

Access to Information / GIPA Policy

Number	SR-P23/3	Version	1.0
Category	Policy	Subject	Governance
Issued by	Governance	Approval Date	05.04.2023
Authorised by	Executive Director	Issued Date	06.04.2023
Distribution	External	Review Date	05.04.2025

Purpose

The purpose of this policy is to ensure that the State Records Authority of NSW (State Records NSW) establishes a proactive and open approach to providing access to government information under the Government Information (Public Access) Act 2009 (GIPA Act).

This policy sets out how State Records NSW 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.

Background

The objects of the GIPA Act are to maintain and advance a system of responsible and representative democratic Government that is open, accountable, fair and effective.

The GIPA Act:

- Authorises and encourages the proactive release of information by NSW public sector agencies;
- Gives members of the public a legally enforceable right to access government information;
- Ensures that access to government information is restricted only when there is an overriding public interest against releasing that information;
- Specifies information that must be disclosed on an agency's website, or otherwise made available free of charge; and
- 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.

Scope

This policy applies to all State Records NSW ongoing, temporary and contingent employees, contractors, volunteers, interns and work placement students. All references to 'workers' within this policy should be read to include any person engaged by State Records NSW in a paid or unpaid capacity.

Under schedule 5 s13 (1)(a) of the GIPA Act a record that is held by State Records NSW but was originally created or received by another agency is taken to be held by that agency. This policy does not apply to records within the State Archives Collection which are held by other agencies.

Policy

1. Government Information

'Government information' within the context of the GIPA Act is any record held by a government agency to which the agency has an immediate right of access, or a record that is under the control of a person in his or her capacity as an officer of the agency. A record means any document or other source of information compiled, recorded or stored in written form or by electronic process, or in any other manner or by any other means.

Section 73 of the *State Records Act 1998* bestows a duty of confidentiality in relation to the disclosure and provision of information acquired in the course of the administration of the act. Consideration must be given to this applicability of this duty prior to the disclosure of any information made under this policy.

2. Right to information officers

Under the GIPA Act State Records NSW must have staff who are authorised to coordinate informal and formal access applications (Right to Information officers). Right to Information Officers (RIOs) are government agency staff who have been given specific authority and responsibility to meet some of their agency's day-to-day obligations under the GIPA Act.

This includes dealing with formal applications for access to information and other responsibilities in relation to the release of information. Other staff who are not RIOs may also be authorised to make decisions about the release of information to the public.

RIOs for State Records NSW are identified within the agency's GIPA Delegations, which are in place from time to time.

3. Access to information (informal)

State Records NSW is committed to facilitating, as far as practicable, an open environment which enables members of the public to access government information which the organisation holds, without the need for formal requests. Please see the [Information and Privacy Commission \(IPC\) Fact sheet](#) for further information on the informal release of government information under the GIPA Act.

3.1 Open access

Under s18 of the GIPA Act, NSW government agencies must 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 be accessible on State Records NSW's website.

Open access information under the GIPA Act includes:

- The agency's current Agency Information Guide;
- Policy documents;
- A disclosure Log of Formal Access Applications;
- A register of Government Contracts ;
- A record of the open access information (if any) that the agency does not make publicly available on the basis of an overriding public interest against disclosure;
- Information about the agency contained in any document tabled in Parliament by or on behalf of the agency; and

- Any other government information that may be prescribed by the regulations as open access information.

State Records NSW does not hold any open access information that it does not make publicly available on the basis of an overriding public interest against disclosure.

3.2 Proactive release

Section 7 of the GIPA Act requires agencies to proactively release government information and provides pathways to informally release information to promote open government. All staff are responsible for identifying government information held by the Department for proactive release. Information identified for proactive release is to be reviewed for any public interest considerations against disclosure of the information; see Schedule 1 and the section 14 Table of the GIPA Act.

The Executive Director and Right to Information Officers (RIO) are authorised under section 7 of the GIPA Act to proactively release information under the GIPA Act.

3.3 Informal release

State Records NSW is also authorised to release government information informally, under s8 of the GIPA Act. In doing so State Records NSW must first assess whether there is an overriding public interest consideration against disclosure.

Informal applications or requests for release of information can be made via the State Records NSW website and will be coordinated by the Right to Information Officers.

Decisions about informal release requests may only be made by those authorised under the State Records NSW GIPA Delegations. The GIPA Act does not provide a right of review for any decision made with respect to an informal release request.

4. Access to information (formal)

4.1 Formal access applications

If government information is not via available State Records NSW's website and cannot be provided by informal request, members of the public have a right to formally apply for access to that information. The application must:

- Be in writing via the GIPA Access Application form application form;
- clearly state that the information is sought under the GIPA Act;
- be accompanied by a \$30 application fee (either by posting money order or cheque or EFT if emailing application);
- have a return postal address in Australia as the address for correspondence; and
- include as much information as necessary to enable the State Records NSW to identify the information being sought.

Formal applications or requests for release of information can be made via the State Records NSW website and will be coordinated by the Right to Information Officers. Decisions about formal release requests may only be made by those authorised under the State Records NSW GIPA Delegations.

4.2 Application responses

State Records NSW will acknowledge the receipt of an access application within five working days after the application is received (per s51 of the GIPA Act) and must provide a response and determination to the applicant within 20 working days (subject to any extension allowed for under the GIPA Act), per s57 of the GIPA Act.

The [IPC flowchart](#) outlines the steps to consider when dealing with an access application.

5. Reporting requirements

5.1 GIPA Reporting and IPC GIPA Tool

Section 8 of the *Government Information (Public Access) Regulation 2018* requires agencies to report annually on four categories of information concerning their GIPA obligations (the GIPA data). That information is:

- Details of how the agency carried out the review required by section 7(3) of the GIPA Act of its program for the proactive release of the information it holds. An agency must also report on any information the agency made public during the reporting year as a result of the review.
- The total number of formal access applications an agency received during the reporting year, including withdrawn applications (but not invalid applications).
- The total number of formal access applications an agency received during the reporting year that the agency refused, either wholly or partly, because the application was for information for which there is conclusive presumption of an overriding public interest against disclosure (information listed in Schedule 1 to the GIPA Act).
- Statistical information about formal access applications received by an agency during the reporting year required to be included in the eight tables in Schedule 2 to the GIPA Regulation.

5.2 Recordkeeping and IPC GIPA Tool

The Information Commissioner strongly encourages all agencies and organisations to use the IPC GIPA Tool to efficiently manage GIPA applications and meet the requirements of reporting on annual GIPA activities under section 125 of the GIPA Act, which include:

- Recording GIPA requests in Content Manager (CM9) within a secure container;
- Recording each request via spreadsheet;
- Recording each request via the GIPA Tool. By registering each matter via the GIPA Tool, State Records can easily submit appropriate year end reports to the IPC and easily utilise data for the Agencies Annual Report.

6. Consequences of breaches

A staff member who destroys, conceals or alters any record of government information for the purpose of preventing the disclosure of the information as required by the GIPA Act will be guilty of an offence under the GIPA Act. This offence carries a maximum penalty of \$11,000.

If a staff member becomes aware of a breach of the GIPA Act, the staff member should report the breach in accordance with the *Public Interest Disclosures Act 1994* (see the Public Interest Disclosures Policy for more information). Further information on public interest disclosures can be found on the NSW Information and Privacy Commission website <http://www.ipc.nsw.gov.au>.

Roles and Responsibilities

- **Right to information officers:**
 - Processing formal and informal access applications
 - Assisting with the routine publication of open access information, including:
 - The contents and annual review of the agency's agency information guide;
 - Policy documents;
 - The disclosure log;
 - The register of government contracts;

- Proactively releasing as much information as possible, in as many ways as are appropriate; and
 - Recording the open access information that is not made publicly available on the basis of an overriding public interest against disclosure.
 - Working with relevant staff to provide training, support and advice in relation to the proactive and informal release of information.
 - Working on the agency's response to reviews conducted by the Information Commissioner or the NSW Civil and Administrative Tribunal
 - Facilitating agency compliance with the GIPA Act and GIPA Regulation reporting requirements.
- **All staff:**
- All staff have a responsibility to:
- Identify and proactively release information (including contracts) on State Records NSW's website;
 - Comply with requests from the Right to Information Officer to locate and provide all relevant information held in their respective areas in response to a request for information. In the event that information cannot be located, a written explanation of the steps that have been taken to search for the information must be provided to the Right to Information Officer (this includes search terms);
 - Work collaboratively and provide information relating to access requests to the Right to Information Officer in a timely manner; and
 - Promptly forward any access applications received (whether formal or informal) to the Right to Information Officer for action.

• **Principal Officer:**

The Principal Officer under the GIPA Act is the Executive Director of State Records NSW. The Executive Director is required to:

- Approve this policy and set delegations for managing access applications under the GIPA Act

Additionally, as detailed by the IPC in their Fact Sheet, the Executive Director must:

- Uphold the Public Sector's leadership commitment
- Promote the four pathways
- Promote a pro-disclosure culture
- Raise awareness of information access issues regularly and proactively
- Assess whether to release data and other information under authorised proactive release
- Ensure State Records NSW has sound record keeping practices
- Support informed and independent decision making by Right to Information officers

Delegations

- State Records NSW GIPA Delegations
- The *Government Information (Public Access) Act 2009* (NSW) (GIPA Act) contains a number of powers, functions and duties of public sector agencies relating to access to government information. Appropriate delegation or authorisation of these responsibilities, supported by awareness and training, is essential to information governance.

- <https://www.ipc.nsw.gov.au/sites/default/files/2020-03/Fact Sheet Delegation or Authorisation of GIPA Act Functions March 2020.pdf>

Legislation

- *Government Information (Public Access) Act 2009 (GIPA Act)*
- *Government Information (Information Commissioner) Act 2009 (GIIC Act)*
- *Privacy and Personal Information Protection Act 1998 (PPIP Act)*
- *Health Records and Information Privacy Act 2002 (HRIP Act)*
- *State Records Act 1998*
- *Government Sector Employment Act 2013, Electronic Transactions Act 2000*

Related Policies

- State Records NSW Records and Information management
- State Records NSW Public Interest Disclosures
- State Records NSW Code of Conduct

Other Related Documents

- GIPA Access Application Form

Definitions

Record	means any document or other source of information compiled, recorded or stored in written form or by electronic process, or in any other manner or by any other means.
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Access Application	means an application for access to government information under Part 4 of the GIPA Act that is a valid access application under that Part
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Public Interest Test	Means there is an overriding public interest against disclosure of government information for the purposes of the GIPA Act if (and only if) there are public interest considerations against disclosure and, on balance, those considerations outweigh the public interest considerations in favour of disclosure.
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Superseded Documents

This policy replaces:

- Nil

Revision History

Version	Date issued	Notes	By
1.0	6 April 2023	New Policy upon establishment of State Records NSW, in accordance with the Administrative Arrangements (Administrative Changes—Miscellaneous) Order published on 16 December 2022	Content / Control – Governance Approval – Executive Director

Review Date

This policy will be reviewed 6 April 2025 (2year intervals or as needed in accordance with regulatory changes)

Contact

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