

Agency Information Guide



MARCH 2024

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**NSW OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS (ODPP)
AGENCY INFORMATION GUIDE**

Government Information (Public Access) Act 2009

What is the Agency Information Guide?

The NSW [*Government Information \(Public Access\) Act 2009*](#) (GIPA Act) provides members of the public with a right of access to government information. The GIPA Act replaced the *Freedom of Information Act 1989* (FOI) in July 2010.

Pursuant to the GIPA Act, each NSW Government department and agency is required to publish an Agency Information Guide.

This Agency Information Guide provides a general description of:

- The NSW ODPP structure and functions
- The way in which our functions affect members of the public
- The information we make publicly available and information the ODPP will not make available.
- How members of the public can and provide feedback and ask questions of the NSW ODPP.

You may obtain a free copy of this document, or more information, from The Right to Information Officer:

- Phone – 1800 814 534 (toll free)
- Email – GIPA@odpp.nsw.gov.au (include Attn Right to Information Officer in the 'Subject' field)
- Post – Right to Information Officer, Office of the Director of Public Prosecutions, Locked Bag A8 Sydney South NSW 1232.



1. Structure and Functions of the ODPP

1.1. Who we are.

The Office of the Director of Public Prosecutions (NSW) ("ODPP") is a medium-sized public sector agency with about 950 staff – including solicitors, Crown Prosecutors, Witness Assistance Officers, administrative and corporate services employees. Our head office is in Sydney, where the Director of Public Prosecutions, the Deputy Directors, the Solicitor for Public Prosecutions and their legal and administrative support staff are based.

The ODPP has three offices in Western Sydney, in Parramatta, Penrith and Campbelltown. There are six offices in regional NSW, in Lismore, Newcastle, Gosford, Wagga Wagga, Dubbo and Wollongong. Solicitors and Crown Prosecutors in our regional offices conduct prosecutions in circuit courts within their region. Contact details for each office are found on the [ODPP website](#).

1.2. Functions

The ODPP is the independent prosecuting authority of New South Wales (NSW).

The Office was created in 1987 by the [Director of Public Prosecutions Act 1986 \(the Act\)](#) and is responsible for the prosecution of all serious offences committed against the laws of the State on behalf of the community.

The Director of Public Prosecutions is required to act independently and impartially. The principal functions of the ODPP are to institute and conduct prosecutions for indictable offences in the Local, District and Supreme Courts, and to conduct appeals arising from those prosecutions, including as the responding party, in any court.

The ODPP advises in, institutes and conducts proceedings in the public interest in accordance with published [Prosecution Guidelines](#). The ODPP's Prosecution Guidelines set out the general principles for the initiation and conduct of criminal prosecutions. The current edition was published in March 2021.

The [ODPP's Code of Conduct](#) establishes the ethical principles and standards of conduct that are to inform and guide all decisions made and action taken on the ODPP's behalf and all behaviour, professional and personal, while performing work for the ODPP.



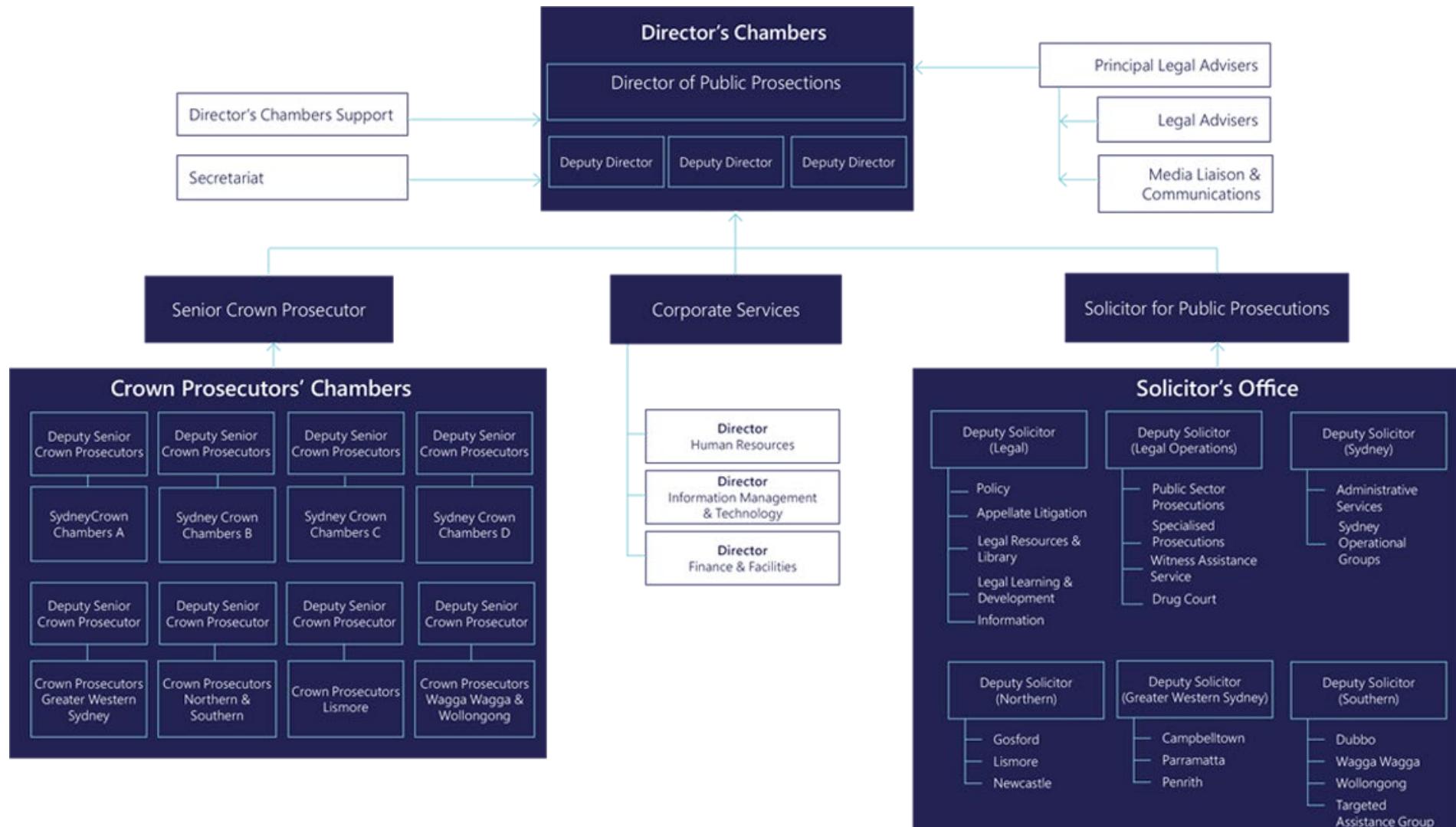
Solicitors and Crown Prosecutors appear in courts across NSW in a wide range of matters including:

- trials and sentence matters in the District and Supreme Courts
- committal proceedings in the Local Court and Children's Court
- certain summary hearings and sentence matters in the Local Court and Children's Court
- appeals in the District Court, Court of Appeal, Court of Criminal Appeal and the High Court.

The ODPP does not investigate crime. The NSW Police Force is mainly responsibility for the investigation of crime in NSW, along with a number of other smaller investigative bodies.



1.3. Organisational Structure



Director and Deputy Directors

The Director of Public Prosecutions is a Statutory Officer and is the head of the agency. There are three Deputy Directors.

Crown Prosecutors

[Crown Prosecutors](#) are Statutory Officers appointed under the *Crown Prosecutors Act 1986*. They are barrister who appear in court and perform other related functions on behalf of the [Director of Public Prosecutions](#) (the Director). The Head of Chambers is the Senior Crown Prosecutor. There are also Deputy Senior Crown Prosecutors located across the state.

Solicitors

The Solicitor's Office is led by the Solicitor for Public Prosecutions who is a Statutory Officer. There are six Deputy Solicitors who report to the Solicitor for Public Prosecutions, each of whom has responsibility for specific areas of operations within the Solicitor's Office.

There are about 500 solicitors employed by the ODPP. They range from junior lawyers in the early years of their career, to senior solicitors who have significant experience in the criminal law and have been delegated decision-making power in relation to criminal prosecutions being conducted by the ODPP. Solicitor Advocates are the most experienced solicitors, whose role is mainly to conduct criminal trials on behalf of the Director. All ODPP solicitors engage in legal advice and court appearance work as part of their role.

Witness Assistance Support Officers (WASO)

The ODPP has [Witness Assistance Service](#) (WAS) officers in all its offices throughout NSW to provide support and information to vulnerable victims in matters it prosecutes. Witness Assistance Service Officers have relevant training in social work, psychology or related disciplines and provide assistance to witnesses and victims throughout the criminal justice process.

Corporate Services

The Corporate Services Division at the ODPP is overseen by the Director of Finance, Director of Human Resources and the Director of Information Management and Technology.

Support staff

Each area of operations of the ODPP is supported by administrative staff who perform a crucial role in the running of each Division.



1.4. Leadership Team

The Director of Public Prosecutions is the head of NSW's independent prosecution service.

The Director is appointed under the *Director of Public Prosecutions Act 1986* by the NSW Attorney General, for a 10-year term.



Sally Dowling SC
Director of Public Prosecutions



Frank Veltro SC
Deputy Director of Public Prosecutions



Helen Roberts SC
Deputy Director of Public Prosecutions



Michelle England
Acting Deputy Director of Public Prosecutions



Ken McKay SC
Acting Senior of Public Prosecutions



Craig Hyland
Solicitor of Public Prosecutions



Other Senior Staff

The ODPP's other senior executives are appointed under the *Government Sector Employment Act 2013* (NSW).



Brendan Oldham

Director, Information Management
and Technology



Michael Goddard

Director Finance and Facilities



Nigel Richardson

Director Human Resources



2. How the ODPP's functions affect members of the community

The ODPP is the independent prosecuting agency for serious crime in NSW. Accordingly, the ODPP's functions directly affect the NSW community, which has an interest in the fair, timely and professional delivery of justice in criminal matters prosecuted in NSW.

The ODPP's functions have particular impact upon on certain groups within the community, notably, victims, witnesses and accused persons, as well as the ODPP's criminal justice sector partners, including NSW police officers, members of the judiciary, jurors and other legal practitioners.

Decisions made by lawyers within the ODPP are governed by:

- the ODPP [Prosecution Guidelines](#).
- each lawyer's responsibilities stemming from membership of their professional organisation, as a solicitor or barrister admitted to practice
- the NSW Government's ethical framework involving the core values of integrity, trust, accountability and service

The ODPP's vision is to be a dynamic prosecution service recognised for its excellence and leadership.

Our goals are to:

- deliver a high quality, independent and professional prosecution service
- provide a fair, just and timely service to victims and witnesses
- improve the ways we interact internally and with our criminal justice partners
- develop, recognise and celebrate the knowledge, skills and commitment of our people.



3. Participation by members of the public in the formulation in the exercise of the ODPP's functions

3.1. Overview

The ODPP is required to make decisions in the public interest independently and impartially, free from sectional influences, including the political and personal views or sympathies of staff making decisions, and any external pressures at play, including from the media.

In making decisions about whether to proceed with a prosecution, which charges should proceed, and the appropriateness of a plea offer, the ODPP will properly take into account the views of certain key stakeholders involved in the matter. These are the victim, or next-of-kin where the victim is deceased or otherwise unable to provide views, and the NSW Police. Their views are not determinative of the outcome but must be obtained and taken into account along with other factors affecting the decision, in accordance with the *Prosecution Guidelines*.

3.2. Feedback, complaints or suggestions of the ODPP

The ODPP aims to be accessible and responsive to victims of crime, witnesses, and our other stakeholders in the prosecution process. We strive to deliver a quality service and to continuously improve the way victims and witnesses are treated.

We welcome, and will constructively use, your feedback on what we have done wrong, what we could do better and where we have exceeded expectations.

As the prosecution process involves several agencies, not all feedback will be relevant to the ODPP. Below is a list of the feedback you should direct to us, and what you should direct to another agency.

For further information, also see our [Feedback and Complaints Policy](#).



3.3. Feedback that can be directed to the ODPP

The ODPP will deal with:

- any allegation of impropriety or misconduct by a NSW ODPP staff member
- any clearly expressed grievance about the way the ODPP handled a case, or about our policies, procedures or service.

If you want to make a complaint or provide feedback on any of these subjects, please complete this [online form](#) or [download a form](#) and email it to complaints@odpp.nsw.gov.au, or generalfeedback@odpp.nsw.gov.au

3.4. Feedback, complaints or suggestions for another agency

Judges and Magistrates

Complaints about judges or magistrates (judicial officers) should be referred to the Judicial Commission of NSW. More information is available [here](#).

NSW Police and police officers

Complaints about NSW police officers should be directed to the Law Enforcement Conduct Commission. More information is available [here](#).

Note that allegations of criminal conduct are usually investigated by police. The ODPP has no investigative functions.



4. Accessing information held by ODPP

4.1. *Government Information (Public Access) Act 2009 (GIPA Act)*

The NSW [*Government Information \(Public Access\) Act 2009*](#) (GIPA Act) provides members of the public with a right of access to government information. The *GIPA Act* replaced the *Freedom of Information Act 1989* in July 2010.

Its object is to open government information to the public by:

- authorising and encouraging its release.
- giving members of the public an enforceable right to access it.
- restricting access only when there is an overriding public interest against disclosure.

The ODPP holds information in both electronic and physical files. A number of ODPP Policy documents are available on the ODPP website.

Under the provisions of the *GIPA Act*, there is a right of access to certain information held by the NSW ODPP, unless the information is 'excluded information' or there is an overriding public interest against disclosure.

Categories of Information held by the ODPP

4.2. *Open Access Information (Mandatory Proactive Release, s6 GIPA Act)*

Under the *GIPA Act*, each NSW Government department and agency is required to publish an Agency Information Guide. The *GIPA Act* requires the ODPP to make certain categories of information available on our website – or to give an explanation if we do not. This information is called [Open Access Information](#). The following table sets out categories of documents defined as "Open Access Information" under Section 18 of the GIPA Act and their availability. Open Access Information will be released without the need for a Formal Access Application under the GIPA Act (most available on the ODPP's website)



Open access information	Availability
A guide to our publications	On our website
Information about our Office that has been tabled in Parliament	Contained in our Annual Reports only
Our policy documents ('Public Access information')	<p>The following Policy Documents are available online:</p> <ul style="list-style-type: none"> • Feedback and Complaints Policy • Victims Right of Review Policy • Victims Right to Request information sheet and form • Privacy Management Plan • Copyright Policy • Intellectual Property Policy • Data Breach Policy <p>Updates to Policy Documents will be added to the website when finalised</p>
A disclosure log of the information released in response to applications	On our website
A register of government contracts valued at \$150,000 or more	Contracts Register
The open access information the ODPP does not make publicly available due to an overriding public interest against disclosure	See ' Information the ODPP will not make available ' below

4.3. Information available via an informal request or application

Information that is not on our website may still be accessible under the *GIPA Act*. If you can't find what you are seeking, contact the ODPP's Right to Information Officer who will advise you whether it:

- can be publicly released ('Authorised Proactive Release', *s7 GIPA Act*)
- can be released to you informally, subject to reasonable conditions ('Informal Release', *s8 GIPA Act*)
- won't be released without you making a formal application
- cannot be released, because it is 'excluded information' (*s43 and Schedule 2 Clause 1 GIPA Act*) [see below]

The contact details for the Right to Information Officer are:

- phone – 1800 814 534 (toll free)
- email – GIPA@odpp.nsw.gov.au
(include Attn Right to Information Officer in the 'Subject' field)
- post – Right to Information Officer, Office of the Director of Public Prosecutions, Locked Bag A8 Sydney South NSW 1232.



4.4. Formal applications

Formal applications for information must be in writing – a form is available [here](#) and is annexed to this Guide.

The formal written application can be lodged via the email or postal address listed above, or in person (see Office locations on the [ODPP Website](#)).

The ODPP will determine formal applications for information in accordance with the *GIPA Act*. The application must specify it is made pursuant to the GIPA Act, provide the name of the applicant, list an Australian Postal address, be accompanied by the \$30.00 fee, and provide sufficient detail to enable the information requested to be identified by the ODPP.

The basic application fee is \$30 (for the first hour, and an additional \$30 per hour thereafter). Some requests may require the advance payment of a deposit.

If your application is deemed valid/partially valid, we will issue an invoice to the email or postal address provided in your application detailing the processing fees payable for payment by Electronic Funds Transfer. A cheque for payment of the invoice will be accepted should the issuing party not have access to electronic transfer or access to a banking facility. Please note that our Office cannot accept Money Orders from Australia Post.

Application/nature of information	Application fee	Processing charge(s)	Photocopying charges
Open Access Information	No fee	No fee	Fees available on application
Authorised Proactive Release	No fee	No fee	Fees available on application
Informal Release	No fee	No fee	Fees available on application
Formal Application	\$30.00	\$30.00 per hour after the first hour	No fee

4.5. Information the ODPP will not make available

When information is sensitive, the GIPA Act 'excludes' it from the public access requirements. Applications for excluded information are invalid.

Schedule 2 of the Act provides that information relating to the ODPP's prosecution function is 'excluded information'. This means that **applications to access our prosecution files, or any information which otherwise relates to the exercise of the ODPP's prosecutorial function, will be refused.**

An exception will be made if a witness in a prosecution we conducted requests a copy of their police statement, or an accused person requests a copy of their Court Attendance Notices/Charges and Facts.

Further details about applying for government information – and reasons why applications can be refused – are available on the [Information and Privacy Commission's website](#).



4.6. Public interest against disclosure

Division 2 of the *GIPA Act* also restricts access to information when there is an overriding interest against public disclosure.

Referred to as the “public interest test”, an overriding public interest against disclosure of government information exists if (and only if) there are public interest considerations against disclosure and, on balance, those considerations outweigh the public interest considerations in favour of disclosure.

Examples of information held by the ODPP for which there would be an overriding interest against disclosure include when it would identify an informant, prejudice law enforcement, court proceedings or a person’s fair trial, or breach legal professional privilege or certain laws.

[Schedule 1](#) of the *GIPA Act* sets out ‘Information for which there is conclusive presumption of overriding public interest against disclosure’. This includes information the disclosure of which is prohibited by other legislative instruments listed in Schedule 1 (‘overriding secrecy laws’). Several of the overriding secrecy laws have application to information held by the ODPP. Information which is subject to legal professional privilege and privilege generally also fall within Schedule 1 of the *GIPA Act*.

The ODPP will undertake reasonable searches as may be necessary to locate the information requested. The ODPP is not required to undertake any search for information that would require an unreasonable and substantial diversion of resources.

4.7. Review rights

You may request a review of certain decisions made by NSW ODPP in response to a formal access application. For further information, please view the NSW Information and Privacy Commission’s publication [‘Your review rights under the GIPA Act’](#). [Part 5](#) of the *GIPA Act* sets out the review of decisions.

Not all decisions are entitled to a review and a review may be limited to a particular aspect of a reviewable decision. Internal review of a decision must be made within 20 working days of notice of the decision being given, or within 20 working days of a deemed refusal. A fee of \$40 is payable by the applicant for an internal review.

Unlike a formal access application, a request for the informal release of information under the *GIPA Act* does not entitle the requester to any rights of review in respect of the ODPP’s decision.

You can also apply to have the decision reviewed externally, by the Information Commissioner or by the NSW Civil and Administrative Tribunal (NCAT). The NSW Information and Privacy Commission’s publication [‘Your review rights under the GIPA Act’](#) sets out the steps to be taken for internal and external review requests.



4.8. Requests from legal practitioners

Legal practitioners seeking information on subpoenas and how to obtain copies of police briefs of evidence should consult [Subpoenas to produce / extra copies of police briefs](#).

4.9. Further Information

For more information about Right to Information, you may contact the Information and Privacy Commission

- Online: <https://www.ipc.nsw.gov.au>
- Email: ipcinfo@ipc.nsw.gov.au
- Post: GPO Box 7011, Sydney NSW 2001
- Location: Level 15, McKell Building, 2-24 Rawson Place, Haymarket NSW 2000
- Telephone: 1800 472 679 between 9am to 5pm, Monday to Friday (excluding public holidays)





Government Information (Public Access) Act 2009 ACCESS APPLICATION

Please complete this form to apply for formal access to government information under the *Government Information (Public Access) Act 2009* (GIPA Act). If you need help in filling out this form, please contact the Right to Information Officer on 02 9285 8606 or visit our website at www.odpp.nsw.gov.au.

1. YOUR DETAILS

Surname: _____ Title: Mr Ms

First names: _____

Postal address: _____ Postcode: _____

Day-time telephone: _____ Facsimile: _____

Email: _____

I agree to receive correspondence at the above email address.

The questions below are optional and the information will only be used for the purposes of providing better service.

Place of birth: _____ Main language spoken: _____

Aboriginal or Torres Strait Islander: Yes No

Do you have special needs for assistance with this application:

2. PROOF OF IDENTITY

Only required when an applicant is requesting information on their own behalf.

When seeking access to personal information, an applicant must provide proof of identity in the form of a certified copy of any one of the following documents:

- Australian driver's licence
with photograph, signature and current address
- Other proof of signature and current address details
- Current Australian passport

Office of the Director of Public Prosecutions

Level 17, 175 Liverpool Street
SYDNEY NSW 2000
Locked Bag A8,
SYDNEY SOUTH NSW 1232
DX 11525 SYDNEY DOWNTOWN

Phone + 61 2 9285 8606
Fax + 61 2 9285 8600
TTY + 61 2 9285 8646
odpp.nsw.gov.au

ABN 27 445 689 335



3. GOVERNMENT INFORMATION

Please describe the information you would like to access in enough detail to allow us to identify it.

Note: If you do not give enough details about the information, we may refuse to process your application.

Are you seeking personal information? Yes No

4. FORM OF ACCESS

How do you wish to access the information?

Inspect the document(s) A copy of the document(s)

Access in another way (please specify) _____

5. APPLICATION FEE

If your application is deemed valid/partially valid, you will be charged an initial processing fee of \$30.

An invoice will be issued by our Office and sent to the email or postal address provided in part 1 of your application. Additional processing fees may be charged depending on the type of request.

If your application is deemed invalid, you will not be charged the above fee.

6. DISCLOSURE LOG

If the information sought is released to you and would be of interest to other members of the public, details about your application may be recorded in the agency's 'disclosure log'. This is published on the agency's website.

Do you object to this? Yes No

7. DISCOUNT IN PROCESSING CHARGES

You may be asked to pay a charge for processing the application (\$30 / hour). Some applicants may be entitled to a 50% reduction in their processing charges. If you wish to apply for a discount, please indicate the reason:

Financial hardship – please attach supporting documentation (eg a pension or Centrelink card).

AND / OR

Special benefit to the public – please specify why below:



Applicant's signature _____

Date _____

You can lodge this form via:

Email at gipa@odpp.nsw.gov.au

Post:

The Right to Information Officer
Office of the Director of Public Prosecutions (NSW)
Locked Bag A8
Sydney South NSW 1232

In person:

Office of the Director of Public Prosecutions (NSW)
Level 17, 175 Liverpool Street
Sydney NSW 2000

Details of ODPP regional offices for lodgment please refer to www.odpp.nsw.gov.au

General information about the GIPA Act is available from the Information and Privacy Commission NSW on freecall 1800 472 679 or website: www.ipc.nsw.gov.au

OFFICE USE ONLY

Date application received _____

GIPA Act Access Application Reference _____



Office of the Director of Public Prosecutions

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Office of the Director of Public Prosecutions

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