



Your rights to accessing government information in NSW

Fact sheet
June 2014

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

What is the GIPA Act?

The GIPA Act sets out the rules about how you can access information from government agencies. Government information can include how a government agency works, or your own personal information that is held by a government agency. It excludes some information, such as information about an individual who has been dead for more than 30 years.

Who does it apply to?

The GIPA Act applies to all public service agencies in NSW, including:

- Government departments
- Local councils
- State-owned businesses
- Universities
- Ministers and their staff.

How can I access government information?

There are two things you can do:

1. Check out 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. A lot of information will be publicly available on an agency’s website, however, if you don’t have access to the internet you can request a copy. This must be provided free of charge.

2. Agencies are not required to release all information on their website, but a lot of information should still be available unless there is an overriding interest against disclosure. The agency’s Right to Information Officer can tell you how and where you can access it either free of charge or at the lowest reasonable cost.
3. If it is your own personal information and easy to find, the agency should provide it at no cost to you – this is called an ‘informal release’.
4. If you can’t get the information any other way, you can make a ‘formal application’.

How do I make a formal application?

This is also known as an ‘access application’, and you can ask the agency if they have an application form. These 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 lodge it with the agency you think holds the information
- Say it is an access application made under the GIPA Act
- Include payment of the \$30 application fee
- Include your postal address
- Explain in clear terms the information you are applying for, so the agency can identify the information.

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 the applicant’s personal information.

Information about processing fees is usually available on the agency’s website, or 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.

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How long should my application take?

- Your application will usually be finalised within 20 working days after it is received by the agency
- If the agency needs to talk to another person or find information stored in archives it may take an extra 10-15 working days
- If it takes longer than this, the agency must give your money back.

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

If you are unhappy with the agency's decision, you can:

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

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 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).

There is a \$40 application fee, however no fee applies for an internal review if the decision is a 'deemed refusal' because the agency did not process your application in time; or if the internal review is conducted because the Information Commissioner has recommended the agency reconsider its decision.

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

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 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. 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 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 reviewing the decision, the Information Commissioner can make recommendations about the decision to the agency.

NOTE: You cannot ask the Information Commissioner to review a decision that is being or has been reviewed by NCAT.

OPTION 2B: External review by NCAT

If you are dissatisfied with the agency's decision you can ask for a review by the NSW Civil and Administrative Tribunal (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 being notified of the completion of the Commissioner's review to apply to NCAT.

NOTE: You do not need to have the decision reviewed internally, or by the Information Commissioner before applying for a review by NCAT.

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.

Contacting the IPC

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

Level 11, 1 Castlereagh Street, Sydney

Post: GPO Box 7011, Sydney NSW 2001

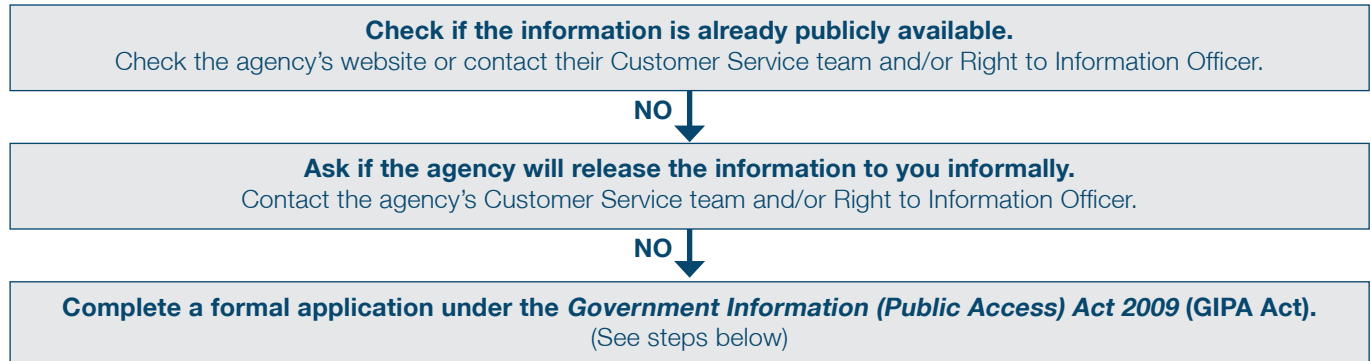
Phone: 1800 IPC NSW (1800 472 679)

Email: ipcinfo@ipc.nsw.gov.au

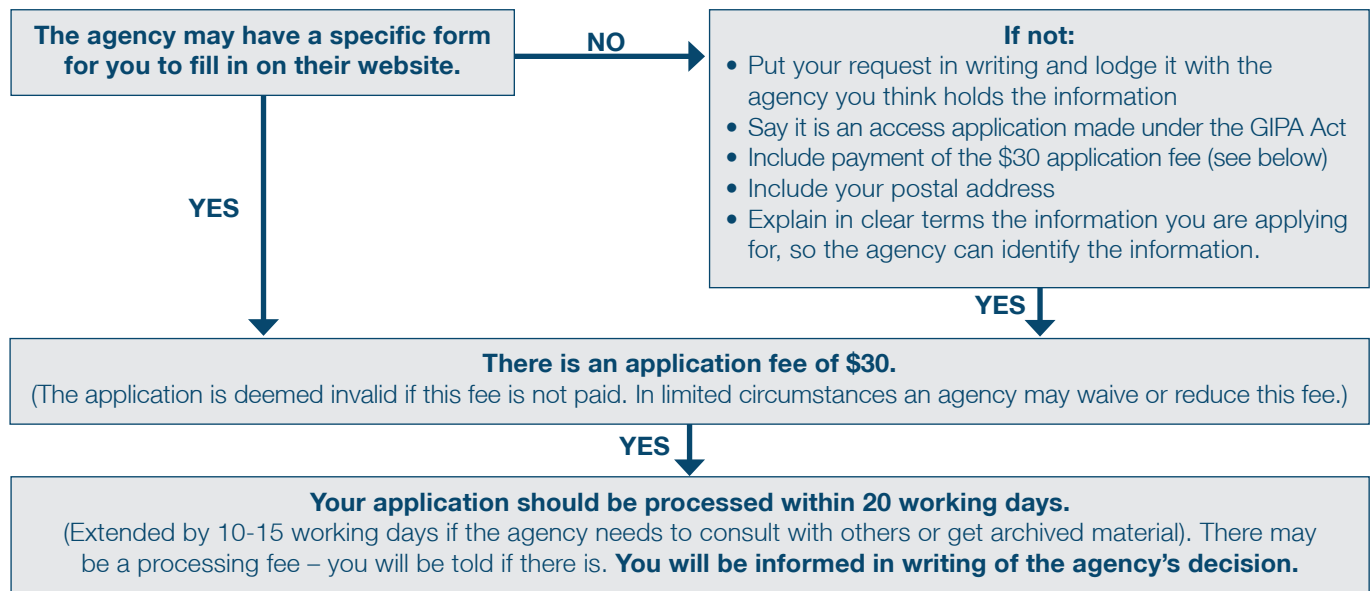
Web: www.ipc.nsw.gov.au

Fax: (02) 8114 3756

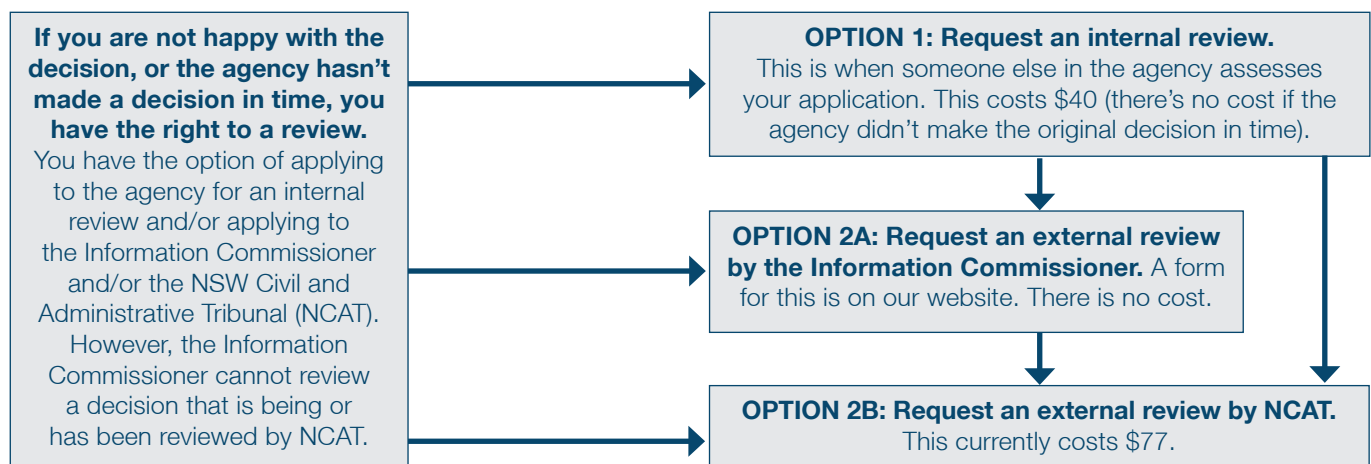
How can I get information from a government agency?



Making a formal application:



Reviewing an agency's decision:



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