

Parliamentary Counsel's Office

# Government Information (Public Access) Policy

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## Policy Owner / Contact

Corporate Services

## Review Record

Date	Action	Version
June 2023	Publish	1.0

# 1. Overview

The *Government Information (Public Access) Act 2009* (the GIPA Act) provides an open and transparent process for giving the public access to information from New South Wales public sector agencies and to encourage the proactive public release of government information.

The objective of the GIPA Act is to open government information to the public by:

- giving members of the public a legally enforceable right to access government information,
- ensuring access to government information is restricted only when there is an overriding public interest against releasing that information,
- authorising and encouraging the proactive release of information by NSW public sector agencies.

The GIPA Act is administered by the Information and Privacy Commission (IPC), an independent statutory body that promotes and protects privacy and information access rights in New South Wales. The IPC website ([www.ipc.nsw.gov.au/information-access](http://www.ipc.nsw.gov.au/information-access)) contains information for government agencies and the public about accessing government information in NSW.

It is generally presumed that all government agencies will disclose or release information unless there is an overriding public interest against doing so.

# 2. Roles and responsibilities

Role	Responsibilities
Parliamentary Counsel	Ensure compliance with the <i>GIPA Act</i> . Respond to GIPA applications in line with the <i>GIPA Act</i> and this policy.
All PCO employees	Understand the GIPA Policy and direct any enquiries regarding the policy to the Chief Operating Officer.
Chief Operating Officer	Ensure compliance with the <i>GIPA Act</i> . Coordinate responses to GIPA applications on behalf of the Parliamentary Counsel. Review the GIPA Policy annually and ensure appropriate reporting of GIPA applications under the policy.

# 3. Structure and functions of the Parliamentary Counsel’s Office

The Parliamentary Counsel’s Office (PCO) provides a comprehensive legislative drafting services for the Government and a more limited drafting service for non-government Members of Parliament. PCO is also responsible for providing public access to legislation, which it does through the NSW legislation website ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)). PCO’s main clients are the Parliament, Cabinet, NSW government agencies, local councils and users of legislation (primarily regulators, lawyers, the judiciary, librarians and researchers).

PCO provides a limited information service to the public about how to access legislation, the status of individual acts or regulations, which department administers a piece of legislation, and how to navigate the information resources available on the NSW legislation website.

While PCO publishes legislation, the policy and any implementation associated with that legislation is the responsibility of the administering agency. PCO does not provide the public with statutory interpretation services, an assessment of how legislation may apply to individual circumstances or other legal advice.

The nature of PCO's legislative drafting functions means that most of our work relates to legislative drafting for Cabinet, the Executive Council or non-government Members of Parliament and is covered under legal privilege.

However, PCO's function of providing public access to legislation does include some services to the public. Feedback is sought via a survey run on the NSW legislations website annually and users of the website are invited to participate to improve the delivery of that service.

## 4. Accessing information at the Parliamentary Counsel's Office

One of PCO's key objectives is to facilitate public access to legislation (namely, legislation that has been enacted or made, introduced into Parliament or released for public consultation) and PCO actively provides free public access to that legislation and as much information about legislation as possible.

However, many PCO documents created or used in the development of legislation cannot be released as they are Cabinet documents or attract legal professional privilege. There is an overriding public interest against disclosing these documents to the public.

The GIPA Act provides four ways for accessing government information. Their application at PCO is described in the following sections.

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### 4.1 Open access information (mandatory release)

PCO is required to release certain information unless there is an overriding public interest against doing so. Open access information is made available on PCO's website ([www.pco.nsw.gov.au](http://www.pco.nsw.gov.au)).

A list of specific information required to be released is provided in the [Government Information \(Public Access\) Regulation 2018](#). This includes PCO's Code of Conduct and PCO's Annual Report.

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### 4.2 Authorised proactive release

If it is in the public interest, agencies are authorised and encouraged to release as much other information as possible, free of charge or at the lowest possible cost.

PCO continually aims to increase access to legislation and related information for lawyers, researchers and other users. Public access is provided through the maintenance of three websites:

- the legislation website ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)), which is the official NSW Government website for online publication of legislation (including the Government Gazette)
- the corporate website ([www.pco.nsw.gov.au](http://www.pco.nsw.gov.au)), which provides information about PCO and its functions, plans, reports and policies
- the Australasian Parliamentary Counsel's Committee website ([www.pcc.gov.au](http://www.pcc.gov.au)), which contains a range of publications about the operations of the Committee, including information relating to the drafting of national uniform legislation

PCO proactively reviews and publishes information, procedures and policies on its websites at least annually.

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#### 4.3 Informal release of information

A person may contact the agency and ask for information. This is known as an informal request. Agencies can release information informally, subject to any reasonable conditions. Such requests should be directed to the Parliamentary Counsel at [parliamentary.counsel@pco.nsw.gov.au](mailto:parliamentary.counsel@pco.nsw.gov.au)

The Parliamentary Counsel applies the “public interest test” in consideration of all applications (refer to the fact sheet *What is the public interest test?* available on the [Information and Privacy Commission website](#)).

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#### 4.4 Access application (also known as a formal application) for release of information

If the information cannot be accessed through the above methods, an access application may be made.

The access application form is available on the PCO website at [www.pco.nsw.gov.au](http://www.pco.nsw.gov.au). Further information for applicants about the application process, including application fees, is available on the [Information and Privacy Commission website](#). Statistical information regarding all formal applications is included in the PCO Annual Report.

All applications are referred to the Parliamentary Counsel for assessment and response within the time frames detailed in the legislation. The Parliamentary Counsel applies the ‘public interest test’ in consideration of all applications.

Any request or queries in relation to GIPA and PCO should be directed to the Parliamentary Counsel at [parliamentary.counsel@pco.nsw.gov.au](mailto:parliamentary.counsel@pco.nsw.gov.au)