



Applying for complaints information

This fact sheet is designed to assist citizens in seeking access to complaints information under the *Government Information (Public Access) Act 2009* (GIPA Act).

People involved in complaints made to and considered by agencies have an interest in the information prepared in connection with that complaint and the outcome. As a consequence an interested person may make an access application seeking information about the complaint including any reports prepared or decisions made by the agency following the complaint.

1. Can I apply for complaints information?

Yes. The GIPA Act gives a person an enforceable right to apply for access to government information.¹

You may ask for the complaint information informally² or by making a formal access request to the agency.³

If you have asked for the information informally, the agency may provide access to the information with any reasonable conditions it thinks fit to impose⁴ or the agency may refuse to release the information to you.⁵ There are no review rights when an agency refuses to release the information to you following your informal request.

However there are review rights for formal access applications.⁶

2. Will I receive everything I request?

Not necessarily. If you have made a formal access request, the agency will consider your request for information, identify the information it holds that falls within your request and then consider if the general presumption that information is to be released⁷ is in any way limited by any consideration against disclosing that information.

This balancing is known as applying the public interest test.⁸

For more information on the public interest test see the IPC fact sheet: [What is the public interest test?](#)

3. An agency has told me that I cannot apply for access to complaint information that is excluded⁹, what does this mean?

The GIPA Act sets out certain kinds of excluded information of a number of agencies including complaints, investigation, inquiry and audit information.

An access application cannot be made to an agency for excluded information of the agency.¹⁰ This means you cannot access to complaints information of those agencies.

Some of the agencies (and statutory office holders) whose complaint handling functions are excluded include:

- The Independent Commission Against Corruption
- The Office of the Ombudsman
- Health Care Complaints Commission
- The Information Commissioner
- The Privacy Commissioner

You can review the Agency Information Guide (AIG) on the agency's website to identify if the complaint information you seek may be excluded information. Or you can contact the information access unit before you make an access application.

4. What are the common reasons for an agency not releasing complaints information?

There are a number of public interest considerations against the disclosure of information. The agency is likely to make reference to one or more of the considerations listed in the GIPA Act.¹¹

¹ Section 3(1) GIPA Act

² Section 8 GIPA Act

³ Section 9 GIPA Act

⁴ Section 8(2) GIPA Act

⁵ Section 8(3) GIPA Act

⁶ Sections 82, 89 and 100 GIPA Act

⁷ Section 12 GIPA Act

⁸ Section 13 GIPA Act

⁹ Clause 2 Schedule 2 GIPA Act

¹⁰ Section 43 GIPA Act

¹¹ Table to section 14 and Schedule 1 GIPA Act

Two commonly applied considerations against disclosure are personal information and information provided in confidence. There may be additional complaints information that the agency refuses to release because it will affect the effective exercise of agency functions.

Personal Information

There may be personal information of others, as well as your own with a complaint. You will generally be given access to your own information. However an agency may find that the public interest is against releasing someone else's personal information to you. This means the personal information of others may not be released to you and you will only receive some of the information you seek.

Information provided in confidence

Agencies may identify that information provided in connection with complaints is provided in confidence and the release of this information may affect the provision of confidential information in the future. This means that you might only receive some part of the information you seek.

Effective exercise of agency functions

Agencies may identify that the release of information provided in connection with complaints may affect the effective exercise of the agency's functions. This means that you might only receive some part of the information you seek.

5. What if I am asking for complaints information to ensure accountability of the agency?

This should be considered by the agency in applying the public interest test. This is a consideration that favours the disclosure of the information you are seeking and you should advise the agency of the reasons for seeking the information. Similarly, if you are requesting the information to assist you with some legal action you should let the agency know, as the agency will include this as a part of applying the public interest test.

6. Should I tell the agency my reasons for asking for the complaints information?

Providing your reasons for asking for the information will assist the agency in identifying the factors in favour of releasing the information, which is part of the agency applying the public interest test.¹²

However the GIPA Act does not require you to provide your reasons for asking for the information to the agency.¹³

7. Review of the agency's decisions

Information on review rights may be found in the *IPC Fact Sheet: Your review rights under the GIPA Act*.

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

ⁱ The IPC acknowledges the materials published by the Office of the Information Commissioner, Queensland in the production of this fact sheet.

¹² Section 42(a) GIPA Act

¹³ Section 41(1) GIPA Act