

## Government Information (Public Access)—Agency Information Guide

### Introduction

The *Government Information (Public Access) Act 2009* ('GIPA Act') provides for public access to government held information. The legislation, which commenced in 2010, was introduced to provide an open and transparent process for giving the public access to information from New South Wales public sector agencies and to encourage the proactive public release of government information.

The object of the GIPA Act is to open government information to the public by:

- giving members of the public a legally enforceable right to access government information,
- ensuring that access to government information is restricted only when there is an overriding public interest against releasing that information,
- authorising and encouraging the proactive release of information by NSW public sector agencies.

The GIPA Act is administered by the Information and Privacy Commission (IPC), an independent statutory body, that promotes and protects privacy and information access rights in New South Wales. The IPC website ([www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)) contains information for government agencies and the public about accessing government information in NSW.

### The structure and functions of the Parliamentary Counsel's Office (PCO)

PCO provides a comprehensive legislative drafting services for the Government and a more limited drafting service for Non-government Members of Parliament. PCO is also responsible for providing public access to legislation, which it does through the NSW legislation website ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)). PCO's main clients are the Parliament, Cabinet, all NSW government agencies, local councils and users of legislation (which are primarily regulators, lawyers, the judiciary, librarians and researchers).

PCO provides a limited information service to the public about how to access legislation, the status of individual Acts or Regulations, which department administers a piece of legislation, and how to navigate the information resources available on the NSW legislation website. However, PCO does not directly administer the legislation it publishes and is not responsible for its policy or implementation. PCO also cannot provide the public with statutory interpretation services, legal advice or an assessment of how legislation may apply to particular circumstances.

The nature of PCO's legislative drafting functions means we have very little direct interaction with the public, with all legislative drafting material relating to Cabinet, Executive Council or legally privileged matters. However, PCO's function of providing public access to legislation does include services to the

public. Feedback is sought via a survey run on the NSW legislations website in May/June each year. Public users of that website are invited to participate in that survey to help shape the delivery of that service.

### **Administration of GIPA at the Parliamentary Counsel's Office (PCO)**

The guiding principle of the GIPA Act is public interest. It is generally presumed that all government agencies will disclose or release information, unless there is an overriding public interest against doing so.

It is noted that most PCO documents cannot be released as they are Cabinet documents or documents attracting legal professional privilege and there is an overriding public interest against disclosing these documents to the public. However, one of PCO's key objectives is to facilitate public access to legislation (namely, legislation that has been enacted, introduced into Parliament or released for public consultation) and PCO actively provides free public access to that legislation and as much information about legislation as possible.

The GIPA Act provides four ways for accessing government information. These are described below together with their implementation at the PCO:

#### **1. Open access information (mandatory release)**

Agencies are required to release certain information, unless there is an overriding public interest against doing so. Generally, open access information must be available on an agency's website. A list of particular information needed to be released is provided in the *Government Information (Public Access) Regulation 2009*.

At the PCO, information that is open access is available on the PCO's corporate website ([www.pco.nsw.gov.au](http://www.pco.nsw.gov.au)) and includes PCO's Annual Reports, Code of Conduct and other corporate documents that outline how PCO operates.

#### **2. Authorised proactive release**

If it is in the public interest, agencies are authorised and encouraged to release as much other information as possible, free of charge or at the lowest possible cost.

The PCO is continually aiming to increase access to legislation and information about legislation for lawyers, researchers and other users of legislation. Access is provided to the public by the PCO maintaining three websites:

- the legislation website ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)) is the official NSW Government website for online publication of legislation (including the Government Gazette).
- the corporate website ([www.pco.nsw.gov.au](http://www.pco.nsw.gov.au)) provides information about the PCO and its functions, plans, reports and policies.
- the Australasian Parliamentary Counsel's Committee website ([www.pcc.gov.au](http://www.pcc.gov.au)) contains a range of publications about the operations of the Committee, including information relating to the drafting of national uniform legislation.

The PCO has proactively reviewed and published information, procedures and policies on its websites. Information is being assessed and published on the websites on a continual basis and is reviewed at least once every 12 months.

The PCO publishes current in force versions of legislation on the NSW legislation website, together with historical versions of legislation to provide a “point-in-time” view of legislation. PCO also publishes the Government Gazette and the notification of the making of new statutory instruments on that website. Historical Gazettes back to 2001 are also available on the website, together with a collection of historical tables and publications about legislation, generally.

The PCO has assessed and released the following documents to the public on its legislation website ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)):

- Manual for the Drafting of Non-Government Legislation

- Drafting practice guides on plain language, general neutral language, savings and transitional provisions and legislative definitions

- Guidance on how legislation is made and how to read legislation

- Information on the Automatic Parliamentary Tabling Scheme

- Council information for delegated plan-making

- Information about the Staged Repeal of Statutory Rules

- Procedures and templates for the gazettal of notices

### **3. Informal release of information**

A person may contact the agency and ask for information. This is known as an informal request. Agencies can release information informally, subject to any reasonable conditions.

Most informal requests come through PCO’s Legislation Information Service – a telephone and email service providing general information about legislation, primarily about the information available on the Legislation Website. Those requests are handled by the employees assigned to that service and are dealt with according to the “public interest test” but also keeping in mind the limitations on this service, which cannot provide statutory interpretation, legal advice or detailed research assistance.

All other requests that cannot be dealt with the Legislative Information Service are referred to the Information Officer at the Parliamentary Counsel’s Office for assessment and response. The GIPA Information Officer applies the ‘public interest test’ in consideration of all requests (refer to the fact sheet *What is the public interest test?* available on the Information and Privacy Commission website).

### **4. Access application (also known as a formal application) for release of information**

If the information cannot be accessed through the above methods, an access application may be made. The relevant form is available on the PCO website at [www.pco.nsw.gov.au](http://www.pco.nsw.gov.au). Further

information for applicants about the application process, including application fees, is available on the the [Information and Privacy Commission website](#).

All applications are referred to the Information Officer for assessment and response within the time frames detailed in the legislation. The GIPA Information Officer applies the 'public interest test' in consideration of all applications.

Statistical information regarding formal applications is included in the PCO's Annual Report.

### Contact details

Any request or queries in relation to accessing PCO information under GIPA should be directed to:

#### **GIPA Information Officer, Parliamentary Counsel's Office**

Post: GPO Box 4191, Sydney NSW 2001  
Email: [parliamentary.counsel@pco.nsw.gov.au](mailto:parliamentary.counsel@pco.nsw.gov.au)  
Phone: (02) 9321 3333  
Business Hours: Monday - Friday: 9:00 am to 5:00 pm (Special arrangements apply on days when Parliament is sitting)  
Office: Level 1, 60 Elizabeth St, Sydney NSW 2000

<b>Publication History</b>	
File Location	<i>T:\Policies\GIPA\GIPA Policy_2019_Draft_Final.docx</i>
Publication first issued	4 July 2015
Revised:	30 July 2019