



information  
and privacy  
commission  
new south wales

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22 April 2025

Committee on the Ombudsman, the Law Enforcement Conduct Commission  
and the Crime Commission  
Parliament of New South Wales

By email: [OmboLECC@parliament.nsw.gov.au](mailto:OmboLECC@parliament.nsw.gov.au)

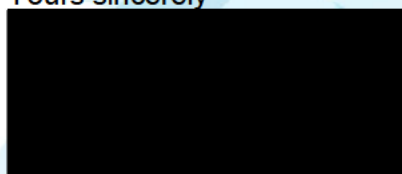
Dear Committee Secretariat

**Information and Privacy Commission answers to supplementary questions**

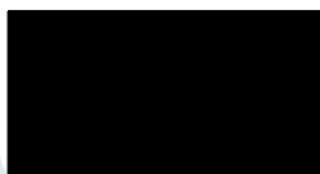
We refer to our appearance before the Committee on the Ombudsman, the Law Enforcement Conduction Commission and the Crime Commission on 21 March 2025 and to the supplementary questions received via email on 11 April 2025.

Please find **enclosed** IPC's responses to the Committee's supplementary questions.

Yours sincerely



Chris Clayton  
**A/Information Commissioner and CEO  
Information and Privacy Commission NSW**



Sonia Minutillo  
**Privacy Commissioner**

Encl.



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## COMMITTEE ON THE OMBUDSMAN, THE LAW ENFORCEMENT CONDUCT COMMISSION AND THE CRIME COMMISSION

Friday, 21 March 2025

### 2024 REVIEW OF ANNUAL AND OTHER REPORTS OF OVERSIGHTED AGENCIES

#### INFORMATION AND PRIVACY COMMISSION NSW (Information Commissioner and Privacy Commissioner)

#### ANSWERS TO SUPPLEMENTARY QUESTIONS

##### **QUESTION 1:**

Could you provide more detail on what changes you would like to see made to the GIPA Act provisions around collecting information on government agencies' use of AI and ADM? (Transcript, p 31)

##### **ANSWER:**

The former Information Commissioner's submission<sup>1</sup> to the Parliamentary inquiry into the use of Artificial Intelligence in NSW outlined 4 recommendations for legislative change to protect the right of information access in a digital context (pages 9-10). These recommendations are to:

1. Require the proactive disclosure of the use of AI by agencies as open access under the GIPA Act.
2. Ensure that open access information includes a statement of use, inputs and a description of the operation of the AI system.
3. Expand information access rights in relation to government contracted services to include provisions that require access to contract information held by suppliers about AI used by agencies to assist in their decision-making functions.
4. Include the use of AI as a factor in favour of disclosure of information under the GIPA Act to address the existing asymmetry that protects the business interests of agencies and third-party providers.

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<sup>1</sup> [www.parliament.nsw.gov.au/lcdocs/submissions/82610/0032 Information and Privacy Commission NSW.pdf](http://www.parliament.nsw.gov.au/lcdocs/submissions/82610/0032%20Information%20and%20Privacy%20Commission%20NSW.pdf)

## **QUESTION 2:**

At the public hearing, you noted IPC has an 'opportunity' to educate and assist agencies in their disclosure of AI or ADM through the existing provisions of the GIPA Act (Transcript, p 31).

Are there resourcing, regulatory or other barriers that are restricting the IPC's work with government agencies on their AI and ADM reporting?

## **ANSWER:**

There is no inherent resourcing, regulatory or other barriers restricting the IPC's work with government agencies on their AI and ADM reporting – except to the extent of the benefits from clearer legislated expectations as outlined in response to supplementary question 1.

As part of settling the IPC's Regulatory Priorities, the Acting Information Commissioner and Privacy Commissioner are exploring a joint regulatory initiative into the extent to which regulated entities provide information about their use of AI or ADM in the exercise of their functions through their Agency Information Guides<sup>2</sup> or their Privacy Management Plans.<sup>3</sup>

## **QUESTION 3:**

Your strategic outcome 4.3 mentions 'financial issues' that are being reported to the Department of Customer Service. Can you tell us more about the kinds of issues you were encountering? (Annual Report 2023-24, p 32)

## **ANSWER:**

The IPC has a shared services arrangement with the Department of Customer Service (DCS), which includes performance of key human resource, technology, and financial management processes for and on behalf of the IPC. The IPC ensures the services received reflect the quality expected in accordance with established service standards as set out in a Memorandum of Understanding with DCS.

The 'financial issues' reported on page 32 of the IPC's Annual Report 2023-24 include incorrect charges for corporate service functions and process issues IPC staff identified through QA checks.

The IPC maintains a constructive professional relationship with DCS in managing its shared service arrangements. As stated in the IPC's Annual Report, in 2023-24 the number of issues reported by the IPC reduced by 44%.

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<sup>2</sup> Section 20 *Government Information (Public Access) Act 2009*

<sup>3</sup> Section 33 *Privacy and Personal Information Protection Act 1998*

**QUESTION 4:**

How are you working with agencies to improve data breach policy compliance? Can you update us on the results of your agency review? (Annual Report 2023-24, p 15)

**ANSWER:**

The IPC review considered the data breach policies (DBP) of a representative sample of 93 agencies across the four regulated sectors:

1. State Government
2. Local Government
3. Universities
4. State Owned Corporations.

As a point in time review of agency websites in May 2024, the results found:

- 57% had a publicly available DBP published
- 43% did not have a publicly available DBP published
- 98% of those that had a publicly available DBP had one that was easily discoverable
- 27% had updated their Privacy Management Plan (PMP) with information about procedures and practices to ensure compliance with the Mandatory Notification of Data Breach (MNDB) Scheme
- 56% did not have a PMP addressing the MNDB Scheme or provide relevant information in relation to the MNDB Scheme.

The IPC has taken and continues to take steps to educate agencies about the MNDB Scheme and DBP requirements. This has included direct engagement with agencies, published resources and guidance, IPC presentations, and communications which have included tailored communication such as through the Office of Local Government circulars.

**QUESTION 5:**

What are you doing to improve the accessibility of IPC resources and community awareness of information rights? (Annual Report 2023-24, pp 30-31)

**ANSWER:**

The IPC seeks to continuously improve the accessibility of our resources and awareness by the community of their information access rights.

Key initiatives to improve accessibility and awareness include:

- Translation of key resources, data breach support information, and how to contact the IPC into the top 10 languages for NSW residents.
- Publication of Easy Read Guides to assist people with low literacy to understand their information access and privacy rights.
- Publication of videos and infographics to explain key concepts visually for information access and privacy legislation.
- Promotion of information access and privacy resources (including information on rights) through annual campaigns as well as on social media platforms.
- Review of website structure to maximise accessibility for both the public and agencies.
- Website feedback tools allowing the public and agencies to rate their understanding and usability of IPC publications.

**QUESTION 6:**

How are you managing the change in leadership during the reporting period? Have you had any feedback from staff regarding communication?

**ANSWER:**

The period of acting Information Commissioner and Privacy Commissioner arrangements may reasonably be expected to cause a measure of uncertainty. However, the IPC has endeavoured to provide stability for its staff and has continued to deliver against its strategic priorities. The Acting Commissioners have endeavoured to keep staff informed – through regular meetings – on developments in recruitment activities to the extent possible.

Since the conclusion of the former Privacy Commissioner's term, Ms Sonia Minutillo was the Acting Privacy Commissioner or, for a short period, Acting Information Commissioner. Ms Minutillo held a substantive position within the IPC, and this has helped to minimise the uncertainty caused by the vacant Commissioner roles and provided an element of stability for the IPC.

As a small agency, staff have been able to engage closely with the acting Commissioners – allowing the work of the IPC to continue in pursuit of the strategic objectives outlined in the IPC's Strategic Plan 2024-2028 that commenced in July 2024.

### **QUESTIONS 7:**

There were significant drops in the IPC's results in some PMES topic areas. Can you comment on this, and how are you addressing these issues?

	PMES topic area	2023 (%)	2024 (%)	Change (% points)
Largest percentage point decrease	Action on survey results	56	38	-18
	Role clarity and support	70	59	-11
	Wellbeing	70	62	-8
	Learning and development	57	50	-7

### **ANSWER:**

The IPC Leadership Team welcomes the opportunity to hear from staff through the annual PMES survey. Pleasingly, 100% of staff participated in the 2024 PMES survey, which provided an important snapshot of the views of staff at that point in time. The 2024 PMES results showed a range of improvements in key areas such as Feedback and Performance Management, Decision Making and Accountability, Ethics and Values, and Job Purpose and Enrichment. These results reflect the action planning undertaken in 2024 to focus on key areas that needed improvement following the publication of the 2023 survey results.

The 2024 PMES results also showed a number of areas that declined. Some results may reflect changes in the IPC's operating environment in the last 12-18 months, including the changeover and subsequent acting arrangements of Commissioners, development of a new Strategic Plan, staff turnover and role vacancies, which can have a more pronounced effect in a small agency.

In response to the 2024 PMES results, the IPC Executive developed targeted actions to address key areas for improvement. These include:

- Developing a Regulatory Plan to identify our key regulatory objectives.
- Implementing team-based work plans to address Strategic Plan outcomes.
- Finalising Personal Development Plans (PDPs) to increase role clarity and identify professional development opportunities.
- Actively recruiting to fill vacancies in the organisational structure and share the workload.
- Hiring a HR contractor for 6 months to assist with recruitment and workforce planning initiatives.
- Implementing IT enhancements to assist staff with administrative tasks for casework.
- Seeking detailed feedback from staff on Burnout and establishing targeted responses to uplift staff sense of wellbeing.