

Guidelines for Public Authority

Public authorities are the repository of information which the citizen have right to have under the Right to Information Act, 2005. As defined in the Act, a “ Public authority ” is any authority or body or institution of self government established or constituted by or under the Constitution; or by any other law made by the Parliament or a State Legislature; or by notification issued or order made by the Central Government or a State Government. Bodies owned, controlled or substantially financed by the Central Government substantially financed by the Central Government or State Government also fall within the definition of public authority. The financing of the body or the NGO by the Government may be direct or indirect.

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The Act casts important obligation on public authorities so as to facilitate the citizens or the country to access the information held under their control. The obligations of the authority are basically the obligations of the head of the authority, which should ensure that these are met in right earnest. Reference made to public authority in this document is, in face, a reference to the head of the public authority. ===== What is Information ===== Information is not an abstract concept under the RTI Act. It is conceived as being contained in any material including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. If also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force. ===== Right to Information under the Act ===== A citizen has a right to seek such information from a public authority which is held by the public authority or which held under its control. This right includes inspection on work, documents and records; taking notes, extracts or certified copies of documents or records; and taking certified samples of material held by the public authority or held under control of the public authority. The Act gives the citizen a right to information at per with the Members of Parliament and the Members of State Legislatures. According to Act, the information, which cannot be denied to the Parliament or a State Legislature, shall not be denied to any person. A citizen has a right to obtain an information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs provided such information is already stored in a computer or in any other device from which the information may be transferred to diskettes etc The information to the applicant should ordinarily be provided in the form in which it is sough. However, if the supply of information sought in a particular form would disproportionately divert the resources of the public authority or may cause harm to the safety or preservation of the records, supply of information in that form may be denied. The Act gives the right to information only to the citizen of India. It does not make provision for giving information to Corporations, Associations, and Companies etc. Which are legal entities/persons, but not citizens. However, if an application is made by an employee or office - bearer of any Corporation, Association, Company, NGO etc. indicating his name and such employee/office bearer is a citizen of India, information may be supplied to him/her. In such cases, it would be presumed that a citizen has sought information at the address of the Corporation etc.

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Only such information is required to be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority, It is not required under the Act to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.

Information Exempted From Disclosure

Sub-section (1) of section 8 and section 9 of the Act enumerate the types of information which is exempt from disclosure. Sub-Section (2) of section 8, however, provides that information exempted under sub-section (1) or exempted under the Official Secrets Act, 1923 can be disclosed if public interest in disclosure overweighs the harm to the protected interest. Further, sub-section (3) of section 8 provides that information exempt from disclosure under sub-section (1), exempted as provided in clauses (a), © and (i) thereof, would cease to be exempted after 20 years from the date of occurrence of the related event etc.

It may be noted that section 8(3) of the Act does not require the public authorities to retain records for indefinite periods. The records should be retained as per the record retention schedule applicable to the form of an OM or a letter or in any other form even after destruction of the file/record. The Act requires furnishing of information so available after the lapse of 20 years even if such information was exempt from disclosure under sub-section (1) of Section 8. It means that the information which, in normal course, is exempt from disclosure under sub-section (1) of Section 8 of the Act, would cease to be exempted if 20 years have lapsed after occurrence of the incident to which the information relates. However, the following types of information would continue to be exempt and there would be no obligation, even after lapse of 20 years, to give any

information disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interest of the State, relation with foreign state or lead to incitement of an offence;

information the disclosure of which would cause a breach of privilege of parliament or State Legislature; or cabinet papers including records of deliberation of the Council of Ministers, Secretaries and other Officers subject to the conditions given in proviso to clause (I) sub-section (1) of Section 8 of the Act, Timely Supply of Information

The Act requires that except in some special circumstances, decision on an application for information should be given within 30 days of the receipt of the request. Where the information sought for concerns the life or liberty of a person, the same should be provided within forty-eight hours of the receipt of the request. If the decision on the request for information is not given within the prescribed period. It is deemed that the request has been refused. If is

pertinent to note that if a public authority fails to comply with the specified time limit, the information to the concerned applicant would have to be provided free of charge.

Right Information Vis-a-vis other Acts

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The RTI Act has over-riding effect vis-a-vis other laws in as much as the provisions of the RTI Act would have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than the RTI Act. ===== Maintenance and Computerisation of Records ===== Proper management of records is of utmost importance for effective implementation of the provisions of the Act. A public authority should, therefore, maintain all its records properly. It should ensure that the records are duly catalogued and indexed in such a manner and from that it may facilitate the right to information. The public authority should computerize all its records which are appropriate to be computerized, Record so computerized should be connected though a network on different systems so that access to such records is facilitated. ===== Suo Motu Disclosure ===== Every public authority should provide as much information suo motu to the public through various means of communications so that the public have minimum resort to the use of the Act obtain information. Internet being one of the most effective means of communications, the information may be posted on the website. Section 4(1)(b) of the Act, in particular, requires every public authority to publish following sixteen categories of information: * the parliament of its organization, functions and duties; * the powers and duties of its officers and employees; * the procedure followed in the decision making process, including channels of supervision and accountability; * the norms set by it for the discharge of its functions; * the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions; * a statement of the categories of document that are held by it or under its control; * the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof; * a statement of the boards, councils, committees and other bodies consisting of two more persons constituted as part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public; * directory of its officers and employees; * the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations; * the budge allocated to each of its agency, indicating the particulars of all plans, proposes expenditures and reports on disbursements made; * the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes; * particulars of recipients of concessions, permits or authorizations granted by it; * details in respect of the information, available to or held by it, reduced in an electronic form; * the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if reduced in an electronic form; * the names, designations and other particulars of the Public Information Officers; Besides the categories of information enumerated above, the Government may prescribe other categories of information to be published by any public authority. It need be stressed that

publication of the information as referred to above is not optional. It is a statutory requirement which every public authority is bound to meet. Another important point to note is that it is not sufficient to publish the above information once. The public authority is obliged to update such information every year. It is advisable that, as far as possible, the information should be updated as and when any development takes place. Particularly, in case of publication on the internet, the information should be kept updated all the time. ===== Dissemination of Information ===== The public authority should widely disseminate the information. Dissemination should be done in such form and manner which is easily accessible to the public. It may be done through notice boards, newspapers, public announcements, media broadcast, the internet or nay other means. The public authority should take into consideration the cost effectiveness, local language and most effective method of communication in the local area while disseminating the information. ===== Publication of Facts about Policies and Decision ===== Public authorities formulate policies and take various decisions from time to time. As provided in the Act, while formulating important policies or announcing the decisions affecting the public, the public authority should publish all relevant facts about such policies and decisions for the information of public at large. ===== Providing Reasons for Decisions ===== The public authorities take various administrative and quasi- judicial decisions which affect the interests of certain persons. It is mandatory for the concerned public authority to provide reasons for such decisions to the affected persons. It may be done by using appropriate mode of communication. ===== Designation of CPIOs etc. =====

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Every public authority is required to designate Public Information Officers in all the administrative units or offices under it. The public authorities should also designate the First Appellate Authorities and publish the details thereof along with the details of the Public Information Officers. Every public authority is also required to designate Assistant Public Information Officers at each sub-divisional level. The Government has decided that Central Assistant Public Information Officers (CAPIOs) appointed by the Department of posts would act as CAPIOs for all the public authorities under the Government of India.

Acceptance of Fee

According to the Right to Information (Regulation of Fee and Cost) Rules, 2005 as amended by the Right to Information (Regulation of Fee and Cost) Rules, 2006, an applicant can make payment of fee in case or by demand draft or bankers cheque or India Postal Order payable to the Accounts Officer of the public authority. The public authority should ensure that payment by any of the above modes is not denied or the applicant is not compelled to draw IPO etc. in the

name of any officer other than the Accounts Officer. If any public authority does not have any Accounts Officer, an officer may be designated as such for the purpose of receiving fee under the RTI Act or rules made there under.

Transfer of Applications

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The Act provides that if an application is made to a public authority requesting for an information, which is held by another public authority; or the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made, shall transfer the application or relevant part of it to that other public authority within five days from the receipt of the application. The public authority should sensitise its officers about this provision of the Act lest the public authority is held responsible for delay.

Compliance with the Orders of the CIC

While deciding an appeal, the Central Information Commission, may require the concerned public authority to take such steps as may be necessary to secure compliance with the provisions of the Act. In this regard the Commission may pass an order to provide information to an applicant in a particular form; appoint a Public Information Officer; publish certain information or categories of information; make necessary changes to its practices in relation to the maintenance, management and destruction of records; enhance the provision of training for officials; provide an annual report as prepared in compliance with clause (b) subsection (1) of section 4.

The Commission has power to pass orders requiring a public authority to compensate the complainant for any loss or other detriment suffered by him. It also has power to impose penalty on the Public Information Officer as provided in the Act. It may be noted that penalty is imposed on the Public Information Officer which is to be paid him. However, the compensation, ordered by the Commission to be paid to an applicant would have to be paid by the public authority,

The decisions of the Commission are binding. The public authority should ensure that the orders passed by the Commission are implemented. If any public authority is of the view that an order of the Commission is not in consonance with the provisions of the Act, it may approach the High Court by way of a Writ petition

Annual Report of the CIC

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The Central Information Commission, after the end each year, is required to prepare a report on the implementation of the Provisions of the Act during that year. Each Ministry or Department is required, in relation to the public authorities within its jurisdiction, Commission for preparation of the report. The report of the Commission, inter0alia, contains following information in respect of the year to which the report relates

- the number of requests made to each public authority;
- the number of decision where applicants were not entitled to access to the documents pursuant to the requests, the provisions of the Act under which these decisions were made and the number of times such provisions were invoked;
- particulars of any disciplinary action taken against any officer in respect of the administration of the Act;
- the amount of charges collected by each public authority under the Act; and
- any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of the Act.

Every public authority should send necessary material to its administrative Ministry/Department soon after the end of the year so that the Ministry/Department may incorporate the same in its report.

If it appears to the Central Information Commission that a practice of the public authority in relation to the exercise of its functions under the Act does not conform with the provisions or spirit of the Act, it may give a recommendation to the authority specifying the steps ought to be taken for promoting such conformity. The concerned public authority should take necessary action to bring its practice in conformity with the Act.

Development of Programmes etc.

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educational programmes to advance the understanding of the public, in particular of disadvantaged communities, as to how to exercise the rights contemplated under the Act and ensure timely and effective dissemination of accurate information about their activities. Training of the Public Information Officers and other officers of a public authority is very important for meeting these expectations and effective implementation of the provisions of the Act. The public authorities should, therefore arrange for training of their officers designated as Public Information Officer/First Appellate Authority and other officer who are directly or indirectly involved in the implementation of the provisions of the Act.



Right to Information Wiki

The working reference for India's Right to Information Act, 2005.

**Read online**

<https://www.righttoinformation.wiki/guide/guidelines-for-public-authority?rev=1581864994>

Main website

<https://www.righttoinformation.wiki/>

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