



NCAT Administrative and Equal Opportunity Division Procedural Direction 6

GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT MATTERS

This Procedural Direction applies to:	Proceedings in the Administrative and Equal Opportunity Division
Effective Date:	17 March 2014
Replaces Procedural Direction:	Administrative Decisions Tribunal's Reviews under the Government Information (Public Access) Act: Guideline
Notes:	You should ensure that you are using the current version of this Procedural Direction. A complete set of Procedural Directions and Guidelines is available on the Tribunal website at www.ncat.nsw.gov.au

Purpose

1. This procedural direction provides information about the Tribunal's practice in relation to reviews of decisions made under the Government Information (Public Access) Act 2009 (GIPA Act).

Application for Review

- 2.1 The Tribunal will send:
 - (a) a copy of the Application for Review to the agency (the respondent) together with an 'Agency Response' form and
 - (b) a letter to both parties advising the date of the first planning meeting.
- 2.2 The Tribunal will notify the Information Commissioner that an application for review has been filed and of the date of the first planning meeting
- 2.3 The agency is to provide the following documents to the applicant, the Information Commissioner, and the Tribunal:

- (a) a completed Agency Response form
 - (b) copies of the applications and decisions made under the GIPA Act with respect to the matter, including those relating to any internal review
 - (c) a schedule of documents, identifying in tabular form each document in dispute by number and giving details of its date, nature, and author, and of the basis on which access was refused.
- 2.4 In addition the agency shall give to the Tribunal the documents under review on a confidential basis:
- (a) documents considered to be subject to a conclusive overriding public interest against disclosure to be sent to the Tribunal in a sealed envelope marked 'conclusive presumption documents'
 - (b) documents considered to be subject to a non-conclusive overriding public interest against disclosure to be sent to the Tribunal in a sealed envelope marked 'non-disclosure documents'.

Planning meeting

- 3.1 At the planning meeting the Tribunal member will:
- (a) explore any possibilities for resolution of the dispute.
 - (b) assess the complexity of the application
 - (c) assist the parties by determining future procedures.
- 3.2 The Tribunal member will explore three options as possibilities for resolution of the dispute:
- (a) encouraging the parties to negotiate with a view to settling the dispute or more narrowly defining the scope of the dispute
 - (b) formal mediation
 - (c) referral to hearing.
- 3.3 If a mediation is not suitable (or has been tried and failed), the Tribunal member will normally refer the dispute to a hearing, unless the parties require further time to clarify the issues or negotiate.
- 3.4 If either party believes that it will be necessary to issue a summons to witness or to produce documents, an application to issue summons should be made to the Tribunal member at the planning meeting. For more information see *NCAT Procedural Direction 2 - Summonses*.
- 3.5 The Tribunal member will advise the parties when they are to file written material that supports their case. The material may include statements and evidence, submissions and references to cases or legislation.

The role of the Information Commissioner

4. The Information Commissioner has a right to appear and be heard in the Tribunal in applications for review under the GIPA Act or an appeal of those proceedings.

(Sgd)

17 March 2014

MAGISTRATE NANCY HENNESSY

Deputy President