Fact Sheet

November 2026

Timeframes and extensions for deciding access applications under the GIPA Act

Who is this information for?

For NSW public sector agency staff dealing with requests to access government information under the *Government Information (Public Access) Act 2009*.

Why is this information important?

This Fact Sheet explains the timeframes that apply to agencies for deciding access applications.

Relevant legislation

This Fact Sheet is based on the following legislative provisions:

Government Information (Public Access) Act 2009 (GIPA Act), pt 4 div 4

Government Information (Public Access) Regulation 2009 (GIPA Regulation)

Overview

Section 57 of the GIPA Act specifies strict time periods for agencies to make decisions about access applications, using a formula of 'working days'.

The object of the GIPA Act set out in s 3 is to open government information to the public and requires that the discretions conferred under the Act are exercised, as far as possible, to promptly facilitate and encourage access to government information at the lowest reasonable cost.

These discretions include when an agency seeks to extend the timeframe to decide a formal access application by agreement with the applicant.

What is the timeframe to decide an access application?

An agency must decide an application and give the applicant notice of that decision within 20 working days after it is received: s 57(1). This is known as the 'decision period'.

What is a 'working day'?

A 'working day' is defined as any day that is not a Saturday, Sunday, public holiday or any day during the period declared by the Premier as the Christmas closedown period: sch 4 cl 1.

When does the 20 days start to run?

You must first assesses whether the access application is valid. You must then notify the applicant of your decision about validity within 5 working days after receiving it.

The 20 days runs from the date on which the agency received the application.

What about school holidays?

In the case of an access application involving a school, if any part of the decision period occurs when the school is closed for school holidays, the decision period is extended by the number of working days occurring in that school holiday period after the application is received: GIPA Regulation cl 7.

When is an application decided?

An access application is decided on the date you issue the notice of decision to the applicant. Given the 20 working day decision period, you should decide as soon as practicable if you consider that an application will take longer to process because record retrieval or consultation is required.

What if I don't make the decision within 20 days?

If you do not make a decision within the decision period, the application will be considered as having a 'deemed refusal' and you need to refund the application fee paid by the applicant: s 63(1). A deemed refusal does not prevent you from continuing to deal with the application by providing an applicant with the reasons for the delay and subsequently making a late decision: s 63(2).

What happens in the case of amended applications?

If an applicant amends the application

The amendment of an access application by the applicant does not affect the period within which you are required to decide the application: s 49(5).

If I request an applicant to amend an application

If you ask an applicant to amend an application because it would require an unreasonable and substantial diversion of your agency's resources to process, the decision period stops running while the applicant is given the opportunity to amend the application: s 60(4).

When can I extend the decision period?

The circumstances in which you may extend the time for deciding an access application are limited.

The applicant may agree that you extend the timeframe to make your decision.

If necessary, you may extend the 20-working day decision period by up to either:

- a further 10 working days, to consult another person who is affected by the access application or to retrieve archived records, or
- a maximum of 15 working days where you need both to consult and retrieve archived records: s 57(2).

Extension by consent

The GIPA Act provides for an extension (and further extension) of the decision period by agreement with the applicant: s 57(4).

These extensions should be exercised to help meet the objects of the GIPA Act. Your agency should have sufficient internal resources in place to ensure extensions of timeframes are not relied on routinely to process access applications received.

Before asking the applicant to agree to an extension of the decision period, you should consider the outstanding tasks and a realistic timeframe in which these tasks will be completed.

This approach will allow you to provide the applicant with an informed explanation as to what has caused a delay in the decision period. It may also assist with an applicant's understanding of an agency's commitment to continue processing the application without any excessive delay.

Does an applicant have to agree to an extension?

No. Providing an applicant with the reasons for the extension and the timeframe that is needed, will assist an applicant in responding to your request for an extension of time. However, an applicant may choose *not* to agree to your request for an extension of the decision period.

The applicable decision period remains at 20 working days, If you don't make a decision in this timeframe, it will amount to a 'deemed refusal'. You can still continue to deal with the application and subsequently make a late decision: s 63(2), but you will need to refund the application fee paid by the applicant: s 63(1).

Extension for consultation and records retrieval

You may extend the timeframe, without consent, by 10–15 working days: to consult another person who is affected by the access application and/or to retrieve archived records: s 57(2).

Is a notice to the applicant required?

Yes. You must provide the applicant with notice of any extension of the decision period, as soon as practicable (and within 5 working days), including the date on which the decision is due: s 57(6).

Searching for information in digital archives

Agency record-keeping systems should not adversely affect applicants and electronic record keeping should promote ease of access to those records.

Agencies need to be familiar with their record-keeping systems to ensure they are able to meet their obligations under the GIPA Act.

The manner in which an agency routinely saves records in its usual electronic record-keeping system does not enliven an agency's discretion to extend the decision period by 10 days.

The discretion to unilaterally extend time can only be made in circumstances where the act of retrieval involves some *additional* difficulty for the agency such as from a place where public or historical records are kept: *Walton v Eurobodalla Shire Council* [2022] NSWCATAD 46.

Extension for the purpose of consultation

Under s 54, you must take such steps (if any) as are reasonably practicable to consult with a person before providing access to information relating to the person in response to an application, if it appears that:

- the information is of a kind that requires consultation under this section, and

- the person may reasonably be expected to have concerns about the disclosure of the information, and
- those concerns may reasonably be expected to be relevant to the question of whether there is a public interest consideration against disclosure of the information.

You may decide to release information, despite receiving an objection to do so. In these circumstances, you must notify the affected person of your decision and their available review rights. Until any such review rights have expired, you must not release the information

The decision period can only be extended to allow for this mandatory consultation, and not other consultation that you may choose to undertake. See Information Access Guideline 5 – Consultation on public interest considerations under s 54 of the GIPA Act.

Is a decision to extend the timeframe a reviewable decision?

No - A decision to extend the timeframe to decide an application is *not* reviewable: s 57(2). There may be consequences in terms of seeking to impose processing charges as illustrated in the following case.

Walton v Eurobodalla Shire Council [2022] NSWCATAD 46

In the NCAT decision, NCAT accepted that the agency had completed the decision in 30 working days by unilaterally invoking the 10 day extension. As part of the decision, the Council applied a processing charge that they had calculated for dealing with the application, which was required to be paid before they would release the information.

However, NCAT did not accept the Council's reasons for extending the time period to search email archives of records, as they were only a maximum of 8 months old. The application of the processing charge was therefore 'without basis' and should be set aside.

What about portfolios and lead departments?

The GIPA Act places information access obligations on agencies. It is therefore essential to determine which agency made the decision. Portfolios and shared services arrangements highlight the importance of ensuring that there is a coordinated and prompt response to search requests, and to support timely decision-making by the agency.

Information in larger departments is often not centrally held and search requests may need to be sent to different business units. It is the responsibility of the principal officers to ensure staff from other units who may not regularly deal with formal information access requests, are aware of both their individual responsibilities and the timeframes provided by the GIPA Act.

A practical working knowledge of your agency's information systems and how records are managed will help determine where information is likely to be held. Prompt and clear internal communication allows for an optimal information retrieval strategy.

The promotion and fostering of a culture of shared responsibility and timeliness is required to both adhere to statutory timeframes, and to promote the presumption in favour of disclosure provided by the GIPA Act: s 5.

Where can agencies get further assistance?

The IPC's GIPA Tool for case management provides agencies with functionality enabling report generation that can be applied to track and monitor applications and timeframes.

Use of the IPC GIPA Tool will assist the agency in better managing GIPA applications, and will assist with timeframes generally.

Other useful resources

Other resources that may be useful on this topic include:

- IPC Fact Sheet – Calculation of time under the GIPA Act
- IPC Fact Sheet – Unreasonable and substantial diversion of agency resources
- IPC Fact Sheet – Why consult third parties
- IPC Fact Sheet – Third party consultation
- Information Access Guideline 5 – Consultation on public interest considerations under s 54 and s 54A of the GIPA Act
- IPC Fact Sheet – Reasonable searches under the GIPA Act
- IPC Fact Sheet – Guide to section 121 of the GIPA Act for agencies

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

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.