

# Right to Information policy

How the former Department of Family and Community Services complied with its obligations, and how a member of the public may exercise their right to access information held by the department in accordance with the GIPA Act

[View as chapters](#)

## Apply online to access information

Members of the public may submit online forms under the GIPA Act, including informal requests for information, formal access applications and internal reviews, to access information held by the Department of Communities and Justice (DCJ), that relate to the following DCJ functions:

- Courts, Tribunals and Services
- Youth Justice (formerly Juvenile Justice)
- Child protection
- Housing
- Disability services
- Corrective Services

**Please do not lodge an informal request to access another individual's personal information, or to request an entire copy of all your information held by the department. If you are seeking the information of other individuals, or a copy of all your information, you are required to submit a formal access application.**

[Apply Online](#) [Continue your saved form](#)

## Type of records held by the Department of Communities & Justice

### What you will need

In order to submit your application online, you may need:

- Identification documents, such as a Driver Licence, Medicare card or Passport
- Credit Card or Debit Card details
- Email address and mobile number

## During the application process, you can expect

- to receive communication from us via email and SMS
- [Frequently Asked Questions](#)

### Open Government, Information and Privacy

(02) 9716 2662

[facsgipa@facs.nsw.gov.au](mailto:facsgipa@facs.nsw.gov.au)

## Background

From 1 July 2010 the [Government Information \(Public Access\) Act 2009](#) (GIPA Act) replaced the Freedom of Information Act 1989 (FOI Act). The GIPA Act is designed to promote a fair, transparent and open government for the people of New South Wales.

This policy sets out how FACS complies with its obligations, and how a member of the public may exercise the right of access to information held by the Government under the GIPA Act.

The GIPA Act specifies information that must be disclosed on an agency's website, or otherwise made available free of charge. The GIPA Act also encourages publication of other information that may be of interest to the public. This information will be available free of charge, or at the lowest possible cost to persons seeking such information.

A formal access application can be made by any member of the public for information held by FACS. A client of FACS may apply for information relating to services they may have received from FACS, or information relating to themselves. Information of a non-personal nature may also be requested as part of a formal access application. Fees and charges may apply.

The GIPA Act also allows for FACS to release information informally. This may be information relating to policies or any other information that is available on the FACS website. A client of FACS may obtain limited information from their file without the need for a formal access application.

For additional assistance relating to accessing information under the GIPA Act, or general enquires, please contact our Right to Information and Subpoena Unit.

### The Right to Information and Subpoena Unit

(02) 9716 2662

[facsgipa@facs.nsw.gov.au](mailto:facsgipa@facs.nsw.gov.au)

## Scope

This policy applies to FACS when responding to an informal or formal request for information, or when publishing information, in accordance with the GIPA Act.

As of 1 July 2010, specific information held by a contractor engaged by FACS to provide a service to the public on FACS' behalf will also be information that may be requested under the GIPA Act.

## Policy statement

FACS is required to provide assistance to members of the public to obtain information held by this Agency. This is a legally enforceable right under the GIPA legislation. FACS is committed to openness and transparency in carrying out its functions, to publish information in accordance with the GIPA Act, and to disclose information in response to an informal request or formal access application, unless to do so would be contrary to the public interest.

## Publication of government information

FACS are required to publish Open Access Information in accordance with section 6 of the GIPA Act.

On the [FACS Open Access Information webpage](#) you will find the following types of information which may be of interest to the public:

- Policy Documents.
- Documents tabled in Parliament.
- Agency Information Guide.
- Register of Government Contracts.
- Disclosure Log.

In addition to this information, a wide range of other published materials are available at [www.facs.nsw.gov.au](http://www.facs.nsw.gov.au) . If persons are unable to access this information via the internet, they may visit any Client Service Office or contact the Right to Information and Subpoena Unit

### The Right to Information and Subpoena Unit

[\(02\) 9716 2662](tel:(02)97162662)

[facsgipa@fac.nsw.gov.au](mailto:facsgipa@fac.nsw.gov.au)

FACS will review its Agency Information Guide at intervals no less than 12 months and will continue to update its website to provide you with the best possible information relating to our functions and services to all members of the general public.

## Informal requests

A member of the public has a legal right to [lodge an informal request](#) for access to information held by FACS. This includes access to personal and non-personal information held by FACS. As part of an informal request, a person may be entitled to request information free of charge, such as:

- a copy of their Tenancy Agreement with FACS Housing

- a Property Condition Report relating to their tenancy
- a copy of their assistance forms they lodged with FACS
- a copy of their correspondence with FACS
- a copy of an Incident Report
- information from [our website](#)
- information that has been made publicly available in the past.

An informal request for other non-personal information that does not involve information about another person, or otherwise sensitive information, may be considered.

Any informal request for information will be processed as soon as practicable. FACS reserves the right to refuse access to an informal request for information.

The release of information in response to an informal request is subject to following conditions:

- An estimated time limit of two hours is applicable when processing an informal request for access to information. In the event that it would exceed this time limit, an applicant will be advised to lodge a formal access application.
- Information relating to a third party, and information relating to sensitive matters, may not be considered as part of an informal request. However, this does not override an applicant's legal right to lodge a formal access application for this type of information.

FACS will endeavour to accommodate any informal request wherever possible in accordance with the objectives of the GIPA Act.

A decision that is made in response to an informal request is not subject to any legal review rights under the GIPA Act.

An applicant who is not given information in response to an informal request will be informed of their right to lodge a formal access application under the GIPA Act.

You can lodge an [Informal Request for Information online](#).

## Formal Access Applications

A [formal access application](#) is necessary when the information sought is not published, is information relating to an applicant's entire records or other information held by FACS that is not available in response to an informal request.

Should a formal access application seek information concerning a service delivered to the public by a contractor of FACS entered into from 1 July 2010, the contractor is to provide the information to FACS for the purpose of processing the application, in accordance with section 121 of the GIPA Act. FACS has a legal right to obtain information held by the contractor that relates to:

- the performance of the service
- has been collected by the contractor from a member of the public
- was received by the contractor from FACS to facilitate delivery of a service.

The Right to Information Unit, FACS Legal is responsible for all aspects of the management and processing of formal access applications. You can lodge a [formal access application online](#).

## How to make an application

All applications must contain the following information:

- Must be in writing and [lodged online](#) or sent to the address stated below.
- Clearly state that the information is being sought under the GIPA Act.
- Be accompanied by the application fee of \$30. A 50% reduction of the application fee may be applicable; please see Fees and Charges for more information.
- Must have a return email or postal address.
- Include a valid copy of the applicant's identification, e.g. Driver Licence, Passport, Health Care Card or Pensioner Concession Card.
- Must include as much specific information as possible to assist us to identify the information you are requesting.

Applications lodged by post should be addressed to:

### The Manager

Right to Information and Subpoena Unit

FACS

Locked Bag 4028

Ashfield NSW 2131

## Fees and charges

The application fee for a formal access application that is lodged online must be paid by credit card or debit card. The application fee for a formal access application that is lodged by post must be paid by cheque or money order, made payable to the Department of Family and Community Services.

A formal access application is subject to the following fees and processing charges:

Type of Information	Application Fee	Processing Charges
Access to information of a personal nature	\$30.00	The first 20 hours is covered by the application fee after that there will be a charge of \$30.00 per hour
Access to information of a non personal nature	\$30.00	A processing charge of \$30.00 per hour is applicable for non personal information
Internal Review of a decision	\$40.00	Not applicable

An applicant may be eligible for a 50% discount on application and processing charges if the applicant:

- holds a valid Pensioner Concession Card
- holds a valid Healthcare Card
- is a full-time student
- is a non-profit organisation (including a person applying for or on behalf of a non-profit organisation)
- is suffering financial hardship
- is applying for information that is of special benefit to the public.

An advance deposit of up to 50 per cent of the total estimated processing charge may be requested by FACS. This will happen after consideration of the application and an assessment of the chargeable time required to identify and consider the release of relevant information. Should this be applicable to an application an applicant will be advised of the estimated processing charge and will be given at least four weeks for payment.

## **What happens after you lodge a Formal Access Application**

FACS will contact you if it is necessary to clarify any aspect of the application.

You will receive an acknowledgment letter within five working days advising that you have lodged a valid formal access application.

FACS will make a decision within 20 working days of receiving a valid formal access application and notify you of the outcome. This time can be extended by 10 working days where the GIPA Act requires consultation with a third party or for the retrieval of records from archives, or a total of 15 working days if both circumstances apply. A request for an advance deposit may also extend the statutory time period.

A formal access application can only be made for information held at the time the application is received.

FACS is required to consult with a third party in certain circumstances where an applicant requests information that contains, including, but not limited to:

- personal information about another person
- business information of a third party (including another government agency)
- information concerning the affairs of the Commonwealth Government or another state government.

## **Making a decision on a Formal Access Application**

A decision on a formal access application can only be made by an officer of FACS who is authorised by the Secretary of the Department of Family and Community Services.

FACS must refuse access to certain information outlined in Schedule 1 of the GIPA Act, as there is a conclusive presumption of an overriding public interest against disclosure.

Examples of these certain types of information include:

- Information that was prepared for the dominant purpose of submission to Cabinet.
- Information subject to legal professional privilege.
- Information contained within a report made under the Children and Young Persons (Care and Protection) Act 1998.

Where an access applicant requests information that does not fall within one of the specified categories of information listed in Schedule 1 of the GIPA Act, FACS must apply a public interest test. The public interest test requires FACS to consider public interest considerations favouring disclosure of the information requested, and weigh them against the public interest factors that do not favour disclosure of the same information.

Examples of public interest factors favouring the disclosure of information include the following:

- Promote discussion of public affairs.
- Enhance accountability.
- Inform the public about the operations of agencies.
- Ensure effective oversight of the expenditure of public funds.
- Reveal or substantiate misconduct or negligent, improper or unlawful conduct.

The above factors that favour disclosure are then weighed against any public interest considerations against disclosure. The public interest considerations against disclosure are listed in the GIPA Act, examples of which are:

- Disclosure would prejudice the supply to an agency of confidential information that facilitates the effective exercise of that agency's functions.
- Would reveal an individual's personal information.
- Disclosure could reasonably diminish the competitive commercial value of any information to any person, or prejudice any person's legitimate business, commercial, professional or financial interests.

## **Notice of Decision**

A written notice of the decision will be provided to you within 20 working days unless it is subject to any extension. Any decision to refuse access will include reasons for the decision.

## **Payment of fees**

Should any charges be payable, access will be given to the information only when payment is received.

## **Rights of Review**

A person aggrieved by a FACS decision has three options for review:

1. Internal review.
2. External review by the Information Commissioner.
3. External review by the New South Wales Civil and Administrative Tribunal.

An Internal Review may be sought within 20 working days of a notice of decision. The application must be accompanied by the appropriate fee of \$40. FACS will arrange for the review to be undertaken by an authorised officer who did not make the original decision and is not subordinate to the original decision maker. A notice of decision regarding an internal review will be issued within 15 working days.

Alternatively, an independent review may be sought from the Information Commissioner or the New South Wales Civil and Administrative Tribunal.

A complaint can also be made to the Information Commissioner if you have concerns on how your application was handled.

### **The Information and Privacy Commission New South Wales**

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

Phone: [1800 472 679](tel:1800472679)

## **Legislation and compliance**

FACS complies with the [Government Information \(Public Access\) Act 2009](#). An annual report on the management of its functions will be prepared for the Minister as required by law.

## **Right to Information, Government Information (Public Access) Act 2009 forms**

Further Information can be accessed from the [Information and Privacy Commission New South Wales](#) and the [New South Wales Civil and Administrative Tribunal](#)

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