

# Agency Information Guide

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2023

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## 1 Introduction

The New South Wales Crime Commission (the Commission) Agency Information Guide details the structure and functions of the Commission, the kinds of government information it holds and ways in which the public can access that information under the Government Information (Public Access) Act 2009 (NSW) (the GIPA Act).

The Commission has published its Agency Information Guide in accordance with section 20 of the GIPA Act to promote access to Government information and support Open Government. The information in this Agency Information Guide aligns itself with the NSW Department of Justice Agency Information Guide.

## 2 Structure and Functions of the Commission

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### 2.1 Establishment

The Commission is constituted as a corporation under the Crime Commission Act 2012 (the CC Act). First established as the State Drug Crime Commission in 1986, the Commission was later officially renamed the New South Wales Crime Commission, as it is known today.

The Commission is part of the Stronger Communities Cluster which aims to deliver a safer, just, inclusive and resilient community. The Cluster consists of NSW Government executive and statutory agencies, office holders, and independent bodies as outlined in the Organisational Chart below. The Commission is committed to the Stronger Communities Cluster strategic priorities.

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### 2.2 Objective

The CC Act provides a mandate for the Commission to reduce the incidence of organised and other serious crime for a safer NSW. As part of its Safe Communities outcomes, the Commission's strategic vision is for a safer NSW community less impacted by serious and organised crime.

The Commission also exercises its functions under the Criminal Assets Recovery Act 1990 (the CAR Act) to ensure that persons involved in criminal activity do not retain the proceeds or benefits of their crimes.

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### 2.3 Commissioner and Executive Team

The Agency head of the Commission is the NSW Crime Commissioner who is appointed by the Governor under section 8(1) of the CC Act. The Governor may, with the concurrence of the Commissioner, appoint two or more Assistant Commissioners under subs-s 9(1) of the CC Act, at least one of whom must have special legal qualifications.

The Commission is headed by Commissioner, Michael Barnes, and Peter Bodor KC, is the Assistant Commissioner (Legal).

The Commission's Executive Team consists of the Commissioner, the Assistant Commissioner (Legal), Executive Director Criminal Investigations, Executive Director Financial Investigations and the Chief Operating Officer.

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### 2.4 Principal Functions

The principal functions of the Commission, as set out by section 10(1) of the CC Act, are as follows:

1. to investigate matters relating to a relevant criminal activity or serious crime concern referred to the Commission by the Management Committee for investigation

2. to investigate matters relating to the criminal activities of criminal groups referred to the Commission by the Management Committee for investigation
3. to assemble evidence that would be admissible in the prosecution of a person for a relevant offence arising out of any such matters and to furnish any such evidence to the Director of Public Prosecutions
4. to furnish evidence obtained in the course of its investigations (being evidence that would be admissible in the prosecution of a person for an indictable offence against the law of the Commonwealth or another State or Territory) to the Attorney General or to the appropriate authority in the jurisdiction concerned
5. to reinvestigate matters relating to any criminal activity that were the subject of a police inquiry (being an inquiry referred for reinvestigation to the Commission by the Management Committee) and to furnish its findings to the Committee together with any recommendation as to action the Commission considers should be taken in relation to those findings
6. to furnish in accordance with the CC Act reports relating to organised and other crime, which include, where appropriate, recommendations for changes in the laws of the State
7. to provide investigatory, technological and analytical services to such persons or bodies as the Commission thinks fit
8. with the approval of the Management Committee, to work in co-operation with such persons or authorities of the Commonwealth, the State or another State or Territory (including any task force and any member of a task force) as the Commission considers appropriate.

The Commission also has the functions under the CAR Act, which provides for the confiscation of assets of those involved in serious criminal activity. The Commission may carry out investigations in aid of the exercise of its functions under the CAR Act and may, for the purposes of that Act, make such use as it thinks fit of any information obtained by it in the execution of the CC Act.

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## 2.5 Management Committee

The Commission's Management Committee and its membership is constituted under subsections 49(1) and 50(1) of the CC Act respectively. The Management Committee consists of:

- an independent Chairperson appointed by the Minister
- the Commissioner of the New South Wales Police Force (NSWPF)
- the Chair of the Board of the Australian Criminal Intelligence Commission (ACIC)
- the Secretary of the Department of Communities and Justice or a senior executive of that Department nominated by the Secretary.

The principal functions of the Management Committee, as set out in section 51(1) of the CC Act, are:

1. to refer (by a written notice in accordance with section 54 of the CC Act) matters relating to relevant criminal activities to the Commission for investigation
2. to refer (by a written notice in accordance with section 54 of the CC Act) matters relating to serious crime concerns to the Commission for investigation
3. to refer (by a written notice in accordance with section 54 of the CC Act) matters relating to the criminal activities of a specified criminal group to the Commission for investigation
4. to refer (by a written notice in accordance with section 54 of the CC Act) to the Commission, for reinvestigation, police inquiries into matters relating to any criminal activities
5. to refer (by a written notice in accordance with section 54 of the CC Act) to the Commission for investigation matters (joint task matters) relating to the subject of co-operation approved under section 10(1)(g) of the Commission Act

6. to make arrangements (in accordance with section 58 of the CC Act) for task forces to assist the Commission in carrying out its functions
7. to review and monitor generally the work of the Commission
8. to give approvals for the purposes of section 13 of the CC Act (liaison with other bodies).

In relation to the Management Committee functions listed above as paragraphs (1), (2), (3) and (4), pursuant to section 51(2) of the CC Act, the Management Committee is not to refer a matter to the Commission for investigation unless it is satisfied that:

- the use of the Commission's powers appear to be necessary to fully investigate the relevant criminal activity, serious crime concern or criminal activity of the criminal group
- the investigation of the relevant criminal activity, serious crime concern or criminal activity of the criminal group by the Commission is in the public interest
- the relevant criminal activity, serious crime concern or criminal activity of the criminal group is sufficiently serious or prevalent to warrant its investigation by the Commission.

In relation to the Management Committee function listed above as paragraph (5), pursuant to section 51(3) of the CC Act, the Management Committee is not to refer a matter to the Commission for investigation unless it is satisfied that:

- the use of the Commission's powers appears to be necessary for the Commission to fully investigate the joint task matters
- it is in the public interest that the Commission investigate the joint task matters
- the joint task matters are matters that may be the subject of a referral under the functions listed above at paragraphs (1), (2) and (3), or that are connected with this State and are comparable in seriousness to matters that may be so referred
- the joint task matters are sufficiently serious or prevalent to warrant the investigation by the Commission.

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## 2.6 Law Enforcement Conduct Commission

The Law Enforcement Conduct Commission (the LECC) is empowered to investigate misconduct of officers of the Commission and pursuant to section 33 of the *Law Enforcement Conduct Commission Act 2016* (the LECC Act) the Crime Commissioner is under a duty to report to the LECC any matter suspected on reasonable grounds to concern misconduct or serious maladministration by officers of the Commission and the NSWPF. The Crime Commissioner must notify the LECC of any matters in accordance with guidelines that have been agreed between the Commission and LECC pursuant to section 14 of the LECC Act.

Although the Crime Commissioner retains overall responsibility for the investigation of complaints made in relation to the Commission and/or Commission officers, the LECC can investigate complaints or oversight the Commission's investigation into suspected serious misconduct and/or serious maladministration involving the Commission.

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## 2.7 Parliamentary Joint Committee

Section 70 of the CC Act defines 'Joint Committee' to mean the joint committee called the Committee on the Ombudsman, the LECC and the Crime Commission constituted under the *Ombudsman Act 1974*.

The Joint Committee has the following functions under s 71 of the CC Act:

- to monitor and review the exercise by the Commission and the Management Committee of their functions

- to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission and, the Management Committee or connected with the exercise of their functions to which, in the opinion of the Joint Committee, the attention of Parliament should be directed
- to examine each annual and other report of the Commission and report to both Houses of Parliament on any matter appearing in, or arising out of, any such report
- to inquire into any question in connection with its functions which is referred to it by both Houses of Parliament, and report to both Houses on that question.

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## 2.8 Organisation Chart

An organisation chart showing the functions and responsibilities of Commission staff is available on the Commission's website and is also provided below.

As outlined in section 74 of the CC Act, Commission staff are employed under the Government Sector Employment Act 2013 (NSW).

Additionally, the Commission may:

- engage persons as consultants to the Commission or to perform services for it
- arrange for the use of the services of any staff or facilities of a government agency
- arrange for one or more police officers or for one or more members of the Police Force of the Commonwealth, or of a Territory or another State, to be made available (by way of secondment or otherwise) to perform services for the Commission.

The Commission is structured into:

### 2.8.1 Criminal Investigations Division

The Criminal Investigations Division (CID) is responsible for discharging the criminal investigation functions under the CC Act. The Division's work is generally conducted in co-operation with one or more State or Commonwealth Law Enforcement Agencies pursuant to a Reference issued by the Management Committee or a Joint Investigation Agreement.

The CID is structured into two Directorates:

1. The Investigations Directorate is comprised of teams of Intelligence Analysts who lead the intelligence function of joint investigations into organised and other serious crime.
2. The Strategic Intelligence and Capabilities Directorate includes the Commission's Human Intelligence Team, Strategic Intelligence Unit and the Commission's technical capabilities teams. These teams provide support to the Investigations Directorate and partner agencies through the provision of actionable electronic human and predictive intelligence.

### 2.8.2 Financial Investigations Division

The Commission's Financial Investigations Division (FID) employs expert forensic accountants and financial analysts who specialise in tracing the proceeds of crime and identifying assets held by, or on behalf of, those suspected of criminal misconduct, including proceeds and assets that have been subjected to money laundering and other efforts to hide them.

The primary purpose of the Commission's financial investigators is to support the discharge of its functions under the CAR Act; however, financial inquiries are also an invaluable aid in criminal investigations.

### 2.8.3 Corporate & Enterprise Services

Corporate & Enterprise Services Division (CES) supports Commission personnel to achieve the Commission's goals, uphold high ethical standards, and meet legislative obligations. The CES provides the following functions to the Commission:

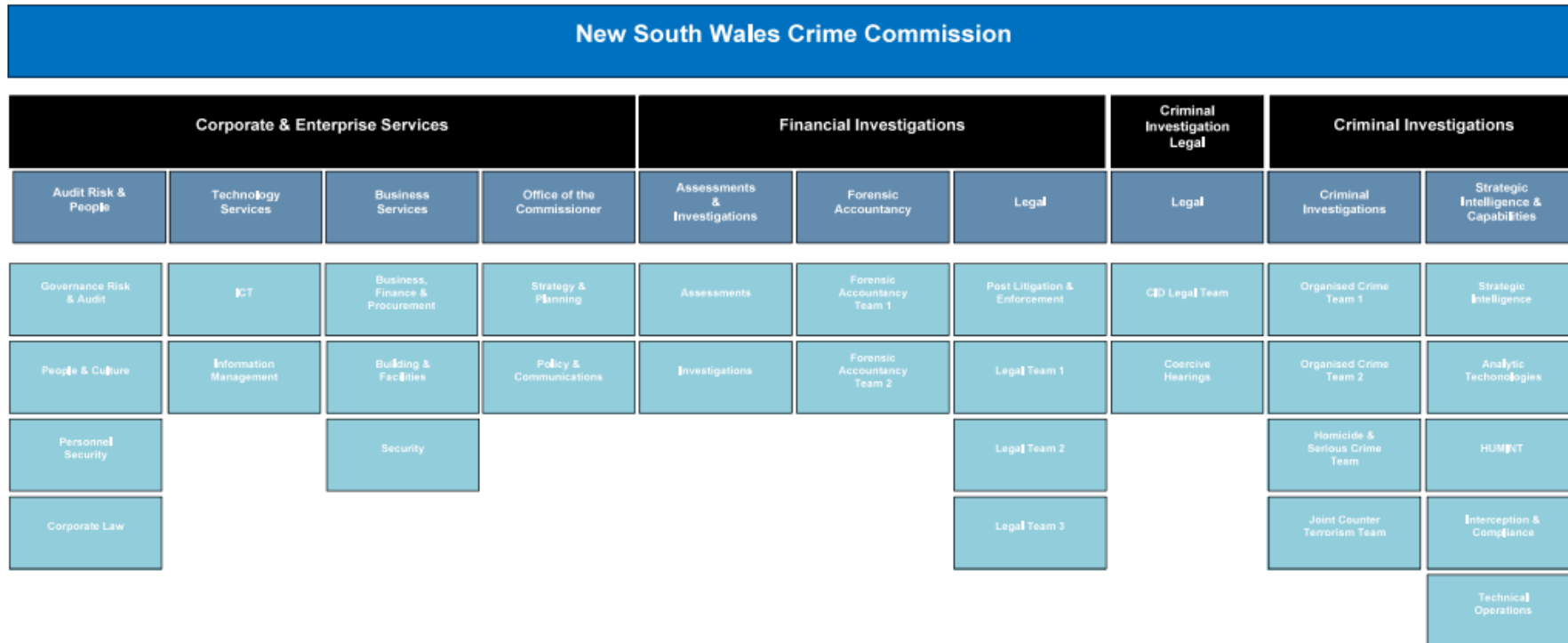
- Governance, Audit & Risk
- People & Culture
- Personnel Security
- Business & Finance
- Building and Facilities
- Security Services
- Information Communications Technology
- Information Management
- PMO & ICT Compliance
- Office of the Commissioner

### 2.8.4 Legal Services

Legal services within the Commission are provided by the Commissioner and Assistant Commissioner (Legal) who are each required by the CC Act to possess 'special legal qualifications'.

The Division's FID Legal Team provides legal services to the FID and works with that Division to conduct proceedings in Court pursuant to the CAR Act. That includes the commencement of proceedings, generally through restraining order applications, the management of interlocutory proceedings, including the examination of defendants and persons associated with them, and the conduct of contested hearings for applications made in CAR Act proceedings.

The Criminal Investigation and Corporate Legal teams provide legal advice and services in support of the Commission's criminal investigation operations and agency litigation. These teams are responsible for all applications for warrants and other authorities pursuant to a number of complex State and Commonwealth legislations. In addition, these teams respond to subpoenas and handle statutory disclosure obligations.



Crime Commission Functional Structure January 2022



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## 2.9 Co-Operation with Other Agencies and NSW Police Task Forces

The Commission conducts its operations in conjunction with a number of other agencies. These include the NSWPF, Australian Federal Police, ACIC, Australian Border Force, and other law enforcement agencies. The Commission also has close working relationships with its Management Committee, the Director of Public Prosecutions and other State and Commonwealth government agencies.

Pursuant to s 58 of the CC Act, the Management Committee may make arrangements with the head of one or more investigative agencies for a body of persons from that or those agencies (a task force) to assist the Commission in carrying out an investigation into matters relating to a relevant criminal activity, serious crime concern or criminal activity of a criminal group or any of its other functions. In assisting the Commission to carry out its functions, the task force is under the control and direction of the head of the investigative agency or agencies concerned, subject to directions and guidelines given by the Management Committee for the purpose of co-ordinating the activities of the task force.

## 3 Effects of the Commission's Functions on the Public

The principal effect of the Commission's functions is to reduce the threat and harm posed to the community by serious crime. The Commission does not provide 'services' directly to the public. However, its activities have direct implications for members of the public under investigation or involved in investigations (e.g. witnesses), and for those who are the subject of confiscation litigation.

Commission staff may apply for warrants or other authorities under statutes, including:

- *the CC Act*
- *the CAR Act*
- *the Law Enforcement (Powers and Responsibilities) Act 2002 (NSW)*
- *the Law Enforcement (Controlled Operations) Act 1997 (NSW)*
- *the Law Enforcement and National Security (Assumed Identities) Act 2010 (NSW)*
- *the Surveillance Devices Act 2007 (NSW)*
- *the Surveillance Devices Act 2004 (Cth)*
- *the Telecommunications (Interception and Access) Act 1979 (Cth)*.

In relation to matters that have been referred to it by the Commission's Management Committee, the Commission may summons people before it and to require them to answer questions. There is also a power to require persons, corporations and government agencies to produce documents and other things.

## 4 Arrangements for Public Participation in Policy Formation and the Commission's Functions

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### 4.1 Contacting the Commission

Relevant Commission policies are found free of charge on the Commission's website. The public can provide feedback on Commission policy using the below postal address or through the 'Contact Us' page on the Commission's website.

The Commission's contact details are as follows:

Address / Postal address: 453-463 Kent Street, Sydney NSW 2000

Email: all general enquiries must be submitted through the Commission's '[Contact Us](#)' page

Telephone: +61 2 9269 3888

Facsimile: +61 2 9269 3809

Business Hours: Reception – 7:30 am to 5:00 pm, Monday to Friday

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## 4.2 Contacting the LECC

The LECC encourages members of the public and public officials to report suspected serious misconduct or serious maladministration involving the NSWPF or Commission. Anyone may report allegations of misconduct or maladministration to the LECC anonymously. The public may contact the LECC if they have information about Police or Commission misconduct. The LECC has a secure online complaint form to report serious misconduct or maladministration. Using this form ensures the public has provided the LECC with the necessary information to assess an allegation. The contact details of the LECC are:

Postal: GPO Box 3880, Sydney NSW 2001

Email: [contactus@lecc.nsw.gov.au](mailto:contactus@lecc.nsw.gov.au)

Website: [www.lecc.nsw.gov.au/](http://www.lecc.nsw.gov.au/)

Telephone: +61 2 9321 6700 or 1800 657 079 (toll-free)

## 5 Government Information Held by the Commission

The Commission holds hard and electronic copies of government information as part of its functions under the CC Act and CAR Act. The commission provides open access information through:

- the proactive release of information (see section 5.2)
- the informal release of information (see section 5.4)
- formal access applications.

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### 5.1 Kinds of Government Information

The Commission is primarily an investigatory and litigating body. As a result, the majority of the government information held by the Commission relates to past or ongoing investigations, or to past or current litigation.

The following kinds of government information is held by the Commission:

- agendas for, submissions to, and minutes of Management Committee meetings and staff meetings
- records of hearings conducted under section 19 of the CC Act
- records obtained under other sections of the CC Act, CAR Act, etc.
- reports furnished in accordance with the CC Act and other legislation
- correspondence between the Commission and other persons or bodies, including law enforcement agencies
- intelligence and other information received from other persons or bodies, including law enforcement agencies

- intelligence and other information relating to past or ongoing Commission investigations, including investigation reports
- records obtained pursuant to warrants issued to members of staff of the Commission
- records maintained for the purpose of complying with the reporting requirements for the warrants and authorities obtained by the Commission
- information relating to past or ongoing Commission litigation
- correspondence between members of staff at the Commission and external task-force members
- administrative and management files, including accounts and staff records
- procedural and operational policies and guidelines
- records held by other government agencies (as referred to in the GIPA Act), including Commonwealth government agencies.

To a large extent, such documentation is confidential and excluded under the GIPA Act.

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## 5.2 Publicly Available Information

Under section 7 of the GIPA Act, the Commission proactively makes available to the public Government information on its website, unless the information is either ‘excluded information’ or information for which there is an overriding public interest against disclosure.

The following lists the open access information that the Commission makes publicly available in accordance with the GIPA Act, and includes links to where they can be found on the Commission’s website.

- Annual Reports from 2014 onwards
- Strategic Plan
- Current Agency Information Guide
- Information about the Commission contained in any document tabled in Parliament by or on behalf of the agency, other than any document tabled by order of either House of Parliament
- Internal corporate policies and guidelines
- Disclosure log of access applications
- Register of government contracts
- Commission’s Code of Conduct
- Management Committee Direction and Guidelines
- Media releases and statements.

The above documents are made publicly available on the Commission’s website free of charge. In addition, the Commission’s Strategic Plan, Corporate Plan and Annual Reports from previous years are also available at [data.nsw.gov.au](https://data.nsw.gov.au). Data.NSW brings together NSW Government datasets which are available for the public in a centralised searchable website. The [NSW Government Open Data Policy](#) provides more information.

The Commission’s Audit, Risk, and People Team maintain the Commission’s website, and regularly reviews its program for the proactive release of government information, and does so by:

- Assessing all relevant Commission policies and procedures, making necessary redactions, and, having regard to section 7 of the GIPA Act, determining whether such documents (as appropriate) should be made publicly available on the Commission's website
- Reviewing and maintaining the Commission's website
- Maintaining accurate records to reflect what government information has been made available on the Commission's website.

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### 5.3 Excluded Information

Under Schedule 1 of the GIPA Act, it is to be conclusively presumed that there is an overriding public interest against disclosure of 'excluded information' of an agency (unless the agency consents to disclosure). Section 43 of the GIPA Act prevents an access application from being made to an agency for access to 'excluded information' of the agency.

Schedule 2 of the GIPA Act provides that the 'excluded information' of the Commission is information that relates to its 'investigative and reporting functions'.

Much of the information held by Commission is 'excluded information'. This information is not published on the Commission's website and it is unlikely that it would be made available for inspection. Section 43(2) of the GIPA Act provides that an application for 'excluded information' of the agency is not a valid access application.

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### 5.4 Informal Release

The Commission is authorised to release government information in response to an informal request pursuant to section 8 of the GIPA Act at its discretion, unless there is an overriding public interest against disclosure of the information. The Commission, having regard to the nature of the information, may make such information available by whichever means it considers appropriate and it may be subject to conditions. An informal request for access to information can be made by contacting the Commission's Government Information Officer at [governmentinformationofficer@crimecommission.nsw.gov.au](mailto:governmentinformationofficer@crimecommission.nsw.gov.au).

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### 5.5 Access Applications

After considering whether an informal request for information should be made, a formal access application under the GIPA Act can be made in writing to the Government Information Officer and sent to:

Government Information Officer  
NSW Crime Commission  
453-463 Kent Street  
Sydney NSW 2000  
AUSTRALIA

An access application must:

- be in writing (an access application form is available for printing on the Commission's website)
- clearly indicate that it is an access application made under the GIPA Act
- be accompanied by a fee of \$30
- state the name of the applicant and provide a postal address or an email address as the address for correspondence in connection with the application
- include such information as is reasonably necessary to enable the government information applied for to be identified.

An applicant must disclose on their access application whether they have applied to another agency, at any time, for substantially the same information and if so, they must identify the agency. However, an application will not be invalid if an applicant fails to make this disclosure.

The application fee for making an access application is \$30. Processing charges for a formal access application may also be imposed by the Commission at the rate of \$30 per hour if the application is determined to be valid. Certain discounts may apply, including on the basis of financial hardship and public interest grounds.

A person who is aggrieved by a reviewable decision (as defined in the GIPA Act) of the Commission can seek a review of the decision. In particular, section 82 of the GIPA Act provides for an internal review by the Commission (see section 83 of the GIPA Act regarding the review being lodged within 20 working days after notice of the decision or deemed refusal is given to the applicant); section 89 of the GIPA Act provides for a review by the Information Commissioner (see section 90 of the GIPA Act regarding the review being lodged within 40 working days after the notice of decision is given to the applicant); and section 100 of the GIPA Act provides for an administrative review under the Administrative Decisions Review Act 1977 by the NSW Civil and Administrative Tribunal (see section 101 of the GIPA Act regarding the review being lodged within 40 working days after notice of the decision is given to the applicant).

For assistance with an access application, the Commission's Government Information Officer can be contacted by emailing [governmentinformationofficer@crimecommission.nsw.gov.au](mailto:governmentinformationofficer@crimecommission.nsw.gov.au).

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## 5.6 Fees

The GIPA Act requires that Open Access information is made publicly available for inspection, free of charge. The public may inspect available Commission information which is listed under section 5.2 of this Guide, on its website without a fee. Hard copies of Open Access Information can also be supplied and posted free of charge. A fee may be charged if supplying hard copies involves a large volume of printing.

Formal Access Applications require payment of a \$30 application fee and \$30 hourly processing charges may apply.

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## 5.7 Information and Privacy Commission

Further information regarding the GIPA Act and agencies' obligations under this Act may be obtained from the Information and Privacy Commission (the IPC). The contact details for the IPC are:

Postal: GPO Box 7011, Sydney NSW 2001

Location: Level 17, 201 Elizabeth Street Sydney 2000

Email: [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)

Website: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)

Telephone: 1800 472 679

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## 5.8 Other Enquiries

Other enquiries may be made during regular business hours in person at the address provided in this document or by telephoning the Commission's Government Information Officer on (02) 9269 3888.

## 6 Review

The Commission reviews its Agency Information Guide and adopts a new guide at intervals of no more than 12 months in accordance with section 21 of the GIPA Act.

## Version Control

Version	Effective Date	Update Comments	Author
1	30 September 2010	First version drafted and finalised.	Government Information Officer ('GIO')
2	1 November 2010	Inclusion of the following: adoption date, Commission staff summary, organisational chart, how information can be accessed and details of the IPC (now OIC).	GIO
2.1	5 July 2011	Updated content and organisational chart.	GIO
2.2	1 August 2012	Updated content and organisational chart.	GIO
2.3	10 October 2012	Updated organisational chart and content to reflect the Commission Act after coming into force.	GIO
2.4	15 October 2012	Updated organisational chart.	GIO
2.5	7 January 2013	Updated organisational chart.	GIO
2.6	25 February 2013	Updated organisational chart.	GIO
2.7	13 March 2013	Updated organisational chart	GIO
2.8	29 April 2013	Updated organisational chart	GIO
2.9	19 July 2013	Updated organisational chart	GIO
2.10	28 February 2014	Updated organisational chart	GIO
3	1 July 2014	Updated content, formatting, organisational chart and document classification, inclusion of Review, Content Control and Publication Information headings/information	GIO
3.1	22 July 2014	Updated organisational chart	GIO
3.2	8 January 2015	Updated organisational chart	GIO
3.3	1 May 2015	Updated organisational chart and logo	Policy Officer
3.4	2 October 2015	Updated organisational chart	Corporate Services Officer

Version	Effective Date	Update Comments	Author
3.5	30 September 2016	Updated organisational chart and content to reflect changes in names of agencies and content details.	GIO
3.6	25 September 2017	Updated details to reflect the changes to the Commission Act, primarily in respect of the establishment of the LECC and the organisational chart.	GIO
3.7	30 August 2018	Updated postal address for GIPA Applications; removal of 'Director Legal Services' in organisational chart.	Policy and Governance Officer
3.8	30 June 2019	Minor formatting changes, amendments to the organisational chart, update to Department of Justice details and review date, insertion of LECC and IPC website address.	Policy and Governance Officer
4	26 June 2020	Amendments to address IPC's comments in relation to 2019 AIG.	GIO
5	15 June 2021	Minor amendments, formatting and changes to the organisational chart	Policy and Governance Officer
6	24 August 2022	Update organisational chart, role titles, website links and access to data.nsw.	Audit, Risk & People
7	26 May 2023	Update according to recommendations by IPC from 2022 review.	Audit, Risk & People

## Publication Information

Key Information	Details
Title	Agency Information Guide
Policy Type	Legal
Policy Number	LEG2018/1
Policy Developer	NSWCC
Policy Contact	Audit, Risk & People Team

Key Information	Details
Approver	Commissioner
Approval Date	5 June 2023
Effective Date	5 June 2023
Review Date	No more than 1 year from effective date
Supersedes	Version 6