



The role of principal officers and senior executives in supporting the object of the GIPA Act

Fact sheet

July 2017

This fact sheet is designed to assist principal officers and senior executives to promote awareness and foster an organisational culture that advances the object of the *Government Information (Public Access) Act 2009* (GIPA Act).

Leaders occupy an important role in operationally securing the object of the GIPA Act to:

- authorise and encourage the proactive release of government information by agencies
- give citizens an enforceable right to access government information
- ensure that access to government information is restricted only where there is an overriding public interest against disclosure.

The importance of leadership involvement

The Information Commissioner has identified that strategic, operational and cultural factors need to be targeted to stimulate the effective, ongoing, release of government-held information. Leaders have a responsibility to achieve this outcome.

Public sector leaders have a duty to promote transparent and Open Government.¹

Building a culture of accountability has been identified as a factor to drive the progress of reform in the NSW public sector.²

Increasing the amount of accessible government information and data improves transparency and accountability, supports evidence-based policy development, and provides a platform for innovation.³

These benefits can be realised by ensuring that information release is a planned strategic intention that will also benefit and inform other areas of your agency's work.

The following principles provide guidance to assist you in ensuring that information access is an integral part of your agency's business and that all staff recognise their duty to assist in facilitating timely access to information.

1. Uphold the Public Sector's leadership commitment

Your responsibilities under the GIPA Act and the *Government Sector Employment Act 2013* (GSE Act) are complimentary.

You are required to uphold Government sector core values.⁴ These expressly include upholding the law, institutions of government and democratic principles,⁵ and providing transparency to enable public scrutiny.⁶

Often compliance with these core values is expressed in an agency's Code of Conduct to further promote compliance.

"Leadership matters. Whether it is in setting direction, in executing strategy, in shaping organisational culture, or in driving results, leadership is key."⁷

There are key areas and strategies that you can implement to protect and promote a cultural and organisational environment that enlivens the intent of the GIPA Act. This will help advance a responsible and representative democratic Government,⁸ leading to Open Government and a participatory democracy.

2. Promote the four Pathways

You are obliged to ensure the four Pathways under the GIPA Act are upheld. These include:

- making 'open access' information publicly available, unless there is an overriding public interest against disclosure (see 5 below)⁹
- promoting the disclosure of government information by regularly reviewing the release program for information (see 3 below)¹⁰

¹ Section 7, *Government Sector Employment Act 2013* (GSE Act)

² <https://www.psc.nsw.gov.au/reports---data/state-of-the-sector/state-of-the-sector-2016>

³ *Report on the operation of the GIPA Act 2009 2015-2016*, page 3

⁴ Section 7 GSE Act

⁵ Section 7(c) (Trust) GSE Act

⁶ Section 7 (c) (Accountability) GSE Act

⁷ Graeme Head, Public Service Commissioner, *Leadership Matters Report of the State of the Public Sector 2016*, page 3

⁸ Section 3(1) GIPA Act 2009

⁹ Section 6 GIPA Act

¹⁰ Section 7 GIPA Act

- promoting the disclosure of government information when an informal request is received,¹¹ unless there is an overriding public interest against disclosure
- providing access to information when a person has made an application for that information,¹² unless there is, on balance, an overriding public interest against disclosure.

You should ensure that all staff are aware that meeting GIPA Act obligations is the responsibility of the agency as a whole.

3. Promote a pro-disclosure culture

A pro-disclosure culture supports the regular release of information held by an agency.

It encourages involvement of citizens in government and informs sound decision-making, policies and service delivery.

Achieving a pro-disclosure culture will depend largely on your approach and that of others in leadership roles: When it is clear to staff that their leaders respond to information requests positively and view them as an opportunity to operate more transparently in an engaging and accountable manner, staff will adopt the same practices.¹³

Setting a strategic framework around supporting the disclosure of government information also articulates the benefits of transparency. Providing clear detailed guidance on the information that the agency should be publishing will also promote information release.¹⁴

Release of government information program

Reviewing your agency's information release program is required at least every 12 months and this should be part of the agency's strategic framework.¹⁵

Agency Information Guides (AIGs)

All agencies, other than Ministers, must have an AIG,¹⁶ and the AIG must be reviewed and a new AIG adopted at least every 12 months.¹⁷ See the IPC's: [Guideline 6 Agency Information Guides](#) and [Agency information Guide self-assessment checklist for agencies](#).

4. Raise awareness of information access issues regularly and proactively

Strategies can include:

- inviting Right to Information or GIPA officers to address staff

¹¹ Section 8 GIPA Act

¹² Section 9 GIPA Act

¹³ Chief Ombudsman *op cit* page 3

¹⁴ Chief Ombudsman *op cit* page 4

¹⁵ Section 7(3) GIPA Act

¹⁶ Section 20 GIPA Act

¹⁷ Section 21 GIPA Act

- facilitating discussion at staff meetings about the GIPA Act and information access processes
- passing on updates about information access, Open Data and record keeping issues and obligations
- encouraging relevant training opportunities
- making information access a standing item in leadership meetings
- incorporating into the agency's strategic vision, values, and Code of Conduct, a commitment to openness and transparency and support for a pro-disclosure culture.¹⁸

5. Assess whether to release data and other information under authorised proactive release

Where information is frequently requested (such as agency statistics), you should consider publishing the information on www.data.nsw.gov.au, or making it available in other ways outside the formal access application process.

Your agency disclosure log should be regularly reviewed to determine if information provided under formal access applications could be published or made available under authorised proactive release.

Not only is this approach in keeping with the object of the GIPA Act, it is also more proactive and efficient than requiring interested citizens to make formal access applications for government information.

6. Ensure your agency has sound record keeping practices

A failure in information governance can present a significant risk. You should ensure that the agency record management systems and practices facilitate the timely and accurate processing of information access requests.

Searches for information falling within the scope of requests for information will be easier if your agency has in place a sound records management system and applies consistent naming conventions and search terms.

7. Support informed and independent decision-making by Right to Information officers

Ensure there is sound understanding amongst staff that, while a decision-maker may consult a wide range of people including experts in business areas, a decision-maker must not be subject to direction in making their decision under the GIPA Act.¹⁹

Informed and independent decision-making in deciding access to government information is facilitated by the

¹⁸ *ibid* page 3

¹⁹ Section 9(2) GIPA Act

GIPA Act.²⁰ Decision-makers are especially required, when determining the public interest, to have regard to the principles articulated in section 15 of the GIPA Act and, in particular, section 15 (c) where it is not relevant to consider a loss of confidence or embarrassment to the Government in a proposed release of information.

The independence of decision-making is also reinforced by the requirement to provide apolitical and non-partisan advice.²¹

This recognition of independence does not prohibit the establishment of effective relationships with Ministers and Ministerial staff. However these relationships should not impede independent decision-making.²²

To do their jobs effectively when a request for government information has been received, Right to Information or GIPA officers rely on the assistance of staff in operational areas to identify and provide relevant documents and expert assistance promptly.

However, staff in operational areas will not necessarily deal with information access requests on a regular basis, and their focus may be on other organisational priorities. Accordingly, a culture of responsibility and timeliness is required to promote to support these statutory functions.

Build capabilities

Inadequate training and/or procedures can leave agencies vulnerable to non-compliance, undue influence,²³ and ultimately an escalation in complaints.

Investing in the capabilities of staff who are involved in dealing with information access requests will lead to better decision-making, analysis, and build capacity within the agency.

You should ensure systems are in place to monitor staff training and ensure that new staff receive base line training, including the IPC's free [eLearning modules](#).

Additionally, changes in recordkeeping practices necessitate contemporary knowledge and robust procedures to benefit the agency in exercising its functions.

Designate contacts for GIPA matters

It may be helpful to identify one or two contacts for GIPA matters in business areas that receive frequent information access requests. These contacts may assist with retrieval of information and provide context and advice on behalf of the business area to support the decision-maker.

8. Review the resources available for dealing with access requests

You should review the resources available for dealing with information access requests and ensure that the resources are sufficient to manage the requests.

This is particularly important during periods where there is an increase in the number or complexity of requests for access to government information made to the agency.

The IPC's [GIPA case management tool](#) provides agencies with functionality enabling report generation that can be applied to track and monitor applications and timeframes. Utilising this tool will assist the agency in better managing GIPA applications generally.

9. Performance monitoring

You can set key performance indicators for staff on compliance with their responsibilities under the GIPA Act.²⁴

This would encourage staff to champion your agency's proactive release program, helping to embed a pro-disclosure culture.

Regular monitoring and assessment of access applications (both informal and formal), as well as complaints received about information access, are a rich source of information that your agency can apply to:

- ensure consistency in decision-making
- understand what information your agency holds is of interest to citizens and where a program of proactive release will provide the most impact and benefit to opening government information to citizens.²⁵

The IPC's website (www.ipc.nsw.gov.au) has a range of resources to assist agencies in elevating the quality of their processes, procedures and training in achieving the object of the GIPA Act to open government information to the public.²⁶

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

²⁰ Sections 16, 53 and 54 GIPA Act

²¹ Section 7(e) (Trust) GSE Act

²² Chief Ombudsman *op cit* page 4

²³ *ibid* page 5

²⁴ IPC Fact Sheet: [Quick guide to my responsibilities under the GIPA Act](#)

²⁵ Chief Ombudsman *op cit* page 11

²⁶ Section 3 GIPA Act