



Your review rights under the *GIPA Act*

fact sheet

June 2010

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 advance 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 options to have a decision reviewed:

1. Internal review

You have **20 working days** after the notice of a decision has been posted to you to ask for an internal review.

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 a more senior officer 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 *except* if the decision is 'deemed refusal' because the agency did not process your application in time. 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.

You have eight weeks from being notified of the decision to ask for a review by the Information Commissioner.

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On reviewing 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 Administrative Decisions Tribunal.

3. External review by the Administrative Decisions Tribunal

If you disagree with any of the decisions listed above, you can ask for a review by the Administrative Decisions Tribunal (ADT). You do not have to have the decision reviewed internally, or by the Information Commissioner before applying for review by the ADT.

You have up to eight weeks from being notified of the decision to apply to the ADT for review. However, if you have applied for review by the Information Commissioner, you have four weeks from being notified of the Information Commission's review outcome to apply to the ADT.

Where can I get more information about right to information?

- Go to www.oic.nsw.gov.au
- Email ocinfo@oic.nsw.gov.au
- Mail GPO Box 7011, Sydney NSW 2001
- Visit Level 11, 1 Castlereagh Street, Sydney NSW 2000
- Call 1800 INFOCOM (1800 463 626) between 9am to 5pm, Monday to Friday (excluding public holidays).