Fact Sheet

October 2026

Accessing information about a deceased person

Who is this information for?

For members of the public seeking access to government information about a deceased person under the *Government Information (Public Access) Act 2009*.

Why is this information important?

This Fact Sheet outlines the factors relevant to your application.

Relevant legislation

This Fact Sheet provides a simple summary of the following legislative provisions:

Government Information (Public Access) Act 2009 (GIPA Act), pt 2 div 2, pt 4 div 3 and div 5, sch 1

Privacy and Personal Information Protection Act 1998 (PPIP Act)

Health Records and Information Privacy Act 2002 (HRIP Act)

Overview

When a person dies, there are circumstances where family members and other interested people may wish to access information about the deceased person from government agencies and health care providers.

If the information you are seeking is held by a NSW public sector agency, you can apply for access to the information under the GIPA Act.

While there is a general presumption in favour of disclosing information, the agency you are seeking information from will need to assess a range of relevant public interest factors. This Fact Sheet outlines this process.

How do I seek access under the GIPA Act?

Details on how to make a GIPA application are available on our website and explained further in the IPC Fact Sheet – Your right to access government information in NSW.

Different rules apply depending on how long ago the person died. This is because the GIPA Act treats information about a person who died more than 30 years ago differently from information about someone who died within the last 30 years.

How is my application assessed?

While there is a general public interest in favour of the disclosure of government information, the GIPA Act sets out a balancing test that the agency must undertake in assessing your application. It includes an illustrative/non-exhaustive list of factors in favour of disclosure, and a limited list of factors that may be considered against disclosure.

For more information about how an agency applies the public interest test, see the IPC Fact Sheet - What is the public interest test?

Consultation?

If you are seeking to access information about a person who died less than 30 years ago, the agency you are requesting the information from must consult with a close relative of the deceased. The purpose of this consultation is to understand whether the close relative has concerns and/or objections about disclosure of any or all of the information you are seeking.

If the person you are seeking information about has been dead for more than 30 years, information about them is not considered to be personal information anymore. In those circumstances, the agency is not required to consult with a close relative in relation to your access application.

Factors in favour of disclosure

If you are seeking access to a deceased person's information, the following personal factors may be taken into account by an agency considering your application:

- your identity and relationship with any other person (including the deceased person)
- your motives for making the access application, and
- any other personal factors particular to you.

The GIPA Act provides some examples of public interest considerations in favour of disclosure, including where disclosure of the information could reasonably be expected to:

- promote open discussion of public affairs, enhance Government accountability or contribute to positive and informed debate on issues of public importance
- inform the public about the operations of agencies and, in particular, their policies and practices for dealing with members of the public
- ensure effective oversight of the expenditure of public funds, and
- reveal or substantiate that an agency (or a member of an agency) has engaged in misconduct or negligent, improper or unlawful conduct.

In addition to these examples in the GIPA Act, an agency may take into account any other relevant public interest considerations in favour of disclosure.

These considerations are not limited and may be unique to the circumstances of your application. For example, if you are a close family member of the deceased person and you are seeking access to information about them – such as to gain a better understanding of your relative's death and to gain closure – this is likely to be a factor in favour of disclosure to you.

Another example is the public interest in the disclosure of information relating to the care of elderly people and people with dementia, and the care and protection of children and people with disabilities. These people are likely in vulnerable circumstances and the disclosure of information could enhance transparency and improve protection against exploitation or neglect.

Sometimes these types of factors will also be examples of broader public interest considerations, such as the adequacy of aged care. In these types of applications you may be able to request that the application fees be lowered or waived by the agency.

You should ask the agency to advise and assist you regarding any costs that may be associated with the application.

Considerations against disclosure

The GIPA Act includes a list of factors against disclosure that may be considered. Unlike the illustrative list of factors favouring disclosure, the list against disclosure is a strictly limited one and is set out in a Table to s 14.

Key considerations for an agency when you are seeking access to a deceased person's information will be whether disclosure of information:

- would reveal an individual's personal information, and/or
- contravene an information protection principle under the PPIP Act or a health privacy principle under the HRIP Act.

These are both considerations against disclosure listed in the Table. Other relevant considerations may include where the disclosure of information could reasonably be expected to:

- prejudice the supply to an agency of confidential information that facilitates the effective exercise of its functions
- prejudice the effective exercise of an agency's functions.

Irrelevant considerations

There are two things that agencies cannot consider in assessing your application: whether disclosure could embarrass the Government or reduce public confidence in it, or whether you may misinterpret or misunderstand any information that is given to you.

Weighing up the factors

Once the agency identifies all relevant factors on balance, they must then weigh up whether those considerations outweigh the public interest considerations in favour of disclosure.

After identifying all relevant factors, the agency must decide whether they outweigh the public interest in disclosing the information.

If access is refused, in whole or in part, the agency must be able to demonstrate that it carefully considered all relevant factors before making its decision.

What if I am dissatisfied with the agency's decision?

If you are unhappy with the agency's decision, you can request a review. Your review rights generally include three review options:

1. Internal review by the agency
2. External review by the Information Commissioner
3. External review by the NSW Civil and Administrative Tribunal.

These are explained in the IPC Fact Sheet – Your review rights under the GIPA Act.

Other useful resources

Other resources that may be useful on this topic include:

- Fact Sheet –Your right to access government information
- Fact Sheet – What is the public interest test
- Fact Sheet – Your review rights
- Fact Sheet – GIPA Act fees and charges
- Fact Sheet – Access to a deceased person's health information

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.