



## Your right to access government information in NSW

In NSW, you have a legally enforceable right to access most government information under the *Government Information (Public Access) Act 2009* (the 'GIPA Act'), unless there is an overriding public interest against disclosure.

### What is the GIPA Act and what is government information?

The GIPA Act sets out the rules about how you can access government information from NSW government agencies. Government information means any information contained in a record held by a NSW government agency. Government information can include records and data about how a government agency works, or your own personal information that is held by a government agency.

Importantly, there is a presumption in favour of releasing government information. However, some government information is effectively excluded from access under the GIPA Act, such as information about a court's judicial functions.

### Who does it apply to?

The GIPA Act applies to:

- NSW government departments
- NSW local councils
- NSW State Owned Corporations
- Universities
- NSW Ministers and their staff.

More information about the types of agencies covered by the GIPA Act is available in the IPC Fact Sheet [What is an agency?](#)

### How can I access government information?

There are two things you can do:

1. Check the agency website to see if the information you are seeking is publicly available, **OR**

2. Contact the agency's customer service staff. If they cannot provide you with the information you can ask to speak to their Right to Information Officer.

**NOTE:** You need to contact the government agency that you believe has the information you want.

### How do agencies give out information?

1. Under the GIPA Act, agencies need to release certain information (known as 'open access information') unless there is an overriding public interest against doing so. Generally, open access information must be made publicly available, free of charge, and on an agency's website. Agencies can also make open access information available in other ways (for example, in hard copy or by viewing in the agency's office).
2. Agencies are not required to release all information on their website, but a lot of information should be available unless there is an overriding public interest against disclosure, or it would be unreasonably costly for the agency to publish the information on their website. The agency's Right to Information Officer can tell you how and where you can access the information either free of charge, or at the lowest reasonable cost.
3. If you are unable to locate the information on the agency's website, contact the agency and ask for the information – this is known as 'informal release'. Agencies can release information informally, subject to any reasonable conditions.
4. If you can't get the information any other way, you can make an 'access application'.

## How do I make a formal application?

This is also known as an 'access application'. Application forms for an access application are often available to download from the agency's website. Otherwise, you can lodge your own application.

Either way, an application will only be valid if it meets the following requirements:

- Put your application in writing and send or lodge it with the agency you think holds the information
- State that it is an access application made under the GIPA Act
- Include payment of the \$30 application fee
- Include your name and a postal or email address
- Explain in clear terms, the information you are applying for so the agency can identify the information.

You are also required to disclose in your access application whether you have applied, at any time, to another agency for substantially the same information and, if so, which agency you previously applied to. However, your application will not be invalid if this information is not included.

## How much will it cost?

The standard cost for a formal application is \$30. The application will be deemed invalid until the fee is paid.

There may be processing charges (charged at a rate of \$30 per hour). These should be waived for the first 20 hours of processing time if the information is your personal information.

Information about processing fees is usually available on the agency's website, or you can speak to the agency's Right to Information Officer for assistance.

## What if I can't pay the fees?

Talk to the agency before you lodge your application and ask if they can help you. Agencies have a general discretion to waive, reduce or refund any fee or charge that may be imposed under the GIPA Act.

## How long will my application take?

- Your application will usually be finalised within 20 working days after it is received by the agency
- You and the agency may agree to an extension of time beyond 20 working days
- If the agency needs to talk to another person, or find information stored in archives, it may take an extra 10 working days
- If the agency is required to both consult and retrieve records from archives, then it may take an extra 15 working days
- If it takes longer than this and you have not consented to an extension of time, the agency is deemed to have refused your application and must refund your application fee.

## What if I don't get the information I wanted?

If you are unhappy with the agency's decision you have the following options:

**OPTION 1:** Request an internal review by the agency within 20 working days after the notice of the decision has been given to you.

**OR**

**OPTION 2A:** Request an external review by the Information Commissioner within 40 working days after the notice of the decision has been given to you.

**OR**

**OPTION 2B:** Request an external review by the NSW Civil and Administrative Tribunal (NCAT) within 40 working days after the notice of the decision has been given to you.

### **OPTION 1: Internal review process**

You have 20 working days from the time the decision is given to you, to ask for an internal review by the agency that made the decision.

An internal review is carried out by the agency where you made your access application. The review must be carried out by an officer no less senior than the person who made the original decision.

You cannot ask for an internal review if a Minister or their personal staff, or the principal officer of an agency made the decision. However, you can ask for an external review by the Information Commissioner or NCAT (see Option 2A and 2B).

You cannot ask the government agency for an internal review of a decision that was itself an internal review decision.

There is a \$40 application fee. However, no fee applies for an internal review if the decision is a 'deemed refusal' as a result of the agency:

- not processing your application in time, or
- if the review of the decision is conducted by the government agency because the Information Commissioner recommended that reconsideration.

The agency must acknowledge your application within five working days of receiving it, and decide the internal review within 15 working days (this can be extended by 10 working days if third party consultation is required).

#### **OPTION 2A: External review by the Information Commissioner**

If you are unhappy with the agency's decision you can ask for a review by the Information Commissioner.

You have 40 working days from the time the decision is given to you, to ask for a review by the Information Commissioner. On review, the Information Commissioner can make recommendations about the decision to the agency.

The Information Commissioner cannot review a decision that is being, or has been reviewed by NCAT.

#### **OPTION 2B: External review by the NSW Civil and Administrative Tribunal (NCAT)**

If you are dissatisfied with the agency's decision you can ask for a review by NCAT.

You have 40 working days from the time the decision is given to you, to apply to NCAT for a review. However, if you have applied for a review by the Information Commissioner, you have 20 working days from the time you are notified of the completion of the Commissioner's review, to apply to NCAT.

#### **NOTE for OPTION 2A and 2B**

**If you are the person applying for access to information**, you do not need to have an internal review of the decision before asking the Information Commissioner or NCAT to review it.

**If you are not the access applicant**, the decision must be internally reviewed before you can apply for a review by the Information Commissioner or NCAT. However, if an internal review cannot be sought (e.g. because a Minister, their personal staff, or the principal officer of an agency made the decision) you can apply directly to the Information Commissioner for an external review.

#### **About the IPC**

The Information and Privacy Commission (IPC) is an independent statutory authority that administers NSW's legislation dealing with privacy and access to government information.

If you want to find out more about how to ask for NSW government information, contact us.

The IPC can give general advice on your rights under the GIPA Act, but cannot give legal advice

#### **Contacting the IPC**

Our business hours are 9am to 5pm Monday to Friday (excluding public holidays).

**Address:** Level 17, 201 Elizabeth Street, Sydney NSW 2000

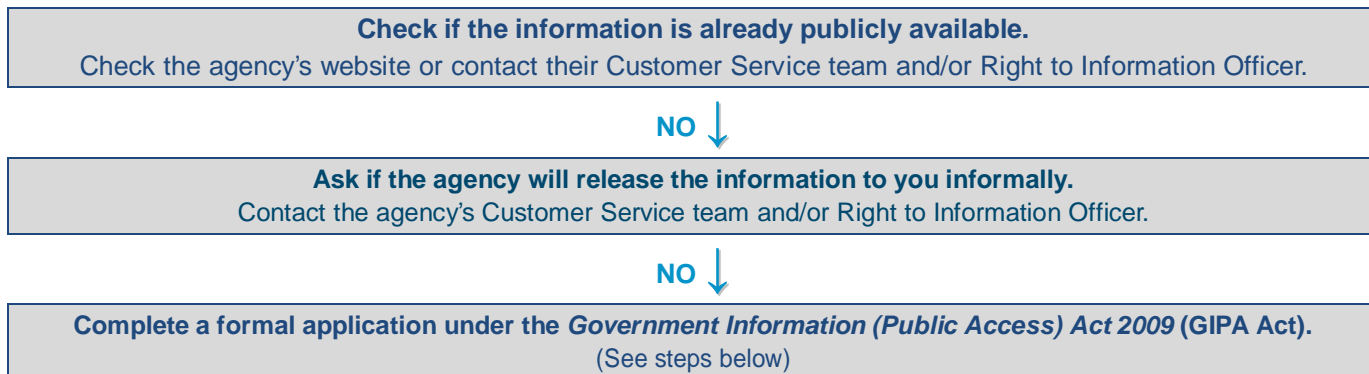
**Post:** GPO Box 7011, Sydney NSW 2001

**Free call:** 1800 472 679

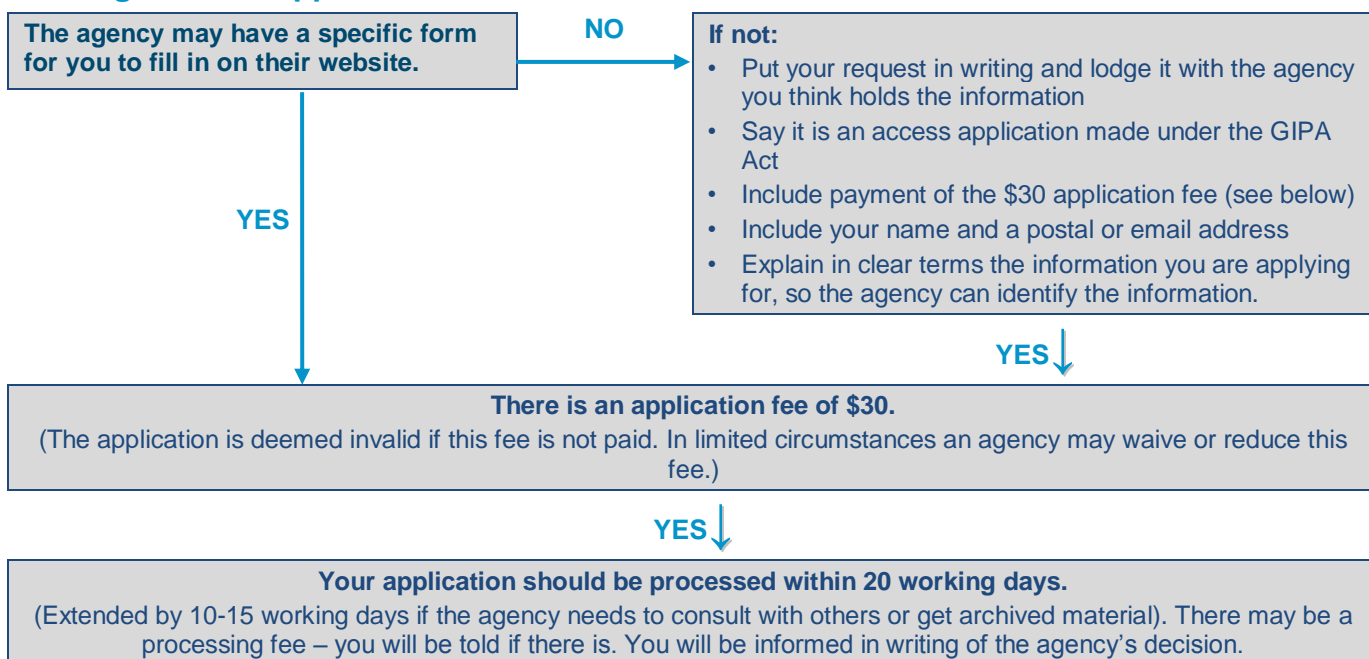
**Email:** [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)

**Website:** [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)

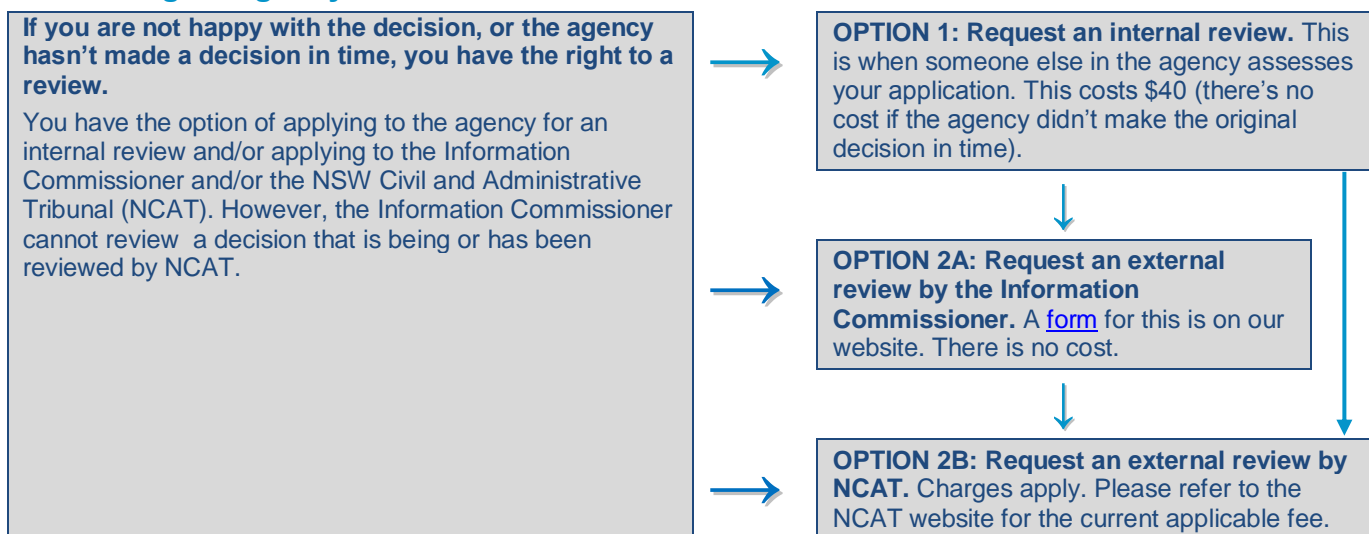
### How can I get information from a government agency?



### Making a formal application:



### Reviewing an agency's decision:



**NOTE:** The information in this fact sheet is to be used as a guide only. Independent legal advice should be sought in relation to individual circumstances.