



Office of the Information Commissioner
Queensland

Agency Progress on Right to Information Reforms

Results of the self assessed electronic audit completed by Queensland public sector agencies

OIC thanks agencies for their cooperation with the review process and, in particular, for completing the electronic audit form, which was necessarily lengthy and complex. In undertaking this review, OIC recognises the commitment of public servants to the reforms.



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June 2011

Ms Barbara Stone MP
Chair
Law, Justice and Safety Committee
Parliament House
George Street
Brisbane QLD 4000

Dear Ms Stone

I am pleased to present *Agency Progress on Right to Information Reforms: Results of the self assessed electronic audit completed by Queensland public sector agencies* capturing their assessment of their progress in implementing the reforms contained in the *Right to Information Act 2009 (Qld)* and the *Information Privacy Act 2009 (Qld)*.

This report is prepared under section 131 of the *Right to Information Act 2009 (Qld)*.

The report reviews self reported progress of agencies in complying with the legislation and guidelines that give effect to the Right to Information and Information Privacy reforms. The report identifies areas of good practice and areas requiring further work.

In accordance with subsection 184(5) of the *Right to Information Act 2009 (Qld)*, I request that you arrange for the report to be tabled in the Legislative Assembly on the next sitting day.

Yours sincerely



Julie Kinross
Information Commissioner

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Commonly used acronyms

CEO	Chief Executive Officer
DG	Director General
FOI	Freedom of Information
GOC	Government owned corporation
HTML	HyperText Markup Language
ID	Identified
IP	Information Privacy or In Progress depending on context
IP Act	<i>Information Privacy Act 2009</i> (Qld)
IPP	Information Privacy Principle
NB	Nota bene (Note)
NPP	National Privacy Principle
OESR	Office of Economic and Statistical Research
OIC	Office of the Information Commissioner
QGEA	Queensland Government Enterprise Architecture
RTI	Right to Information
RTI Act	<i>Right to Information Act 2009</i> (Qld)
SES	Senior Executive Service
TAFE	Technical and Further Education

1 Executive Summary

As part of the Office of the Information Commissioner's (OIC's) program to monitor agencies' performance in implementing the *Right to Information Act 2009* (Qld) (RTI Act) and the *Information Privacy Act 2009* (Qld) (IP Act) OIC has conducted an electronic audit in which agencies assessed their own progress.

The electronic audit captured all of the obligations under the RTI Act and the IP Act, and had public sector agencies assess their progress in meeting each of these obligations. Every agency will be informed of their results in comparison to other agencies of the same type.

Overall, public sector agencies, including departments, local governments, universities, and Government owned corporations, reported considerable progress. However, progress varied between agency types and reform obligations. Key results as reported by agencies included:

- Full or partial implementation of 72 percent of the reform obligations
- Strong reported performance in the Queensland government department sector with 94 percent full or partial implementation of the reform obligations
- Weaker reported performance in the local government sector with 64 percent full or partial implementation of the reform obligations
- Strong reported performance in the initial implementation of publication schemes, and in putting in place roles, responsibilities, delegations and authority to implement the reforms, meeting privacy obligations and in engaging with applicants under the legislation
- Weaker reported performance in adopting the 'push' model, making arrangements for information to be accessed administratively and monitoring their own progress
- Better implementation when senior governance focused on the reform process
- An identified need for further training and awareness raising.

The results do not identify individual agencies. This has encouraged accurate self reporting, openness and cooperation, and has been appropriate to establish a baseline measure. It is expected that agencies that are not yet fully compliant will take action to achieve full compliance. In the next round, the report will compare performance across agencies and against the baseline, and individual agency results or non responses will be published. Agencies have been advised of their own performance as part of the audit process.

Agencies have reported a good start on the reforms, and commitment to the principles behind the reform process. After the initial efforts to implement the reforms, a sustained effort by agencies is now needed to make sure the reforms are fully realised and to build community awareness and confidence in access to public sector information.

2 Introduction

Background

The Office of the Information Commissioner (OIC) is responsible for monitoring and reporting on the progress of the Right to Information (RTI) and Information Privacy (IP) reforms. The reforms, which commenced in July 2009, require government agencies to make government information available to the public as a matter of course, unless there is a good reason not to, and to provide safeguards for handling personal information. After a period of 12 months for implementation, OIC conducted an electronic audit to provide a snapshot of the progress of the reforms across all agencies and to identify the next steps for implementation.

Reporting Framework

Under section 131 of the *Right to Information Act 2009* (Qld) (RTI Act), the functions of the Information Commissioner include reviewing and reporting on agencies' performance in relation to the operation of the RTI Act and chapter 3 of the *Information Privacy Act 2009* (Qld) (IP Act). The Information Commissioner under section 131(2) is to give a report to the Parliamentary Committee for Law, Justice and Safety about the outcome of each review.

Scope and objectives

In June 2010, OIC commissioned the Office of Economic and Statistical Research (OESR) to send the Right to Information and Information Privacy Agency Electronic Audit to 212 agencies to self assess their implementation of the RTI and IP reforms. OIC is independently verifying the agencies' self reports as part of other OIC reviews.

Methodology

OIC developed the electronic audit in conjunction with OESR, and settled the audit questions after consultation with an agency reference group. The elements in the audit were selected primarily by identifying requirements from the legislation or from guidelines issued under the RTI Act by the Minister or a lead agency. The lead agencies at the time were the Public Service Commission, the Department of Public Works (Queensland Government Chief Information Officer and State Archives) and the Department of the Premier and Cabinet. For most of the electronic audit, the agency had an option to answer in one of four ways: 'yes', 'in progress', 'identified' or 'no'. Details of the methodology are in Appendix 1. The electronic audit instrument is provided at Appendix 2.

The audit yielded a large amount of detailed information. This report summarises the results, and supplementary material provides detailed information. The report and the supplementary material can be read independently or together.

3 Results

This section summarises key results of OIC's analyses of the electronic audit responses. Detailed results are provided in the supplementary material in the appendices. Agencies are required to be compliant with statutory obligations. The report draws attention to areas of self reported good practice and areas where more work is needed to achieve the aims of the reforms. This report establishes a baseline against which future results can be compared.

Every agency will be provided with feedback on their own results. Agencies will be provided with a comparison of their performance with similar agencies to enable them to see how they are progressing, as part of the audit process.

The results have been grouped under the following headings:

- Overall Performance of Agencies
- Agency Performance by Topics
- Agency Performance within Agency Types
- Agency Performance for Topics within Agency Types
- Governance and Policy Development
- Training and Awareness Raising.

3.1 Comments on Reading the Results

The results provide a useful snapshot of agencies' views as to the current state of the reforms, based on a strong response rate across all agencies. A majority of agencies (79 percent) responded to the electronic audit. Out of 212 agencies provided with the electronic audit, 15 agencies queried jurisdiction or stated that they were covered by another agency, leaving 197 agencies from which responses could be expected. OESR received 155 completed audits from these 197 agencies.

Responses were comprehensive. Agencies were asked to respond to 185 items describing compliance with the RTI Act, IP Act, legislative guidelines and with other requirements. Each question was answered by 92 percent of agencies on average. Agencies took the opportunity to provide over 5,000 comments, ranging from brief remarks to detailed explanations or expanded responses. Each response has been read in full, and a selection of representative or significant comments has been reported in Appendix 3.

These results are distilled from a large and detailed set of responses. More detailed information is provided in the supplementary material to this report. Appendix 3 provides the collated electronic audit responses across all agencies. Common comment themes and a sample of the

comments by de-identified individual agencies have been included in Appendix 3 to show the range of views of individual agencies. Appendices 4 to 8 break down the electronic audit data by agency type, for example, by department, local government or other agency type. Some of the analysis in this report has been done by aggregating questions under topics, and Appendix 9 provides a list of the questions for each topic. Appendix 10 provides the same numerical data for the electronic audit as per the other appendices, but in a machine readable format (Excel spreadsheet), to enable readers to extract and manipulate the data.

3.2 Overall Performance of Agencies

Almost every item in the electronic audit represented a formal obligation under the reforms. For most of the items, agencies were asked to report as to whether or not they had implemented the item, using a four point scale: 'yes', 'in progress', 'identified' or 'no'. If an agency answered 'yes', that meant the agency was reporting full implementation of that obligation.

Agencies reported full or partial implementation across 72 percent of all responses, over all questions. Across all agencies and all questions, agencies answered 'yes' 58 percent of the time and 'in progress' a further 14 percent of the time, as depicted in Chart 1. This made a total of 72 percent of responses across all questions where agencies reported that they had made headway or achieved the compliance obligations contained in the reform process.

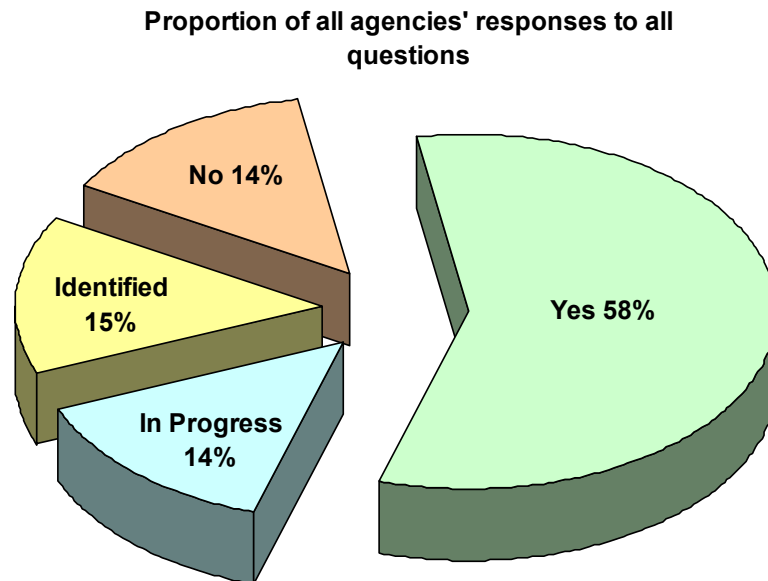


Chart 1: The proportion of responses with each response on the 'yes, in progress, identified, no' scale over all agencies and over all questions. Note percentages do not add to 100 due to rounding.

This is a significant degree of full or partial compliance reported by agencies. The legislation commenced on 1 July 2009, and this result demonstrates commitment early in the reform process.

3.3 Agency Performance by Topics

Agencies reported greater implementation on some items rather than others. In order to report performance, items were grouped into topics. Topics were made up of sets of like questions. Details of the grouping of questions into topics is included in Appendix 9.

The overall pattern of responses was that agencies reported full or partial implementation more in topics dealing with the framework of the reforms, but have further work to do to realise the broader intent of the reforms. This pattern is depicted in Chart 2 which shows the average reported progress and non-responses across all agencies for all 19 topics.

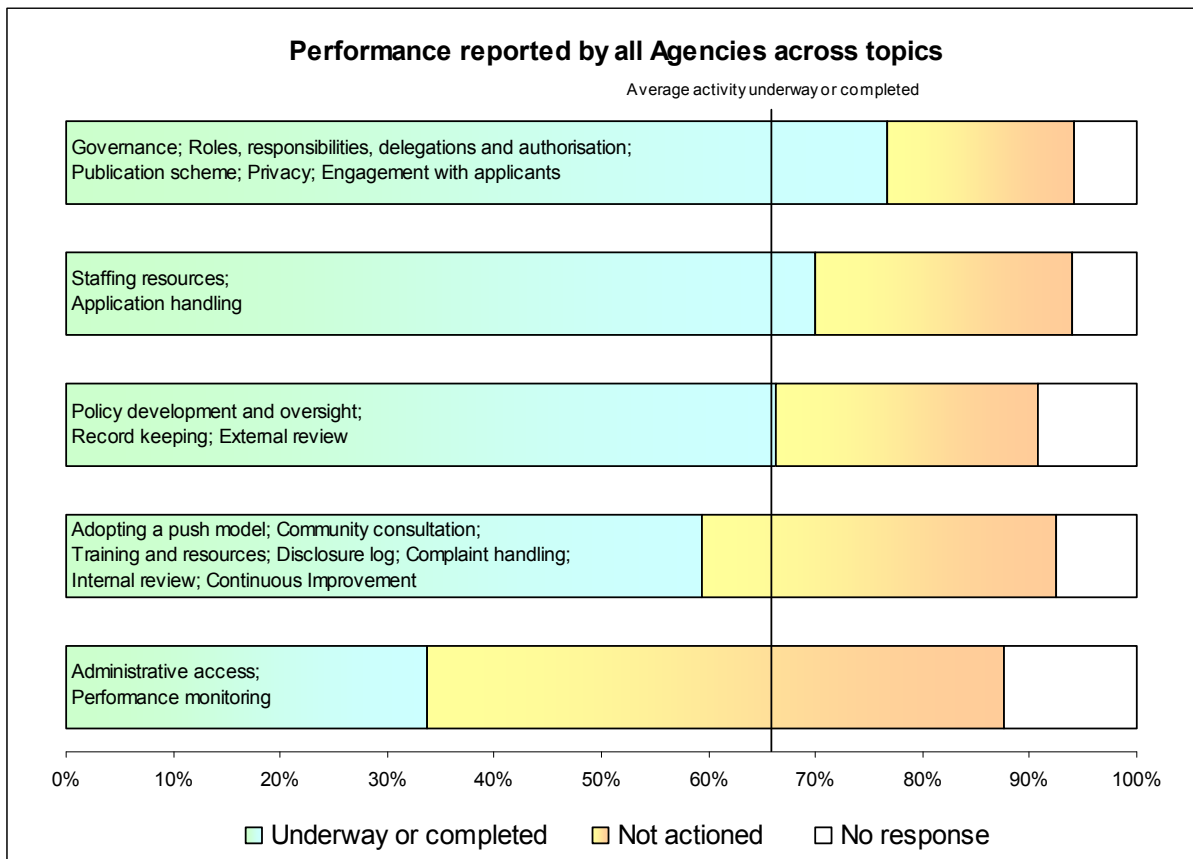


Chart 2: Proportion of responses of ‘underway or completed’ (ie ‘yes’ or ‘in progress’), ‘not actioned’ (ie ‘identified’ and ‘no’) and ‘no response’ by topic.

Most agencies reported having established a legislatively compliant publication scheme, which would usually involve straightforward implementation of a structural change to an agency’s website. Examples of topics that are yet to be fully addressed are ‘adopting a push model’ and ‘administrative access’, both of which require the adoption of an embedded pro-disclosure approach to publication of information.

For 13 out of the 19 topics, there was a significant level of response in the ‘yes’, ‘in progress’, ‘identified’ or ‘no’ category. For example, for five topics, more than 65 percent of the agencies’ responses for items in those five topics were ‘yes’, meaning agencies reported a significant level of full implementation for those five topics.

Significant responses of partial implementation were identified for two topics. Partial implementation meant that agencies responded either that implementation was in progress or fully implemented but only in part of the agency.

Significant responses were reported by topic for categories of ‘identified’ (four topics) and ‘no’ (four topics), indicating that implementation was not yet underway in certain agencies for those eight topics.

Chart 3 depicts topics with significant levels of reported compliance or non-compliance.

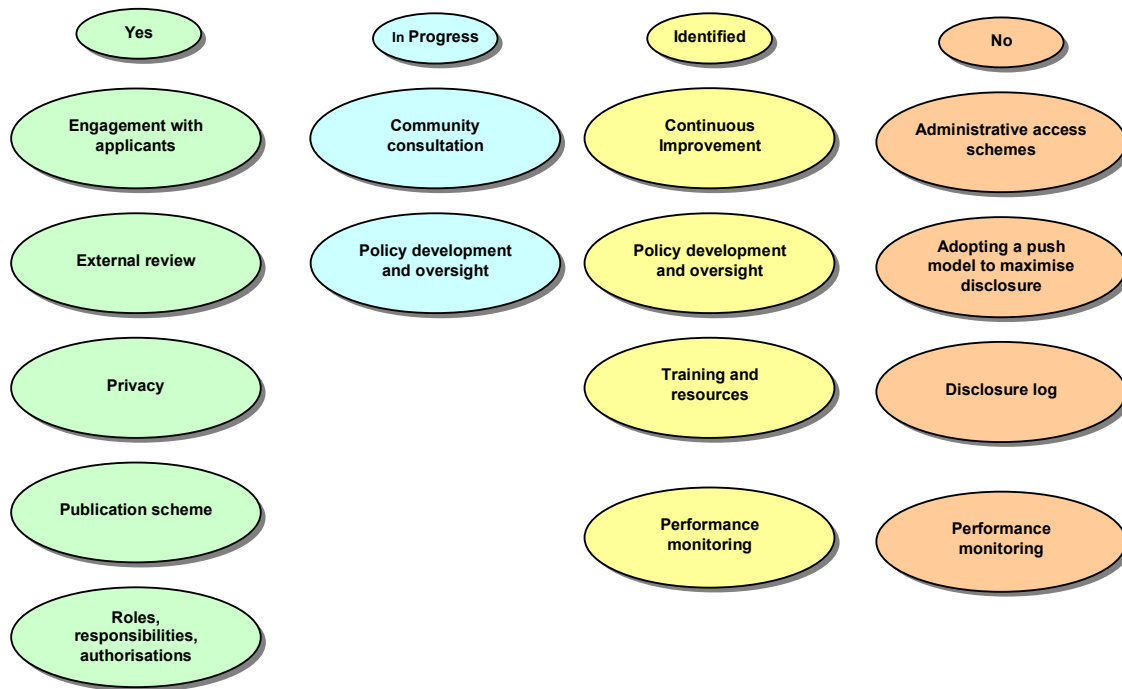


Chart 3: The topics with a significant proportion of responses with each response on the ‘yes, in progress, identified, no’ scale over all agencies and over all questions.

Agencies reported a high level of compliance in implementing a publication scheme, putting in place people with the necessary delegations to consider applications and in engaging with applicants. These were aspects of the reforms which establish the framework of the regime. In contrast, there was a significant level of non-compliance in adopting a ‘push’ model, to consider ways of releasing information administratively to pre-empt the need for formal access applications or to put in place systems to review their own performance. These elements are the ones requiring agencies to actively and continually release information to the community.

The agency focus on the implementation of systems and procedures can also be seen when analysing items within topics. Two high performance topics have been selected to illustrate the breakdown of items within topics: the establishment of roles, responsibilities, delegations and authorisation and the implementation of a publication scheme. One topic with low reported implementation, the implementation of administrative access schemes, has been selected for more detailed reporting.

The establishment of roles, responsibilities, delegations and authorisation

The topic of roles, responsibilities, delegations and authorisation was reported as an area of high performance. Chart 4 shows that full or partial implementation of the items in this topic generally fall above the average for all topics. An assessment of the extent to which individual items have been fully or partially implemented is instructive. The items covering the establishment of the authorisation systems have been more fully implemented than the final item, which is about formal approval for changes to the publication schemes or disclosure logs.

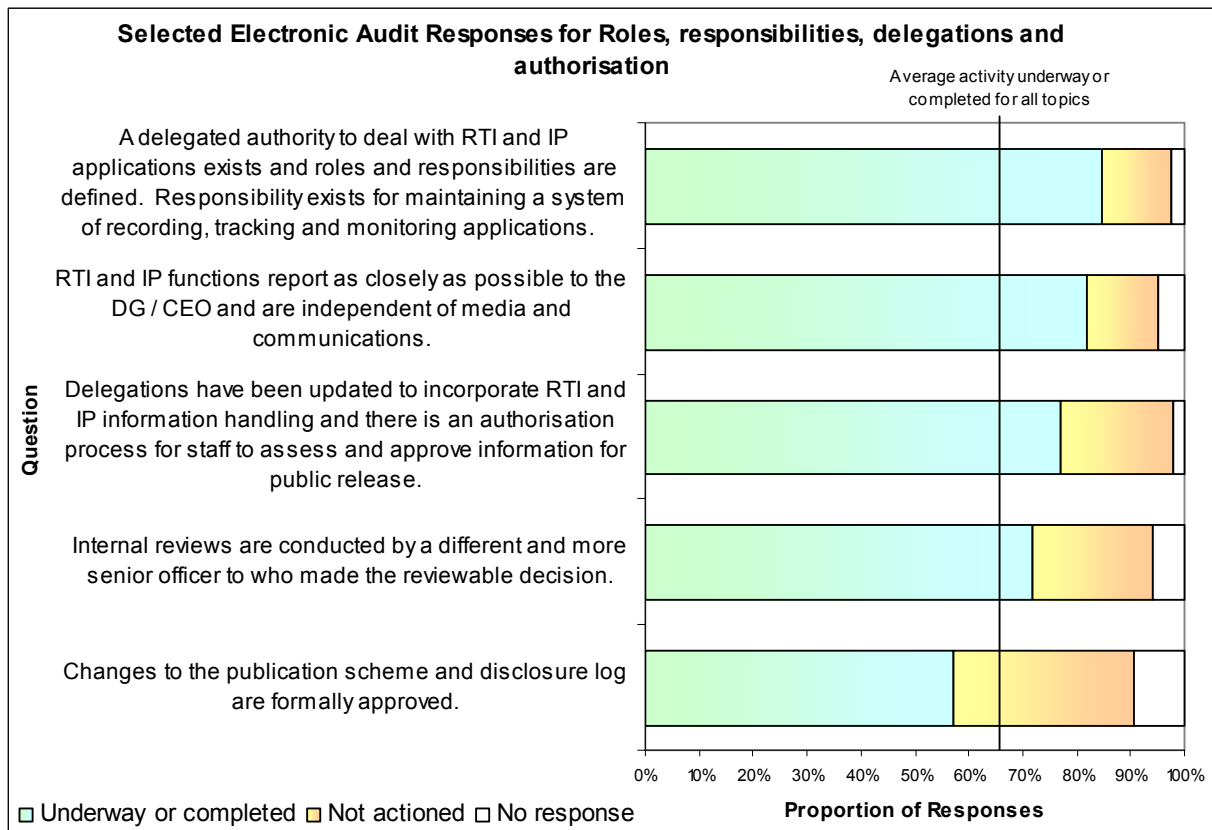


Chart 4: Responses to questions regarding roles, responsibilities, delegations and authorisation.

Publication schemes

An integral part of the 'push model' where information is released administratively is publication schemes. A publication scheme is a structured list of an agency's information that is readily available to the public, free of charge wherever possible. Under the RTI Act every government agency must have a publication scheme.¹ Agencies reported in the electronic audit that the majority have implemented a publication scheme and the publication scheme is in compliance with the legislation and guidelines. Within the topic, individual items provide a more comprehensive view, as depicted in Chart 5.

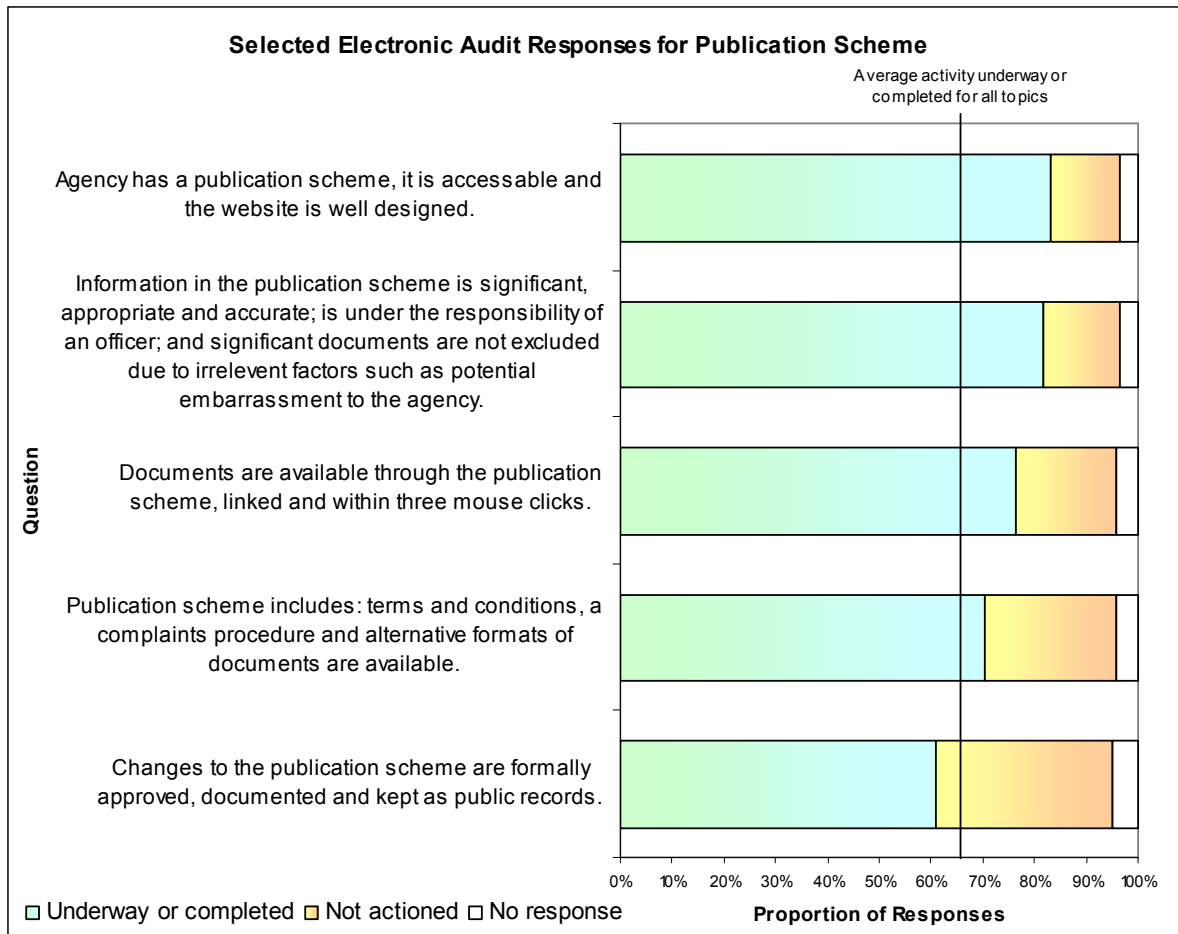


Chart 5: Responses to questions regarding publication schemes.

Agencies that reported having implemented a publication scheme in full compliance with the Ministerial guideline categories reported high levels of compliance with the other publication scheme questions except for the following areas:

- Setting out the terms on which information is available including any applicable fees/charges
- Making alternative formats of documents available

¹ RTI Act Section 21(1)

- Having a complaints procedure to enable people to make complaints when information is not available from the publication scheme
- Having changes to the publication scheme formally approved, documented and kept as public records.

These individual items are aspects of the publication scheme that are not required for the publication scheme to have basic functionality and compliance. However, these items are required by the RTI Act and guidelines, and if implemented, these activities would improve both compliance and the experience of the person accessing information through the publication scheme.

Administrative Access

Administrative access describes an arrangement to provide information to people using a less formal and quicker set of procedures than formal applications under the legislation. Administrative access, in particular, is an area which signifies the extent that an agency is considering how to make information more readily available to the community. Legislative remedies for people seeking information are intended to be a last resort.² An agency which actively supplies information administratively is operating according to the intentions of the legislature. This is a topic which agencies reported less progress in implementing, as depicted in Chart 6.

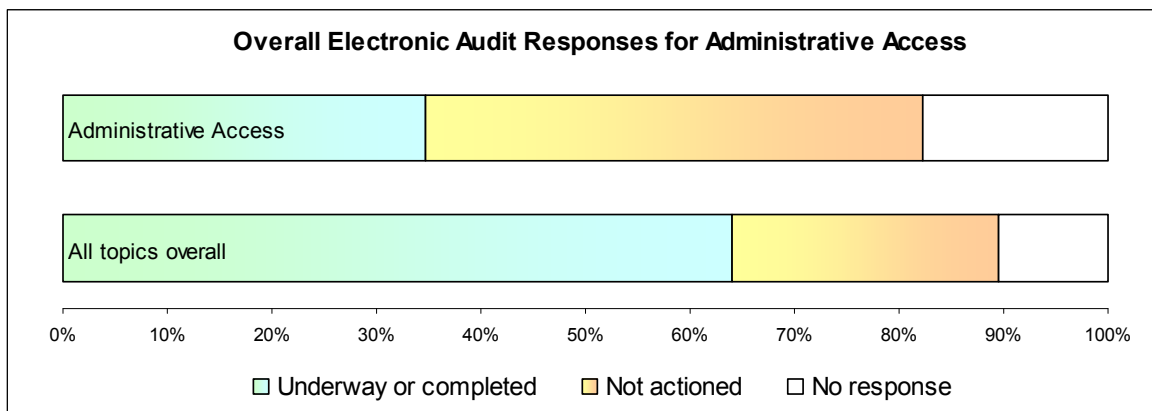


Chart 6: *Proportion of responses of 'underway or complete' (ie 'yes' or 'in progress'), 'not actioned' (ie 'identified' and 'no') and 'no response' for administrative access topic compared to overall.*

Chart 7 depicts agency responses to specific items about administrative access schemes. This chart demonstrates the pattern noted earlier. Agencies reported more work done on setting up multiple avenues of access (eg HTML, open framework or hard copy on request) and in website

² Section 2 of the Preamble to the RTI Act

design, and less work done on the operation of the strategy. For example a high proportion of agencies reported that no new administrative access schemes had been introduced and no new information had been made available through existing administrative access schemes since the RTI Act was introduced. Chart 6 and Chart 7 also highlight the low level of response for administrative access items compared to the average across all items.

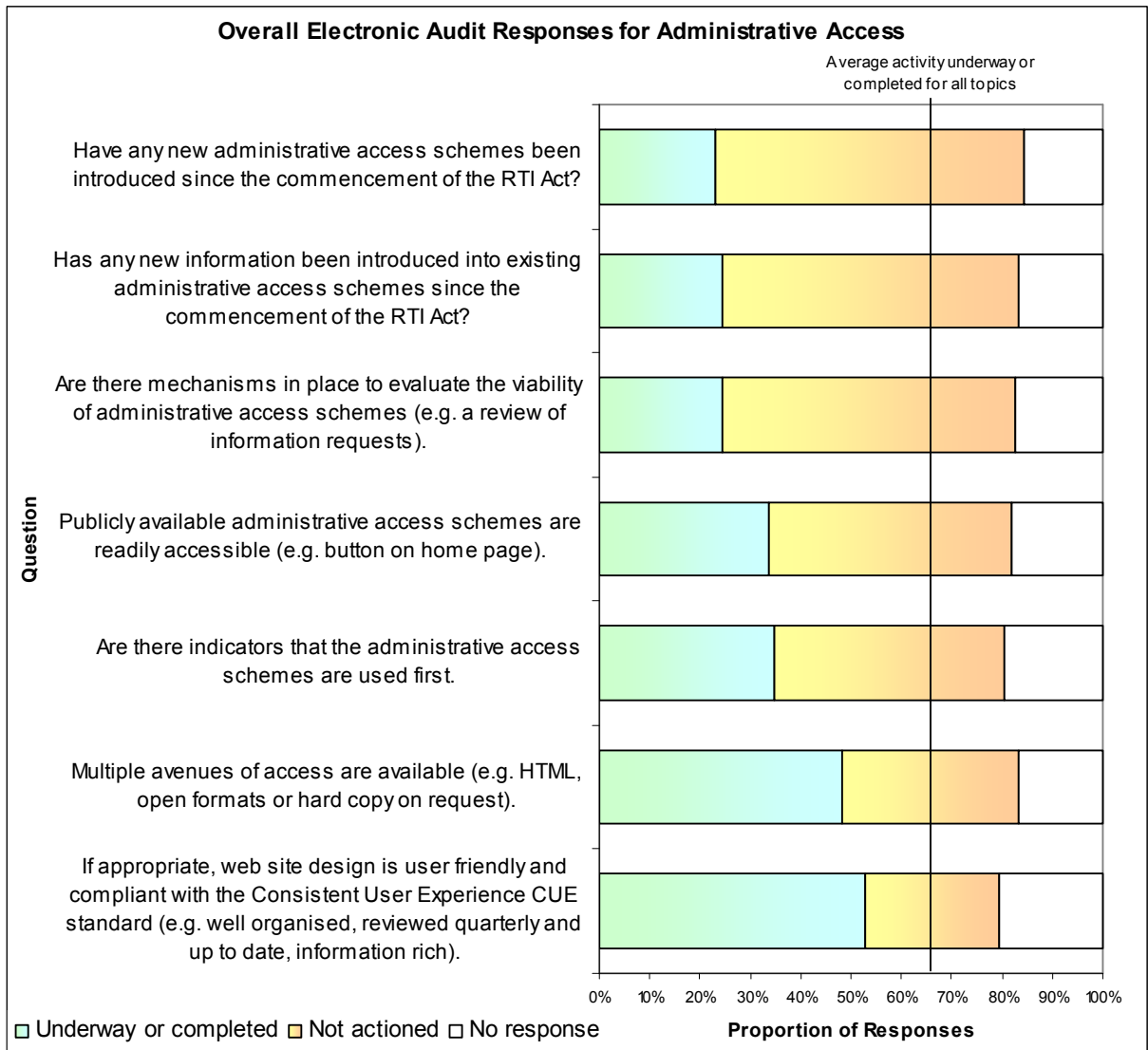


Chart 7: Specific responses regarding administrative access schemes, and the extent of non-responses.

3.4 Agency Performance within Agency Types

Progress was uneven across agency types. Departments reported the highest compliance, universities and Government owned corporations (GOCs) medium compliance, and local governments and other agencies the lowest compliance. Agencies were analysed by agency type:

- Departments
- Local government
- Universities and independent TAFEs
- Government owned corporations
- Other agencies.

Chart 8 depicts the proportion of responses and non-responses of ‘under way or completed’, ‘not actioned’ and ‘no response’ by agency type. As an overall assessment, departments have clearly made the most progress. Local governments have the most room for improvement.

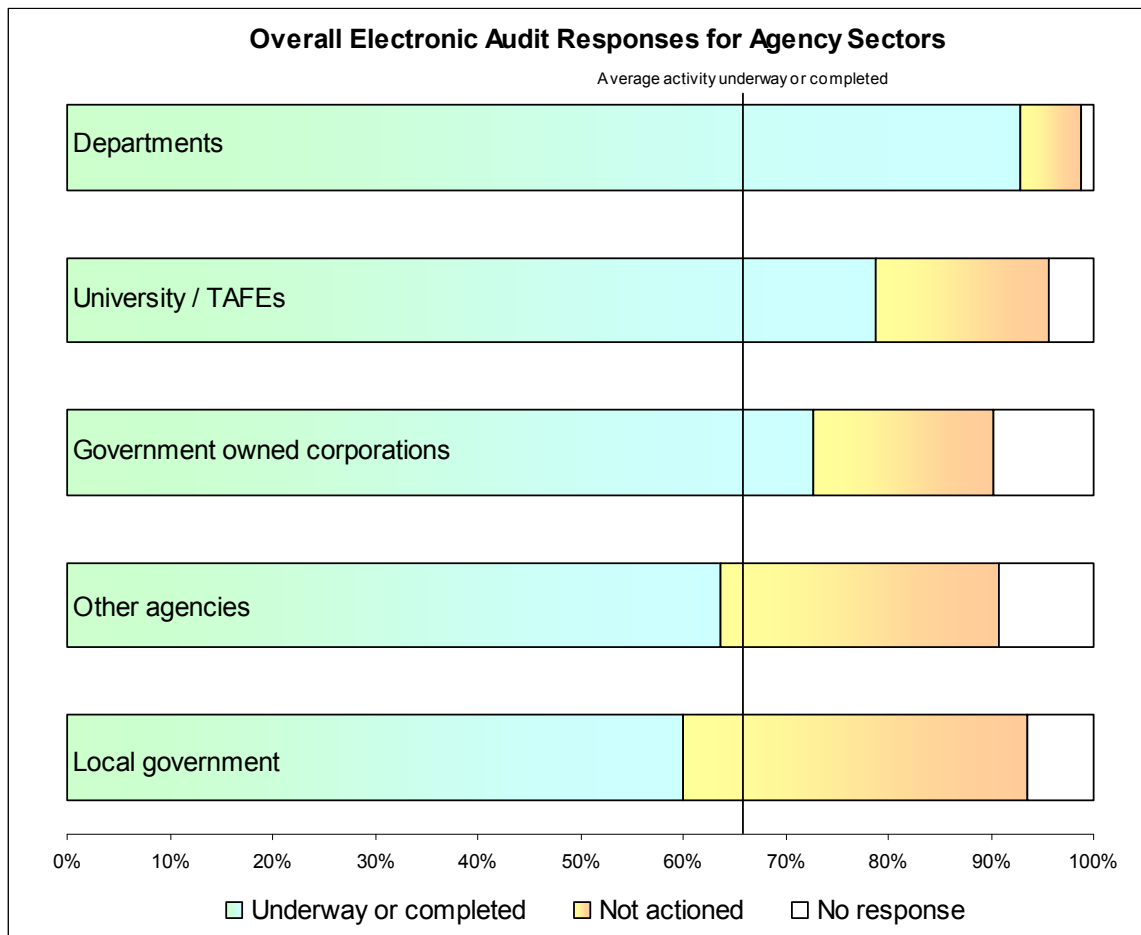


Chart 8. Proportion of responses of ‘underway or completed’ (ie ‘yes’ or ‘in progress’), ‘not actioned’ (ie ‘identified’ and ‘no’) and ‘no response’ by agency type.³

³ Government owned corporation ‘no response’ rate is calculated based on the questions applicable ie excludes privacy.

3.5 Agency Performance for Topics within Agency Types

The information about compliance by agency type and by topic can be combined into one set of data, depicted in Table 1, which displays the reported performance by agency type on each topic. The colour shown in the table denotes where agencies reported a significant level of 'yes', 'in progress', 'identified' or 'no' responses. Agency types and topics with better reported compliance are in shades of green/blue and, conversely, topics where activity has not yet commenced are in shades of yellow/orange. Performance by agency type is shown in the columns. The 'all agencies' result is a weighted average across all agency types. Performance by topic is shown in the rows.

Table 1 - Significant levels of responses for Topic by Agency Type

	All Agencies	Departments	Local Government	Universities / TAFEs	GOCs	Other Agencies
Administrative access						
Adopting a push model to maximise disclosure						
Application handling						
Community consultation						
Complaint handling						
Continuous Improvement						
Disclosure log						
Engagement with applicants						
External review						
Governance						
Internal review						
Performance monitoring						
Policy development and oversight						
Privacy						
Publication scheme						
Record keeping						
Roles, responsibilities, authorisations						
Staffing resources						
Training and resources						

Legend Yes In progress Identified No

Looking by agency type, the table shows that the column for departments is almost all green, illustrating the higher level of implementation reported across all topics by departments. The local government column is a mixture, showing only engagement with applicants as an area of high reported compliance.

The table also provides a quick reference by topics. For example, engagement with applicants is a topic depicted in strong green (meaning 'yes' responses) across all agency types, showing that this is a topic of reported full compliance across all agency types. In contrast, performance monitoring is yellow or orange across all agencies, showing that this is a topic which has not yet been tackled significantly in any agency type. Administrative access is another topic which has not yet been addressed by most agency types.

Training is a mixture of blue and yellow, with departments being the only agency type addressing this strongly. Two other areas of mixed achievement reported across agency types were the adoption of a push model and policy development and oversight.

3.6 Governance and Policy Development

Strong governance and policy development was linked to higher reported performance on a range of other audit items. Agencies reporting more activity at the strategic level reported more progress on other items. An agency report of active planning correlated positively with 67 percent of other items and an agency report of active implementation was linked to 70 percent of other items being implemented.

An active information governance body also generally correlated with positive scores on 48 percent of all items in the audit. Departments are required to have an information governance body. Departments reporting an active information governance body were more likely to have considered their Information Asset Register and developed plans on how to assess whether or not the department had made available all publishable information assets listed in the register.

Having RTI and IP policies fully implemented was linked to agencies reporting higher levels of performance in almost all other areas. Attention to policies and procedures had specific benefits in certain areas:

- The inclusion of community consultation in agency policy development frameworks was linked to agencies reporting having a mechanism for providing information to consumer and industry stakeholders which is useful to the consumer and industry stakeholders.
- Agencies that reported having performance measurement in place were much more likely to report that it was used and useful across RTI and IP.

Agencies have themselves identified a need for policy development and implementation, as indicated by the significant level of responses to these items as being 'identified' or 'in

progress'. Analysis of the audit results confirms the benefit in pursuing policy development and implementation.

3.7 Training and Awareness Raising

There were a number of indications in the data about the importance of training, particularly general awareness training for all staff. These indications came from the agencies' responses regarding training, the pattern of comments indicating a lack of awareness about the reforms and themes about training that were contained in the comments.

First, with respect to agency responses to training items, agencies reported a below average level of full implementation of training, and an above average level of 'in progress' or 'identified' responses about training. This suggests that agencies considered that more training was needed, and either have projects underway or identified to tackle this need. Chart 9 depicts these results.

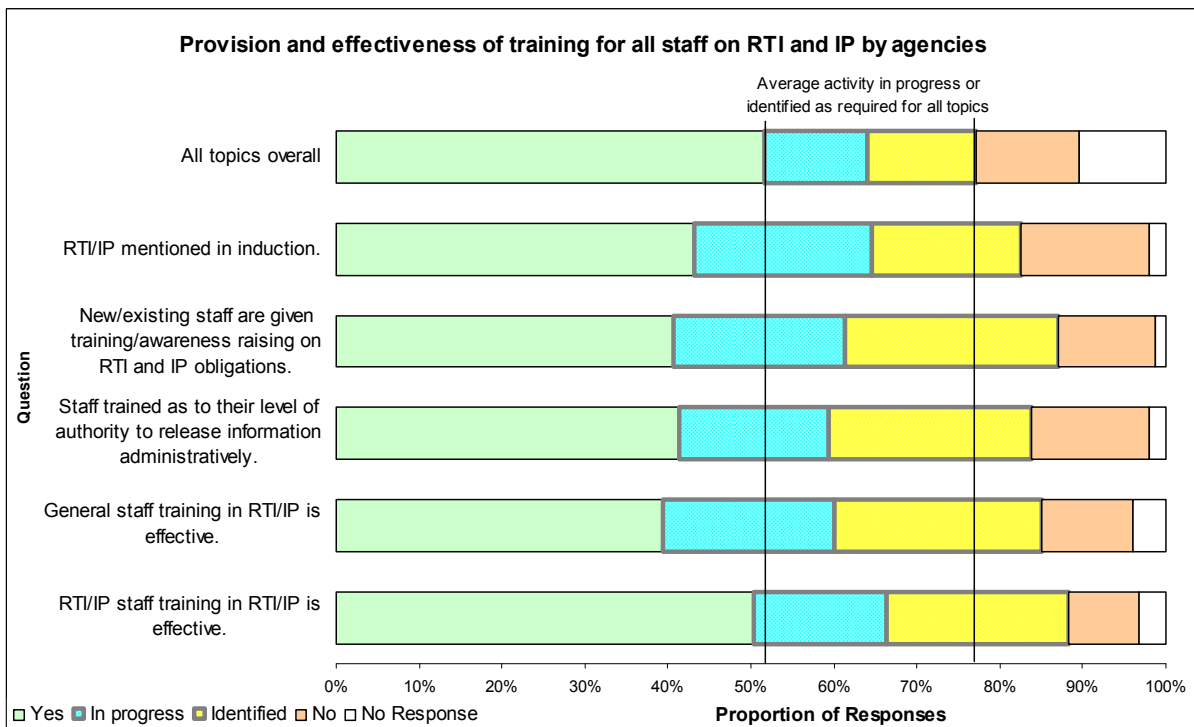


Chart 9: Specific responses regarding RTI and IP training, and non-responses.

This chart also shows that agencies had a high level of interest in these training questions, as most agencies responded to items about training (98 percent average response rate). Agencies also reported more effective training of staff in RTI and IP units than for staff in general. Agency responses indicate both a demand for training as well as a desire to improve the effectiveness of training.

Training for all staff, particularly in general awareness of RTI and IP, is an area with opportunity for improvement. All staff, not just those in the RTI and IP units, have responsibilities under the RTI and IP Acts and effective tailored training for this broader audience is likely to be of benefit. A common theme in the comments was that cost and resourcing, particularly the need for training, were hindering the agency's implementation of full compliance. Training was commented on to a greater extent than any other aspect of resourcing, including the need for additional staff. Training was mentioned in over 200 comments. Agencies identified a need for awareness training for all staff, including regional staff, in:

- Agency commitment to open government and what this means for all staff
- Agency expectations of all staff who are responding to requests for information
- Expectations that information will be published and how to do so responsibly
- The complementary nature of right to information and information privacy.

The need for awareness raising about RTI and IP and their application to agencies was also borne out by the pattern of comments provided with the audit. For example, there was a relatively high proportion of comments (24 percent of comments) stating that the items were not applicable to the agency. One explanation for this comment is that many agencies stated that they had received either no applications or such a low number of applications that the agency had taken no action or was unable to respond.

However, although understandable with respect to application handling, the comment that items were not applicable also occurred across questions not related to formal application handling. For instance, four agencies responded 'N/A' (not applicable) to 'More information is in the public domain eg additional data sets are now available to the public'. This suggests that agencies may still consider the formal RTI and IP access application process to be the focus for compliance. This may also demonstrate a need for further awareness raising around the wider scope of the RTI and IP Acts beyond the formal access application process, for example, the importance of considering agency information holdings that should be pushed into the public domain.

As part of their commitment to implementing the reforms, agencies need to ensure all staff understand the reforms and how the reforms affect their daily work. Agencies should explore options for providing general awareness training to all staff and for ensuring that the training is effective. There are a range of resources available to assist agencies in providing training to their staff, including guidelines, support from external trainers, support from OIC and the electronic audit itself, which provides a comprehensive list of the legislative obligations.

4 Conclusion

The OIC undertook an electronic audit of self reported compliance with legislative and related obligations to provide a broad measure of the progress of the RTI and IP reforms and to establish a baseline upon which future progress can be measured. The audit succeeded in establishing a baseline measure of progress. It provided valuable information for future assessments of whole of government progress on the reforms and a snapshot of progress to date.

The OIC has identified that at this point in time considerable progress has been made in implementing the reforms, particularly in establishing the structures and systems that underpin the reforms. More work is required to fully realise the reforms and to reach full compliance with the RTI and IP Acts.

Now that agencies have, by and large, implemented the systems, structures and procedures required by the legislation, attention can now be turned to making more government held information accessible to the community as a matter of course.

Specific activities that might assist in this process are suggested by the audit results. Actively driving and managing the reform process (by an information governance body in departments), policy development and training are items featured in the electronic audit as having a positive impact on almost every area of the reform process.

The results of this report will be used to target OIC efforts in training, the development of information resources and in performance monitoring. Future electronic audits will be able to assess the progress of the reforms against the baseline results of this report.