

Informal Release of Government Information

IPC Training Webinar

Elizabeth Tydd

IPC CEO, Information Commissioner
NSW Open Data Advocate



information and
privacy commission
new south wales

What this learning module contains

Part 1: Informal access in context

Quiz

Part 2: Informal release – how it operates

Quiz

Part 3: Practical tools to support informal release

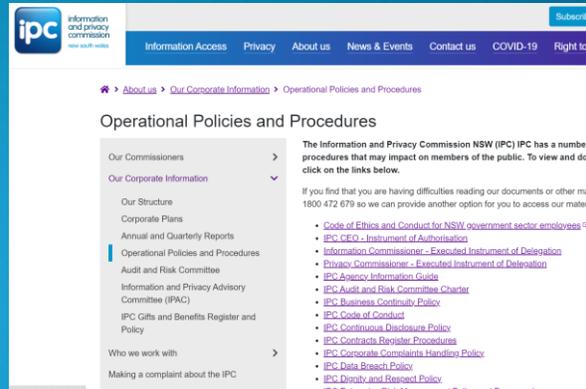
Quiz

Part 1: Informal access in context

The four access pathways under the GIPA Act

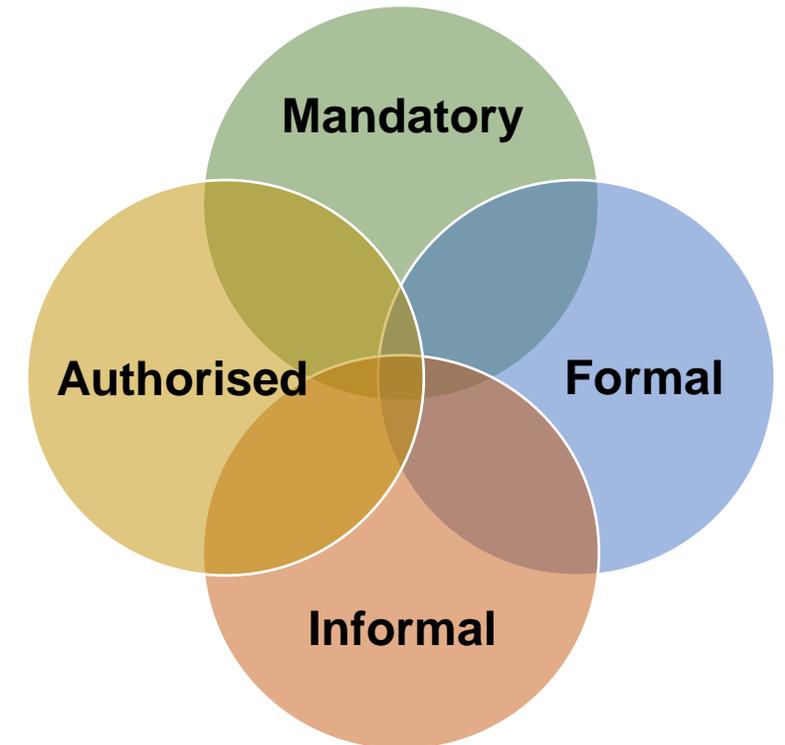
The four pathways should operate as a virtuous circle. The Four Access Pathways are:

1. Mandatory Proactive Release
2. Authorised Release
3. Informal Release
4. Formal Applications



The Virtuous Circle

- Informal and proactive release go hand-in-hand in enhancing government efficiency and transparency in decision-making processes.
- The GIPA Act:
 - provides informal and proactive release pathways in order to minimise the need for formal requests for information
 - promotes the timely release of information
 - mandates ongoing review by agencies of their information release practices
 - ensures regular and public updates of agency information holdings.



1. Mandatory Proactive release

Section 6 of the GIPA Act

- The first pathway, mandatory proactive release provides a core set of information from agencies that must be publicly available, free of charge.
- For example:
 - government contracts with the private sector together with information reflective of major activities and risks to integrity in each sector
 - disclosures of interest in the local council sector
 - travel in the Ministerial sector.

2. Authorised Release

Section 7 of the GIPA Act

- The second pathway, authorised release, enables and encourages agencies to proactively release additional information such as reports or business cases.
- It is this ongoing release of information that should be included in each agency's update of its publicly available **Agency Information Guide (AIG)**.
- An AIG sets out all of the information the agency makes available. This information will increase year on year. Therefore, yearly reviews are required to promote currency of the information provided and to ensure that agencies are aware of the information they hold.

3. Informal Release

Section 8 of the GIPA Act

- The third pathway, informal release of information enables citizens to request information informally, for example in person or during a telephone call.
- It also allows agencies to:
 - impose conditions on the release of information
 - decide the format in which information is provided
 - delete information that might render the information inaccessible because of public interest considerations against disclosure.
- Information released informally should also be considered for proactive release to the public broadly and included in the AIG.

4. Formal applications

Section 9 of the GIPA Act

- The fourth pathway, formal application, provides transparent and consistent procedures and timeframes for citizens making applications and agencies dealing with applications.
- Notices of decisions are required, and the pathway provides rights of review if a citizen is not satisfied with the agency's decision.
- Information released to one person through the formal release pathway should also be considered for proactive release to the public broadly and included in the AIG.
- This process is facilitated by the agency's disclosure log.

Part 1: Quiz

Question 1

Match each access pathway to the correct section of the Act and the purpose of the pathway:

Section	Pathway
<ul style="list-style-type: none">• Section 9• Section 6• Section 8• Section 7	<ul style="list-style-type: none">• To ensure that information is mandated as open access information and available free of charge• To enable agencies to easily release information with conditions• To enable agencies to release information that may have been released previously• To ensure that citizens have a reviewable right to access information

Question 2

What is the purpose of formal and informal pathways under the GIPA Act?

- *Write your answer in 2-3 sentences*

Part 2: Informal release – how it operates



Informal release – a program not a transaction

An informal release program will ensure agencies:

- Record information that they do and don't make available
- Can better predict and manage both informal and formal requests
- Use less resources managing information access obligations
- Comply with their proactive, authorised and informal release obligations
- Efficiently document their informal release decisions
- Provide access to more information
- Avail themselves of the protections from criminal and civil liability in the exercise of functions under the GIPA Act
- Apply conditions/redactions to information to enable release
- Facilitate effective ministerial decision-making through an efficient regime of open government and transparency
- Demonstrate a commitment to openness, accountability and transparency, increasing confidence in the administration of government.
- Overall cost saving for agencies operating information access in a holistically and effectively. Informal release is a low-cost mechanism to access information especially compared to the formal pathway.

Assessing an informal access request



Step 1: The first step requires agencies to ask a series of questions that should inform an assessment of the informal request:

1. Is it an **individual or body** requesting the information?
2. If it is a person requesting information, are they seeking **personal information**?
3. Is the information **held** by the agency?
4. Can the information be **released swiftly** either as a summary or with other conditions and/or redactions?
5. Can the information be prepared for release with **minimal costs** to the agency?

Considering Information Holdings - Where to search?

Information held by the agency	Information that is proactively released	Information that could be released	Information that may be subject to a COPIAD
<ul style="list-style-type: none">• Mandatory proactive release information• AIG• Statistics• Business Reports	<ul style="list-style-type: none">• AIG• <i>Open Access</i> information• Statistics	<ul style="list-style-type: none">• AIG• Authorised proactive release• Disclosure log	<ul style="list-style-type: none">• AIG• s6(5) information• Disclosure log• Schedules 1 and 2 of the GIPA Act

Informal release considerations

Can the information be released swiftly in a particular form?

- Summary of information
- Delete
- Apply conditions
- Cost of providing the information



Assessing information held by the agency



Step 2: The second step requires the agency to identify information that is:

1. Held by the agency
2. Proactively released by the agency
3. Suitable for release by the agency even if conditions or deletions or a change of form of access are necessary to facilitate release of information
4. Likely that an overriding public interest against the disclosure of the information might apply.

The information is held by the agency but....

It contains information that may be subject to an overriding consideration against disclosure.

Consider:

- The form of access
- The application of conditions
- A summary of information
- Deleting information
- Creating a new record
- The costs involved in providing access

Disclosure



Considerations in favour of and against disclosure

- The considerations in favour of releasing open access information operate more persuasively than in other pathways
- Considerations against disclosure can diminish over time
- An agency cannot be compelled to release information informally and may require a formal application
- The option to lodge a formal application should be communicated to the applicant

Part 2: Quiz

Question 1

Why should informal release be seen as a program?

- a) Because the GIPA Act requires it
- b) Because there are lots of informal access requests
- c) Because doing so will enable agencies to effectively comply with their proactive, authorised and informal release obligations
- d) All of the above

Question 2

What two steps should be applied when assessing the informal access request?

- *Write your answer down*

Part 3: Practical tools to support informal release

Communicating informal release

Advice to applicants about informal access regarding review and complaint rights:

- Releasing information informally is an administrative decision
- Administrative decisions should be documented
- This requires communication to the applicant
- The retention of a record of the administrative decision



Recording and adopting timeframes

- Record the date of the application
- Generate and communicate an anticipated finalisation date
- Discuss other options with the applicant if delays anticipated



Delegations/authorisations and documentation

- S8(6) – Ensure that the authority of the principal officer of the agency is provided
- Release subject to:
 - Overriding public interest against disclosure - ***document***
 - Reasonable conditions – ***document***
 - The form of access for the information to be released – ***document***
 - Deletions – ***document***
 - Decision subject to:
 - Ombudsman’s guidance of good administrative practice
 - *State Records Act 1998*

IPC guidance



The IPC has several pieces of guidance and resources to assist agencies with the informal release process:

- [Guideline 11 – Informal release](#)
- [Checklist – Informal release](#)
- [Informal release decision templates](#)
- [Fact sheet - Informal release](#)
- [Template – Agency Informal Release Record](#)
- [Statement of Principles to support proactive disclosure of government-held information – developed by all Australian Information Commissioners and Ombudsmen](#)

Part 3: Quiz

Question 1

What should you document in relation to an informal access application decision?

- a) The date of receipt
- b) The date of decision
- c) Communication with the applicant such as receipt of application and anticipated date of decision
- d) The reasons for not disclosing information
- e) What information was not provided
- f) All of the above

Question 2

What action should you take to achieve the virtuous circle?

- a) Consider releasing the information proactively
- b) Update the disclosure log
- c) Update the Agency Information guide
- d) Ensure that you have documented your decision, brief reasons and timeframes
- e) All of the above



information and
privacy commission

new south wales