



information
and privacy
commission
new south wales

Sydney Cricket and Sports Ground Trust

GIPA Act compliance review report

October 2018

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1 Purpose

This review examines the systems and processes of the Sydney Cricket and Sports Ground Trust (SCSGT) in relation to dealing with applications for access to information under the [Government Information \(Public Access\) Act 2009 \(GIPA Act\)](#).

The review was undertaken in accordance with section 17(g) of the GIPA Act to monitor, audit and report on the exercise by agencies of their functions under, and compliance with, the GIPA Act. Its purpose is to assess the compliance of the SCSGT with the GIPA Act in fulfilling its responsibilities under the Part 4 of the GIPA Act. This review was limited to the specific management of the formal access application process under the GIPA Act and did not consider all compliance requirements under the GIPA Act. Specifically, this review assessed compliance with Part 4, Division 2 – Transfer, amendment or withdrawal of access applications; Part 4, Division 3 – Process for dealing with access applications; Part 4, Division 4 – Deciding access applications.

2 Background

In May 2018, the NSW Information Commissioner received a complaint under the *Government Information (Information Commissioner) Act 2009 (GIIC Act)* in relation to the way in which the SCSGT dealt with applications for access to information made by the complainant.

The Information Commissioner decided to deal with the complaint by undertaking a review of the SCSGT's GIPA Act process in accordance with section 17(g) of the GIPA Act, which provides the Information Commissioner with monitoring, auditing and reporting functions regarding the exercise, by agencies of their functions under, and compliance with, the GIPA Act.

In conducting the review, the Information Commissioner met with the Complainant, and representatives of the IPC met with representatives of the SCSGT, and conducted an audit of the SCSGT's systems and processes for dealing with GIPA applications. This included auditing a sample of recent access applications made under Part 4 of the GIPA Act.

The IPC greatly appreciates the assistance and co-operation provided by the SCSGT and its officers during the assessment.

This report outlines the findings and proposed recommendations as a result of the IPC's review.

The SCSGT responded to the draft report on 18 October 2018. That response has informed the finalisation of the report.

3 Methodology

3.1 Sample selection

In undertaking this review the IPC attended the offices of the SCSGT, and was provided access to the SCSGT's GIPA files, and relevant officer. The time period reviewed by the IPC was from 1 July 2017 until May 2018, inclusive.

The IPC reviewed 6 of the SCSGT's GIPA files, which were received by the SCSGT between July 2017 and March 2018.

This should be viewed in the context of the number of GIPA applications received by the SCSGT, which for the period 2016 – 2017 was 1,¹ and for the period March 2015 – February 2016 was 1.²

3.2 Assessment criteria

In undertaking the review the IPC assessed the SCSGT's compliance with the GIPA Act against discrete criteria to reflect the issues raised in the complaint and related compliance matters identified by the Information Commissioner. The criteria are set out in the table below.

Assessment Criteria

The assessment criteria covers:
1. GIPA delegations
2. GIPA applications manual
3. GIPA templates
4. Availability of information access guidance
5. GIPA search requirements
6. GIPA case management
7. Scope and assistance
8. Decision making
9. GIPA training and communication

3.3 Conduct of the analysis

The analysis of SCSGT's compliance was conducted in July 2018. IPC staff examined the SCSGT's website and GIPA files. The assessment of the files was performed contemporaneously, with data and observations recorded and explanatory material requested and provided where necessary.

4 Findings

The findings of the review are presented below in two parts:

- assessment against select criteria that assist examination of SCSGT compliance with legislated requirements
- specific comments, findings and recommendations to assist SCSGT with compliance

¹ See Agency GIPA Dashboard, <https://www.ipc.nsw.gov.au/agency-level-gipa-dashboard>.

² Sydney Cricket & Sports Ground Trust 2015/16 Annual Report, <https://www.scgt.nsw.gov.au/media/2013/2015-16-annual-report.pdf>.

with legislated requirements.

The findings include reference to sample files. The IPC recorded and has retained data in relation to each of the sample files, and for the purposes of this report deems it unnecessary to provide a breakdown in relation to each file.

The IPC will continue to assist the SCSGT as it adopts the recommendations, given the size of the agency and the infrequent nature of GIPA applications.

1. GIPA delegations

Criterion	Result
Documented GIPA delegations in place	Delegations absent

Comments, findings and recommendations

Comment: Section 9(3) of the GIPA Act provides that a reviewable decision may only be made by, or with the authority of, the principal officer of the agency.

Finding: The absence of a written delegation was confirmed by the General Manager Human Resources (GMHR). Officers reviewed the role description for the GMHR, which does not provide a delegation to determine and decide GIPA applications.

Recommendation 1: SCSGT should have in place a written GIPA delegation so as to comply with section 9(3) of the GIPA Act. This should be in place within 4 weeks of receipt of this report.

2. GIPA applications manual

Criterion	Result
Status of GIPA applications manual	Partially complete and not operative

Comments, findings and recommendations

Comment: While a manual on how to manage access applications is not a legislative requirement, agencies often have documentation in place as part of their policies and procedures. A manual is beneficial to agencies to support the effective exercise of GIPA functions, and provides a reference for officers when receiving, processing or deciding access applications. Maintaining currency of policies and procedures assists officers in the exercise of their GIPA functions.

Finding: The absence of a manual was confirmed by the GMHR. The GMHR uses her own knowledge of the organisation in determining where and how to search for information.

Recommendation 2: The SCSGT should consider developing a manual to assist officers with processing GIPA applications. This should include and centralise all templates, processes and procedures. The manual could include guidance sheets that include sample responses and communications regarding specific issues, which can assist officers in determining access applications.

Comments: Section 53(2) of the GIPA Act provides that an agency must undertake such reasonable searches as may be necessary to find any of the information applied for that was held by the agency when the application was received.

Within agencies an officer processing an access application must at times request other officers or business units to conduct searches for information.

Findings: The absence of a search request template was confirmed by the GMHR.

Recommendation 3: The SCSGT should continue to ensure that appropriate searches for information are conducted for each access application, and recorded in a search template pursuant to section 53(2) of the GIPA Act.

Recommendation 4: The SCSGT should ensure that each time a search for information is requested, the officer processing the access application receives written confirmation from the relevant business unit to certify that searches have been conducted and information found or not found.

Recommendation 5: The SCSGT should develop a search template having regard to the guidance issued by the Information Commissioner in the fact sheet: The GIPA Act: Agency systems, policies and practices – guidance for principal officers.

3. GIPA templates

Criterion	Result
Communication with applicant	No template in place
Notice of decision	No template in place

Comments, findings and recommendations

Comment: The IPC website and GIPA tool contain template letters and notices of decision. These are designed to provide a basis that should be customised to respond to specific issues. When an agency undertakes this customisation, it is able to retain that knowledge in written form. This approach decreases reliance on external advice, and builds internal capacity to responding to and determining access applications.

Finding: The GMHR advised that she relies on templates accessible online on the IPC's GIPA tool for agencies. She seeks formal external advice, where necessary.

Recommendation 6: The SCSGT review and customise its approach to template letters for communicating with applicants. This includes all template letters used by the SCSGT, such as for communications with applicants regarding general matters arising under the GIPA Act; and template letters regarding the notice of decision made.

Where necessary, the SCSGT should develop additional templates to promote internal knowledge and capacity to respond to applicants. These could be included in the manual recommended in Recommendation 2.

The template letters should be applied to address specific issues relating to GIPA applications, as they arise.

This review should be commenced within 4 weeks of receipt of this report and progress of the development advised to the IPC on a quarterly basis until completed.

4. Availability of information access guidance

Criterion	Result
Information access guidance available on the Agency's website	In place – required navigation from home page
IPC guidance material on the Agency's website	In place – on Right to Information Policy page

Comments, findings and recommendations

The SCSGT's homepage, navigation is required through 'Policies and documents' to 'Right to Information Policy', which is a landing page for the Agency Information Guide that describes the functions and structures, information held, public participation, how to access public information and describes the four pathways. The link to the IPC guidance is located within 'Where can I get more information about right to information?'

The effectiveness and timeliness of agency decision making is informed, in part by the quality of access applications. SCSGT access applicants may be better served by a more direct and prominent expression of access mechanisms, positioned so as to enhance the quality of their access applications. This approach may also better serve SCSGT in discharging its responsibilities particularly those arising under section 16 of the GIPA Act.

5. GIPA search requirements

Criterion	Result
Identification of parameters of GIPA application	Adequate
Established records storage and retrieval system	Multiple systems
Identification of business units	Adequate
Referral to business units	Adequate
Retrieval from business units	Inadequate (see Recommendations 3, 4 and 5)
Certification on return by officer conducting search	Adequate

Comments, findings and recommendations

The above findings are based on a review of the 6 sample files actioned in the period between 1 July 2017 and May 2018.

6. GIPA case management

Criterion	Result
Average time from receipt to acknowledgment	2.3 days
Average duration in between communication with applicant	9 days
Average timeframe from receipt to finalisation	20.2 days
Average timeframe regarding internal communication	0 days

Average number of times followed up from with relevant Business Unit to obtain information or elicit response	0 occasions
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Comments, findings and recommendations

The above findings are based the review of the 6 sample files. The timeframes demonstrate a positive responsive approach which achieves the timelines anticipated under the GIPA Act.

7. Scope and assistance

Criterion	Result
Appropriate assessment and action in accordance with section 60(4) of the GIPA Act where required	Adequate
Appropriate documenting and filing of telephone and email contacts with the applicant	Adequate

Comments, findings and recommendations

The above findings are based on the review of the 6 sample files. The adequacy of these records demonstrates a transparent approach to engagement with access applicants.

8. Decision making

Criterion	Result
Sample met the requirements of section 61 (Notice of decision to refuse access) and section 126 of the GIPA Act (requirements for notices)	50%
Sample met the requirements of section 54 of the GIPA Act to consult when required	67%
Sample reflects proper application of Schedule 1 to the GIPA Act and Schedule 2 to the GIPA Act	50%

Comments, findings and recommendations

The above findings are based the review of the 6 sample files. GIPA Act requirements in relation to provision of notices and consultation are addressed in the body of this report.

Schedule 1 and Schedule 2 of the GIPA Act deal with COPIADS and *excluded information*. The application of these factors in deciding access application requires the consideration of preconditions. It was not apparent from the audit that these preconditions were met in all files reviewed. However external review of these decisions by the IPC is not within the jurisdiction

or scope of the Information Commissioner in exercising functions under the GIIC Act or in the exercise of this review.³

9. GIPA training and communication

Criterion	Result
Frequency of training provided to officers acting under delegation of GIPA functions over the last 2 years	12 months +
Frequency of training provided to officers responding to GIPA requests for information over the last 2 years	Nil
Frequency of communications provided over the last 2 years to officers performing GIPA functions under delegation regarding GIPA	Nil
Frequency of communications provided over the last 2 years to officers responding to GIPA requests for information	Nil

Comments, findings and recommendations

Finding: GMHR advised that she has completed a day of GIPA training and in previous years attended GIPA Practitioners' Network meetings.

Recommendation 7: The SCSGT should ensure that ongoing training is provided to all officers who are or will have responsibility for processing access applications.

Finding: There is no mechanism present for communicating relevant information to officers responding to requests for searches for information.

Recommendation 8: The SCSGT should ensure suitable guidance and/or training is available for all officers requested to search for information in response to an access application.

5 Conclusions and Recommendations

Overall, it was evident that the SCSGT responds in a timely manner to access applicants. The SCSGT also expressed an eagerness to improve the way that it deals with access applications.

However, the systems and processes showed that improvements could be made to the way that the SCSGT handles access applications. In particular, the SCSGT should have in place a written delegation; its templates should be customised; and ongoing training should be provided for officers processing applications and conducting searches.

³ Section 17 of the GIIC Act.

5.1 Recommendations

Based on the findings of this review, it is recommended that the SCSGT implement the following recommendations within the timeframes specified:

Recommendation 1: SCSGT should have in place a written GIPA delegation so as to comply with section 9(3) of the GIPA Act. This should be in place within 4 weeks of receipt of this report.

Recommendation 2: The SCSGT should consider developing a manual to assist officers with processing GIPA applications. This should include and centralise all templates, processes and procedures. The manual could include guidance sheets that include sample responses and communications regarding specific issues, which can assist officers in determining access applications.

Recommendation 3: The SCSGT should continue to ensure that appropriate searches for information are conducted for each access application, and recorded in a search template pursuant to section 53(2) of the GIPA Act.

Recommendation 4: The SCSGT should ensure that each time a search for information is requested, the officer processing the access application receives written confirmation from the relevant business unit to certify that searches have been conducted and information found or not found.

Recommendation 5: The SCSGT should develop a search template having regard to the guidance issued by the Information Commissioner in the fact sheet: The GIPA Act: Agency systems, policies and practices – guidance for principal officers.

Recommendation 6: The SCSGT review and customise its approach to template letters for communicating with applicants. This includes all template letters used by the SCSGT, such as for communications with applicants regarding general matters arising under the GIPA Act; and template letters regarding the notice of decision made.

Where necessary, the SCSGT should develop additional templates to promote internal knowledge and capacity to respond to applicants. These could be included in the manual recommended in Recommendation 2.

The template letters should be applied to address specific issues relating to GIPA applications, as they arise.

This review should be commenced within 4 weeks of receipt of this report and progress of the development advised to the IPC on a quarterly basis until completed.

Recommendation 7: The SCSGT should ensure that training is provided to all officers who are or will have responsibility for processing access applications.

Recommendation 8: The SCSGT should ensure suitable guidance and/or training is available for all officers requested to search for information in response to an access application.

5.2 Monitoring

The IPC will continue to assist the SCSGT as it adopts these recommendations. The IPC proposes to monitor the SCSGT's compliance with the GIPA Act by conducting a similar high-level audit within 12 months from the date of this report.

The SCSGT is asked to report to the Information Commissioner quarterly on the implementation of the recommendations made arising from this review. The reporting period should commence from the end of November 2018.



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