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UTS CRICOS PROVIDER CODE 00099F

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UTS file reference: UR18/134

Access Application number: GIPA2018/01

Mr Nicholas L'Estrange

email: Nicholas L'Estrange <foi+request-4312-0b440d0c@righttoknow.org.au>

18 January 2018

Dear Mr L'Estrange,

RE: Invalid application to access information

I acknowledge receipt of your request of 12th January 2018 to access information held by UTS under the *Government Information (Public Access) Act 2009* (GIPA Act).

To access the information you are requesting you will need to lodge an access application under the GIPA act. A valid application under s.41 of the GIPA act requires that the application:

- a) be lodged with UTS
- b) clearly indicate that information is being requested under the GIPA Act
- c) include the \$30 application fee
- d) include a postal address for the university to send notices to, and
- e) be clear about the information being requested.

We have an Access Application form on our website that may assist you in lodging a valid application. The form, and further information about lodging a valid application, including payment of the \$30 application fee, can be found on our website at <https://www.uts.edu.au/about/uts-governance/right-information-gipa/applying-access-information>.

Clarifying your request

You have requested access to "*the latest data on the number of Chinese students enrolled at your institution*". We have interpreted this request as being numbers relating to Chinese citizens who have enrolled at UTS as international students. Please confirm our interpretation or otherwise clarify your request when you lodge a formal Access Application.

Rights of review

If you do not agree that your application is invalid, you may seek a review of this decision. Information about your review rights can be found at <http://www.uts.edu.au/about-uts/uts-governance/right-to-information-gipa/applying-review-decision>. I have also included a copy of a Fact Sheet.

In summary, you have 20 working days from the date of this letter to apply for an internal review directly with UTS, or 40 working days to apply for an external review by either the NSW Information Commissioner or the NSW Civil and Administrative Tribunal (NCAT).

Contact

You are welcome to contact Deborah Naray, Right to Information Contact Officer in relation to the lodging a valid access application via email at right.to.information@uts.edu.au or by phone +61 2 9514 1245.

Yours sincerely,



William Paterson
Director, Governance Support Unit

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- *Fact Sheet: Your review rights under the GIPA Act*



Your review rights under the GIPA Act

Fact sheet

June 2014

The right to information system in NSW aims to foster responsible and representative government that is open, fair and effective.

You have the right to request a review of certain decisions made by government agencies about the release of information under the *Government Information (Public Access) Act 2009* (GIPA Act):

- a) a decision that an application is not a valid access application
- b) a decision to transfer an access application to another agency, as an agency-initiated transfer
- c) a decision to refuse to deal with an access application (including such a decision that is deemed to have been made)
- d) a decision to provide access or to refuse to provide access to information in response to an access application
- e) a decision that government information is not held by the agency
- f) a decision that information applied for is already available to the applicant
- g) a decision to refuse to confirm or deny that information is held by the agency
- h) a decision to defer the provision of access to information in response to an access application
- i) a decision to provide access to information in a particular way in response to an access application (or a decision not to provide access in the way requested by the applicant)
- j) a decision to impose a processing charge or to require an advance deposit,
- k) a decision to refuse a reduction in a processing charge
- l) a decision to refuse to deal further with an access application because an applicant has failed to pay an advance deposit within the time required for payment
- m) a decision to include information in a disclosure log despite an objection by the authorised objector (or a decision that the authorised objector was not entitled to object).

You generally have three review options.

1. Internal review

You have **20 working days** after the notice of a decision has been posted to you to ask for an internal review by the agency that made the decision.

If a Minister or their personal staff, or the principal officer of an agency made the decision, you cannot ask for an internal review, but you can ask for an external review (see below).

The review must be carried out by an officer who is no less senior than the person who made the original decision. The review decision must be made as if it was a fresh application.

There is a \$40 fee for an internal review application. 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 the internal review is conducted because the Information Commissioner has recommended the agency reconsider its decision under section 93 of the GIPA Act. In this case, you cannot be charged any review fee.

The agency must acknowledge your application within **five** working days of receiving it. The agency must decide the internal review within **15** working days (this can be extended by **10** working days if the agency has to consult with a third party, or by agreement with you).

2. External review by the Information Commissioner

If you disagree with any of the decisions listed above, you can ask for a review by the Information Commissioner.

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

If you are not the access applicant, you must seek an internal review before applying for review by the Information Commissioner. However, if an internal review cannot be sought (if a Minister or their personal staff, or the principal officer of an agency made the decision), you can seek a review by the Information Commissioner.

You have **40 working days** from being notified of the decision 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 has already been reviewed by the NSW Civil and Administrative Tribunal (NCAT).

3. External review by the NSW Civil and Administrative Tribunal (NCAT)

If you disagree with any of the decisions listed above, you can ask for a review by NCAT. You do not have to have the decision reviewed internally, or by the Information Commissioner before applying for review by NCAT.

You have **40 working days** from being notified of the decision to apply to NCAT for review. However, if you have applied for review by the Information Commissioner, you have **20 working days** from being notified of the Information Commission's review outcome to apply to NCAT.

For more information

Contact the Information and Privacy Commission NSW (IPC):

Freecall: 1800 472 679
Email: ipcinfo@ipc.nsw.gov.au
Website: www.ipc.nsw.gov.au