information and privacy commission new south wales

Information Access Guideline 2: Discounted processing charges

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Information Access Guideline 2: Discounted processing charges

The object of the *Government Information (Public Access) Act 2009* (GIPA Act) is to open government information to the public to maintain and advance a system of responsible and representative democratic government.

The GIPA Act places various obligations on agencies within NSW in respect of their publication and release of the information that they create and hold. The GIPA Act also provides rights for persons to apply for access to government information.

The Information Commissioner recognises that agencies are adopting increasingly sophisticated digital storage and record management systems. Agencies should design their record keeping systems to enable more efficient processing of applications for government information and early and more accurate estimates of the charges and costs to the applicant.

This Guideline is made to assist agencies to decide whether to reduce processing charges because of financial hardship or on the ground that the information is of 'special benefit to the public generally' in accordance with sections 65 and 66 of the GIPA Act. In particular, this Guideline is made in accordance with section 66(3) of the GIPA Act and has application in accordance with section 15(b) of the GIPA Act.

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Introduction

The Information Commissioner provides guidance on the fees, charges, and the discounting regime under the GIPA Act and the GIPA Regulation, with a particular focus on the processing charge discount provided for government information of "special public benefit" under section 66 of the GIPA Act. This Guideline also provides an overview on the processing charge discount relating to financial hardship under section 65 of the GIPA Act.

This Guideline is set out in five Parts to explain how fees, processing charges, and discounts operate in the information access regime under section 66 of the GIPA Act and the GIPA Regulation:

- **Part 1** provides an overview of the information access pathways under the GIPA Act
- **Part 2** provides an overview of fees and processing charges and discusses when a decision to impose a processing charge is made
- **Part 3** provides an overview of discounts and discusses when a decision to refuse a reduction in a processing charge is made
- **Part 4** discusses the meaning of 'special benefit to the public generally' under section 66
- **Part 5** provides examples of circumstances where information may be of a special benefit.

To assist agencies in their assessment of whether government information is of "special public benefit", this Guideline also includes two appendices:

- **Appendix 1 Checklist** which sets out a list of questions when considering whether information sought by an access application is of special public benefit.
- **Appendix 2 statutory provisions** which sets out the sections of the GIPA Act and GIPA Regulation which agencies should also refer to (sections 64(5), 65, 66 and 67 of Division 5 of Part 4 of the GIPA Act, section 127 of the GIPA Act and clause 10 of the GIPA Regulation).

Part 1: Overview of fees and charges

1. The GIPA Act aims to foster and promote responsible and representative government that is open, accountable, fair and effective by encouraging proactive and informal release of information free of charge or at the lowest reasonable cost.
2. Further section 3(2) of the GIPA Act confirms that the intention of Parliament is that the GIPA Act be interpreted and applied so as to further the object of the Act and that the discretions conferred by the Act are to be exercised to facilitate and encourage, promptly and at the lowest reasonable cost, access to government information. Accordingly, most government information should be available free of charge.
3. The following sections of the GIPA Act provide for four pathways for the release of information held by agencies.

3.1 Section 6 of the GIPA Act – Mandatory release of open access information

Open access information is provided free of charge and comprises:

- An agency information guide;
- Documents tabled in Parliament by, or on behalf of, an agency, other than any document tabled by order of either House of Parliament;
- An agency's policy documents;
- A disclosure log of information released under formal access applications;
- A register of contracts an agency has with private sector entities for a value of more than $150,000 (including GST);
- A record of the open access information that is not made public due to an overriding public interest against disclosure;[1] and
- Any other government information prescribed by regulation as open access information.

The *Government Information (Public Access) Regulation 2018* (GIPA Regulation) also includes but is not limited to the following as open access information:

- Ministers to disclose media releases and details of overseas travel;
- Government departments to publish a list of major assets and acquisitions;
- the total number and value of properties disposed of in a previous financial year; guarantees of service and code of conduct (if any); any standard, code or other publication applied, adopted or incorporated by reference in any Act or statutory rule that the department administers; and
- An advertising compliance certificate issued under the *Government Advertising Act 2011*.

Local councils are required to provide additional open access information, including:

- Annual, financial, and auditors' reports, management plans and various codes;
- Agendas, business papers and minutes of meetings;
- Information contained in certain registers;
- Plans and policies;

[1] GIPA Act section 18

- Returns of the interests of councillors, designated persons and delegates;
- Register of delegations;
- Development applications and associated documents; and
- Information concerning approvals, orders and other documents.

3.2 Section 7 of the GIPA Act - Proactive release of information

3.2.1 Agencies are authorised to release other information (that is, information not subject to mandatory release) proactively, unless there is an overriding public interest against disclosure. Agencies can facilitate the proactive release of information in a record by deleting or redacting that part of the information in the record that is subject to an overriding public interest against disclosure.

3.2.2 Such information proactively disclosed should be free of charge or at the lowest reasonable cost. The Information Commissioner strongly encourages agencies to release information proactively or informally where there is no overriding public interest against disclosure.

3.2.3 Agencies should consider as part of proactive release of information providing more clarity in the agency information guide, in particular details identifying each of the business units and their work. This will assist citizens in better understanding the functions of agencies.

3.3 Section 8 of the GIPA Act - Informal release of information

3.3.1 Agencies are authorised to release any government information they hold to people requesting it without requiring a formal access application to be lodged where there is no overriding public interest against disclosure. An agency can release government information in response to an informal request subject to any reasonable conditions that it thinks fit to impose. An agency cannot be required to disclose government information in response to an informal request.

3.3.2 Agencies can facilitate the informal release of information in a record by deleting or redacting that part of the information in the record that is subject to an overriding public interest against disclosure. Likewise an agency can provide access in a form that might facilitate release of information.

3.4 Section 9 of the GIPA Act – Formal access applications

3.4.1 An agency may receive a formal access application for information. A person who makes an access application for government information has a legally enforceable right to be provided with access to the information in accordance with Part 4, unless there is an overriding public interest against disclosure.

3.4.2 Alternatively, following the consideration of proactive and informal mechanisms for release of information, an agency suggests that an applicant seeking access to government information submit a formal access application for that information.

3.4.3 Section 41(1) of the GIPA Act outlines the formal requirements for making an access application, including the requirement to pay an application fee of $30 which must accompany the application. Agency may approve additional facilities for the making of an access application or the payment of an application fee.

Formal access applications – application fee and processing charges

3.5 An applicant is required to pay an application fee of $30 unless the agency waives or reduces this fee (see section 127 – general discretion and section 4.2 of this guideline).

3.6 An agency may also impose a processing charge for dealing with an access application. In accordance with section 64 of the GIPA Act, the agency may only charge at a maximum rate of $30 per hour for each hour required to process the access application.

3.7 The access applicant's payment of the $30 fee for making the access applications counts as payment towards any processing charge payable by the applicant. This is generally the first hour of processing the application. However, if a 50 per cent discount on charges is granted by the agency, then the application fee will pay for the first two hours of processing the access application. The NCAT decision of *National Tertiary Education Union v Southern Cross University* [2015] NSWCATAD 151 provides authority for including the application fee in the calculation of the total processing charge before applying the reduction. The Tribunal at paragraph 62 stated:

> *The discount to which an applicant is entitled under section 66(1) of the GIPA Act is 50% of the total processing* charge (that is, 50% of the processing charge before the application fee is deducted from it).

3.8 The processing charge covers the total amount of time that it takes an agency to deal efficiently with the application and to provide a response to the application. This includes time expended to consider the application, searching for records, consulting any third parties, and making a decision.

3.9 The Information Commissioner's view is that agencies cannot charge for general administration tasks incidental to processing the application, which may include the following:

- registering the application;
- conversations with the applicant to clarify the request or reduce the scope,
- drafting file notes;
- drafting letters (including notification of a valid application, or advance deposit letters)
- postage;
- internal conversations; and
- printing and other general administration.

This view is informed by the requirements under the GIPA Act for agencies to assist applicants in making an access application.[2]

3.10 Section 62 of the of the GIPA Act confirms that "notice of any agency's decision to provide access to information must state whether any processing charges will be payable for access to the information and indicate how those charges have been calculated". The NCAT decision of *National Tertiary Education Union v Southern Cross University* [2015] NSWCATAD 151 where the Tribunal at paragraph 30 confirmed:

> *Further, it is not until an agency has decided an access application that it can determine whether it is entitled or empowered to impose a processing charge.*

[2] GIPA Act sections 16 and 52

3.11 The practical application is that charges **are not imposed** until the total calculated processing time is known and this is at the time the access application is decided and notified to the applicant. Therefore, any advice given by any agency to an applicant on estimated processing charges prior to the notice of the decision made in determining the access application, **is not a decision** to impose a processing charge, but is merely an indication of what the charges are likely to be. It is important for agencies to promptly estimate the cost of access and to ensure that the applicant is clearly made aware of the expected or estimated cost of access early in the decision-making process. This ensures that the applicant is informed of their expected costs in accessing the information. Please note that an agency can still require a 50 per cent deposit.

Further details about fees and charges may be found in the IPC Fact Sheet - GIPA Act fees and charges.

Charges must be reasonable

3.12 Under the GIPA Act, an agency is required to estimate the processing charge based on the time that would be spent by an officer with appropriate knowledge of and familiarity with processing access applications and document management systems.

3.13 Under section 80 of the GIPA Act, a decision to impose a charge or require an advance deposit[3] and a decision not to reduce a processing charge[4] are all reviewable.

3.14 The Information Commissioner's view is that agencies should:

- keep a record of **estimates** for processing charges and calculations, clearly distinguishing between processing charges for work already undertaken by the agency in processing the application and an estimate of work expected to be undertaken;
- keep a record of **actual** costs of processing the application to demonstrate how the processing charge was calculated should the decision be reviewed;
- Identify the actual and/or estimate of the **volume** of information to be reviewed;
- identify any information sought by the access application for which charges do not apply, for example, any **open access information** prescribed by the GIPA Act and Regulation;
- advise the applicant about the likely costs **before** the costs are incurred; and
- advise the applicant about any **waiver** of the application fee, or **discount** to the processing charges.

3.15 The Information Commissioner's view is that agencies should advise the applicant about the likely costs before the costs are incurred. This provides the applicant with the opportunity to reduce their scope or even withdraw their application if the costs will be an issue and the agency has determined, based on all the circumstances, that they are unable to waive or discount the application fee or charges.

Charges for an application for personal information

3.16 An agency cannot impose any processing charges for the first 20 hours of processing time of an access application made for personal information about the applicant, being an individual, under section 67 of the GIPA Act.

[3] GIPA Act section 80(j)

[4] GIPA Act section 80(k)

3.17 Whether the information sought is characterised as personal information is according to the statutory definition of "personal information" in clause 4 of Schedule 4 to the GIPA Act. The definition of personal information is provided in Appendix 2.

3.18 These provisions were considered in the following case:

***Johnston v TAFE NSW* [2019] NSWCATAD 152**

In this case, Mr Johnston made an access application for all information about his enrolment at TAFE NSW.

TAFE NSW requested an advance deposit of $66.56, being 50% of the estimated processing charge, and decided to impose a processing charge of the remainder of the processing charges of $158.54. The agency also applied a discount.

TAFE NSW determined that the access application involved 23 hours for processing the access application which comprised three hours for processing the personal information of the applicant, and 20 hours for processing non-personal information and for which processing charges were imposed.

On NCAT review, Mr Johnston did not dispute the amount of processing time, but submitted that all the information sought about his enrolment at TAFE was his personal information, and that TAFE NSW had incorrectly calculated the processing charge.

The NCAT at [50] accepted the agency's characterisation of the government information as both personal and non-personal information, as the notice of decision provided a careful analysis of the nature of the information located in processing the request. The NCAT agreed that the documents comprising policies and procedures were clearly not Mr Johnston's personal information.

The NCAT at [51] was not satisfied that Mr Johnston had demonstrated that TAFE NSW had mischaracterised the nature of the information and affirmed the decision under review to impose a processing charge.

When is an agency not permitted to impose a processing charge?

3.19 A processing charge cannot be imposed if the access application was not decided within time (deemed refusal under section 63 of the GIPA Act), regardless of whether a late decision is made on the valid access application.

3.20 An access application is decided in time if it is decided by the agency and notice of the agency's decision is given to the applicant within 20 working days (the decision period) after the agency receives the application (section 57(1)). The decision period may also be extended, such as up to 10 working days,[5] or as agreed by the access applicant.[6]

3.21 These provisions were considered in the following case:

***Walton v Eurobodalla Shire Council* [2022] NSWCATAD 46**

In this case, Mr Walton applied to NCAT for review of a decision to impose a processing charge following the extension of time for determining the application under section 57 of the GIPA Act.

The Council had received the access application on 10 November 2020. On 7 December 2020, the Council notified Mr Walton that they had extended the decision period for determining the access application by a further 10 days from 8 December to 22 December 2020 because they required records to be retrieved from their archives.

[5] GIPA Act, section 57(2)

[6] GIPA Act, section 57(4)

On review, the NCAT at [13] confirmed that section 64 of the GIPA Act enables an agency to apply any calculated processing charge if the decision process to determine the access application is completed within the statutory time of the 20-working day period in section 57(1), or within the extended decision period of 30 working days in section 57(2) of the GIPA Act.

The NCAT stated that if the Council had not made the decision prior to 23 December 2020, then no fees or charges "could be levied against Mr Walton due to the operation of section 63(4) of the GIPA Act", which confirms that no processing charge can be imposed if the application was not decided within time, whether or not a late decision is made on the application.

The NCAT at [94] was not satisfied that the Council had established a reason to show that the extension to 30 days under section 57(2) was authorised under the GIPA Act. The NCAT rejected the Council's claim that it required the time to retrieve records from a record archive to deal with the access application, and it set aside the Council's decision to impose a processing charge.

Part 2: Overview of discounts

4. An applicant may apply for a 50 per cent reduction in processing charges on the grounds:

   (a) of financial hardship.[7] Under clause 10 of the GIPA Regulation, financial hardship includes if the applicant can provide evidence that he or she is:

   - the holder of a Pensioner Concession card issued by the Commonwealth that is in force;
   - a full-time student;
   - a non-profit organisation, including a person applying for or on behalf of a non-profit organisation.

   and/or

   (b) that the information applied for is of 'special benefit to the public generally'.[8]

4.1 The reduction in processing charges is not cumulative. That is, under section 64(5), the maximum reduction in processing charges is 50 per cent, even where an applicant applies for a reduction in charges under both sections 65 and section 66.

4.2 However, the agency may exercise its discretion under section 127 of the GIPA Act to waive, reduce or refund the application fee and/or processing charges in any case that it thinks appropriate.

4.3 The Information Commissioner strongly encourages agencies to exercise the discretion to waive, reduce or refund the application fee and/or processing charges whenever appropriate to further the objects of the GIPA Act and consistent with the intent of Parliament to facilitate and encourage, promptly and at the lowest reasonable cost, access to government information.

4.4 Additionally, subsection 66(2) requires full waiver of the processing charge and processing fee if the agency makes the information applied for publicly available either before or within three working days after providing access to the applicant.

[7] GIPA Act section 65

[8] GIPA Act section 66

Part 3: What is "special benefit to the public generally"?

5. Reduction of charges on the special benefit ground relies on the particular information applied for having "special benefit to the public generally". It may not be obvious to a decision-maker on the face of the access application why the particular information should have a "special benefit to the public generally". Whilst section 16 of the GIPA Act places an obligation on agencies to provide advice and assistance, applicants can also assist a decision maker in their consideration of a request for a discount in processing charges on the basis that the information applied for is of "special benefit to the public generally".

6. In considering the application of "special benefit to the public generally" the decision-maker needs to consider the information applied for in the GIPA application. The NCAT concluded, in the matter of *Shoebridge v Forestry Corporation* [2016] NSWCATAD 93 (*Shoebridge*) at paragraph 23 that:

   > *…a decision-maker must decide whether he or she is satisfied that there is a benefit that is different from what is ordinary or usual to the general public and thus not merely the private interests of the applicant alone.*

7. At paragraph 24 of *Shoebridge*, the Tribunal outlined the factors relevant to consideration of a "special benefit to the public generally" in relation to the information applied for by the Applicant. These factors can be summarised to include:

   - public health and safety;
   - the application of public funds;
   - proper record keeping and legislative compliance generally by the agency in the exercise of its functions;
   - the existence of a special interest group and the benefits of accountability and transparency of decision-making by government, in particular Members of Parliament; and
   - the need to ensure that citizens have sufficient information to enable them to actively participate and contribute to consideration of relevant issues through submissions or enquiry.

***Shoebridge v Forestry Corporation* [2016] NSWCATAD 93**

In this case, Mr Shoebridge, a Member of Parliament, made an access application for information about chemicals used by the Forestry Corporation when undertaking both aerial and ground based chemical spraying of crops in forests. This included information about the sites where spraying took place, and the costs. Mr Shoebridge clarified the scope of the application to apply only to hardwood plantations in a two-year period.

The Forestry Corporation advised that the processing cost would be $120. Mr Shoebridge requested a discount for "special public benefit" under section 66, which the agency refused.

Mr Shoebridge sought a review by the NCAT. The NCAT at [24] was satisfied that the applicant had established that the information sought by the access application is of special benefit to the public generally. The NCAT based this on a range of reasons, notably, that the use of pesticides (such as chemicals and the cost) in forests near and adjacent to communities comprised of members of the public relates to public health and safety and the environment and is an issue of public significance. While the information was historical, the information allowed a state-wide view to be taken to allow the public to form its own view about whether the Forestry Corporation had kept proper records as required by law.

The NCAT also considered relevant the provision of the information to a Member of Parliament which would allow questions inside and outside Parliament, noting also that the information would be provided to the National Toxics Network whose members may make submissions to Ministers. Accordingly, the information may have a broader benefit.

8. The elements of the special benefit ground are:

1. The information applied for confers the "special benefit"

8.1 Disclosure of government information is presumed to be in the public interest under section 5 of the GIPA Act. The decision-maker must also exercise their discretion to reduce processing charges in a way that is consistent with the intentions of Parliament outlined in section 3(2) of the GIPA Act – that the discretions conferred by this Act be exercised, as far as possible, so as to facilitate and encourage, promptly and at the lowest reasonable cost, access to government information.

8.2 The NCAT in *Shoebridge* observed that the GIPA Act is to be construed beneficially, in favour of disclosure. The NCAT was satisfied in that case that there was no requirement to construe the term "special" as having an extraordinary or exceptional benefit to the wider community, merely that it is something different to what is ordinary or usual.[9]

8.3 The issue the decision-maker must consider is whether the release of the information would result in a special benefit to the public, rather than whether reducing the charges would result in a special benefit.

8.4 The GIPA Act does not include a definition of "special benefit to the public generally". However, as a general guide, information that better informs the public about government and or concerns a public issue would be of special benefit or special interest to the public generally. The Tribunal found that "*the non-exhaustive checklist…* [at Appendix 1 of these Guidelines] *is of assistance in determining whether there is a 'special benefit to the public generally*'.[10]

8.5 For example, if the information would inform public debate about an issue, increase public understanding about government functions, or contribute to the public's understanding of an issue of public significance (such as matters of cultural significance to Aboriginal or Torres Strait Islander people, heritage, the environment, health, safety, civil liberties, social welfare, or public funds), then this would have a "special benefit".[11]

8.6 Agencies are expected to consider the merits of each application separately and take into account all the circumstances of each case. For example, if an agency has already determined the public interest test in one application requesting a 50 per cent reduction on the grounds of 'special benefit to the public generally', and then receives another 50 per cent reduction application on the same ground concerning the same or majority of the same information, the agency cannot apply the public interest conclusion reached in the first decision to the latter or any other application. This is because the circumstances in each application for a 50 per cent reduction may differ.

8.7 However, agencies should consider the operation of section 7 of the GIPA Act in authorising the proactive release of information following a determination to release information in response to an access application made in accordance with section 9 of the GIPA Act.

2. The "public generally"

8.8 For the purpose of a reduction in processing charges under section 66, the benefit as a result of the release of the information should flow to members of the public generally and not just to the applicant.

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[9] *Shoebridge* at [22]

[10] *Shoebridge* at [22]

[11] *Elf Farm Supplies Pty Ltd v Department of Planning and Environment* [2018] NSWCATAD 277

8.9 The public generally may include:

- a section of the community (e.g. single parents, persons aged over 65, persons with a disability, persons of a particular nationality);
- a community group (e.g. volunteer rescue groups, youth organisation or support service providers);
- a group of persons from a particular area (e.g. persons residing in a suburb where the information relates to issues, such as waste management proposals within that suburb);
- a group of people with a common interest (e.g. local government constituents, a parents and carers association, student unions or university students generally, advocacy groups);
- persons of a particular occupation or industry sector (e.g. medical practitioners, academics, newsagents); or
- any other members of the public other than the applicant (e.g. neighbours who may be interested in the same development proposal).

8.10 The agency need only be able to envisage that the information may be of special benefit to other members of the public other than the applicant. They need not be satisfied that it will be a large group of persons.

8.11 **Note:** If the information applied for is not of "special benefit to the public generally" but the applicant is likely to suffer a detriment as a result of their inability to pay the assessed charges, the applicant may be entitled to a 50 per cent reduction of charges on the grounds of financial hardship as provided for by section 65 of the GIPA Act. The agency should advise the applicant of this and consider discounting the charges on those grounds.

9. Factors that a decision-maker cannot take into account when deciding whether information is of special benefit to the public generally include:

- the information might mislead or be misunderstood by the public, for example, because the public might not understand the technicalities or jargon used in a document.
- that the information, if released, could be misrepresented, abbreviated or distorted, or presented in a biased way.
- matters where a different process or legislative regime requires an agency to conduct some form of public interest assessment. For example, a public interest assessment may have been carried out during an environmental assessment or local council land development consultation. However, a council could not use the conclusion reached in the environmental or development assessment in determining the 'special benefit' for a GIPA access application.

10. To assist agencies in interpreting the elements of section 66, Part 4 of these Guidelines provides examples of circumstances where there may be a "special benefit to the public generally".

Part 4: Examples of circumstances where releasing information may be a special benefit

11. In addition to the factors summarised at paragraph 7, some examples of circumstances where releasing the information may have a 'special benefit to the public generally' are provided here for general guidance. The list is not a prescriptive or exhaustive list.

- A researcher seeking government information where the information will be used in published work that may benefit the academic community.
- A post-graduate student seeking to use government information as part of their thesis.
- An advocacy group seeking information that will be analysed to report on government program delivery, such as expenditure on an infrastructure project.
- Not-for-profit bodies operating in environmental, health, social welfare, disability, or law reform seeking the information for a public interest purpose or to be used in a manner which will benefit a substantial section of the public.
- Other examples of not-for profit bodies could include a legal centre seeking information to prepare law reform reports, or a social welfare body seeking a list of community funding providers or community venues to provide information to their stakeholders.

The status of an applicant, for example a journalist or a Member of Parliament, will not give rise to an automatic right to discount charges on the grounds of 'special benefit to the public generally'. It will depend on the nature of the information requested.

However, information requested by a journalist or Member of Parliament may be of special benefit to the public in these examples:

- a Member of Parliament requests information to assist a constituent and that constituent would ordinarily have been entitled to a discount of charges on the basis of 'special benefit to the public generally'.
- a Member of Parliament requests information about the costs and uses of chemicals by agencies on government owned lands because it is likely to result in public scrutiny, debate and accountability including facilitating submissions and questions to Ministers and agencies.
- a journalist seeks information about government spending on a project that is likely to result in public scrutiny of and enhance government accountability.

The above examples are illustrative and not intended to limit consideration of special benefit to the public.

Other useful resources

Other resources that may be useful on this topic include:

- IPC Fact Sheet GIPA Act Fees and Charges
- IPC Fact Sheet Your right to access government information in NSW
- IPC Fact Sheet Open access information for citizens
- IPC Fact Sheet Frequently asked questions: informal release of information
- IPC Fact Sheet Your review rights under the GIPA Act
- IPC Fact Sheet Internal reviews under the GIPA Act
- IPC Fact Sheet External review by the Information Commissioner
- Notices of Advanced Deposits and Processing Charges applied by agencies under the GIPA Act

Appendix 1

Checklist – Is there a "special benefit to the public generally'?

Does the information sought by the access application have a 'special benefit to the public generally'? Information may have a 'special benefit to the public generally' if you can answer yes to any of the questions under both the 'special benefit' and 'public generally' elements of the discount under section 66:

Special Benefit

1. Does the information concern an issue of public profile or debate?
2. Does the information concern an issue that is unique or distinct from the ordinary or usual (e.g. environment, health, safety, civil liberties, social welfare, public funds etc)?
3. Does the information interest or benefit the public in some other way (e.g. to assist public understanding about government functions)?
4. Would release of the information contribute to further analysis or research?
5. Would the information add to the public's knowledge of the issues of public interest? (e.g. whether the agency or agencies have complied with their obligations under legislation)?
6. Is the information historical which may still have contemporary public importance or add to the public's knowledge of the issues (e.g. where it may inform the public of a state wide view, and assist greater participation and enquiry by the public regarding the issue/s)?[12]

"Public generally"

7. Would any of the following groups in the general public have a special interest in the information?
   a) a section of the community (e.g. persons receiving a pension, persons over 65, persons with a disability, persons of a particular racial or ethnic background, or religion etc).
   b) a community group (e.g. volunteer rescue groups, volunteer firefighters, youth organisation etc).
   c) a group of persons from a particular geographical area (e.g. persons residing in regional NSW, persons residing in a suburb or council area where the information relates to issues, such as waste management proposals, road building proposals
   d) a group of people with a shared community interest (e.g. local government constituents, a Parents and Citizens association, student unions or university students generally, advocacy groups etc).
   e) persons of a particular occupation or industry sector (e.g. medical practitioners, academics, newsagents).
8. Is the information, if disclosed, likely to lead to broader publication of the information or public discussion, be analysed or likely lead to further analysis?

[12] Please note, that if the information is outdated, then the agency should advise the applicant about the existence of updated information, or ensure that the historical nature or context of the information is made explicit. This applies to agencies only.

Appendix 2

Government Information (Public Access) Act 2009

Division 5 of Part 4 – Processing charges and advance deposits

64 Processing charge for dealing with access application

(5) A processing charge must not be discounted under section 65 or 66 by more than 50% even if both sections apply.

65 Discounted processing charge – financial hardship

(1) An applicant is entitled to a 50 per cent reduction in a processing charge imposed by an agency if the agency is satisfied that the applicant is suffering financial hardship.

Note. The discount applies only to the processing charge, not the application fee. If a 50 per cent reduction in processing charge applies, the application fee will pay for the first 2 hours of processing time (not just the first hour). See section 64.

(2) The agency may refuse to allow the discount if satisfied that the applicant is making the application on behalf of another person in order to obtain the discount for that person.

(3) The regulations may prescribe circumstances that constitute financial hardship.

Note. A decision to refuse to reduce a processing charge is reviewable under Part 5.

66 Discounted processing charge – special public benefit

(1) An applicant is entitled to a 50 per cent reduction in a processing charge imposed by an agency if the agency is satisfied that the information applied for is of 'special benefit to the public generally'.

Note: The discount applies only to the processing charge, not the application fee. If a 50 per cent reduction in processing charge applies, the application fee will pay for the first two hours of processing time (not just the first hour) (see section 64). Although an agency may choose to waive or reduce the application fee as well (see section 127).

A decision to refuse to reduce a processing charge is reviewable under Part 5.

(2) If the information applied for was not publicly available at the time the application was received but the agency makes the information publicly available either before or within three working days after providing access to the applicant, the applicant is entitled to a full waiver of the processing charge imposed by the agency.

(3) The Information Commissioner may, for the assistance of agencies, publish guidelines about reductions in processing charges under this section.

67 Waiver of processing charge for personal information application

If an access application is made for personal information about the applicant (the applicant being an individual), the agency cannot impose any processing charge for the first 20 hours of processing time for the application.

Note—

This does not limit an agency's power to reduce, waive or refund processing charges under section 127.

127 Waiver, reduction or refund of fees and charges

(1) An agency is entitled to waive, reduce or refund any fee or charge payable or paid under this Act in any case that the agency thinks appropriate, subject to the regulations.

Note. See section 51A concerning the effect of a waiver, reduction or refund of the fee for an access application.

Schedule 4, interpretive provisions

4 Personal information

(1) In this Act, personal information 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.

(2) Personal information includes such things as an individual's fingerprints, retina prints, body samples or genetic characteristics.

(3) Personal information does not include any of the following—

(a) information about an individual who has been dead for more than 30 years,

(b) information about an individual (comprising the individual's name and non-personal contact details, including the individual's position title, public functions and the agency in which the individual works) that reveals nothing more than the fact that the person was engaged in the exercise of public functions,

(c) information about an individual that is of a class, or is contained in a document of a class, prescribed by the regulations for the purposes of this subclause.

Government Information (Public Access) Regulation 2018

10 Discounted processing charge

An agency is required to reduce, by 50%, the processing charge payable under the Act for dealing with an access application if the applicant provides evidence that the applicant:

(a) is the holder of a Pensioner Concession card issued by the Commonwealth that is in force, or

(b) is a full-time student, or

(c) is a non-profit organisation (including a person applying for or on behalf of a non-profit organisation).

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