

ICAC information guide 2019-20¹

Section 20 of the *Government Information (Public Access) Act 2009* (“the GIPA Act”) requires an agency to have an information guide. This is the ICAC’s information guide. As required by the GIPA Act, it:

- a) describes the ICAC’s structure and functions;
- b) describes the ways in which the ICAC’s functions (including, in particular, its decision-making functions) affect members of the public;
- c) specifies any arrangements that exist to enable members of the public to participate in the formulation of the ICAC’s policy and the exercise of the ICAC’s functions;
- d) identifies the various kinds of government information held by the ICAC;
- e) identifies the kinds of government information held by the ICAC that the ICAC makes (or will make) publicly available;
- f) specifies the manner in which the ICAC makes (or will make) government information publicly available; and
- g) identifies the kinds of information that are (or will be) publicly available free of charge and those kinds for which a charge is (or will be) imposed.

The ICAC’s structure and functions

The ICAC commenced operations in 1989. The ICAC’s principal functions are set out in the *Independent Commission Against Corruption Act 1988* (“the ICAC Act”). In summary, they are to:

- investigate and expose corrupt conduct in and affecting the NSW public sector;
- investigate certain conduct involving specified criminal offences referred by the NSW Electoral Commission;
- prevent corrupt conduct and promote the integrity and good repute of public administration; and
- educate the NSW community and public sector on strategies to combat corrupt conduct and strategies to promote the integrity and good repute of public administration.

The jurisdiction of the ICAC extends to all NSW public sector agencies (except the NSW Police Force and NSW Crime Commission) and public sector employees, including government departments, local councils, members of Parliament, ministers, the judiciary and the governor. The ICAC’s jurisdiction also extends to persons who are not public officials who seek to adversely affect the honest or impartial exercise of public official functions or whose conduct impairs or could impair public confidence in public administration and which could involve any of the matters set out in s 8(2A) of the ICAC Act.

¹ This guide was adopted on 12 June 2019 and incorporates changes following the May 2019 review of the 2018 guide.

The ICAC's functions are exercisable by a Chief Commissioner and two part-time Commissioners. The Commission's Chief Executive Officer is responsible for the day-to-day management of the affairs of the Commission and for the implementation of the decisions of the Commissioners. The Commission has four divisions, each headed by an executive director. The divisions are:

- Investigations
- Corruption Prevention
- Corporate Services
- Legal.

There is also an Assessments Section, a Communications & Media Section and an Executive Support Section.

Further information on the ICAC's functions and structure is contained in the ICAC's annual reports. Copies of the ICAC's annual reports can be accessed from the ICAC's website www.icac.nsw.gov.au.

How the ICAC's functions affect the public

Members of the public may be involved in ICAC investigations into allegations of corrupt conduct or investigations of conduct involving specified criminal offences referred to the ICAC by the NSW Electoral Commission. Members of the public may be asked to assist such investigations by providing information. They may also be subject to the exercise of statutory powers by the ICAC. These include power to:

- require production of documents or other things (ss 22 & 35 of the ICAC Act)
- require the giving of evidence at a compulsory examination or public inquiry (ss 30 & 31 of the ICAC Act)
- obtain and execute a search warrant (s 40 of the ICAC Act)
- obtain a warrant to use a surveillance device (s 19 of the ICAC Act)
- obtain a warrant to intercept telecommunications
- conduct controlled operations
- make reports on investigations containing findings against individuals, including findings that named persons have engaged in serious corrupt conduct, and recommendations relating to consideration being given to prosecution for specified criminal offences and the taking of disciplinary or dismissal action against a public official.

Public participation

The ICAC does not directly involve members of the public in policy formulation.

Members of the public can make complaints to the ICAC about matters they believe involve corrupt conduct. Information about what constitutes corrupt conduct can be found on the ICAC's website (www.icac.nsw.gov.au). Information on how to report suspected corrupt conduct to the ICAC can also be found on the ICAC's website (www.icac.nsw.gov.au).

Types of government information held by the ICAC

The ICAC holds information relating to its administrative, research, education, corruption prevention, complaint handling, investigative and reporting functions.

Information relating to the ICAC's corruption prevention, complaint handling, investigative and reporting functions is "excluded information" for the purposes of the GIPA Act. This means that an access application under the GIPA Act seeking any of this information is not a valid application.

Information in relation to the ICAC's administrative, research, and education functions may be made publicly available by the ICAC subject to any overriding public interest against disclosure.

Under the GIPA Act, there are four ways that information can be made available to the public. These are mandatory release of "open access information", proactive release of information for which there is no overriding public interest against disclosure, informal release of information for which there is no overriding public interest against disclosure in response to an informal request and formal release in response to an access application.

Details of how to access the ICAC's "open access information" are set out below. Access applications can be found on the ICAC's website (www.icac.nsw.gov.au) under "About the NSW ICAC – Access to information".

Publicly available ICAC government information

The GIPA Act requires "open access information" to be made publicly available. This information is identified on the ICAC's "Access to Information" section of its website (www.icac.nsw.gov.au). The ICAC information publicly available free of charge includes:

- annual reports
- corporate policy documents such as the ICAC Strategic Plan and Code of Conduct
- public reports on investigations
- corruption prevention and education publications
- media releases, fact sheets and media statements.

All publicly available publications are available on the ICAC's website: www.icac.nsw.gov.au. The ICAC also publishes transcripts of its public inquiries and relevant exhibits tendered in a public inquiry on its website (subject to any non-publication orders or other restrictions) and updates on prosecution and disciplinary action arising from Commission investigations.

Manner in which ICAC government information is made available

All information that is classified as open access information is generally available via the ICAC's website free of charge.

Alternatively, you may make a formal access application or seek informal access to information that is not on the ICAC website.

A formal application must:

- be in writing
- sent by email to icac@icac.nsw.gov.au; or
- sent by mail addressed to ICAC, GPO Box 500, Sydney NSW 2001; or
- lodged in person at the ICAC offices at Level 7, 255 Elizabeth Street, Sydney NSW;
- clearly indicate that it is a formal access application made under the GIPA Act;
- state the name of the applicant and a postal or email address as the address for correspondence in connection with the application;
- provide such information as is reasonably necessary to enable the government information applied for to be identified;
- disclose whether any application has been made to another agency for substantially the same information and, if so, identify the agency; and
- be accompanied by a fee of \$30.

Members of the public may seek informal access to government information held by the ICAC that is available to the public but not available through the ICAC website. An informal request for such information can be made by writing to:

The Solicitor to the Commission
ICAC
GPO Box 500
Sydney NSW 2001

Depending on the nature of the request, the ICAC may require a formal access request. If so, the ICAC will advise the person seeking the information that a formal application is required and the reason for that requirement.

Further information

Further information on the operation of the GIPA Act and your rights under the GIPA Act can be obtained from the Information and Privacy Commission by accessing its website at www.ipc.nsw.gov.au , by telephone on 1800 472 679 (between the hours of 9:00am to 5:00pm on week days), by emailing ipcinfo@ipc.nsw.gov.au , by writing to the Privacy Commission at GPO Box 7011 Sydney NSW 2001, or by visiting the Privacy Commission at Level 17, 201 Elizabeth Street Sydney (between the hours of 9:00am to 5:00pm, Monday to Friday, excluding public holidays).