



Care leavers: making an application for out-of-home care records under the GIPA Act

A checklist to assist care leavers when making an application for access to their out-of-home care (OOHC) records under the *Government Information (Public Access) Act 2009 (NSW)* (GIPA Act). This checklist provides tips for framing a formal request for access to OOHC records.

This checklist can be used by care leavers who have been in out-of-home care in NSW and are seeking access to these records under the GIPA Act. The GIPA Act entitles you to seek access to care records held by NSW public service agencies, but also requires you to clearly describe the information that you are seeking.

Care leavers face unique challenges when seeking access to their care records. These records can capture a long period of time during the care leaver's statutory care. Sometimes a care leaver may not remember many details about their care placement or provider. Historical care records may have been destroyed or are lost.

For Aboriginal and Torres Strait Islander persons who have been forcibly removed from their families and communities, access to care records is important to provide access to basic family information, and information about their communities. If you are a person who is of the stolen generations, you may have been relocated in care arrangements in other states and territories, and some records about your history can be located in states or territories other than New South Wales.

If your application does not clearly identify the information you are seeking, it may be difficult for an agency to identify and locate the records.

The following checklist can guide you to achieve a better outcome when making an access application for your NSW OOHC records under the GIPA Act.

Question	Comment/tip
Have you approached the agency for assistance?	<ul style="list-style-type: none">• An agency may be able to provide you with advice and assistance if you contact the agency and explain that you would like to access your care records.• Agencies may also discuss options with you, such as informal arrangements and support services for accessing care leaver records.
Is the information about your care arrangements outside NSW?	<ul style="list-style-type: none">• Requests made under the GIPA Act must be for records held by NSW agencies.• If you were relocated in care arrangements in other states or territories, you should consider seeking access to records under that state or territory's information access laws.
What happens when you make an application for your OOHC records under the GIPA Act?	<ul style="list-style-type: none">• When you make a formal request for information under the GIPA Act, the Act requires the agency to provide you with assistance and advice. This may be particularly important if it is difficult for you to identify historical care records over a long period of time.• When you make a formal application, you will receive the agency's reasons about whether to provide you with access to the OOHC records, and you may also seek a review of their decision.

<p>Have you identified that you are a care leaver who is applying for access to your OOHC records?</p>	<ul style="list-style-type: none"> • <i>IPC Guideline 8 Care Leavers' access to OOHC records</i> refers to 'care leavers' as all people who have left out-of-home care in New South Wales, including in the last century. This includes Aboriginal and Torres Strait Islander persons and people who arrived in Australia as child migrants. • Care leaver records may be about your foster care, kinship care, or your time living in government orphanages, children's homes, or other institutional residential care. • It is important that your application is as specific as possible and provides details about your care arrangements. You may have been a baby or young child and do not know very much other than the time that you were living in out-of-home care. However, providing this detail can assist the agency to identify the records and provide you with those records.
<p>Which agencies may hold your OOHC records?</p>	<ul style="list-style-type: none"> • Many NSW government agencies hold records relating to OOHC arrangements. This mainly includes the Department of Communities and Justice which comprises the former Department of Family and Community Services and NSW Department of Justice. Other agencies can include, the NSW Trustee and Guardian, Police Force NSW, and the NSW Department of Education. • Sometimes more than one agency will hold the information. An agency may be able to assist you in obtaining information from other organisations that provided care.
<p>Have you described the type of information that you are seeking?</p>	<ul style="list-style-type: none"> • It may be difficult for you to identify the actual records, but it would assist an agency to locate information if you describe details about your care, such as the time period (e.g. when, how many years you were in statutory care, and whether your request concerns records for all or some of these years) • It will help to identify whether you are seeking historical records, or more recent records upon leaving care as a young care leaver. It may assist if you are able to provide your date of birth. • If you are seeking a large amount of information, you should be as specific as possible. An access request that seeks a large volume of records may not be dealt with by the agency.
<p>Have you set out the personal reasons for your application for OOHC records?</p>	<ul style="list-style-type: none"> • You are not required to explain why you are seeking access to your OOHC records when you make an application under the GIPA Act. • However, an agency may take into account your personal factors as reasons to provide you with the information. • For applicants who are Aboriginal or Torres Strait Islander persons, access to OOHC or institutional care records may also provide knowledge of kin, community, heritage and culture. • Personal factors can also include: <ul style="list-style-type: none"> ○ your identity and relationship with another person ○ why the information is important to you, for example, information may provide unique and significant personal information about your childhood, care history, knowledge of and relationship with family and biological relatives.
<p>Are you seeking information about other people, such as relatives or carers?</p>	<ul style="list-style-type: none"> • You can request information about other people, including carers or kinship carers, carers' relatives, biological family members or kin whose personal information is contained in the records.

	<ul style="list-style-type: none"> It is important to say why you are seeking this information because the agency is required to ask any third party who is identified in the information about whether they object to the release of information.
Have you asked the agency about a discount for the cost of processing your application?	<ul style="list-style-type: none"> Agencies may decide that you are entitled to a fee discount or no fees in some circumstances, including where the application is for personal information. A discount may apply to your application for your OOHC records, as your records are about your personal information. If you are experiencing financial hardship, you may be able to apply for a financial hardship discount.

Additional information to assist you

Formal requirements for making an access application under the GIPA Act

- a formal request for information under the GIPA Act must be made in writing
- there are specific time frames to process your request (see IPC [Fact Sheet on time frames to process GIPA applications](#))
- an agency must provide advice and assistance, where reasonable, to assist you to provide information necessary to enable you to make a valid access application, including providing you with a reasonable opportunity for you to amend the application
- an agency can refuse to deal with an application if dealing with the application requires an unreasonable or substantial diversion of resources, and an agency may ask the applicant to narrow or refine the scope of the information sought
- processing fees may apply from the second hour of processing (for general information requests), and from 20 hours of processing (for personal information requests).

Go to our website for more guidance on information access and tips for making an application, including:

- [Fact Sheet on making a valid access application](#)
- [Checklist on tips for framing your information access application](#)
- [Fact sheet GIPA Act Fees and charges](#)
- [IPC Guideline 8 Care Leavers' access to their out-of-home care records](#) can provide you with helpful information regarding decision-making by agencies about access requests for OOHC records

Have you considered who can support you with access to your care records?

The information that you seek about your care history may be highly sensitive and confronting. Information which deals with difficult personal experiences and may be distressing for you to read, may be released to you in response to your formal request for information under the GIPA Act. The Department of Communities and Justice has available on its website information about support services for care leavers when accessing care records, available here:

<https://www.facs.nsw.gov.au/families/out-of-home-care/about-out-of-home-care/were-you-in-out-of-home-care>

If you are an Aboriginal or Torres Strait Islander person, there are specific services which are available to support you. Link-Up (NSW) states that it assists all Aboriginal people who had been directly affected by past government policies; being separated from their families and culture through forced removal, being fostered, adopted or raised in institutions. You can access their website here: <http://www.linkupnsw.org.au/who-we-are/>

[IPC Guideline 8 Care Leavers' access to their out-of-home care records](#) identifies for agencies some helpful ways to assist a care leaver when providing access to OOHC records. This may include alerting the care leaver to the potentially distressing material.

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