

**Media release**

**11 May 2023**

## **NSW Information Commissioner releases the findings from research into the informal release pathway to celebrate Open Government Week 2023**

In celebration of Open Government Week and Information Awareness Month 2023, the Information Commissioner, Elizabeth Tydd, today [released a report](#) containing findings from research into the informal release pathway and a compliance audit examining the informal release practices of NSW public sector agencies.

With a dramatic increase of formal access applications for government information in 2020/21, in May 2022 the Information Commissioner commissioned research to examine the least understood of the four access pathways – informal release. This research was supported by the University of New South Wales.

Commissioner Tydd said, “Information access is the cornerstone of transparency and accountability and empowers citizens to participate fully in the democratic process.

“The research detailed in the Report will assist agencies to better understand informal release, identify its benefits to agencies and citizens, provide guidance and potentially decrease the need for more resource intensive formal applications.”

The IPC undertook a compliance audit of NSW Public Sector Agencies to understand their practices and established procedures regarding the informal release pathway.

The audit shows that overwhelmingly 83% of informal requests recorded by agencies resulted in information being released. Encouragingly, 58% of agencies reported keeping statistics on informal release.

Commissioner Tydd said, “This demonstrates that in general agencies are aware of and using the legislation to release information informally by releasing information subject to conditions, exercising their discretion to determine by what means the information will be released and deleting information that would otherwise be subject to an overriding public interest factor against disclosure of information to enable its release informally.

“However, more can be done by agencies to ensure that this pathway operates as intended. The Report shows that most agencies lacked established procedures to manage informal release requests.”

The Report notes that 53% of agencies did not have a documented policy or procedure to support staff dealing with informal access requests. Additionally, 58% of agencies did not provide a written outcome to the applicant who requested information.

To address this risk to the right to access information informally, the Information Commissioner will be developing accompanying tools responsive to the identified needs of agencies. The new tools are planned to be released in September during Right to Know Week NSW 2023.

Commissioner Tydd said, “The findings present an opportunity for the IPC to support and facilitate change across the public sector. The tools being developed by the IPC will



inform the practices of agencies and ensure they are well placed to meet both their legal requirements and adopt good administrative practices. I look forward to launching these as part of Right to Know Week NSW 2023.

“By promoting the optimisation of this information access pathway the tools will also enable agencies to more proactively release information and more effectively contribute to an open, accountable, fair, and effective democratic government.”

The tools being developed include:

- A Statutory Guideline to promote the factors in favour of disclosure of information through the informal release pathway and the review of Agency Information Guides (AIG) to facilitate the proactive release of information through the informal access pathway.
- A check list to guide agency procedures and assist them to perform their informal release functions.
- Templates to enable agencies to communicate with citizens effectively and efficiently regarding their informal access requests.
- A tool to enable agencies to record their informal access decisions and collect data to inform their proactive release of information efficiently and effectively.
- An updated Fact Sheet for citizens to assist them in their informal requests for information.
- Training for agencies to be delivered in September 2023.

The Report is available via the [Information and Privacy Commission NSW website](#).

**ENDS**

**For further information, please contact:**

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**The informal release pathway**

In NSW, the *Government Information (Public Access) Act 2009* (GIPA Act) provides the primary authority for open government, and it protects and preserves the right to access government information. The GIPA Act outlines four pathways to access government information from NSW public sector agencies, that combine to generate the public release of information and preserve the human right of access to information.

The third pathway is informal release of information. This pathway enables citizens to request information informally, for example in person or during a telephone call. It also allows agencies to impose conditions on the release of information, decide the format in which information is provided and delete information that might render the information inaccessible because of public interest factors against disclosure.

Information released informally should also be considered for proactive release to the public broadly and included in the agency's Agency Information Guide.



With a dramatic increase of formal access applications for government information in 2020/21, in May 2022 the Information Commissioner commissioned research to examine the least understood of the four access pathways – informal release. There are several reasons why the use of the informal release of information pathway is not well understood.

They include the:

- absence of any requirement for agencies to collect and report data on this pathway
- limited documentation of policies and procedures setting out the way in which agencies manage informal information access requests
- diverse and decentralised practices adopted by agencies to manage informal requests for information
- limited training for officers regarding the use of the informal release pathway
- limited guidance by the Information Commissioner.

Unlike the formal application pathway, the informal pathway has no reporting requirements under the GIPA Act. However, decisions made about informal release of information are decisions that impact citizen rights and as such agencies should document the applications and their outcomes.

#### **About the Information and Privacy Commission:**

The Information and Privacy Commission NSW (IPC) is an independent statutory authority that administers New South Wales' legislation dealing with privacy and access to government information. The IPC supports the Information Commissioner and the Privacy Commissioner in fulfilling their legislative responsibilities and functions and to ensure individuals and agencies can access consistent information, guidance and coordinated training about information access and privacy matters.

#### **About the NSW Information Commissioner**

The NSW Information Commissioner's statutory role includes promoting public awareness and understanding of the *Government Information (Public Access) Act 2009* (GIPA Act); providing information, advice, assistance and training to agencies and the public; dealing with complaints about agencies; investigating agencies' systems, policies and practices; and reporting on compliance with the GIPA Act.

The *Government Information (Information Commissioner) Act 2009* (GIIC Act) establishes the procedures for appointing the Information Commissioner and sets out the Commissioner's powers and functions. It outlines the method for people to complain about the conduct of agencies when undertaking their duties under the GIPA Act, and the way in which the Information Commissioner may deal with the complaint. The GIIC Act also enables the Information Commissioner to investigate and report on how agencies carry out their functions under the GIPA Act.

For further information about the IPC visit our website at [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)