		
Aggregate	100%	100%		

### Credit card certification

The OIC did not have a corporate credit card for the period of this report.

# Our financial performance

## Contents

Statement by the Information Commissioner	28
Independent auditor's report	29
Statement of comprehensive income	31
Statement of financial position	32
Statement of changes in equity	33
Statement of cash flows	34
Summary of compliance with financial directives	35
Notes to and forming part of the financial report	36

## Statement by the Information Commissioner

### Financial report for the period 17 July 2009 to 30 June 2010

Pursuant to Section 45F of the *Public Finance and Audit Act, 1983*, I state that:

1. The accompanying financial report exhibits a true and fair view of the financial position of the Office of Information Commissioner as at 30 June 2010 and transactions for the year then ended.
2. The financial report has been prepared in accordance with the provisions of the *Public Finance and Audit Act, 1983*, the *Public Finance and Audit Regulation 2000* and the Treasurer's Directions.

Further I am not aware of any circumstances which would render any particulars included in the financial report to be misleading or inaccurate.



**Deirdre O'Donnell**  
Information Commissioner

26 October 2010

# Independent auditor's report



GPO BOX 12  
Sydney NSW 2001

## INDEPENDENT AUDITOR'S REPORT

Office of the Information Commissioner

To Members of the New South Wales Parliament

I have audited the accompanying financial statements of Office of the Information Commissioner (the Office), which comprise the statement of financial position as at 30 June 2010, the statement of comprehensive income, statement of changes in equity, statement of cash flows, and a summary of compliance with financial directives for the period 17 July 2009 to 30 June 2010, a summary of significant accounting policies and other explanatory notes.

### Auditor's Opinion

In my opinion, the financial statements:

- present fairly, in all material respects, the financial position of the Office as at 30 June 2010, and its financial performance for the period 17 July 2009 to 30 June 2010 in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations)
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (the PF&A Act) and the Public Finance and Audit Regulation 2010.

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

### Information Commissioner's Responsibility 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 (including the Australian Accounting Interpretations) and the PF&A Act. This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

### Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. I conducted my audit in accordance with Australian Auditing Standards. These Auditing Standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

## Our financial performance

### Independent auditor's report continued

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal controls relevant to the Office's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Office's internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Information Commissioner, as well as evaluating the overall presentation of the financial statements.

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

My opinion does *not* provide assurance:

- about the future viability of the Office
- that it has carried out its activities effectively, efficiently and economically
- about the effectiveness of its internal controls.

#### Independence

In conducting this audit, the Audit Office of New South Wales has complied with the independence requirements of the Australian Auditing Standards and other relevant ethical requirements. The PF&A Act further promotes independence 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 but precluding the provision of non-audit services, thus ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their role by the possibility of losing clients or income.



C J Giumelli  
Director, Financial Audit Services

27 October 2010  
SYDNEY



## Statement of comprehensive income

For the period 17 July 2009 to 30 June 2010

	Notes	Actual 17/7/2009 – 30/6/2010 \$
<b>Expenses</b>		
Operating expenses		
Employee-related expenses	2(a)	793,724
Other operating expenses	2(b)	1,105,590
Depreciation and amortisation	2(c)	7,417
<b>Total expenses excluding losses</b>		<b>1,906,732</b>
<b>Revenue</b>	3	
		0
<b>Total revenue</b>		0
<b>Gain/(loss) on disposal</b>	4	0
<b>Net cost of services</b>		<b>1,906,732</b>
<b>Government contributions</b>		
Recurrent appropriation	5	1,078,369
Capital appropriation	5	205,617
Acceptance by the Crown Entity of employee benefits and other liabilities	6	26,696
<b>Total government contributions</b>		1,310,682
<b>Surplus/(deficit) for the year</b>		<b>(596,050)</b>
Other comprehensive income		0
<b>Total comprehensive income for the year</b>		<b>(596,050)</b>

The accompanying notes form part of these financial statements.

# Our financial performance

## Statement of financial position

As at 30 June 2010

	Notes	Actual as at June 2010 \$
<b>Assets</b>		
<b>Current assets</b>		
Cash assets	7	2,070,226
Receivables	8	134,696
<b>Total current assets</b>		<b>2,204,922</b>
<b>Non-current assets</b>		
Receivables	8	0
Plant and equipment		
Plant and equipment	9	296,676
Total plant and equipment		296,676
Intangible assets	10	438,434
<b>Total non-current assets</b>		<b>735,110</b>
<b>Total assets</b>		<b>2,940,032</b>
<b>Liabilities</b>		
<b>Current liabilities</b>		
Payables	11	1,241,467
Provisions	12	89,616
Other	13	2,205,000
<b>Total current liabilities</b>		<b>3,536,083</b>
<b>Non-current liabilities</b>		
Provisions	12	0
<b>Total non-current liabilities</b>		0
<b>Total liabilities</b>		<b>3,536,083</b>
<b>Net assets (liabilities)</b>		<b>(596,050)</b>
<b>Equity</b>		
Accumulated funds		(596,050)
<b>Total equity</b>		<b>(596,050)</b>

The accompanying notes form part of these financial statements.

## Statement of changes in equity

For the period 17 July 2009 to 30 June 2010

	Notes	Accum funds \$
<b>Balance as at 17 July 2009</b>		<b>0</b>
<b>Surplus/(deficit) for the year</b>		(596,050)
<b>Other comprehensive income</b>		0
<b>Total other comprehensive income</b>		0
<b>Transaction with owners in their capacity as owners</b>		0
<b>Balance as at 30 June 2010</b>		<b>(596,050)</b>

*The accompanying notes form part of these financial statements.*

# Our financial performance

## Statement of cash flows

For the period 17 July 2009 to 30 June 2010

	Notes	Actual 17/7/2009 – 30/6/2010 \$
<b>Cash flows from operating activities</b>		
<b>Payments</b>		
Employee-related expenses		(504,591)
Other expenses		(709,011)
<b>Total payments</b>		<b>(1,213,601)</b>
<b>Receipts</b>		
Proceeds from sale of assets		0
Other receipts		0
<b>Total receipts</b>		0
<b>Cash flows from government</b>		
Recurrent appropriation		2,716,000
Capital appropriation		772,986
<b>Net cash flows from government</b>		3,488,986
<b>Net cash flows from operating activities</b>	14	<b>2,275,384</b>
<b>Cash flow from investing activities</b>		
Proceeds from sale of investments		0
Purchases of plant, equipment and intangibles		(205,158)
Purchases of investments		0
<b>Net cash from investing activities</b>		<b>(205,158)</b>
<b>Cash flows from financing activities</b>		
Repayment of borrowings and advances		0
<b>Net cash flows from financing activities</b>		0
<b>Net increase/(decrease) in cash</b>		2,070,226
Opening cash and cash equivalents		0
<b>Closing cash and cash equivalents</b>		<b>2,070,226</b>

The accompanying notes form part of these financial statements.

## Summary of compliance with financial directives

For the period 17 July 2009 to 30 June 2010

Supplementary financial statements

	2010 Recurrent appropriation \$	2010 Expenditure/ net claim on consol. fund \$	2010 Capital appropriation \$	2010 Expenditure/ net claim on consol. fund \$
<b>Original budget</b>				
<b>Appropriation/expenditure</b>				
* Appropriation Act	0	0	0	0
* Additional appropriations				
* S21A PF and AA – special appropriation	0	0	0	0
* S24 PF and AA – transfers of functions between departments	0	0	0	0
* S26 PF and AA Commonwealth specific purpose payments	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Other appropriations/expenditure</b>				
* Treasurer's Advance	2,721,000	1,078,369	1,476,000	205,617
* Section 22 – expenditure for certain works and services	0	0	0	0
* Transfers to/from another agency (section 28 of the Appropriation Act)	0	0	0	0
<b>Total</b>	<b>2,721,000</b>	<b>1,078,369</b>	<b>1,476,000</b>	<b>205,617</b>
<b>Total appropriation/expenditure/net claim on consolidated fund (incl. transfer payments)</b>	<b>2,721,000</b>	<b>1,078,369</b>	<b>1,476,000</b>	<b>205,617</b>
<b>Amount drawn down against appropriation</b>		<b>2,716,000</b>		<b>772,986</b>
<b>Liability to consolidated fund</b>		<b>1,637,631</b>		<b>567,369</b>

The summary of compliance is based on the assumption that consolidated fund moneys are spent first (except where otherwise identified or prescribed).

The liability to consolidated fund represents the difference between the amount drawn down against appropriation and the total expenditure/net claim on consolidated fund.

# Our financial performance

## 1 Summary of significant accounting policies

### (a) Reporting entity

The Information Commissioner is appointed under section 4 of the *Government Information (Information Commissioner) Act 2009* (GIIIC Act). Section 12 of the GIIIC Act provides that staff of the Commissioner are employed under chapter 1A of the *Public Sector Employment and Management Act 2002*.

The role of the Information Commissioner is set out in section 17 of the *Government Information (Public Access) Act 2009* (GIPA Act). In essence, the Office is responsible for:

- 1) promoting public awareness and understanding of the GIPA Act and to promote the object of this Act
- 2) assisting agencies with their functions under the GIPA Act.

The Office of the Information Commissioner is a NSW government department. The Office is a not-for-profit entity (as profit is not its principal objective) and it has no cash generating units. The reporting entity is consolidated as part of the NSW Total State Sector Accounts. It is required to comply with the Financial Reporting Code.

These financial statements for the period from 17 July 2009 to 30 June 2010 have been authorised by the Information Commissioner on 26 October 2010.

### (b) Basis of preparation

The office's financial statements are a general purpose financial report which has been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), other authoritative pronouncements of the Australian Accounting Standards Board (AASB), the requirements of the *Public Finance and Audit Act 1983* and *Regulation 2000*, and the Treasurer's Directions.

Property, plant and equipment and NSW Treasury Corporation (TCorp) Hour Glass Investments Facilities are measured at fair value.

Judgements, key assumptions and estimations that management has made, are disclosed in the relevant notes to the financial report.

All amounts are rounded to the nearest dollar and are expressed in Australian currency.

No comparatives are shown as the office commenced operations on 17 July 2009.

The funding for the office was made via a Treasurer's Advance under the *Appropriation (Budget Variations) Act 2010*. Therefore, no budget amounts are shown in the

financial report as directed by the Financial Reporting Code for Budget Dependent General Government Sector Agencies.

The financial statements have been prepared on a going concern basis, despite the fact that for the period 17 July 2009 to 30 June 2010 the office has reported net liabilities and a deficit of \$596,050. NSW Treasury has indicated that it will fund the operations of the Office by appropriations.

### (c) Statement of compliance

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

### (d) Property, plant and equipment

#### (i) Acquisition of assets

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by the office. 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 Australian Accounting Standards.

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

Fair value is the amount for which an asset could be exchanged between knowledgeable, willing parties in an arm's length transaction.

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 at an asset-specific rate.

#### (ii) Capitalisation threshold

Property, plant and equipment and intangible assets costing \$3,000 and above individually (or forming part of an IT network costing more than \$3,000) are capitalised.

#### (iii) Revaluation of property, 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* (TPP 07-1). This policy adopts fair value in accordance with AASB 116 *Property, Plant and Equipment*.

Plant and equipment are measured on an existing use basis, where there are no feasible alternative uses in the existing natural, legal, financial and socio-political environment. However, in the limited circumstances where there are feasible alternative uses, assets are valued at their highest and best use.

Fair value of plant and equipment is determined based on the best available market evidence, including current market selling prices for the same or similar assets. Where there is no available market evidence, the asset's fair value is measured at its market buying price, the best indicator of which is depreciated replacement cost.

The office will revalue each class of plant and equipment at least every five years or with sufficient regularity to ensure that the carrying amount of each asset in the class does not differ materially from its fair value at reporting date.

Non-specialised assets with short useful lives are measured at depreciated historical cost, as a surrogate for fair value.

When revaluing non-current assets by reference to current prices for assets newer than those being revalued (adjusted to reflect the present condition of the assets), the gross amount and the related accumulated depreciation are separately restated.

For other assets, any balance of accumulated depreciation at the revaluation date in respect of those assets are credited to the asset accounts to which they relate.

The net asset accounts are then increased or decreased by the revaluation increments or decrements.

Revaluation increments are credited directly to the asset revaluation reserve, except that, to the extent that an increment reverses a revaluation decrement in respect of that class of asset previously recognised as an expense in the surplus/deficit, the increment is recognised immediately as revenue in the surplus/deficit.

Revaluation decrements are recognised immediately as expenses in the surplus/deficit, except that, to the extent that a credit balance exists in the asset revaluation reserve in respect of the same class of assets, they are debited directly to the asset revaluation reserve.

As a not-for-profit entity, revaluation increments and decrements are offset against one another within a class of non-current assets, but not otherwise.

Where an asset that has previously been revalued is disposed of, any balance remaining in the asset revaluation reserve in respect of that asset is transferred to accumulated funds.

#### **(iv) Impairment of plant and equipment**

As a not-for-profit entity with no cash generating units, the office is effectively exempted from AASB 136 *Impairment of Assets* and impairment testing. This is because AASB 136 modifies the recoverable amount test to the higher of fair value less costs to sell and depreciated replacement cost. This means that, for an asset already measured at fair value, impairment can only arise if selling costs are material. Selling costs are regarded as immaterial.

## **(e) Depreciation/amortisation of property, plant and equipment**

Depreciation is provided for on a straight-line basis for all depreciable assets 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. Land is not a depreciable asset.

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

Computer equipment	25%
Office equipment	20%
Furniture and fittings	10%
Intangible assets – software	25%
Intangible assets – software – major projects	10%

## **(f) Maintenance**

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

## **(g) Intangible assets**

The office recognises intangible assets only if it is probable that future economic benefits will flow to the office 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.

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.

Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the office's intangible assets, the assets are carried at cost less any accumulated amortisation.

The office's intangible assets are amortised using the straight-line method.

In general, intangible assets are tested for impairment where an indicator of impairment exists. However, as a not-for-profit entity with no cash generating units, the office is effectively exempt from impairment testing.

# Our financial performance

## (h) Payables

These amounts represent liabilities for goods and services provided to the office and other amounts, including interest. Payables are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

## (i) Accounting for the Goods and Services Tax (GST)

Revenues, expenses and assets are recognised net of the amount of GST, except where:

- The amount of GST incurred by the agency as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of the cost of acquisition of an asset or part of an item of expenses, and
- Receivables and payables are stated with the amount of GST included.

## (j) Employee-related expenses

- (i) Salaries and wages (including non-monetary benefits), annual leave and paid sick leave that fall due wholly within 12 months of the reporting date – recognised as short-term employee benefits and measured at undiscounted amounts based on the amounts expected to be paid when the liabilities are settled.
- (ii) Long-term annual leave that is not expected to be taken within 12 months – the nominal method has been used as this is not materially different from the present value method as required by AASB 119 *Employee Benefits*.
- (iii) Unused non-vesting sick leave – not recognised, as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.
- (iv) On-costs, such as payroll tax, workers' compensation insurance premiums and fringe benefits tax, which are consequential to employment – recognised as liabilities and expenses where the employee benefits to which they relate have been recognised.
- (v) The office's liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity.

(vi) 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 (ie. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (ie. State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

(vii) Other provisions exist when the office has a present legal or constructive obligation as a result of a past event, it is probable that an outflow of resources will be required to settle an obligation, and a reliable estimate can be made of the amount of the obligation.

## (k) Income recognition

Income is measured at the fair value of the consideration or contribution received or receivable. Additional comments regarding the accounting policies for the recognition of income are discussed below.

### *Parliamentary appropriations and contributions*

Parliamentary appropriations are generally recognised as income when the office obtains control over the assets comprising the appropriations/contributions. Control over appropriations and contributions is normally obtained upon the receipt of cash.

An exception to the above is when appropriations are unspent at year end. In this case, the authority to spend the money lapses and generally the unspent amount must be repaid to the consolidated fund in the following financial year. As a result, unspent appropriations are accounted for as liabilities rather than revenue.

## (l) Impairment of financial assets

All financial assets are subject to an annual review for impairment. An allowance for impairment is established when there is objective evidence that the entity will not be able to collect all amounts due.

Any reversals of impairment losses are reversed through the income statement, where there is objective evidence. Reversal of impairment losses of financial assets carried at amortised cost cannot result in a carrying amount that exceeds what the carrying amount would have been had there not been an impairment loss.



## **(m) Receivables**

Receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. These financial assets are recognised initially at fair value, usually based on the transaction cost or face value. Short-term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

## **(n) New Australian Accounting Standards issued but not effective**

At the reporting date, a number of Accounting Standards adopted by the AASB had been issued but are not yet adopted as per NSW Treasury Circular TC 10/08:

- AASB 9 and AASB 2009-11 regarding financial instruments
- AASB 2009-5 regarding annual improvements
- AASB 2009-8 regarding share-based payments
- AASB 2009-9 regarding first time adoption
- AASB 2009-10 regarding classification of rights
- AASB 124 and AASB 2009-12 regarding related party transactions
- Interpretation 19 and AASB 2009-13 regarding extinguishing financial liability with equity instruments
- AASB 2009-14 regarding prepayments of a minimum funding requirement
- AASB 2010-1 regarding AASB 7 comparatives for first-time adopters.

# Our financial performance

## 2 Expenses excluding losses

### (a) Employee-related expenses

	17/7/2009 – 30/6/2010 \$
Salaries and salary-related expenses	652,784
Recreation leave	59,028
Payroll tax and FBT	25,373
Superannuation – Defined Contribution Plan	29,843
LSL liability assumed by Crown	26,696
<b>Total</b>	<b>793,724</b>

### (b) Other operating expenses include the following:

	17/7/2009 – 30/6/2010 \$
Administration fees *	774,444
Advertising and publicity	83,758
Legal services	14,331
Miscellaneous fees	1,969
Auditor's remuneration – audit of financial report	13,200
Insurance – public liability	20,000
Rental	90,660
Printing	22,485
Postage and freight	3,164
Telephone	5,904
Computer-related expenses	13,534
Stores cost	24,728
Minor equipment	3,914
Staff training and other expenses	8,996
Travel	5,325
Miscellaneous	19,177
<b>Total</b>	<b>1,105,590</b>

\* 2009/10 was the set up year for the OIC. A key element of the setup and support mechanism was a specific allocation of \$366,000 to fund corporate support services provided by the Department of Justice and Attorney General.

### (c) Depreciation and amortisation expense

	17/7/2009 – 30/6/2010 \$
Computer equipment	3,427
Furniture and fittings	122
Office equipment	0
Voice communications	987
Plant and equipment	259
Leasehold improvements	2,541
Intangible assets – software	81
<b>Total</b>	<b>7,417</b>

### 3 Revenue

	17/7/2009 – 30/6/2010 \$
Sale of goods and services	0
<b>Total</b>	<b>0</b>

### 4 Gain/(loss) on disposal

	\$
Disposal of assets	
Proceeds from disposal	0
Less: written down value of assets disposed	0
<b>Total</b>	<b>0</b>

# Our financial performance

## 5 Appropriations

	17/7/2009 – 30/6/2010 \$
<b>Recurrent appropriations</b>	
Total recurrent draw-downs from NSW Treasury (per Summary of compliance)	2,716,000
Less:	
Liability to consolidated fund (per Summary of compliance)	(1,637,631)
<b>Total</b>	<b>1,078,369</b>
Comprising:	
Recurrent appropriations (per Statement of comprehensive income)	1,078,369
<b>Total</b>	<b>1,078,369</b>
<b>Capital appropriations</b>	
Total capital draw-downs from NSW Treasury (per Summary of compliance)	772,986
Less:	
Liability to consolidated fund (per Summary of compliance)	(567,369)
<b>Total</b>	<b>205,617</b>
Comprising:	
Capital appropriations (per Statement of comprehensive income)	205,617
<b>Total</b>	<b>205,617</b>

## 6 Acceptance by the Crown Entity of employee benefits and other liabilities

	17/7/2009 – 30/6/2010 \$
The following liabilities and/or expenses have been assumed by the Crown Entity :	
Superannuation	0
Long service leave	26,696
Payroll tax	0
<b>Total</b>	<b>26,696</b>

## 7 Current assets – cash assets

For the purposes of the statement of cash flows, cash includes cash at bank and cash on hand. Cash at the end of the reporting period as shown in the statement of cash flows is reconciled to the related items in the statement of financial position as follows:

	2010 \$
Cash at bank	2,069,726
Cash on hand	500
<b>Closing Cash</b>	<b>2,070,226</b>

## 8 Current/non-current assets – receivables

	2010 \$
<b>Current</b>	
GST receivables	134,696
<b>Total</b>	<b>134,696</b>

- a) All related expenditure and revenue is initially paid/received by the Department of Justice and Attorney General, which then seeks reimbursement from the office.

	2010 \$
<b>Non-Current</b>	
	0
<b>Total</b>	<b>0</b>

## Our financial performance

### 9 Non-current assets – plant and equipment

<b>Plant and equipment</b>	<b>\$</b>
Gross carrying amount	304,012
Less accumulated depreciation	7,336
<b>Total plant and equipment at fair value</b>	<b>296,676</b>

#### Reconciliation

A reconciliation of the carrying amount of each class of plant and equipment during the current financial period is set out below:

	Computer equipment \$	Office equipment \$	Furniture and fittings \$	Voice communications \$
<b>2010</b>				
<b>Gross carrying amount</b>				
Balance at 17 July 2009	0	0	0	0
Additions	55,756	0	4,894	19,740
Disposals	0	0	0	0
<b>Balance at 30 June 2010</b>	<b>55,756</b>	<b>0</b>	<b>4,894</b>	<b>19,740</b>
<b>Accumulated depreciation</b>				
Balance at 17 July 2009	0	0	0	0
Depreciation for the year	3,427	0	122	987
Writeback on disposals	0	0	0	0
<b>Balance at 30 June 2010</b>	<b>3,427</b>	<b>0</b>	<b>122</b>	<b>987</b>
<b>Net carrying amount at fair value</b>				
<b>At 30 June 2010</b>	<b>52,329</b>	<b>0</b>	<b>4,771</b>	<b>18,753</b>

	Plant and equipment \$	Leasehold improvements \$	Total plant and equipment \$	Work in progress \$	Total property, plant and equipment \$
	0	0	0	0	0
	12,824	210,799	304,012	0	304,012
	0	0	0	0	0
	<b>12,824</b>	<b>210,799</b>	<b>304,012</b>	<b>0</b>	<b>304,012</b>
	0	0	0	0	0
	259	2,541	7,336		7,336
			0	0	0
	<b>259</b>	<b>2,541</b>	<b>7,336</b>	<b>0</b>	<b>7,336</b>
	<b>12,565</b>	<b>208,258</b>	<b>296,676</b>	<b>0</b>	<b>296,676</b>

## Our financial performance

### 10 Non-current assets – intangible assets – software

	2010 \$
Gross carrying amount	438,515
Less accumulated depreciation	81
<b>Net carrying amount</b>	<b>438,434</b>
<b>Reconciliation</b>	
A reconciliation of the carrying amount of software during the current financial period is set out below:	
<b>Gross carrying amount</b>	
Balance at 17 July 2009	0
Additions	438,515
Disposals	0
<b>Balance at 30 June 2010</b>	<b>438,515</b>
<b>Accumulated depreciation</b>	
Balance at 17 July 2009	0
Amortisation expense	81
Writeback on disposals	0
<b>Balance at 30 June 2010</b>	<b>81</b>
<b>Net carrying amount at fair value at 30 June 2010</b>	<b>438,434</b>

### 11 Current liabilities – payables

	2010 \$
Monies paid by the Department of Justice and Attorney General on behalf of the Office	873,038
Sundry accruals	368,429
<b>Total</b>	<b>1,241,467</b>



## 12 Current/non-current liabilities – provisions

	2010 \$
<b>Current</b>	
Recreation leave	86,747
Long service leave oncosts	2,868
<b>Total</b>	<b>89,616</b>
<b>Non-current</b>	
Long service leave oncosts	0
Provision for superannuation	0
<b>Total</b>	<b>0</b>

## 13 Current liabilities – other

	2010 \$
Liability to consolidated fund	2,205,000
<b>Total</b>	<b>2,205,000</b>

## 14 Notes to the statement of cash flows

Reconciliation of cash flows from operating activities to net cost of services

	2010 \$
<b>Net cost of services</b>	(1,906,732)
Depreciation	7,417
Other (gains)/losses	0
(Increase)/decrease in receivables and prepayments	(134,696)
Increase/(decrease) in provisions	116,312
Increase/(decrease) in payables	704,098
Net cash flows from government	3,488,986
<b>Net cash flows from operating activities</b>	<b>2,275,384</b>

## 15 Financial instruments

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

## Our financial performance

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

The office 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 being established to identify and analyse the risks faced by the office, to set risk limits and controls and to monitor risks. Compliance with policies will be reviewed by the office on a continuous basis.

### (a) Financial instrument categories

<b>Financial assets</b>	<b>Note</b>	<b>Category</b>	<b>Carrying amount June 2010 \$</b>
<b>Class:</b>			
Cash assets	7	N/A	2,070,226
Receivables <sup>(1)</sup>	8	Receivables at amortised cost	0
<b>Financial liabilities</b>			
<b>Class:</b>			
Payables <sup>(2)</sup>	11	Financial liabilities measured at amortised cost	1,241,467

(1) Excludes statutory receivables and prepayments (ie. not within the scope of AASB 7).

(2) Excludes unearned revenue (ie. not within the scope of AASB 7).

### (b) Credit risk

Credit risk arises when there is the possibility of the office's debtors defaulting on their contractual obligations, resulting in a financial loss to the office. 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 office, including cash and receivables. No collateral is held by the office. The office has not granted any financial guarantees.

#### *Cash*

Cash comprises cash on hand and bank balances. Interest is earned on daily bank balances.

#### *Receivables – trade debtors*

All trade debtors are recognised as amounts receivable at balance date. Collectibility of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letter of demand. Debts which are known to be uncollectible are written off. An allowance for impairment is raised when there is objective evidence that the entity will not be able to collect all amounts due. This evidence includes past experience, and current and expected changes in economic conditions and debtor credit ratings. No interest is earned on trade debtors. Sales are made on 30-day terms.

The office is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors. There are no debtors which are currently not past due or impaired whose terms have been renegotiated.

<b>2010</b>	<b>\$ Total</b>	<b>\$ Past due but not impaired</b>
<3 months overdue	0	0
>3 months < 6 months overdue	0	0
>6 months overdue	0	0

The ageing analysis excludes statutory receivables, as these are not within the scope of AASB 7.

### (c) Liquidity risk

Liquidity risk is the risk that the office will be unable to meet its payment obligations when they fall due. The office continuously manages risk through monitoring future cash flows and maturities planning to ensure adequate holding of high quality liquid assets.

During the current year, there was no default or breach on any loans payable. No assets have been pledged as collateral. The office's exposure to liquidity risk is deemed insignificant based on current assessment of risk.

The 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 Treasurer's Direction 219.01. 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.

The table below summarises the maturity profile of the office's financial liabilities, together with the interest rate exposure.

#### *Maturity analysis and interest rate exposure of financial liabilities*

	Interest rate exposure						
	Weighted average effective int. rate	Nominal amount \$	Variable interest rate	Non-interest bearing \$	Maturity dates		
					<1yr \$	1-5 yrs \$	>5yrs \$
<b>2010</b>							
<b>Financial liabilities</b>							
Payables	0	1,241,467		1,241,467			
		<b>1,241,467</b>		<b>1,241,467</b>	<b>0</b>	<b>0</b>	<b>0</b>

## Our financial performance

### (d) 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 office's exposures to market risk are primarily through interest rate risk on the office's borrowings and other price risks associated with the movement in the unit price of the Hour Glass Investment facilities. The office has no exposure to foreign currency risk and does not enter into commodity contracts.

The effect on operating performance and equity due to a reasonably possible change in risk variable is outlined in the information below, for interest rate risk and other price risk. A reasonably possible change in risk variable has been determined after taking into account the economic environment in which the office operates and the time frame for the assessment (ie. until the end of the next annual reporting period). The sensitivity analysis is based on risk exposures in existence at the balance sheet date. The analysis assumes that all other variables remain constant.

#### *Interest rate risk*

Exposure to interest rate risk arises primarily through the office's interest bearing liabilities. This risk is minimised by undertaking mainly fixed rate borrowings, primarily with NSW TCorp. The office does not account for any fixed rate financial instruments at fair value through profit or loss or as available for sale. Therefore for these financial instruments a change in interest rates would not affect profit or loss or equity. A reasonably possible change of +/- 1% is used, consistent with current trends in interest rates. The basis will be reviewed annually and amended where there is a structural change in the level of interest rate volatility. The office's exposure to interest rate risk is set out below.

		-1%		+1%	
	Carrying amount \$	Profit \$	Equity \$	Profit \$	Equity \$
<b>2010</b>					
<b>Financial assets</b>					
Cash assets	2,070,226	(20,702)	(20,702)	20,702	20,702

### (e) Fair value

Financial instruments are generally recognised at cost.

The amortised cost of financial instruments recognised in the balance sheet approximates the fair value, because of the short term nature of many of the financial instruments.

Cash and cash equivalents include TCorp investments which are assessed at fair value (refer Notes 2 and 3).

## 16 Commitments

### (a) Capital commitments

Aggregate capital expenditure contracted for at balance date and not provided for:

	2010 \$
Not later than one year	327,800
Later than one year and not later than five years	0
Later than five years	<b>0</b>
<b>Total (including GST)</b>	<b>327,800</b>

### (b) Operating lease commitments

Future non-cancellable operating lease rentals not provided for and payable:

Not later than one year	304,630
Later than one year and not later than five years	524,900
Later than five years	
<b>Total (including GST)</b>	<b>829,530</b>

The operating lease commitment relates to a lease currently held in relation to the occupancy of premises by the office in the Sydney CBD.

The total capital commitments and operating lease commitments include input tax credits \$112,753, which are expected to be fully recoverable from the ATO.

## 17 Contingent liabilities

The Office is unaware of any matters that may lead to any significant contingent liability.

## 18 After balance date events

The NSW Parliament has passed legislation to merge the OIC and Privacy NSW into one agency.

The *Privacy and Government Information Legislation Amendment Act 2010* establishes the Information and Privacy Commission, under which the Information Commissioner championing open government, and the Privacy Commissioner championing privacy, will carry out their roles.

A commencement date for the Act is yet to be determined. A working group has been established to prepare for the creation of the new agency.

### End of audited financial report.

# Appendices

## Contents

Appendix 1 – Consultants	52
Appendix 2 – Ethnic Affairs Priority Statement	52
Appendix 3 – Publications list	53

## Appendix 1 – Consultants

### Details of consultant expenditure over \$30,000

Consultant and project	Consultancy category	Estimated total project cost	Expenditure 1 July 2009 to 30 June 2010
Pacific Privacy Pty Ltd – provided the Acting Information Commissioner with a viable implementation plan to meet the Government's commitment to establish the new Office of the Information Commissioner.	Management services	\$100,000	\$96,222

### Details of consultant expenditure under \$30,000

Consultancy category	Number	Expenditure 1 July 2009 to 30 June 2010
Management services	1	\$17,800

## Appendix 2 – Ethnic Affairs Priority Statement

As the OIC is a small statutory body it is required to report on a triennial basis. As the 2009 – 2010 reporting year was the first year of operation the OIC will submit its first report for the 2012 – 2013 reporting period. During this time the OIC will develop and implement appropriate strategies, plans and reporting mechanisms to fulfil its obligations under the *Community Relations Commission and Principles of Multiculturalism Act 2000*.

## Appendix 3 – Publications list

The following is a list of publications released in 2009 – 2010. Most of these are available from the OIC website ([www.oic.nsw.gov.au](http://www.oic.nsw.gov.au)) or by request at the OIC office at Level 11, 1 Castlereagh Street Sydney NSW. Dates in brackets indicate version released in 2009 – 2010.

### Fact sheets

- The role of Right to Information Officers (Feb 10)
- Ways to access government information (Feb 10)
- What is the public interest test? (Feb 10)
- Your review rights under the GIPA Act (Feb 10)
- Changes to right to information (Mar 10)
- The OIC's approach to monitoring compliance with the GIPA Act (Jun 10)

### Knowledge updates

- Commercial arrangements for local government (Mar 10)
- Fast fact tool for agencies (May 10)
- From FOI to GIPA – transitional arrangements (Mar 10)
- How does the GIPA Act affect local government? (Mar 10)
- How to apply the public interest test (Mar 10)
- Role of Right to Information Officers (Mar 10)
- Good practice for creating publication guides (Jun 10)
- Informal release of information (Jun 10)
- What is an agency? (Jun 10)

### E-updates

- Update from the Information Commissioner (Feb – Jun 10)

### Brochures

- Your rights to government information are changing (May 10) (translated into 39 languages)

### Checklists

- Principal Officers' checklist (Dec 09)
- Preparing for 1 July 2010 – checklist for managers (May 10)

### Compliance resources

- Government Information (Public Access) Act 2009 compliance guide (Jun 10)
- Government Information (Public Access) Act 2009 compliance checklist for agencies (Jun 10)

### Presentations

- Right to information in NSW: for agencies (May 10)
- Changes to your right to information in NSW: for public (May 10)
- Right to government information in NSW: media update (May 10)

### E-learning

- E-learning Module 1: GIPA Introduction (Mar 10)

### Guidelines

- GIPA Act guidelines 1: local councils (Jun 10)

### Templates

#### *Making an application*

- Application form for accessing information from the agency (Jan 10)
- File running sheet for processing access to information applications (Jan 10)

#### *Advising applicant*

- Notice to applicant to acknowledge application is valid (Jan 10)
- Notice to applicant advising that application is invalid (Jan 10)
- Notice to applicant acknowledging that invalid application is now valid (Jan 10)
- Notice to applicant acknowledging amendment of application (Jan 10)
- Notice to applicant notifying that application is being transferred (where initiated by an agency) (Jan 10)
- Notice to applicant refusing request for transfer (where transfer initiated by applicant) (Jan 10)
- Notice to applicant requiring payment of advance deposit (Jan 10)
- Notice to applicant of refusing to deal for failure to pay advance deposit (Jan 10)

#### *Consultation*

- Letter of consultation to applicant concerning release of personal information (Jan 10)
- Letter of consultation to applicant concerning release of business information (Jan 10)

# Appendices

- Letter of consultation to author of research requested for release (Jan 10)
- Letter of consultation to agency holding requested government information (Jan 10)
- Notice to third party that information will be released despite objection (Jan 10)

## *Notifications of decisions*

- Notice to applicant of decision to grant access to all information applied for (Jan 10)
- Notice to applicant of decision not to grant access to information applied for (Jan 10)
- Notice to applicant that information requested is not held (Jan 10)
- Notice to applicant that information requested is already available (Jan 10)
- Notice to applicant of refusal to deal with request (Jan 10)
- Notice to applicant of refusal to confirm or deny (Jan 10)

## *Review of decision*

- Application form for applicant seeking internal review (Jan 10)

## *Contractual clauses*

- Template Access to Information Clause (Jan 10)
- Template Consultation Clause (Jan 10)

## **Training**

- Interim training strategy (Apr 10)

## **Advice**

- Advice to councils on the implementation of the Government Information (Public Access) Act 2009 (Oct 09)
- Advice to agencies on the implementation of the Government Information (Public Access) Act 2009 (Oct 09)

## **Guides**

- Right to information in NSW – A Guide (Oct 09)

## **Plans**

- Implementation plan (Oct 09)
- Business plan summary (Feb 10)
- Guidance material plan (Oct 09)



# Contacting the OIC

## You may want to contact the OIC to:

- ask the OIC to conduct an external review of a decision made by an agency in relation to a formal access application
- make a complaint about how an agency has exercised its functions under the GIPA Act
- provide feedback to the OIC about our services.

## Requesting a review

You have the right to request that the OIC review a decision about the release of information if you disagree with any of the following decisions as set out under the GIPA Act:

- a decision that an application is not a valid access application
- a decision to transfer an access application to another agency, as an agency-initiated transfer
- a decision to refuse to deal with an access application (including such a decision that is deemed to have been made)
- a decision to provide access or to refuse to provide access to information in response to an access application
- a decision that government information is not held by the agency
- a decision that information applied for is already available to the applicant
- a decision to refuse to confirm or deny that information is held by the agency
- a decision to defer the provision of access to information in response to an access application
- a decision to provide access to information in a particular way in response to an access application (or a decision not to provide access in the way requested by the applicant)
- a decision to impose a processing charge or to require an advance deposit,
- a decision to refuse a reduction in a processing charge
- a decision to refuse to deal further with an access application because an applicant has failed to pay an advance deposit within the time required for payment
- a decision to include information in a disclosure log despite an objection by the access applicant (or a decision that the access applicant was not entitled to object).

If you are the person applying for access to information, you do not have to have an internal review of the decision before asking the Information Commissioner to review it. If you are not the access applicant, you must seek an internal review before applying for review by the Information Commissioner.

## What is the timeframe for seeking a review by the Information Commissioner?

You have eight weeks from being notified of the decision to ask for a review by the Information Commissioner.

## What does it cost for the Information Commissioner to conduct a review?

A request for the Information Commissioner to review a decision is free of charge.

## How can a review be requested?

The OIC has produced a *Requesting Assistance from the OIC* form to assist people to request a review, however a request can be made by telephone, in person, in writing or by fax.

If you request a review by telephone, or in person, the OIC may seek your agreement to the scope of your request by asking you to complete a *Requesting Assistance from the OIC* form.

## What should be included with a request for review?

Any request for a review of a decision should be as factual as possible and should include (where applicable) a copy of all relevant correspondence between yourself and the agency, for example:

- your access application
- the agency's decision on your application
- your internal review application
- the agency's decision on your internal review request.

## What will the Information Commissioner do?

When an application for a review of a decision is received by the OIC, it will be managed by officers in the Compliance and Casework team, who have delegated powers under the GIPA Act.

These officers will firstly gather all the relevant information in relation to the decision being reviewed. This will include information both from the applicant and the agency that made the decision that is the subject of the review. The OIC may contact you to request additional information.

# Contacting the OIC

OIC staff will then go through a process similar to that undertaken by agencies when they receive a formal access application. They will look at the information that was requested and will weigh up the public interest considerations for, and against, disclosure of the information.

Section 12(2) of the GIPA Act provides some examples of public interest considerations **in favour** of disclosure of government information:

- (a) disclosure of the information could reasonably be expected to promote open discussion of public affairs, enhance Government accountability or contribute to positive and informed debate on issues of public importance
- (b) disclosure of the information could reasonably be expected to inform the public about the operations of agencies and, in particular, their policies and practices for dealing with members of the public
- (c) disclosure of the information could reasonably be expected to ensure effective oversight of the expenditure of public funds
- (d) the information is personal information of the person to whom it is to be disclosed
- (e) disclosure of the information could reasonably be expected to reveal or substantiate that an agency (or a member of an agency) has engaged in misconduct or negligent, improper or unlawful conduct.

This list is not exhaustive and does not exclude other public interest considerations in favour of disclosure being used.

Section 14 of the GIPA Act provides a list of public interest considerations **against** disclosure, which include:

- Responsible and effective government
- Law enforcement and security
- Individual rights, judicial processes and natural justice
- Business interests of agencies and other persons
- Environment, culture, economy and general matters
- Secrecy provisions
- Exempt documents under interstate Freedom of Information legislation.

This is an exhaustive list, which excludes other public interest considerations against disclosure being relied upon unless they are approved by Parliament. Section 14 of the GIPA Act has more detail on this.

Once OIC staff have come to a conclusion about whether the information should have been released or not, they will then contact the party that the conclusion goes against and provide them with a provisional view.

This is not the OIC's final recommendation and will provide an opportunity for additional information to be considered. The OIC will usually ask that any additional information be provided within 10 working days. If you receive a provisional view from the OIC and need longer than the time provided to respond, please contact the OIC to ask for more time.

Once any additional information has been received, it will be considered, and if it results in the OIC coming to a different conclusion, another provisional view will be provided. If the additional information is considered and the OIC's conclusion remains the same, the OIC will then issue a final recommendation.

Should an applicant or an agency disagree with the final recommendation made by the OIC, they may seek a review with the Administrative Decisions Tribunal.

## What if I have a question about my review?

The OIC will provide you with the name and contact details of the officer handling your review. Please feel free to contact them if you have any questions.

## Complaining to the OIC

### Our role in investigating complaints

The OIC can investigate complaints about how NSW government agencies exercise their functions under the GIPA Act.

### What is a complaint?

Any person may complain to us about the conduct of an agency in meeting the requirements of the GIPA Act.

A complaint cannot be made in relation to an agency decision that is reviewable under the GIPA Act. This means if your complaint is about how an agency has responded to a formal access application, we may deal with it as an application to review the agency's decision.

### Complain to the agency first

We ask that you try to resolve your complaint first with the agency involved. Different agencies have different procedures for handling complaints, so contact the agency to find out how to do this.

If you are unhappy with the agency's response, please contact the OIC by phone, email or letter. If you wish, you can ask to remain anonymous.

### The OIC will decide whether to deal with the complaint

We may do some preliminary inquiries to help us decide whether, and how, to deal with a complaint. As part of these inquiries, we may request further information from you.

We will then write to you to tell you whether or not we will deal with your complaint and why. If we decide to deal with it, we will tell you what we plan to do.

### How the OIC deals with complaints

If we decide to deal with the complaint, the aim will be to help you and the agency resolve the matter using any measures considered appropriate. These may include:

- providing information
- discussing the complaint with you and the agency
- facilitating the direct resolution of the complaint
- bringing you and the agency together for conciliation or another informal process.

We may also conduct an investigation into a complaint and, in certain circumstances, report the matter to the Minister responsible for the agency.

### Examples of complaints

You can complain to the OIC if you are concerned that an agency is not complying with the GIPA Act. For example, you may have a complaint about:

- an agency not making its open access information freely available on its website
- the way an agency handled an informal request for information
- the type of information that an agency is proactively releasing.

### Protected disclosures

If you are a public official and your complaint is about your colleagues or an agency that you work for or with, we can handle your complaint in accordance with the *Protected Disclosures Act 1994*.

### Lodging a complaint

Complaints about agencies can be lodged with the Information Commissioner by calling 1800 INFOCOM (1800 463 626), emailing or writing to us, or by lodging the complaint in person.

# Contacting the OIC

## Feedback about the OIC's services

We take all feedback about our services seriously. Compliments and complaints are an opportunity for us to improve the way we carry out our work. You can give us feedback at any time by calling us or by emailing [oiinfo@oic.nsw.gov.au](mailto:oiinfo@oic.nsw.gov.au).

### 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 the response from them, 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 available when you call, they will contact you by phone or in writing as soon as possible with a view to promptly resolving your issue.

If you remain dissatisfied, you can make a formal complaint.

### Step 2 – make a formal complaint

To make a formal complaint, please write to:

**The Information Commissioner**  
Office of the Information Commissioner  
GPO Box 7011  
Sydney NSW 2000

#### *What to include in your letter of complaint*

Briefly explain your concerns in your own words. Include enough information for us to assess your complaint and decide what we will do. For example, describe what happened, 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 resolution you would like. Include copies of all relevant correspondence.

#### *How the OIC 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 complaint will:

- acknowledge your complaint
- discuss the complaint with the relevant staff member
- if required, escalate the complaint to the Manager of Casework and Compliance or the Manager of Policy and Good Practice
- respond to you in writing.

If after receiving a response to your formal complaint you are still dissatisfied, you can ask the Information Commissioner to review the matter.

### Step 3 – writing to the Joint Committee

If your complaint is about the Information Commissioner, or if you are dissatisfied with a final review of your complaint by the Information Commissioner, you can write to the Joint Parliamentary Committee that oversees our office. Details of the Committee are available on the OIC's website in the 'about us' section. You can also write to the Committee at:

**Committee on the Office of the Ombudsman  
and the Police Integrity Commission**  
Parliament of New South Wales  
Macquarie Street  
Sydney NSW 2000

## If you believe there has been official 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.

The NSW Ombudsman has responsibility for dealing with complaints about conduct that is illegal, unreasonable, unjust, oppressive, improperly discriminatory, based on improper or irrelevant grounds, based on a mistake of law or fact, or otherwise wrong.

If you think there may have been official misconduct and you are dissatisfied with how your complaint has been handled by the OIC, you can contact ICAC or the NSW Ombudsman.

Agency	Website
Independent Commission against Corruption	<a href="http://www.icac.nsw.gov.au">www.icac.nsw.gov.au</a>
NSW Ombudsman	<a href="http://www.ombo.nsw.gov.au">www.ombo.nsw.gov.au</a>

We welcome feedback and encourage you to contact us with suggestions. If you have any questions about our services or about how the GIPA Act applies to you, or if you would like more information or assistance, you can contact us in any of the following ways:

- go to [www.oic.nsw.gov.au](http://www.oic.nsw.gov.au)
- email [oicinfo@oic.nsw.gov.au](mailto:oicinfo@oic.nsw.gov.au)
- mail **GPO Box 7011, Sydney NSW 2001**
- visit **Level 11, 1 Castlereagh Street, Sydney NSW 2000**
- call **1800 INFOCOM (1800 463 626)** between 9am and 5pm, Monday to Friday (excluding public holidays)

You can also call us through the National Relay Service (for deaf people and people with a speech or hearing impairment) on **133 677** or the Translating and Interpreting Service on **131 450**.

# Glossary

## Glossary

DJAG	Department of Justice and Attorney General
FOI	<i>Freedom of Information Act 1989</i>
GILC	<i>Government Information (Information Commissioner) Act 2009</i>
GIPA	<i>Government Information (Public Access) Act 2009</i>
ICAC	Independent Commission Against Corruption
LGMA	Local Government Managers Australia (NSW)
OIC	Office of the Information Commissioner New South Wales
PPIP	<i>Privacy and Personal Information Protection Act 1998</i>
RTA	Roads and Traffic Authority

# Index

Aboriginal employment	12, 15	insurance	13
annual report cost	16	international travel	16
assistance activities	17-18, 20-21, 23	Joint Parliamentary Committee	4-6, 8, 25, 58
business plan	5, 23, 54	Kooloora Community Centre	13, 16
Casework and Compliance team	9, 11, 17-18, 21, 24, 55	leave liabilities	16
code of conduct	12, 15	legal advice sought	16
consultants and contractors	9, 14, 17, 52	legislation	2-3, 6-9, 14, 17-18, 20-21, 23-26, 56
consumer response	17	local government	5-6, 17, 19, 22-23, 25-26, 53, 60
contacting the OIC	55-59	media	3, 5, 9, 17, 19-20, 53
complaining to the OIC	57	office relocation	12
corporate services	12, 27	OIC	
crown employees award	14	vision	4
disability employment, development and retention strategy	12	purpose	4
employee salary movement	14	mission	4
enterprise industrial relations	15	values	4
equal employment opportunity	12, 15	goals	5
environmental sustainability, see waste management	16	Ombudsman, NSW	2, 5-6, 13, 18, 24-25, 59
Ethnic Affairs Priority Statement	52	organisational structure	10
executive team	11	overseas travel, see international travel	16
feedback		performance highlights	17-18
activities	25	Policy and Good Practice team	11, 17-19, 21-22, 24, 58
providing to OIC	55, 58-59	promotional activities	19-20
flexible work agreement	15	Privacy and Government Information Legislation Amendment Bill	7-8
freedom of information (FOI)	2, 6-7, 9, 16-22, 24, 53, 56	Privacy NSW	5, 8, 12
<i>Freedom of Information Act 1989</i>	2, 6, 8, 25, 60	<i>Privacy and Personal Information Protection Act 1998 (NSW) (PPIP Act)</i>	8, 16, 60
<i>Government Information (Information Commissioner) Act 2009 (GIIC Act)</i>	1, 2, 4, 6-9, 17, 60	professional development	13
<i>Government Information (Public Access) Act 2009 (GIPA Act)</i>	1-9, 12-14, 16-26, 53-57, 59-60	publications	53
GIPA Regulation	7-8, 23	Railcorp	20
glossary	60	record-keeping	16
health and safety	13, 16	recruitment and selection	12-13
Homeless Persons' Legal Service	23-24	research and development	14
human resources	12	reviews, requesting from OIC	55-56
Independent Commission Against Corruption	5-6, 13, 59, 60	risk management	14
Indigenous employment, see Aboriginal employment	12, 15	Roads and Traffic Authority, RTA	14, 21, 22, 60
information and communication technology	14	service commitment	17
Information Commissioner		stakeholders	5-6, 12, 17-21, 23-25
9, 11, 14-15, 19-21, 25-26, 52-53, 55, 57-58		statutory officers	14
foreword	2	waste management	16
functions	6-7	workers' compensation	14, 16
powers	4		

## Contacting the Office of the Information Commissioner

Our business hours are 9am to 5pm Monday to Friday (excluding public holidays).

**Level 11, 1 Castlereagh Street, Sydney**

free call telephone: **1800 INFOCOM (1800 463 626)**.

email: [oinfo@oic.nsw.gov.au](mailto:oinfo@oic.nsw.gov.au)

web: [www.oic.nsw.gov.au](http://www.oic.nsw.gov.au)

fax: **(02) 8114 3756**

**GPO Box 7011, Sydney NSW 2001.**



office of the  
information  
commissioner  
new south wales

**promoting open government**

[www.oic.nsw.gov.au](http://www.oic.nsw.gov.au) • **1800 INFOCOM (1800 463 626)**

ISBN 978-0-9870457-1-3