

# Access to information

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Enabling a culture of transparency is key to the sector living its core values and maintaining trust in Government. Transparency is enshrined in the **Government Information (Public Access) Act 2009** (GIPA Act), and it is important we are able to address public scrutiny and act in the public interest.

As a senior executive you have an obligation to promote transparency and a culture of accountability. You should do this by familiarising yourself with the GIPA Act and your agency's internal policies.

Increasing the amount of accessible government information and data supports evidence-based policy development and provides a platform for innovation. These benefits can be realised by ensuring that information release is a planned strategic intention that will also benefit and inform other areas of your agency's work.

There can be significant consequences for yourself and your agency if you fail to comply with the GIPA Act. The Information and Privacy Commission has information available on **offences under the GIPA Act**.

## The GIPA Act

The GIPA Act aims to:

- authorise and encourage agencies to proactively release government information
- give citizens an enforceable right to access government information
- ensure that access to government information is restricted only where there is an overriding public interest against disclosure.

The GIPA Act was established to provide an open and transparent process for members of the public to access government information from NSW public sector agencies, and to encourage agencies to proactively release that information.

The law applies to all NSW public sector agencies, including:

- government Departments and agencies
- ministers and their personal staff
- NSW local councils
- public offices, including universities and state owned corporations.

Importantly, the GIPA Act ensures that no minister can control or direct an agency when it is dealing with a request to access information.

## Accessing government information

The law facilitates access to information through 4 pathways.

### **Open access information**

Under the GIPA Act, all NSW agencies must make a range of open access information publicly available and free of charge on their agency's website, unless there is an overriding public interest against disclosure of the information. This includes Agency Information Guides, documents tabled in Parliament, and agency policy documents.

### **Proactive release**

The GIPA Act authorises and encourages agencies to make any government information held by an agency publicly available unless there is an overriding public interest against disclosure. This can include any government information that is held electronically.

### **Informal release**

Agencies can release information in response to an informal request, without requiring the person requesting it to lodge a formal access application. Agencies can decide how the information is released. Agencies can put in place conditions when releasing information informally including by deleting any part of the information that could result in an overriding public interest consideration against disclosure.

### **Access application (formal release)**

Under the GIPA Act, the public has a right to access government information by making an access application, unless there is an overriding public interest against disclosure. This pathway has application and processing fees, but it provides applicants with review rights.

When dealing with a formal access application, agencies are required to notify the applicant and deal with the application within certain timeframes and may be required to consult third parties.

## Information responsibilities

As a senior executive there are key actions you need to:

- Ensure your agency has sound record-keeping practices: You should have robust agency record management systems, including consistent naming conventions and search terms. A fault or failure in your information governance systems can present significant risks.
- Encourage Right to Information Officers to make informed and independent decisions: The GIPA Act states that Right to Information Officers should be given authority to make decisions. Although these officers can usually rely on staff in operational areas to promptly identify and provide relevant documents and expert assistance, agency staff members may not be familiar with information access requests. A culture of accountability and timeliness is required to support the officers carrying out their statutory functions.
- Review the resources available for dealing with access requests: You must ensure that there are adequate resources to deal with information access requests, particularly at times when there is an increase in the number or complexity of requests.
- Monitor and reward good performance: You can champion your agency's proactive release culture by including key performance indicators related to responsibilities under the GIPA Act.
- Build capability in your team: Helping your team understand good record keeping practices and the GIPA Act will lead to better decision making and analysis.
- Ensure that your agency reports its annual GIPA data to the Information and Privacy Commission following the tabling of your agency's annual report. Under the GIPA Act, all agencies must provide this data to the Information and Privacy Commission.

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### **Understanding the GIPA Act**

Use these resources to better understand the GIPA Act and how it impacts you, your people and your agency.



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### **Supporting the GIPA Act**

Use this fact sheet to promote information access in your agency.



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### **Right to information e-learning modules**

Complete these modules to learn more about privacy protection and the right to information.



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### **Information governance self-assessment tools**

These tools help agencies assess their systems and policies to make sure they are complying with their privacy and information access requirements.



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### **Essential guidance toolkit on information access and privacy fundamentals**

Key guidance for agencies to help them meet their requirements under the GIPA Act, including specific information for senior executives.



# The Information and Privacy Commission

The **Information and Privacy Commission** helps government agencies fulfil their responsibilities under the GIPA Act. As a senior executive you may be required to cooperate with requests for information from the Information and Privacy Commission.

The Information and Privacy Commission:

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