

1. Access to information

Under the [Government Information \(Public Access\) Act 2009 \(GIPA Act\)](#), each NSW Government department and agency is required to publish an annual Agency Information Guide.

The information in this guide describes the structure, functions and the role of the Health Professional Council Authority (HPCA) and the Councils. Additionally, the Agency Information Guide requires the inclusion of how information can be accessed by members of the public and any processing charges that may apply.

About us

The HPCA was established on 1 July 2010 with the introduction of the National Registration and Accreditation Scheme. The HPCA is an executive agency of the NSW Ministry of Health providing secretariat and corporate services to 15 health professional Councils in NSW. Each Council is an independent statutory body established under the [Health Practitioner Regulation National Law \(NSW\)](#) (the National Law (NSW)).

The 15 health professional Councils are:

- Aboriginal and Torres Strait Islander Health Practice Council of New South Wales
- Chinese Medicine Council of New South Wales
- Chiropractic Council of New South Wales
- Dental Council of New South Wales
- Medical Council of New South Wales
- Medical Radiation Practice Council of New South Wales
- Nursing and Midwifery Council of New South Wales
- Occupational Therapy Council of New South Wales
- Optometry Council of New South Wales
- Osteopathy Council of New South Wales
- Paramedicine Council of New South Wales
- Pharmacy Council of New South Wales
- Physiotherapy Council of New South Wales
- Podiatry Council of New South Wales
- Psychology Council of New South Wales

The Councils are established to protect the public. This is achieved through the management of complaints relating to the conduct, performance and health of registered practitioners with a principal place of practice in NSW. Councils also manage matters relating to the conduct and health of students registered to undertake health practitioner training in NSW.

The Councils co-regulate with the Health Care Complaints Commission (HCCC), which is an independent statutory authority established under the Health Care Complaints Act 1993.

Location

The HPCA has two locations.

14 of the 15 Councils and the HPCA are located at:

Level 6, North Wing
477 Pitt Street
Sydney, NSW 2000

The Medical Council and HPCA staff who support this Council are located at:

Building 45
Gladesville Hospital, 2nd Gate Entrance
Gladesville, NSW 2111

Community participation

The National Law (NSW) requires some Councils to have community members. Community members participate in decision making processes about regulation including policy development. Councils also engage lay members to participate in decision making processes in regulating health professionals.

Community feedback

We welcome feedback. Feedback can be provided by:

Email: mail@hpca.nsw.gov.au

Telephone: 1300 197 177

Written: Level 6, North Wing, 477 Pitt Street, Sydney NSW 2000

What kind of information do we have?

We have information about making a complaint, how complaints are managed, policies and procedures about regulating health practitioners and other publications such as Council newsletters, strategic plans and annual reports. Most of this information is available on our websites.

Contracts

We are required to keep a register of our contracts that record information about each contract that has, or is likely to have a value of \$150,000 or more. See our [access to information](#) page for further detail.

Accessing information

Access to information may be considered through an informal or formal application.

Informal access application

You may request information held by us. Generally copies of the following types of information will be provided without the need to make a formal application:

- Correspondence sent by you and to you
- Information that contains your personal information
- Information that has already been published, and
- Information where public interest considerations against disclosure do not arise.

You do not need to complete a Formal Access Information form for this information; however your request must be in writing. In some situations, charges may be incurred for services such as photocopying or postage.

Information disclosed informally may impose conditions about the use or disclosure of the information.

In some situations, you may be requested to make a formal application in accordance with the *GIPA Act* for reasons that may include public interest factors.

Formal access application

If the information you are applying for is not available on our website or by contacting us directly, you may apply under the *GIPA Act* for access to the information. Applications for formal access to information under the provisions of the *GIPA Act* need to be in writing or by completing the [Formal Access Information form](#) accompanied by the \$30 application fee and certified proof of identification, if you are seeking access to personal information.

Before making a formal application, we recommend that you contact us first to discuss your application, as we may be able to release the information informally.

Certain information cannot be released under the *GIPA Act*, as set out below.

Information that is not available

Information that we are unable to release in response to an access application includes:

- Private health information or personal information about another person
- Information collected under the *Health Care Complaints Act 1993* (Schedule 1 clause 1 GIPA Act)
- Information about complaints that are made to the Health Care Complaints Commission and information that it shares with Councils about these complaints (within the meaning of the *Health Care Complaints Act 1993* relating to a particular complaint (*Schedule 2, clause 2 of the GIPA Act*))

We will not release information if there is an overriding public interest against disclosure.

Application and processing fees

Information about fees and charges are available from the [Information and Privacy Commission](#) or 1800 463 626.

If you cannot afford the fee, you can apply for a 50% reduction in processing costs on the grounds of financial hardship, or ask for a waiver of the fee if the information will be of special benefit to the public generally. You will need to provide us with information to help us consider your request.

2. Frequently Asked Questions (FAQs)

What is personal information?

Personal information under the *Government Information (Public Access) Act (GIPA Act)* is information or opinion about an individual's identity that is apparent from the information or opinion.

We hold personal information that may identify individuals. The *Privacy and Personal Information Protection Act (PPIP Act)* protects your personal information. The *Health Records Information and Privacy Act (HRIP Act)* protects a specific type of personal information, including information about your physical or mental health, disability, provision of health services or genetic information.

More information on the privacy principles and protections is available from the **Information and Privacy Commission [\[link\]](#)**.

How can I access my own personal information?

You can access your personal information held by us in the following ways:

- Under the GIPA Act the first step is to make an informal request for your information. Agencies should make every effort to release your **personal information [\[link to Agency information guide\]](#)** in this way. In some circumstances you may need to make a formal access application to the agency concerned.
- You may apply for access under the (*PPIP Act*), under **Information Protection Principle 7 [\[link\]](#)**. Access to personal information under the *PPIP Act* is free of charge no matter how long it takes to process the application.
- Your personal health information can be accessed directly from the relevant practitioner/hospital under the *Health Records and Information Privacy Act (HRIP Act)*.

How can I amend my own personal information?

If you think that your personal or health information held by us is incorrect, you can discuss with us how to correct it under:

- **Information Protection Principle 8 [\[link\]](#)** in the *PPIP Act*
- Part 6A of the *PIPA Act* or
- Health Privacy Principle 8 under the *HRIP Act* (if you wish to correct your health information).

Information on your rights under the *PPIP Act* and *HRIP Act* is also available from the **Information and Privacy Commission [\[link\]](#)**.

How is my privacy protected under the GIPA Act?

Government information sometimes identifies people. Under the *GIPA Act* information that would reveal an individual's personal information would not generally be disclosed unless there are strong public interest considerations in favour of disclosure.

In deciding whether to disclose personal information about you to a person applying for access to information, we must consider whether you are likely to be concerned about the release of the information and whether those concerns are relevant to the public interest. If so, we must:

- consult with you, and
- take into account any objections you may have to release the information.

If the Council consults with you and decides to release the information, it must:

- tell you of this decision and your right to have it reviewed, and
- not release the information while you still have the right to review this decision.

You may also wish to contact the Privacy Commissioner at the **Information and Privacy Commission NSW** [\[link\]](#) which publishes factsheets about the handling of personal information and health information.

What can I do if I cannot afford the fee for applying for information?

You can apply for a 50% reduction in processing costs on the grounds of financial hardship, or ask for a waiver of the fee if the information will be of special benefit to the public generally. You will need to provide us with information to help us consider your request.

How will you process my application?

We have up to five days from the day we receive your application to consider it and let you know whether or not it is valid.

If your access application is valid, we will take steps to see if we have the information you want. We may need to consult with other people, businesses or government bodies.

When we have finished consulting, we will provide you with the information unless there is an overriding public interest against disclosure (public interest test) or the **information is excluded** [\[link to agency information guide\]](#).

If we decide that your application is not valid, we will tell you why.

We will provide you with reasonable help to make a valid application.

How long will my application take?

You will be notified of the decision on your application within 20 working days, unless you agree to extend the time.

We may also extend the time by 10-15 days where consultation with a third party is required or if we need to retrieve records from archives.

If we defer access, we must notify you and include the reason for deferral and the date on which you will be given access. A decision to defer access is reviewable (See IPC [Fact Sheet – Your review rights](#) – **linked**).

If we do not decide your access application within 20 days, it is considered to be "refused". Your application fee must be refunded and you may seek internal or external review of this refusal (See IPC [Fact Sheet – Your review rights](#) – **linked**).

This will not apply if an extension of time has been arranged or payment of an advance deposit is pending.

Is there any government information that is not released?

Information that we are unable to release in response to an access application includes:

- Private health information or personal information about another person
- Information collected under the Health Care Complaints Act 1993 (Schedule 1 clause 1 GIPA Act)

- Information about the Health Care Complaints Commission's complaint handling, investigation, complaints resolution and reporting functions, including any functions exercised by the Health Conciliation Registry and any functions concerning information to a registration authority or health professional Council (within the meaning of the Health Care Complaints Act 1993 relating to a particular complaint (This is excluded information under Schedule 2, clause 2 of the GIPA Act and is not released unless the HCCC Consents))

We will not release information if there is an overriding public interest against disclosure.

Can we refuse your request for information? What are your review rights?

We can refuse your request if:

- the information you have asked for is already publicly available
- you have not paid an advance deposit that we have requested
- your request would take an unreasonable amount of time to process, or
- there is an overriding public interest against disclosure.

Options available if you have been refused access to information:

1. **Internal review**
You can apply to us for an internal review. The review is by a staff member more senior than the original decision maker and there is a \$40 fee. You have 20 working days from receiving notice of a decision to ask for an internal review.
2. **Review by the Information Commissioner**
If you are not satisfied with the internal review, or do not want one, you can ask for a review by the **Information Commissioner [link]**. You have eight weeks from being notified of a decision to ask for this review.
3. **Review by the NSW Civil and Administrative Tribunal**
If you are not satisfied with the decision of the internal reviewer or the **Information Commissioner [link]** or if you do not want to take these options you can apply to the **NSW Civil and Administrative Tribunal (NCAT) [link]**.

If you have already asked the Information Commissioner to carry out a review, you have four weeks from notification of this decision to apply to NCAT. If you have not had a review by the Information Commissioner you have eight weeks from notification of the decision to make this application.

Will other people have access to the information released to me?

Information released by way of a formal application is generally recorded in the **disclosure log [link to the disclosure log]**.

The disclosure log is a record containing details of government information already released under the *GIPA Act*. The disclosure log is part of the open access to information that agencies are required to make available and is a requirement under section 25 of the *GIPA Act*.

Requests for personal information are not included in the disclosure log.

Some information that has been released under the *GIPA Act* is provided in the summary disclosure log table.

You can object to information being included in the disclosure log if you believe:

- it includes your personal information
- includes information about a deceased person that you personally represent;
- the information concerns your business, commercial, professional, or financial interests or research undertaken.

What are the public interests factors against releasing information?

There are only limited and specific interests against disclosure that an agency can take into account. These are:

- law enforcement and security
- individual rights, judicial processes and natural justice
- responsible and effective government
- business interests
- environment, culture, economy and other matters
- secrecy and exemption provisions in other laws such as the Health Care Complaints Act

What are the protections under the *GIPA Act*?

There are a range of protections under the *GIPA Act*.

- There is no action for defamation or breach of confidence when a decision to disclose information is made in good faith.
- No criminal action will be taken when a decision is made or information disclosed in good faith.
- No action for personal liability is available in relation to any action by an agency, or an officer of an agency, where the action was done in good faith for the purposes of executing the Act.

Are there any penalties if the *GIPA Act* is not followed?

There are a range of penalties that can be applied under the *GIPA Act* for the following conduct:

- an officer knowingly deciding a formal access application contrary to the requirements of the Act
- directing an officer to make a decision he or she knows is not permitted or required by the Act
- improperly influencing a decision on an access application
- knowingly misleading or deceiving an officer for the purpose of obtaining access to government information
- concealing, destroying or altering information for the purpose of preventing the release of information.

These offences attract a maximum penalty of 100 penalty units.

Can I make a complaint about my dealings with you?

You can make a complaint to us or to the Information Commission at the **Information and Privacy Commission [link]**.

3. Contracts

We must keep a register of our contracts that record information about each contract that has, or is likely to have a value of \$150,000 or more. Details about our contracts are available **link**.

4. Formal Access Application

You can formally request information from the Health Professional Councils Authority. The application form to request information held by the Health Professional Councils Authority is available from the link below.

An access application is subject to a \$30 fee and other charges may apply. It is advisable to discuss your request with the HPCA before making a formal access application.

Before making a formal application, we recommend that you contact us first as we may be able to release the information to you informally.

Formal Access Application Form [link]

Information on fees and charges are available from the Office of the Information Commissioner at www.ipc.nsw.gov.au or 1800 463 626.

7(A) Government Information (Public Access) Act 2009

FORMAL ACCESS APPLICATION FORM

Please complete this form to apply for formal access to government information under the **Government Information (Public Access) Act 2009 (GIPA Act) [link]**. Before completing this form, you should read the **Agency Information Guide [link]** or contact us for further information or assistance in completing the application on 1300 197 177.

1. Your details

Last Name: Title: Mr / Ms / Mrs / Dr / Other.....

First name:

Postal address: Postcode:

Day-time telephone: Facsimile:

Email:

I agree to receive correspondence at the above email address

Type of applicant:

- | | | |
|-----------------------------------------------|--------------------------------------------------------------------------------------|-----------------------------------------------|
| <input type="checkbox"/> Member of the public | <input type="checkbox"/> Health practitioner | <input type="checkbox"/> Legal representative |
| <input type="checkbox"/> Media representative | <input type="checkbox"/> Private sector business / Not for profit or community group | <input type="checkbox"/> Member of Parliament |

2. Proof of identity *(Only required when an applicant is requesting information on their own behalf)*

When seeking access to personal information, an applicant must provide proof of identity in the form of a *certified copy* of any one of the following documents:

- | | | |
|-----------------------------------------------------------------------------------------------------|------------------------------------------------------|-------------------------------------------------------------------------------|
| <input type="checkbox"/> Australian driver's licence with photograph, signature and current address | <input type="checkbox"/> Current Australian passport | <input type="checkbox"/> Other proof of signature and current address details |
|-----------------------------------------------------------------------------------------------------|------------------------------------------------------|-------------------------------------------------------------------------------|

3. Government information sought

Please describe the information you would like to access in enough detail to allow us to identify it.

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4. Form of access

How do you wish to access the information?

- Inspect the document(s) Obtain a copy of the document(s)
- Access in another way (please specify).....
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5. Application Fee

I attach payment of the **\$30 application fee** by cheque / money order (circle one).

6. Discount in processing charges

You may be asked to pay an additional charge for processing the application (\$30 / hour). Some applicants may be entitled to a 50% reduction in these processing charges. If you wish to apply for a discount, please indicate the reason:

- Financial hardship – please attach copy of supporting documentation (e.g. a pension or Centrelink card).

AND / OR

- Special benefit to the public – please specify why below:
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7. Disclosure log

If the information sought is released to you and the Council decides that it would be of interest to other members of the public, the information may be publicly released in our 'disclosure log', which is published on our website.

Do you object to this? **Yes / No** (circle one) – If yes, please provide reasons:

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8. Signature and date

Applicant's signature: Date:

Please post this form with your payment and any supporting documentation to the Health Professional Councils Authority, Locked Bag 20, Haymarket NSW 1238 or lodge it at: Level 6, 477 Pitt Street, Sydney



To learn more about right to information in New South Wales, visit the Office of the Information Commissioner website: www.oic.nsw.gov.au or call on free call 1800 INFOCOM (1800 463 626)

Office use only

Date application received: File reference: