

**ATTACHMENT C**

**DRAFT ACCESS TO INFORMATION  
POLICY – 2017  
(ALL CHANGES TRACKED)**



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## DRAFT ACCESS TO INFORMATION POLICY 2017

### CHANGES TO 2011 POLICY SHOWN

Deletions in ~~strikethrough~~, additions *bolded in italics*

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#### Purpose

The purpose of this policy is to describe City of Sydney's principles regarding public access to information and the process of managing requests for such access.

#### Scope

This policy applies to all staff, ***Councillors and contractors*** of the City of Sydney (***City***). ~~who are responsible for managing requests for access to information from members of the public.~~

#### BACKGROUND

##### Context

***The City holds valuable and diverse information. Some information is recent and some extends back to Sydney's early development.***

***There is strong public interest in what the City does and the information it holds and the City is committed to making its information available to the community.***

***Good information is an asset for the City and the community and supports a robust democracy.***

***The City authorises the release of information under routine business arrangements and under legislation such as the Environmental Planning & Assessment Act and the Government Information (Public Access) Act 2009 ('the GIPA Act'). The GIPA Act commenced in NSW in 2010. It replaced the Freedom of Information Act 1989. It gives all members of the public a legally enforceable right of access to information created, received and held by Government, including councils.***

~~On 1 July 2010 the Government Information (Public Access) Act 2009 (GIPA Act) replaced the Freedom of Information Act 1989 (FOI Act). The GIPA Act is designed to meet community expectations of more open and transparent government for the people of NSW. The Act encourages local councils and NSW government agencies to make it as easy as possible for members of the public to gain access to government information.~~

~~The State Records Act 1998 sets a management framework for government records, including council records.~~

#### Principles

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The City of Sydney, *in providing the public with access to information it holds*, is *guided by* committed to the following principles regarding ~~public access to information~~:

- open and transparent government;
- *a presumption in favour of disclosure unless there is an overriding public interest against disclosure*
- ~~consideration of the overriding public interest in relation to access requests;~~
- *a proactive approach to disclosure and dissemination of information;*
- *timely, equitable and impartial processing of reasonable requests for information within relevant legislative and business frameworks, at the lowest reasonable cost*
- respect for the privacy of individuals.

The majority of access requests have no associated costs. All charges that may be incurred are listed in the City's Schedule of Fees and Charges available on our website.

#### PROCEDURES

##### Accessing Information

Any member of the public has a legal right to make application to the City of Sydney for access to information that the City holds. The City also publishes a wide range of information on its website and makes information available to members of the public *on request*.

*The City will provide copies of requested information in digital form wherever possible. Where copies cannot be made available in digital form, information may be available for viewing in the Town Hall House viewing room.*

Under Part 6 of the State Records Act, the City is required to make Access Directions for all records over thirty years old. Access Directions *are normally made for classes of records, not individual records. The directions either allow full access after thirty years, or restrict access for further specified periods of time. Records that are closed can still be requested under the GIPA Act. If access is refused the GIPA Act review rights, described below, apply.* ~~determine whether information is freely available or not to the public. In making these Directions the public interest considerations of the GIPA Act are taken into account.~~

~~Records available without further restriction are given an Open for Public Access Direction.~~

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~~Records which have a continuing public interest consideration against access are given a Closed for Public Access Direction. Should access to this information be requested under the GIPA Act and the request is declined, there are review provisions outlined below.~~

~~Access directions for archival records are normally made for classes of records, not individual records.~~

#### Open Access Information *and Proactive Disclosure*

The City must make its 'open access information' publicly available in accordance with the GIPA Act. Part 3 of the GIPA Act and Schedule 1 of the GIPA Regulation 2009 list the information that is 'open access information'.

The City's 'open access information' is made available to members of the public via *the Open access information page* ~~a register which is published on the City's website.~~

*Proactive release supports the public's right to information and it demonstrates the City is actively seeking ways to be transparent and accountable. In compliance with the GIPA Act the City seeks to identify information to disclose proactively and encourages staff to regularly assess whether the information created and collected in their business areas would be useful to publish proactively.*

#### Informal Access to Information

If a member of the public requests access to information that is not available on *the City's website* ~~on the register of open access information~~, they will be directed *informed about how to complete* ~~make~~ an informal access to information request ~~Application.~~, *either through the City's online services, by email or printable form.*

The City of Sydney will allow access to information unless there is an overriding public interest against disclosure of the information.

There is no fee required for an informal access request ~~application~~, but a ~~photocopying~~ *scanning* fee may be payable *in accordance with the City's Schedule of Fees and Charges*. Informal access applications will be processed as soon as practicable, generally within 10 working days.

An applicant who is not given information in response to an Informal Access to Information Application will be informed of their right to make a Formal Access to Information Application under the GIPA Act.

#### Formal Access to Information

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*Wherever possible the City will deal with access requests informally. However,* if information cannot be accessed through an informal request, a formal access application may be necessary. It may also be necessary if:

- a large volume of information is sought
- providing access would involve an extensive search
- the information sought involves personal or business information about third parties who must be consulted before the information can be released.

Applications must be in writing, and accompanied by a \$30 fee. Processing charges, *limited by the GIPA Act*, may also be levied, depending on the type and amount of information sought. A written acknowledgement of the receipt of a formal application will be provided within 5 working days.

Formal requests will be processed within 20 working days and may be extended by up to 15 working days where consultation with a third party is required or if records need to be retrieved. A request for an advance deposit may also extend the statutory time period. The applicant will be notified of the decision in writing. Any decision to refuse access will include reasons for the decision. If charges are payable, access will be given to the information only when the payment has been received.

### Review Rights

There are a number of review rights under the GIPA Act outlined in Part 5.

If someone is refused access to information, they have a number of options:

- ~~they may seek~~ *seeking* an internal review by the City;
- ~~they may approach~~ *seeking* a review of the City's decision *by* the Office of the Information *and Privacy* Commission; ~~or for~~
- ~~they may also approach the Administrative Decisions Tribunal to request a review.~~ *Seeking a review of the City's decision by the NSW Civil and Administrative Decisions Tribunal (NCAT).*

Applications for internal review must be made within 20 working days of the notice of the decision being given to the applicant and must be accompanied by an Application for Internal Review and a fee of \$40.00.

The review will be undertaken by a senior officer who was not involved in making the original decision. A determination from an internal review will be issued within 15 working days. This may be extended by up to 10 working days where there is a need to consult with new third parties.

Alternatively, an applicant can appeal directly to the Information *and Privacy* Commission (*IPC*) ~~or~~ *NCAT*. ~~the NSW Administrative Decisions Tribunal.~~ Applicants

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have ~~8 weeks~~ **40 working days** from the date of the original decision being given to them to ask for this review. If the applicant has already had a review by the **IPC** ~~Information Commissioner~~, they have **20 working days** ~~4 weeks~~ from the date that the decision was given to them to make an application to **NCAT**. ~~the ADT~~.

#### Access to Information by Councillors

Councillors have a right to access Council information that is reasonably necessary for exercising their functions of their civic office, including roles which extend beyond decision making at formal meetings.

When making a request for information, Councillors should draft the request carefully and should precisely detail the information, or the nature of the information, sought. It is expected that Councillors will act reasonably in making a request for information.

When dealing with a request by a Councillor for information, the Chief Executive Officer (**CEO**) must act reasonably. Given that a Councillor may need the information to perform their public duty, if a request is to be denied, reasons for the refusal must be identified.

Any information that is given to a particular Councillor in the pursuit of their civic duties should also be available to any other Councillor who requests it. Councillors may request access to Council information by providing a written request to the **CEO** ~~Chief Executive Officer~~ or relevant Director.

Councillors may also apply for information by making an **Formal** Access to Information ~~a~~Application with payment of the associated fees and charges.

#### Copyright

**The intellectual property of a** A large amount of **City** information which is available for public access belongs to third parties and is the subject of copyright., ~~such as~~ **Plans** and reports submitted with development applications **are an example**. Access to this information is provided to members of the public in accordance with the GIPA Act and other relevant legislation, such as the Environmental Planning and Assessment Act 1979. Copyright laws apply to this information and applicants are advised to seek the consent of the copyright owner before reproducing the information in any way.

#### Responsibilities

**The CEO will delegate responsibilities to staff to determine applications under the GIPA Act, which is reflected in the City's register of Delegations from the CEO to Directors and staff.**

**Staff, Councillors and contractors of the City of Sydney are responsible for upholding the principles and processes of this policy as required in their**

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*daily work.*

*The Information Access team provides services in support of this Policy.*

**Consultation**

*The Access to Information Policy (adopted 14 February 2011) was placed on public exhibition from 1 December 2010 to 29 December 2010. No submissions were received. The revised policy has been reviewed by the Governance and Legal teams and by the ICAC.*

**REFERENCES**

**Related Legislation** ~~Laws and standards~~

Government Information (Public Access) Act 2009

Government Information (Public Access) Regulation 2009

State Records Act 1998

*Privacy and Personal Information Protection Act 1998*

*Health Records and Information Privacy Act 2002*

*Environmental Planning and Assessment Act 1979*

*Local Government Act 1993*

**Related Documentation** ~~Policies, Procedures and Guidelines~~

~~Open Access to Information web page Register~~

~~Informal Access to Information Request~~

**Approval status**

*The Council approved this policy on XXX.*

**Approval history**

<b>Stage</b>	<b>Date</b>	<b>Comment</b>	<b>TRIM Reference</b>
<i>Original Policy</i>	<i>14 February 2011</i>	<i>Approved by Council</i>	<i>2010/267570</i>
<i>Review</i>	<i>Revision draft July 2017</i>	<i>Minor revisions to bring the document up to date and in line with current practice.</i>	<i>2017/277327</i>



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	<i>Revision draft October 2017</i>	<i>The revised policy was reviewed by ICAC in August 2017 and by Legal and Governance in September 2017 and recommended minor modifications have been incorporated.</i>	<b>2017/501626</b>
<i>Next review</i>	<i>1 July 2021</i>		

**Ownership and approval**

<b>Responsibility</b>	<b>Role</b>
<i>Author</i>	<i>Information Access Team Leader</i>
<i>Owner</i>	<i>Manager Information Management</i>
<i>Endorser</i>	<i>City of Sydney Executive</i>
<i>Approver</i>	<i>City of Sydney Council</i>

~~Formal Access to Information Application  
Application for Internal Review~~

**~~Superseded Documentation~~**

~~Access to Archival Records by the Public – administrative policy~~

**~~Review Period~~**

~~Manager Governance will review this policy every four years.~~

**~~Next Review Date~~**

~~September 2014~~

**~~TRIM Reference Number~~**

~~Document number: 2010/267570~~

**AUTHORISATION**

Approved by Council on 14 February 2011

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