

Information**ABOUT**

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Frequently Asked Questions - FAQs

What is 'personal information'

'Personal information' in the Government Information (Public Access) Act 2009 (NSW) is information or opinion about a person who can be identified from that information or opinion.

Information held by government agencies, such as Sydney Local Health District (SLHD), may identify you. If this is the case, the Privacy and Personal Information Protection Act protects your personal information. The Health Records Information and Privacy 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 on the Information and Privacy Commission NSW website (<http://www.ipc.nsw.gov.au/>).

Alternatively, Sydney Local Health District's Privacy Officer can be contacted on (02) 9787 0262.

How can I access my own personal information?

You can access your personal information held by Sydney Local Health District in several ways.

- Under the Government Information (Public Access) Act 2009 (NSW) (<http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type=act%20AND%20Year=2009%20AND%20no=52&nohits=y>), the first step is to make an informal request for your information. Agencies should make every effort to release your personal information in this way. In some circumstances you may need to make a formal access application ([pdf/GIPA_Application.pdf](#)) to the agency concerned.
- You may apply for access under the Privacy and Personal Information Protection Act (PIPAA) (<http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3Dact%20AND%20Year%3D1998%20AND%20no%3D133&nohits=yf>), under Information Protection Principle 7.
- You may apply for access to your health information under the Health Records Information and Privacy Act (HRIPA).

Sydney Local Health District's Privacy Officer can be contacted on (02) 9787 0262.

*If you would like to access your own Medical or Health Information please click on to the link: "**Accessing your Medical Records and Health Information**". This page contains detailed contact information for each of the Medical Records departments within Sydney Local Health District, and how to make an application.

How can I amend my own personal information?

If you think that your personal or health information held by an agency is incorrect, you can ask the agency to correct it under:

- Information Protection Principle 8 in the Privacy and Personal Information Protection Act.
- Part 6A of the Privacy and Personal Information Protection Act or
- Health Privacy Principle 8 under the Health Records Information and Privacy Act (if you wish to correct your health information).

For further information on your rights under the Privacy and Personal Information Protection Act and Health Records Information and Privacy Act, please visit the Information and Privacy Commission NSW website (<http://www.ipc.nsw.gov.au/>).

Alternatively, you may contact Sydney Local Health District's Privacy Officer on (02) 9787 0262.

How is my privacy protected under the Government Information (Public Access) Act 2009 (NSW)

Government information sometimes identifies people. Under the Government Information (Public Access) Act 2009 (NSW) a record that would reveal an individual's personal information would not generally be disclosed unless there are strong public interest considerations in favour of disclosure.

Under the Government Information (Public Access) Act 2009 (NSW), personal information does not include the individual's name and non-personal contact details that shows the person was exercising public functions.

In deciding whether to disclose personal information about you to a person applying for access to information, the Sydney Local Health District 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, Sydney Local Health District must:

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

If Sydney Local Health District consults you and decides to release the information anyway, it:

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

You may also wish to contact Information and Privacy Commission NSW (<http://www.ipc.nsw.gov.au/privacy>) (the office of the NSW Privacy Commissioner), which publishes factsheets about the handling of personal information and health information.?

Who can make a formal application for information?

Any person can make a formal application for access to information held by an agency. This should be the last resort, after the informal avenues have been tried.

How do I apply formally for information under the GIPA Act?

A valid formal application for access to government information must:

- be in writing
- state that it is made under the *Government Information (Public Access) Act 2009 (NSW)* .
- have an address for return correspondence
- provide enough details to help the agency identify the information you want, and
- enclose the application fee of \$30 via cheque / money order or by credit card using our online payment portal (<https://www.slhd.nsw.gov.au/events/syd-gipa/>).
- provide certified proof of your identity if applying for personal information.

You may wish to use SLHD's application form (/RightToInformation/pdf/GIPA_Application.pdf) when writing your application for information under GIPAA.

Please note that it is best to include information that you think should be taken into account when a decision is made on the application, such as why you are asking for the information or why you feel it should be released - this will help to keep the cost of your application down and help us to identify the information.

Is proof of identity required?

When seeking access to personal information, an applicant must provide proof of identity in the form of certified copies of *two* of the following documents (one preferably containing a photo and one with a signature).

- Australian driver's licence with photograph, signature and current address.
- Current Australian passport
- An original birth certificate or certified extract of birth
- Certificate of Australian Citizenship
- Other secondary documents with photo ID and/or proof of signature and current address details.

If you have difficulty providing two of these documents, or if you would like further information about what documents are accepted, please contact the Right to Information Coordinator on (02) 9515 9095.

*If you are requesting documents relating to the personal affairs of another person, on their behalf, **they must give consent**. An original signed authority by the applicant is required, plus certified proof of their identity.

How will my formal access application be processed?

We will advise you within five (5) working days of receiving your application if it is valid under the GIPA Act. If it is not valid, we will tell you why and help you to make it valid.

We will then process your application by searching for the information or let you know if it is more appropriate for your application to be dealt with by another agency.

In processing your application, we may have to consult other people, businesses or government agencies on the release of information that relates to them. A decision is then made:

- To provide access
- That the information is not held
- That the information is already available to you
- To refuse to provide access because there is an overriding public interest against disclosure
- To refuse to deal with your application
- To refuse to confirm or deny that the information is held, because there is an overriding public interest against disclosure confirming or denying that fact.

We will provide you with reasons for making any of the above decisions.

If we decide to defer access, we will give you reasons for deferral and when you will be given access.

When will my application be decided?

If your access application is valid, we will take steps to see if SLHD has the information you are seeking. We will try to deal with your request as soon as possible and within 20 working days of receiving your application. If we need to consult a third party or we need to retrieve archived records, the 20-day period will be extended by 10-15 days. We may not always be able to meet these timeframes, for example, if there is a large amount of information or many people to consult. We will let you know if this is the case and negotiate a longer timeframe with you. If your request will involve an unreasonable amount of processing work and time, we will ask you to revise your request. The time to revise the request will not be counted in calculating the deadline.

If we do not decide your access application within the deadline, it is deemed to be refused. We will continue to process your application, but your application fee will be refunded and you may seek a review of this deemed refusal. This will not apply if an extension of time has been arranged or payment of an advance deposit is pending. You will be advised of any changes to the timeframe in writing.

What fees and charges will I have to pay?

The GIPA formal access application fee is \$30, and it covers the first hour of processing time or the first two hours if a 50% reduction of charges has been granted.

In addition to the \$30 application fee, we may charge \$30 per hour after the first hour to search for the information; consult third parties and make a decision about access (unless you have asked for your personal information, in which case the first 20 processing hours are free).

You will be given a 50% reduction in processing fees if you can show you would suffer financial hardship, or if you can show that the information is of special benefit to the public generally. You will need to apply/request for this and provide supporting evidence.

We may ask for an advance deposit to cover the estimated processing charges. You will be given four weeks to pay the deposit. The time allowed to finalise your application does not include the time waiting for an advance deposit to be paid. Any deposit paid will be refunded if we do not decide your application in time.

You can ask to be given access to photocopies of the information or for it to be provided electronically on CD, DVD or by email to minimise the impact on the environment.

Will information not be made available under a formal decision?

We try to make information available wherever possible. However, you may not be able to obtain information if there is an overriding public interest against disclosure. For example, this can apply to information such as:

- Information that may prejudice a responsible and effective Government (i.e. Cabinet information or confidential information)
- Information that may prejudice a law enforcement and security
- information that would breach another person's privacy
- information that would prejudice someone's business, commercial, professional or financial interests
- information that would affect the Environment, culture or economy
- Information that may contravene a provision of any other Act or statutory rule that prohibits the disclosure of information.
- Information that is exempt under interstate Freedom of Information legislation

In addition, Schedule 1 of the GIPA Act has a list of information for which there is a conclusive presumption of overriding public interest against disclosure. For information about the excluded information included in this list, please refer to Schedule 1 of the GIPA Act.

We can only refuse access to information if the public interests against disclosure outweigh the general public interests in favour of disclosure.

There is no limit to the matters we can take into account in favour of releasing information. We will let you know the reasons if we decide not to release information or parts of information.

On what other grounds could my formal application be refused?

We can also refuse an application if:

- your request would take an unreasonable and substantial amount of time and resources to process - we will help you refine your application so that we can process it
- you do not pay a deposit that we may ask for
- the information you ask for is already publicly available
- we have already decided a previous application from you for the information (or information that is substantially the same) and there are no reasonable grounds for believing that we would make a different decision
- the information is or has been the subject of a subpoena or other court order for the production of documents and is available to you because we have complied with that subpoena or court order
- we do not hold the information
- If you have not provided us with the appropriate identification if you are asking for your own personal information.

What if I don't agree with a decision?

You have three options if you have been refused access to information:

- Internal review: You can apply to SLHD for an internal review ([pdf/GIPA_InternalReviewApplication.pdf](#)). This is review by someone 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.

- Review by the Information and Privacy Commissioner (<http://www.ipc.nsw.gov.au/gipa-reviews>): If you are not satisfied with the internal review, or do not want one, you can ask for a review by the Information Commissioner. You have eight weeks from being notified of a decision to ask for this review.
- Review at the Administrative and Equal Opportunity Division of the NSW Civil and Administrative Tribunal (<http://www.ncat.nsw.gov.au/>): If you are not satisfied with the decision of the Information Commissioner or the internal reviewer or if you do not want to take these options you can apply to the Administrative and Equal Opportunity Division of the NSW Civil and Administrative Tribunal (NCAT). If you have already had a review by the Information and Privacy Commissioner you have four weeks from notification of the decision to make this application. If you haven't had a review by the Information Commissioner you have eight weeks from notification of the decision to make this application.

You can ask for a decision to be reviewed if you are the access applicant or if a decision has been made to give an applicant access to information that relates to your business, commercial, professional, financial, or personal interests or research contrary to your objections.

For more information on what to do if you do not agree with a formal GIPA decision, please refer to the GIPA review process ([about_review.html](#)).

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

If you receive information after making a formal application and we think other people will be interested in it, we will record it on our disclosure log ([pdf/SLHD_DisclosureLog.pdf](#)) which describes the information that was provided, the date the application was decided, and how other members of the public can access it.

If you are the access applicant or you have been consulted or should have been consulted on the release of information, you can object to information being included in the disclosure log if it includes personal information about you or about a deceased person that you represent or if the information concerns your business, commercial, professional, or financial interests or research.

Can the Government release information about my business?

An agency may release information about your business in response to an access application; however, the decision will be subject to the public interest test.

If an access application covers your business information, an agency must consult you to see whether or not you object to the information being released. Your objection must relate to one or more of the five public interest considerations against disclosure set out in the Act.

If the agency decides that, on balance, the public interests against disclosure outweigh those for disclosure, then they will not release the information.

If an agency decides to release your business information, despite your objection, you have a right have this decision reviewed under the Government Information (Public Access) Act 2009 (NSW) (see FAQ Can an agency refuse my request for information? What are my review rights).

What happens if someone does not follow the GIPA Act requirements?

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 GIPA Act

- directing an officer to make a decision he or she knows is not permitted or required by the GIPA 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.

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.

What happens if someone makes repeated applications for the same information?

If a person has made at least three access applications within two years that lack merit, the Administrative and Equal Opportunity division (A&EO Division) of the NSW Civil and Administrative Tribunal (NCAT), may order that the person must get the A&EO Division's approval before making another access application.

If a person is subject to such a restraint order, they cannot apply to NCAT for approval to make an access application without first serving notice on the agency concerned and the Information and Privacy Commissioner.

How can I complain about my dealings with Sydney Local Health District in relation to the GIPA Act?

You can complain to the Information and Privacy Commission (<http://www.ipc.nsw.gov.au/>). The Commissioner may undertake formal or informal investigations and actions to assist in resolving the complaint.

How can I get more information?

If you would like more information, please contact the Sydney Local Health District Right to Information Coordinator on (02) 9515 9095. Alternatively, contact the Information and Privacy Commission on 1800 472 679 or visit their website at <http://www.ipc.nsw.gov.au/> (<http://www.ipc.nsw.gov.au/>) .

