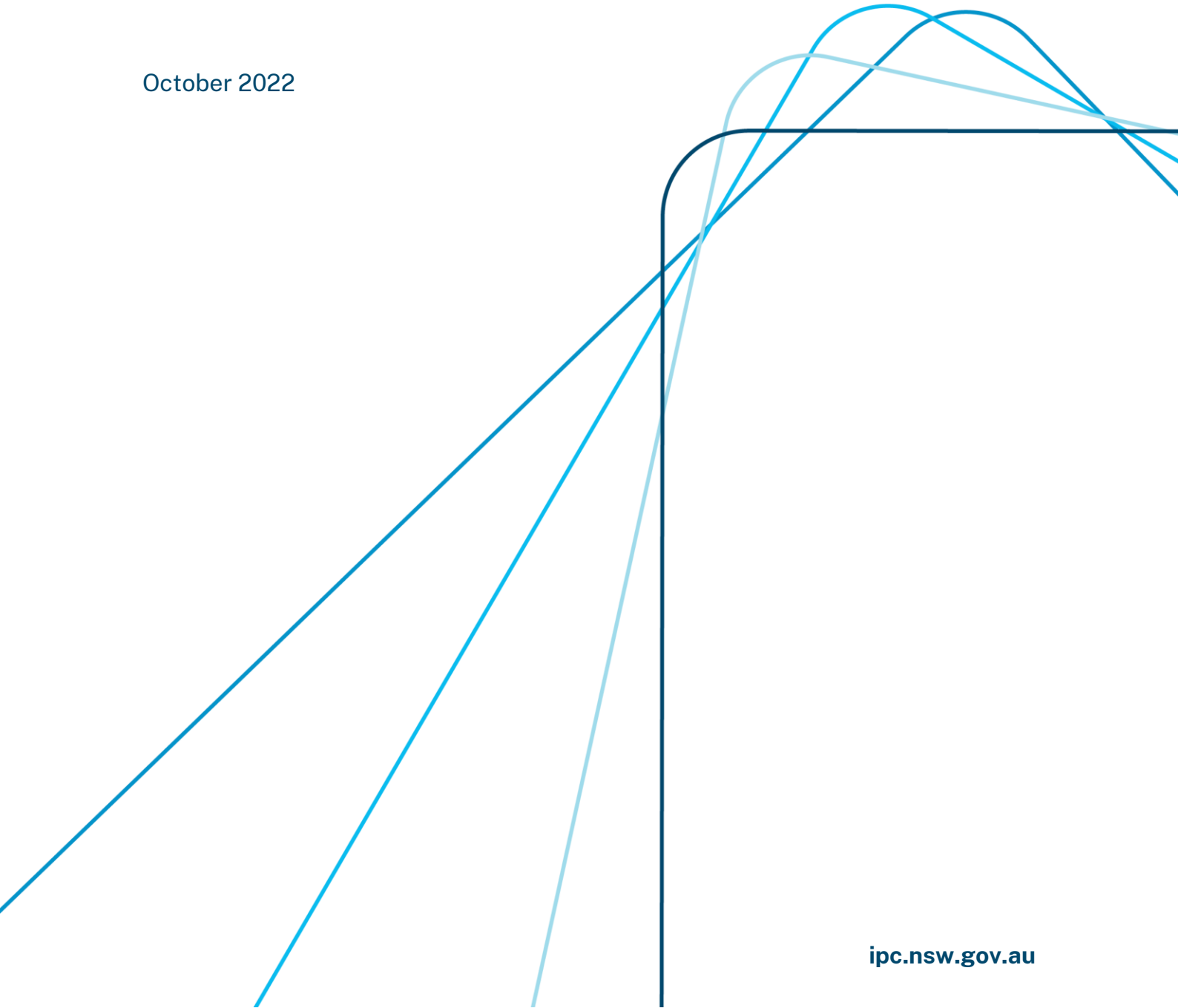
Information and Privacy Commission NSW

Essential guidance toolkit on information access and privacy fundamentals – Local Government

October 2022



ipc.nsw.gov.au

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1. Introduction

The Information and Privacy Commission NSW (IPC) is an independent statutory authority that administers legislation dealing with privacy and access to government held information in New South Wales (NSW). It promotes and protects privacy and information access rights in NSW and provides information, advice, assistance and training for agencies and individuals on privacy and access matters.

The IPC administers the following 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)

This compendium is designed to assist agencies in meeting their obligations under the legislation.

There are other specific resources available on our agency resources pages under Information Access and Privacy on the IPC website at www.ipc.nsw.gov.au.

2. Key information access resources for public sector agencies

This compendium identifies the key guidance provided by the IPC to ensure that agencies are able to meet their fundamental requirements under the GIPA Act. The guidance has been arranged on a functional basis that reflects agency, senior executive and decision-maker responsibilities.

The IPC's training and education are delivered via a variety of methods to assist you to perform your duties as a public sector agency officer under the legislation. The IPC's online training can be accessed via the e-Learning portal and is designed to be self-paced and available to you at your convenience. The portal contains a number of online training modules to provide training across government information access and privacy legislation. It is available free of charge. There are other electronic tools, Guidelines and Fact Sheets available via the IPC website.

Resources and tools to ensure fundamentals are in place across the agency

Information Access Agency Self-assessment Tool, e-Learning and Fact Sheets	
Information Access Agency Self-assessment Tools	The Self-assessment Tools enable agencies to conduct an assessment of their systems and policies that ensure their compliance information access requirements.
Agency level GIPA Dashboard	The GIPA Dashboard displays agency performance in managing GIPA applications year on year. The interactive tool is presented in an open format with enhanced reporting features to enable agencies to better measure and assess performance.
e-Learning module: The Contract Register and Contract Disclosures	This e-Learning module has been designed to provide more specific, practical information and support for agencies in responding to the responsibilities in the GIPA Act concerning government contracts with the public sector and contract disclosure provisions.

Information Access Agency Self-assessment Tool, e-Learning and Fact Sheets	
e-Learning module: Open Data	The Open Data e-Learning module is designed to help you and your agency unlock the value of Open Data and assist your agency in releasing data. This course has been designed to provide you with an understanding of what Open Data is and to explain how your agency can support Open Data release in NSW.
Guideline 1: For local government on the disclosure of information	This Guideline assists local councils to determine public interest considerations for and against disclosure of information contained in returns in disclosing interests of councillors. The IPC also developed an animation on councils' returns of interests requirements.
Guideline 3: For local government – personal information on development applications	This Guideline assists councils with what can and can't be published on their websites, specifically personal information contained in Development Approvals (DA).
Guideline 6: Agency Information Guides	This Guideline summarises the legal obligation for agencies in preparing and updating an Agency Information Guide (AIG), explains the opportunities provided by AIGs to promote Open Government, Open Data and public participation, and offers suggestions for structuring and writing an AIG.
Guideline 7: Open Data	This Guideline informs agencies about Open Data and on opening government data in NSW.
Open access information for agencies	This Fact Sheet outlines how agencies are required to make a range of open access information publicly available under the GIPA Act and the GIPA Regulation unless there is an overriding public interest against disclosure (OPIAD) of the information.
Authorised proactive release of government information	This Fact Sheet provides guidance and a Self-assessment Tool to NSW public sector agencies about how they can enhance their approach to authorised proactive release of government information under the GIPA Act.
Good practice for disclosure logs	This Fact Sheet provides you with good practice information when publishing disclosure logs.
e-Learning module: Towards Open Government Information in NSW	This e-Learning module provides a framework to assist you in managing government information and understanding the importance of complying with legislation and policies in relation to information management and record keeping.
Quick Guide to my Responsibilities under the GIPA Act	A quick guide for NSW public sector employees on their responsibilities under the GIPA Act.

Information Access Agency Self-assessment Tool, e-Learning and Fact Sheets	
Guide to section 121 of the GIPA Act for agencies	This Fact Sheet helps agencies understand how section 121 and clause 12(1)(b) of Schedule 4 of the GIPA Act operates and impacts upon their relationship with contractors who deliver services to members of the public on their behalf.
Digital records and the GIPA Act	This Fact Sheet provides guidance about the definition of record, in particular digital records under the GIPA Act, and what it means for agencies. It also outlines the importance of agencies maintaining good digital recordkeeping practices to ensure it is able to comply with its legislative obligations.
Automated decision-making, digital government and preserving information access rights	This Fact Sheet provides guidance to agencies on the release of information in relation to the use of automated decision-making systems.
Managing access to audio visual information under the GIPA Act	Agencies are creating and holding an increasing amount of audio visual (AV) material. It is important that agencies recognise that AV information is a form of government information and needs to be managed to facilitate release to the public consistent with obligations under the GIPA Act.

Resources and tools to assist senior managers and executive officers

Fact Sheets and Guidelines	
The role of principal officers and senior executives in supporting the object of the GIPA Act	This Fact Sheet assists principal officers and senior executives to promote awareness and foster an organisational culture that advances the object of the GIPA Act.
Delegation or Authorisation of GIPA Act Functions	This Fact Sheet clarifies what is required when the principal officer of the agency proposes to delegate or authorise their functions under the GIPA Act.
Offences under the GIPA Act	This Fact Sheet details rights and responsibilities under the GIPA Act, highlights the offence provisions, the circumstances and evidence that may enliven consideration of these offence provisions, and informs members of the public and agencies of the IPC's role and procedures in dealing with allegations that offences under the GIPA Act have been committed.
The GIPA Act: Agency systems, policies and practices - guidance for principal officers	This Fact Sheet assists principal officers in the performance of their responsibilities under the GIPA Act. It provides suggested actions informed by an investigation, relevant to cluster arrangements, to improve agency systems, policies and practices that relate to functions of agencies under the GIPA Act.
Public officials and personal information under the GIPA Act	This Fact Sheet provides guidance and assists agencies in understanding the definition of personal information under the GIPA Act as it applies to public officials.

Fact Sheets and Guidelines	
Digital Projects	This Fact Sheet provides guidance to agencies on the information access and privacy issues they should consider where designing and implementing a digital project.
Checklist for open access information under the GIPA Act and GIPA Regulation	This Checklist is for use by agencies to promote their compliance with the open access obligations under the GIPA Act and GIPA Regulation.

Resources and tools to assist decision makers

Software, e-Learning, Fact Sheets and Guidelines	
The IPC GIPA Tool	The IPC GIPA Tool provides functionality for agencies to create and manage their GIPA applications and statutory timeframes, and is provided by the IPC to support agencies to comply with the GIPA Act. It is to be used to submit your annual agency GIPA data to the IPC.
Calculation of time and the GIPA Act	This Fact Sheet outlines how the GIPA Act specifies time periods for agencies to make decisions and for applicants to apply for internal or external reviews when notice is given to an access applicant.
e-Learning module: Access Training for Decision Makers Under the GIPA Act	The e-Learning module provides an understanding of the skills necessary to make sound decisions and meet legislative obligations when making a decision under the GIPA Act.
What is the public interest test?	This Fact Sheet explains the public interest decision making requirements under the GIPA Act.Under the GIPA Act all government agencies must disclose or release information unless there is an OPIAD.
Guideline 2: Discounting charges	This Guideline explains how to discount processing charges for information that is of special benefit to the public generally.
Guideline 4: Personal information as a public interest consideration under the GIPA Act	This Guideline explains how to deal with requests for personal information under the GIPA Act and the personal information of third parties.
Unreasonable and substantial diversion of agency resources	This Fact Sheet clarifies what may be considered an unreasonable and substantial diversion of resources and what review rights apply if an agency decides to refuse to deal with an access application.
Managing formal GIPA applications	This Advice contains a flowchart that outlines how to work through an access application.

Software, e-Learning, Fact Sheets and Guidelines	
Searches for information	This Fact Sheet explains how searching for information under the GIPA Act is a part of the process of managing a formal request to access government information.
IPC information access case notes	The IPC publishes case notes to highlight significant and interesting cases from the IPC's jurisdictions.
GIPA compliance reports	The IPC is focusing its audit activity on providing insights into key areas of compliance which pose risk and impact accountability, transparency, open access, and the right to access information by citizens. Through its published audits, the IPC aims to provide the entities we regulate with broader insights that inform and challenge government to improve transparency and accountability and improve outcomes for citizens.
GIPA templates (for agencies)	The IPC develops templates to assist agencies with meeting their obligations under the GIPA Act. The types of templates available on the IPC website include application forms, disclosure logs, decision letters and more.
Simplified guide to information access	This Fact Sheet can be shared with citizens to assist them in understanding how to make an application for information under the GIPA Act. The IPC also has an animation on the four GIPA pathways to assist citizens in understanding the different ways they can access government information.

For more information and resources on information access for public sector agencies, please visit the IPC website.

3. Key privacy resources for public sector agencies

Resources and tools to ensure fundamentals are in place across the agency

Privacy Agency Self-assessment Tool, e-Learning and Fact Sheets	
Privacy Agency Self-assessment Tools	The Self-assessment Tools enable agencies to conduct an assessment of their systems and policies that ensure their compliance with privacy requirements.
Privacy Governance Framework	The Privacy Governance Framework is a dynamic online privacy tool designed for an agency's "whole of organisation" engagement with the management of personal and health information.

Agency Privacy Management Plans	A Privacy Management Plan is a strategic planning document in which each public sector agency describes the measures it proposes to take to ensure that it complies with the PPIP Act and the HRIP Act.
The PPIP Act: Agency systems, policies and practices	This Fact Sheet assists principal officers in the performance of their responsibilities under the PPIP Act. It provides suggested actions to improve agency systems, policies and practices that relate to the handling and management of the disclosure of personal information under the PPIP Act.
Privacy Code of Practice for Local Government	This Code modifies the Information Protection Principles (IPPs) contained in Part 2, Division 1 of the PPIP Act, and the provisions of Part 6 of the PPIP Act as they relate to Local Government.

Resources and tools to assist senior managers and executive officers

Fact Sheets and Guidelines	
Information Protection Principles (IPPs) for agencies	The 12 Information Protection Principles (IPPs) are legal obligations which agencies must abide by when they collect, store, use or disclose personal information and are your key to the PPIP Act. The IPC has also developed an animation on the 12 IPPs.
Seeking a Public Interest Direction under NSW privacy laws	This Guide provides information on seeking a Public Interest Direction (PID) which exempts or modifies the requirements for an agency or agencies to comply with NSW privacy legislation.
Guide to managing data breaches in accordance with the PPIP Act	This Guide is intended to help NSW public sector agencies understand their roles and obligations under the Mandatory Notification of Data Breach (MNDB) Scheme. See also the IPC's MNDB Scheme webpage.
A Guide to Making Privacy Management Plans	This Guide contains details on the requirements of a plan and helpful questions that agencies can consider when writing one.
The Privacy Commissioner's Oversight role in internal reviews of privacy complaints	This Fact Sheet outlines the Privacy Commissioner's oversight role in internal reviews of privacy complaints.
Digital Projects	This Fact Sheet provides guidance on the information access and privacy issues agencies should consider when designing and implementing a digital project.

Fact Sheets and Guidelines	
Privacy Impact Assessment Questionnaire for Assessing Websites	This PIA questionnaire has been developed in collaboration with IPC and elevenM to bring best-practice approaches and methodologies to NSW public sector agencies. This tool does not replace a complete PIA and should only be used to assist in identifying the privacy risks and areas for remedial action. Agencies should consider undertaking their own PIA after using the tool to identify any risks.

Resources and tools to assist decision makers

Software, e-Learning, Fact Sheets and Guidelines	
Understanding your privacy obligations – for public sector staff	This Fact Sheet explains how under NSW privacy laws, public sector agencies and staff in NSW are responsible for protecting the privacy of the personal information they collect.
Consent and Bundled Consent	This Fact Sheet provides guidance to agencies and Health Care Providers in understanding the issue of consent in relation to privacy laws in NSW.
Privacy by design	This Fact Sheet explains how privacy by design ensures that good privacy practices are built into your organisation's decision-making, as well as the design and structure of your information systems, business processes, products and services.
The Role of the Privacy Commissioner: Consulting the IPC on Initiatives and Projects	This Fact Sheet sets out the best practice approach to incorporating privacy and information governance into the design of an initiative or project.
Guide to Privacy Impact Assessments	This Guide outlines the benefits of undertaking a Privacy Impact Assessment (PIA) and the basic steps of conducting a PIA.
e-Learning module: Privacy Complaints Handling Under the PPIP Act	This e-Learning module assists agencies with the identification and management of privacy complaints and supports their compliance with the PPIP Act.
De-identification of personal information	This Fact Sheet highlights the importance of de-identification and offers practical tips to agencies when de-identifying information.
Reasonably ascertainable identity	This Fact Sheet offers interpretation and guidance on the meaning of 'reasonably ascertainable identity' as well as practical tips to help users determine if an individual's identity can be 'reasonably ascertained'.
Processing requests for personal information	This Fact Sheet provides information for agencies on how to process a request for information under the PPIP Act or GIPA Act.
IPC privacy case notes	The IPC publishes case notes to highlight significant and interesting cases from the IPC's jurisdictions.

Software, e-Learning, Fact Sheets and Guidelines	
PPIP and HRIP compliance reports	Occasionally, the Privacy Commissioner will look to undertake proactive regulatory initiatives to elevate and influence compliance by regulated entities. The outcomes of these completed initiatives are published for the awareness and learnings of regulated entities.
Guide – Transition to the cloud: Managing your agency's privacy risks	This Guide explains the key privacy risks that come with the use of cloud-based technologies by government, along with the potential impacts, and maps out a framework for addressing these privacy risks across the entire cloud adoption lifecycle.

Resources and tools relating to health information to ensure fundamentals are in place across the agency

Statutory Guidelines	
Use or disclosure of health information for the management of health services	This Guideline outlines the requirements for the use and disclosure of health information for the management of health services.
Use or disclosure of health information for training purposes	This Guideline outlines the requirements for the use and disclosure of health information for training.
Use or disclosure of health information for research purposes	This Guideline outlines the requirements for the use and disclosure of health information for research and statistics.
Use or disclosure of information from a third party	This Guideline outlines the notification requirements when collecting health information about an individual from someone else.

Resources and tools relating to health information to assist senior managers and executive officers

Fact sheets and Checklists	
Health Privacy Principles for agencies	The 15 Health Privacy Principles (HPPs) are legal obligations which agencies and private sector organisations must abide by when they collect, hold, use and disclose a person's health information and are your key to the HRIP Act. The IPC has also developed an animation on the 15 HPPs.
Checklist for public sector staff: responding to a request to access health information	This Checklist provides guidance on how to deal with a request for access under the HRIP Act. Under Schedule 1 HPP 7 of the HRIP Act, individuals have a right to access health information about themselves from public sector agencies who hold health information.

For more information and resources on privacy for public sector agencies, please visit the IPC website.

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