

Guidelines for the ‘proactive release’ of information held by the Department of Education

These guidelines may help officers of the Department of Education decide what information held in their business area can be made readily available to the public and whether that information should be published in full or in part.

The department favours making its information holdings publicly available wherever possible. The *Government Information (Public Access) Act 2009* (GIPA Act) also requires the department to review its records annually with a view to making them publicly available.

Generally our information can be made publicly available, unless there would be an adverse impact from disclosure, or unless the work involved in publishing it would impose an unreasonable additional cost on the department.

What type of information should be made publicly available?

Information held by the department should be considered for publication if it:

- raises public awareness and understanding of our functions and/or
- is regularly requested by members of the public, either informally or formally under the GIPA Act.

What type of information can be made publicly available?

Any information that may be of interest to the public generally, for example:

- statistics and data
- strategies, policies, plans and reports
- research partnerships
- research and discussion papers
- national partnerships
- public reviews and inquiries
- evaluation reports
- project information (informing the public of the progress)
- bulletins and fact sheets
- budget estimates or spending of public money
- newsletters and media articles
- any other information identified by the business area holding the information

What information can your business area make publicly available?

- Does your business area hold the types of information listed above?
- Are you working on a project, report or program that would be of interest to the general public or to a particular section of the public?
- Would publishing the information promote transparency and accountability?
- Has information from your business area been released under the GIPA Act, either formally or informally, in the last 12 months?
- Does your business area receive regular individual requests to provide certain types of information?
- Would there be a wider public interest in the information?

If so, automatically making it available may save your area time and costs.

Before public release, consider the following:

- Privacy: Does the information contain any “personal information” as defined under the *Privacy and Personal Information Protection Act 1998*? (See definition below).
- Is copyright an issue (have you asked permission from the copyright owner)?
- Does the information reveal commercial-in-confidence provisions of a contract?
- Does the information prejudice any person’s legitimate business, commercial, professional or financial interests?
- Does the information contain legal advice?
- Does the information concern another NSW or Commonwealth government agency?
- Would making the information publicly available impose unreasonable additional costs on the department?
- Would it be a one-off release or an ongoing, regular release?

If **YES** is the answer to any question, consider:

- Has the person consented in writing to their personal or business information being disclosed and published?
- Was a privacy notice covering use and disclosure for this purpose given when the personal information was collected? If not, you will need to obtain consent before publishing.
- Would deleting some of the content (e.g. third party business or personal information) make it possible to release the information in part?
- If the legal advice is deleted (masked), can the rest of the record be released? (Speak to the owner of the legal advice as they may waive the right.)
- Has the other government agency agreed in writing to the information being disclosed published?
- If unreasonable additional costs are an issue, is it possible to make available part of the information, or to release it in stages?

Personal information definition

Section 3 of the *Privacy and Personal Information Protection Act 1998* (PPIP Act) defines personal information as:

- (1) “In this Act, **personal information** means information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.”

Preparing the information for proactive release

1. Identify the authorised officer who can approve the release of the information ([delegated officer](#)) and discuss with them.
2. Work out the best time to publish the information (it may be suitable for some information to be released before the end of a project).
3. Find the right webpage to publish it on. Does your business area have its own website or would a better location be the department’s ‘Plans reports and statistics’ webpage, or another webpage? Contact [Communication and Engagement](#) to assist.
4. Advise [Right to Access](#) of your actions, so that the information can be included in the department’s annual review of its proactive release program.

Checklist	Yes / No
Is the information appropriate for proactive release? Consider content, context, resources required etc., as outlined above	
Has the information been considered for: - Copyright - Third party information - *OPIADs, for example: “Personal information” - Confidential information - Business interests of agencies and other persons - Information of another State or Commonwealth agency - A conclusive presumption against disclosure (information under Schedules 1 & 2 of GIPA Act - such as • Cabinet information, • legal professional privilege • ranking or assessment of students who have completed the Higher School Certificate, • care and protection of children)	
Have you identified where it will be published on the internet? - your own business area webpage - the department’s general webpage - a webpage identified by Communication and Engagement - the department’s evaluation repository on CESE website - the CESE Datahub	
Has the author of the information been advised of its release? (e.g., consultant, other agency, other DE business area)	
Has the release of information been approved by an ‘ authorised delegated officer ’?	

* OPIADs – [Overriding public interest against disclosure](#) under section 14 of the GIPA Act

Flow chart for proactive release

Identify the information/document for release
↓
Review for public interests against disclosure (OPIADs) and copyright
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Submit information/document to authorised officer for approval
↓
Identify internet location for publication
↓
Obtain authorised officer’s approval to upload to internet
↓
Contact Communication and Engagement or relevant business unit to publish
↓
Advise Right to Access of the information proactively released

More help

For help and advice about the public release of information, you can contact the department’s [Right to Access](#) unit in Legal Services.