

TRAINING MANUAL

ON

KP RIGHT TO INFORMATION

ACT, 2013

FOR THE PUBLIC INFORMATION

OFFICERS

OF THE

TEHSIL MUNICIPAL ADMINISTRATIONS

IN KHYBER PAKHTUNKHWA

July 2024



Implemented by
giz Deutsche Gesellschaft
für Internationale
Zusammenarbeit (GIZ) GmbH



LOCAL GOVERNMENT, ELECTIONS &
RURAL DEVELOPMENT DEPARTMENT
GOVERNMENT OF KHYBER PAKHTUNKHWA

KP RIGHT TO INFORMATION ACT, 2013

&

ROLES & RESPONSIBILITIES OF PUBLIC INFORMATION OFFICERS

FOR

CAPACITY BUILDING OF PUBLIC INFORMATION OFFICERS

Table of Contents

Introduction:.....	1
Why this Manual?	1
Objectives of the Manual	1
The Content of the Manual.....	2
How to Use this Manual:.....	2
Session I: Right to Information (RTI): Understanding the Concepts, Roles and Responsibilities of PIO's 3	
Purpose of the Session.....	3
Expected Learning Outcomes	3
Material Required.....	3
Handout 1	4
RTI – Understanding the Concepts	4
Trainer Notes No: 1	5
Right to Information (RTI): Understanding the Concepts	5
What is meant by Right to Information (RTI)?.....	5
Is RTI a human right?.....	5
What is meant by Transparency?	6
Legislative Journey on Right to Information in Pakistan:	6
Recent Developments: Moving from FOI to RTI:	7
Handout 2.....	9
Trainer Notes No: 2	10
Section 1: Centrality of PIO's.....	10
Who are Public Information Officers?	10
Who will act as PIO if official has not been designated?.....	10
Responsibilities of public information officer:	10
Activity 1	10

Presentation Session I	11
Session II: Definitional aspects of information, exempted information and the proactive disclosure of information	17
Purpose of the Session.....	17
Expected Learning Outcomes	17
Materials Required	17
Handout 3.....	18
Definitional aspects of information, exempted information and the proactive disclosure of information	18
Trainer Notes No:3	19
Section 2: Definitional aspects of information, exempted information and the proactive disclosure of information	19
What is information?.....	19
Maintenance and Indexation of Records:.....	19
Proactive Disclosure of Information:	19
The Exempted Information:	20
Annual Report under Khyber Pakhtunkhwa Right to Information Act 2013:	20
Activity 2	21
Presentation Session II.....	22
Session III: Responding to Information Requests, Offenses and Punishments.....	26
Purpose of the Session.....	26
Expected Learning Outcomes	26
Material Required.....	26
Handout 4.....	27
Responding to Information Requests, Crimes and Punishments	27
Trainer Notes No: 4	28
Section 3: Responding to Information Requests.....	28
The purpose of this Act	28

What Constitutes an Information Request?.....	28
The Manner of Submitting Information Request:	28
Duty to Assist:.....	28
The Procedure for Disposal of Information Requests:.....	29
Issuing notice to the applicant after the receipt of information request:.....	29
In case the request for information is rejected:	29
While providing the requested information to the applicant:.....	29
Time line for responding to information requests:.....	29
Facilitating applicants in inspecting documents:	30
The Fee for Providing the Requested Information:.....	30
The Burdon of Proof:	30
Right to Appeal:	30
Activity 3	30
Access to Information – Process Flow.....	31
Handout 5.....	32
Crime and Punishment	32
Trainer Notes No:5	33
Section 4: Crime and Punishment.....	33
Criminal Offenses:	33
Punishments for Criminal Offences:.....	33
Penalty for Unlawfully Delaying or Denying Access to Information:.....	33
Protection for Whistle Blowers:	33
Activity 4	33
Proposed Amendments to KP RTI ACT, 2013.....	34
Handout 6.....	35
Proposed Amendments to KP RTI Act, 2013	35
Handout 7.....	42

Guidelines for Designated Officers for Responding to Information Requests:	42
Trainer Notes No: 7	43
Guidelines for Designated Officers for Responding to Information Requests:	43
The Guidelines:	43
Guidelines for Dealing with Information Requests Pertaining to Exempted Information:.....	44
Guidelines for Head of a Public Body for Compliance with the Provisions of the Act:	45
Annex-1.....	46
RTI a useful Tool for Change	46
Some Case Studies	46
Case Study 1	46
Altaf Hussain.....	46
Case Study 2:.....	47
Sabahat Ghaznavi	47
Case Study 3:.....	48
Presentation Session III.....	49
Program.....	56
Evaluation Form.....	58

Introduction:

The Khyber Pakhtunkhwa Right to Information Act was passed by the Provincial Assembly of Khyber Pakhtunkhwa on 31st October, 2013 and assented to by the Governor of the Khyber Pakhtunkhwa on 4th November 2013.

It was for the first time in history of Pakistan that legislation offered a sui generis procedure in the realm of RTI. Under the law KP Information Commission was established and more than 550 Public Information Officers were designated across the province.

Pivotal placed in relationship with the applicant and the Khyber Pakhtunkhwa Information Commission, the public information officer is the key component of the triangle constructed under Khyber Pakhtunkhwa Right to Information Act, 2013. The PIO is the first point of contact of an applicant in the process of access to information. Therefore, it is of vital importance that PIO's need to understand their roles and responsibilities under Khyber Pakhtunkhwa Right to Information Act, 2013

This manual aims at creating better understanding about right to information and its linkage with improved quality of life among Public Information Officers (PIO's) and to promote the culture of proactive disclosure of information and to implement the Act in letter and spirit.

Why this Manual?

This training manual has been prepared for building the capacities of the Public Information Officers (PIO's) on KP RTI Act, 2013. The need for capacity development, stemmed from the realization, that the existing legislation has not been fully implemented even after 3 years of its promulgation in KP province. This can be attributed to capacity deficit on part of the public offices.

Access to public records of government departments is considered to be an important condition for ensuring transparency in governance and accountability of government authorities. However, due to the prevalent culture of secrecy in government departments, and the lack of public awareness about the very existence of RTI law, results derived are still far less than satisfactory. The RTI is an essential pre-requisite for transparency, democracy, and participation of citizens in decisions, which governments make on their behalf.

Realizing the need for raising awareness on KP RTI Act, 2013, educating the public information officers about its salient features, and encouraging the use of the RTI Act for obtaining information held by public authorities, Centre for Governance and Public Accountability (CGPA) has developed this training manual.

Objectives of the Manual

At the end of a one-day training workshop based on this manual, Public Information Officers (PIO's) should have achieved a number of specific learning objectives. They should be able to:

- Respond to information requests in line with the spirit of Khyber Pakhtunkhwa Right to Information Act, 2013.

- PIO's will have improved understanding in order to ensure compliance of public bodies with various provisions of Khyber Pakhtunkhwa Right to Information Act, 2013.

The Content of the Manual

The contents of the manual are divided into introduction and concept of RTI and five sections. The first section discusses the centrality of public information officers in responding to information requests filed by citizens and facilitating public bodies to ensure compliance by public bodies with provisions of RTI law. Second section provides analysis of the definitional aspects pertaining to information itself, exempted information and the information to be provided proactively by the public bodies. Third section describes responsibilities of public information officers in the process of responding to information requests. The fourth section pertains to crimes, penalties and punishments envisaged in this law.

Moreover, KP Government has proposed some amendments to the Act which are currently under consideration. However, if passed by the Provincial Legislature would become part of the Act. These amendments and their implications have also been discussed in the fifth section of this manual for clear understanding of the users.

How to Use this Manual:

This manual can be used in the following three ways.

- Used as a teaching guide for trainers running courses for public information officers.
- Can be used by public information officers themselves as learning tool.
- It can be used by public information officers as a reference material who have already gone through a training course.

Session I: Right to Information (RTI): Understanding the Concepts, Roles and Responsibilities of PIO's

Purpose of the Session

The purpose of the session is to develop a good learning environment and familiarize the participants with key concepts related to RTI and transparency.

Expected Learning Outcomes

After attending this session, the participants will be able to:

- Know the background and objectives of the training workshop;
- Understand the basic concepts of RTI and transparency;
- Development of RTI in Pakistan
- Roles and Responsibilities of PIO's
- Relate their previous experiences with the right to information;

Material Required

Flip charts, board markers, multi-media projector or overhead projector, note books, pens/pencils, and sufficient copies of handouts.

Handout 1

RTI – Understanding the Concepts

- What is meant by RTI?
- Is RTI a Human Right?
- What is meant by Transparency?
- Legislative Journey on RTI in Pakistan
- Recent Developments: Moving from FOI to RTI

Trainer Notes No: 1

Right to Information (RTI): Understanding the Concepts

What is meant by Right to Information (RTI)?

Right to Information (RTI) enables citizens to get information and record held by public departments, subject to some restrictions. RTI is one of the fundamental human rights in which citizens can easily seek and receive information, which has direct or indirect impact on their lives, from government departments and public bodies. Generally, it includes the right:

- to obtain information held by government departments and public bodies;
- to know reasons for decisions taken by public bodies that affect them; and
- to have personal information relating to yourself corrected or updated where such information is incorrect, incomplete or misleading.

Is RTI a human right?

Internationally, RTI is recognized as one of the basic human rights in the Universal Declaration of Human Rights (UNDHR, 1948), International Covenant on Civil and Political Rights (ICCPR, 1976) and UN Guidelines on Consumer Protection (1985).

In Pakistan, Article 19 of the Constitution of Pakistan 1973 includes “right to expression” however, under the 18th Amendment, Article 19A¹ has been inserted which recognizes Right to Information as Constitutional Right of every Citizen of Pakistan. KP Right to Information Act, 2013 entitle the citizens to get information and record held by government departments and public bodies at provincial level, subject to some exceptions.

Right to Information is important for:

1. Transparency in functioning of government departments; and
2. Accountability of those public representatives who make decisions on behalf of citizens.

Information is the oxygen of democracy. If people do not know what is happening in their society, if the actions of those who rule them are hidden, then they cannot take a meaningful part in the affairs of that society. But information is not just a necessity for people – it is an essential part of good government. Bad government needs secrecy to survive. It allows inefficiency, wastefulness and corruption to thrive.

Article 19, The Public’s Right to Know: Principles on Freedom of Information Legislation

Freedom of Information is a fundamental human right ... the touchstone of all the freedoms to which the UN is consecrator.

UN General Assembly Resolution 59 (1), 1946.

¹ Every Citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restriction imposed by law.

What is meant by Transparency?

Transparency means that citizens must be able to know what exactly is going on in government offices and public departments. It refers to the provision of information to citizens about decisions taken by government bodies and public representatives, and display of information by public department about their staffing, performance, and various development activities.

Why is Transparency Important?

- ☞ To do away with the culture of secrecy;
- ☞ To keep check on authority delegated under law;
- ☞ To hold government accountable;
- ☞ To build confidence of citizens in various policies and initiatives of government;
- ☞ To ensure just use of public funds.

Legislative Journey on Right to Information in Pakistan:

Legislative history of Pakistan reflects that law making has not always been fueled with public interest. In fact law making has been subject to certain expediencies and variety of other factors ranging from inadequate knowledge of issue, lack of interest, weak democratic institutions, political compromises, protecting vested interests. More significant has been the pressure of international financial institutions which include World Bank and IMF. Resultantly, undesirable policies and laws which hinder the process of good governance have been introduced or enacted. Unfortunately, the fate of FOI legislation has also been marked with the same expedience and pragmatism.

In Pakistan the movement to enact Freedom of Information (FOI)/ Right to Information (RTI) picked up momentum in 1990s. In the past decade the effectiveness of federal and provincial FOI laws has highlighted a number of legal and procedural deficiencies in the existing framework including; deficient scope, restrictive nature due to exemptions and exceptions, limitations of the review processes, so on and so forth. At the same time, numbers of attempts have been made to address the existing shortcomings in the FOI laws. Private member bills were presented in the Assembly demanding enactment of a fresh comprehensive RTI Law in the country in 2004, 2008, 2010 and finally in 2011. A brief account of all these efforts is as follows:

The first ever bill on FOI was tabled in the parliament in 1990 by Prof. Khursheed Ahmad. Senator and Naib Amir of Jamaat-i-Islami. The bill was introduced in Senate as a private member Bill and was forcefully resisted and failed to be enacted. The second bill on the subject was moved by Senator Malik Muhammad Qasim, who was chairing the public accounts committee in 1994. However, the Freedom of Information Bill drafted by the committee could not be enacted due to forceful resistance by the bureaucracy and early dismissal of the government.

A major development occurred towards enactment of FOI legislation when, on the initiative of Fukharuddin G. Ibrahim, the Federal Minister of Law in the Interim Government headed by Malik Miraj Khalid, the President of Pakistan, promulgated a Freedom of Information Ordinance on January 29, 1997. However, the successive government of Mian Nawaz Sharif allowed this Ordinance to lapse after only six (06) months and did not enact it into law.

In 2000 a draft FOI Bill was made public by the government of General Pervez Musharraf, with the aim of soliciting public view. However, due to number of inherent deficiencies it could not get the popular acceptance by the public.

In October 2002, FOI Ordinance, 2002 was promulgated, which also happened to be the first, such law in the region.

In 2004 Rules for FOI Ordinance, 2002 were passed. Same year Sherry Rehman initiated FOI Bill 2004 with the objective of repealing FOI Ordinance, 2002. Interesting move was introduction of whistle-blower protection in the law. However, the incumbent government did not consider it for enactment.

In 2005, Government of Balochistan promulgated Freedom of Information Act in Balochistan followed by Sindh where Governor Sindh promulgated Freedom of Information Ordinance 2006, in Sindh. Both these were mirror legislations as of Freedom of Information Ordinance, 2002 at the Federal level and carried the same deficiencies.

In 2008 Sherry Rehman, the then Federal Minister for Information and Broadcasting, proposed FOI Act 2008, which was the amended version of FOI Bill, 2004. However, the bill did not see the light of day due to many deficiencies.

After 37 years since the promulgation of the 1973 Constitution of Pakistan, under the 18th Amendment in April 2010, a new article i.e. Article 19-A was inserted in the Constitution acknowledging the Citizens Right to Information. Prior to this, the Constitution did not expressly given right to access of information.

Article 19-A states: *“Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law.”*

In 2010, Another Freedom of Information Bill was moved in the Assembly by Sherry Rehman. Yet again on October 11, 2011 another bill “Right to Information Bill, 2011” was moved in the Assembly by Sherry Rehman. Both these bills were more or less same in content and text.

Recent Developments: Moving from FOI to RTI:

The year 2013 was most momentous in terms of recognizing citizens’ right to information in country as two provinces, Khyber Pakhtunkhwa and Punjab representing around 70 % of the population of Pakistan, enacted two reasonably good legislations.

The new legislation ‘Khyber Pakhtunkhwa Right to Information (RTI) Act, 2013’ was enacted in province of Khyber Pukhtunkhwa (KP). It was a giant leap forward in real empowerment of the general masses of KP as the law was ranked third in the list of laws around the world by RTI experts. The Act on one hand empowered citizens to access the maximum possible information concerning the working of any public body in the province and on the other following the best international practice a fully independent Information Commission was established. It was also a remarkable step in accordance with the Spirit of Article 19-A of the Constitution of Pakistan, whereby the right to information has been explicitly and emphatically declared as part of the fundamental rights.

The law is a complex piece of legislation which will require time to properly analyze and digest. And, as with all such laws, must have to be followed by effective implementation. According to sections 4, 5 and 6 of the said Ordinance, respective public bodies have to maintain and Index the public record, publish and made available the record and designate public information officers

(PIO's) accordingly to facilitate and promote the process of transparency and accountability envisaged in the law. However, the pace has been really slow so far at this front and only information Officers have been nominated. On part the provincial government this requires sincere and strong efforts to enable these legal provisions without which the extensive exercise of promulgation of the law would be futile and would only look like electioneering ploy.

Establishment of Information Commission on RTI is a welcome step. It is a popular trend in the world and has been successfully in practice in neighboring countries like India, Bangladesh and Nepal. As an independent and exclusive body on RTI, Information Commission can bring an open and fair RTI regime in KP.

Another significant clause in Khyber Pakhtunkhwa Right to Information Act, 2013 is the rapid process of disposal of complaints and imposition of daily fine of up to Rs.250 per day, up to maximum of Rs.25000 on any official who blocks any activity for preventing or delaying the disclosure of information to the requester. This will act as a deterrent and make the officials more efficient and responsive while providing information to requesters.

Setting an example and popular trend in the region KP RTI Act, 2013 has very short and brief list of exemptions regarding information sharing. The list only includes topics related to security and international relations, disclosure harmful to law enforcement, public economic affairs, policy making, privacy, legal privilege, and commercial and confidential information.

The inclusion of Secretariats of Chief Minister, Governor, Provincial Assembly of KP and subordinate judiciary in the definition of public bodies was a positive characteristic and was another welcome step which showed the commitment of the respective government towards openness and accountability. However, these institutions were removed from the purview of this law under the amendment made in this regard highlighted the mindset of the public representatives to avoid scrutiny of their affairs.

Another step towards transparency and accountability and makes KP RTI Act, 2013 referred as sun shine law is the clause 30 which is about protection of whistle blowers.

On the negative side, inclusion of clause 28, declaring information as a criminal offence if it is obtained for malafide purpose and penalty amounting to Rs. 50000 or imprisonment has also been provided. It conveys the feeling that by doing so KP government is not interested in maximum disclosure of information. Moreover, this will also create a sense of fear among the requesters and ultimately become a huge impediment while accessing information under this Act.

Handout 2

- Centrality of Public Information Officers
- Who are Public Information Officers?
- Who will act as PIO if official has not been designated?
- Responsibilities of PIO's
- Activity

Trainer Notes No: 2

Section 1: Centrality of PIO's

Under Khyber Pakhtunkhwa Right to Information Act, 2013, public information officer is placed at a pivotal position. Therefore, it is exceedingly important to understand as to who will be public information officer or act as public information officer under this law and what will be their roles and responsibilities.

Who are Public Information Officers?

Public information Officer has been defined under Section 2(b) as an officer of a public body designated under Section 6 of the Act. Furthermore, Section 6 (1) states that every public body within the period of 120 days from the commencement of this Act, will designate one official who will act as public information officer, with whom request of information under this Act may be lodged.

Who will act as PIO if official has not been designated?

Section 6 (2) states that in case no official has been notified as public information official or in event of absence or non- availability of the public information officer, head of public body will act as public information officer.

Responsibilities of public information officer:

Section 6 (3) elaborates the responsibilities assigned to a public information officer, which can be described in the following two broad categories

Responding to Information Requests;

Facilitating compliance of public body with provisions of this Act.

Activity 1

1. Who are Public Information Officers in your department?
2. Is complete information about name, contact number, e-mail of PIO's is available on internet?



Implemented by
giz Deutsche Gesellschaft
für Internationale
Zusammenarbeit (GIZ) GmbH



LOCAL GOVERNMENT, ELECTIONS &
RURAL DEVELOPMENT DEPARTMENT
GOVERNMENT OF KHYBER PAKHTUNKHWA

Presentation Session I

Session I

RTI Understanding the Concepts



What is meant by RTI?

- **Right to Information:**
 - Legal definition: 'access by individuals as a right to information held by public authorities'
 - In plain language: 'right to ask for information from the government'
 - Also known as: 'access to information', 'right of access', 'right to know' and 'Freedom of Information'
- **UN General Assembly adopted Resolution 59 (1), in 1946**
 - "Freedom of Information is a fundamental human right ... the touchstone of all the freedoms to which the UN is consecrated". This was followed by the Universal Declaration on Human Rights in 1948
- **More than 100 countries already have Right to Information laws**
- **Under Section 3 of KP RTI Act 2013:**

"Every citizen shall subject to the provisions of this Act and any rules made under it, have the right to access any information or record held by public body"



Notes:

Is RTI a Human Right?

Internationally, RTI is recognized as one of the basic human rights

- Universal Declaration of Human Rights (UNDHR, 1948),
- International Covenant on Civil and Political Rights (ICCPR, 1976)
- UN Guidelines on Consumer Protection (1985).

Freedom of Information is a fundamental human right ... the touchstone of all the freedoms to which the UN is consecrator. (UN General Assembly Resolution 59 (1), 1946)

- In Pakistan, Article 19 of the Constitution of Pakistan 1973 includes “right to expression” however, under the 18th Amendment, Article 19A has been inserted which recognizes Right to Information as Constitutional Right of every Citizen of Pakistan.
- KP Right to Information Act, 2013 entitle the citizens to get information and record held by government departments and public bodies at provincial level, subject to some exceptions.



What is meant by Transparency

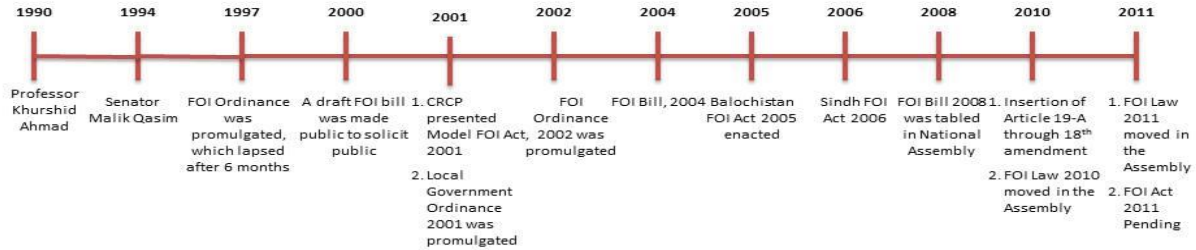
Transparency means:

- That citizens must be able to know what exactly is going on in government offices and public departments.
- It refers to the provision of information to citizens about decisions taken by government bodies and public representatives.
- Display of information by public department about
 - their staffing,
 - performance,
 - various development activities.



Notes:

Legislative Journey on FOI in Pakistan



Moving from FOI to RTI

The year 2013 was most momentous in terms of recognizing citizens' right to information in country as two provinces, Khyber Pakhtunkhwa and Punjab representing around 70 % of the population of Pakistan, enacted two reasonably good legislations.

- Khyber Pakhtunkhwa Right to Information (RTI) Act, 2013'
- Punjab Transparency and Right to Information Act, 2013

PIO's

- Public Information Officer has been defined under Section 2(b) as an “officer of a public body designated under Section 6 of the Act.
- Furthermore, Section 6 (1) states that “every public body within the period of 120 days from the commencement of this Act, will designate one official who will act as public information officer, with whom request of information under this Act may be lodged”.



Who will act as PIO if no one has been designated

Section 6 (2) states that:

“In case no official has been notified as public information official or in event of absence or non- availability of the public information officer, head of public body will act as public information officer”



Notes:

Responsibilities of PIO's

Section 6 (3) elaborates the responsibilities assigned to a public information officer, which can be described in the following two broad categories:

- Responding to Information Requests;
- Facilitating compliance of public body with provisions of this Act.

Session II: Definitional aspects of information, exempted information and the proactive disclosure of information

Purpose of the Session

The purpose of the session is to develop understanding on Information. Participants would have clear understanding about maintenance and indexing of record under KP RTI Act, 2013 and what information is exempt from disclosure. Moreover, they would be familiar with the concept of proactive disclosure of information.

Expected Learning Outcomes

After attending this session, the participants will be able to:

- Know what is information;
- How to maintain and index the record;
- Understand the concept of Proactive disclosure of information;

Materials Required

Flip charts, board markers, multi-media projector or overhead projector, note books, pens/pencils, and sufficient copies of handouts.

Handout 3

Definitional aspects of information, exempted information and the proactive disclosure of information

- What is information?
- Maintenance and Indexation of Records:
- Proactive Disclosure of Information:
- The Exempted Information:
- Annual Report under Khyber Pakhtunkhwa Right to Information Act 2013:
- Activity 2

Trainer Notes No:3

Section 2: Definitional aspects of information, exempted information and the proactive disclosure of information

What is information?

Section 2 (e) defines information in the following manner:

“Information” means material which communicates meaning and which is held in recorded form”.

It is a precise definition of information. A public body keeps information and records in a variety of ways which may include the following:

memo, book, design, map, contract, representation, pamphlet, brochure, order, notification, document, plans, letter, report, accounts statement, project proposal, photograph, audio, video, drawing, film, instruments prepared through electronic process and machine-readable documents.

Maintenance and Indexation of Records:

Public bodies are required to computerize and index their records under Khyber Pakhtunkhwa Right to Information Act 2013.

Section 4 says that a public body will maintain information in line with the provisions of this law or the rules and standards developed by Khyber Pakhtunkhwa Information Commission.

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.

Proactive Disclosure of Information:

Section 5 lists categories of information that will have to be proactively disclosed by public bodies. Depending on the resources, public bodies will provide information listed in Section 5 in an accessible manner according to needs of citizens and also put this information on their web sites. Following categories of information fall under the ambit of Section 5:

- Acts and subordinate legislations (Rules, regulations, notifications, by-laws, manuals and order having force of law);
- Information about the public body including its organization, functions, duties, powers and any services it provides to the public;
- Directory of employees, duties, powers and functions and their remunerations, perks and privileges;
- Norms and criteria set by the public body for the discharge of its functions, rules, manuals or policies;

- Description of its decision making process and any opportunities for the public to provide input into or be consulted about decisions;
- Relevant facts, background information relating to important policies and decisions, formulated which can effect public;
- Detailed budget and detailed proposed expenditure;
- Details of any subsidy or benefit program including the details of the amount and beneficiaries;
- Particulars of the receipts of the concession, permits, licenses or authorizations granted by the public body;
- Categories of information held by the public body;
- Description of the manner in which a request for information may be made including all the information about the designated official.

The Exempted Information:

There are certain types of information which a public body is exempted from disclosure. However, there is no absolute or blanket exemption to any type of information in this Act. If a type of information is exempted from disclosure, there have to be strong and justifiable reasons from exempting such information from disclosure. Sections 15 to 22 list exempted information in this Act. Following are the broad categories of information exempted from disclosure under this act:

- Disclosure of information harmful to law enforcement;
- Information disclosure of which may cause grave and significant damage to public economic affairs;
- Information disclosure of which may cause harm to policy making;
- Information that would encroach on the privacy of an individual;
- Information that is privileged from production in legal proceedings;
- Commercial or confidential information;

Annual Report under Khyber Pakhtunkhwa Right to Information Act 2013:

Section 5 makes it binding on each public body to prepare annual report describing steps taken for implementation of their responsibilities under this law. Key features in this regard are as under:

- The annual report will list number of information received by the public body and information as to how these information requests were processed.
- The annual report will be formally forwarded to Speaker, Provincial Assembly of Khyber Pakhtunkhwa.

Khyber Pakhtunkhwa Information Commission will take appropriate action on the annual report submitted by the public body

Activity 2

1. What are the issues and challenges, which hinder the proper implementation of KP Right to Information Act, 2013 in your department?
2. Give suggestions for removing the identified constraints in implementation of the Act.



Implemented by
giz Deutsche Gesellschaft
für Internationale
Zusammenarbeit (GIZ) GmbH



LOCAL GOVERNMENT, ELECTIONS &
RURAL DEVELOPMENT DEPARTMENT
GOVERNMENT OF KHYBER PAKHTUNKHWA

Presentation Session II

Session II

Definitional Aspects of Information, Exempt Information and Proactive Disclosure



What is Information?

Section 2 (e) defines information in the following manner:

“Information” means material which communicates meaning and which is held in recorded form”.

It is a precise definition of information. A public body keeps information and records in a variety of ways which may include the following:

- memo, books, designs, maps, contracts, representations, pamphlets, brochures, orders, notifications, documents, plans, letters, reports, accounts statement, project proposals, photograph, audio, video, drawing, film, instruments prepared through electronic process and machine-readable documents



Notes:

Maintenance & Indexing of Record

Public bodies are required to computerize and index their records under Khyber Pakhtunkhwa Right to Information Act 2013.

- Section 4 says that: *“Subject to the provisions of this Act and in accordance with the rules as may be prescribed, each public body shall ensure that all of the records which it holds are properly maintained, including so as to enable it to comply with its obligations under this Act, and in accordance with any relevant rules or standards established by the Information Commission”.*



Proactive Disclosure of Information

Section 5 lists categories of information that will have to be proactively disclosed by public bodies. Depending on the resources, public bodies will provide information listed in Section 5 in an accessible manner according to needs of citizens and also put this information on their web sites. Following categories of information fall under the ambit of Section 5:

- Acts and subordinate legislations (Rules, regulations, notifications, by-laws, manuals and order having force of law);
- Information about the public body including its organization, functions, duties, powers and any services it provides to the public;
- Directory of employees, duties, powers and functions and their remunerations, perks and privileges;
- Norms and criteria set by the public body for the discharge of its functions, rules, manuals or policies;
- Description of its decision making process and any opportunities for the public to provide input into or be consulted about decisions;
- Relevant facts, background information relating to important policies and decisions, formulated which can affect public;
- Detailed budget and detailed proposed expenditure;
- Details of any subsidy or benefit program including the details of the amount and beneficiaries;
- Particulars of the receipts of the concession, permits, licenses or authorizations granted by the public body;
- Categories of information held by the public body;
- Description of the manner in which a request for information may be made including all the information about the designated official.



Notes:

Exempt Information

There are certain types of information which a public body is exempted from disclosure. However, there is no absolute or blanket exemption to any type of information in this Act. If a type of information is exempted from disclosure, there have to be strong and justifiable reasons from exempting such information from disclosure. **Sections 15 to 22** list exempted information in this Act. Following are the broad categories of information exempted from disclosure under this act:

- Disclosure of information harmful to law enforcement;
- Information disclosure of which may cause grave and significant damage to public economic affairs;
- Information disclosure of which may cause harm to policy making;
- Information that would encroach on the privacy of an individual;
- Information that is privileged from production in legal proceedings;
- Commercial or confidential information;



Annual Reports and their Publication

Section 5 makes it binding on each public body to prepare annual report describing steps taken for implementation of their responsibilities under this law. Key features in this regard are as under:

- The annual report will list number of information received by the public body and information as to how these information requests were processed.
- The annual report will be formally forwarded to Speaker, Provincial Assembly of Khyber Pakhtunkhwa.
- Khyber Pakhtunkhwa Information Commission will take appropriate action on the annual report submitted by the public body



Notes:

Session III: Responding to Information Requests, Offenses and Punishments

Purpose of the Session

The purpose of the session is to develop understanding of the PIO's on responding to the information requests submitted. What are the duties of PIO's, when information request is received? This session also covers crime and punishment for not providing the required information and participants would know the consequences they would face if they fail to comply with the provision of this KP RTI Act, 2013. Moreover, in the light of the proposed amendments, what would be shape of the Act and what would be impacts occurred on the Act would be discussed, which would be followed by some guidelines and case studies. KP RTI Act, 2013 for the first time in history of Pakistan has offered protection to the whistle blowers.

Expected Learning Outcomes

After attending this session, the participants will be able to:

- Know the manner in which the information is submitted;
- Know about the “Duty to Assist”;
- Know the procedure and time lines to follow for disposing off the information request;
- Know what kind of crime one would commit if information is not provided and what would be the punishment?
- Would get acquainted with the proposed amendments to the Act and their implication in future;
- Know about the “Protection of Whistle Blower”

Material Required

Flip charts, board markers, multi-media projector or overhead projector, note books, pens/pencils, and sufficient copies of handouts.

Handout 4

Responding to Information Requests, Crimes and Punishments

- Responding to Information Requests
- The purpose of this Act
- What Constitutes an Information Request?
- The Manner of Submitting Information Request:
- Duty to Assist:
- The Procedure for Disposal of Information Requests:
- Issuing notice to the applicant after the receipt of information request:
- In case the request for information is rejected:
- While providing the requested information to the applicant
- Time line for responding to information requests:
- Facilitating applicants in inspecting documents
- The Fee for Providing the Requested Information
- The Burdon of Proof
- Right to Appeal
- Activity 3

Trainer Notes No: 4

Section 3: Responding to Information Requests

The public information officers will only be able to respond to information requests if they know the following:

The purpose of this Act

Section 3 describes the purpose of this Act. Key features of this section are as under:

- Keeping in mind provisions of this Act, citizens will be able to have right to access information and records held by public bodies.
- While providing access to information, only provisions of this Act will be applicable and other laws will be irrelevant.
- Information will be provided promptly and at lowest reasonable cost.

What Constitutes an Information Request?

Section 7 (3) describes elements of an information request which are as under:

- The request will be in writing;
- The written request provides sufficient details of the information or record being requested; and
- Address for the delivery of the information or record being requested.

Important Note: The applicant will not have to provide reasons for requesting the information.

The Manner of Submitting Information Request:

An applicant can submit information request in the following manner:

- In person;
- By mail;
- By fax; and
- By E-mail.

Note: A public body may issue a form to assist applicants for submitting information requests. However, submitting information requests on this form will be optional.

Duty to Assist:

Section 8 makes it binding on the (PIO) to assist the applicants.

Following are key elements of the assistance to be provided to an applicant.

- If an applicant is unable to describe sufficient details of information, PIO will help him locate the information.
- PIO will provide assistance to persons with disabilities.
- If an applicant is illiterate, PIO's will write information on his behalf. After writing the request, the PIO will sign the information request, put date and provide copy of the information request to the applicant.

The Procedure for Disposal of Information Requests:

If requested information is not available with the public body:

- If the PIO knows where the requested information is available, he/she will forward the information request to that public body and inform the applicant about it.
- If PIO does not know which public body holds the requested information, he/she will return the information request to the applicant.

Issuing notice to the applicant after the receipt of information request:

In case the requested information is available with the public body:

The PIO will notify the applicant that the request for information has been accepted and inform the applicant about the fee which the applicant will deposit to get the requested information.

In case the request for information is rejected:

While rejecting the request for information, the PIO will inform the applicant any of the following as the case may be:

- The request for application does not comply with the rules of Khyber Pakhtunkhwa Right to Information Act;
- The requested information is available in the published form; (in this case the PIO will also guide the applicant as to where this information can be received).
- The requested information is the same as earlier provided to the applicant;
- The whole or part of the requested information belongs to the categories of information exempted from disclosure under Khyber Pakhtunkhwa Right to Information Act 2013; (in this case, the PIO will refer to the exact exception and also mention that the applicant has the right to appeal against the rejection of the application).

While providing the requested information to the applicant:

Along with the requested information, the PIO will provide a certificate testifying that the information or the copy of the record being provided is true. The PIO will put date on the certificate and sign it.

Time line for responding to information requests:

The PIO will provide the requested information as soon as possible but within 10 working days.

The PIO can take 10 extra working days if:

- The designated officer has to search through large number of records;
- The requested information belongs to the third party; or
- The requested information is available with different offices of the public body.

If the requested information belongs to life and liberty of a person, it will be provided within 2 working days.

Facilitating applicants in inspecting documents:

If a citizen has expressed the wish to inspect documents of a public body, the PIO will facilitate the applicant in inspecting the documents. The PIO may deny the request to inspect documents if such an inspection is going to unreasonably interfere with the functions of the public body or harm the documents.

The Fee for Providing the Requested Information:

Under Section 13 of the Act:

The PIO will not charge an applicant for filing the request for information.

The PIO will not charge any fee for first 20 pages of the requested information.

The PIO will only charge the actual fee for producing and sending the requested information according to the cost set by Khyber Pakhtunkhwa Information Commission.

The Burdon of Proof:

Section 23 (4) declares that in an appeal against the decision of Khyber Pakhtunkhwa Information Commission, the Burdon of proof will be on the public body to establish that it acted in line with the spirit of this law.

Right to Appeal:

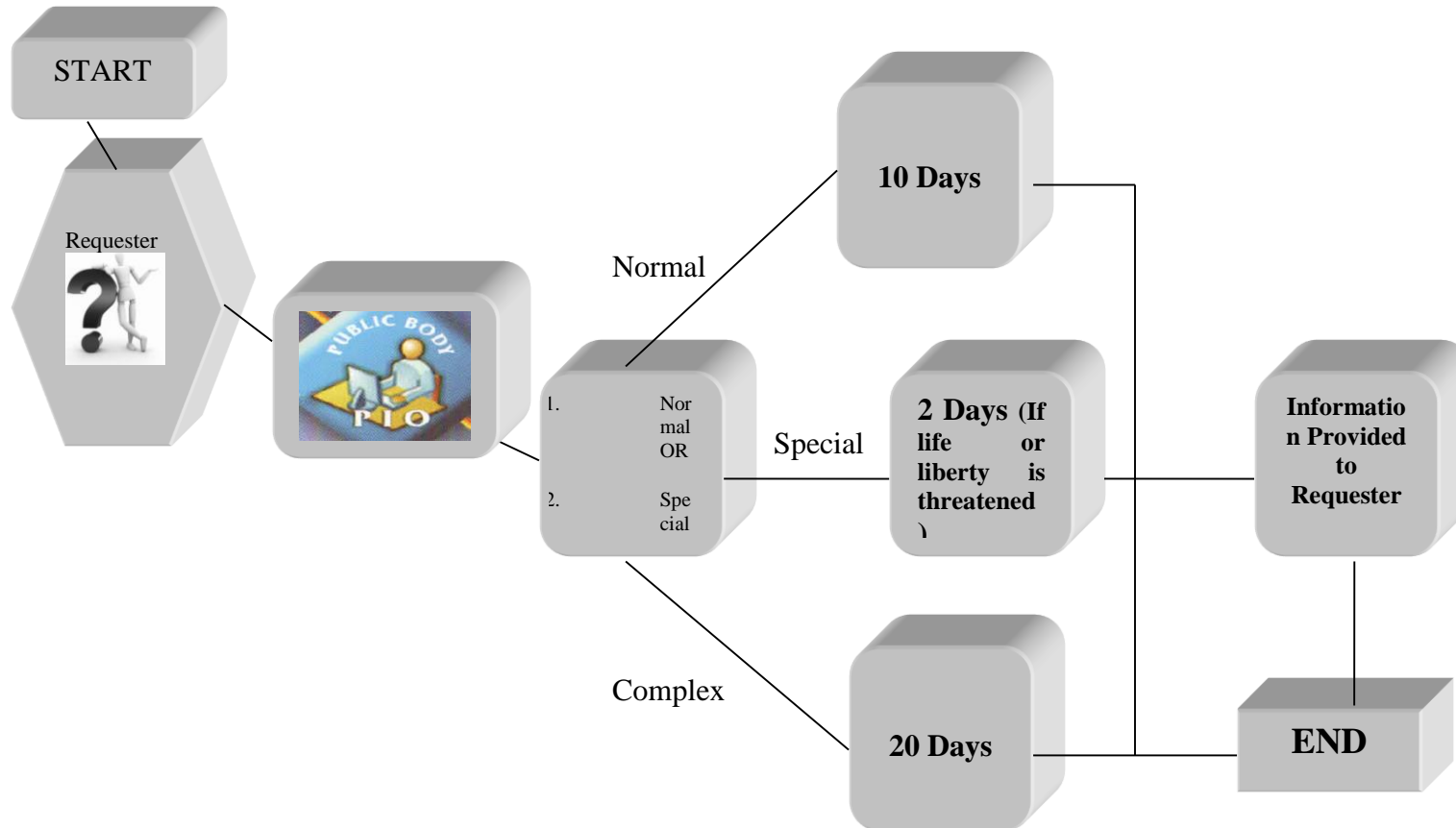
Under Section 26(4), A public body can appeal against the decision of Khyber Pakhtunkhwa Information Commission in a court.

If appeal is not made within in 30 days, Khyber Pakhtunkhwa Information Commission will have the right to exercise contempt of court powers.

Activity 3

1. What do you think is the purpose of this Act?
2. What are the timelines for responding to the information requests?

Access to Information – Process Flow



Handout 5

Crime and Punishment

- Access to Information – Process Flow
- Section 4: Crime and Punishment
- Criminal Offences
- Punishments for Criminal Offences
- Penalty for Unlawfully Delaying or Denying Access to Information
- Protection for Whistle Blowers
- Activity 4

Trainer Notes No:5

Section 4: Crime and Punishment

It is important that public officials should also know about the penalties and punishments under this Act for obstructing the exercise of rights granted to citizens in this law.

Criminal Offenses:

Section 28 states criminal offenses and punishment under this Act. The offenses are as under:

- Obstructing access to any record with intention to prevent the exercise of the right under this Act which is the right to have access to information;
- Obstructing performance of any public body to discharge its duties mentioned in the Act;
- Interfering in the work of Khyber Pakhtunkhwa Information Commission;
- Destroying any record without lawful authority.

Punishments for Criminal Offences:

Section 28 (2) mentions punishment for these offenses which can be imposed by Khyber Pakhtunkhwa Information Commission. The punishment can be imposition of fine up Rs. 50,000 or imprisonment up to 2 years.

Penalty for Unlawfully Delaying or Denying Access to Information:

Under Section 26 (2b), Khyber Pakhtunkhwa Information Commission can impose penalty of Rs. 250 on the public information official for each day of delay or unlawfully denying access to requested information and this fine can go up to Rs. 25,000.

Protection for Whistle Blowers:

Public officials have been given protection against departmental actions for exposing corruption and wrong-doing. In this regard, key features of Section 30 are as under:

- Legal, administrative or employment related sanctions will not be imposed if;
- An official releases information in good faith exposing wrong-doing or share information about threat to public safety or environment;
- Wrong-doing means criminal offence, failure to comply with legal obligations, miscarriage of justice, corruption, dishonesty and maladministration in a public body.

Activity 4

1. What are different punishments provided under the Act?
2. Explain the concept of Whistleblower with support of some example?

Proposed Amendments to KP RTI ACT, 2013

Handout 6

Proposed Amendments to KP RTI Act, 2013

- Existing Law
- Proposed Amendments
- Reasons

Existing Law	Proposed Amendments	Reasons
<p>1. Definition.</p> <p>(i)“public body” means:</p> <p>(v) subordinate judiciary i.e. courts of District and Session Judges, courts of Additional District and Session Judges, courts of Senior Civil Judges, courts of Civil Judges and courts of Magistrates;</p> <p>(l) “requester” means any citizen ,who has made request for information under this Act ;</p> <p>6. Designation of official. ---</p>	<p><u>1. Amendment in Section 2 of Act No. XXVI of 2013:-</u></p> <p>in Section 2, in clause (i) for sub-clause (v), the following shall be substituted, namely: “(v) any Court financed by Government”, and</p> <p>in Section 2, in clause (l) the following shall be substituted, namely: “(l) “requester” means any citizen, legal person or an organization registered or incorporated in Pakistan who has made a request for information under this Act.”.</p> <p><u>Addition of sub-section (4) and (5) in Section 6 of Act No. XXVI of 2013:-</u></p> <p>in section 6, after sub-section (3) the following new sub-sections (4) and (5) shall be inserted namely; “(4) A Public Information Officer, designated under sub-section (1) shall have the authority to supply all the information held by the Public Body and other officials/officers shall act in aid to the Public Information Officer to ensure in-time supply of information under the Act.”</p>	<p>The Civil Society and the RTI activists have been demanding inclusion of High Court in the definition of the Public Body on the pattern of Punjab TRTI Act, 2014.</p> <p>The Civil Society and the RTI activists have been demanding the Right to seek information for organizations working in the field of RTI on the pattern of Punjab TRTI Act, 2014.</p> <p>Experience has shown that PIO designated by the Public Body does not receive any cooperation; rather he is directed verbally to give or not to give certain information or is forced to seek approval of</p>

<p>23. Complaints.</p> <p>(1) Anyone, who believes that his request has not been dealt in accordance with the provisions of this Act, has the right to lodge a complaint with the Information Commission to this effect.</p> <p>24. Information Commission, ---</p>	<p>“(5) Any violation of sub-section (4), if reported to the Commission, shall be deemed as willful obstruction under Section 26(3) (b) of this Act.”</p> <p><u>Amendment in Sub Section (1) of Section 23 of Act No. XXVI of 2013:-</u></p> <p>In section 23, in sub-section (1) the full stop appearing at the end shall be deleted and the following shall be inserted at the end, namely; “within thirty days from the time mentioned in section 11 of this Act.</p> <p><u>4. Addition of new sub-section (9), (10) and (11) in Section 24 of Act No. XXVI of 2013:-</u></p> <p>In section 24 after sub-section (8) the following new sub-section shall be inserted namely;</p> <p>“(9) Notwithstanding anything contained in sub-section (5) and (6), at no time shall the Commission consist of less than two Commissioners or a Commissioner and Chief</p>	<p>higher authority before delivery of information. It has also being experienced that Junior Officer, and in some cases a contract employee, is designated as PIO which makes his position more vulnerable.</p> <p>It is high time that on one hand protection is given to the PIO and on the other hand officers are legally made bound to facilitate him in delivery of information.</p> <p>In the present shape the law does not bind the requester to any time frame for filing the complaint. To make the scale even, it is necessary to provide the time frame for lodging complaint hence this amendment.</p>
---	---	---

	<p>Information Commissioner, as the case may be.</p> <p>(10) The Information Commission shall initiate a case for filling the expected vacancy due to retirement of an Information Commissioner or Chief Information Commissioner, as the case maybe, one hundred and twenty days before the due date and send it to the Government and the Government shall fill the vacancy within thirty days of the occurrence of the vacancy.</p> <p>(11) In case of occurrence of any vacancy otherwise than by retirement, the Commission shall initiate a case for filling the vacancy within fifteen days and the Government shall fill the vacancy within one hundred and twenty days of the occurrence of the vacancy.”.</p> <p><u>Amendment in Sub Section (4)of Section 25 of Act No. XXVI of 2013:-</u></p> <p>In section 25, in sub-section (4), the following shall be substituted namely;</p> <p>for the words” While deciding a complaint” appearing at the start, shall be substituted with the words “While taking any decision,”.</p>	<p>In the present shape, the law does not provide any mechanism for keeping the Commission alive in case Two Commissioners complete their tenure. In such an eventuality, the Commission can be kept dysfunctional for unlimited period.</p> <p>The proposed amendments would bind the Government to fill the vacancies within one hundred and twenty days on one hand and would allow the Commission to remain functional on the other. It is necessary that Commission should remain functional to provide continuous access to information to the general public which has developed a trust in the Commission for the last two years.</p>
--	---	---

<p>25. Functions of the Information Commission. (4) While deciding a complaint, the Information Commission shall consist of at least two members or one member and the Chief Information Commissioner and the decision of the Commission shall not be invalid on the ground of existence of any vacancy.”.</p> <p>26. Powers of the Information Commission.</p> <p>(4) A decision of the Information Commission under sub-section (3) shall, if it has not been appealed against within 30 days, be registered with the court of the district and Session Judge of the concerned District and any failure to respect the decision shall be dealt with in the same way as any contempt of court.</p>	<p><u>Amendment in Sub Section (4) of Section 26 of Act No. XXVI of 2013:-</u> In the said Act in section 26:- (a) For the existing sub-section (4) the following shall be substituted namely; “(4) If the information still remains outstanding, the Commission shall direct the Incharge of the Public Body to deliver the information within twenty days of the issuance of Order under Sub-Section (3),” and</p> <p>(a) Insertion of new sub-sections (5) and (6) in section 26 of Act No. XXVI of 2013:- In section 26 after the sub-section (4) the following new sub-sections (5) and (6) shall be inserted namely; “(5) Any failure on the part of Incharge of the Public Body to carry out direction issued under Sub-Section (4) shall be deemed to be an offence under Section 28.” “(6) The fine imposed under Sub-Section 3(b) shall be recoverable at source from Civil servants and employees of the Statutory Bodies and recoverable as Government Dues under the Government Dues Recovery Ordinance, 1962 (West Pakistan Ordinance No. XXII of 1962) from other persons.”</p>	<p>The existence of two Commissioners for a decision is restricted to the decision on complaints, whereas under the Act, the Commission has many other functions and duties to perform, therefore, amendment is proposed so the Commission could be able to take decision in all matters under the Act.</p> <p>Experience has shown that with the imposition of fine under 26(3) (b) of the Act, the main purpose of the supply of information goes into oblivion. The amendment, if accepted, would achieve the real purpose of access to information by making the head of the department also responsible for the job, in case fine is imposed on PIO.</p>
--	--	---

<p>28. Offence. (1) It is a criminal offence willfully to: (d) destroy a record without lawful authority.</p>	<p>7. <u>Insertion of new Section 26-A in Act No. XXVI of 2013:-</u> After section 26, the following new section 26(A) shall be inserted namely; “26-A Appeal (1) any person aggrieved by an order issued under section 26(3)(b) of this Act, may file an appeal before the Peshawar High Court, Peshawar, within 60 days of the receipt of the order. (2) The appeal shall be heard by a Division Bench of Peshawar High Court, Peshawar. (3) The appeal filed under sub section (1) shall be disposed off within 60 days.”.</p> <p>8. <u>Amendments in clause (d) of sub-Section (1) and Sub-Section (2) of Section 28 of Act No. XXVI of 2013:-</u> In the said Act in section 28 (a) in subsection (1) for clause (d), the following shall be substituted namely; (d). “supplies false information or destroys a record without lawful authority.”; and</p>	<p>Further the Act in its present shape does not provide mechanism for recovery of fines imposed. Hence despite imposing fines in more than five cases, the Commission has failed to recover a single penny. The proposed amendment is a step toward the recovery of the same.</p> <p>The addition of this new section will provide an opportunity to the Persons who have been punished under section 26(3) (b) a forum for appeal so that they are given a chance to be heard. This will</p>
---	---	--

<p>(2) Anyone who commits an offence under subsection (1), shall be liable to a fine not exceeding rupees fifty thousand (50000) or imprisonment for a period not exceeding two years.</p>	<p>(a) in subsection (2), the full stop appearing at the end shall be deleted and the following shall be added at the end namely:- “or both.”; and</p>	<p>make the law more balanced and in accordance with the norms of justice.</p> <p>The law in the present shape does not cover a situation where false information is provided deliberately. It has been experienced that in every third complaint, the allegation of supply of false information by the public body is leveled. Hence it would be in the fitness of things if the law is suitably amended to care for such a situation.</p> <p>The punishment provided for the offences under this section needs amendments to empower the court to impose fine and order conviction at the same time. Hence the proposal would amend the law to make it in line with Pakistan Penal Code.</p>
--	--	--

Handout 7

Guidelines for Designated Officers for Responding to Information Requests:

- Guidelines for Dealing with Information Requests Pertaining to Exempted Information
- Guidelines for Head of a Public Body for Compliance with the Provisions of the Act
- RTI a useful Tool for Change
- Some Case Studies

Trainer Notes No: 7

Guidelines for Designated Officers for Responding to Information Requests:

These guidelines will help Officers designated by each Khyber Pakhtunkhwa public body under Khyber Pakhtunkhwa Right to Information Act 2013 and heads of public bodies in the following:

- Responding to Information Requests; and
- Facilitating a public body in compliance with provisions of Khyber Pakhtunkhwa Right to Information Act 2013.

The Guidelines:

9. Provisions of this Act take precedents over other laws related to information disclosure e.g. Official Secret Act.
10. The applicant will not have to provide reasons for requesting the information.
11. The applicant can file information request in person, by mail, fax or E-mail.
12. If an applicant is unable to describe sufficient details of information, help him locate the information.
13. Write information request on behalf of illiterate person, sign and stamp it, put date on it and provide copy of the application to the illiterate person.
14. Provide assistance to persons with disabilities in filing information requests.
15. In case the requested information is not available with the public body, forward the request for information to the relevant public body and also inform the applicant.
16. Return the information request to the applicant in case you do not know the relevant public body that holds the information.
17. If the requested information is available with public body, notify the applicant that request for information has been accepted and inform the applicant to deposit the fee to get the requested information.
18. When providing the requested information, also provide a certificate testifying that the information being provided is true. Sign this certificate and put date on it.
19. Provide reasons in writing for rejecting the request for information.
20. Inform the applicant where the requested information could be found if request for information is rejected on the ground that information is already available in published form.
21. In case request for information is rejected on the ground that requested information belongs to categories of exempted information, inform the applicant about the exact exception and also that the applicant has the right of appeal against this decision.
22. Provide the requested information as soon as possible but within 10 working days.

23. Take maximum of 10 extra working days if the requested information has to be searched from large number of records, belongs to third party or the requested information is available with different offices of the public body.
24. Provide the requested information within 2 working days if it pertains to life or liberty of an individual.
25. Facilitate a citizen in inspecting documents if it does not unreasonably interfere with the functions of the public body or harm the documents.
26. Do not charge an applicant for filing the information request.
27. Do not charge any fee for first 20 pages of information.
28. Only charge the actual fee for producing and sending the requested information according to the cost set by Khyber Pakhtunkhwa Information Commission.
29. If a person files an appeal against your decision, prove before Khyber Pakhtunkhwa Information Commission that you acted in accordance with the provisions of this Act.
30. Implement the decision of Khyber Pakhtunkhwa Information Commission if your decision is turned down, or, if you may think it appropriate, file appeal against this decision within 30 days.

Guidelines for Dealing with Information Requests Pertaining to Exempted Information:

1. Do not apply secrecy provision of other laws.
2. If part of requested information belongs to the exempted information, and it can be separated without damaging the record, keep that part and provide the rest of the information to the applicant.
3. Provide even the exempted information if 20 years have passed since its initiation or seek consent of Khyber Pakhtunkhwa Information Commission to exempt it from disclosure for further 15 years.
4. Provide the requested information if public interest necessitates the disclosure of information even if it belongs to categories of exempted information.
5. Provide the requested information if you strongly presume that the disclosure will expose corruption, criminal wrong-doing, serious breaches of law, human rights abuses or if you think that non-disclosure may cause serious harm to public safety or to the environment.
6. Do not apply The privacy clause in the following cases:
 - More than 20 years of the death of an individual;
 - The individual has consented the disclosure of information;
 - The applicant is guardian of the individual, next of kin, or the executor of the will of a deceased individual; or
 - The individual is or has been a public official and the information pertains to functions performed as public official.

1. Provide the requested information if the individual has waived his right of protecting legally privileged information.
2. Seek opinion of the third party about the information provided in confidence but decide on objective consideration whether the information belongs to the categories of exempted information or not.

Guidelines for Head of a Public Body for Compliance with the Provisions of the Act:

1. Ensure that records are properly maintained in line with rules and standards of this Act.
2. Ensure that records mentioned in Section 5 of this Act, subject to availability of resources, are duly published in an up-to-date and easily accessible manner, including on the web site.
3. Ensure to prepare annual report listing number of information received by the public body and information as to how these information requests were processed.
4. Formally forward the annual report to Speaker, Provincial Assembly of Khyber Pakhtunkhwa.
5. Designate and notify an official who will act as designated officer for purposes of this Act.
6. Act as a designated officer if officer has not been designated or in case of his absence or unavailability of the designated officer.
7. Do not initiate the process of imposing legal, administrative or appointment related sanctions if a public official releases information in good faith in accordance with provisions of Section 30 of this Act.
8. Carry out instructions of Khyber Pakhtunkhwa Information Commission for implementation of rules, regulations and provisions of this Act.

RTI a useful Tool for Change

Some Case Studies

Citizens from different walks of life are using RTI as a tool for change. This chapter includes some case studies as well as those wherein RTI was employed as a tool for bringing in change how different departments worked. Some of the selected case studies are as under:

Case Study 1

Altaf Hussain



Altaf Hussain is no more jobless

Altaf Hussain joined the Bureau of Agriculture information KP as a contract employee in the hope that his services will be regularized in future. In July, 2010 certain posts, including the post of drivers, were advertised by the department. Before the advertisement of the posts, Hussain and other contract employees were served with a two months advance notice of removal from service, in order to induct “fresh” candidates. i.e. their blue eyed.

He challenged the decision of his department in Peshawar High Court and the Court in its decision ordered the department that the contract employees of the department should be given preference. Accordingly Hussain applied for the post of a driver and went through all the tests successfully. The list of the selected candidates, was displayed but then immediately removed, for unknown reasons.

Hussain requested for the provision of the said list which was denied by the department of Bureau of Agriculture information KP. Finally he lodged complaint with the RTI commission against the denial of his request for information. The RTI Commission directed the department, Bureau of Agriculture information KP to provide the requested information under section 3 of RTI law. The information was provided and Hussain used it as an evidence in his case in Peshawar High Court.

The High Court decided the case in his favor based on the information provided to him through the intervention of the Right to Information Commission KP. This decision reflects the translation of the RTI law KP into a powerful tool for change.

Case Study 2:

Sabahat Ghaznavi



Sabahat Ghaznavi gets his right through KPK RTI Law

Sitting in his office, Sabahat Ghaznavi's face was gleaming with joy, because he had salvaged his due right through KP Right to Information law.

Ghaznavi, 28, who is a resident of QisaKhawani- Peshawar won his case for appointment as computer operator, a post which he had applied for in the Bureau of Agriculture Information KPK back in December 2013.

He joyfully exclaimed that it was something unbelievable to defeat malpractice by resorting to KP Right to Information law.

Ghaznavi appeared in a test for the post of computer operator advertised by the Bureau of Agriculture. He was one of the successful candidates in the list displayed but then for unknown reasons the said list was removed and the posts were re-advertised. He filed an information request with the department about the merit list but did not receive a satisfactory response. He approached the RTI Commission in complaint to provide him the result of the first test and interview, which accordingly was provided helping him to be appointed against the post. Ghaznavi is a living example of the usefulness and power of RTI Law against corruption and nepotism.

Case Study 3:

The paper chase: RTI Commission provides marked papers to complainant



In an exemplary development, the Khyber-Pakhtunkhwa Right to Information Commission has provided corrected papers of the K-P Public Service Commission (PSC) to a candidate who had lodged a complaint against the marking system.

The action is being seen as a major step towards achieving transparency within the structure of the provincially-conducted competitive examinations. “In the past, it was unthinkable to even question the examination system. If you fail the exam, never in your life will you learn what went wrong,” said Mufti Suhail, a resident of Charsadda, who appeared in the public service examinations in 2013. Suhail added the RTI law has reinstated the people’s trust in the system.

“When I saw my corrected essay, I understood my weaknesses and am trying my best to overcome them,” he told *The Express Tribune*, adding it is up to the citizens how they wish to exercise their right to question public bodies. Mufti scored 658/1200 in the Provincial Management Services (PMS) examinations, but failed the essay paper and managed to score only 25% in it.

“Bringing the PSC into its net is a huge leap for the K-P RTI Commission,” he said, adding it is still impossible to break through the bureaucratic mechanism in place at the Federal Public Service Commission.

Mufti had filed an RTI application with the commission and after receiving no response within the legally-stipulated 20 days, he submitted a complaint upon which the information was obtained and provided.

When approached, K-P RTI Commissioner Professor Kalimullah said although the case is trivial on its own, it is a critical step at large and will help propagate the message over time. “It will lead to the restructuring of obsolete systems and bring transparency within institutions that serve in the public realm,” he noted, adding such disclosure will increase the efficiency of examining bodies and earn them credibility.

Presentation Session III

Session III

Responding to Information Requests/Crimes and Punishments



The purpose of this Act

Section 3 describes the purpose of this Act. Key features of this section are as under:

- Keeping in mind provisions of this Act, citizens will be able to have right to access information and records held by public bodies.
- While providing access to information, only provisions of this Act will be applicable and other laws will be irrelevant.
- Information will be provided promptly and at lowest reasonable cost.



Notes:

In case the request for information is rejected

While rejecting the request for information, the PIO will inform the applicant any of the following as the case may be:

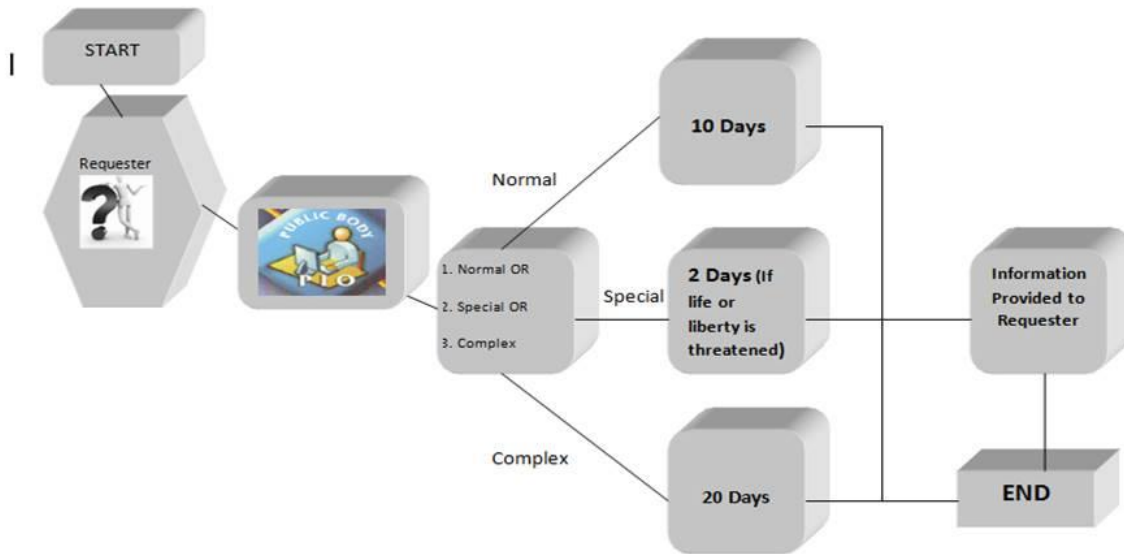
- The request for application does not comply with the rules of Khyber Pakhtunkhwa Right to Information Act;
- The requested information is available in the published form; (in this case the PIO will also guide the applicant as to where this information can be received).
- The requested information is the same as earlier provided to the applicant;
- The whole or part of the requested information belongs to the categories of information exempted from disclosure under Khyber Pakhtunkhwa Right to Information Act 2013; (in this case, the PIO will refer to the exact exception and also mention that the applicant has the right to appeal against the rejection of the application).



Notes:

Time Lines to be Followed

Access to Information – Process Flow



Fee for Providing the Requested Information

Under Section 13 of the Act:

- The PIO will not charge an applicant for filing the request for information.
- The PIO will not charge any fee for first 20 pages of the requested information.
- The PIO will only charge the actual fee for producing and sending the requested information according to the cost set by Khyber Pakhtunkhwa Information Commission.



Burdon of Proof

Section 23 (4) declares that:

“In an appeal against the decision of Khyber Pakhtunkhwa Information Commission, the Burdon of proof will be on the public body to establish that it acted in line with the spirit of this law”.



Right to Appeal

Under Section 26(4), A public body can appeal against the decision of Khyber Pakhtunkhwa Information Commission in a court.

- If appeal is not made within in 30 days, Khyber Pakhtunkhwa Information Commission will have the right to exercise contempt of court powers.



Notes:

Criminal Offenses

Section 28 states criminal offenses and punishment under this Act. The offenses are as under:

- Obstructing access to any record with intention to prevent the exercise of the right under this Act which is the right to have access to information;
- Obstructing performance of any public body to discharge its duties mentioned in the Act;
- Interfering in the work of Khyber Pakhtunkhwa Information Commission;
- Destroying any record without lawful authority.



Punishments for Criminal Offences

Section 28 (2) mentions punishment for these offenses which can be imposed by Khyber Pakhtunkhwa Information Commission.

The punishment can be imposition of fine up to Rs.50,000 or imprisonment up to 2 years.



Notes:

Penalty for Unlawfully Delaying or Denying Access to Information

Under Section 26 (2b), Khyber Pakhtunkhwa Information Commission can impose penalty of Rs. 250 on the public information official for each day of delay or unlawfully denying access to requested information and this fine can go up to Rs. 25,000.



Protection for Whistle Blowers

Public officials have been given protection against departmental actions for exposing corruption and wrong-doing. In this regard, key features of Section 30 are as under:

- Legal, administrative or employment related sanctions will not be imposed if;
- An official releases information in good faith exposing wrong-doing or share information about threat to public safety or environment;
- Wrong-doing means criminal offence, failure to comply with legal obligations, miscarriage of justice, corruption, dishonesty and maladministration in a public body.



Notes:

Program

Training Workshop on “Understanding Khyber Pakhtunkhwa Right to Information Act, 2013”

Full Day Program

09:45-10:00 **Arrival of participants and registration**

SESSION I

10:00-11:15 **Introductory Session**

10:00-10:05 Welcome Note
10:05-10:10 Introductions of Participants
10:10-10:20 Workshop Objectives & Concepts of RTI
10:20-10:45 Centrality PIO's
10:45-11:15 Activity 1 & Discussion

Tea Break

SESSION II

11:15-02:00 **Definitional aspects of information, exempt information and proactive disclosure of information**

11:15-12:10 What is Information?
Maintenance and Indexing of Record
Proactive Disclosure of Information.
12:10-12:30 Discussion
12:30-01:00 Activity 2 Group Exercise/Experience Sharing

01:00-02:00 **LUNCH BREAK**

SESSION III

02:00-04:30 **Responding to Information Request**

02:00-02:45 Purpose of this Act?
Processing the information Request?
Time lines for responding and facilitating the requester?
02:45-03:00 Discussion & Activity 3 / Exercise
03:00-03:15 Crime, Punishment and Protection under the Act
03:15-03:30 Proposed Amendments to KP RTI Act, 2013
03:30-03:40 Discussion & Activity 4

03:40-04:00 Guidelines and Case Studies

04:00-04:30 Discussion

SESSION IV

04:30-05:15 Concluding Session

04:30-04:45 Wrap-up

04:45-05:00 Evaluation Forms & Certificate Distribution

05:00-05:15 Vote of Thanks

Evaluation Form

Name:----- Designation:-----

Organization:-----

Address:-----

Phone:----- Fax:-----

Email:-----

Please tick the relevant box:

This program met my expectations.

strongly agree agree somewhat no opinion/ neutral disagree somewhat strongly disagree

The training materials/handouts used in this presentation were helpful and well-designed.

strongly agree agree somewhat no opinion/ neutral disagree somewhat strongly disagree

I found the facilities and location where this program was held (space and layout of room, equipment, adequacy of parking, personal comfort or room) to be adequate.

strongly agree agree somewhat no opinion/ neutral disagree somewhat strongly disagree

Overall, I found this program beneficial.

strongly agree agree somewhat no opinion/ neutral disagree somewhat strongly disagree

The trainer was very knowledgeable on the topic.

strongly agree agree somewhat no opinion/ neutral disagree somewhat strongly disagree

The trainer's presentation style was pleasing and well-suited to the content.

strongly agree agree somewhat no opinion/ neutral disagree somewhat strongly disagree

I would recommend this session to a colleague.

strongly agree Agree somewhat no opinion/ neutral disagree somewhat strongly disagree



Implemented by
giz Deutsche Gesellschaft
für Internationale
Zusammenarbeit (GIZ) GmbH



**LOCAL GOVERNMENT, ELECTIONS &
RURAL DEVELOPMENT DEPARTMENT**
GOVERNMENT OF KHYBER PAKHTUNKHWA

Centre for Governance and Public Accountability (CGPA)

402, Block C, City Towers, University Road, Peshawar

Phone: +92-91-111243243, Email: info@c-gpa.org, URL: www.c-gap.org,

Twitter: [CGPA_Peshawar](https://twitter.com/CGPA_Peshawar)