

Annual Report 2017/18



information
and privacy
commission
new south wales



information
and privacy
commission
new south wales

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Letters to the President and Speaker

The Hon. John Ajaka MLC
President Legislative Council
Parliament House
Macquarie Street
Sydney NSW 2000

The Hon. Shelley Hancock MP
Speaker Legislative Assembly
Parliament House
Macquarie Street
Sydney NSW 2000

22 October 2018

Dear Mr President and Madam Speaker,

In accordance with the *Annual Reports (Departments) Act 1985*, the *Government Information (Information Commissioner) Act 2009*, and the *Privacy and Personal Information Protection Act 1998*, I am pleased to present the Annual Report of the Information and Privacy Commission NSW.

This report provides an account of the work of the Information and Privacy Commission NSW during the 2017/18 financial year.

The report meets the requirements for annual reports as advised by the NSW Premier in *Ministerial Memorandum M2013-09*. This report demonstrates our agency's performance and activities while incurring minimal production costs.

Yours sincerely,



Elizabeth Tydd
CEO
Information Commissioner
NSW Open Data Advocate

Dear Mr President,

In accordance with section 61A of the *Privacy and Personal Information Protection Act 1998*, I am pleased to present the following report on the work of the Privacy Commissioner for the 12 months ended 30 June 2018.

In addition, under section 61B of the *Privacy and Personal Information Protection Act 1998*, this Annual Report includes a report on the operation of the Privacy and Personal Information Protection Act 1998 across all public sector agencies for 12 months ended 30 June 2018.

A copy of the report will be provided to the Attorney General as Minister responsible for this legislation as specified under sections 61A (2) and 61B (2) of the *Privacy and Personal Information Protection Act 1998*.

Yours sincerely,



Samantha Gavel
Privacy Commissioner

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Highlights

GIPA Agency Dashboard		Right to Know Week	
New guidance on Voluntary Data Breaches	Report on the operation of the GIPA Act	Release of Charter for Public Participation	
	Release of national metrics		
Privacy Awareness Week 7-13 May 2018		Public Interest Direction on <i>Youth On Track</i>	
Guidance on the EU's General Data Protection Regulation and National Data Breach Requirements	Developing public interest directions on <i>Their Futures Matter</i>	Agency Information Guide Review Report	
Public Interest Directions on Domestic Violence	Guidance on Privacy Complaints: your review rights		
IPC Diversity and Action Plan released	IPC inaugural client satisfaction results: <ul style="list-style-type: none">• 78 per cent of respondents agreed IPC officers were polite and helpful• 73 per cent agreed information such as fact sheets were easy to understand• 71 per cent agreed the outcome of the case was communicated clearly.		
Open Government Partnership commitments delivered			

Performance report card 2017/18

Objective 1 - Engagement

- ✓ 388,424 page views and a 16 per cent increase in unique visitors to ipc.nsw.gov.au
- ✓ 409 new e-learning registrations by agencies and members of the public
- ✓ Charter for Public Participation released
- ✓ Commissioners had input on more than 50 matters coming before government with 23 of these being joint inputs by the Information Commissioner and the Privacy Commissioner

Objective 2 – Rights promotion

- ✓ 44 new information access, privacy and corporate publications were delivered
- ✓ GIPA agency dashboard released
- ✓ Major campaigns scheduled for Right to Know Week and Privacy Awareness Week
- ✓ Towards Open Government Information e-learning module launched

Objective 3 - Impact

- ✓ 45 voluntary breach notifications were made to the Privacy Commissioner
- ✓ Proportion of the community that would contact the Information and Privacy Commission has grown from 1 per cent in 2014 to 10 per cent in 2018
- ✓ GIPA – 1790 enquiries finalised / 409 advices finalised / 313 reviews finalised / 37 complaints finalised
- ✓ Privacy – 1584 enquiries finalised / 284 advices finalised / 158 reviews finalised / 78 complaints finalised

Objective 4 – Operational excellence

- ✓ All IPC staff have a Performance and Development Agreement in place
- ✓ Integrated systems of case management across both information access and privacy under a delegated model
- ✓ 29 hours of training for staff to improve service delivery and rebalance capabilities to be an effective, contemporary regulator
- ✓ Develop effective systems and processes to enable flexibility in delivery of services to stakeholders and citizens.
- ✓ Commissioned the development of a Towards Open Government Information e-learning module
- ✓ Delivered an Open Data e-learning module

Overview



Chief Executive Officer, Information Commissioner and NSW Open Data Advocate

Achievements and Report to NSW Parliament

Government information provides the foundation of integrity upon which an open, fair and effective democratic system of government can be established and function. Government information also provides the most secure and faithful source of accountability to citizens served by democratically elected governments.

In recent years the way in which contemporary governments operate has become more complex: new modes of government service delivery and structures; digital transformation and new approaches to public sector recruitment and management have all increased the complexity of agency operating environments.

These changes require a flexible and robust information infrastructure to facilitate the management of government information across the entire continuum together with leadership and operational capacity to promote credible stewardship and effective use of information.

These changes also demand that we are similarly responsive and vigilant in reassessing risks and accountability mechanisms to promote and preserve the fundamental rights of citizens.

The IPC provides independent oversight of both the right to access information and the right to privacy and has, throughout 2017/18 effectively promoted these rights and supported agencies in delivery of these important rights to NSW citizens.

This model of oversight does not diminish the individual respect and promotion of these separate legislated rights by the IPC and its separate, independent commissioners but it does facilitate informed, balanced decision making by agencies.

A holistic information management approach

Tangible manifestations of holistic information management have developed globally and nationally with the establishment of institutions such as data analytics centres, new legislation to support responsible stewardship of digital assets and the

emergence of data ethics as a recognised discipline.

Nationally, The Royal Commission into Institutional Responses to Child Sexual Abuse recognised the importance of these issues devoting a volume of its Final Report to record keeping and information sharing and noting that,

Even where information sharing is legally permitted or required, there may be reluctance to share. Concerns about privacy, confidentiality and defamation, and confusion about the application of complex and inconsistent laws, can create anxiety and inhibit information sharing. Institutional culture, poor leadership and weak or unclear governance arrangements may also inhibit information sharing and, as a result, undermine the safety of children.¹

This year the IPC advanced its commitment to the provision of holistic guidance to agencies and citizens through our business and regulatory forecasting and planning.

New risks and threats are inevitable in our digital environment in which traditional legislative models may not adapt sufficiently to the new operating environment. Sound holistic governance models, increased capability and demonstrated leadership all provide effective risk mitigation strategies.

Providing effective regulation

The IPC has demonstrated that it is both an effective regulator and leader in sound information governance.

We implemented a preferred approach to provide integrated advice that better enables those charged with operationalising reforms to effectively consider and balance information access and privacy rights according to the objectives of each proposal.

¹ Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report: Record Keeping and Information Sharing, p.13

Further key achievements include:

- improving community and agency understanding of privacy and information access rights in NSW with 44 new publications released
- contributing to consistent agency decision-making with 409 new registrations to access the available e-learning modules
- realising the community's information access and privacy rights with the finalisation of 586 reviews and complaints
- supporting public sector compliance through the provision of 693 advices to agencies.

The IPC released two important tools to increase the capacity of agencies to harness the benefits of the digital age and better engage with citizens: the Open Data e-learning module to elevate knowledge and capability to deal with and release open data; and the Charter for Public Participation to assist NSW agencies in maximising citizen input to the development and delivery of policies and services.

The IPC Compliance Committee identified the need to focus on:

- increasing the quality of GIPA decision making particularly within the local government sector
- open access
- health access
- data breaches.

These commitments were acquitted through a range of activities including the development of tools to enable self-assessment by agencies, for example the agency-level GIPA Dashboard and targeted engagement to promote improved compliance.

Additionally we tested the effectiveness of our regulatory interventions in undertaking a follow-up audit of compliance with Agency Information Guide requirements. Pleasingly, the audit found significant improvements in compliance across the 10 principal NSW public sector departments and the IPC.

This year we developed and implemented an approach to gauge client satisfaction. Our preliminary results have been positive and we will refine our methodology and adopt a responsive approach to improve our services and processes.

Contemporary challenges and opportunities

The cluster model for NSW public sector agencies is intended to allow government services to be coordinated more effectively. However, the model can also lead to a fracturing of GIPA Act responsibilities which, in the absence of appropriate safeguards, presents risks of non-compliance and, importantly, failures in accountability. Under these arrangements, specific remedial action is required to ensure that principal officers are able to uphold their responsibilities under the GIPA Act and, where applicable, government sector core values.

The GIPA Act and the role of the Information Commissioner under the *Government Information (Information Commissioner) Act 2009* (GIIC Act) rest on regulatory compliance as best secured by education and persuasion rather than enforcement. However, for persuasion

and education to be effective, the realistic availability of enforcement action must underpin the Information Commissioner's regulatory action through an escalation model. In this context, the GIPA Act offences serve two regulatory purposes:

- a persuasive/educative function to support compliance and deter agencies from contravening the GIPA Act, and
- an enforcement function to impose penalties upon persons committing the most serious contraventions of the GIPA Act.

This year I finalised a major investigation into the systems, policies and practices of a government agency with a particular focus on the offence provisions under the GIPA Act. The operation of the GIPA Act and the GIIC Act were tested during the course of my investigation in the context of contemporary administrative arrangements.

Guidance, informed by issues related to the investigation was issued to public sector agency heads to enhance systems, policies and practices that support information access responsibilities including training and performance monitoring in large public sector agencies.

My investigation, its findings and conclusions demonstrate the unassailable role of the right to access information and information governance broadly in maintaining and advancing a system of responsible and representative democratic government that is open, accountable, fair and effective and the crucial importance of independent oversight of that right.

Finally, I was honoured to represent Australian Information Access Commissioners in engaging with the Department of Prime Minister and Cabinet in the development of new commitments for inclusion in the second Australian Open Government Partnership National Action Plan 2018-20. This plan provides a blueprint to better secure Open Government for Australia. The opportunity to advance Open Government is now available at a subnational level. I look forward to promoting this opportunity within New South Wales.

The IPC has successfully harnessed the benefits of an integrated model. These significant achievements could not have been possible without the committed collegiate contribution of the NSW Privacy Commissioner, Ms Samantha Gavel, together with the fine work of directors and staff of the IPC. I look forward to supporting continued enhancement of the NSW community's information access and privacy rights in 2018/19.



Elizabeth Tydd
CEO
Information Commissioner
NSW Open Data Advocate

Overview



Privacy Commissioner

Achievements and Report to NSW Parliament

During 2017/18, privacy issues were at the forefront of much of the work conducted by NSW public sector agencies to increase digital service delivery and harness new technology to provide better services and outcomes for the public.

This was also a significant year for privacy more broadly, with two important privacy initiatives that are likely to influence privacy developments across Australia. In February 2018, the Australian Government's Office of the Australian Information Commissioner (OAIC) implemented Australia's first Mandatory Data Breach Notification Scheme, following a 12-month implementation period. While this scheme is focussed on entities regulated under the *Privacy Act 1988* (Cwth), NSW agencies may be subject to the scheme in some instances, for example, if they collect tax file numbers.

In May 2018, the European Union General Data Protection Regulation (GDPR) came into effect. The GDPR was also subject to significant consultation and implementation processes. The GDPR is intended to be a single, uniform set of data protection requirements across the European Union. Although the GDPR is a European privacy law, it is designed to have extra-territorial reach beyond the borders of the European Union. The GDPR applies to any organisation offering goods and services to, or monitoring the behaviour of, individuals in the European Union (EU). This means that the GDPR impacts on some Australian businesses and organisations, including NSW public sector agencies.

A number of high profile data breaches during the year focussed attention on the privacy risks associated with digital technology. These include the Facebook/Cambridge Analytica breach, which affected the personal data of millions of people world-wide, as well as the discovery by an Australian student that a fitness app was revealing location information about users around the world as it tracked their training sessions.

NSW currently has a voluntary scheme for reporting data breaches to the IPC. A priority during the year was to

produce more detailed guidance for agencies to support the voluntary notification scheme and assist them with improving their processes for responding to data breaches. As well as data breach guidance, the IPC produced a number of other resources to assist agencies, including a data breach prevention tool and checklist, and a data breach notification form that agencies can use for reporting breaches to the IPC. This guidance is well placed to support agencies in an increasingly dynamic technological environment.

The Department of Justice is currently reviewing the voluntary breach notification scheme and considering whether it remains satisfactory in light of recent technological developments, or whether a more robust scheme may be needed for NSW agencies in future.

I commenced as NSW Privacy Commissioner in September 2017, with the role becoming a full-time position from the date of my appointment. The IPC delayed its annual business and regulatory planning to enable me to have input into planning and resourcing decisions for the next planning cycle from 2017/19. This enabled me to identify a number of priorities that were incorporated into the IPC's business and regulatory plans including:

- producing guidance to assist agencies to mitigate and manage data breaches, in order to better support agency capability in this area and support the IPC's voluntary data breach notification scheme
- providing guidance for the public and health care providers about access to medical records - the aim of the guidance is to assist both groups to understand their rights and responsibilities
- providing data sharing advice to agencies, to assist with the design and implementation of priority projects and

A concerning development in recent years has been the re-identification of personal information in de-identified data sets that have been publicly released.

service delivery initiatives informed by data sharing and analysis. The IPC will work with agencies to ensure that these initiatives are managed in a privacy-respectful way so that citizens can continue to have confidence in the way Government handles their personal and health information.

A concerning development in recent years has been the re-identification of personal information in de-identified data sets that have been publicly released. This has significant implications for privacy, as well as open data and research using de-identified data.

This issue has been carefully considered by the IPC when providing advice to agencies about data sharing and analytics projects, to ensure that data is held securely and that appropriate risk mitigation measures are in place.

One of my priorities this year has also been to engage with stakeholders to discuss my priorities and privacy issues associated with the work they are doing. I intend to work collaboratively with NSW government organisations to ensure they are managing their privacy obligations appropriately and the privacy rights of NSW citizens are effectively protected. It has been pleasing to see that those agencies I have engaged with during the year do take their privacy obligations seriously.

A highlight during the year was hosting the IPC's Privacy Awareness Week thought leadership event in May. The theme for the event was Privacy in the Digital Age. The event was opened by the Attorney General, the Hon. Mark Speakman SC MP, and included a discussion by a panel of expert speakers who deliberated on a broad range of privacy issues from both a government and non-government perspective.

The IPC used Privacy Awareness Week to increase awareness among NSW agencies of their obligations to protect personal information. Initiatives to assist with this objective included inviting agencies to become Privacy Awareness Week champions as well as our Privacy Awareness Week event.

Privacy is important to us all and is becoming increasingly important as new technology provides ever faster ways for personal information to be collected, stored and shared.

The increasingly rapid pace of technological change means it is essential that privacy considerations are taken into account from the very earliest stages of designing and developing new government projects and service delivery initiatives.

I look forward to continuing to work with NSW agencies to ensure that their privacy obligations are met and that citizens' privacy rights are effectively protected.



Samantha Gavel
Privacy Commissioner

Priorities for 2018/19



Our organisation



About the IPC



David Marcus
Director Business
Improvement



Sonia Minutillo
Director Investigation
and Reporting

Our purpose
To champion
information access
and privacy rights
for the people
of NSW.

Who we are

The Information and Privacy Commission NSW (IPC) is a separate agency that administers NSW legislation dealing with privacy and access to government information. The IPC was established on 1 January 2011 to provide a single point of service in respect to information access and privacy rights, ensuring that agencies and individuals can access consistent information, guidance and coordinated training about information access and privacy matters.

The IPC is recognised as a separate agency under Schedule 1 of the *Government Sector Employment Act 2013*.

What we do

The IPC promotes and protects privacy and information access rights in NSW by providing information, advice, assistance and training for agencies and individuals on privacy and access matters. The IPC reviews the performance and decisions of agencies, and investigates and conciliates complaints relating to government agencies, health service providers (both public and private) and some large organisations that deal with health information. The IPC also provides feedback to government about the legislation and relevant developments in the law and technology.

Our service charter

We are committed to providing you with the best service we can and to ensuring that you are able to provide feedback by:

1. Delivering the best standard of service that reflects our values.
2. Ensuring that you can provide us with feedback on the service you received, how we treated you and how we dealt with your information.

Our vision

The people of NSW can be confident that their access to information and privacy rights are upheld and protected.

Our values

The IPC's Values Framework was developed in line with the Government Sector Core Values. The IPC's values are: Accountable, Service focussed, Proactive, Independent, Integrity and Trust. Please see page 14 for more information.

Our stakeholders

- NSW Parliament
- Members of the public
- NSW Government (Premier and Attorney General)
- NSW Parliamentary Joint Committee on the Office of the Ombudsman, the Police Integrity Commission and the Crime Commission
- NSW public sector agencies including state government bodies, councils, state-owned corporations* and universities
- Non-government organisations delivering contracted services to the public on behalf of NSW Government agencies
- Ministers and their staff
- Members of Parliament and their staff
- Other Information and Privacy Commissioners
- Information and Privacy Advisory Committee (IPAC)
- Other oversight accountability agencies
- Media
- Staff.

* Exempted under the PPIP Act



Our Values Framework

Accountable

- Taking responsibility for our decisions and actions individually and as a group, using transparent process and making defensible decisions.
- When displayed, we feel confident, secure, respected and respectful. On an organisational level, we feel obligations are being fulfilled.
- We demonstrate it when we take ownership of actions and decisions to deliver our business objectives.

Service focussed

- Recognising what clients/colleagues want and need, being transparent, communicative and articulate when delivering outcomes, and putting others first.
- When displayed, we feel able to provide direction and focus. Providing truthful and honest advice can be confronting. We feel a sense of accomplishment and satisfaction, that we have made a difference to a person's life.
- We demonstrate it when we are aware, and make ourselves aware of customer needs, setting and managing expectations and boundaries, and upholding our responsibilities to others.

Proactive

- Identifying opportunities and taking the initiative to plan constructively and implement practices, demonstrating leadership.
- When displayed, we feel personally and professionally prepared, confident and respected, leading to a sense of achievement and empowerment.
- We demonstrate it when we think about the big picture, initiate ideas and act on opportunities, flexibly and thoughtfully.

Independent

- Being impartial and objective.
- When displayed, we feel confident in our decisions, and that our actions can be relied on and trusted.
- We demonstrate it when we have open and transparent decision-making which involves listening to both sides, making a decision on available evidence, keeping accurate records, being open-minded in our approach.

Integrity

- Demonstrating our values through consistent and appropriate actions and holding ourselves to a recognised high standard.
- When displayed, we feel confident and reassured.
- We demonstrate it when we behave consistently in line with our commitments and values.

Developed by IPC staff, December 2014 using the Government Sector Core Values (Accountability, Service, Trust, Integrity) and the IPC Values (Accountable, Service focussed, Proactive, Independent).

Trust

- A relationship built on honesty. It means being reliable and being able to rely on others.
- When displayed, we feel confident, secure and supported.
- We demonstrate it when we take responsibility for our actions, act with honesty and integrity, and show confidence in others and in our colleagues.

Our organisation

Accountability

Role of the Information Commissioner

The Information Commissioner is appointed by the Governor as an independent office holder under section 4 of the *Government Information (Information Commissioner) Act 2009* (NSW) (GIIC Act). The Information Commissioner is also the CEO of the IPC.

The role is to promote public awareness and understanding of the right to access government information in NSW, and provide information, support, advice, assistance and training to agencies and the general public.

The Information Commissioner has the power to conduct reviews of decisions made by other NSW government agencies and deal with complaints about information access. The Information Commissioner also monitors agencies' functions, reports to Parliament on the operation of the GIIPA Act, and reports to the Attorney General about proposals for legislative or administrative change.

When necessary, the Information Commissioner can issue guidelines to assist agencies and the public on:

- public interest considerations in favour of disclosure
- public interest considerations against disclosure of government information
- agencies' functions
- the public's rights to access information
- an agency's information guide
- reductions in processing charges.

The Information Commissioner can investigate agencies and compel them to provide information in the conduct of inquiries.

Participation in committees

During the reporting period, the Information Commissioner was a member of the following committees:

- Association of Information Access Commissioners (AIAC)
- Public Interest Disclosures Steering Committee – under section 6A(1) of the *Public Interest Disclosures Act 1994*
- Open Government Partnership Interim Working Group
- Public Service Commission Separate Agency Reference Group
- NSW Integrity Agencies Collaboration Group.

Role of the Privacy Commissioner

The Privacy Commissioner is appointed by the Governor as an independent office holder under Section 34 of the *Privacy and Personal Information Protection Act 1998* (NSW) (PPIP Act).

The role focuses on resolving complaints, protecting and enhancing the privacy rights of the NSW community and ensuring agencies uphold the privacy principles in the PPIP Act and the *Health Records and Information Privacy Act 2002* (NSW) (HRIP Act). A key function is to educate the people of NSW about the meaning and value of privacy by:

- responding to enquiries and educating the community about privacy issues and possible remedies for breaches of their privacy
- advising government agencies, businesses and other organisations on how to ensure that the right to privacy is protected
- receiving, investigating and conciliating complaints about breaches of privacy
- appearing in the NSW Civil and Administrative Tribunal (NCAT) and advising on privacy law in privacy cases
- overseeing NSW government agency reviews of reported privacy breaches
- researching developments in policy, law and technology that may impact on privacy, and making reports and recommendations to relevant authorities
- issuing guidelines on privacy principles.

Participation in committees

During the reporting period, the Privacy Commissioner was a member of the following committees:

- Asia Pacific Privacy Authorities (APPA)
- UN Rapporteur on Privacy's Privacy and Personality Taskforce
- Privacy Authorities Australia (PAA)
- Global Privacy Enforcement Network (GPEN) steering committee.

Our Organisation

Governance and legislative responsibilities

Our governance

In 2010, the NSW Parliament passed the Privacy and Government Information Legislation Amendment Bill 2010. The Explanatory Note to the Bill provides:

The object of this Bill was to amend the *Privacy and Personal Information Protection Act 1998* (PPIP), the *Government Information (Information Commissioner) Act 2009* (GIIC), the *Government Information (Public Access) Act 2009* (GIPA) and other Acts to provide for the following:

- a) an Information and Privacy Commission (the Commission) will be established by merging 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 the staff of the Commission)...

The Information Commissioner is appointed as agency head and is responsible to the relevant Minister, and has responsibility for ensuring that the IPC and its staff operate in accordance with all government sector requirements.

The IPC's activities are supported by the IPC Audit and Risk Committee.

The Information Commissioner reports to the NSW Parliament on the operation of the GIPA Act.

The Privacy Commissioner reports to the NSW Parliament on the operation of the PPIP Act and the HRIP Act.

The Parliamentary Joint Committee on the Office of the Ombudsman, the Police Integrity Commission and the Crime Commission, oversees the functions of the Information Commissioner and Privacy Commissioner and reports to Parliament. The role of the Committee does not provide for it to:

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

Our legislation

The IPC administers the following legislation:

- *Government Information (Public Access) Act 2009* (NSW) (GIPA Act)
- *Government Information (Public Access) Regulation 2009* (NSW) (GIPA Regulation)
- *Government Information (Information Commissioner) Act 2009* (NSW) (GIIC Act)
- *Privacy and Personal Information Protection Act 1998* (NSW) (PPIP Act)
- *Privacy and Personal Information Protection Regulation 2014* (NSW) (PPIPA Regulation)
- *Health Records and Information Privacy Act 2002* (NSW) (HRIP Act)
- *Health Records and Information Privacy Regulation 2017* (NSW) (HRIP Regulation).

Objectives of our legislation

The GIPA Act establishes an open approach to gaining access to government information. NSW government agencies, including state-owned corporations, NSW Government Ministers, local councils and universities are covered by the GIPA Act. The object of the GIPA Act is to maintain and advance a system of responsible and representative democratic government that is open, accountable, fair and effective, by:

- authorising and encouraging the proactive release of government information by agencies
- giving members of the public an enforceable right to access government information
- providing that access to government information is restricted only where there is an overriding public interest against disclosure.

The intent of Parliament to create a one-stop shop is supported by the legislation which provides a legal framework in which access to information and protection of privacy can be appropriately balanced.

The GIPA Act confirms that information sharing must commence from the position of granting access to information. However, this commitment to sharing information must also balance factors including the protection of personal information. Practical mechanisms to promote information sharing and protect personal

information are also provided under the GIPA Act. The PPIP Act contains provisions to confirm that the PPIP Act does not lessen the operation of the GIPA Act, which provides the vehicle for release of government held information of a personal and non-personal nature.

The GIIC Act establishes the role of the Information Commissioner and provides the legislative framework through which the Information Commissioner and IPC staff as delegates, exercise functions in relation to the investigation of complaints and the conduct of inquiries.

The PPIP Act establishes the role of the Privacy Commissioner and gives effect to Parliament's intention that privacy and information access are separate and discrete functions. It also gives legal recognition to the public interest in the protection of privacy – the right of individuals to exercise control over the availability and use of personal information about them. The PPIP Act protects privacy by regulating the way NSW public sector agencies (including local councils and universities) deal with personal information. The key to the PPIP Act are the 12 information protection principles (IPPs)

The HRIP Act protects the privacy of people's health information. It covers information created and collected by hospitals and other health service providers. It also includes other public and private organisations that hold health information. The HRIP Act contains 15 health privacy principles (HPPs).

Changes to legislation

Legislative changes that affect access to government information or privacy brought forward by the Attorney General are described in the Department of Justice annual report. Changes brought forward by the Health Minister that affect health privacy, are covered in the NSW Ministry of Health annual report. In addition, the following legislative changes were made during the reporting period:

- The GIPA Act was amended to include at Schedule 1 clause 16 – information for which there is a conclusive presumption of overriding public interest against disclosure to include information contained in any document for the purposes of the High Risk Offenders Assessment Committee established by the *Crimes (High Risk Offenders) Act 2006* or any of its subcommittees
- The GIPA Act was amended at Schedule 2 clause 4 excluded information of particular agencies to include an agency exercising functions in relation to the provision of information to the Australian Security Intelligence Organisation — functions relating to the handling of requests for information from, or the provision of information to, the Australian Security Intelligence Organisation
- The GIPA Act was amended at Schedule 2 clause 4 excluded information of particular agencies to add complaint handling, audit and reporting to the excluded

functions of the Electoral Commissioner. The excluded functions now are complaint handling, audit, reporting, investigative and prosecuting functions

- The PPIP Act was amended to include exemptions relating to Australian Security Intelligence Organisation (ASIO) at section 23A from sections 13, 14 and 18 if the information has been requested by or provided by ASIO.

GIPA Act Statutory Review

In July 2017, the Attorney General tabled a report of the Statutory Review of the GIPA Act and GIIC Act. The Information Commissioner made a number of submissions to the review. The report concluded that: the GIPA Act and GIIC Act are generally well-supported; the new pathways the GIPA Act created to access government information are useful and effective; the Acts are operating efficiently and the objects of both Acts remain valid and their terms remain appropriate for securing those objectives. The report is available on the Department of Justice website.

The Department of Justice is leading the implementation of the Review's recommendations, including the drafting of amendments to the legislation. The Information Commissioner will continue to assist the Department of Justice in advancing improvements to the information access regime.

The GIPA Regulation is due to be renewed in September 2018 and a report on the changes will be included in the IPC Annual Report for 2018/19.

Our strategic objectives

In May 2017, the IPC released the Strategic Plan for 2017/20. Embodying the IPC's commitment to a strategic and contemporary approach to regulation, the Strategic Plan demonstrates the IPC's ambitious, future-based and proactive approach to identifying external risks and emerging opportunities to promote information access and privacy. Please see page 18 to view the IPC Strategic Plan 2017/20 in full.

Information and Privacy Commission Strategic Plan 2017 - 2020

The IPC contributes to social and economic wellbeing in NSW
by leading and advancing effective information access and privacy rights.



ENGAGEMENT

We demonstrate contemporary, effective engagement with citizens, agencies and stakeholders to lead delivery of balanced information access and privacy rights.



OPERATIONAL EXCELLENCE

Our operations are innovative, solution focused and adaptable, and our people have the commitment and capabilities to ensure optimal regulatory impact and citizen-centric services.



RIGHTS PROMOTION

Our independent and accessible expertise is recognised, trusted and exemplary in promoting rights and lawfully balancing information access and privacy.



IMPACT

We contribute to social and economic wellbeing by leading and advancing effective information access and privacy rights.

Financial Management, Risk Management and Governance

STRATEGIC IMPERATIVES

Establish IPC as a recognised authority in fostering engagement within its legislative responsibilities.
Leverage opportunities to partner in regulatory programs.
Establish IPC as a lead integrity oversight agency.

MEASURED BY:

- Provision of guidance regarding consultation, engagement and public participation.
- % increase in national/global activities and relationships.
- % increase in number/diversity of co-regulatory initiatives.
- % increase in consultations and tailored regulatory initiatives.

STRATEGIC IMPERATIVES

Create the right mix of capabilities to be an effective contemporary regulator.
Develop effective systems and processes to enable flexibility in delivery of services to stakeholders and citizens.
Implement systems and capabilities to guide an integrated approach to information access and privacy legislation.

MEASURED BY:

- IPC staff have capabilities and demonstrate expertise in regulatory craft and information management.
- % improvement in IPC compliance with customer service standards.
- % increase in compliance levels following IPC regulatory interventions.

STRATEGIC IMPERATIVES

Adopt and promote an integrated approach to information management that minimises regulatory burden and guides practical solutions.
Shape the legislation and policies to ensure they are contemporary and effective.
Build a clear, contemporary and secure information sharing culture.

MEASURED BY:

- Incorporation of IPC submissions into new or revised instruments and reports.
- Community attitudes survey demonstrates increasing awareness of IPC and rights promotion.
- % increase in advices/briefings that holistically guide information management within the IPC legislative environment.

STRATEGIC IMPERATIVES

Improve community awareness of the IPC and information access and privacy rights.
Create a culture of open and participative democracy.
Create a culture of commitment to and compliance with information access and privacy rights within agencies and service providers.

MEASURED BY:

- % increase in community awareness of IPC legislation.
- % increase in agency awareness of IPC services and responsibility.
- % increase in identified opportunities for citizens to engage with agencies through IPC legislative mechanisms.
- Client satisfaction trending upwards year on year.

Strategic Leadership and Customer-Centric Culture

Enabled by our values:

Accountable Service-Focused Proactive Independent Integrity Trust

Reporting against our strategic objectives – Summary

IPC	Reviews & Complaints	2017/18	2016/17	2015/16
	Received	620	691	617
	Closed	586	683	745

GIPA	Reviews & Complaints	2017/18	2016/17	2015/16
	Received	372	383	364
	Closed	350	378	426

Privacy	Reviews & Complaints	2017/18	2016/17	2015/16
	Received	248	308	253
	Closed	236	305	319

Enquiries received by type		2017/18	2016/17	2015/16
	Phone	2806	3351	3647
	In writing and in person*	609	992	827

Advices	2017/18	2016/17	2015/16
	GIPA	409	425
Privacy	284	285	145

Publications	2017/18	2016/17	2015/16
	GIPA	24	30
Privacy	5	21	8

Submissions	2017/18	2016/17	2015/16
	GIPA	9	9
Privacy	13	6	1

Research (includes surveys)	2017/18	2016/17	2015/16
	GIPA	1	2
Privacy	1	2	0

Committees		2017/18	2016/17	2015/16
	GIPA	5	5	5
	Privacy	4	4	6

* Includes in person, emails, letters, faxes and website forms



Objective 1: Engagement



Objective 1: Engagement

We demonstrate contemporary, effective engagement with citizens, agencies and stakeholders to lead delivery of balanced information access and privacy rights.

Imperatives

- Establish IPC as a recognised authority in fostering engagement within its legislative responsibilities.
- Leverage opportunities to partner in regulatory programs.
- Establish IPC as a lead integrity oversight agency.

How did we measure these?

- Provision of guidance regarding consultation, engagement and public participation.
- % increase in number/diversity of co-regulatory initiatives.
- % increase in consultations and tailored regulatory initiatives.
- % increase in national/global activities and relationships.

The event was filmed and videos are available to view on the IPC website.

Release of Charter for Public Participation

On 19 June 2018 NSW Information Commissioner released the Charter for Public Participation - a guide to assist agencies and promote citizen engagement (the Charter).

Public participation, also described as citizen engagement, is a fundamental tenet of democracy and Open Government. The Organisation for Economic Co-operation and Development (OECD) recommends that in order to embed public participation as part of their core business, governments should provide:

- strong leadership and commitment
- coordination of public participation across and within government agencies
- adequate financial, human and technical resources
- appropriate guidance and training
- a supportive and accountable organisational culture.

The aim of the Charter is to assist NSW agencies to seek effective public input into the development and delivery of policies and services. The Charter is underpinned by NSW's *Government Information (Public Access) Act 2009* (GIPA Act), which has as its object to advance government that is open, accountable, fair and effective. The GIPA Act outlines the rights of the public in accessing NSW government information.

Stakeholder engagements

Privacy in the Digital Age thought leadership event

As part of Privacy Awareness Week (PAW) the Privacy Commissioner hosted a Privacy in the Digital Age thought leadership event on 9 May 2018 for NSW public sector senior leaders and practitioners.

Opened by the NSW Attorney General, The Hon. Mark Speakman SC MP, the event featured key privacy experts from within NSW government and the private sector who debated a broad range of contemporary privacy topics such as trust, ethics and the General Data Protection Regulation (GDPR).

A panel discussion was moderated by iappANZ president Melanie Marks and included NSW Government IT Security Advisor Mel Comerford, Microsoft Privacy and Security Expert Tom Daemen, the NSW Privacy Commissioner and Data Synergies Principal Peter Leonard.

Speaking engagements

During the 2017/18 reporting period, the Information Commissioner and Open Data Advocate addressed stakeholders and participated on panels across 35 speaking engagements regarding the right to information and best practice in information and data management.

The Privacy Commissioner addressed stakeholders on privacy or participated on panels at 13 speaking engagements.

Both Commissioners also addressed the NSW Right to Information and Privacy Practitioners' Network Forum at four quarterly meetings.

Objective 1: Engagement

Co-regulatory engagements

During the year both Commissioners enhanced relationships with other regulators and agencies to achieve legislative objectives including:

- NSW Ombudsman regarding WaterNSW regulatory intervention
- NSW Ombudsman and other agencies on improving complaints handling in the NSW Government
- Departments of Health, and Family and Community Services to establish arrangements for secure, privacy-respectful data sharing.

A risked-based and intelligence informed approach

The IPC Regulatory Compliance Committee oversees delivery of the IPC's commitment to effective risk based regulation. The purpose of the Committee is to advise upon proactive compliance activities set out in the IPC Annual Regulatory Plan to ensure that the IPC is guided by a risk-based and intelligence-informed approach to regulation, focussing attention and activity upon emerging issues, entities and sectors that pose the greatest risk to achieving regulatory objectives.

The Committee operates in the context of the IPC Regulatory Framework. The Committee comprises the Information Commissioner (Chair), Privacy Commissioner, Directors and Principal Review Officer. The Committee meets quarterly, or more frequently if required. In 2017/18, the Committee met four times.

The role of the Committee is to:

- review intelligence and post-case analysis to advise on emerging risks to the Annual Regulatory Plan
- review proposals for new or changed proactive compliance activities to address the changed environment
- advise on any proposed amendments to the Annual Regulatory Plan required as a result of a change in the risk environment or agency/sector performance
- consider and recommend strategies for regulatory action that may be suitable for consideration through future Regulatory Planning processes.

The Committee considers trends in the number of complaints and reviews closed by the IPC for the five legislated sectors in both information access and privacy.

In this reporting period the Committee identified the need to focus on increasing the quality of GIPA decision making

particularly within the local government sector, open access, health access, data breaches and the continued review and development of systems to support intelligence gathering.

This was acquitted through:

- tailored regulatory engagement within local government by the Information Commissioner and the Director Investigation and Reporting
- meetings with local government representatives and NSW Police Force regarding their approach to mandatory open access obligations
- regulatory engagement with identified NSW public sector agencies
- development of guidance to support improved decision making and awareness of health access rights from private health service providers
- development of additional resources to support voluntary data breach reporting.

The IPC also consulted and sought the views of the Office of the Australian Information Commissioner in the development of its guidance on Mandatory Notifiable Data Breaches and the General Data Protection Regulation which both came into effect in the reporting year. Although largely applicable to commonwealth regulated entities, these may have some application for NSW public sector agencies.

Communications

The IPC is committed to maintaining ongoing communication with all our stakeholder groups. Communications are managed via the IPC website, through social media and other channels. During the reporting period the IPC published:

- 9 media responses
- 120 tweets
- 80 e-alerts to our stakeholder groups
- 6 media releases
- 44 publications

Information Commissioner's investigation

In the 2016/17 Annual Report, the Information Commissioner reported on the initiation of an investigation following receipt of a referral under section 53 of the *Independent Commission Against Corruption Act 1988*. The referral concerned an alleged deletion of records to avoid release pursuant to the GIPA Act. During the 2017/18 reporting period, the Information Commissioner finalised the investigation. The investigation was conducted under

Objective 1: Engagement

section 23(1) of the GIC Act, into the functions of Transport for New South Wales. Investigations by the Information Commissioner under section 23(1) are conducted in private. In accordance with section 21 of the GIC Act, the final report was provided to the responsible Minister, the Minister for Transport and the principal officer of the agency subject of the report, the Secretary of Transport for NSW.

The investigation did not result in a finding that the conduct of Transport for NSW was conduct that constituted a failure to exercise its functions properly in accordance with any provision of the GIPA Act. The investigation did not conclude that an offence under the GIPA Act had been committed.

However, the investigation recommended that Transport for NSW institute a program of immediate and long-term remediation to address identified risks and ensure compliance with the intent and provisions of the GIPA Act. Transport for NSW has responded positively and has commenced implementing the recommendations. The IPC continues to monitor Transport for NSW's implementation of the report's recommendations.

In finalising the investigation the Information Commissioner released guidance materials, informed by the investigation, to public sector agency heads to enhance systems, policies and practices that support information access responsibilities including training and performance monitoring in large public sector agencies.

Parliamentary engagement

Parliamentary enquiries and reports

Both Commissioners have an important responsibility to keep the NSW Parliament informed of their activities and of broader trends in their respective jurisdictions.

The Information Commissioner provided a number of reports and submissions to Parliament including:

- the Report of the Operation of the *Government Information (Public Access) Act 2009: 2016 – 2017*. Under section 37 of the GIC Act, the Information Commissioner is required to provide Parliament with an annual report on the operation of the GIPA Act. The 2016/17 Report was tabled in Parliament in February 2018.
- appearing before the 2018 Review of the Annual Reports of Oversighted Bodies for the Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission on 12 March 2018. In her opening statement at the Review, Ms Tydd

emphasised the operational effectiveness of the IPC, particularly through the creation of internally robust procedures, systems, governance, prioritisation and investment in capability. The IPC focus areas highlighted included: data integrity and transparent reporting; an ongoing targeted regulatory program; and a contribution to international understanding of the operation of information access legislation

- a report regarding the outcomes of the Information Commissioner's investigation was also provided to the Parliamentary Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission consistent with that Committee's role in overseeing the functions of the Information Commissioner. This report dealt with the operation of the legislation, in particular the offence provisions contained in Part 6 Division 2 of the GIPA Act.

Reports to Parliament by the Privacy Commissioner included:

- appearing before the NSW Parliamentary Inquiry into the Management of Health Care Delivery in NSW on 30 October 2017, the Privacy Commissioner spoke on key issues in relation to health privacy, including use of electronic health records, and the Privacy Commissioner's future priorities in the health privacy space
- appearing before the 2018 Review of the Annual Reports of Oversighted Bodies for the Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission on 12 April 2018 the Privacy Commissioner spoke on the impacts of technological change on privacy, the success of the re-integration of the privacy function within the IPC, data breach notifications, development of new guidance materials, and the on-going regulatory program.

Objective 1: Engagement

Submissions made

Information Access

The Information Commissioner made submissions or comments on a range of issues including:

- to the Department of Justice review of the exercise of the royal prerogative of mercy and petitions to the Governor for review of convictions and sentences
- to the NSW Ministry of Health Review of Part 3A of the *Assisted Reproductive Technology Act 2007*
- the exposure draft National Disability Insurance Scheme (Protection and Disclosure of Information - Commissioner) Rule 2018
- the proposed Code of Best Practice for Records Management adopting Australian Standard AS ISO 15489.1:2017
- the Office of Local Government consultation draft of the Model Code of Conduct for Local Councils in NSW and Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW
- the NSW Fair Trading Complaints Register Guidelines Issues Paper
- the Revenue NSW draft Debt Recovery Guidelines Consultation Paper
- a response to a request from the Office of the Australian Information Commissioner, the Information Commissioner provided feedback on Agency Resource 14: Access to government information – administrative access on 21 June 2018.
- the Data Analytics Centre on the Australian Computer Society draft Whitepaper on Data Sharing Frameworks.

Privacy

The Privacy Commissioner made the submissions or comments on a range of issues including:

- to the NSW Law Reform Commission: Access to Digital Asset After Death or Incapacity
- to the National Transport Commission Safety Assurance for Automated Driving Systems Consultation Regulatory Impact Statement
- to the NSW Parliamentary Inquiry into Landowner Protections from Unauthorised Filming or Surveillance
- to the Department of Justice review of the exercise of the royal prerogative of mercy and petitions to the Governor for review of convictions and sentences
- to the Department of Justice review of the *Terrorism (Police Powers) Act 2002*
- to the NSW Ministry of Health Review of Part 3A of the *Assisted Reproductive Technology Act 2007*

- the Australian Government on the draft privacy impact assessment on the design, operating model and governance arrangements for the National Driver Licence Facial Recognition Solution
- the exposure draft National Disability Insurance Scheme (Protection and Disclosure of Information - Commissioner) Rule 2018
- the Office of Local Government consultation draft of the Model Code of Conduct for Local Councils in NSW and Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW
- the NSW Water Reform Action Plan Transparency Measures Consultation Paper
- comment on the Revenue NSW draft Debt Recovery Guidelines Consultation Paper
- in response to a request from the Information Commissioner, the Privacy Commissioner provided feedback on draft guidance material on audio-visual information on 26 September 2017
- the Digital Transformation Agency on the Trusted Digital Identity Framework Consultation Draft.

Report on the Operation of the *Government Information (Public Access) Act 2009: 2016/17*

The Report on the Operation of the *Government Information (Public Access) Act 2009: 2016 – 2017* provides a comprehensive assessment of the operation of the right to information legislation in New South Wales. The Report examines the performance of over 200 government agencies, provides important guidance to policy makers and agency heads, and promotes greater transparency for the NSW community.

The Report was tabled in February 2018. Key findings include:

- a 20 per cent increase in the number of applications received by agencies reflecting the increasing value the community is placing on their right to access government information
- the public is increasingly requesting information about how government information works, with a 20 per cent increase in the number of applications for 'other than personal information' in 2016/17
- the overall information release rate was 71 per cent, a 3 per cent increase from the previous year, driven largely by the government, council and university sectors and reflecting a positive response by agencies to the IPC focus on information release rates
- agency timeliness in decision-making declined with 5 per cent of applications not decided within time compared to three per cent in 2015/16

Objective 1: Engagement

- agency decisions were less likely to be upheld across all review types, with 43 per cent of all internal and external reviews upholding agency decisions in 2016/17, compared with 54 per cent in 2015/16
- a continuing decline in reported reviews of programs for release of government information by agencies, to 63 per cent in 2016/17 (previously 71 per cent)
- reviews by the Information Commissioner now represent 38 per cent of all reviews conducted following an information access decision by a government agency
- agency decisions were less likely to be upheld across all review types, with 43 per cent of all internal and external reviews upholding agency decisions in 2016/17, compared with 54 per cent in 2015/16.

Objective 2: Rights promotion



Objective 2: Rights promotion

Our independent and accessible expertise is recognised, trusted and exemplary in promoting rights and lawfully balancing information access and privacy.

Imperatives

- Adopt and promote an integrated approach to information management that minimises regulatory burden and guides practical solutions.
- Shape the legislation and policies to ensure they are contemporary and effective.
- Build a clear, contemporary and secure information sharing culture.

How did we measure these?

- Incorporation of IPC submissions into new or revised instruments and reports.
- Community attitudes survey demonstrates increasing awareness of IPC and rights promotion.
- % increase in advices/briefings that holistically guide information management within the IPC legislative environment.

Informing the public of their rights

IPC Website

The IPC website www.ipc.nsw.gov.au is the central communication and service channel for IPC stakeholders. It houses a suite of online resources, access to the e-learning portal and general information about the organisation. The website is also used to promote new publications, significant campaigns and events that champion the right to access government information and the protection of privacy in NSW. During the reporting period, website page views increased by 10 per cent and page visits by 16 per cent compared to the same period last year meeting or exceeding the target of 10 per cent growth in both visits and views.

	2017/18	2016/17	2015/16
Page views	388,424	353,255	344,946
Website visits	165,994	143,434	124,960
Unique visits	108,066	92,709	80,208
Average visit duration	2.27 minutes	2.38 minutes	2.49 minutes

Note: figures for previous years have been updated and aligned with new reporting and data sources for enquiries.

Enquiries

The IPC receives enquiries from members of the public, businesses and other organisations about privacy rights in NSW, how to access government, personal and health information and review rights.

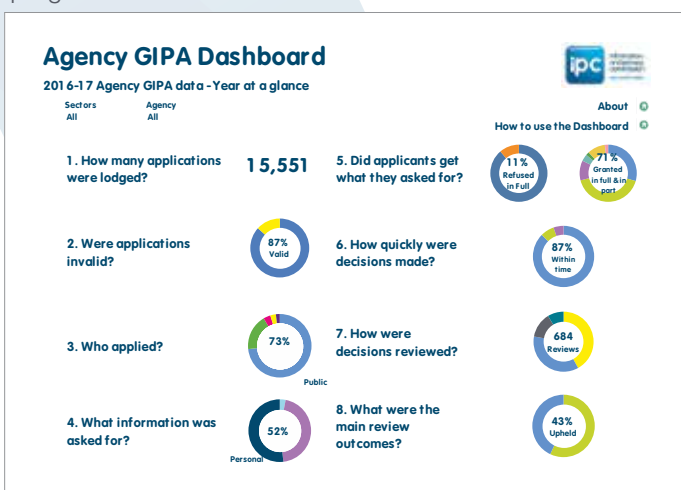
During the reporting period recorded enquiry numbers reduced somewhat, partly due to a change in data collection and also reflecting improved access and comprehensiveness of materials on the IPC website. Overtime, the IPC aims to support 'self-service' more effectively, complementing the website with personal assistance where needed.

	2017/18	2016/17	2015/16
Phone	2806	3351	3647
In writing and in person*	609	992	827

Note: figures for previous years have been updated and aligned with new reporting and data sources for enquiries.

Agency GIPA Dashboard

The IPC launched an interactive GIPA dashboard that provides accessible data from over 230 agencies for the public, individual agencies and for all sectors. Available online for the first time, the public and agencies can see how the GIPA Act is working for them against the eight key performance measurements reported upon each year since 2014. The dashboard represents the IPC's commitment to Open Data and is part of the IPC's proactive release program.



Objective 2: Rights promotion

Right to Know Week

International Right to Know Day is celebrated on 28 September each year. In NSW, the IPC acknowledged the event with Right to Know Week from 25 September to 1 October 2017. For the second time, the IPC partnered with other jurisdictions in Queensland, Victoria, Western Australia, Tasmania and the Commonwealth to release a joint media statement from the Information Commissioners.

The IPC was also pleased to join our counterparts in live-streaming Queensland's Solomon Lecture by Mr Kerry O'Brien. The lecture drew from the 30th anniversary of Queensland's Fitzgerald Inquiry and included themes around the media's role in keeping the community informed about government decisions and impact on trust.

Other highlights included:

- publication of the Monitoring of Agency Disclosure Log Practices Report
- digital advertising on State Transit Authority buses across Sydney and Newcastle for two weeks – our poster appeared on 1,700 buses with approximately 16,000 services operating each working day, carrying more than 640,000 passengers
- recruitment of a record 52 champions
- two Q&A blogs for NSW State Archives and Records and Department of Finance, Services and Innovation
- the IPC's dedicated web page received 465 page views compared with 925 in 2017, 836 in 2016 and 715 in 2015, and
- Right to Know tweets made 21,179 impressions, compared to 14,240 impressions in 2016, and achieved 54 engagements compared to 156 in 2016 and 76 in 2015.

Privacy Awareness Week

Privacy Awareness Week (PAW) is held annually in May and for her first campaign, the Privacy Commissioner hosted the Thought Leadership Event Privacy in the Digital Age (p22).

Other highlights included:

- the inaugural recruitment of 30 privacy champions
- publication of a new fact sheet on GDPR guidelines
- the IPC's designated web pages received 421 page views compared with 564 in 2017, 634 in 2016 and 643 in 2015, and
- Privacy Awareness tweets made a noteworthy 13,075 impressions (compared to 4,791 impressions in 2017) and achieved 97 engagements (compared to 48 in 2017).

Information Awareness Month

Information Awareness Month (IAM) is an annual collaborative event that promotes the important role that information plays in all aspects of our day-to-day lives. Celebrated around Australia during May, IAM is an initiative of the Institute of Information Management and the National Archives of Australia.

The IPC's theme for IAM 2018 was 'Trust in the Digital World'. Activities included:

- the launch of the new Open Data e-learning resource in collaboration with the Department of Finance, Services and Innovation, and in line with the NSW Open Data Policy
- a FutureProof Blog post on the launch of the new Open Data e-learning resource.

Community events

In addition to its key annual events the IPC supported and celebrated 16 community events including:

2017

- National Aborigines and Islanders Day Observance Committee (NAIDOC) Week, 2-9 July
- International Day of the World's Indigenous Peoples, 9 August
- Indigenous Literacy Day, 7 September
- International Day of Democracy, 15 September
- United Nations Day, 24 October
- International Day of Persons with Disabilities, 3 December
- Human Rights Day, 10 December

2018

- Zero Discrimination Day, 1 March
- NSW Senior's Festival, 4-15 March
- International Women's Day, 8 March
- Harmony Day, 21 March
- World Health Day, 7 April
- Open Government Week, 7-11 May
- Law Week, 14-20 May
- Global Accessibility Awareness Day, 17 May
- National Reconciliation Week, 27 May - 3 June

Objective 2: Rights promotion

Resources

Publications

Since July 2017, the IPC has produced 44 new publications to promote community and agency understanding of privacy and information access rights in NSW. New publications have included:

- 5 statutory and regulatory reports
- 24 information access resources
- 5 new privacy resources
- 4 newsletters
- 6 corporate resources

See the full list at Appendix 1. All resources are published in accessible formats and are available for download on our website.

Key resources for agencies

GIPA

The IPC GIPA Tool was launched on 1 July 2015 and is used by 242 agencies with more than 500 active users to manage GIPA applications and/or to submit agency annual GIPA reports to the IPC.

During the financial year, further enhancements of the GIPA Tool were undertaken reflecting changes in legislation and to improve the ease of use and value of the Tool.

Privacy

Throughout the reporting period the Privacy Commissioner provided the Department of Family and Community Services with advice on the development of Public Interest Directions for the Their Futures Matter project. The Their Futures Matters project aims to ensure that effort and funding across government is focused on interventions that will improve long-term outcomes for vulnerable children or young persons and their families at the earliest opportunity. It is anticipated that the directions will be finalised in the early 2018/19 reporting year.

e-Learning

In the reporting period, the e-learning portal had 409 new registrations to access the available e-learning modules compared with 336 in the previous financial year. The modules included one new course on Open Data in collaboration with the Department of Finance, Services and Innovation. The new registrations came from Government

agencies (187), councils (143), the general public (16), universities (12), the private sector (38) and the NGO sector (13).

During the reporting period the IPC also began developing a new module Towards Open Government Information. This e-learning module is the first to provide comprehensive guidance to NSW Public Sector employees and bring together information management responsibilities in one single training package. The module provides resources and guidance to promote better information management including information access, privacy, state records, digital and cyber security responsibilities.

New Privacy Public Interest Directions and Codes of Practice

- Direction relating to the Domestic Violence Disclosure Pilot Scheme made under section 41 of the PPIP Act
- Direction relating to the Domestic Violence Disclosure Pilot Scheme made under section 62 of the HRIP Act
- Direction for the exchange of personal information to assist in the transition of funded individuals to the National Disability Insurance Scheme made under section 41 of the PPIP Act
- Direction for the exchange of personal information to assist in the transition of funded individuals to the National Disability Insurance Scheme made under section 62 of the HRIP Act
- Renewed the Direction relating to Youth on Track made under section 41 of the PPIP Act
- Renewed the Direction relating to Youth on Track made under section 62 of the HRIP Act

During 2017/18 the following Public Interest Directions expired:

- Direction relating to Youth on Track made under section 41 of the PPIP Act expired on 30 April 2018
- Direction relating to Youth on Track made under section 62 of the HRIP Act expired on 30 April 2018

No new Privacy Codes of Practice were approved and gazetted between 1 July 2017 and 30 June 2018. The Privacy Commissioner provided advice to the NSW Public Service Commission and the Department of Families and Community Services on the development of new Codes of Practice. It is anticipated that the new Codes will be finalised in the first half of 2018/19.

Objective 2: Rights promotion

Strengthening Agency Information Guides

Agency Information Guides (AIGs) are published in accordance with section 20 of the GIPA Act and act as a key mechanism in making government information accessible, promoting the currency of government information and its appropriate release.

During 2017/18, the IPC continued its engagement with NSW public sector agencies on AIGs and undertook a follow-up Agency Information Guide Review Report to measure improvements in AIG compliance since May 2016.

The review found significant improvements in compliance with AIG requirements across all agencies. It assessed the AIGs of the 10 principal NSW public sector departments and the IPC. Key findings included:

- eight department AIGs had been updated within the last two years, a significant increase on 2016. The IPC's AIG also met this requirement.
- only two department AIGs did not include a date indicating when they were last updated, compared to five principal department AIGs in 2016.
- all 10 departments and the IPC included a statement that expresses a commitment to public participation. This is a significant improvement from the 2016 review, where only six AIGs included this feature.
- all 10 departments' AIG included an articulation of the arrangements that are in place to promote public participation, up from six in the 2016 review. The IPC's AIG also included this requirement.

Awareness of the IPC and rights promotion

In 2018, the IPC conducted its biennial Community Attitudes Study - a survey of the NSW community about the importance of the right to information and the sharing of data, including their awareness of, and experience in exercising this right.

The survey found an overwhelming majority (85 per cent) of the NSW community believe that having the right to access government information is important. This figure has remained relatively consistent across all years surveyed, with 89 per cent of respondents in 2016 believing that the right to access information was important and 84 per cent in 2014.

When asked where they would go to access information held by agencies, 44 per cent of the community indicated that they would contact the agency, compared to 30 per cent in 2014 and 2016 respectively. The proportion of the community that would contact the Information and Privacy

Commission has grown significantly from 1 per cent in 2014 to 10 per cent in 2018.

Just over a third of respondents were aware of the role of the NSW Privacy Commissioner to uphold NSW privacy laws and investigate privacy complaints.

In terms of reporting misuse of personal information, respondents were most likely to report misuse of personal information to the NSW Police, followed by the agency concerned. The IPC was nominated as the reporting avenue by 13 per cent of respondents. For more detail see pages 40-41.

Open Data Advocate

Open Government Partnership (OGP) National Action Plan (NAP)

The NSW Information Commissioner has continued to lead work by Association of Australian Information Access Commissioners (AIAC) to implement Commitment 3.2 of the National Action Plan, to develop consistent metrics across Australian jurisdictions to compare and analyse how freedom of information rights are used across the country. The agreed metrics promote transparency and enable the community to compare the performance of their local Freedom of Information Act (FOI) laws with those of other states/territories, as well as improving community understanding of how FOI laws work and how to access them. Following a validation and pilot process for data collection and presentation, the Information Commissioner released the first national dataset using the metrics in December 2017.

The Information Commissioner, on behalf of the AIAC, engaged with the Department of Prime Minister and Cabinet in the development of new commitments for inclusion in the second Australian National Action Plan 2018-20. It is anticipated the plan will be finalised by the end of 2018.

The Information Commissioner attended six meetings of Australia's Open Government Forum during 2017/18. The Information Commissioner is a non-voting jurisdictional member, reflecting the Commonwealth's desire to build stronger relationships with the states on open government matters.

Objective 3: Impact



Objective 3: Impact

We contribute to social and economic wellbeing by leading and advancing effective information access and privacy rights.

Imperatives

- Improve community awareness of the IPC and information access and privacy rights.
- Create a culture of open and participative democracy.
- Create a culture of commitment to and compliance with information access and privacy rights within agencies and service providers.

How did we measure these?

- % increase in community awareness of IPC legislation.
- % increase in agency awareness of IPC services and responsibilities.
- Client satisfaction trending upwards year on year.
- % increase for citizens to engage with agencies through IPC legislative mechanisms.

Building a culture of commitment: Reviewing agency performance

A major role of the IPC is to support the Commissioners by providing case work services consistent with their legislative remit. Because the type and scale of case work varies between the two statutory streams, performance is reported separately. The IPC's overall performance targets include finalising 80 per cent of advices within 14 days, 80 per cent of reviews and complaints within 90 days, and 80 per cent of telephone enquiries within one day. The number of reviews and complaints received and finalised are reported on pages 34-35.

As reported last year the IPC reviewed its approach to providing agencies and applicants with reports on external reviews conducted by the Information Commissioner under the GIPA Act. Feedback from agencies was incorporated and adopted by the IPC during the year. The objective of building awareness and a culture of commitment to compliance are served by the IPC's timely and transparent provision of services and reports.

IPC Regulatory Plan 2017/19

During the financial year 2017/18, the IPC developed a Regulatory Plan for 2017/19 to signal the organisation's priorities to our regulated agencies and stakeholders.

Key priorities across the IPC Regulatory Plan for 2017/19 include:

- development of guidance for Information Access, including accessing information relating to out-of-home care, personal information, the public interest test, unreasonable diversion of resources and GIPA extensions
- development of identified guidance for Privacy, including data sharing, privacy codes, data breach notification, public interest directions, e-health and accessing personal and health information under the HRIP Act and PPIP Act
- development of comprehensive risk-based sampling and compliance monitoring processes
- develop and rollout of foundational guidelines and other information to promote secure data sharing across agencies that comply with information access and privacy requirements
- development of a stakeholder engagement framework underpinned by engagement plans that span key stakeholder groups including citizens, regulated entities and other stakeholders, including practitioners
- development of a suite of targeted e-learning modules for information governance, privacy and Open Data.

Advice to agencies

The IPC provides guidance to agencies to assist with compliance, their decision-making, and to support public access to information.

GIPA advices to agencies

During the year agencies sought advice on many aspects of GIPA including:

- handling of formal applications
- preparation of Agency Information Guides
- reporting of data on agency operations to the IPC
- management of disclosure requirements such as contract registers.

Objective 3: Impact

Privacy advices to agencies

During the year topics included:

- the collection, use and disclosure of information including personal and health information
- privacy-respectful sharing of data between public sector agencies
- proposed amendments to legislation and regulations
- handling of privacy breaches
- use of data collection techniques
- conduct of privacy impact assessments.

Advice by sector

The tables below summarise the number of advices provided to agencies by their regulated sector. Although there was a small decline in the number of advices overall for both information access and privacy the levels remain comparable to the previous year. They indicate that for both statutory streams state government agencies are the major clients for advice, followed by local government.

Advice by sector GIPA

Stream and sector	2017/18	2016/17	2015/16
Total GIPA	409	425	70
State Government	187	186	37
Local Government	175	193	10
University	15	10	1
Minister	1	0	0
State Owned Corporation	9	12	0
Other*	22	24	22

* includes advices to entities seeking information or information access, other government and privatised government entities.

Advice by sector Privacy

Stream and sector	2017/18	2016/17	2015/16
Total Privacy	284	285	145
State Government	184	121	90
Local Government	50	14	7
University	10	6	2
Minister	1	3	6
State Owned Corporation	3	0	0
Other*	36	141	40

Note: the above advices are exclusive of IPC corporate advice.

*includes advices for private healthcare providers under HRIP

Complaints and reviews

Complaints – Information Access

2017/18 saw a 38 per cent decrease in the number of complaints received compared with the previous reporting year.

During 2017/18, 76 per cent of complaints were finalised within 90 days compared to 85 per cent in the previous reporting year.

Of the 37 complaints finalised, the majority were focused in the state and local government sectors. Complaints concerning open access, fees and charges for open access information were concentrated in the local government sector.

The majority of complaints lodged related to:

- decision-making processes
- decision-making time frames – either, not making a decision within the statutory time frame, or in not responding to an informal request within a reasonable time frame
- open access information not available.

Complaints - Privacy

2017/18 saw a 27 per cent decrease in complaints received compared to the previous year. During 2017/18, 79 per cent of complaints were finalised within 90 days compared to 82 per cent the previous reporting year. Of the complaints finalised, the majority lodged with the Privacy Commissioner related to:

- access or refusal of access to health or personal information – examples include individuals seeking access

The change in the numbers of advices closed in information access and privacy between financial end 2015/16 and 2016/17 reflects a change in the categorisation of enquiries and requests from agencies for advice adopted by the IPC.

Objective 3: Impact

to dental records, individuals seeking to have medical records transferred to a new provider, and individuals who were refused access to medical records.

- Disclosure of health or personal information – examples include alleged disclosure of personal details to a third party
- collection, confidentiality or security of health or personal information – examples include confidentiality of information arising from blood tests, a breach of privacy in relation to medical assessments, storage and use of health information and accuracy of personal information held on file.

In 2014, the former Acting Privacy Commissioner commenced an examination into Transport for NSW's Opal Electronic Ticketing Scheme following the receipt of a complaint. The Privacy Commissioner in considering the complaint met with the parties to inform her view about any future actions in respect of the examination and the impact of the NSW Civil and Administrative Tribunal's decision at first instance in *Waters v Transport for NSW* [2018] NSWCATAD 40. The decision at first instance by the NCAT was the subject of an appeal at the time of reporting.

Reviews of agency information access decisions

The Information Commissioner finalised 93 per cent of all reviews received in the 2017/18 reporting period. There was a 3 per cent increase on the number received in the previous reporting period.

During 2017/18 86 per cent of external reviews were finalised within 90 days compared with 94 percent in the previous reporting year.

Of the reviews finalised in the reporting year, 768 considerations were identified. The top 10 considerations that were finalised are listed in the table on the right.

Submission on internal agency reviews - privacy

The Privacy Commissioner exercises her oversight function following application for an internal review by an individual to an agency.

In practice, the IPC receives a report from the agency that outlines the issues, its investigation of the complaint and the findings and proposed recommendations. The IPC is notified of the application outcomes and undertakes an assessment. The Privacy Commissioner may make submissions for consideration by the agency if warranted.

2017/18 saw a 15 per cent decrease in the number of privacy reviews compared with the previous reporting period. During 2017/18 70 per cent of all reviews were finalised within 90 days compared with 68 per cent in the previous reporting period. The top 10 reviews are listed in the tables on the right.

GIPA external review

Top 10 public interest consideration applied by agencies	Number
Reveal personal information (section 14 T (3)(a))	106
Information not held/searches	66
Prejudice effective exercise of agency function (section 14 T(1) (f))	54
Prejudice supply of confidential information (section 14 T (1) (d))	52
Contravene an information protection principle or health privacy principle (section 14 T(3)(b))	51
IPC Legislation \GIPA Act 2009	49
Prejudice business/professional interests section 14 T (4)(D))	34
Prejudice deliberative process of government (section 14 T (1) (e))	28
Prejudice conduct, effectiveness or integrity of audit, test, investigation or review (section 14 T (1)(h))	28
Legal Professional Privilege (Sch 1(5))	26
Top ten total	494

Note: one review may address more than one public interest consideration.

Privacy reviews

Top 10 Issue/Privacy Principle	Number
IPP 11 Limits on disclosure of personal information	104
IPP5 Retention and security of personal information	31
IPP 10 Limits on use of personal information	30
HPP 11 Limits on disclosure of health information	26
HPP 10 Limits on use of health information	14
HPP 5 Retention and security	10
IPP 7 Access to personal information held by agencies	10
IPP 9 Agency must check accuracy of personal information before use	10
IPP 3 Requirements when collecting personal information	7
IPP 8 Alteration of personal information	7
Top ten total	249

Note: one review may address more than one IPP/HPP.

Objective 3: Impact

Reviews and complaints by sector

The tables below identify the major sectors subject to review or complaint. As in previous years the government sector accounts for the greatest share of these cases.

Closed information access complaints and reviews by sector

Sector	Complaints	Reviews
Government	21	229
Council	15	66
University	0	9
Minister	0	3
State Owned Corporation	1	5
Other*	0	1

* Includes sectors which by particular operation of legislation are designated to comply with GIPA eg. independent schools for the purpose of working with children investigations

Closed privacy complaints and reviews by sector

Sector	Complaints	Reviews
Government	16	121
Council	3	19
University	2	18
Minister	1	0
State Owned Corporation	0	0
Other*	56	0

* Includes complaints about access to health information by private providers under section 26 of the HRIP Act.

Casework performance statistics for 2017/18

GIPA case activities and performance

Case type	Number received	Number closed	Number open at 30 June 2018	Average days to finalise 2016/17	Average days to finalise 2017/18	% Complete in less than target 2017/18
Advices	409	409	1	6	8	89%
Audits (combined)	53	53	4	76	28	83%
Audit-AIG	53	53	4	75	28	83%
Audit-other*	0	0	0	97	N/A	N/A
Complaints	36	37	6	66	68	76%
Reviews	336	313	71	50	59	86%
Enquiries	1792	1790	1	1	1	87%
Own motion	0	1	0	NA	493	NA

* Includes general compliance audits in accordance with section 17(g) of the GIPA Act.

Privacy Management Plans

Under Part 3 Division 2 of the PPIP Act, public sector agencies are required to prepare and implement a privacy management plan and provide a copy to the Privacy Commissioner. The plan is an integral part of public sector agencies' governance frameworks as it documents how privacy obligations are integrated into the functions and activities of the agency. The plan sets out the agency's policies and procedures for complying with privacy and the principles contained in NSW privacy legislation. Plans are publicly available and assist staff in their day-to-day handling of personal and health information, and are to be available to clients who wish to understand how their privacy is protected and managed by public sector organisations.

The number of Privacy Management Plans received for review varies each year, depending, in the main, on whether agencies have new or changed responsibilities that affect their obligations under privacy legislation requiring an update to their privacy management plan.

In the reporting year the Privacy Commissioner received a total of nine Privacy Management Plans for consideration. These are reviewed by the IPC and provided to agencies as required.

Objective 3: Impact

Privacy case activities and performance

Case type	Number received	Number closed	Number open at 30 June 2018	Average days to finalise 2016/2017	Average days to finalise 2017/2018	% Complete in less than target 2017/2018
Advices	283	284	4	97	24	71%
Audits (PMP and other audits combined)	9	9	0	34	36	33%
Audit-PMP	8	8	0	25	37	38%
Audit-other*	1	1	0	92	30	0%
Voluntary breaches	45	45	1	20	10	98%
Complaints	88	78	13	59	66	79%
Reviews	160	158	32	87	92	70%
Enquiries	1592	1584	2	7	1	89%
Own motion	0	0	0	147	NA	NA

* refers to an agency specific audit that is neither a PMP or voluntary breach.

Privacy voluntary breach notifications

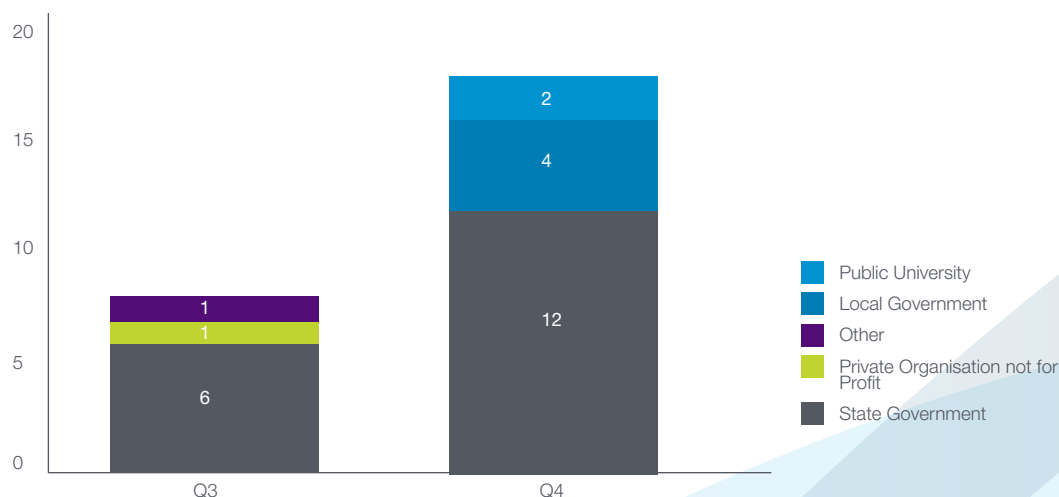
Agencies have obligations under the PPIP and HRIP Act to take reasonable steps to protect the personal and health information they hold. A data breach occurs when a failure has caused, or has the potential to cause a loss of the protection of personal or health information. Although malware, hacking and data theft are examples of data breaches, many breaches are a result of simple human or technical errors rather than malicious intent.

While not required by law, the Privacy Commissioner

encourages agencies to make voluntary notifications of data breaches. During the reporting period the Privacy Commissioner developed and issued a suite of data breach resources to support agencies to address and respond to breaches.

In 2018, the Privacy Commissioner commenced the quarterly reporting of data breaches voluntarily notified to her. During the year the Privacy Commissioner received a total of 45 breach notifications, of which 26 occurred in quarters 3 and 4 as detailed below. The majority of notifications were from the state government sector.

Voluntary Breaches notified to the IPC - FY2017/18: Q3 & 4



Objective 3: Impact

NSW Civil and Administrative Tribunal (NCAT) activities

If an individual is not satisfied with a decision on a formal access application, under the GIPA Act they may apply for a review by NCAT. Applications must be made within 40 working days from being notified of the decision by an agency, or within 20 working days from being notified of the decision by the Information Commissioner.

Under the PPIP Act, if an individual is not satisfied with the outcome of a privacy internal review, or if their application is not dealt with by the relevant agency within 60 days of the agency's receipt of their application, they may apply to NCAT for a review of the conduct giving rise to the internal review application.

In NCAT proceedings, the Information Commissioner and Privacy Commissioner have the role of amicus curiae ("friend" to the Tribunal) and representatives of the Commissioners can attend NCAT upon instruction from the Commissioners to assist with interpretation of the relevant legislation and issues of law. IPC officers cannot assist the parties to the litigation.

The Commissioners continued the practice of appearing in a variety of matters in the initial stages to assess whether the matter would address issues of broad public interest or importance. In some matters, NCAT may request a Commissioner's additional or continued attendance and involvement, and may also seek submissions in a matter to assist NCAT in its task.

During the reporting period, IPC staff (on instruction from the Commissioners) attended listings of matters before NCAT and made oral and written submissions in a number of matters on a variety of important issues, including appeals such as:

- *Shoebridge v Office of Environment and Heritage* [2018] NSWCATAP 144 on when discounts on processing charges and advance deposits apply
- *Transport for NSW v Waters* [2018] NSWCATAP 200 on the collection of travel movement history.

The following table summarises the number of cases in NCAT proceedings dealt with during the 2017/18 reporting period:

Act	No. files opened 01/07/17 – 30/06/18	No. files closed 01/07/17 – 30/06/18
GIPA	127	142
Privacy	25	34
Total	152	176

Human Research Ethics Committees (HRECs) reporting

Under the HRIP Act, the Privacy Commissioner has issued legally binding statutory guidelines on the use or disclosure of health information for research purposes that require HRECs to provide a compliance report to the Privacy Commissioner after 30 June each year. The compliance report identifies where HRECs have approved research proposals seeking to use or disclose personal or health information without consent, on the basis that the public interest in the research substantially outweighs the public interest in maintaining the level of privacy protection provided by the HRIP Act.

All 20 HRECs submitted compliance reports for 2017/18, covering a total of 636 research proposals. Of these research proposals 506 (79.5 per cent) used personal or health information without consent, based on the public interest value of the proposed research substantially outweighing the public interest in the protection of privacy.

Objective 3: Impact

Human Research Ethics Committee reports received during 2017/18

No.	Date received	HREC carried out between July 2017 and June 2018	Proposals	Without consent	Outweighed public interest
1	27/06/2018	Albury Wodonga Human Research Ethics Committee	0	no	0
2	09/07/2017	St Vincent's Hospital Human Research Ethics Committee	0	no	0
3	17/07/2018	Sydney Local Health District (RPAH Zone) Ethics Review Committee	47	yes	47
4	18/07/2017	NSW Population and Health Research Ethics Committee, Cancer Institute	46	yes	46
5	18/07/2018	Justice Health and Forensic Mental Health Network HREC	2	yes	2
6	23/07/2018	Sydney Children's Hospitals Network HREC	88	yes	78
7	25/07/2018	Sydney Local Health District (CRGH Zone) HREC	58	yes	58
8	25/07/2018	Western Sydney Local Health District HREC	0	no	0
9	31/07/2018	Nepean Blue Mountains Health District HREC	16	yes	16
10	31/07/2018	North Coast New South Wales Human Research Ethics Committee	7	yes	7
11	31/07/2018	Greater Western Human Research Ethics Committee	20	yes	20
12	02/08/2018	Aboriginal Health and Medical Research Council HREC	21	yes	19
13	02/08/2018	University of Wollongong and Illawarra Shoalhaven Local Health District Health and Medical HREC	9	yes	5
14	02/08/2018	University of Wollongong and Illawarra Shoalhaven Local Health District Social Sciences HREC	0	no	0
15	02/08/2018	South Western Sydney Local Health District Human Research Ethics Committee	67	yes	67
16	03/08/2018	Northern Sydney Local Health District Human Research Ethics Committee	216	yes	103
17	06/08/2018	Hunter New England Human Research Ethics Committee	36	yes	36
18	16/08/2018	University of Newcastle HREC			
19	03/09/2018	Adventist HealthCare Limited HREC	0	no	0
20	20/09/2018	South Eastern Sydney Local health District HREC	3	yes	2
Total			636		506

Objective 3: Impact

Public Interest Disclosures

Public interest disclosures and government information contraventions

Under the *Public Interest Disclosures Act 1994* (PID Act), the IPC is required to collect and report on information about Public Interest Disclosures (PIDs). The following table outlines the information the IPC is required to report on under the PID Act.

The IPC website includes a fact sheet of frequently asked questions about PIDs, and the IPC's internal policy for PIDs.

The Information Commissioner is also an investigating authority under the PID Act and may receive complaints about contraventions of the GIPA Act.

The Information Commissioner closed two complaints during the reporting year. During the assessment process neither of the complaints satisfied the requirements of the PID Act. Accordingly, the table reflects the outcome of the PID assessment.

Under the PID Act, a public sector official can report a government information contravention, which is defined as a failure to exercise functions in accordance with any provision of the GIPA Act to the Information Commissioner.

Under section 17 of the GILC Act, the Information Commissioner is empowered to investigate such PIDs, unless the disclosure is about a reviewable decision under the GIPA Act, as section 89(4) of the GIPA Act prevents the Commissioner from considering complaints about reviewable decisions.

Information about the PIDs we have dealt with as an investigating authority is included in the six monthly and annual reporting of PIDs to the NSW Ombudsman.

The Information Commissioner is a member of the Public Interest Disclosures Steering Committee, which has a number of roles in overseeing the PID Act, including advising the Premier on the operation of the Act. The Steering Committee is chaired by the NSW Ombudsman and issues its own annual report regarding the PID Act and PIDs received by various investigating agencies. The PID annual report can be found on the NSW Ombudsman's website.

The Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission published its report on the review of the PID Act in October 2017, following consideration of submissions and public hearings in 2016. The Information Commissioner made submissions and provided evidence at the public hearings.

Public Interest Disclosures received in the reporting period

Made by public officials performing day-to-day functions	Under a statutory or other legal obligation	All other PIDs
0	0	0
Number of public officials who made PIDs directly	0	0
Number of PIDs received	0	0

Number of PIDs received

Category			
Corrupt conduct	0	0	0
Maladministration	0	0	0
Serious and substantial waste	0	0	0
Government information contravention	0	0	0
Local government pecuniary interest contravention	0	0	0
Total	0	0	0

Improving community awareness

Community Attitudes Survey

In 2018, the IPC conducted its biannual Community Attitudes Study - a survey of the NSW community about the importance of the right to information and the sharing of data, including their awareness of, and experience in exercising this right. The 2018 survey builds upon previous surveys undertaken by the IPC in 2016 and 2014 and allows an examination of changes in awareness, attitudes and experience since 2014.

This survey provides an additional lens through which community attitudes and the exercise of the rights administered by the IPC can be examined. The results should be considered in the context of additional information including reports by the Information Commissioner and the Privacy Commissioner regarding the operation of the legislation and the performance of agencies in delivering these rights to NSW citizens.

Objective 3: Impact

Information access

The survey found that an overwhelming majority (85 per cent) of the NSW community believe that having the right to access government information is important. This figure has remained relatively consistent across all years surveyed, with 89 per cent of respondents in 2016 believing that the right to access information is important and 84 per cent in 2014.

Community awareness of the right to access government information appears to have declined significantly since the last survey, from 79 per cent in 2016 to 55 per cent in 2018. This decline appears most sharply in the local government sector with awareness falling from 70 per cent to 44 per cent across the two years.

When asked where they would go to access information held by agencies, 44 per cent of the community indicated that they would contact the agency, compared to 30 per cent in 2014 and 2016 respectively. The proportion of the community that would contact the Information and Privacy Commission has grown significantly from 1 per cent in 2014 to 10 per cent in 2018.

Respondents were asked whether they had considered or tried to access government information in the last year. A third of respondents had considered or tried to access information from any agency in the last year.

Of those who have sought access to government information, 76 per cent reported being successful in obtaining the information they requested. While this appears to be a decline from previous years, changes to the methodology of the survey in 2018 prevent a direct comparison to previous results.

Success in accessing information varied depending on the sector with requests to local councils, government departments and universities most successful with between 78 per cent and 84 per cent of applicants getting what they wanted from access requests. Applications to Ministers and State Owned Corporations were least successful with 58 per cent and 64 per cent of applicants respectively receiving the information they asked for.

Generally respondents reported higher levels of access than data reported to the IPC by agencies.

Data sharing

Respondents were asked about the types of government information they would like to access. Half of those surveyed wanted to access all types of government information. This suggests that the citizens of NSW are interested in accessing a broad range of government information. For those who selected one type of information, 21 per cent indicated that they were interested in information about services provided by

government agencies.

Consistent with the 2016 results, respondents continue to overwhelmingly see access to government information as important in supporting decision-making that is fair (89 per cent), transparent (90 per cent), accountable (91 per cent), effective (88 per cent), and that supports public participation (87 per cent).

De-identification of information is increasingly recognised as an important strategy for supporting open and transparent government, as well as protecting the information of citizens. Support was particularly strong (73 per cent) for the use of de-identified data to inform planning and delivery of services provided by government agencies, and for consultation with the public (73 per cent) consistent with the 2016 results.

However, the proportion of those who are undecided about the benefits of using de-identified data for public purposes has increased in recent years, possibly reflecting recent data and privacy debates.

Privacy

Five per cent of respondents reported that they had made a privacy complaint about the behaviour of a NSW government department, university or local council. Of those respondents, most were likely to be aged between 25-34 and male.

There was a significantly greater awareness in 2018, compared to 2014, of the right to access personal information from:

- public health service providers 59 per cent aware (47 per cent in 2014)
- private health service providers 49 per cent aware (41 per cent in 2014)
- state government departments 49 per cent aware (39 per cent in 2014).

Most respondents would attempt to access their personal information by contacting the agency directly (45 per cent), or the IPC. However one fifth of respondents were unsure of what to do (22 per cent).

Only a small proportion had tried to access their personal information in the last year, however those who had were most successful in dealing with universities (82 per cent).

Despite this, respondents were less successful in 2018 in accessing personal information from universities or local councils, with 82 per cent (86 per cent in 2014) and 71 per cent (95 per cent in 2014) succeeding respectively.

Objective 4: Operational excellence



Objective 4: Operational excellence

Our operations are innovative, solution focussed and adaptable and our people have the commitment and capabilities to ensure optimal regulatory impact and citizen-centric services.

Imperatives

- Create the right mix of capabilities to be an effective contemporary regulator.
- Develop effective systems and processes to enable flexibility in delivery of services to stakeholders and citizens.
- Implement systems and capabilities to guide an integrated approach to information access and privacy legislation.

How did we measure these?

- IPC staff have capabilities and demonstrate expertise in regulatory craft and information management.
- % improvement in IPC compliance with customer service standards.
- % increase in compliance levels following IPC regulatory interventions.

The IPC Business Plan outlines priorities for 2017/19 with a focus on:

- implementing comprehensive risk-based compliance monitoring processes
- supporting agencies to uphold privacy and information access rights in contemporary models of service delivery
- providing credible advice to government, agencies and citizens that promotes open government and privacy rights, and builds community confidence
- strategic engagement with our stakeholder groups
- equipping our regulated sectors with resources and services to deliver good information access and privacy outcomes
- instilling a culture of regulatory expertise in our people.

We look forward to continuing to work with our stakeholders to deliver on our purpose of providing information, advice, assistance and training for agencies and the NSW community on information access and privacy.

Government Sector Employment Act 2013

The Government Sector Employment Act 2013 (GSE Act) recognises the IPC in Schedule 1, as a separate agency with the Information Commissioner appointed as the Agency Head. Under the GSE Act, staff members are appointed to the IPC and are responsible to the Agency Head to assist with the discharge of the statutory responsibilities of the Information Commissioner and Privacy Commissioner.

The GSE Act confers additional statutory responsibilities to the Information Commissioner as Agency Head, including the power of delegation and the requirement to be fiscally responsible, effective and efficient.

In 2017/18 the IPC met its compliance requirements with the GSE Act by:

- moving to the Department of Justice myPerformance framework for management performance and developing staff Performance and Development Plans (PDPs) consistent with this framework. All relevant staff have agreements in place that are consistent with this framework which is in turn compliant with the GSE Act;
- continuing to support staff training and development in both legislative/technical areas and broader development. During the year the IPC invested 784 hours or an average of 29 hours, per employee (excluding the Commissioners who are statutory appointees)
- using the development needs and aspirations identified in PDPs to plan future investments in staff capability.

Our planning framework

IPC Strategic Plan 2017/20

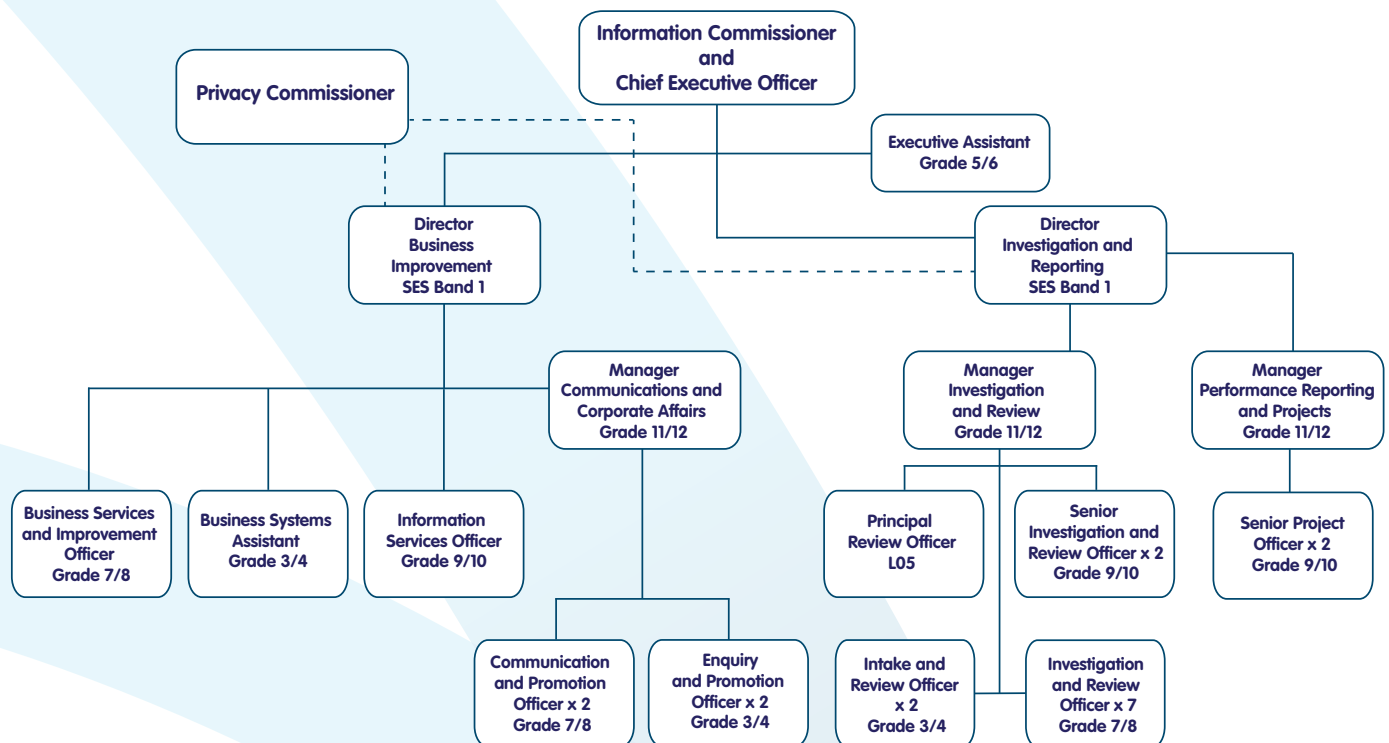
This annual report provides a report against the IPC's Strategic Plan 2017/20. Embodying the IPC's commitment to a strategic and contemporary approach to regulation, the Strategic Plan demonstrates the IPC's ambitious, future-based and proactive approach to identifying external risks and emerging opportunities to promote information access and privacy. Please see page 18 to view the IPC Strategic Plan 2017/20 in full.

IPC Business Plan 2017/19

The IPC Strategic Plan 2017/19 was supported by the development of a business planning framework and an operational business plan to support and prioritise the work of staff. This was monitored and reviewed fortnightly by the IPC Executive. This annual report provides an acquittal of work from the IPC Business Plan for 2017/18.

Objective 4: Operational excellence

Organisational structure as of 30 June 2018



KEY:
 SES = Senior Executive Service
 LO = Legal Officer

Our people

In February 2018 the IPC commenced a review to ensure our internal structures and reporting lines were appropriate in order to ensure:

- adequate support across the organisation in its statutory responsibilities, especially in the areas of legal expertise and a consistently applied customer service focus
- the IPC's regulatory focus and engagement is strategic and guided by the IPC's regulatory strategy and makes use of regulatory insights and intelligence across all parts of the IPC
- alignment of resources within current budget allocations.

The review was conducted against a background of:

- an increased interdependence of the privacy and information access regulatory spaces
- an increased complexity of cases and appeals to the NCAT requiring an increase in legal advising capabilities

- becoming more proactive in all aspects of the Commission's work including a planned engagement strategy
- operating in a broader 'cluster'/shared services environment has meant the Commission requires capacity to manage services provided by external providers (such as finance, information technology, human resource services, procurement and business monitoring and strategic business advice
- a fixed and limited resource base available to the IPC.

Following the review and consultation with affected staff, the IPC implemented a number of changes to roles and reporting lines to:

1. better integrate legal and regulatory advice
2. enhance business improvement strategy and delivery
3. provide a stronger focus on strategic engagement
4. improve regulatory processes.

The changes will be implemented beginning 1 July 2018.

Objective 4: Operational excellence

Senior executive

As at 30 June 2018, the IPC had four senior executives – three of whom were women. Two of these senior executives were statutory officers. The details of the levels of our senior positions and their remuneration is shown below. Although the Commissioners are not subject to the GSE Act, they are included to make the table complete.

Band	2017/18		2016/17	
	Female	Male	Female	Male
Band 4	0	0	0	0
Band 3	1	0	1	0
Band 2	1	0	1*	0
Band 1	1	1	2	0
Total	3	1**	4***	0

Band	Range	Average range \$	
		2017/18	2016/17
Band 4	463,551 to 535,550	0	0
Band 3	328,901 to 463,550	336,560	320,340
Band 2	261,451 to 328,900	324,785	185,481*
Band 1	183,300 to 261,450	186,546**	187,056***

* The Privacy Commissioner was employed on a part-time basis at 0.6 FTE until September 2017.

** The Director Business Improvement role was filled by an ongoing employee via a temporary acting arrangement from 8 January – 30 June 2018

*** The Director Business Improvement worked part-time at 0.8 FTE

Note: 29.4% of the IPC's employee-related expenditure in 2017/18 was related to senior executives, compared with 26.7% in 2016/17.

Workplace Diversity

Equal Employment Opportunity (EEO) and staff numbers^{1,2}

Employee by category	2017/18	2016/17	2015/16	2014/15
Statutory	2	2	2	2
Administration	20	26	26	26
Professional	1	1	1	1
Total	23	29	26	28

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, Legal Officer).

Note 2: These figures refer to head count not positions in the organisational chart.

Statistical information on EEO target groups

The IPC has 29 full-time equivalent staff. The IPC has processes in place to recruit people from the EEO target groups where possible.

Workforce diversity group	Benchmark	2018	2017	2016
Women	50%	65.2%	68.0%	63.3%
Aboriginal and/or Torres Strait Islander People	3.3%	0.0%	0.0%	0.0%
People whose First Language Spoken as a Child was not English	23.2%	17.4%	23.2%	26.7%
People with Disability	5.6%	0.0%	4.0%	6.7%
People with Disability Requiring Work-Related Adjustment	N/A	0.0%	0.0%	0.0%

Staff engagement survey

The IPC participated in the Public Service Commission's People Matter Survey. During the reporting period:

- **Engagement with work** – 52 per cent of IPC staff were satisfied with their job, felt motivated to contribute more than what is normally required, and had a feeling of personal accomplishment from their job – down 11 per cent from 2017.
- **High performance and team work** – 48 per cent of staff agreed there was good cooperation between teams across the IPC – down 21 per cent from 2017, but on par with the overall public service. 36 per cent of staff believed that managers dealt appropriately with employees who perform poorly – down from 44 per cent last year.
- **Management and workplace support** – pleasingly, 88 per cent of staff reported they had a current PDP in place and 84 per cent reported they had informal feedback conversations with their manager – an increase of up to 32 per cent from 2017 and 16 per cent more than the overall public service. Additionally 44 per cent felt that senior managers listened to employees and 48 per cent felt that senior managers kept employees

Objective 4: Operational excellence

informed about what was going on – down by up to 12 per cent from 2017, but around the same level for the overall public service.

- **Training and career** – 25 per cent of staff were satisfied with the opportunities available for career development within the IPC – a 3 per cent decrease from 2017, and 28 per cent agreed they had received appropriate training and development – down 44 per cent from 2017.
- **Values, diversity and inclusion** – 76 per cent of staff agreed that personal background is not a barrier to success within the IPC including cultural background, age, disability, gender, sexual orientation etc – down 18 per cent compared with 2017 but on par with the overall public service.

In response to the Public Service Commission's People Matter Survey, the IPC will be undertaking a number of actions, including:

- actively promoting the IPC's values and our regular program of recognition and rewards to enliven those values
- undertaking a series of workshops and training to emphasise the IPC's values and how they can be put into practice
- focusing on the delivery of customised training to address capability and issues such as supervising, mentoring and coaching
- ongoing consultation, regularising and ensuring the existing performance feedback mechanisms empower and engage managers and staff to promote success and team building
- maximising on the job training and acting in higher duties opportunities
- continuing to provide training to promote customer service and the IPC's values more broadly.

Work, health and safety

As an employer, we are required to provide a safe work environment for our staff. We are subject to the provisions and responsibilities outlined in legislation such as the *Work Health and Safety Act 2011*, as well as public sector occupational health and safety policies. This legislation requires strict compliance. The Information Commissioner as IPC CEO, and IPC Directors have actively upheld these responsibilities.

The IPC has two first-aid officers, has maintained an injury register, organised emergency evacuation and first-aid training for staff, and included health and safety processes and procedures as part of the induction process. Work Health and Safety (WHS) is included as a standing office

meeting agenda item providing a formal opportunity for staff to raise any WHS issues and/or risks. There were no WHS incidents reported during the reporting year. The IPC developed a WHS Management System that was communicated to all staff.

Internships

During the reporting period the IPC participated in the Law Society Summer Clerkship Program for the second year running. The IPC engaged three Summer Clerks under the IPC Internship policy for periods of up to 12 weeks. The clerks worked across information access and privacy, and supported the IPC across its advice and case management functions.

Governance

Legislative compliance register

The Legislative Compliance Register is a standing item on the agenda for the Audit and Risk Committee at each meeting. During 2017/18 the Register was updated to ensure continued compliance with the *Government Sector Employment Act 2013*. The Legislative Compliance Register clearly identifies responsible members of the IPC Executive for key risks and to include an annual attestation by responsible officers. In 2017/18, the IPC developed and adopted a Legislative Compliance Framework that was endorsed by the Audit and Risk Committee. The Legislative Compliance Framework outlines how the IPC addresses its obligations to ensure legislative compliance is achieved and maintained.

Data Breach Policy

The IPC Data Breach Policy provides guidance when responding to a breach of IPC-held data. The policy sets out the procedures for managing a data breach, including considerations for notification and prevention of future breaches. The policy is available on the IPC website.

Research and development

During the year both Commissioners undertook surveys of community attitudes to information access, privacy and data sharing. The results of the Information Commissioner's survey were reported in her Report on the Operations of the GIPA Act for 2016/17. Highlights and outcomes of both surveys have been included on pages 40-41.

Insurances

The IPC's major insurance risks are the security of its staff, property and other assets, and the risk of work-related

Objective 4: Operational excellence

injuries, which may result in workers' compensation insurance claims. The IPC has its workers' compensation insurance with QBE Insurance (Australia) Limited, while GIO General Ltd provides cover for all other insurance policies. Insurance cover for property, liability and miscellaneous insurance is provided by the Treasury Managed Fund (TMF).

There were no incidents that required a claim against our general insurance coverage during the year. There were no claims lodged for workers' compensation.

Consultants

The IPC commissioned nine consultants during the 2017/18 reporting period at a total cost of \$200,295 for the provision of Information Technology and Management Services.

Litigation

There were no current or pending litigation or regulatory proceedings to which IPC was a party in the 2016/17 reporting period and the Legislative Compliance Register assists the IPC to comply with statutory requirements. The Crown Solicitor's Office confirmed the legal work undertaken which did not include litigation.

International travel

International travel for the Information Commissioner consisted of one trip to the Philippines to attend the Philippine OpenGov Leadership Forum 2018. Travel costs funded by the Forum organisers.

No international travel was undertaken by the Privacy Commissioner or staff of the IPC during the reporting period.

IPC Diversity and Inclusion Action Plan

In 2017, the IPC developed a four-year strategic roadmap to improve the way we communicate with, and deliver services to the diverse communities of NSW. It also identifies the way the IPC can create an inclusive workplace. The organisation is committed to achieving these strategic goals to ensure we remain an innovative and respected regulator, and an employer of choice within the NSW public sector.

The IPC Diversity and Inclusion Action Plan adopts a consolidated approach to cover disability, multicultural services and Aboriginal engagement. The Plan meets our legislative requirements under the *Anti-Discrimination Act 1977 (NSW)*, the *Disability Discrimination Act 1992 (Commonwealth)*, the *Disability Services Act 1993 (NSW)*, the *Carers (Recognition) Act 2010 (NSW)*, the *GSE Act*, Government Employment (General) Rules 2014, and Annual

Reports (Departments) Regulation 2015.

Details of the Plan, and a summary of our achievements against the Plan, can be found in Appendix 2.

Information security management

The IPC has adopted the Information Security Policy of the Department of Justice as the major ICT provider of ICT services to the IPC. The policy is owned and managed by the Department of Justice's Chief Information Officer and approved by the Secretary, and details the organisational responsibilities for information security.

Please see page 48 for the Digital Information Security Annual Attestation Statement for 2017/18.

Objective 4: Operational excellence

System (ISMS) Attestation Statement



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Digital Information Security Annual Attestation Statement for the 2017-2018 Financial Year for Information and Privacy Commission NSW

I, Elizabeth Tydd, CEO and Information Commissioner, am of the opinion that through our IT Service provider (Department of Justice – Information Technology Services) the Information and Privacy Commission had an Information Security Management System in place during the 2017-2018 financial year that is consistent with the Core Requirements set out in the *NSW Government Digital Information Security Policy*.

The controls in place to mitigate identified risks to the digital information and digital information systems of the Information and Privacy Commission are adequate. There is no agency under the control of the Information and Privacy Commission which is required to develop independent ISMS in accordance with the *NSW Government Digital Information Security Policy*.

Through our IT Service provider the Information and Privacy Commission has maintained compliance with *ISO 27001 Information technology - Security techniques - Information security management systems - Requirements* by an accredited third party during 2017-2018 financial year.

Elizabeth Tydd
IPC CEO and Information Commissioner

Dated 3 September 2018

Objective 4: Operational excellence

Internal Audit and Risk Management Attestation Statement



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Internal Audit and Risk Management Attestation Statement for the 2017-18 Financial Year for the Information and Privacy Commission

I, Elizabeth Tydd, am of the opinion that the Information and Privacy Commission has internal audit and risk management processes in operation that are compliant with the eight (8) core requirements set out in the Internal Audit and Risk Management Policy for the NSW Public Sector, specifically:

Core Requirement	Status
Risk Management Framework 1.1 The agency head is ultimately responsible and accountable for risk management in the agency 1.2 A risk management framework that is appropriate to the agency has been established and maintained and the framework is consistent with AS/NZS ISO 31000:2009	Compliant
Internal Audit Function 2.1 An internal audit function has been established and maintained 2.2 The operation of the internal audit function is consistent with the International Standards for the Professional Practice of Internal Auditing 2.3 The agency has an Internal Audit Charter that is consistent with the content of the 'model charter'	Compliant
Audit and Risk Committee 3.1 An independent Audit and Risk Committee with appropriate expertise has been established 3.2 The Audit and Risk Committee is an advisory committee providing assistance to the agency head on the agency's governance processes, risk management and control frameworks, and its external accountability obligations 3.3 The Audit and Risk Committee has a Charter that is consistent with the content of the 'model charter'	Compliant

- Independent Chair, Ms Lyn Baker
Initial term - 15/6/2015 to 14/6/2018 . Term extended to 15/06/2019
- Independent Member 1, Mr Paul Crombie
Initial term – 23/09/2014 to 17/09/2017. Extended to 20/09/2020
- Independent Member 2, Mr Malcolm Clinch
Initial term - 06/07/2015 to 05/07/2018 – Extended to 5/07/2021

These processes demonstrate that the Information and Privacy Commission has established and maintained frameworks, including systems, processes and procedures for appropriately managing audit and risk within the agency.


Elizabeth Tydd
IPC CEO and Information Commissioner

Dated 3 September 2018

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Objective 4: Operational excellence

Risk management

Audit and Risk Committee (ARC) report on activity

1. Meetings held and attendance by members:

There were four meetings of the ARC held during the 2017/18 reporting year.

No. of meetings	Meeting date	Malcolm Clinch	Paul Crombie	Lyn Baker
1	15/09/17	✓	✓	✓
2	29/11/17	✓	✓	✓
3	13/03/18	X	✓	✓
4	12/06/18	✓	✓	✓
Total	4	3	4	4

In-camera sessions were conducted with internal and external audit service providers.

The Chair met regularly with the CEO throughout the year.

2. Key outcomes

Three internal audits were conducted and reported to the Audit and Risk Committee to provide assurance that key internal controls operating with respect to the three functions are appropriately designed and have operated effectively. The Internal Audits reported that no matters of significance were identified in relation to the following functions:

- Purchasing and Procurement
- Stakeholder Management (NGO)
- Financial Management and year end reporting systems and process.

The IPC continues to progress the recommendations in these audits.

In accordance with core requirements of TPP 15- 03 Internal Audit and Risk Management Policy for the NSW Public Sector, developed an Internal Audit Manual and Charter

3. Key outputs:

- endorsed the 2017/18 internal audit plan
- reviewed the 2017/18 risk register at each meeting and monitored treatment/mitigation actions
- all audit reports reviewed and implementation of recommendations monitored
- proactive release of ARC minutes

- reviewed the IPC Diversity and Action Plan 2017/20
- IPC/ Department of Justice shared corporate services arrangements monitored
- considered and endorsed the IPC Legislative Compliance Framework
- reviewed and endorsed the External Audit and Client services Plan
- reviewed and discussed the IPC Fraud Policy.

ARC acquittal of Treasury requirements

The ARC discussed and confirmed the following Treasury requirements are understood and in effect for the IPC:

- systems of internal control are effective
- inaccuracies are promptly identified and addressed progressively during the year
- during the year, financial reporting is used to identify and address issues that have full year impact
- appropriate action has been taken to address audit recommendations.

4. Priorities for next year

- review of the Legislative Compliance Register
- audit plan for 2018/19
- review of Financial Statements for 2018/19
- review and revision of IPC Risk Plan for 2018/9
- oversight of performance against strategic plan for 2017/20
- monitoring and review of financial management and reporting arrangement for the IPC
- advising of the IPC on identifying its risk appetite and risk tolerance
- monitor Work, Health and Safety

See page 49 for the Internal Audit and Risk Management Attestation for 2017/18.

GIPA Act compliance

Under section 125 of the GIPA Act, the IPC is required to report annually on its GIPA obligations. Clause 7 of the GIPA Regulation lists the information against which agencies must report. Schedule 2 of the GIPA Regulation provides tables for the reporting of statistical information about access applications.

Review of proactive release program

Under section 7(1) of the GIPA Act, the IPC is authorised to proactively release any government information it holds, as long as there is no overriding public interest against disclosure.

As part of our proactive release program, we review our

Objective 4: Operational excellence

information as it is produced to see whether it is in the public interest to make the information available, or whether there is an overriding public interest against disclosure. Information that can be released is made available as soon as practicable on our website and in other forms as appropriate.

Clause 7(a) of the GIPA Regulation requires details about the review under section 7(3) of the GIPA Act to be included in this annual report, along with information that has been developed and proactively released under this program. Information made available by the IPC under this program in this financial year includes:

- fact sheets and guidelines
- reports on reviews of decisions the IPC has conducted
- submissions to inquiries and discussion papers made by the Information Commissioner and Privacy Commissioner
- infographics prepared for campaigns based on statutory reports and survey outcomes
- event listings and campaigns championed by the Information Commissioner, Privacy Commissioner or corporately
- regulatory reports
- notifications of approvals under legislation
- open data, including release of the GIPA Agency Dashboard (see p.28)
- media releases
- statistical information on voluntary data breach notifications by agencies to the Privacy Commissioner.

Decisions made on formal access applications

Of the 52 formal access applications received and dealt with by the IPC this financial year, it was decided that for four of the applications the information was not held by the IPC. There were 35 applications transferred to other agencies which the IPC reasonably believed held the information. The IPC received a relatively high number of invalid applications reflecting that much of the information held is excluded information under the GIPA Act. Where possible the IPC worked with applicants to amend the scope of information sought to make the application valid.

Statistical information about access applications made

See Appendix 3 for statistical information about access applications made during the year.

Submission of GIPA report

Section 125(1) of the GIPA Act requires agencies to submit a copy of their GIPA annual report to the Minister responsible for the agency. A copy of our report will be submitted to the Attorney General, the Minister responsible for the GIPA Act.

Contracts register compliance

The IPC has also:

- maintained a contract register in accordance with Division 5 of the GIPA Act
- ensured that any relevant contracts were entered appropriately and accurately
- made this register public on its website at www.ipc.nsw.gov.au/register-government-contracts
- reviewed the accuracy and completeness of the register regularly during the year.

PPIP Act compliance

The IPC privacy specific expertise is applied to facilitate compliance with the PPIP Act and HRIP Act. The IPC has a Privacy Management Plan (PMP) as required by section 33(3) of the PPIP Act and which includes our obligations under the HRIP Act. The IPC's PMP outlines how we comply with the principles of the PPIP Act and the HRIP Act. The PMP was reviewed during the reporting period to recognise changes in the IPC's operation and to be a model of best practice for agencies. It can be found on the IPC website.

Client Satisfaction Survey

In September 2017 the IPC commenced an ongoing client satisfaction survey across the complaint and review case types. Initial data from the survey shows some positive results:

- 78 per cent of respondents agreed IPC officers were polite and helpful
- 73 per cent agreed information such as fact sheets were easy to understand
- 71 per cent agreed the outcome of the case was communicated clearly.

On the other hand, areas the IPC will target for improvement are keeping applicants up to date with progress, and timeliness.

Overall, 62 per cent of respondents were satisfied with the service provided by the IPC. The IPC will continue to monitor satisfaction and identify drivers and actions to improve client/applicant experience with its regulatory services.

Our Financial Performance



Our financial performance

Statement by the Information Commissioner



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STATEMENT BY INFORMATION COMMISSIONER

For the Year Ended 30 June 2018

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

1. The accompanying financial statements exhibit a true and fair view of the financial position as at 30 June 2018 and financial performance of the Information and Privacy Commission for the year then ended.
2. The financial statements have been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the *Public Finance and Audit Act 1983*, the Public Finance Regulation 2015, and the Financial Reporting Directions mandated by the Treasurer.

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

Elizabeth Tydd
CEO, Information and Privacy Commission NSW
Information Commissioner
NSW Open Data Advocate

18 September 2018

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Our financial performance

Independent Auditor's Report



INDEPENDENT AUDITOR'S REPORT

Information and Privacy Commission

To Members of the New South Wales Parliament

Opinion

I have audited the accompanying financial statements of the Information and Privacy Commission (the Commission), which comprise the Statement of Comprehensive Income for the year ended 30 June 2018, the Statement of Financial Position as at 30 June 2018, the Statement of Changes in Equity and the Statement of Cash Flows for the year then ended, notes comprising a Statement of Significant Accounting Policies and other explanatory information.

In my opinion, the financial statements:

- give a true and fair view of the financial position of the Commission as at 30 June 2018, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (PF&A Act) and the Public Finance and Audit Regulation 2015.

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

Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under the standards are described in the 'Auditor's Responsibilities for the Audit of the Financial Statements' section of my report.

I am independent of the Commission in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants' (APES 110).

I have fulfilled my other ethical responsibilities in accordance with APES 110.

Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles 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
- precluding the Auditor-General from providing non-audit services.

Our financial performance

Independent Auditor's Report

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

Other Information

Other information comprises the information included in the Commission's annual report for the year ended 30 June 2018, other than the financial statements and my Independent Auditor's Report thereon. The Information Commissioner (the Commissioner) is responsible for the other information. At the date of this Independent Auditor's Report, the other information I have received comprise the Statement by the Commissioner.

My opinion on the financial statements does not cover the other information. Accordingly, I do not express any form of assurance conclusion on the other information.

In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work I have performed, I conclude there is a material misstatement of the other information, I must report that fact.

I have nothing to report in this regard.

The Commissioner's Responsibilities for the Financial Statements

The Commissioner is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards and the PF&A Act, and for such internal control as the Commissioner determines is necessary to enable the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Commissioner is responsible for assessing the Commission's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting except where the Commission's operations will cease as a result of an administrative restructure.

Auditor's Responsibilities for the Audit of the Financial Statements

My objectives are to:

- obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: www.auasb.gov.au/auditors_responsibilities/ar4.pdf. The description forms part of my auditor's report.

Our financial performance

Independent Auditor's Report

My opinion does *not* provide assurance:

- that the Commission carried out its activities effectively, efficiently and economically
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about any other information which may have been hyperlinked to/from the financial statements.



Chris Harper
Director, Financial Audit Services

19 September 2018
SYDNEY

Our financial performance

Financial statements for the year ended 30 June 2018

Statement of Comprehensive Income

For the year ended 30 June 2018

	Notes	Actual 2018 \$	Budget 2018 \$	Actual 2017 \$
Expenses excluding losses				
Employee related expenses	2(a)	3,517,808	4,285,000	3,293,251
Operating expenses	2(b)	1,963,925	1,120,000	2,125,903
Depreciation and amortisation	2(c)	232,862	231,000	222,576
Total expenses excluding losses		5,714,595	5,636,000	5,641,730
Revenue				
Grants and contributions	3(a)	5,422,000	5,422,000	5,342,000
Acceptance by the Crown Entity of employee benefits and other liabilities	3(b)	93,642	163,000	121,326
Other revenue	3(c)	142,824	13,000	216,124
Total revenue		5,658,466	5,598,000	5,679,450
Operating result		(56,129)	(38,000)	37,720
Net Result		(56,129)	(38,000)	37,720
Other comprehensive income		-	-	-
Total comprehensive income		(56,129)	(38,000)	37,720

The accompanying notes form part of these financial statements.

Our financial performance

Financial statements for the year ended 30 June 2018

Statement of Financial Position

As at 30 June 2018

	Notes	Actual 2018 \$	Budget 2018 \$	Actual 2017 \$
Assets				
Current assets				
Cash and cash equivalents	5	670,078	264,000	840,430
Receivables	6	401,167	800,000	462,102
Total current assets		1,071,245	1,064,000	1,302,532
Non-current assets				
Plant and equipment	7	94,527	63,000	49,836
Intangible assets	8	931,749	994,000	1,067,012
Total non-current assets		1,026,276	1,057,000	1,116,848
Total assets		2,097,521	2,121,000	2,419,380
Liabilities				
Current Liabilities				
Payables	9	280,316	195,000	587,134
Provisions	10	458,230	497,000	417,073
Total current liabilities		738,546	692,000	1,004,207
Non-current liabilities				
Provisions	10	7,221	7,000	7,290
Total non-current liabilities		7,221	7,000	7,290
Total liabilities		745,767	699,000	1,011,497
Net Assets		1,351,754	1,422,000	1,407,883
Equity				
Accumulated funds		1,351,754	1,422,000	1,407,883
Total equity		1,351,754	1,422,000	1,407,883

The accompanying notes form part of these financial statements.

Our financial performance

Financial statements for the year ended 30 June 2018

Statement of Changes in Equity

For the year ended 30 June 2018

	Accumulated funds \$
Balance at 1 July 2017	1,407,883
Net result for the year	(56,129)
Other comprehensive income	-
Total comprehensive income for the year	(56,129)
Transaction with owners in their capacity as owners	-
Balance at 30 June 2018	1,351,754
Balance at 1 July 2016	1,370,163
Net result for the year	37,720
Other comprehensive income	-
Total comprehensive income for the year	37,720
Transaction with owners in their capacity as owners	-
Balance at 30 June 2017	1,407,883

The accompanying notes form part of these financial statements.

Our financial performance

Financial statements for the year ended 30 June 2018

Statement of Cash Flows

For the year ended 30 June 2018

	Notes	Actual 2018 \$	Budget 2018 \$	Actual 2017 \$
Cash Flow from Operating Activities				
Payments				
Employee related		(3,373,351)	(4,122,000)	(3,314,478)
Other		(2,430,351)	(1,293,000)	(1,578,488)
Total payments		(5,803,702)	(5,415,000)	(4,892,966)
Receipts				
Grants and contributions		5,422,000	5,422,000	5,342,000
Other		353,640	146,000	328,347
Total receipts		5,775,640	5,568,000	5,670,347
Net Cash Flows from Operating Activities	11	(28,062)	153,000	777,381
Cash Flows from Investing Activities				
Purchases from Plant, Equipment and Intangible assets		(142,290)	(150,000)	(176,519)
Net Cash Flows from Investing Activities	7,8	(142,290)	(150,000)	(176,519)
Cash Flows from Financing Activities				
Net Cash Flows from Investing Activities		-	-	-
Net (Decrease)/Increase In Cash And Cash Equivalents		(170,352)	3,000	600,862
Opening cash and cash equivalents		840,430	261,000	239,568
Closing Cash And Cash Equivalents	5	670,078	264,000	840,430

The accompanying notes form part of these financial statements.

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

1. Statement of significant accounting policies

(a) Reporting entity

The Information and Privacy Commission (the Commission) is a NSW government agency and is controlled by the State of New South Wales which is the ultimate parent entity. The Commission is a not-for-profit entity (as profit is not its principal objective) and it has no cash generating units.

The financial statements for the Year Ended 30 June 2018 have been authorised for issue by the Information Commissioner on 18 September 2018.

(b) Basis of preparation

The Commission's financial statements are general purpose financial statements which have been prepared on an accruals basis and in accordance with:

- applicable Australian Accounting Standards (which include Australian Accounting Interpretations);
- the requirements of the *Public Finance and Audit Act 1983* and *Public Finance and Audit Regulation 2015*; and
- the Financial Reporting Directions mandated by the Treasurer.

Plant and equipment are measured at fair value. Other financial statement items are prepared in accordance with the historical cost convention except where specified otherwise.

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

All amounts are rounded to the nearest dollar and are expressed in Australian currency, which is the Commission's presentation and functional currency.

The financial statements have been prepared on a going concern basis.

(c) Statement of compliance

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

(d) Insurance

The Commissions' insurance activities are conducted through NSW Treasury Managed Fund Scheme of self-insurance for Government entities. The expense (premium) is determined by the Fund Manager based on past claims experience.

(e) Assets

(i) Acquisition of assets

Property, plant and equipment are initially measured at cost and subsequently revalued at fair value less accumulated depreciation and impairment. 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 price that would be received to sell an asset in an orderly transaction between market participants at measurement date.

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 over the period of credit.

(ii) Capitalisation threshold

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 14-01). This policy adopts fair value in accordance with AASB 13 *Fair Value Measurement*, AASB 116 *Property, Plant and Equipment* and AASB 140 *Investment Property*.

Plant and equipment are non-specialised assets with short useful lives. They are measured at depreciated historical cost, as an approximation of the fair value. The Commission has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

As the Commission does not own land, buildings and infrastructure assets, revaluations of plant and equipment are not warranted.

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

1. Statement of significant accounting policies (continued)

(iv) Impairment of plant and equipment

As a not-for-profit entity with no cash generating units, impairment under AASB 136 *Impairment of Assets* is unlikely to arise. As plant and equipment is carried at fair value or an amount that approximates fair value, impairment can only arise in the rare circumstances where the costs of disposal are material. Specifically, impairment is unlikely for not-for-profit entities given that AASB 136 modifies the recoverable amount test for non-cash generating assets for not-for-profit entities to the higher of the fair value less costs of disposal and depreciated replacement cost, where depreciated replacement cost is also fair value.

The Commission assesses, at each reporting date, whether there is an indication that an asset may be impaired. If any indication exists, or when annual impairment testing for an asset is required, the Commission estimates the asset's recoverable amount. When the carrying amount of an asset exceeds its recoverable amount, the asset is considered impaired and is written down to its recoverable amount.

As a not for-profit entity, an impairment loss is recognised in the net result to the extent the impairment loss exceeds the amount in the revaluation surplus for the class of asset.

After an impairment loss has been recognised, it is reversed only if there has been a change in the assumptions used to determine the asset's recoverable amount. The reversal is limited so that the carrying amount of the asset does not exceed its recoverable amount, nor exceed the carrying amount that would have been determined, net of depreciation, had no impairment loss been recognised for the asset in prior years. Such reversal is recognised in net result and is treated as a revaluation increase. However, to the extent that an impairment loss on the same class of asset was previously recognised in net result, a reversal of that impairment loss is also recognised in net result.

(f) Leases

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of the leased assets, and operating leases under which the lessor does not transfer substantially all the risks and rewards.

The Commission does not have any financial leases. Operating lease payments are recognised as an operating expense in the Statement of Comprehensive Income on a straight-line basis over the lease term.

(g) Depreciation and amortisation

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

	%
Computer Equipment	25%
Office Equipment	20%
Furniture & Fittings	10%
Intangible Assets - Software	20%
Intangible Assets - Software - Major Projects	10%
Leasehold Improvements	10%

(h) Maintenance

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

(i) Intangible assets

The Commission recognises intangible assets only if it is probable that future economic benefits will flow to the Commission 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. Following the initial recognition, intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the Commission's intangible assets, the assets are carried at cost less any accumulated amortisation and impairment losses.

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.

The Commission's intangible assets are amortised using the straight-line method over a period of five to ten years.

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

1. Statement of significant accounting policies (continued)

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount, the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss.

(j) Financial Instrument

A financial instrument is any contract that gives rise to a financial asset of one entity and a financial liability or equity instrument of another entity.

Financial assets and financial liabilities are initially measured at fair value. Transaction costs that are directly attributable to the acquisition or issue of financial assets and financial liabilities (other than financial assets and financial liabilities at fair value through profit and loss) are added to or deducted from the fair value of the financial assets or financial liabilities, as appropriate, on initial recognition. Transaction costs directly attributable to the acquisition of financial assets or financial liabilities at fair value through profit or loss are recognised immediately in net result.

The Commission determines the classification of its financial assets and liabilities after initial recognition and, when allowed and appropriate, re-evaluates this at each financial year end.

i. Financial assets

Financial assets are classified, at initial recognition, as receivables.

• Receivables

Receivables, including trade receivables, prepayments etc. are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. Receivables are initially measured at fair value plus any directly attributable transaction costs. Subsequent measurement is at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

Short-term receivables with no stated interest rate are measured at the original invoice amount unless the effect of discounting is material.

• Impairment of financial assets

All financial assets, except those measured at fair value through profit and loss, are subject to an annual review for impairment. Financial assets are considered to be impaired when there is objective evidence that, as a

result of one or more events that occurred after the initial recognition of the financial asset, the estimated future cash flows have been affected.

For certain categories of financial assets, such as trade receivables, the Commission first assesses whether impairment exists individually for financial assets that are individually significant, or collectively for financial assets that are not individually significant. Assets are assessed for impairment on a collective basis if they were assessed not to be impaired individually.

For financial assets carried at amortised cost, the amount of the allowance is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted at the original effective interest rate. The amount of the impairment loss is recognised in the net result for the year.

Any reversals of impairment losses are reversed through the Net Result for the year, if objectively related to an event occurring after the impairment was recognised. 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.

ii. Financial liabilities at amortised cost

Payables represent liabilities for goods and services provided to the Commission. Payables are financial liabilities at amortised cost, initially measured at fair value, net of transaction costs. 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.

iii. Derecognition of financial assets and financial liabilities

A financial asset is derecognised when the contractual rights to the cash flows from the financial assets expire; or if the Commission transfers the financial asset:

- Where substantially all the risks and rewards have been transferred; or
- Where the Commission has not transferred substantially all the risks and rewards, if the Commission has not retained control.

Where the Commission has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset continues to be recognised to the extent of the Commission's continuing involvement in the asset. In that

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

1. Statement of significant accounting policies (continued)

case, the Commission also recognises an associated liability. The transferred asset and the associated liability are measured on a basis that reflects the rights and obligations that the Commission has retained.

A financial liability is derecognised when the obligation specified in the contract is discharged or cancelled or expires. When an existing financial liability is replaced by another from the same lender on substantially different terms, or the terms of an existing liability are substantially modified, such as exchange or modification is treated as the derecognition of the original liability and the recognition of a new liability. The difference in the respective carrying amounts is recognised in the net result.

iv. Offsetting financial instruments

Financial assets and financial liabilities are offset and the net amount is reported in the Statement of Financial Position if there is a currently enforceable legal right to offset the recognised amounts and there is an intention to settle on a net basis, or to realise the assets and settle the liabilities simultaneously.

(k) Accounting for 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 Commission as a purchaser that is not recoverable from the Australian Taxation Office (ATO) 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.

Cash flows are included in the statement of cash flows on a gross basis. However, the GST components of the cash flows arising from investing and financing activities which are recoverable from, or payable to, the ATO are classified as operating cash flows.

(l) Other Provisions

Other Provisions exist when: the Commission 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. There is no discounting of other provisions as it's not material.

(m) Employee Benefits and related on-costs

- i. Salaries and wages (including non-monetary benefits), and paid sick leave that are expected to be settled wholly within 12 months after the end of the period, in which the employees render the service are recognised and measured at undiscounted amounts of the benefits.
- ii. Annual leave is not expected to be settled wholly before twelve months after the end of the annual reporting period in which the employees render the related service. As such, it is required to be measured at present value in accordance with AASB 119 Employee Benefits (although short-cut methods are permitted). Actuarial advice obtained by Treasury has confirmed that using the nominal annual leave balance plus the annual leave entitlements accrued while taking annual leave (calculated using 7.9% of the nominal value of annual leave) can be used to approximate the present value of the annual leave liability. The Commission has assessed the actuarial advice based on the Commission's circumstances and has determined that the effect of discounting is immaterial to annual leave. All annual leave is classified as a current liability even where the Commission does not expect to settle the liability within 12 months as the Commission does not have an unconditional right to defer settlement.
- iii. Unused non-vesting sick leave does not give rise to a liability, 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, are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised.
- v. The Commission's liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. The Commission accounts for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as 'Acceptance by the Crown Entity of employee benefits and other liabilities'.

Long Service Leave is measured at present value of expected future payments to be made in respect of services provided up to the reporting date. Consideration is given to certain factors based on actuarial review, including expected future wage and salary levels, experience of employee departures,

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

1. Statement of significant accounting policies (continued)

and period of service. Expected future payments are discounted using Commonwealth government bond rate at reporting date.

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

(n) 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.

(i) Grants and contributions

The Commission is funded by way of grants from the Department of Justice in accordance with the Budget Allocation Letter. Grants and contributions are recognised when the Commission obtains control over the assets. The Commission is deemed to control grants and contributions when they are received or receivable.

(o) Equity

(i) Accumulated Funds

The category 'Accumulated Funds' includes all current and prior year retained funds.

(p) Budgeted amounts

The budgeted amounts included in the statement of financial performance and statement of financial position are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period. Subsequent amendments to the original budget (e.g. adjustment for transfer of functions between entities as a result of Administrative Arrangements Orders) are not reflected in the budgeted amounts. Major variances between the original budgeted amounts and the actual amounts disclosed in the primary financial statements are explained in Note 12.

(q) Comparative information

Except when an Australian Accounting Standard permits or requires otherwise, comparative information is disclosed in respect of the previous period for all amounts reported in the

financial statements. Comparative information is reclassified when necessary to align to the current year reporting format.

(r) Changes in accounting policies, including new or revised Australian Accounting Standards

(i) Effective for the first time in 2017-18

The accounting policies applied in 2017-18 are consistent with those of the previous financial year, except as a result of new accounting standards that have been applied for the first time in 2017-18. The adoption of these standards has not caused any material adjustments to the reported financial position, performance or cash flows of the Commission.

(ii) Issued but not yet effective

NSW public sector entities are not permitted to early adopt new Australian Accounting Standards, unless Treasury determines otherwise.

The following new Accounting Standards have not been applied and are not yet effective as per NSW Treasury Circular NSW TC 18/01:

- AASB 9 *Financial Instruments*
- AASB 15, AASB 2014-5, AASB 2015-8 and 2016-3 regarding *Revenue from Contracts with Customers*
- AASB 16 *Leases*
- AASB 1058 *Income of Not-for-profit Entities*
- AASB 2016-7 *Amendments to Australian Accounting Standards – Deferral of AASB 15 for Not-for-Profit Entities*
- AASB 2016-8 *Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Entities;*
- AASB 2017-2 *Amendments to Australian Accounting Standards – Further Annual Improvements 2014-2016 Cycle.*

Other than AASB 16 *Leases*, the Commission does not expect the adoption of these standards in the future periods to materially impact the financial statements.

AASB 16 is applicable to annual reporting periods beginning on or after 1 January 2019. For leases where the Commission is the lessee, AASB 16 will require the Commission to recognise assets and liabilities on the statement of financial position where the lease term is for more than 12 months unless the underlying asset is low value. There will be no impact on the total amount of cash flows reported.

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

2. Expenses excluding losses

(a) Employee related expenses

	2018 \$	2017 \$
Salaries and wages (including annual leave)	2,857,141	2,820,654
Payroll tax & Fringe Benefit Tax	179,819	170,265
Superannuation - defined contribution plans	210,155	184,899
Superannuation - defined benefit plans	69,174	79,642
Workers' compensation insurance	115	(707)
Long service leave assumed by Crown	21,779	34,158
Voluntary Redundancy	175,867	-
Payroll tax assumed by Crown	3,758	4,340
Total	3,517,808	3,293,251

(b) Other operating expenses

Administration fees	200,000	200,046
Advertising and publicity	53,796	82,091
Agency staff fees	554,348	995,654
Audit Review Committee fees	26,985	18,824
Auditor's remuneration		
- audit of the financial statements	43,950	25,850
- internal audit	41,925	5,750
Cleaning	-	10,336
Computer related expenses	126,233	90,023
Consultants and contractors	201,495	131,061
Fees - External Client Training	22,596	23,545
Insurance	12,865	12,961
Legal services	36,131	83,748
Miscellaneous fees	2,669	905
Motor vehicle expense	6,613	8,699
Other	25,452	21,133
Postage	(9,807)	30,000
Printing	2,097	8,060
Rental	417,055	296,072
Repair and maintenance*	10,304	3,375
Staff expenses	108,009	27,248

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

2. Expenses excluding losses (continued)

(b) Other operating expenses (continued)

Stores and Stationary	29,879	13,716
Subscription and membership	3,676	323
Telephone	26,046	12,949
Travel	21,608	23,534
Total	1,963,925	2,125,903

* Reconciliation - Total Maintenance

Maintenance expense - contracted labour and other (non-employee related)

as above	10,304	3,375
Total maintenance expenses included in Note 2(b)	10,304	3,375

There are no maintenance costs within employee related expenses.

(c) Depreciation and amortisation expense

	2018 \$	2017 \$
Depreciation		
Computer equipment	11,782	11,164
Furniture and fittings	3,474	3,091
Other plant and equipment	899	899
Total depreciation expense	16,155	15,154
Amortisation		
Intangible assets - software	216,707	207,422
Total amortisation expense	216,707	207,422
Total	232,862	222,576

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

3. Revenue

(a) Grants and contributions

	2018 \$	2017 \$
Government grants - recurrent	5,272,000	5,192,000
Government grants - capital	150,000	150,000
Total	5,422,000	5,342,000

(b) Acceptance by the Crown Entity of employee benefits and other liabilities

The following liabilities and/or expenses have been assumed by the Crown Entity:

Superannuation - defined benefit	69,174	79,641
Long service leave	20,710	37,345
Payroll tax	3,758	4,340
Total	93,642	121,326

(c) Other revenue

Other	12,824	66,124
Recovery from Department of Justice *	130,000	150,000
Total	142,824	216,124

*In 2017-18, the Commission recovered \$130,000 from the Department of Justice to recognise the additional costs of the Privacy Commissioner becoming a full-time position. In 2016-17, the Commission recovered \$150,000 from the Department for an over spend on the Privacy Commissioner's employee related budget.

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

4. Program Group

Information and Privacy Commission program group covers the provision of assistance and advice to agencies and the public, the conduct of legislative and administrative reviews, and other activities to ensure compliance with the *Government Information (Public Access) Act 2009* and NSW privacy legislation.

The expenses, revenues, assets and liabilities of the service group are presented in the primary financial statements.

5. Current assets - cash and cash equivalents

	2018 \$	2017 \$
Cash at bank	669,578	839,930
Cash on hand	500	500
Closing Cash	670,078	840,430

For the purposes of the Statement of Cash Flows, cash and cash equivalents include cash at bank and cash on hand.

Cash and cash equivalent assets recognised in the statement of financial position are the same as cash and cash equivalents assets recognised in the statement of cash flows.

Refer Note 13 for details regarding credit risk, liquidity risk and market risk arising from financial instruments

6. Current assets - receivables

	2018 \$	2017 \$
GST receivable	32,220	80,871
Prepayments *	226,365	241,500
Intercompany receivable	129,132	129,252
Other receivables	13,450	10,479
	401,167	462,102

Details regarding credit risk of trade debtors that are either past due or impaired, are disclosed in note 13.

* A prepayment was made to Department of Justice to cover 2018-19 corporate services provided under Service Level Agreements (SLAs). The Commission also prepaid 2017-18 corporate service fees (SLAs) in the previous financial year.

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

7. Non-current assets - plant and equipment

	Computer Equipment \$	Furniture & Fittings \$	Plant and Equipment \$	Total \$
At 1 July 2017 - fair value				
Gross carrying amount	76,327	33,534	37,358	147,219
Accumulated depreciation and impairment	(47,613)	(15,074)	(34,696)	(97,383)
Net carrying amount	28,714	18,460	2,662	49,836

At 30 June 2018 - fair value				
Gross carrying amount	91,137	79,570	37,358	208,065
Accumulated depreciation and impairment	(59,394)	(18,549)	(35,595)	(113,538)
Net carrying amount	31,743	61,021	1,763	94,527

Reconciliation

A reconciliation of the carrying amount of each class of plant and equipment at the beginning and end of the current reporting period is set out below:

	Computer Equipment \$	Furniture & Fittings \$	Plant and Equipment \$	Total \$
Year ended 30 June 2018				
Net carrying amount at start of year	28,714	18,460	2,662	49,836
Additions	14,811	46,035	-	60,846
Depreciation expenses	(11,782)	(3,474)	(899)	(16,155)
Net carrying amount at end of year	31,743	61,021	1,763	94,527

	Computer Equipment \$	Furniture & Fittings \$	Plant and Equipment \$	Total \$
At 1 July 2016 - fair value				
Gross carrying amount	76,327	33,535	37,358	147,220
Accumulated depreciation and impairment	(36,449)	(11,983)	(33,797)	(82,229)
Net carrying amount	39,878	21,552	3,561	64,991
At 30 June 2017 - fair value				
Gross carrying amount	76,327	33,534	37,358	147,219
Accumulated depreciation and impairment	(47,613)	(15,074)	(34,696)	(97,383)
Net carrying amount	28,714	18,460	2,662	49,836

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

7. Non-current assets - plant and equipment (continued)

Reconciliation

A reconciliation of the carrying amount of each class of plant and equipment at the beginning and end of the current reporting period is set out below:

	Computer Equipment \$	Furniture & Fittings \$	Plant and Equipment \$	Total \$
Year ended 30 June 2017				
Net carrying amount at start of year	39,878	21,552	3,561	64,991
Additions	-	(1)	-	(1)
Depreciation expenses	(11,164)	(3,091)	(899)	(15,154)
Net carrying amount	28,714	18,460	2,662	49,836

The Commission's assets are non-specialised assets and therefore, the depreciated cost is a surrogate for fair value.

8. Intangible assets

	Software \$
At 1 July 2017	
Cost (gross carrying amount)	1,898,732
Accumulated amortisation	(831,720)
Net carrying amount	1,067,012
At 30 June 2018	
Cost (gross carrying amount)	1,980,176
Accumulated amortisation	(1,048,427)
Net carrying amount	931,749

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

8. Intangible assets (continued)

Reconciliation

A reconciliation of the carrying amount of intangible assets at the beginning and end of the current reporting period is set out below:

	Software \$
Year ended 30 June 2018	
Net carrying amount at beginning of year	1,067,012
Additions	81,444
Amortisation (recognised in 'depreciation and amortisation')	(216,707)
Net carrying amount at end of year	931,749
At 1 July 2016	
Cost (gross carrying amount)	1,768,124
Accumulated amortisation	(624,298)
Net carrying amount	1,143,826
At 30 June 2017	
Cost (gross carrying amount)	1,898,732
Accumulated amortisation	(831,720)
Net carrying amount	1,067,012

Reconciliation

A reconciliation of the carrying amount of intangible assets at the beginning and end of the prior reporting period is set out below:

	Software \$
Year ended 30 June 2017	
Net carrying amount at beginning of year	1,143,826
Additions	130,608
Amortisation (recognised in 'depreciation and amortisation')	(207,422)
Net carrying amount at end of year	1,067,012

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

9. Current liabilities - payables

	2018 \$	2017 \$
Accrued salaries, wages and on-costs	33,577	14,828
Sundry accruals and creditors	240,686	565,498
Corporate credit card	6,053	6,808
Total	280,316	587,134

Details regarding liquidity risk, including a maturity analysis of the above payables, are disclosed in note 13.

10. Current / non-current liabilities – provisions

	2018 \$	2017 \$
Current		
Recreation leave*	262,191	333,234
Long service leave on costs	83,039	83,839
Voluntary Redundancy	113,000	-
Total	458,230	417,073
Non-current		
Long service leave on costs	7,221	7,290
Total	7,221	7,290
Aggregate employee benefits and related on-costs		
Provisions - current	458,230	417,073
Provisions - non-current	7,221	7,290
Accrued salaries, wages and on-costs (Note 9)	33,577	14,828
Total	499,028	439,191

* Recreation leave is expected to be taken within 12 months

Movements in provisions (other than employee benefits)

2018	Redundancy \$	Total \$
Carrying amount at the beginning of financial year	-	-
Additional provisions recognised	113,000	113,000
Amounts used	-	-
Unused amounts reversed	-	-
Unwinding of discount or change in discount rate	-	-
Carrying amount at end of financial year	113,000	113,000

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

11. Reconciliation of cash flows from operating activities to net result

	2018 \$	2017 \$
Net cash (used in)/from operating activities	(28,062)	777,381
Depreciation and amortisation expense	(232,862)	(222,576)
Increase/(decrease) in receivables and prepayments	(60,935)	(225,731)
Decrease/(increase) in provisions	(41,088)	65,208
Decrease/(increase) in payables	306,818	(356,562)
Net result	(56,129)	37,720

12. Budget review

Net result for the year

The net result of (\$56k) is \$18k unfavourable to the 2017/18 budget of (\$38k), and was primarily due to:

Total expense is \$79k over budget due to an overspend on other operating expenses. This is partly offset by savings on employee related expenses. The higher operating expense is mainly due to contractor/short term staff, consultancy, staff training, and internal audit costs. The under spend on employee related expense is mainly due to unfilled vacant positions, and delays in recruitment throughout the year. The employee and other operating expense budget variance is mainly due to the classification on contractors/short term staff – the contractors are budgeted under employee related expense, but are categorised under other operating expenses in actual.

Total revenue is \$60k over budget mainly due to the \$130k recovery of Privacy Commissioner's funding gap from the Department of Justice, offset by lower budget Crown acceptance revenue.

Assets and liabilities

Total assets are \$23k lower than the budget, mainly due to lower than budgeted receivable balance.

Total liabilities are \$47k higher than the budget, mainly due to the \$113k redundancy provision that is offset by lower recreational leave provision.

Cash flows

The unfavourable net cash flow from operating activities is mainly due to the payments in relation to the large creditors balance carried at the end of 2017. The net cash flows from investing activities are in line with the budget.

The year-end cash balance is \$406k higher than the budget \$264k (based on cash buffer). This is mainly due to the \$113k redundancy provisions and \$176k accrual. The redundancy and accrual are expected to be paid in the following financial year.

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

13. Financial instruments

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

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

The Information Commissioner 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 established to identify and analyse the risks faced by the Commission, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the Commission on a continuous basis.

(a) Financial instrument categories

	Notes	Category	2018 \$	2017 \$
Financial Assets				
Class:				
Cash and cash equivalents	5	N/A	670,078	840,430
Receivables (1)	6	Receivables at amortised cost	142,582	139,731
Financial Liabilities				
Class:				
Payables (2)	9	Financial liabilities measured at amortised cost	280,316	587,134

1 Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

2 Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

(b) Credit risk

Credit risk arises when there is the possibility that the counterparty will default on their contractual obligations, resulting in a financial loss to the Commission. 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 Commission, including cash and receivables. No collateral is held by the Commission. The Commission has not granted any financial guarantees.

Cash and cash equivalents

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

Receivables - trade debtors

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters 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 Commission 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 Commission 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.

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

13. Financial instruments (continued)

(b) Credit risk (continued)

As at 30 June, the ageing analysis of trade debtors is as follows:

	2018 \$	2017 \$
Neither past due nor impaired		
Past due but not impaired		
< 3 months overdue	142,582	139,731
	142,582	139,731
Impaired		
< 3 months overdue	-	-
	-	-

The ageing analysis excludes statutory receivables, as these are not within the scope of AASB 7. Therefore, the 'total' will not reconcile to the receivables total recognised in the statement of financial position.

(c) Liquidity risk

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

During the current and prior year, there was no default or breach on any loans payable. No assets have been pledged as collateral. The Commission's exposure to liquidity risk is deemed insignificant based on prior period data and 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 NSW TC 11/12. 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 Commission's financial liabilities, together with the interest rate exposure.

Maturity Analysis and interest rate exposure of financial liabilities

	Weighted average effective interest rate	Interest Rate Exposure			Maturity Dates		
		Nominal Amount \$	Fixed Interest Rate \$	Non-interest bearing \$	< 1 year \$	1 -5 years \$	> 5 years \$
2018							
Financial liabilities							
Payables		280,316	-	280,316	280,316	-	-
		280,316	-	280,316	280,316	-	-
2017							
Financial liabilities							
Payables		587,134	-	587,134	587,134	-	-
		587,134	-	587,134	587,134	-	-

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

13. Financial instruments (continued)

(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 and comprises current risk, interest risk and other price risk. The Commission's only exposure to market risk is interest rate risk on cash balances.

(e) Interest rate risk

The Commission's exposure to interest rate risk through interest bearing liabilities or cash at bank is immaterial. The Commission does not account for any fixed rate financial instruments at fair value through profit or loss or as available for sale. In 2015-16, Treasury introduced cash management reforms that apply to the Commission. Under the reforms, and in comparison to previous years, the Commission no longer earns interest from Treasury on its financial assets.

(f) Fair Value Measurement

i. Fair value compare to carrying amount

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The fair value measurement is based on the presumption that the transaction to sell the asset or transfer the liability takes place either in the principal market for the asset or liability or in the absence of a principle market, in the most advantageous market for the asset or liability.

ii. Fair value recognised in the Statement of Financial Position

A number of the Commission's accounting policies and disclosure require the measurement of fair values, for both financial and non-financial assets and liabilities. The Commission does not hold financial and non-financial assets and liabilities that are valued at fair value using valuation techniques.

Financial instruments are generally recognised at cost. The amortised cost of financial instruments recognised in the statement of financial position approximates the fair value, because of the short term nature of many of the financial instruments.

14. Commitments

	2018 \$	2017 \$
(a) Operating lease commitments		
<i>Entity as lessee</i>		
Future minimum rentals payable under non-cancellable operating leases as at 30 June, as follows		
Within one year	546,838	525,828
Later than one year and not later than five years	579,076	1,125,914
Total (including GST)	1,125,914	1,651,742

The operating lease commitment relates to a lease currently held in relation to the occupancy of premises by the Commission in the Sydney CBD. The lease will be terminated in May 2020.

The total "Operating Lease Commitments" include input tax credits of \$102,356 (2017: \$150,158), which are expected to be fully recoverable from the ATO.

Our financial performance

Notes to the financial statements for the year ended 30 June 2018

15. Contingent liabilities and contingent assets

The Commission has no contingent liabilities or contingent asset as at 30 June 2018 (2017: \$nil).

16. Related party disclosure

	2018 \$	2017 \$
Short-term employee benefits:		
Salaries	661,345	328,350
Other monetary allowances	-	-
Non-monetary allowances	-	-
Other long-term employee benefits	-	-
Post-employment benefits	-	-
Termination benefits	-	-
Total remuneration	661,345	328,350

The Commission did not enter into any transactions during the year with key management personnel, their close family members, and controlled or jointly controlled entities of key management personnel.

During the year, the Commission entered into transactions with other entities that are controlled/jointly controlled/significantly influenced by the NSW Government. These transactions in aggregate are a significant portion of the Commission's activities.

These transactions include:

- Grants and contributions received from the Department of Justice
- Long Service Leave and Defined Benefit Superannuation assumed by Crown
- Transactions relating to the Treasury Banking System
- Employer contributions paid to Defined Benefit Superannuation funds
- Payments for the provision of personnel and corporate service to the Department of Justice
- Payments into the Treasury Managed Fund for workers' compensation insurance and other insurances.

17. Events after the reporting period

There are no after balance date events that may materially impact the financial statements for the Year Ended 30 June 2018.

End of audited financial statements.

Appendices



Appendix 1 - Publications list

Reports

- IPC Annual Report 2016 – 2017
- Report on the operation of the *Government Information (Public Access) Act 2009: 2016 – 2017*
- Charter for Public Participation – a guide to assist agencies and promote citizen engagement
- Agency Information Guide Review Report
- Monitoring of Agency Disclosure Log Practices Report

IPC resources

- IPC Regulatory Plan 2017 – 2019
- IPC Diversity and Inclusion Action Plan 2017 – 2020
- IPC Audit and Risk Committee Charter 2017 – 2018
- IPC Internal Audit Manual
- IPC Agency Information Guide
- IPC Public Interest Disclosures Internal Reporting Policy

IPC newsletters

- CEO Update – December 2017
- IPC Bulletin – July 2017
- IPC Bulletin – November 2017
- IPC Bulletin – May 2018

Information access resources

- Checklist – Agency contract registers
- Checklist – Unreasonable and substantial diversion of resources
- Fact sheet – The role of principal officers and senior executives in supporting the object of the GIPA Act
- Fact sheet – Open access information under the GIPA Act - agency requirements
- Fact sheet – Managing access to audio visual information under the GIPA Act – guidance for agencies
- Fact sheet – Informal release of information FAQ for citizens
- Fact sheet – Agency-level GIPA dashboard FAQ
- Fact sheet – Agency-level GIPA dashboard User Guide
- Fact sheet – Agency-level GIPA dashboard User Guide (updated)
- Fact sheet – Diversion of resources flowchart
- Fact sheet – The GIPA Act: Agency systems, policies and practices - guidance for principal officers
- Fact sheet – Internal reviews under the GIPA Act
- Fact sheet – Applying for workplace investigation information
- Fact sheet – Applying for complaints information
- Fact sheet – Your review rights under the GIPA Act
- Fact sheet – External review by the Information Commissioner

- Fact sheet – What is the Public Interest Test?
- Form – Complaint to the Information Commissioner
- Form – Application for External Review by the Information Commissioner
- Knowledge update – Processing requests for personal information
- Knowledge update – Informal release of information
- Knowledge update – Calculation of time and the GIPA Act
- National Dashboard on the Utilisation of Information Access Rights for 2014-15 and 2015-16
- OGP National Action Plan 2018 – 2020 consultation

Privacy resources

- Fact sheet – NSW public sector agencies and the GDPR
- Fact sheet – Privacy complaints: your review rights
- Fact sheet – NSW Public Sector Agencies and Notifiable Data Breaches
- NSW Data Breach Guidance
- Privacy Awareness Week Champion resources

Appendix 2- Diversity & Inclusion Action Plan 2017-2020

Priority 1

Identify the needs of people within diverse communities in NSW to promote their right to accessing government-held information and the protection of privacy.

Imperatives

- Develop and deliver a survey into the community attitudes of information access and privacy rights in NSW
- Collaborate and engage with other integrity agencies and organisation to work together and leverage resources to better understand the needs of NSW's diverse communities
- Engage with regulated sectors to identify better practices in ensuring that diverse communities are able to exercise their information and privacy rights.

Outcomes for 2017/18

During 2017/18 the IPC undertook a survey of community attitudes of information access and privacy rights in NSW. The survey sought participation from a diverse range of individuals with demographic data collected in relation to age, gender, working status and main language spoken.

Priority 2

Enhance information about how to access government-held information and protection of privacy rights for people within diverse communities in NSW.

Imperatives

- Review available resources and publications for their useability and accessibility to meet the needs of diverse communities
- Incorporate the needs of diverse communities into the IPC's engagement strategy and key IPC policies and guidelines
- Work with our regulated government stakeholders to ensure they understand and are equipped with the resources and information required to implement inclusive information access and privacy practices
- Identify priority documents for conversion to Easy Read formats
- Review the IPC's current accessibility of our website and resources relevant to a broad set of diversity and inclusion cohorts.

Outcomes for 2017/18

- Report on our accessibility commitments
- The IPC has provided advice to government agencies on information access and privacy issues in relation to access to government records for members of the Stolen Generations, their families
- The IPC has continued to provide advice to relevant government agencies on information access and privacy issues in relation to the roll-out and operation of the National Disability Insurance Scheme in NSW.
- Readspeaker
- WCAG2 compliance statement
- Training – 19 IPC staff participated in 146.5 hours of diversity-related training or \$534.95 per person.

Priority 3

Promote the needs of our diverse communities in NSW when developing and delivering resources to support the work of regulated sectors in providing access to information and the protection of privacy rights.

Imperatives

- Deliver a Commissioners' Diversity statement as part of the IPC Diversity and Inclusion Action Plan 2017 – 2020
- Engage with regulated government entities to identify and leverage opportunities to provide links to IPC online resources (including the NSW Right to Information/ Privacy Practitioners' Network)
- Ensure issues/needs of diversity and inclusion are considered in the development of key IPC statutory reports.

Outcomes for 2017/18

- IPC engaged with practitioners to improve links to online resources
- Case study on measuring access to Information Access and Privacy planned for the 2017/18 Information Commissioner's report card.

Appendix 3 - Access applications under Schedule 2 of the GIPA Regulation

Statistical information about access applications made to IPC

Statistical information about access applications made to our office during the reporting year is set out in the following tables – the form required by Schedule 2 to the GIPA Regulation

Clause 7A: Details of the review carried out by the agency under section 7(3) of the Act during reporting year and details of any information made publicly available by the agency as a result of the review

Reviews carried out by the agency	Information made publicly available by the agency
Yes	Yes

Clause 7B: The total number of access applications received by the agency during the reporting year (including withdrawn applications but not including invalid applications)

Total number of applications received
52

Clause 7C: Total number of access applications received by agency during reporting year that agency refused either wholly or partly, because the application was for the disclosure of information referred to in Schedule 1 to the Act (information for which there is conclusive presumption of overriding public interest against disclosure)

Number of Applications Refused	Wholly	Partly	Total
	1	1	2
% of Total	50%	50%	

Table A: Number of applications by type of applicant and outcome*

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Media	0	0	0	0	0	0	0	0
Members of Parliament	0	0	0	0	0	0	0	0
Private sector business	0	0	0	2	0	0	0	1
Not for profit organisations or community groups	0	0	0	0	0	0	0	0
Members of the public (application by legal representative)	0	0	0	0	0	0	0	1
Members of the public (other)	1	1	1	2	0	0	0	5
Total	1	1	1	4	0	0	0	7

Table B: Number of applications by type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Personal information applications*	0	0	0	1	0	0	0	2
Access applications (other than personal information applications)	1	0	0	3	0	0	0	4
Access applications that are partly personal information applications and partly other	0	1	1	0	0	0	0	1
Total	1	1	1	4	0	0	0	7

Table C: Invalid applications

Reason for invalidity	No of applications
Application does not comply with formal requirements (section 41 of the GIPA Act)	16
Application is for excluded information of the agency (section 43 of the GIPA Act)	0
Application contravenes restraint order (section 110 of the GIPA Act)	0
Total number of invalid applications received	16
Invalid applications that subsequently became valid applications	13

Table D: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to Act

	Number of times consideration used*
Overriding secrecy laws	0
Cabinet information	0
Executive Council information	0
Contempt	0
Legal professional privilege	0
Excluded information	2
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0
Care and protection of children	0
Ministerial code of conduct	0
Aboriginal and environmental heritage	0

Table E: Other public interest considerations against disclosure: matters listed in table to section 14 of Act

	Number of occasions when application not successful
Responsible and effective government	0
Law enforcement and security	0
Individual rights, judicial processes and natural justice	0
Business interests of agencies and other persons	0
Environment, culture, economy and general matters	0
Secrecy provisions	0
Exempt documents under interstate Freedom of Information legislation	0

Table F: Timeliness

	Number of applications
Decided within the statutory timeframe (20 days plus any extensions)	49
Decided after 35 days (by agreement with applicant)	0
Not decided within time (deemed refusal)	0
Total	49

Table G: Number of applications reviewed under Part 5 of the Act (by type of review and outcome)

	Decision varied	Decision upheld	Total
Internal review	0	1	1
Review by Information Commissioner*	0	0	0
Internal review following recommendation under section 93 of Act	0	0	0
Review by NCAT	0	0	0
Total	0	1	1

Table H: Applications for review under Part 5 of the Act (by type of applicant)

	Number of applications for review
Applications by access applicants	1
Applications by persons to whom information the subject of access application relates (see section 54 of the GIPA Act)	0

Table I: Applications transferred to other agencies under Division 2 of Part 4 of the Act (by type of transfer)

	Number of applications transferred
Agency-initiated transfers	35
Applicant-initiated transfers	1

Appendix 4 – Data statement

The IPC undertakes continual review and quality assurance of its data holdings. This includes:

- monitoring case activity and outcome data to identify possible errors
- improving guidance to staff on the correct recording of case information
- regular dashboard reporting to managers and Executive.

Appendix 5 – Credit card certification

In accordance with the Treasurer's Direction 205.01 and 205.7, it is hereby certified that the use of corporate Purchasing Cards has been in accordance with Premier's Memoranda and Treasurer's Directions.

Appendix 6 - Payment of accounts

For the year ended 30 June 2018

Supplier accounts paid on time				
Quarter	Target %	Actual %	Current	Total payments
September 2017	95	40	\$248,113	\$402,442
December 2017	95	43	\$130,504	\$288,315
March 2018	95	67	\$255,439	\$302,910
June 2018	95	51	\$229,256	\$390,144

The IPC accounts payable function is performed by the Department of Justice as part of shared corporate services arrangements within the Justice Cluster. The Commission in conjunction with Department of Justice 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) and Purchasing Card for payment of creditors
- payment of major suppliers such as Australia Post, Corporate Express and electricity suppliers by way of consolidated billing, and
- 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 was no penalty interest for late payment during the financial year ended 30 June 2018. During 2017/18 the IPC identified a number of process and procedural issues associated with the move to a new Enterprise Resource Planning system affecting the timeliness of invoice payments and is working to improve timeliness and meet the public sector benchmark of paying 95 per cent of invoices within 30 days.

Further process improvements are expected as a result of the implementation of Procure-to-pay.

Appendix 7 - Time for payment of accounts

For the year ended 30 June 2018

Aged analysis at the end of each quarter					
Quarter	Current (i.e. within due date)	Less than 30 days overdue	Between 30 and 60 days overdue	Between 61 and 90 days overdue	More than 90 days overdue
All suppliers					
September 2017	\$10,748	\$0	\$0	\$0	\$0
December 2017	\$1,381	\$47,640	\$0	\$0	\$0
March 2018	\$51,559	\$8,889	\$0	\$0	\$0
June 2018	\$45,927	\$5,500	\$0	\$0	\$0
Small business suppliers					
September 2017	\$0	\$0	\$0	\$0	\$0
December 2017	\$0	\$0	\$0	\$0	\$0
March 2018	\$0	\$0	\$0	\$0	\$0
June 2018	\$0	\$0	\$0	\$0	\$0
Accounts due or paid within each quarter					
Measure	September 2017	December 2017	March 2018	June 2018	
All suppliers					
Number of accounts due for payment	55	54	42	75	
Number of accounts paid on time	22	23	28	38	
Actual percentage of accounts paid on time (based on no. of accounts)	40%	43%	67%	51%	
Dollar amount of accounts due for payment	\$402,442	\$288,315	\$302,910	\$390,144	
Dollar amount of accounts paid on time	\$248,113	\$130,504	\$255,439	\$229,256	
Actual percentage of accounts paid on time (based on \$)	62%	45%	84%	59%	
Number of payments for interest on overdue accounts	0	0	0	0	
Interest paid on overdue accounts	0	0	0	0	
Small business suppliers					
Number of accounts due for payment to small businesses	1	4	1	2	
Number of accounts due to small businesses paid on time	1	3	1	1	
Actual percentage of small business accounts paid on time (based on no. of accounts)	100%	75%	100%	50%	
Dollar amount of accounts due for payment to small businesses	\$4,136	\$20,851	\$3,300	\$9,240	
Dollar amount of accounts due to small businesses paid on time	\$4,136	\$20,301	\$3,300	\$8,250	
Actual percentage of small business accounts paid on time (based on \$)	100%	97%	100%	89%	
Number of payments to small business for interest on overdue accounts	0	0	0	0	
Interest paid to small businesses on overdue accounts	0	0	0	0	

Appendix 8 - Annual report compliance requirements

Under the *Annual Reports (Departments) Act 1985*, the *Annual Reports (Departments) Regulation 2010*, *Annual Reports (Statutory Bodies) Act 1984*, *Annual Reports (Statutory Bodies) Regulation 2010*, Premier's Circular, Premier's Memoranda and various Treasury Circulars and Treasurer's Directions, the IPC is required to include the following information in this Annual Report, as per the NSW Annual Report Compliance Checklist, September 2018

Requirement	Note	Page
Letter of submission	Letters to the President and Speaker	3
Application for extension of time	N/A	-
Charter	About the IPC	13
Aims and objectives	About the IPC	17
Access	Address, telephone, business hours	2, back cover
Management and structure	Names, offices and qualifications of principal officers	44
	Organisational chart	44
Summary review of operations	CEO and Information Commissioner – an overview	7
	Financial statements	52-78
Funds granted to non-government community organisations	N/A	-
Legal change	Legislative changes	16
Economic or other factors	N/A	-
Management and activities	Strategic Plan 2017/20	18
	Objective 1 Engagement – We demonstrate contemporary, effective engagement with citizens, agencies and stakeholders to lead delivery of balanced information access and privacy rights.	21
	Imperatives	
	<ul style="list-style-type: none"> Establish IPC as a recognised authority in fostering engagement within its legislative responsibilities. Leverage opportunities to partner in regulatory programs. Establish IPC as a lead integrity oversight agency. 	
	Objective 2 Rights Promotion – Our operations are innovative, solution focused and adaptable, and our people have the commitment and capabilities to ensure optimal regulatory impact and citizen-centric services.	27
	Imperatives	
	<ul style="list-style-type: none"> Create the right mix of capabilities to be an effective contemporary regulator. Develop effective systems and processes to enable flexibility in delivery of services to stakeholders and citizens. Implement systems and capabilities to guide an integrated approach to information access and privacy legislation. 	
	Objective 3 Impact – We contribute to social and economic wellbeing by leading and advancing effective information access and privacy rights.	32
	Imperatives	
	<ul style="list-style-type: none"> Improve community awareness of the IPC and Information access and privacy rights. Create a culture of open and participative democracy. Create a culture of commitment to and compliance with information access and privacy rights within agencies and service providers. 	
	Objective 4 Operational Excellence – Our operations are innovative, solution focused and adaptable, and our people have the commitment and capabilities to ensure optimal regulatory impact and citizen-centric services.	42
	Imperatives	
	<ul style="list-style-type: none"> Create the right mix of capabilities to be an effective contemporary regulator. Develop effective systems and processes to enable flexibility in delivery of services to stakeholders and citizens. Implement systems and capabilities to guide an integrated approach to information access and privacy legislation. 	

Requirement	Note	Page
Research and development	Objective 4: Governance	46
Human resources	Objective 4: Our people	44
Consultants	Objective 4: Governance	47
Workplace diversity	Objective 4: Our people	45
Disability Inclusion Action Plans	Reported on a triennial basis*	
Land disposal	N/A	
Promotion (overseas visits)	Objective 4: Governance	47
Consumer response	Objective 2: Rights promotion	28-31
Payment of accounts	Appendix 6	85
Time for payment of accounts	Appendix 7	86
Risk management and insurance activities	Objective 4: Governance	50
Internal audit and risk management policy attestation	Objective 4: Governance	49
Disclosure of controlled entities	The IPC has no controlled entities	
Disclosure of subsidiaries	The IPC has no subsidiaries	
Multicultural policies and services program	Reported on a triennial basis*	47
Agreements with Multicultural NSW	Objective 4: Governance	47
Work health and safety (WHS)	Objective 4: Our people	46
Budgets	N/A	
Financial statements	Our financial performance	57
Identification of audited financial statements	Our financial performance	54
Inclusion of unaudited financial statements	N/A	-
Additional matters – statement of the action taken to comply with PPIP Act	Objective 2: Our governance	16
Additional matters – after balance date events having significant effect in succeeding year on financial operations; other operations; clientele/community served	N/A	
Additional matters – total external costs incurred in the production of this annual report	Nil – printed in-house	86
Additional matters – the website at which the annual report may be accessed	www.ipc.nsw.gov.au	-
Investment performance	N/A	-
Liability management performance	N/A	-
Exemptions	Nil	-
Numbers and remuneration of senior executives	Objective 4: Our people	45
Implementation of Price Determination	N/A	-
Government Information (Public Access) Act 2009	Appendix 3	82
Digital information security policy attestation	Objective 4: Governance	48
Public Interest Disclosures (PID)	Objective 3: Building a culture of commitment: Reviewing agency performance	40
Requirements arising from employment arrangements	Objective 4: Our people	47

Requirement	Note	Page
Form of annual reports – generally	Report has been developed as per requirement	1-96
Submission of annual report to appropriate Minister	22 October 2018	-
Submission of annual report to the Treasurer	22 October 2018	-
Presentation of annual report to Parliament	22 October 2018	-
Annual report size – presentation to Parliament	ISO A4	-
Printing and distribution requirements	No external costs as per requirements	-
Public availability of annual reports	www.ipc.nsw.gov.au and as per requirements	-

Complaining to the IPC

The IPC aims to provide a high level of service. If you are dissatisfied with the level of service you have received from the IPC there are complaint mechanisms available to you.

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 their response, 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 immediately available, they will contact you by phone or in writing as soon as possible with a view to promptly resolving your issue.

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

Step 2 – make a formal complaint

To make a formal complaint, please write or email us, or you can ask us to help you write it down. Include, if appropriate, whether your complaint is to do with services you have received from our information access or our privacy areas.

What to include in your letter of complaint

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

How the IPC 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 matter will:

- acknowledge your complaint within three business days
- discuss the complaint with the relevant staff member
- if required, escalate the complaint to a manager
- respond to you in writing within 15 working days.

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

Step 3 – contact the NSW Ombudsman

If you are dissatisfied with the handling of your complaint by the IPC, you can contact the NSW Ombudsman, which has responsibility for dealing with complaints about conduct that is illegal, unreasonable, unjust, oppressive, discriminatory, based on improper or irrelevant grounds, based on a mistake of law or fact, or otherwise wrong.

1800 451 524 (Toll free) or visit - www.ombo.nsw.gov.au

Step 4 – contact the NSW Civil and Administrative Tribunal (NCAT)

If you are still dissatisfied with the handling of your complaint, you can ask NCAT to assist you in resolving your complaint. The Administrative and Equal Opportunity Division within NCAT includes the review of administrative decisions made by NSW Government agencies and resolution of discrimination matters. This will incur a cost.

1300 006 228 or visit - www.ncat.nsw.gov.au

Independent Commission Against Corruption (ICAC)

If you believe there has been corruption or serious 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.

1800 463 909 (Toll free) or visit - www.icac.nsw.gov.au

For more information

Freecall: 1800 472 679
Email: ipcinfo@ipc.nsw.gov.au
Website: www.ipc.nsw.gov.au
Post: Information and Privacy Commission NSW
GPO Box 7011
Sydney NSW 2011

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Glossary

Glossary

GIIC Act	<i>Government Information (Information Commissioner) Act 2009 (NSW)</i>
GIPA Act or GIPA	<i>Government Information (Public Access) Act 2009 (NSW)</i>
GIPA Regulation	<i>Government Information (Public Access) Regulation 2009 (NSW)</i>
GSE Act	<i>Government Sector Employment Act 2013 (NSW)</i>
HPPs	Health Privacy Principles
HRIP Act	<i>Health Records and Information Privacy Act 2002 (NSW)</i>
HRIPA Regulation	<i>Health Records and Information Privacy Regulation 2017 (NSW)</i>
ICAC	Independent Commission Against Corruption
IPAC	Information and Privacy Advisory Commission
IPPs	Information Protection Principles
IPC	Information and Privacy Commission
NCAT	NSW Civil and Administrative Tribunal
OAIC	Office of the Australian Information Commissioner
PIIP Act	<i>Privacy and Personal Information Protection Act 1998 (NSW)</i>

About this Annual Report

The Information and Privacy Commission NSW Annual Report 2017/18 has been prepared in accordance with the provisions of the *Annual Reports (Departments) Act 1985*, the *Government Information (Information Commissioner) Act 2009*, and the *Privacy and Personal Information Protection Act 1998*.

This Annual Report sets out our activities, accomplishments and challenges in promoting our responsibilities to the community of NSW.

It provides an account of our performance against the key result areas set for us by NSW Parliament, and provides information to our stakeholders on how we manage our organisation to best deliver on our accountabilities and strategic outcomes.

This Annual Report was first published in October 2018 on the basis of all corporate GIPA and privacy specific information available and provided to the IPC by 3 October 2018. There were no external costs recorded for producing this report to comply with NSW Treasury requirements.

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