

# Agency Information Guide

February 2024



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## Purpose

This is the Agency Information Guide of the Legal Services Council (**Council**) and Commissioner for Uniform Legal Services Regulation (**Commissioner**).

This Guide promotes the object of the *Government Information (Public Access) Act 2009* (NSW) (**GIPA Act**) by providing information on the following:

- the structure and functions of the Council and Commissioner
- the way in which the functions of the Council and Commissioner affect members of the public
- arrangements that exist to enable members of the public to participate in the exercise of the Council and Commissioner's functions, and
- what government information that the Council and Commissioner hold, what information is available to the public and how that information is made available.

This Guide will be reviewed annually.

## Structure and functions of the Council and Commissioner

The Council is an inter-governmental statutory corporation created by the Legal Profession Uniform Law (**Uniform Law**). The Uniform Law regulates the legal profession in Victoria, NSW and Western Australia.

The Council consists of seven members drawn from participating jurisdictions:

- two members appointed by the host Attorney-General on the recommendation of the Law Council of Australia;
- one member appointed by the host Attorney-General on the recommendation of the Australian Bar Association;
- three members appointed by the host Attorney-General on the recommendation of the Standing Committee on the basis of their expertise in one or more of the following areas:
  - the practice of law
  - the protection of consumers
  - the regulation of the legal profession
  - financial management; and
- one member appointed as the Chair by the host Attorney-General on the recommendation of the Standing Committee.<sup>1</sup>

The Commissioner is a statutory officer and performs the dual roles of Commissioner and CEO of the Council.

The Council's work is overseen by a Standing Committee, which comprises the Attorneys General of the jurisdictions participating in the scheme, currently Victoria, New South Wales and Western Australia.

## Our organisational structure

The Council and Commissioner are supported by an Admissions Committee, which is responsible for developing Admissions Rules. Those rules set out the qualification prerequisites for admission to the legal profession, the procedural requirements for admission and the process of accrediting law courses and practical legal training providers. The Committee also has a broader role, providing advice to the Council about admissions matters.

The Admissions Committee works consultatively with the admitting authorities in Uniform Law jurisdictions and with the Law Admissions Consultative Committee (**LACC**). LACC's main role

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<sup>1</sup> *Legal Profession Uniform Law*, Schedule 1, cl 2.

is to forge consensus on admission and admission-related matters nationally, between the bodies represented by its members.

The Council has also established an Audit and Risk Committee (**ARC**), which operates under approved terms of reference. The ARC monitors and reviews the effectiveness and efficiency of the processes of the Council and the Commissioner.

A small Secretariat administers the day-to-day work of the Council. The Secretariat provides administrative and policy support to the Admissions Committee, LACC and the ARC.

The Council operates as a cost centre of the NSW Department of Communities and Justice. The Department provides corporate services under a services partnership agreement to the Council on a fee for service basis. The agreement covers human resources, finance, procurement and information and digital services and was last updated on 29 January 2024. The Agency Information Guide for the NSW Department of Communities and Justice can be found at <https://dcj.nsw.gov.au/about-us/gipa.html>.

For more information on organisational structure, please refer to the Council and Commissioner's [latest annual reports](#).

### Functions of the Council and Commissioner

The Council and the Commissioner oversee the operation of the Uniform Law scheme.

The Council is a statutory corporation, separate from Government, and may do what is necessary or appropriate to perform its functions. The Council's objectives under the Uniform Law are to:

- monitor the implementation of the Uniform Law and ensure its consistent application across participating jurisdictions;
- ensure the Uniform Law scheme remains efficient, targeted and effective, and promotes the maintenance of professional standards; and
- ensure that the Uniform Law scheme appropriately accounts for the interests and protection of clients of law practices.<sup>2</sup>

The Council formally makes all the Uniform Rules and, to achieve a consistent approach, can issue guidelines and/or directions to local regulatory authorities, except in relation to complaints and professional discipline (which are matters for the Commissioner).

The objectives of the office of the Commissioner are to:

- promote compliance with requirements of the Uniform Law and the Uniform Rules;
- ensure the consistent and effective implementation of the provisions of Chapter 5 and supporting Uniform Rules, through the development and making of appropriate guidelines; and
- to raise awareness of the Uniform Law scheme and its objectives.<sup>3</sup>

The person appointed as the Commissioner must also exercise the functions of CEO of the Council.

### Application of the GIPA Act

Clause 5(2) of the [Legal Profession Uniform Regulations 2015](#) provides that the GIPA Act, as applied by [s 416 of the Uniform Law](#), is modified as follows:

- the Council and the Commissioner are taken to be agencies (cl 5(2)(a)); and

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<sup>2</sup> Legal Profession Uniform Law, s 394.

<sup>3</sup> Legal Profession Uniform Law, s 398.

- the GIPA Act applies to the Attorney General of NSW as if the Attorney General is the Minister responsible for, or administering, the Council or Commissioner, but only in relation to the application of the GIPA Act to the Council or Commissioner (cl 5(2)(b)).

This Agency Information Guide covers access to government information held by the Council, the Commissioner, or held jointly by the Council and Commissioner.

### **How the functions of the Council and Commissioner affect the public**

The objectives of the Uniform Law are to promote the administration of justice and an efficient and effective Australian legal profession by:

- providing and promoting interjurisdictional consistency in the law applying to the Australian legal profession
- ensuring lawyers are competent and maintain high ethical and professional standards in the provision of legal services
- enhancing the protection of clients of law practices and the protection of the public generally
- empowering clients of law practices to make informed choices about the services they access and the costs involved
- promoting regulation of the legal profession that is efficient, effective, targeted and proportionate, and
- providing a co-regulatory framework within which an appropriate level of independence of the legal profession from the executive arm of government is maintained.<sup>4</sup>

Together, the Council and the Commissioner oversee the operation of the Uniform Law. The Council sets the rules and policy that underpin the Uniform Law, ensuring it is applied consistently across participating jurisdictions. The Commissioner oversees dispute resolution and compliance functions. These affect the regulatory environment for legal practitioners and the consumers of legal services in participating jurisdictions.

The Council also publishes the [Australian Legal Profession Register](#), which can be used by members of the public to find information about Australian legal practitioners in Uniform Law jurisdictions.

However, the Council and the Commissioner do not have a direct role in the regulation of law practices and legal practitioners and cannot intervene in individual cases. Day-to-day regulation of the legal profession remains with the local regulatory authorities. Local admissions boards maintain their role in the admissions process.

### **How the Council and Commissioner engage with the public and other stakeholders**

The Council consults with stakeholders and the public on policy matters. Public consultation opportunities are posted on the Council's website and submissions to consultations are published on the Council's website unless the person or body making the submission advises otherwise.

Any member of the public may also write to the Council or Commissioner to make policy suggestions or proposals or to raise any issues that concern them.

Any personal information obtained by the Council or Commissioner is managed in accordance with the *Privacy and Personal Information Protection Act 1998* (NSW) Commissioner (NSW). Please refer to our [Privacy Management Plan](#) for further information.

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<sup>4</sup> Legal Profession Uniform Law, s 3.

## The type of information held by the Council and Commissioner

The Council and Commissioner hold information including:

- policy and planning documents
- documents submitted to the Standing Committee of Attorneys General
- agreements made between participating jurisdictions in the Uniform Law scheme
- papers prepared for the Council, Admissions Committee and ARC
- draft legislation and subordinate legislation
- submissions and consultation responses
- correspondence with government and non-government stakeholders;
- personnel records
- administrative records
- memoranda of understanding between the Council and the local regulatory authorities;
- de-identified data about complaints handling and professional discipline provided by the local regulatory authorities for the purpose of the Commissioner's annual reports to the Standing Committee of Attorneys General
- fidelity fund data provided by the fidelity funds for the purpose of the Commissioner's annual reports to the Standing Committee of Attorneys General, and
- de-identified data about admission to the legal profession provided by the admitting authorities of Uniform Law jurisdictions

## How to access our information

Under the GIPA Act, information is available to the public in four main ways:

- open access information
- proactive release of information
- informal release, and
- formal access applications.

The public access to government information regime is overseen by the Information and Privacy Commission (**IPC**). Further information about an individual's right to information and how to access government information is available on the IPC's website at <https://www.ipc.nsw.gov.au/>.

## Open access information

Under the GIPA Act, the Council and Commissioner are required to make certain information, known as open access information, available to the public on the website. This information includes:

- this Agency Information Guide
- documents tabled in Parliament
- policy documents
- a disclosure log of access applications
- a register of government contracts, if any, and
- a record of open access information not made publicly available on the basis that there is an overriding public interest against disclosure of the information.

This publicly available government information, listed below, can be accessed on the Council website free of charge.

## Documents tabled in Parliament

The Council and Commissioner's annual reports are available [here](#).

## Policy documents

The Council and Commissioner publish a number of policy documents.

### **(a) Delegations**

The Council register of delegations, published pursuant to s 413 of the Uniform Law, is available [here](#).

The Commissioner register of delegations, published pursuant to s 413 of the Uniform Law, is available [here](#).

A table of links to the registers of the designated local regulatory authorities, published pursuant to s 413 of the Uniform Law, is available [here](#).

### **(b) Guidelines and directions**

Current guidelines and direction issued by the Council or Commissioner to local regulatory authorities are available [here](#).

### **(c) Information sheets**

Information sheets for legal practitioners, law practices and consumers about key aspects of the Uniform Law and Uniform Rules are available [here](#). The link also provides information regarding how the Uniform Law and related Rules are amended.

### **(d) Privacy Management Plan**

This Plan explains how the Council and the Commissioner manage personal information in line with the *Privacy and Personal Information Protection Act 1998* (NSW). The Plan is available [here](#).

### **(e) Strategic Plan**

The Council's strategic plan is available [here](#).

### **Disclosure log of access applications**

Details concerning decisions made by Council or Commissioner in response to formal access applications that may be of interest to other members of the public must be included in a disclosure log.<sup>5</sup>

A disclosure log provides members of the public with details regarding:

- the date the application was decided
- a description of the information to which access was provided
- a statement as to whether the information is now available to other members of the public, and
- how the information can be accessed.

To date, the Council and Commissioner have not received any applications for information under the GIPA Act. Accordingly, there is no information to include in a disclosure log.

If applications are received, a disclosure log will be published on the [Council's website](#).

### **Register of government contracts**

The Council and Commissioner must maintain a register of government contracts that records information about each contract that has, or is likely to have, a value of \$150,000 or more.<sup>6</sup> At this stage neither the Council nor Commissioner have entered into contacts in this value range.

If the Council or Commissioner enter into contracts of this value, a disclosure log will be published on the [Council's website](#).

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<sup>5</sup> *Government Information (Public Access) Act 2009* (NSW), s 25.

<sup>6</sup> *Government Information (Public Access) Act 2009* (NSW), s 27(1).

## Record of open access information that we do not make publicly available on the basis of an overriding public interest against disclosure

The Council and Commissioner must maintain a record of open access information that they do not make publicly available on the basis of an overriding public interest against disclosure.<sup>7</sup>

The Council and Commissioner do not have any open access information which is not publicly available. If the Council or Commissioner make decisions about open access information that may not be disclosed due to an overriding public interest, they will publish a record detailing the information not released as open access on the website and the reasons for deciding not to publish that information. That record will be published on the [Council website](#).

## Proactive release of information

In addition to the information that the Council and Commissioner are required to release, the GIPA Act authorises agencies to make government information available unless there is an overriding public interest against the disclosure of the information.

Consistent with section 7 of the GIPA Act, the Council and Commissioner will annually review what information the Council and Commissioner hold that is of public interest and should be made publicly available. In making decisions whether to release the information the Council and Commissioner applies public interest test. This means that they identify the public interest considerations in favour of and against disclosure of information and release the information when the factors in favour of disclosure outweigh the factors in favour of non-disclosure.

## Make an informal request for information

The GIPA Act authorises the release of government information in response to an informal request for information unless there is an overriding public interest against disclosure.<sup>8</sup>

Information disclosed in response to an informal request may be released with deletions, subject to reasonable conditions or in a preferred format.

Generally, the following information may be released informally:

- copies of correspondence sent by an individual to the Council or Commissioner, if the applicant is the person who sent the information
- records that contain only the personal information of the individual requesting the record
- records that are in the public domain, and
- other records, the release of which would not involve an overriding public interest against disclosure or raise any potential public interest considerations against disclosure.

It is important to note that the Council and the Commissioner have no legal obligation to disclose information on an informal basis and may request a person lodge a formal access application.

## Make a formal request for information

Formal access applications may be required where the government information sought is more complex, large in scope, is non-personal in nature and/or requires consultation with third parties.

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<sup>7</sup> *Government Information (Public Access) Act 2009* (NSW), s 6(5).

<sup>8</sup> *Government Information (Public Access) Act 2009* (NSW), s 8(1).



A person who lodges an access application has a legally enforceable right to be provided with access to the information requested unless there is an overriding public interest against disclosure of the subject information.<sup>9</sup>

Please be aware that there may be processing charges imposed at a rate of \$30 per hour of processing time for dealing with formal access applications. Certain discounts of up to 50 per cent may apply, however, including where the applicant is able to demonstrate financial hardship and/or if the information applied for is of special benefit to the public generally.<sup>10</sup> For more details see the [IPC's Resources for Citizens](#).

The GIPA Act states that for an access application to be valid, the application must:

- be in writing and sent to or lodged with us (see our postal address and email address above)
- clearly state that it is an access application under the GIPA Act
- enclose the application fee of \$30
- include the applicant's name and have a return postal or email address as the address for correspondence
- include as much specific information as is reasonably necessary to enable us to identify the information you are seeking, and
- not be made for "excluded information" of the agency.

There are also limits under the GIPA Act about disclosing certain classes of information.

You can make a formal access application by downloading and completing the GIPA Access Application located on the website of the [Information and Privacy Commission NSW](#) and sending it to us at the following address:

Right to Information Officer  
Legal Services Council  
PO Box H326  
Australia Square NSW 1215

Alternatively you can send the form electronically to the following email address: [lsc@legalservicescouncil.org.au](mailto:lsc@legalservicescouncil.org.au).

### **Information Commissioner**

The Information Commissioner is appointed as an independent office holder under section 4 of the *Government Information (Information Commissioner) Act 2009* (NSW). The role of the Information Commissioner is to raise public awareness of the right to information laws and provide assistance, information, support and advice to government departments and the public.

The Information Commissioner has broad investigative powers and may require government agencies to provide information and conduct inquiries pertinent to the administration of the GIPA Act.

The Information Commissioner conducts reviews of decisions made by agencies where an applicant is aggrieved by a decision.

Further information may be obtained by contacting the IPC.

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<sup>9</sup> *Government Information (Public Access) Act 2009* (NSW), s 9(1).

<sup>10</sup> See *Government Information (Public Access) Act 2009* (NSW), ss 65 and 66; see also, *Government Information (Public Access) Regulation 2018* (NSW), cl 10.

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

Phone: 1800 472 679

### Feedback and questions

If you have any feedback or questions in relation to this Guide, please contact the Right to Information Officer:

Right to Information Officer  
Legal Services Council  
PO Box H326  
Australia Square NSW 1215

Alternatively you can send an email to [lsc@legalservicescouncil.org.au](mailto:lsc@legalservicescouncil.org.au) or contact us by telephone on (02) 9692 1300.

### Document history

Revision	Date
Developed	November 2021
Adopted by Legal Services Council and Commissioner for Legal Services Regulation	23 February 2022
Revised to include Western Australia as a participating jurisdiction	1 July 2022
Annual review	16 February 2023
Annual review	8 February 2024

**Next scheduled review:** February 2025