

Your review rights under the GIPA Act

The new right to information system in New South Wales aims to foster responsible and representative government that is open, accountable, fair and effective.

You have the right to request a review of a decision regarding the release of information if you disagree with any of the following agency decisions as set out under the *Government Information (Public Access) Act 2009 (GIPA Act)*:

- a) a decision that an application is not a valid access application
- b) a decision to transfer an access application to another agency, as an agency-initiated transfer
- c) a decision to refuse to deal with an access application (including such a decision that is deemed to have been made)
- d) a decision to provide access or to refuse to provide access to information in response to an access application
- e) a decision that government information is not held by the agency
- f) a decision that information applied for is already available to the applicant
- g) a decision to refuse to confirm or deny that information is held by the agency
- h) a decision to defer the provision of access to information in response to an access application
- i) a decision to provide access to information in a particular way in response to an access application (or a decision not to provide access in the way requested by the applicant)
- j) a decision to impose a processing charge or to require an advanced deposit
- k) a decision to refuse a reduction in a processing charge
- l) a decision to refuse to deal further with an access application because an applicant has failed to pay an advance deposit within the time required for payment
- m) a decision to include information in a disclosure log despite an objection by the access applicant (or a decision that the access applicant was not entitled to object).

You generally have three review options:

1. Internal review

You have 20 working days after the notice of a decision has been given to you to ask for an

internal review, by the agency that made the decision.

If a Minister or the principal officer of an agency made the decision, you cannot ask for an internal review, but you can ask for an external review (see below).

The review must be carried out by an officer who is no less senior than the person who made the original decision. The review decision must be made as if it was a fresh application.

There is a \$40 fee for an internal review application. No fee applies for an internal review if the decision is a 'deemed refusal' because the agency did not process your application in time or the internal review is conducted because the Information Commissioner has recommended the agency reconsider its decision under section 93 of the GIPA Act. In this case, you cannot be charged any review fee.

The agency must acknowledge your application within five working days of receiving it. The agency must decide the internal review within **15** working days (this can be extended by **10** days, if the agency has to consult with a third party or by agreement with you).

2. External review by the Information Commissioner

If you disagree with any of the decisions listed above, you can ask for a review by the Information Commissioner.

If you are the person applying for access to information, you do not have to have an internal review of the decision before asking the Information Commissioner to review it.

If you are not the access applicant, you must seek an internal review before applying for review by the Information Commissioner. However, if an internal review cannot be sought, you can seek a review by the Information Commissioner.

You have 40 working days from being notified of the decision to ask for a review by the Information Commissioner.

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There is no provision in the GIPA Act that permits the Information Commissioner to accept applications out of time.

On receiving the decision, the Information Commissioner can make recommendations about the decision to the agency.

Note: You cannot ask the Information Commissioner to review a decision that has already been reviewed by the NSW Civil and Administrative Tribunal (NCAT).

3. External review by the NSW Civil and Administrative Tribunal (NCAT)

If you disagree with any of the decisions listed above, you can ask for an external review by NCAT. You do not have to have the decision reviewed internally, or by the Information Commissioner, before applying for a review by NCAT.

You have 40 working days from being given the decision to apply to NCAT for review.

However, if you have applied for review by the Information Commissioner, you have 20 working days from being notified of the Information Commission's review outcome, to apply to NCAT.

For more Information

Contact: **South Eastern Sydney Local Health District**

Website: www.seslhd.health.nsw.gov.au

Email: seslhd-executiveservices@health.nsw.gov.au

Mail: Locked Mail Bag 21
TAREN POINT NSW 2229

Phone: 9540 8850 between 8:30am to 5:00pm,
Monday to Friday (excluding public holidays).

Contact: **Information and Privacy Commission (IPC)**

Website: www.ipc.nsw.gov.au

Email: ipcinfo@ipc.nsw.gov.au

Phone: 1800 472 679

If you have a hearing or speech impairment, you can call the IPC through the National Relay Service (NRS) on **133 677** or if you want to talk to the IPC with the assistance of an interpreter, you can call

through the Translating and Interpreting Service (TIS) on **131 450**. NRS and TIS are free services.

Contact: **NSW Civil and Administrative Tribunal**

Website: www.ncat.nsw.gov.au

Phone: 1300 006 228

If you have a hearing or speech impairment, you can call the NCAT through the National Relay Service (NRS) on **133 677 and ask for 1300 135 399** or if you want to talk to the NCAT with the assistance of an interpreter, you can call through the Translating and Interpreting Service (TIS) on **131 450**. NRS and TIS are free services.