

Information Access

Policy

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1. Policy Statement

The Greater Cities Commission (Commission) is committed to maintaining a system of responsible and representative democratic government that is open, accountable, fair and effective, and supports the appropriate release of government information. The Commission achieves this commitment by making information available in accordance with a number of legislative and policy requirements.

The [Government Information \(Public Access\) Act 2009](#) and the [Government Information \(Public Access\) Regulation 2018](#) encourages the regular proactive disclosure and timely release of government information. In addition, the [NSW Government Open Data Policy](#) supports the management and release of data that is open, discoverable, and useable.

The Commission also responds in a timely and coordinated manner to:

- Orders for papers issued by the NSW Legislative Council under [Standing Order 52](#);
- Notices for information issued by government bodies with investigative powers; and
- All legal documents issued by a court or tribunal, (e.g. subpoenas or notices to produce, addressed to the Commission for production of documents.

To support the Commission's commitment to facilitating appropriate access to government information, staff must be aware of their obligations in the following instruments:

- This Information Access Policy (Policy);
- the Commission's Public Access to Information Procedure;
- the Commission's Privacy Management Plan;
- the Commission's Electronic Data Records Management Policy;
- the Commission's Electronic Data Records Management Procedure;
- the Commission's Information Security Policy;
- the [NSW Government Open Data Policy](#);
- the [Government Information \(Public Access\) Act 2009](#);
- the [Government Information \(Public Access\) Regulation 2018](#); and
- the [Privacy and Personal Information Protection Act 1998](#).

Appendix 1 contains defined terms used in this Policy.

2. Who does this Policy apply to?

This Policy applies to all staff including:

- permanent staff;
- temporary staff;
- casual staff;
- other Government sector employees who are on secondment or assigned to the Commission;
- contractors;
- consultants;
- volunteers; and
- employees of organisations who provide services under contract to the Commission.

For the purposes of this Policy, "staff" refers to all people to whom this Policy applies.

In this Policy, a reference to a senior executive manager means:

- Chief Executive Officer;
- Executive Director; and
- Director.

3. Key responsibilities

Chief Executive Officer

Chief Executive Officer is responsible for:

- promote the Government's open government principles by encouraging appropriate disclosure of government information;
- ensure compliance with the disclosure and non-disclosure requirements of relevant legislation; and
- delegate responsibilities and functions of the *GIPA Act* to appropriate officers.

Senior Executive Managers

Senior Executive Managers are responsible for:

- promoting the principle of open government by encouraging appropriate disclosure of information;
- proactively facilitating information access awareness training for staff;
- assessing data and other information under authorised proactive release;
- ensuring staff comply with the Commission's record keeping standards under the Electronic Document Records Management Policy and Information Security Policy;
- supporting the informed and independent decision-making of the Right to Information Officers;
- ensuring appropriate resources are provided to assist Right to Information Officers to respond to information access requests.
- ensure that all staff comply with this Policy.

Managers / Supervisors

Managers / Supervisors (responsible for supervising or managing an individual or group of staff), are responsible for:

- implementing this Policy within their area of responsibility; and
- model, communicate, and support the disclosure of information as outlined in this Policy.

Right to Information Officer

Right to Information Officer responsible for:

- conducting an annual review and publication of open access information and proactive access information;
- making decisions, and advising other authorised officers on making decisions, on the proactive or informal disclosure of information;
- managing formal access applications, and administrative and liaison matters, including requests for reviews of determinations;
- facilitating the Commission's compliance with the *GIPA Act* and *GIPA Regulation* reporting requirements; and

- providing advice on information access matters to all levels of the Commission.

Staff

All staff are responsible for:

- providing any and all records held that fit within the scope of requested information by a Right to Information Officer or the Director, Governance and Legal;
- complying with this Policy in the public disclosure of government information; and
- maintaining record standards as prescribed in the Commission's Electronic Documents and Records Management Policy and Procedure.

4. Principles of open government

The Commission supports a system responsible and representative democratic government by promoting and embedding the principles of open government information and open data.

Open government information authorises and encourages government agencies to provide members of the public with an enforceable right to access government information unless there is an overriding public interest against disclosure (OPIAD).

5. Government Information (Public Access) Act

The *GIPA Act* aims to authorise and encourage government agencies to provide members of the public with an enforceable right to access government information unless there is an OPIAD.

The Commission makes government information available in accordance with the *GIPA Act* through:

- open access;
- proactive access;
- informal access; and
- formal access.

OPIADs are reasonable objections to the release of government information under the *GIPA Act*, including but not limited to:

- the release of certain information which would prevent the government from working effectively;
- the release of certain information which would be an unreasonable invasion to someone's privacy; or
- the release of certain information may damage someone's business.

For more information relating to information released in accordance with the *GIPA Act*, staff should refer to the Commission's Public Access to Information (GIPA) Procedure.

6. Open Data

The Commission is committed to the objectives of the [NSW Government Open Data Policy](#) which promotes compliance with the *GIPA Act* and supports ease of access to high value data sets for community and industry stakeholders.

Open data supports the principle of open government information by encouraging government agencies to manage data as a strategic asset that is:

- open by default unless there is an OPIAD;
- prioritised, discoverable and usable;
- primary and timely;
- well managed, trusted and authoritative;
- free where appropriate; and
- subject to public input.

Operating under an assumption of open by default ensures staff maintain the integrity and quality of all data (including metadata) created or handled while performing the function of their duties.

To read the principles of open data in full, please refer to the [NSW Government Open Data Policy](#).

The Commission fulfills its commitment to open data through the appropriate review and release of data in accordance with the *GIPA Act* and the Commission's Public Access to Information (GIPA) Procedure.

7. Orders for papers

The release of government information is also a valuable tool for providing oversight of the Executive Government and thus maintains the principle of Common Law and supports an effective and functioning government.

The Legislative Council has the power to order the production of papers by the Executive Government and their responsible agencies.

Documents provided in a response to an Order for papers are made publicly available without any restrictions on access, unless the Government agency makes a claim for privileged information.

Claims of privilege may be sought on the basis of (but are not limited to):

- legal professional privilege;
- Parliamentary privilege; and
- public interest immunity.

The Commission may refuse to return certain information that is Cabinet in Confidence.

For more information relating to Orders for papers, staff should refer to the Commission's Orders for papers (SO52) Procedure and the Standing Order 52 Guide to identifying Privilege and Cabinet documents.

8. Subpoenas and notices to produce

During legal proceedings, parties to the proceedings may require information from a person or entity to build evidence for their case.

Subpoenas may be ordered to any person or entity who is not a current party to the proceedings. The requested information must be specific and serve a demonstrated 'legitimate forensic purpose'.

Notices to produce may be ordered to any person or entity who is a current party to the proceedings. The requested information may be broader than subpoenas.

Claims of privilege may be made for certain information to prevent the public release of that information and restrict the access granted to that information during the proceedings.

Failure by the Commission to provide information requested through a subpoena or notice to produce without a lawful excuse could be considered contempt of court.

Where the Commission receives a subpoena or notice to produce these should be directed to the Director, Governance and Legal to review.

9. Information management

To support the principles of open government and ensure that the Commission can respond to information access requests in a timely and effective manner, staff must ensure that information is appropriately managed.

Appropriate information management requires staff to:

- create and maintain records according to the standards of the Commission’s Electronic Documents and Records Management Policy and Procedure;
- handle all personal information and health records in accordance with the Commission’s Privacy Management Plan and NSW privacy laws;
- be aware of and mitigate (where possible) cyber security threats that may compromise information held by the Commission, in accordance with the [NSW Cyber Security Policy](#); and
- create and maintain datasets in accordance with the [NSW Government Open Data Policy](#) and the [NSW Government Standard for Data Quality Reporting](#).

10. Information request roles and responsibilities

Position	Role	Responsibilities
Director / Manager Governance & Legal	<ul style="list-style-type: none"> • Oversight • Approver • Delegator • Decision-maker 	<ul style="list-style-type: none"> • Decision-maker ‘final arbiter’ (where agreement has not been reached) for release of information where protections against disclosure may apply • Assess team resourcing needs to manage GIPA Applications/SO52 • Internal reviewer of decisions reviewable under pt 5 of the <i>GIPA Act</i> • Provide expert advice on protections against disclosure and public interests tests • Oversee management of staff non-compliance
Right to Information Officer(s) / SO52 Officer	<ul style="list-style-type: none"> • Project lead • Project / admin support • Decision-maker • Liaison 	<ul style="list-style-type: none"> • Consult with SMEs to identify relevant projects, records, and staff • Coordinate staff comm’s for search request and record keeping instructions • Decision-maker of GIPA Applications • Point of contact for internal advice and support • Point of contact for external advice and support • Record staff compliance with search request and record keeping requirements (escalating any non-compliance to Director/Manager Governance & Legal) • Ensure GCC compliance with reports and other administrative standards for the release of information according to SO52/GIPA Procedures • Review returned records from inactive mailboxes/archives – save relevant items in CM9

Position	Role	Responsibilities
		<ul style="list-style-type: none"> Review and record all decisions about returned records in tracker Determine if any information may have protections against disclosure and weigh up the benefit to public good Seek expert advice wherever appropriate to make decisions about the release of information
Subject Matter Experts (SMEs)	<ul style="list-style-type: none"> Advice Records retrieval 	<ul style="list-style-type: none"> Provide advice on relevant staff who may have information (including inactive staff), possible relevant records and the locations of those records Identify potential sensitive documents or considerations against disclosure <p>Do <u>not</u> make decisions about the release of information.</p>
Records Manager	<ul style="list-style-type: none"> Advice Records retrieval Admin support 	<ul style="list-style-type: none"> Search CM9 for records Save returned searches in CM9 Extract <u>all</u> returned records into a tracker for RIO review Assist staff in uploading any hard copy records onto CM9
Staff	<ul style="list-style-type: none"> Records retrieval 	<ul style="list-style-type: none"> Identify and search all relevant locations for records Keep a record of all actions and time taken to search Save returned searches in CM9 Certify a 'reasonable search' has been conducted by completion of search certificate Identify potential sensitive documents or considerations against disclosure <p>Do <u>not</u> make decisions about the release of information.</p>
IT	<ul style="list-style-type: none"> Advice Records retrieval support 	<ul style="list-style-type: none"> Provide advice on advanced document retrieval/recovery Request GovConnect search for inactive staff accounts/archived records
GovConnect	<ul style="list-style-type: none"> Records retrieval 	<ul style="list-style-type: none"> Search data archives i.e. inactive staff mailboxes

11. Annual reporting requirements

The Commission is required to report on its compliance with requirements to release government information under the *GIPA Act*.

11.1. Reports to Parliament

Section 125 of the *GIPA Act* requires the Commission to prepare an annual report for submission to

Parliament. This report must include details of:

- the review carried out by the Commission under s [7\(3\)](#) of the *GIPA Act* during the reporting year; and
- any information made publicly available by the agency because of the review.

11.2. Reports to the Minister and the Information Commissioner

The Commission must also report through its annual reporting requirements under the [Annual Reports \(Statutory Bodies\) Act 1984](#), with the following information:

- details of the annual review of proactive release of information, including summary details of any information made proactively available by the Commission in the year; and
- statistical information about formal access applications in the format provided in sch [2](#) of the [Government Information \(Public Access\) Regulation 2018](#).

12. Breaches of the Information Access Policy

The [Government Sector Employment Act 2013](#) and the [Government Sector Employment \(General\) Rules 2014](#) (GSE Rules), with specific reference to pt [8](#) of the *GSE Rules*, establishes procedures for dealing with allegations of misconduct, and the actions that may be taken. Those actions may result in any of the following actions:

- suspension and/or termination of employment;
- imposition of a fine;
- reducing remuneration;
- reducing classification or grade;
- assignment to a different role; or
- caution or reprimand.

The Commission provides reports of suspected fraud and/or corrupt conduct to the Independent Commission Against Corruption (ICAC), and in some cases, to the NSW Police Force.

Where a breach of this Policy is considered to involve potentially corrupt conduct, the Commission will notify ICAC. ICAC has significant statutory powers to investigate serious corrupt conduct in all NSW Government departments and agencies.

13. Further information and resources

13.1. Internal Policies and Procedures

- Public Access to Information (GIPA) Procedure
- Code of Ethics and Conduct – Staff
- Conflicts of Interest Policy
- Conflicts of Interest Procedure
- Electronic Documents and Records Management Policy
- External Communications Policy

- Gifts, Benefits and Hospitality Policy
- Gifts, Benefits and Hospitality Procedure
- Privacy Management Plan
- Procurement Policy

13.2. Legislation

NSW

- [Annual Reports \(Statutory Bodies\) Act 1985](#)
- [Annual Reports \(Statutory Bodies\) Regulation 2015](#)
- [Civil and Administrative Tribunal Act 2013](#)
- [Crown Employees \(Planning Officers\) Award 2016](#)
- [Crown Employees \(Public Service Conditions of Employment\) Award 2009](#)
- [Government Information \(Information Commissioner\) Act 2009](#)
- [Government Information \(Public Access\) Act 2009](#)
- [Government Information \(Public Access\) Regulation 2009](#)
- [Government Sector Employment Act 2013](#)
- [Government Sector Employment Regulation 2014](#)
- [Government Sector Finance Act 2018](#)
- [Industrial Relations Act 1996](#)
- [NSW Civil and Administrative Tribunal.](#)
- [Privacy and Personal Information Protection Act 1998](#)

13.3. Other resources

NSW Civil and Administrative Tribunal.

13.4. Support and/or advice

Employee Assistance Program – (AccessEAP)

1800 818 728

info@accesseap.com.au

Safework NSW – Information, advice or assistance

13 10 50

14. Document management

Approver	Executive Director, People and Corporate Services
Author	Director, Governance and Legal Governance Officer, Governance and Legal
Revision history	Version 1 – January 2022, Version 1.1 November 2022
Next review date	January 2024
Responsible branch	People and Corporate Services

Appendix

Appendix 1: Definitions

Definitions

Authorised officer(s)	<p>means officer(s) authorised delegated by the Chief Executive Officer to release government information in accordance with s 7(5), 8(6) and 9(3) of the GIPA Act. Authorised officers include:</p> <ul style="list-style-type: none"> • Right to Information Officer; and • Senior executive managers in relation to ss 7 and 8 only.
Commercial in confidence provisions	<p>of a contract means any provisions of the contract that disclose —</p> <ol style="list-style-type: none"> a) the contractor’s financing arrangements, or b) the contractor’s cost structure or profit margins, or c) the contractor’s full base case financial model, or d) any intellectual property in which the contractor has an interest, or e) any matter the disclosure of which would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential contractors, whether at present or in the future.
Contractor	<p>in relation to a government contract entered into by an agency, means the person with whom the agency has entered into the contract.</p>
Disclose	<p>information includes make information available and release or provide access to information.</p>
Government information	<p>means information contained in a record held by an agency.</p>
Overriding Public Interest against Disclosure (OPIAD)	<p>means there is an overriding public interest against the disclosure of certain information as defined by s 14 and sch 1 of the <i>GIPA Act</i>.</p>
Person	<p>includes an agency, the government of another jurisdiction (including a jurisdiction outside Australia) and an agency of the government of another jurisdiction.</p> <p>Note —</p> <p>This definition does not limit the definition of person in the Interpretation Act 1987, which includes an individual, a corporation and a body corporate or politic.</p>
Personal information	<p>means information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual (whether living or dead) whose identity is apparent or can reasonably be ascertained from the information or opinion.</p> <p>Personal information includes such things as an individual’s fingerprints, retina prints, body samples or genetic characteristics.</p> <p>Personal information does not include information about an individual:</p> <ol style="list-style-type: none"> a) who has been dead for more than 30 years;

	<p>b) that reveals nothing more than the fact that the person was engaged in the exercise of public functions or</p> <p>c) that is of a class, or is contained in a document of a class, prescribed by the regulations for the purposes of sch 4 s 4.</p>
Record	<p>means any document or other source of information compiled, recorded, or stored in written form or by electronic process, or in any other manner or by any other means.</p> <p>1) A reference in this Act to a record includes a reference to a copy of the record.</p> <p>For the purposes of the definition of record in this Act, the knowledge of a person is not a record.</p>
Right to Information Officer	<p>means an officer(s) appointed by the Chief Executive Officer and authorised to manage the Commissions obligations under the <i>GIPA Act</i> with specific reference to div 1.</p> <p>Refer to 4. Key responsibilities for more information.</p>

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