



Good practice for agency information guides

knowledge update

March 2012

Section 20 of the Government Information (Public Access) Act 2009 (NSW) (“the GIPA Act”) requires agencies to develop and adopt an agency information guide as part of their mandatory open access information.

Agency information guides must:

- a) describe the structure and functions of the agency, and
- b) describe the ways in which the functions (including, in particular, the decision-making functions) of the agency affect members of the public, and
- c) specify any arrangements that exist to enable members of the public to participate in the formulation of the agency’s policy and the exercise of the agency’s functions, and
- d) identify the various kinds of government information held by the agency, and
- e) identify the kinds of government information held by the agency that the agency makes (or will make) publicly available, and
- f) specify the manner in which the agency makes (or will make) government information publicly available, and
- g) identify the kinds of information that are (or will be) made publicly available free of charge and those kinds for which a charge is (or will be) imposed.

Under section 22 of the GIPA Act, agencies must notify the Information Commissioner before adopting or amending their agency information guide and must, if requested to do so by the Information Commissioner, consult with the Information Commissioner on the proposed agency information guide. The Information Commissioner may choose to issue model guidelines for agency information guides.

The agency information guide replaces the requirement for agencies to produce a summary of affairs and statement of affairs under the *Freedom of Information Act 1989* (NSW) (“the FOI Act”).

This knowledge update assists agencies by establishing some good practice measures regarding agency

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information guides. It also addresses some frequently asked questions.

What is the purpose of an agency information guide?

An agency information agency information guide is a summary of what an agency does, how it does it, and the type of information it holds and generates through the exercise of its functions, with a particular focus on how those functions affect members of the public. The agency information guide should make it easier for people to identify and locate information held by the agency, and know whether the information can be obtained on the website, upon request or under a formal access application. Preparing the agency information guide presents agencies with a useful opportunity to examine the types of information they currently make publicly available and how that information can be accessed or obtained in accordance with the GIPA Act.

The agency information guide should also focus the attention of agencies on how public access to information can continuously be improved. Agency information guides should reflect and demonstrate agencies’ commitment to the object of the GIPA Act, as stated in section 3:

In order to maintain and advance a system of responsible and representative democratic Government that is open, accountable, fair and effective, the object of this Act is to open government information to the public by:

- a) authorising and encouraging the proactive public release of government information by agencies, and
- b) giving members of the public an enforceable right to access government information, and
- c) providing that access to government information is restricted only when there is an overriding public interest against disclosure.

What general features should agency information guides have?

Agency information guides operate most effectively when they present a clear, concise picture of an agency’s structure and functions: the types of

information held; and how and where that information is, or may be, made publicly available. In general, an effective agency information guide will:

1. Clearly describe an agency's structure. An organisational chart, or a link to one on the agency's website, is a helpful inclusion.
2. In describing functions and the way in which they affect the public, agencies may find it helpful to set this out under headings, or in tabular form, either by reference to specific functions, or to particular branches or divisions within the agency, whichever is clearer or more applicable.

Eg, headings such as "Service delivery functions", "Regulatory functions", etc, could be used.

Alternatively, the functions could be set out under headings such as "Community Relations Unit" or "Special Operations Branch".

Also, a table of contents is useful.

3. In demonstrating how members of the public are able to participate in policy development and the exercise of an agency's functions, it is useful to note any regular public meetings or committees that have public membership: other initiatives, such as calls for submissions on certain issues; and any other ways that members of the public may be consulted about or provide input.
4. Agency information guides should note an agency's commitment to openness with regard to government information, and indicate any initiatives the agency plans to implement to improve transparency and access.
5. In specifying how information is made available, agencies should note the four ways that information may be made available under the GIPA Act, noting that formal access applications are a last resort.
6. In indicating the type of open access information that is available, and any other information an agency plans to release proactively, agencies may wish to consider including links to a website where relevant.
7. Agency information guides should avoid any blanket statements indicating that an agency considers particular types of information to be confidential, since this is consistent with the public interest test in the GIPA Act. Unless there is a conclusive presumption of an overriding public interest against disclosure, agencies must

apply the public test in relation to all requests for government information.

8. For some agencies, it may be helpful to note that some information is not available under the GIPA Act. For example, the information listed in Schedule 1 to the Act for which there is a conclusive presumption of an overriding public interest against disclosure is not available under the GIPA Act. However, agencies that hold this type of information should determine whether it is able to be disclosed under other legislation.
9. Agency information guides should contain contact information for the agency's Right to Information Officer, or the unit in the agency responsible for access to government information. It is also good practice to include the OIC's contact details to assist members of the public to obtain more details about access to government information.

Can we adapt our statement or summary of affairs?

Yes. It is acceptable for agencies to adapt the statement of affairs or summary of affairs required under the FOI Act. However, in doing so, agencies must ensure that the agency information guide complies with the requirements of section 20 of the GIPA Act, and reflects the GIPA Act's object. Agencies should also ensure that terminology used under the FOI Act that is no longer used in the GIPA Act does not appear in the agency information guides.

For example, agency information guides should refer to access to government "information", and not "documents" which was the terminology used in the FOI Act. Similarly, agency information guides should not refer to "exemptions", as this term was relevant to FOI but is not used in the GIPA Act.

Does the guide have to reproduce vast quantities of information?

No. Agency information guides need not reproduce vast quantities of material, such as the content of policy documents or databases. The agency information guide is meant to be a summary only. A good idea is to list the information under relevant headings and provide links to where the relevant information is located. However, it is important to update the links if the information moves, and to check that those links remain active.

When does the guide have to be finalised?

In accordance with section 21 of the GIPA Act, agencies must adopt their first agency information guide within 6 months after the commencement of the Act. As the GIPA Act commences on 1 July 2010, agencies have

until 31 December 2010 to finalise and adopt their agency information guides.

The *Government Information (Public Access) Amendment Regulation 2010* (NSW) ("the GIPA Regulation") provides that if an agency's statement or summary of affairs, as required by section 14 of the FOI Act, is due by 30 June 2010, and the agency adopts its agency information guide by 30 July 2010, the requirement to produce the statement or summary of affairs is waived.

Agencies must review their agency information guides and adopt a new agency information guide at intervals of not more than 12 months. An agency may update and amend its agency information guide at any time. The information published in the guide should be kept accurate, up to date and complete.

How should the guide be adopted?

An agency information guide can be adopted by whatever means an agency chooses. For example, a government department may adopt its agency information guide by obtaining the approval of the Director General. A local council may adopt a guide at a council meeting, or by approval of the General Manager.

How should the Information Commissioner be notified?

Agency information guides can be sent to the Information Commissioner through the general OIC email address, or may be mailed in hard copy. If requested, the OIC can provide advice and feedback on the guide. After receipt, the Information Commissioner will formally respond to the agency in accordance with section 22 of the GIPA Act.

Further assistance

A sample agency information guide can be found on the OIC's website under Open access Information and agency information guide. (www.oic.nsw.gov.au/openaccessinformation/publicationguide.html)

Agencies should also contact the OIC if they have any questions or need further advice about the agency information guide requirements.

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).