

Analysis of Complaints Filed With Khyber Pakhtunkhwa Information Commission

July 2017 to June 2018

March 2019

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Centre for Governance and Public Accountability (CGPA)

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Executive Summary:

This is third report by CGPA on the complaints analysis filed with Khyber Pakhtunkhwa Information Commission (KPIC) under KP Right to Information (RTI) Act 2013. It covers period from July 1, 2017 to June 30 2018. The analyses done are based on the data obtained through RTI requests from Khyber Pakhtunkhwa Information Commission and the statistics available in the annual report published by KP RTIC for the year 2017-18.

Khyber Pakhtunkhwa Right to Information Act 2013 is now in its 6th year of implementation but still a long way ahead to achieve the objectives and goal of the law. The KP RTI law was enacted with a spirit to improve accountability and transparency across the province. The law is a cornerstone to end a long history of secrecy and promoted the access of information to the citizens.

The data depicts that the number of information requests filed with public bodies increased by 42.6 % as compared to previous year. Information requests filed during 2016-17 were 2,859 which increased to 4,078 in year 2017-18. This indicates an increase in public interest in accessing information from the public bodies. Conversion of RTI requests to complaints has decreased by 8% in year 2017-18. In year 2016-17, out of 2,859 information requests 1,215 were converted into complaints while in year 2017-18, out of total 4,078 information requests 1,403 were converted into complaints. Redress of complaints increased 8.3%, as in year 2016-17, 925 cases were resolved out of 1215 complaints which is 76%, while in year 2017-18, 1,363 cases were resolved out of 1,403 complaints which is 97.1% of the total complaints.

Highest number of complaints in year 2016-17 were registered against the autonomous bodies which was 325 out of total 1215 complaints, while in year 2017-18 the autonomous public bodies maintained the position again with the highest 325 complaints out of total 1,403 as per the annual report of KP Information Commission for the year 2017-18. From the gender prospective the number of complaints filed by women have been increased to 5.6% in year 2017-18 which was 3.7% in year 2016-17. The complaints registered by the women in year 2016-17 were 46 out of total 1215 which has increased to 79 out of 1403 in year 2017-18. The most sort-after information during 2016-17 and 2017-18 was of recruitment and vacancies.

The law provides 60 days provision to KP Information Commission to seek information from the public bodies for the requester. In year 2017-18, out of total 1,403 complaints 921 complaints were resolved within 60 working days while 442 complaints were resolved beyond 60 working days. The redressal of complaints remained only 65.6% within 60 days.

Section 5 of the RTI law makes it binding on public bodies to proactively disclose their relevant information. Likewise the previous year the progress on the proactive disclosure is dismal as even at the secretariat level the websites are not updated and address the public information.

Under Khyber Pakhtunkhwa RTI Act 2013, public bodies are legally bound to proactively disclose the public information. The complaints analyses over the year 2017 and 2018 reveals that 4,078 information requests were filed of which 2675 information requests which is 65.5.% of total were directly responded by the departments while 1403 requests turned into complaints. Out of 1403

complaints registered with KP Information Commission, 921 complaints were resolved within 60 working days while 442 complaints were resolved after 60 working days. This requires a proactive approach from the KP RTI commission to implement the law in its true spirit.

The analysis also reveals that most of the complaints submitted to KP Information Commission pertain to the data which should have been proactively disclosed as per provisions of the law.

Background

The right to access information held by public bodies, known as the Right to Information (RTI), was internationally recognised as a human right in 1948 by the United Nations. However the first ever RTI law was enacted by the Swedish parliament in 1766. In South Asian countries Pakistan was the first country to promulgate Freedom of Information (FOI)¹ Ordinance in 2002. However, FOI Ordinance was a very weak law and did not guaranteed citizens' access to information held by public bodies.

Right to Information (RTI) is an instrument of change for bringing transparency and accountability in the governmental sphere if given proper mechanism and autonomous nature. The eighteenth amendment in the constitution of Pakistan affected the legislative RTI landscape in the country. The insertion of Article 19-A made it pre-requisite for federal government and the provinces to enact effective RTI laws.

Federal Government - Right of Access to Information Act, 2017

The Freedom of Information Ordinance (FOI) 2002 was the first law introduced in Pakistan which was applicable only to federal public bodies. Prior to this law, there was plethora of laws like Official Secret Act, Press and Publication Ordinance etc., all obstructing citizens' access to information. The recent enactment of Right of Access to Information Act, 2017 at federal level has opened the doors of transparency and accountability in its true spirit. Federal Government of Pakistan took fifteen years to transform the Ordinance into Right of Access to Information Act in 2017, it took another one year to notify the Commission in November, 2018. Federal Information Commission has not yet developed its website.

Khyber Pakhtunkhwa Right to Information Act, 2013

Khyber Pakhtunkhwa government under its good governance legislative framework enacted RTI Act in October 2013 which is now in its fifth year of implementation. At the time of its enactment it got an overwhelming response all over. Khyber Pakhtunkhwa Information Commission is functional and performing its duties. KP RTIC has a functional website².

Punjab Transparency and Right to Information Act, 2013

Punjab Government enacted Punjab Transparency and Right to Information Act in December, 2013 to ensure transparency, accountability and public participation in governance. The Punjab government appointed three commissioners who run the functions of the Commission but with the completion of their tenure the commission remained dysfunctional for more than a year. Currently

¹The terms FOI and RTI are often used interchangeably.

²www.kprti.gov.pk

the Commission is functional with the appointments of new Chief Information Commissioner along with two other Commissioners. Punjab Information Commission has a functional website³

Sindh Transparency and Right to Information Act, 2016

Sindh province repealed its Sindh Freedom of Information Act 2006 and enacted Sindh Transparency and Right to Information Act, 2016 in March, 2017. The commission remained dysfunctional for more than a year and in May, 2018, its first Chief Information Commissioner and two other Commissioners were appointed. Sindh Information Commission does not has a website.

Balochistan Freedom of Information Act, 2005

Balochistan Government has enacted Balochistan Freedom of Information Act in 2005 but it was the replication of ineffective Freedom of Information Ordinance 2002. There has been a lot of discussion on the development of a new RTI law in Balochistan but it cannot be produced in the assembly for legislation.

Applicable RTI laws at federal and provincial levels.

S No	Unit	RTI law	Year of enactment
1	Federal	Right of Access to Information	2017
2	Punjab	Punjab Transparency and Right to Information Act	2013
3	Khyber Pakhtunkhwa	Right to Information Act	2013
4	Sindh	Sindh Transparency and Right to Information Act	2017
5	Baluchistan	Freedom of Information Act (Replication of Federal Freedom of Information Ordinance 2002)	2005

Introduction to Khyber Pakhtunkhwa Right to Information Act 2013

Khyber Pakhtunkhwa forming its government after 2013 general election framed a ‘Good Governance Legislative Framework’. Right to Information Act was the part of the framework and was enacted with a spirit to promote transparency and accountability in the province in the public services. Although the laws are as good as their implementation, it received its first blow when KP Assembly was exempted from the ambit of the law however with the strong civil society and media campaign the amendment was reversed. Another attempt was made in February, 2018 when long awaited amendments to promote and strengthen the law were ignored and some controversial amendments were passed from cabinet to be presented in Provincial Assembly. However again

³<https://rti.punjab.gov.pk/>

with a strong media and civil society campaign the amendments could not be presented in provincial assembly.

Salient Features of KP RTI Act, 2013:

The features of the KP RTI Act, 2103 can be defined as;

- RTI Application is Free of Cost
- First 20 pages of information would be provided free of cost
- Time bound restrictions on departments and RTI commission to access information to citizens
- Complaint registration with information commission is free of cost
- Simple procedure for obtaining Information
- Strong Implementation Mechanism
- Protection for Whistle Blowers
- Web based publication and maintenance of record
- Penalty for public bodies

Procedure to Access Information:

KP RTI Act, 2013 stresses to proactively disclose public data under which the important data can be published through website, notice boards, reports, etc. under section V of the law which promotes data sharing without requesting it by the public thus enables citizen to obtain the data without any strain and request.

Once the data is not publically available, following procedures can be followed;

KP RTI Act, 2013 does not set any time period to public departments for publication of their record. On the other hand, the Right to Information (RTI) Act India (Chapter II, Clause 4 (1-b)) obliges all public departments to publish their record within one hundred and twenty days from the enactment of RTI Act.

- Any citizen can request it from the concerned department by writing a simple information request, mentioning details of the required data, writing date of the request and mentioning the address on which the response to be made
- The information request should be addressed to the Public Information Officer (PIO)⁴ or head of the department
- The information request can be filed either by;
 - a. A registered courier
 - b. In person, by taking the acknowledgement from the PIO
- The law defines different timeline for the provision of information by the department, In case of threat to life and security measures, timeline is 2 days, in case of simple information

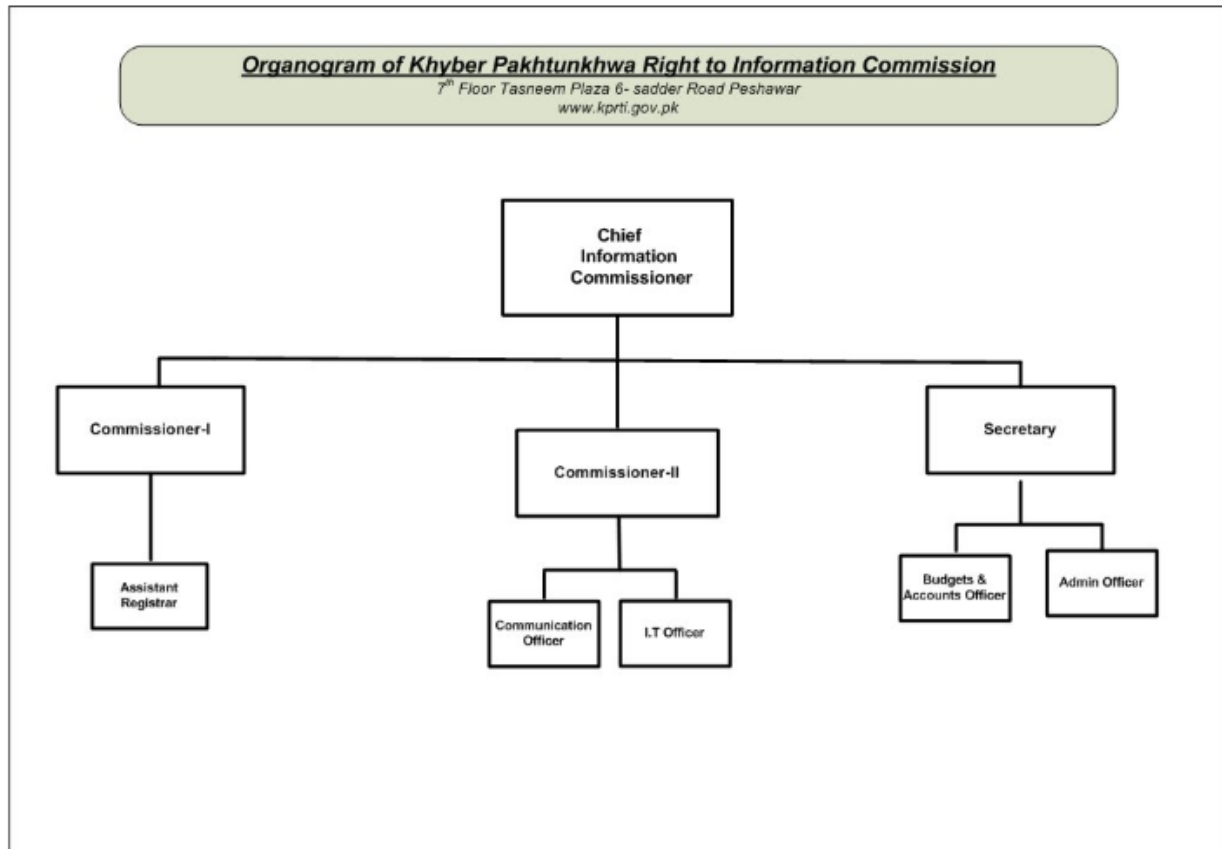
⁴A PIO is the nominated official of a department who is responsible to address the information requests of the citizens

a department has to provide the requested information within 10 days while in case of complex data the law gives 20 days to respond

- If a requested does not gets the required information in specific period of time as defined above he/she can file a complaint with KP RTI Commission
- The procedure for filing a complaint is simple, a requester has to write an application to be addressed to Chief Information Commissioner in which a requester has to mention the details of the information request which he/she made to the department and attach the copy of the information request along with courier/acknowledgment receipt
- The law provides 60 working days to Information Commissioner to decide a complaint by either providing the desired information to the requester or denying it under the provisions of the law

KP RTI Commission

KP RTI Commission is the responsible body to implement the RTI Act in its true spirit. It is headed by Chief Information Commissioner while two information Commissioners completes the management of the house. The commissioners are appointed for three years. RTI commission has different sections among which legal section is the main section, the other sections include communication, IT, budget and accounts and administration section. The summonses are held regularly where public Information Officers are called in to give their stance in case of denied information's.



Methodology:

The methodology used for this analysis has been in two stages. In first stage the information requests were segregated department wise in order to highlight the number of departments from which the information has been requested. In the second stage, using the same data, complaint analysis has been done in order to segregate

- a) Department Wise Complaint analysis
- b) Category wise Complaint analysis
- c) Time Bound Complaint analysis
- d) Gender wise Complaint analysis.

The purpose of this exercise on one hand is to identify the most sort after information by the public at large and on the other hand it gauges the performance of the departments. Similarly the time period has been one of the key factors to evaluate the performance of the KP RTI Commission.

Detailed analysis done is presented in the form of data and is also presented in the form of charts for clear understanding in the following pages.

Analysis

Department Wise Information Requests Analysis 2017-18:

Department wise information requests analysis shows that a total of 4078⁵ requests were filed from July 2017 to June 2018 to different public bodies out of which 2675 information requests were responded and provided the information to requesters. The highest no of information were requested from Elementary and Secondary education department i.e 20.5% with 550 information requests however elementary and secondary education could only provide 403 information's to its requester while 145 requests which is 35.9% converted to complaints and 2 requests were rejected. 19.2% information requests were filed to Higher Edu, Archives & Libraries Deptt: with 515 information requests out of which 392 were directly responded while 113 were converted into complaints and 10 were rejected. Local Government and Rural development department received 18.4% of total requests with 493 information requests but could only respond 320 information request while 169 requests were converted into complaints and one request was rejected, similarly its response rate stood at 64.9%.

Interestingly Provincial Assembly Khyber Pakhtunkhwa received total 42 requests under KP RTI Law 2013 in 2017-18, while in 2016-17 there was no request submitted to the KP provincial assembly. A brief statistics of information requests received by the different department is as;

RTI Request July 2017 - June 2018								
No.	Departments	Total RTI requests	RTI Request					Converted to Complaints
			Addressed	In-Process	Rejected	Females	Males	
1	Agriculture, Livestock & Co-Operation Deptt:	97	69	0	1	0	97	28
2	Auqaf, Hajj, Religious & Minority Affairs Deptt:	25	22		0	0	25	3
3	Autonomous	402	45	32	0	3	399	325
4	Banks	6	0	0	0	0	6	6
5	Chief Minister's Secretariat	38	28	0	0	0	38	10
6	Communication & Works Deptt: (C&W)	58	36	0	0	0	58	22

⁵Data obtained from the RTIC Annual Report (2017-18)

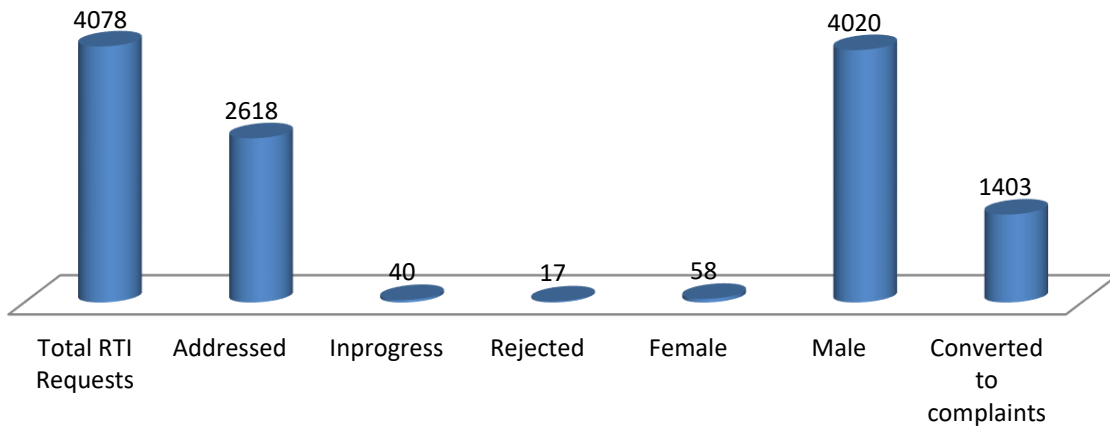
RTI Request July 2017 - June 2018

No.	Departments	Total RTI requests	RTI Request					Converted to Complaints
			Addressed	In-Process	Rejected	Females	Males	
7	District & Session Judge	20	0	0	0	0	20	20
8	Establishment	178	157	0	0	1	177	20
9	Elementary & Secondary Education	550	403	0	2	7	543	145
10	Energy & Power	23	11	0	0	0	23	12
11	Excise & Taxation	40	36	0	0	0	40	4
12	Finance	28	5	0	0	0	28	23
13	Food	4	0	0	0	0	4	4
14	Forestry, Environment & wildlife Deptt:	62	43	0	1	1	61	18
15	Governor's Secretariat	0	0	0	0	0	0	0
16	Health	299	175	0	0	6	293	124
17	Higher Edu, Archives & Libraries Deptt:	515	392	0	10	25	490	113
18	Home & Tribal Affairs	297	243	0	0	5	292	54
19	Housing	9	2	0	0	0	9	7
20	Industries, Commerce and Technical Education	48	45	0	0	0	48	3
21	Information, Public Relation & Culture Deptt.	18	11	2	0	0	18	5
22	Inter Provincial Coordination KP	0	0	0	0	0	0	0
23	Irrigation	25	8	0	0	0	25	17
24	Labor	1	1	0	0	0	1	0
25	Law, Parliamentary Affairs & Human Rights Deptt:	198	195	0	0	0	198	3
26	Local Government & Rural Development (LG&RD)	493	320	1	3	0	493	169

RTI Request July 2017 - June 2018

No.	Departments	Total RTI requests	RTI Request					Converted to Complaints
			Addressed	In-Process	Rejected	Females	Males	
27	Mines & Minerals Department	22	16	0	0	0	22	6
28	Planning & Development (P&D)	11	8	0	0	0	11	3
29	Population Welfare Deptt:	28	23	0	0	3	25	5
30	Printing & Stationary Department	6	0	0	0	0	6	6
31	Provincial Assembly	42	23	0	0	1	41	19
32	Public Health Engineering	56	31	5	0	0	56	20
33	Relief Rehabilitation & Settlement Deptt:	7	5	0	0	0	7	2
34	Revenue & Estate	128	107	0	0	1	127	21
35	Science & Tech & Info Tech (ST&IT)	17	16	0	0	1	16	1
36	Sports, Culture tourism & Youth Affairs	86	74	0	0	3	83	12
37	Transport & Mass Transit	25	14	0	0	0	25	11
38	Zakat, Usher, Social Welfare, Special Education & Women Empowerment Deptt. KP	64	54	0	0	1	63	10
39	Beyond Jurisdiction	152	0	0	0	0	152	152
Total		4078	2618	40	17	58	4020	1403

RTI Request July 2017 - June 2018



Department Wise Complaint Analysis, 2017-18:

Department wise complaint analysis shows that a total of 1403 complaints were registered from July 2017 to June 2018 on which 1363 complainants were provided the required information which is 97%. Highest numbers of complaints were registered against the autonomous department/bodies which is 325, among which 293 complainants were provided the required information while the rest were not decided till closing of the fiscal year. 169 complaints were registered against the Local Government & Rural Development Department on which 168 complainants were provided the required information. 145 complaints were launched against the Elementary and Secondary Education department which were addressed by the commission and provided the information to complainants.

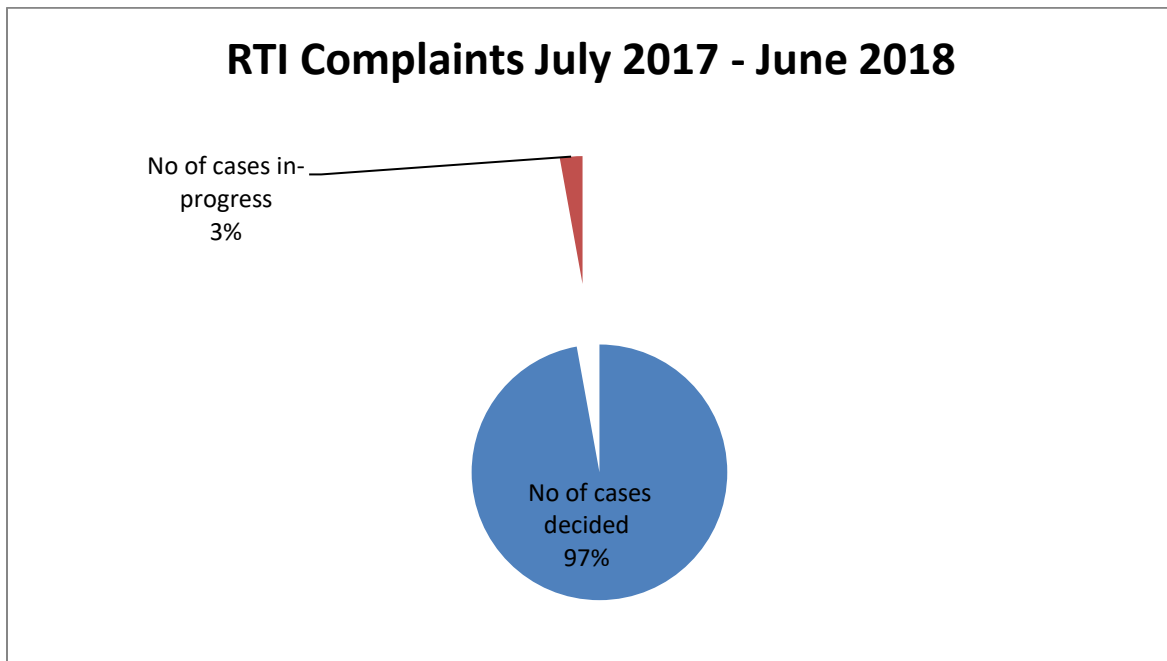
A brief statistics of department wise complaint is as;

RTI Complaints July 2017 - June 2018				
No.	Departments	RTI Complaints		
		Total	Closed	Open
1	Agriculture, Livestock & Co-Operation Deptt:	28	28	0
2	Auqaf, Hajj, Religious & Minority Affairs Deptt:	3	3	0
3	Autonomous	325	293	32
4	Banks	6	6	0
5	Chief Minister's Secretariat (CM Sect.)	10	10	0
6	Communication & Works Deptt: (C&W)	22	22	0
7	District & Session Judge	21	21	0

RTI Complaints July 2017 - June 2018

No.	Departments	RTI Complaints		
		Total	Closed	Open
8	Establishment	21	21	0
9	Elementary & Secondary Education	145	145	0
10	Energy & Power	12	7	0
11	Excise & Taxation	4	4	0
12	Finance	23	23	
13	Food	4	4	0
14	Forestry, Environment & wildlife Deptt:	18	18	
15	Governor's Secretariat	0	0	0
16	Health	124	124	0
17	Higher Edu, Archives & Libraries Deptt:	113	113	0
18	Home & Tribal Affairs	54	54	0
19	Housing	7	7	
20	Industries, Commerce and Technical Education	3	3	0
21	Information, Public Relation & Culture Deptt:	5	5	2
22	Inter Provincial Coordination KP	0	0	0
23	Irrigation	17	17	0
24	Labor	0	0	0
25	Law, Parliamentary Affairs & Human Rights Deptt:	3	3	0
26	Local Government & Rural Development (LG&RD)	169	168	1
27	Mines & Minerals Department	6	6	0
28	Planning & Development (P&D)	3	3	0
29	Population Welfare Deptt:	5	5	0
30	Printing & Stationary Department	6	6	0
31	Provincial Assembly	19	19	0
32	Public Health Engineering	20	18	5

RTI Complaints July 2017 - June 2018				
No.	Departments	RTI Complaints		
		Total	Closed	Open
33	Relief Rehabilitation & Settlement Deptt:	1	1	0
34	Revenue & Estate	21	21	0
35	Science & Tech & Info Tech (ST&IT)	1	1	0
36	Sports, Culture tourism & Youth Affairs	12	12	0
37	Transport & Mass Transit	11	11	0
38	Zakat, Usher, Social Welfare, Special Education & Women Empowerment Deptt. KP	9	9	0
39	Beyond Jurisdiction	152	152	0
G. Total		1403	1363	40

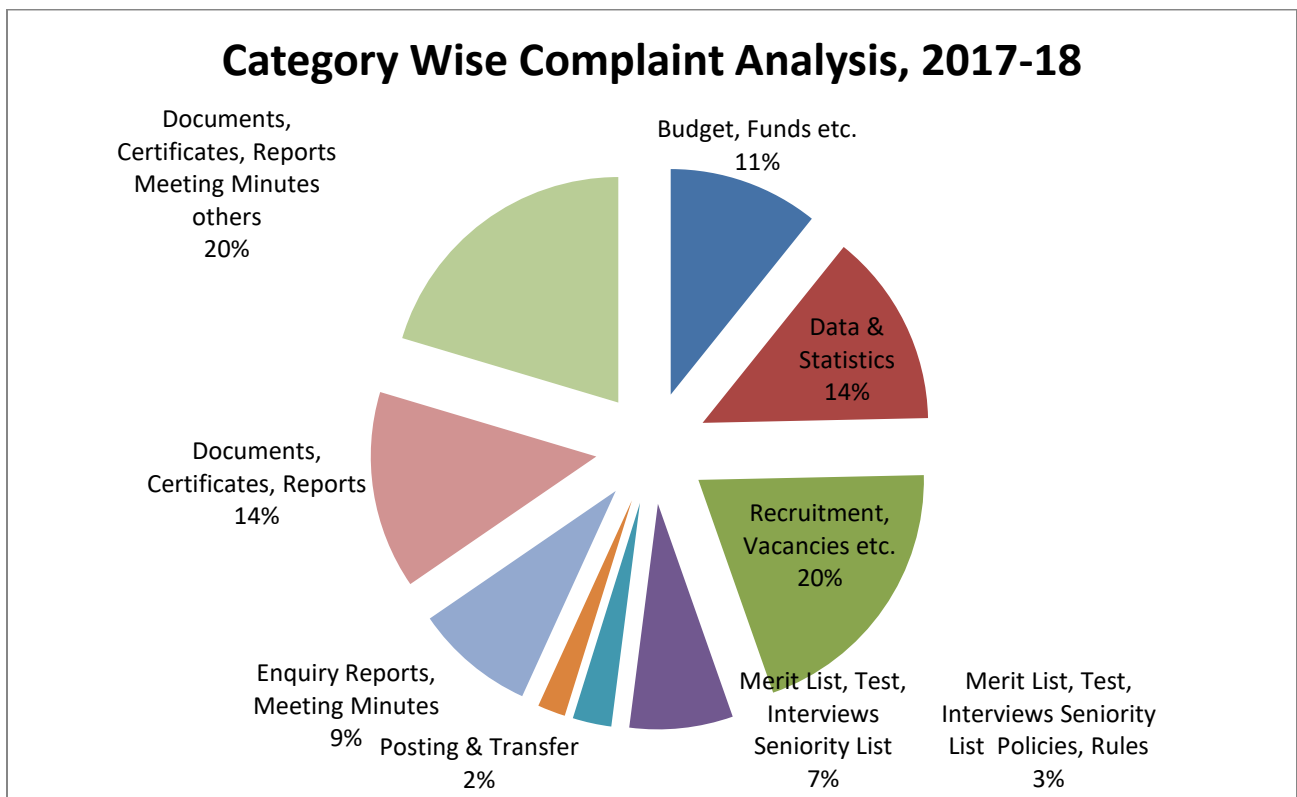


Category Wise Complaint Analysis, 2017-18:

Category wise complaint analysis shows that out of 1,403 complaints registered from July 2017 to June 2018, 280 (20%) complaints were registered for getting information related to the recruitment, vacancies etc. Total 199 complaints which makes 14% of the total registered complaints pertain to documents, certificates and reports. Similarly, 195 complaints were

registered regarding data and statistics within the public department. 151 complaints which make 11% of the total complaints were regarding budget and funds. 121 complaints were registered for Enquiry Reports and Meeting Minutes which makes 9% of the total. 104 complaints which make 7.4 % of the total complaints were registered to sort information regarding merit list, test, interviews, and seniority list.

Information Sort	Budget, Funds etc.	Data & Statistics	Recruitment, Vacancies etc.	Merit List, Test, Interviews Seniority List	Policies, Rules	Posting & Transfer	Enquiry Reports, Meeting Minutes	Documents, Certificates, Reports	others	Total
Total in Numbers	151	195	280	104	39	28	121	199	286	1403
Percentage	11	14	20	7.4	3	2	9	14	20	100%



Time Bound Complaint Analysis, 2017-18:

The time bound complaint analyses shows revealing statistics. A total of 1403 complaints were registered during the fiscal year 2017-18, of which 921 complaints which is 65.6% of the total complaints were provided the required information within 60 days. 442 complaints which is 31.5% of the total complaints were provided the required information beyond the 60 days while 40

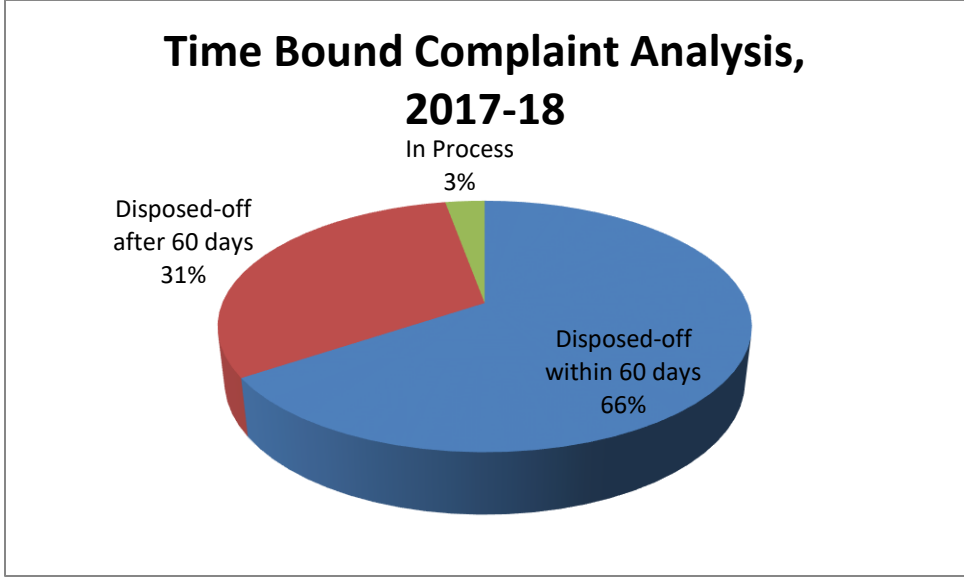
complaints are still open which has already crossed 60 working days cut off time as mentioned in KP RTI law 2013.

325 complaints were launched against the autonomous bodies of which only 194 complaints were resolved within 60 days, 99 complaints were resolved beyond 60 days while 32 complaints are still open. Local Government & Rural development department registered 169 complaints which is highest among the department but it could provide only 101 complaints within 60 days , 67 beyond 60 days while one was still open.

The below table shows the department wise time bound analyses of complaints from July 2017 to June 2018.

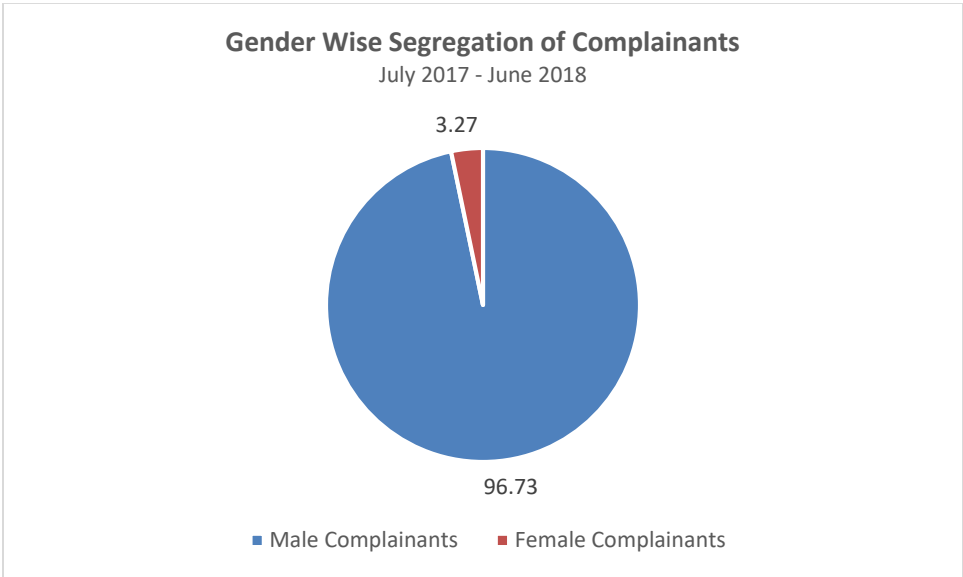
No.	Departments	Status			In Process
		Total Complaints	Disposed-off within 60 days	Disposed-off after 60 days	
1	Agriculture, Livestock & Co-Operation Deptt:	32	22	10	-
2	Auqaf, Hajj, Religious & Minority Affairs Deptt:	3	1	2	-
3	Autonomous	325	194	99	32
4	Communication & Works Deptt: (C&W)	22	13	9	-
5	Establishment Deptt:	43	28	15	-
6	Elementary & Secondary Education Deptt:	145	96	49	-
7	Energy & Power Deptt:	13	4	9	-
8	Excise & Taxation Deptt:	4	4	0	-
9	Finance Deptt:	42	36	6	-
10	Food Deptt:	19	13	6	-
11	Forestry, Environment & Wildlife Deptt:	15	11	4	-
12	Health Deptt:	60	35	25	-
13	Higher Edu, Archives & Libraries Deptt:	65	49	16	-
14	Home & Tribal Affairs Deptt:	11	9	2	-
15	Industries, Commerce, Labour & Technical Education Deptt.	14	10	4	-

No.	Departments	Status			In Process
		Total Complaints	Disposed-off within 60 days	Disposed-off after 60 days	
16	Information, Public Relation & Culture Deptt:	19	11	6	2
17	Inter Provincial Coordination Deptt:	10	0	10	-
18	Irrigation Deptt:	18	10	8	-
19	Law ,Parliamentary Affairs & Human Rights Deptt:	3	3	0	-
20	Local Government & Rural Development (LG &RD)	169	101	67	1
21	Mines & Minerals Department	7	7	0	-
22	Planning & Development (P&D)	3	1	2	-
23	Public Health Engineering	20	15	5	-
24	Revenue & Estate	3	2	1	-
25	Social Welfare, Special Education & Women Empowerment	7	3	4	-
26	Sports, Culture Tourism & Youth Affairs	15	12	3	-
27	Transport & Mass Transit	9	6	3	-
28	Zakat and Ushar	3	3	0	-
29	Printing & Press	6	4	2	-
30	Khyber Pakhtunkhwa Police	43	28	15	-
31	Judiciary	20	13	7	-
32	Others	235	177	53	5
Total		1403	921	442	40



Gender Wise Complaint Analysis 2017-18:

There is a wider gender gap in the complaint analyses as only 46 females which is only 3.27% out of total 1403 complainants registered their complaints to RTIC from July 2017 to June 2018.



Conclusion:

The complaints analysis signifies the needs for the following steps:

- The KP RTI Act has been extended to the x-FATA (Federally Administrated tribal Areas) and Provincial Tribal Administrated Areas (PATA) with the 25th constitutional amendment but KP RTI commission has not taken any step for its implementation to the newly merged areas. The law should be implemented in erstwhile FATA and PATA as well.
- Departmental head should be made responsible to provide the information if it is denied or obstructed by the Public Information Officer (PIO) or any other official
- Inclusion of Khyber Pakhtunkhwa High court in the ambit of RTI Act
- Define timeline for the proactive disclosure of information by the departments
- Provision of extra benefits to PIOs for their services as PIO

No doubt, the introduction of this new legislation has created ripple effect in the stagnant behaviour of the government and pushed a change in the manner the information used to be disseminated. However, the legislation is not free of shortcomings like the state of proactive disclosure. Under section 4 of the RTI Act, public bodies are required to ensure that all records which they hold are properly maintained and must be indexed but timeframe has been not been defined while under Section 5, the record must be published and must be made readily available to public.

In this regard RTI Commission has also been mandated to facilitate and provide assistance to the relevant departments to ensure that these two important provisions of the law are fully implemented. An analysis of CPDI⁶ on the state of online proactive disclosure of information in provincial departments of Khyber Pakhtunkhwa reveals that many departments have not followed the section IV and V of KP Right to Information, Act 2013 in its true letter and spirit.

The time bound response to the complaints by RTI commission is the key to ensure that citizens keep filing complaints with RTI commission. Once the complaint is delayed or not properly addressed, it is natural for complainant to lose interest in the whole process.

⁶<http://www.cpd-pakistan.org/publications#prettyPhoto/2/>



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