

YOUR RIGHTS TO REVIEW AND APPEAL

Reviewing a Decision

If you are dissatisfied or aggrieved with certain decisions or determinations made by Council you can apply to have those decisions reviewed under the Government Information (Public Access) Act 2009 (GIPA Act). Section 80 of the GIPA Act sets out the types of decisions made by Council which can be reviewed.

Reviewing a Decision through Council

Under s83 of the GIPA Act an applicant has 20 working days from the date they were informed of Council's decision to apply for it to be reviewed. Applicants are charged a \$40 fee for an internal review; however processing charges do not apply to internal review applications. A person can apply for an internal review in the following circumstances (s82):

- 1) *A person aggrieved by a reviewable decision of an agency is entitled to a review of the decision by the agency that made the decision (which is referred to in the Part as an internal review).*
- 2) *Internal review of a decision is not available if the decision is made by the principal officer of the agency or if the agency is a Minister.*
- 3) *An internal review can be limited to a particular aspect of a reviewable decision (such as by being limited to particular information to which the decision relates).*
- 4) *There is to be no internal review of a decision that is or has been the subject of review by the Information Commissioner under the Part except internal review conducted on the recommendation of the Information Commissioner.*
- 5) *There is to be no internal review of a decision that is or has been the subject of review by the ADT under this Part.*

Reviewing a Decision through the Information Commissioner

Under s90 of the GIPA Act an applicant has 8 weeks from the date they were informed of Council's decision to apply for it to be reviewed by the Information Commissioner. A person can apply to the Information Commissioner to review a decision made by Council in the following circumstances (s89):

- 1) *A person aggrieved by a reviewable decision of an agency is entitled to have the decision reviewed by the Information Commissioner under this Division.*
- 2) *When the aggrieved person is the access applicant, the decision is not required to be the subject of internal review by the agency under this Part before it can be reviewed by the Information Commissioner. In any other case the decision is required to be the subject of internal review before it can be reviewed by the Information Commissioner.*
- 3) *The Information Commissioner may exercise any function of the Information Commissioner under the Government Information (Information Commissioner) Act 2009 for the purposes of or in connection with the review of a reviewable decision of an agency.*
- 4) *Conduct of an agency that constitutes a reviewable decision of the agency cannot be the subject of a complaint to the Information Commissioner under section 17 of the Government Information (Information Commissioner) Act 2009.*

- For further information please visit <http://www.ipc.nsw.gov.au/> or phone 1800 472 679.

Reviewing a Decision through the NSW Civil and Administrative Tribunal (NCAT)

A person who is aggrieved by a reviewable decision of Council may apply directly to the NCAT for a review of the decision. They must make the application to the NCAT within 8 weeks of receiving notice of Council's decision.

Alternatively, if the applicant is not satisfied after the Information Commissioner has reviewed the decision, they can apply to the NCAT to have the decision reviewed again. This application must be made within 4 weeks of the applicant being notified of the completion of the Information Officer's review.

The Information Commissioner may also, with the consent of the applicant for review, refer a decision it is reviewing onto the NCAT for review. In this case the Information Commissioner's review would end.

- For further information please visit <http://www.ncat.nsw.gov.au/> or phone 1300 006 228.