



Information and Privacy
Commission NSW

Information Access Guideline 6 – Agency Information Guides

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Overview

This Guideline is part of a suite of information access resources developed by the Information Commissioner under s 17(d) of the *Government Information (Public Access) Act 2009* (NSW) (GIPA Act) to assist agencies in the exercise of their functions and to promote better administrative decision-making practices under the GIPA Act.

The object of the GIPA Act, as set out in s 3, is to open government information to the public to maintain and advance a system of responsible and representative democratic government. Agency Information Guides (AIGs) are a valuable mechanism that promote the objects of the GIPA Act and ensure that members of the public have knowledge of, and access to, government information that is both current and significant in relation to the formulation of policy and service delivery by agencies, together with access to arrangements to participate in the formulation of policy and service delivery by agencies.

The GIPA Act places various obligations on agencies within NSW in respect of their publication and release of the information that they create and hold, including an Agency Information Guide (AIG). The GIPA Act also provides rights for members of the public to apply for access to government information.

In the absence of any other consolidated legislative mechanism to promote transparency, accountability and responsiveness by government, a failure to implement AIG legislative requirements limits the capacity of the public to gain access to a central repository of agency information and participate in the formulation of agency policy and the exercise of functions.

These Guidelines are an aid to the application of the provisions of the GIPA Act to assist agencies in satisfying their obligations to create and update their AIGs in accordance with Part 3 Division 2 of the GIPA Act. The key provisions are attached at [Appendix 1](#).

The Guidelines also provide assistance to agencies on how AIGs can promote Open Government, Open Data and public participation and best practice for writing Agency Information Guide to provide a consistent and reliable vehicle to access government held information.

Open Government

Open Government involves a tangible and consistent commitment by government to increase access to information, engage with the public and be accountable. AIGs serve this commitment by providing a public resource that informs members of the public about the information that the agency holds, the agency's engagement channels, and its decision-making processes.

Open Data

By releasing Open Data, agencies can empower people and gain new insights that improve the way we live, work and solve problems together. AIGs play an important part in identifying the data held by agencies and detailing the way that agencies will make the data open to the public.

- Agencies may wish to consider linking their AIGs to other Open Data initiatives, such as [Data.NSW](#)
- NSW Government portal to government information and services – agencies may also link their AIGs to www.nsw.gov.au/

Public participation

AIGs provide a clear and consistent device through which people are able to identify information held by agencies with certainty and confidence. In coupling this legislative certainty with opportunities to participate in agency policy formulation and service delivery, the GIPA Act provides the mechanism to promote responsiveness by government. AIGs promote the object of the GIPA Act by bringing awareness on how to access government information to the public at the lowest possible cost and encourage public participation in the agency's decision-making and functions.

Legislative summary

- All agencies (other than a Minister) must have an AIG: s 20(1).
- AIGs must be made available free of charge on the agency's website: ss 18(a), 6(2).
- Agencies must review their AIG and adopt a new AIG at intervals of not more than 12 months: s 21.
- Agencies must notify the Information Commissioner before adopting or amending an AIG and, if requested to do so by the Information Commissioner, consult with the Information Commissioner on the proposed AIG or amendment: s 22.
- Agencies must make 'open access information' publicly available as provided by its AIG: s 20(2).
- Should the Chief Executive of the Office of Local Government, in consultation with the Information Commissioner, adopt mandatory provisions for inclusion in the AIG of local authorities, the AIG of local authorities must include any such mandatory provision unless the Chief Executive otherwise approves in a particular case: s 20(3).

What should AIGs include?

Section 20(1) of the GIPA Act lists the *minimum* elements of an AIG. The structure of an AIG will vary depending on the nature of the agency, its structure, the information that it holds, major stakeholder interests and focus, and public participation arrangements.

An AIG should be an accessible and authoritative source and should adopt accessible language and be easy to locate on the agency website. When applying electronic links in AIGs, agencies should ensure that links are active, guide the reader to the appropriate areas of the agency's website, and are relevant to the subject matter being discussed.

The following sections suggest the types of information that must and could be included for each element.

1. About the agency

Agencies *must* describe the **structure and functions of the agency**. AIGs should include information about:

- The agency's departments or divisions – this may include a diagram of the agency structure and leadership positions.
 - An agency may operate in a cluster or regional arrangement and may therefore have an 'umbrella' AIG. This should be identified. Links should be provided to other agency AIGs where appropriate.
 - Where an agency has multiple divisions, it may be appropriate for the AIG to provide an explanation of its structure, and the common arrangements across the multiple divisions; and divide the AIG according to those aspects that are unique to its individual divisions/groups.
 - An agency website should also have clear information about each division of the agency, including the work undertaken by each division. This will assist the public in determining where to direct their request for information and allow agencies to deal efficiently with information access requests.
- The agency's functions – describe the relevant legislation that sets or affects the agency's operations.
- Responsibilities in managing, reviewing and updating relation to the AIG – who is responsible, and their contact details.

2. How the functions of the agency affect members of the public

The focus of this obligation is in relation to decision-making functions of the agency, including how:

- service functions affect the public
- regulatory or enforcement functions affect the public
- revenue functions affect the public
- administrative functions affect the public
- community planning and development functions affect areas such as cultural development, social planning and community profile.

3. Arrangements enabling public participation in the formulation of the agency's policy and the exercise of the agency's functions

Under this heading, agencies may consider describing:

- participation through [Have Your Say](#), expert panels, consultative committees, feedback channels, digital channels and calls for submissions
- channels of engagement with the public and stakeholders, especially innovative approaches such as mobile apps
- contact points for feedback and complaints about the agency

- an alert service to notify members of the public when there is an amendment to an AIG.

4. The kinds of government information held by the agency

Agencies *must* identify the kinds of government information held and the kinds of government information that is, or will be, made publicly available.

When describing the various types of information held by the agency, an AIG should describe any other legislation that the agency is required to comply with when dealing with the information. For example:

- If the agency holds personal information, it is required to comply with the *Privacy and Personal Information Protection Act 1988*.
- If the agency holds health information, it is required to comply with the *Health Records and Information Privacy Act 2002*.

5. The ways that the agency makes or will make information publicly available

Agencies can identify and provide links to government information according to the four main ways an agency provides access to information under the GIPA Act: open access information, proactive release, informal release and formal access application.

Agencies may also **proactively release** other information to the public.

It is good practice to include the last and next planned date for the review of the agency's proactive release program. Agencies might also describe how the review occurred and any significant changes to information release made as a result of the review.

Agencies may also release information **informally**. AIGs should describe the types of government information that the public may request informally, including the agency's preferred method of request: in person, by phone or online.

When information is not available on the agency's website and is not otherwise routinely provided by the agency, the process for a member of the public to make a **formal application** to the agency for the information under the GIPA Act should be described.

Agencies should also consider:

- describing how the information is held: e.g., in physical files, a records management system or website
- specifying the manner in which they make government information publicly available such as:
 - website
 - mobile or tablet app
 - inspection at the agency's premises
 - other types of publication.

6. The information that will be made publicly available free of charge and those for which a charge will be imposed

Open access information must be available free of charge. Under s 18, open access information includes:

- information about the agency contained in any document tabled in Parliament by or on behalf of the agency: s 18(b)
- its policy documents: s 18(c)
- its Disclosure Log of Formal Access Applications: s 18(d)

- its Register of Government Contracts: s 18(e)
- its 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: s 18(f)
- other government information as may be prescribed by the regulations as open access information: s 18(g).

While not mandatory under the GIPA Act, it is good practice for the AIG to include links or references to its:

- Privacy Management Plan
- annual reports
- plans, such as strategic, corporate or operational plans
- service delivery standards, codes of conduct and complaints procedures
- disclosure documents, such as records of important meetings, decisions and approvals.

Information that an agency chooses to disclose proactively may be released free of charge, or at the lowest reasonable cost: s 7(2). Agencies may set fees for other publications, photographs or historical records and particular requests for data or statistical analysis.

7. Automated decision-making and artificial intelligence

An AIG helps the public to understand what information a government agency holds and how it operates. Under the GIPA Act, agencies are encouraged to share information openly to promote transparency. Although the GIPA Act does not explicitly mandate agencies to disclose the use of Artificial Intelligence (AI) or Automatic Decision-Making (ADM) in their AIGs, non-disclosure of this information does not align with the requirements of the GIPA Act to ensure information about an agency's functions are published within an AIG. By sharing information about the current or intended use of AI/ADM, agencies better equip the public to understand how decisions are made. Clearly communicating this in an AIG reflects a considered approach to transparency and demonstrates awareness of how digital tools influence various decisions and operations undertaken by agencies.

Agencies should include information in their AIGs about the circumstances when ADM is in use, including an adequate description of the type of system in use, its purpose and how it operates (such as the types of decisions for which it is used), the legislative basis for the decision and/or any policy relied upon, as well as assurance processes in place to ensure the system is being used lawfully.

Self-assessment checklist

The IPC has developed a practical tool for agencies to assess the content of its AIG once it has already been prepared: [IPC Checklist - Agency Information Guide - Self-assessment Checklist](#). The Information Commissioner also uses this checklist as an aid to assess the whether AIGs received fulfil the requirements under the GIPA Act.

Role of the Information Commissioner

In accordance with s 22 of the GIPA Act, agencies must notify the Information Commissioner before adopting or amending an AIG, and if requested to do so by the Information Commissioner, consult with the Information Commissioner on the proposed AIG or amendment.

Under the *Government Information (Information Commissioner) Act 2009*, anyone can complain to the Information Commissioner about the conduct (including action or inaction) of an agency in the exercise of functions under the GIPA Act, including conduct that is alleged by the person to constitute a contravention the GIPA Act. This includes the failure to fulfil the legislative requirements for AIGs.

A complaint may be made to the Information Commissioner in one of the following ways:

- Post: GPO Box 7011, Sydney NSW 2001
- Email: ipcinfo@ipc.nsw.gov.au

The Information Commissioner may decide to investigate, not to continue to investigate, or not investigate a complaint.

More information regarding complaints about an agency's conduct is available via the [IPC Fact Sheet - Complaints about the actions of agencies](#).

Appendix 1

Government Information (Public Access) Act 2009

20 Agencies must have agency information guide

1. An agency (other than a Minister) must have a guide (its **agency information guide**) that:
 - a. describes the structure and functions of the agency, and
 - b. describes the ways in which the functions (including, in particular, the decision-making functions) of the agency affect members of the public, and
 - c. specifies any arrangements that exist to enable members of the public to participate in the formulation of the agency's policy and the exercise of the agency's functions, and
 - d. identifies the various kinds of government information held by the agency, and
 - e. identifies the kinds of government information held by the agency that the agency makes (or will make) publicly available, and
 - f. specifies the manner in which the agency makes (or will make) government information publicly available, and
 - g. identifies the kinds of information that are (or will be) made publicly available free of charge and those kinds for which a charge is (or will be) imposed.
2. An agency must make government information publicly available as provided by its agency information guide.
3. The Chief Executive of the Office of Local Government may, in consultation with the Information Commissioner, adopt mandatory provisions for inclusion in the agency information guide of local authorities. The agency information guide of a local authority must include any such mandatory provision unless the Chief Executive otherwise approves in a particular case.

21 Adoption and review of agency information guide

An agency must adopt its first agency information guide within six months after the commencement of this section and must review its agency information guide and adopt a new agency information guide at intervals of not more than 12 months. An agency may update and amend its agency information guide at any time.

22 Role of Information Commissioner

1. An agency must notify the Information Commissioner before adopting or amending an agency information guide and must, if requested to do so by the Information Commissioner, consult with the Information Commissioner on the proposed agency information guide or amendment.
2. The Information Commissioner can issue guidelines and model agency information guides for the assistance of agencies in connection with agency information guides.

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