



## Transparency Standards

That information about the activities of public bodies is created and is available to the public, with limited exceptions, in a timely manner and in open data formats without limits on reuse. This includes the disclosure of information in response to requests from the public and proactively at the initiative of public bodies. In addition that key information about the private bodies is available either directly or via public bodies.

### 1. Right to Know

**Standard:** That governments recognise the fundamental right of the public to access information, with limited exceptions, and that they make information available in response to requests and proactively.

**What is it?** Access to information is a fundamental right that has been recognized as such by international human rights tribunals and at least 50 constitutions around the world. This right is has been linked to the fundamental right to freedom of expression, and is essential to protect other human rights.

The fundamental nature of the right of access to information has been confirmed by the following:

- » Inter-American Court of Human Rights
- » European Court of Human Rights
- » UN Human Rights Committee
- » UN Special Rapporteur on Freedom of Expression
- » Organization for Security and Cooperation in Europe
- » Organisation of American States
- » European Union

In line with these standards, all countries should recognise the right of everyone (including non-citizens and legal entities) to access information without giving reasons, in reasonable time, and with no more exceptions than those established by law and in line with international standards.

The recognition of the right of access to information is the basis for building transversal and comprehensive transparency systems, which should be at the heart of any modern democracy.

**Why is it important?** Recognising access to information as a fundamental right is essential to ensure that the right is granted the highest levels of protection to which fundamental rights are entitled.

Another reason why the recognition of this right as a fundamental right is important is to ensure that other fundamental rights, such as the right to privacy, do not unduly trump the right to know.

Assuring the fundamental right of all persons to access information is essential to prevent discrimination and reduce information disparities.

*What is the role of civil society?* It is thanks to civil society activism over the past two decades that the right of access to information has been recognised as a fundamental right and that over 90 countries now have access to information laws.

For countries where law and/or practice still falls short of the international standards, civil society can:

- *Campaign*: Press their governments and other political forces to make a commitment to recognising the fundamental rights of access, for example through a commitment in the Open Government Partnership action plan.
- *Litigate*: many national and international courts have recognised the right of access to information as a fundamental right. In your country you may use the existing international jurisprudence to seek judicial recognition of the fundamental character of the right of access to information.

## **Standards for the Right of Access to Information**

In order to recognize access to information as a fundamental right and to guarantee that this right is complied with in practice, each country should:

- Include specific language in the constitution and/or relevant laws.
- Ensure that their legal framework creates a specific presumption in favour of access to all information held by public authorities, subject only to limited exceptions.
- Ensure that their legal framework contains a specific statement of principles calling for a broad interpretation of the RTI law.
- Ensure that their legal framework emphasizes the benefits of the right to information.

## **2. All information, all public bodies**

**Standard**: That the right of access to information applies to all information held by national and supranational bodies, including all bodies performing public functions and operating with public funds (this includes the legislative and judicial branches and privatised companies performing public functions as well as private bodies holding information that relates to or is necessary for protection of human rights).

*What is it?* One of the key elements in access to information regulations is the scope: to give true effect to the right of access to information, it must apply to all public bodies and to some information held by private bodies. This is essential in an access to information law is because it

doesn't matter how good or fast the process to ask for information is, if the information you have the right to access is very limited.

Almost all access to information laws apply to administrative bodies but not all countries yet have laws which apply to all other branches of government. A first open government challenge is to ensure a broad scope for the right to request and received information.

*Why it is important?* The scope and the definition of information are important because they define the level of transparency that a country may reach.

If for example a country decides to limit the information that may be accessible to decisions, we would be excluding the decision making process, that mean we would not be able to understand why and how decisions are taken.

If a country decides to exclude institutions from the scope of the law, which means that the function that this institution covers will either be completely opaque or regulated by a specific law. The last option is not recommendable for two reasons: because international standards establish that all information held by public institutions is public; and because having different laws for each institution generates legal uncertainty and unequal levels of transparency.

*What is the role of civil society?* The role of Civil Society is essential at all levels, when asking for a law that does not exist, when implementing a law that has just be approved and when pushing to improve the transparency standards that are already running.

In this particular case, CSO can:

- Promote law reform: campaigning so that a broader range of bodies is covered by the scope of the access to information law.
- Monitoring: Demonstrate the lack of transparency in practice through monitoring and use the finding to press for more information to be included in the scope of access to information laws.

### **Standards on the scope of access to information laws**

Access to information laws must include specific mentions to the scope of the right of access to information, both for the type of information that can be accessed and for the institutions that fall under the application of the law.

#### **Standards for all information:**

- That the right of access to information should apply to all information held by national and supranational bodies, including all bodies performing public functions and operating with public funds (this includes the legislative and judicial branches and privatised companies performing public functions as well as private bodies holding information that relates to or is necessary for protection of human rights).
- The right of access should apply to all material held by or on behalf of public authorities which is recorded in any format, regardless of who produced it.

- Requesters should have a right to access both information and records/documents (i.e. a right both to ask for information and to apply for specific documents).

### **Standards for all institutions:**

The decision of what institutions should be included in access to information laws is very important as it needs a redefinition of what public institution means. Nowadays many private institutions perform public functions or are funded with public funds, in those cases they should also be considered a public institution in the access to information law.

- The right of access should apply to the executive branch with no bodies or classes of information excluded. This includes executive (cabinet) and administration including all ministries, departments, local government, public schools, public health care bodies, the police, the armed forces, security services, and bodies owned or controlled by the above.
- The right of access should apply to the legislature, including both administrative and other information, with no bodies excluded.
- The right of access should apply to the judicial branch, including both administrative and other information, with no bodies excluded.
- The right of access applies to State-owned enterprises (commercial entities that are owned or controlled by the State).
- The right of access should apply to other public authorities, including constitutional, statutory and oversight bodies (such as an election commission or information commission/er).
- The right of access should apply to a) private bodies that perform a public function and b) private bodies that receive significant public funding.

### **3. Access is the Rule - Secrecy is the Exception**

**Standard:** Information can be withheld only if its disclosure would cause demonstrable harm to legitimate interests as permitted by international law and only after consideration of the public interest in disclosure. These protected interests must be clearly and specifically defined in national law and must be applied on a case-by-case basis. The same exceptions hold for information disclosed in response to access to information requests and that disclosed proactively, including under open data policies.

**What is it?** The access to information laws should establish a closed list of exceptions which can only be applied to deny totally or partially a request for information if the public body determines and is able to demonstrate that publication of the requested information would harm another legitimate interest that need to be protected. The refusal shall only be applied if the public interest of the publication is not higher than the interest that would be damaged.

**Why it is important?** The recognition of this principle is very important to ensure that the refusals for information are not arbitrary or unfair. In order to ensure that, access to

information laws must include a list of exceptions in line with international standards, harm and public interest tests, and the right to appeal to an independent review body.

**How can it be effective?** An exceptions regime will be effective if it is clearly defined in law and subject to clearly established harm and public interest tests. This is not, however, sufficient: there must be mechanisms to train public officials in how to apply the exceptions appropriately and there must be a strict requirement that any application of the exceptions is motivated and justified in detail to the requester in the response. There should be a strong emphasis placed on promoting partial disclosure of information. There must be efficient and effective mechanisms for distribution of decisions of the information commissioner and/or court rulings.

**What is the role of civil society?** For many requesters, it will not be easy to understand whether a refusal has been fair. CSOs can help monitor responses (particularly if they are filed by a public portal using such as those using [Alaveteli](#), for example, [AsktheEU.org](#), [Whatdoteyknow.org](#), [tuderechoasaber.es](#), etc.) and can provide support to requesters:

- *Help Desk*: CSO can help people to whom information has been denied. CSO can analyse the answer and figure out whether it is a fair denial. This function is especially important in those countries where there is not an independent review body.
- *Litigate*: When you think that information has been denied without a legitimate reason, the only solution is to appeal against that decision. As appealing is in most of the countries a difficult process CSO are a key element to engage in those process.

### Standards on limits for accessing information

The standards to follow when regulating the limits to the right of access to information include not only the list of exception but also how to apply those and what the consequences of the refusal of information are. These are the principles that access to information law should include:

- » Information can be withheld only if its disclosure would cause demonstrable harm to legitimate interests as permitted by international law and only after consideration of the public interest in disclosure. These protected interests must be clearly and specifically defined in national law and must be applied on a case-by-case basis. The same exceptions hold for information disclosed in response to access to information requests and that disclosed proactively, including under open data policies.
- » The standards in the RTI Law trump restrictions on information disclosure (secrecy provisions) in other legislation to the extent of any conflict.
- » The exceptions to the right of access are consistent with international standards. Permissible exceptions are limited to the following:
  - national security;
  - international relations;
  - public health and safety;
  - the prevention, investigation and prosecution of legal wrongs;
  - privacy;

- legitimate commercial and other economic interests;
  - management of the economy;
  - fair administration of justice and legal advice privilege;
  - conservation of the environment;
  - legitimate policy making and other operations of public authorities.
- » A harm test applies to all exceptions, so that it is only where disclosure poses a risk of actual harm to a protected interest that it may be refused.
- » There is a mandatory public interest override so that information must be disclosed where this is in the overall public interest, even if this may harm a protected interest. There are 'hard' overrides (which apply absolutely), for example for information about human rights, corruption or crimes against humanity.
- » Information must be released as soon as an exception ceases to apply (for example, for after a contract tender process decision has been taken). The law contains a clause stating that exceptions to protect public interests do not apply to information which is over 20 years old.
- » There is a severability clause so that where only part of a record is covered by an exception the remainder must be disclosed.
- » When refusing to provide access to information, public authorities must a) state the exact legal grounds and reason(s) for the refusal and b) inform the applicant of the relevant appeals procedures.

#### 4. Proactive Publication

**Standard:** That public bodies should proactively publish information of public interest, making every effort to ensure easy, prompt, effective and practical access to such information.

**What is it?** The right of access to information includes the right to request information and the obligation of public institutions to publish essential information. Both sides of the right are necessary to ensure a sustainable transparency system. Proactive publication of information means publishing information without the need for it to be requested.

Access to information laws should include a list of the minimum information that public institutions should publish proactively. That information is considered essential to understand the functioning of public institutions.

The tendency worldwide is to invest in and develop proactive disclosure regimes to reinforce transparency. Open Data policies are becoming common, with increasing numbers of government deciding to build open data portals. There has been some confusion between proactive publication and open data, when in fact they are essentially the same thing: an open data portal will contain a subset of all the information which a government should public proactively. The fact that new data, not previously available, is not released via an open data

portal, does not change the fact that this is part of complying with the proactive obligations under the right of access to information.

**Why it is important?** Proactive publication of information is nowadays considered as the future of transparency for various reasons:

- » No transparency system could function on requests alone as this would create huge information inequalities in society. The only way to achieve truly transparent public administrations is through the proactive publication of information.
- » Proactive publication reduces the costs of transparency systems, ensuring more rapid delivery of information to the public without the need to process and respond to requests.
- » Proactive publication permits public authorities to ensure that the information available to the public is regularly updated. It ensures that members of the public have the information they need to exercise their rights and fulfill their obligation as citizens and residents of a particular country.
- » Proactive publication stimulates the use and reuse of information, providing material and data which can contribute to public debate, to participation processes, contributing to quality journalism, fact-based analysis by CSOs and think tanks, and can underpin a variety of social and economic activity.

**How can it be effective?** When publishing information proactively, both the content and the form of the information are important. These are the criteria to follow before deciding how to publish the information:

- » Ensure that proactively disclosed information reaches members of the public;
- » Put information where it will be found;
- » Organize information in ways that make it relevant to users;
- » Ensure that in addition to disclosing complete information, core information is presented in a way so that it can be easily understood;
- » Proactively disclosed information should be free of charge; and
- » Ensure timely disclosure, taking into consideration the need to apply exceptions

The manner of publishing the information depends on the place and target audience. Internet is a first choice for disclosing the information but is not a universal solution and it should only be used if the majority of the people who are supposed to access that information is really able to use internet.

**What is the role of civil society?** To make sure that proactive information becomes a reality and matches the needs of your country, CSO can monitor the publication of information. CSOs can also initiative and participate in a range of mechanisms to define the priorities for proactive publication such as focus groups.

### **Standards on Proactive Publication of Information**

The following list includes all the information that has been considered as essential by international standards.

- » Institutional information: Legal basis of the institution, internal regulations, functions and powers.
- » Organizational information: Organizational structure including information on personnel, and the names and contact information of public officials.
- » Operational information: Strategy and plans, policies, activities, procedures, reports, and evaluations—including the facts and other documents and data being used as a basis for formulating them.
- » Decisions and acts: Decisions and formal acts, particularly those that directly affect the public—including the data and documents used as the basis for these decisions and acts.
- » Public services information: Descriptions of services offered to the public, guidance, booklets and leaflets, copies of forms, information on fees and deadlines.
- » Budget information: Projected budget, actual income and expenditure (including salary information) and other financial information and audit reports.
- » Open meetings information: Information on meetings, including which are open meetings and how to attend these meetings
- » Decision-making & public participation: Information on decision-making procedures including mechanisms for consultations and public participation in decision-making.
- » Subsidies information: Information on the beneficiaries of subsidies, the objectives, amounts, and implementation.
- » Public procurement information: Detailed information on public procurement processes, criteria, and outcomes of decision-making on tender applications; copies of contracts, and reports on completion of contracts
- » Lists, registers, databases: Information on the lists, registers, and databases held by the public body. Information about whether these lists, registers, and databases are available online and/or for on-site access by members of the public.
- » Information about information held: An index or register of documents/information held including details of information held in databases.
- » Publications information: Information on publications issued, including whether publications are free of charge or the price if they must be purchased.
- » Information about the right to information: Information on the right of access to information and how to request information, including contact information for the responsible person in each public body.

## 5. Free of charge and free for reuse

**Standard** That information is made public without charge (the prevailing international standard is that information requests are free of charge and the only charges that may be levied are copying costs and costs associated with information delivery) and without limits on reuse, including no limits on reuse imposed by licences or other restrictions; the right to reuse public information is consistent with access to information being part of the fundamental right to freedom of expression.

**What is it?** Information must be made public free of charge and there must be no restrictions on reuse consistent with the right of access to information as part of the right to freedom of expression.

Submitting access to information requests and consulting the information on the spot or receiving information in electronic format must be free of charge. Government may only charge for copies as long as the rates have been established by law.

**Why it is important?** The recognition of access to information as a fundamental right linked to freedom of expression has important consequences, in particular that it should always be free to request information and that it should be provided free of charge with the exception of any possible copying or postage charges for hard copies of information: hence the requester is given the maximum possible conditions to exercise the right to know with no inequalities or limits imposed by costs.

The right to use the information obtained in any way is also intrinsically linked to the right to freedom of expression: once information is in the public domain, it may be used as desired by the requester, it may be shared with others, it may be contrasted and compared with other information, it may be used as a resource in developing new information or creating new analyses, it may be used in ways which are critical of government, it may be used as the basis for participating in public debate and in decision-making processes.

**How can it be effective?** To ensure that public officials respect the right of requesters to ask for information free of charge and that they do not place restrictions on reuse, the legal framework must make clear that these two principles apply with respect to all requests, and all information to be released proactively. Public officials should be trained on the right of requesters to access information for free and to make use of it: in particular, public officials should never ask requesters why they want the information or how they intend to use it.

**What is the role of civil society?** Civil society should monitor for and challenge any abuses of the right to request information for free, and should campaign to remove any limits on or charges for reuse of information.

### **Standards on charging for information**

- » That information is made public without charge (the prevailing international standard is that information requests are free of charge and the only charges that may be levied are copying costs and costs associated with information delivery) and without limits on reuse, including no limits on reuse imposed by licences or other restrictions; the right to reuse public information is consistent with access to information being part of the fundamental right to freedom of expression.
- » It is free to file requests.
- » There are clear rules relating to access fees, which are set centrally, rather than being determined by individual public authorities. These include a requirement that fees be limited to the cost of reproducing and sending the information (so that inspection of documents and electronic copies are free) and a certain initial number of pages (at least 20) are provided for free. There are fee waivers for impecunious requesters

## Standards on reuse

- » Once information has been released to one requester it is deemed to have entered the public domain and may be used and reused by the requester.
- » The only limits on reuse may be where the reuse would constitute breach of copyright or processing of personal data. The mere use of information for participating in public debate or forming an opinion, or communicating with public officials and members of government shall never be restricted.

## 6. Open Formats

**Standard:** Information stored electronically should be delivered to those who request it electronically and in an open format. Information published proactively should always be made available in open formats.

*What is it?* Open Formats is a standard that relates to how the information is published. Whether information is published electronically, in hard copy, or in other formats, it must be free of copyright, licences or other restrictions on reuse.

Whenever information is published electronically it must be made available in an open format which means that it is machine readable format using commonly available, open source or free software tools, and can be processed, evaluated, and reused without limits.

*Why it is important?* The reason why is important that information is made available free and in open formats is first to make sure that everyone has the same opportunities to exercise the right of access to information. Making information available in open formats, helps unlock the social and economic potential of the information, particularly large data sets, but also other types of data. Open formats permit wide distribution of information, which in turn contributes to understanding of public institutions and increases opportunities to participate in decision-making processes.

*How can it be effective?* How can you make you data open:

<http://opendatacommons.org/guide/>. The Open Data handbook: This handbook introduces you to the legal, social and technical aspects of open data. It can be used by anyone but is especially useful for those working with government data. It discusses the why, what and how of open data – why to go open, what open is, and the how to do open.

<http://opendatahandbook.org/>

*What is the role of civil society?* When requesting information everyone could specify that they want to receive the information in open formats and appeal in case they don't comply with this demand.

Monitoring the information that Government are publishing proactively in order to see if they are using open formats.

## Standards on Open Formats

- » Public authorities are required to comply with requesters' preferences regarding how they access information, subject only to clear and limited overrides (e.g. to protect a record).
- » Information stored electronically should be delivered to those who request it electronically and in an open format. Information published proactively should always be made available in open formats.
- » Data must be machine-processable: Data are reasonably structured to allow automated processing of it.
- » Data Formats must be Non-Proprietary: Data are available in a format over which no entity has exclusive control.

## 7. Compilation of information

**Standard:** That public bodies and private bodies falling under the scope of the right of access to information should compile information which is necessary for public participation and accountability. They should ensure that this information is compiled in a timely fashion, regularly updated, and that it is clear, comprehensive, and comprehensible.

**What is it?** The obligation to make information of public interest available (see UN Human Rights Committee) clearly entails an obligation on public bodies to compile information, in particular to capture effectively and comprehensively information about the activities of the public body and about the spending of public funds.

The legislative branch, in the same way, has an obligation to make the entire legislative process transparency and accessible. The judicial power must ensure that information is compiled which permits the public to evaluate the administration of justice.

Private bodies performing public functions or operating with public funds should ensure that information need to evaluate their performance is compiled and accessible to the public.

There is a particular onus on all public bodies to gather data and to organise the information they hold in a way which permits both them and the general public to evaluate their compliance with human rights obligations and with respect for the environment.

Hence, while "information not held" is a legitimate response to an information request if it is true, this does not obviate the responsibility to gather information.

**Why it is important?** Without the obligation to compile information, public bodies can avoid their transparency obligations as well as escape scrutiny for their compliance with other laws and human rights standards. Clear standards on compilation of data are essential.

**How can it be effective?** The requirement to compile data is not normally contained in access to information laws although it is implicit in regulations which set standards for proactive publication. Many other laws require collection and compilation of data and these should be

linked to transparency requirements, which in some cases they are as with environmental information.

### **Standards: [still in development and discussion with CSOs]**

- » Education
- » Health
- » Social services
- » Human rights protection
- » Development
- » Financial crisis

### **Crime data**

#### **... from a human rights perspective:**

- » Racially motivated crimes
- » Gender violence
- » Crimes involving trafficking of persons
- » Stopping and searching of minorities / immigrants

## **8. Independent review mechanism**

**Standard:** That the right of access to information is overseen by an independent body which reviews compliance, may undertake ex officio investigations, receives and rules on complaints from the public, is empowered to order appropriate action to ensure compliance, imposing sanctions where appropriate.

**What is it?** An independent review mechanism is a body in charge of reviewing appeals against decision about access to information. This body can be appeal when an institution denies partial or total access to the information requested, as well as in other instances, such as when the requester considers that a public institution has charge excessive fees for the information or does not want to give access in the requested format. The independent oversight body should also receive complaints in cases of failures to release information proactively according to the legal obligations on proactive disclosure.

The independent review mechanism should be charged with the promotion of the right of access to information so as to ensure that institutions know about their obligations and that the public knows how to make full use of their right to know.

**Why it is important?** An independent review mechanism is essential to ensure the effectiveness of the right of access of information. This appeal system reinforces the judiciary appeal system which insufficient to protect the right of access to information due to its nature.

Information expires. The right of access to information is a fundamental right, linked to freedom of expression and essential to protect other rights. People ask for information because they need it to do something, to take decisions. If that information is denied, appealing to the judicial power will take too long and is expensive.

*How can it be effective?* The only way to guarantee a strong review mechanism to protect the right of access to information is to establish by law specific characteristic and powers that will ensure:

- » That the body in charge of reviewing the right of access to information is independent.
- » That it has a mandatory power, meaning it can oblige a public institution to revoke a decision.
- » That it also has the mandate of promoting the right of access to information among the institutions and among the public.
- » Is sufficiently well resourced to carry out its functions in an effective way.

Around the world the models of review mechanism are basically two: An Information Commissioner in charge only of reviewer access of information violation or a body that is in charge both of protect data privacy and Access to information. Both models have proved to be effective and the choice of which will depend on the context of each country, and what bodies already exist.

*What is the role of civil society?* In order to demand an independent review body in your country CSO can:

- *Lobby their Government* and other political forces so that they recognise the need of having an independent mechanism to protect the right of access to information.
- *Talk to the international community.* Many Information Commissioners are closely involved and in contact with the international FOI Advocates, talking to them is always a good chance to find allies that will also support the creation of such a review body in your country.

### **What are the civil society standards on the independent review mechanism?**

A review mechanism in charge of protecting the right of access to information has to be independent and has to have a proper mandate to be able to fulfil its function. These are the powers and characteristics that this figure should have:

- » That the right of access to information is overseen by an independent body which reviews compliance, may undertake ex officio investigations, receives and rules on complaints from the public, is empowered to order appropriate action to ensure compliance, imposing sanctions where appropriate.
- » The law offers an internal appeal which is simple, free of charge and completed within clear timelines (20 working days or less).
- » Requesters have the right to lodge an (external) appeal with an independent administrative oversight body (e.g. an information commission or ombudsman).
- » The member(s) of the oversight body are appointed in a manner that is protected against political interference and have security of tenure so they are protected against arbitrary dismissal (procedurally/substantively) once appointed.
- » The oversight body reports to and has its budget approved by the parliament, or other effective mechanisms are in place to protect its financial independence.

- » There are prohibitions on individuals with strong political connections from being appointed to this body and requirements of professional expertise.
- » The independent oversight body has the necessary mandate and power to perform its functions, including reviewing classified documents and inspect the premises of public bodies.
- » The decisions of the independent oversight body are binding.
- » In deciding an appeal, the independent oversight body has the power to order appropriate remedies for the requester, including the declassification of information.
- » Appeals to the oversight body (where applicable, or to the judiciary if no such body exists) are free of charge and do not require legal assistance.
- » The grounds for appeal to the oversight body (where applicable, or to the judiciary if no such body exists) are broad (including not only refusals to provide information but also refusals to provide information in the form requested, administrative silence and other breach of timelines, charging excessive fees, etc.).
- » Clear procedures, including timelines, are in place for dealing with external appeals (oversight/judicial).
- » The external appellate body has the power to impose appropriate structural measures on the public authority (e.g. to conduct more training or to engage in better record management)

## Check list for the Transparency Standard

Right of Access:

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Constitutional Provisions		Score Range
1.	The legal framework (constitution/statutory law/jurisprudence) recognises a fundamental right of access to information.	0-2
2.	The legal framework creates a specific presumption in favour of access to all information held by public authorities, subject only to limited exceptions.	0-2
3.	The legal framework contains a statement of principles calling for a broad interpretation of the RTI law and emphasising the benefits of the right to information.	0-2
Scope		Score Range
4.	Everyone (including non-citizens and legal entities) has the right to file requests for information.	0-2
5.	The right of access applies to all material held by or on behalf of public authorities which is recorded in any format, regardless of who produced it.	0-2
6.	Requesters have a right to access both information and records/documents (i.e. a right both to ask for information and to apply for specific documents).	0-4
7.	The right of access applies to the executive branch with no bodies excluded.	0-8
8.	The right of access applies to the legislature, including both administrative and other information, with no bodies excluded.	0-4
9.	The right of access applies to the judicial branch, including both administrative and other information, with no bodies excluded.	0-4
10.	The right of access applies to State-owned enterprises (commercial entities that are owned or controlled by the State).	0-2
11.	The right of access applies to other public authorities, including constitutional, statutory and oversight bodies (such as an election commission or information commission/er).	0-2
12.	The right of access applies to a) private bodies that perform a public function and b) private bodies that receive significant public funding.	0-2
Requesting Procedures		Score Range
13.	Requesters are not required to provide reasons for their requests.	0-2
14.	Requesters are only required to provide the details necessary for identifying and delivering the information (i.e. some form of address for delivery).	0-2
15.	There are clear and relatively simple procedures for making requests. Requests may be submitted by any means of communication, with no requirement to use official forms or to state that the information is being requested under the access to information law.	0-2
16.	Public officials are required to provide assistance to help requesters formulate their requests, or to contact and assist requesters where requests that have been made are vague, unduly broad or otherwise need clarification.	0-2
17.	Public officials are required to provide assistance to requesters who require it because of special needs, for example because they are illiterate or disabled.	0-2

18.	Requesters are provided with a receipt or acknowledgement upon lodging a request within a reasonable timeframe, which should not exceed 5 working days.	0-2
19.	Clear and appropriate procedures are in place for situations where the authority to which a request is directed does not have the requested information. This includes an obligation to inform the requester that the information is not held and to refer the requester to another institution or to transfer the request where the public authority knows where the information is held.	0-2
20.	Public authorities are required to comply with requesters' preferences regarding how they access information, subject only to clear and limited overrides (e.g. to protect a record).	0-2
21.	Public authorities are required to respond to requests as soon as possible.	0-2
22.	There are clear and reasonable maximum timelines (20 working days or less) for responding to requests, regardless of the manner of satisfying the request (including through publication).	0-2
23.	There are clear limits on timeline extensions (20 working days or less), including a requirement that requesters be notified and provided with the reasons for the extension.	0-2
24.	It is free to file requests.	0-2
25.	There are clear rules relating to access fees, which are set centrally, rather than being determined by individual public authorities. These include a requirement that fees be limited to the cost of reproducing and sending the information (so that inspection of documents and electronic copies are free) and a certain initial number of pages (at least 20) are provided for free.	0-2
26.	There are fee waivers for impecunious requesters.	0-2
27.	There are no limitations on or charges for reuse of information received from public bodies, except where a third party (which is not a public authority) holds a legally-protected copyright over the information.	0-2
<b>Exceptions and Refusals</b>		<b>Score Range</b>
28.	The standards in the RTI Law trump restrictions on information disclosure (secrecy provisions) in other legislation to the extent of any conflict.	0-4
29.	The exceptions to the right of access are consistent with international standards. Permissible exceptions are: national security; international relations; public health and safety; the prevention, investigation and prosecution of legal wrongs; privacy; legitimate commercial and other economic interests; management of the economy; fair administration of justice and legal advice privilege; conservation of the environment; and legitimate policy making and other operations of public authorities. It is also permissible to refer requesters to information which is already publicly available, for example online or in published form.	0-10
30.	A harm test applies to all exceptions, so that it is only where disclosure poses a risk of actual harm to a protected interest that it may be refused.	0-4
31.	There is a mandatory public interest override so that information must be disclosed where this is in the overall public interest, even if this may harm a protected interest. There are 'hard' overrides (which apply absolutely), for example for information about human rights, corruption or crimes against humanity.	0-4
32.	Information must be released as soon as an exception ceases to apply (for example, for after a contract tender process decision has been taken). The law contains a clause stating that exceptions to protect public interests do not apply to information which is over 20 years old.	0-2

33.	Clear and appropriate procedures are in place for consulting with third parties who provided information which is the subject of a request on a confidential basis. Public authorities shall take into account any objections by third parties when considering requests for information, but third parties do not have veto power over the release of information.	0-2
34.	There is a severability clause so that where only part of a record is covered by an exception the remainder must be disclosed.	0-2
35.	When refusing to provide access to information, public authorities must a) state the exact legal grounds and reason(s) for the refusal and b) inform the applicant of the relevant appeals procedures.	0-2
<b>Appeals</b>		<b>Score Range</b>
36.	Where it is mandatory to lodge an internal appeal (e.g. to a higher authority within the public authority that first refused access or otherwise failed to comply with the law) before proceeding to an external appeal, this must be simple, free of charge and completed within clear timelines (20 working days or less).	0-2
37.	Requesters have the right to lodge an (external) appeal with an independent administrative oversight body (e.g. an information commission).	0-2
38.	The member(s) of the oversight body are appointed in a manner that is protected against political interference and have security of tenure so they are protected against arbitrary dismissal (procedurally/substantively) once appointed.	0-2
39.	The oversight body reports to and has its budget approved by the parliament, or other effective mechanisms are in place to protect its financial independence.	0-2
40.	There prohibitions on individuals with strong political connections from being appointed to this body and requirements of professional expertise.	0-2
41.	The independent oversight body has the necessary mandate and power to perform its functions, including to review classified documents and inspect the premises of public bodies.	0-2
42.	The decisions of the independent oversight body are binding.	0-2
43.	In deciding an appeal, the independent oversight body has the power to order appropriate remedies for the requester, including the declassification of information.	0-2
44.	Requesters have a right to lodge a judicial appeal in addition to an appeal to an independent oversight body (i.e. a second external appeal).	0-2
45.	Appeals (internal and both forms of external) are free of charge and do not require legal assistance.	0-2
46.	The grounds for an external appeal are broad (including not only refusals to provide information but also refusals to provide information in the form requested, administrative silence and other breach of timelines, charging excessive fees, etc.)	0-4
47.	Clear procedures, including timelines, are in place for dealing with external appeals.	0-2
48.	In the appeal process, the government bears the burden of demonstrating that it did not operate in breach of the rules.	0-2
49.	The external appellate body has the power to impose appropriate structural measures on the public authority (e.g. to conduct more training or to engage in better record management).	0-2
<b>Sanctions and Protections</b>		<b>Score Range</b>
50.	Sanctions may be imposed on those who wilfully act to undermine the right to information, including through the unauthorised destruction of information.	0-2
51.	There is a system for redressing the problem of public authorities which systematically fail to disclose information or underperform (either through imposing sanctions on them or requiring remedial actions of them).	0-2
52.	The independent oversight body and its staff are granted legal immunity for acts	0-2

	undertaken in good faith in the exercise or performance of any power, duty or function under the RTI Law. Others are granted similar immunity for the good faith release of information pursuant to the RTI Law.	
53.	There are legal protections against imposing sanctions on those who, in good faith, release information which discloses wrongdoing (i.e. whistleblowers).	0-2
<b>Implementation and Promotion</b>		<b>Score Range</b>
54.	Public authorities are required to appoint dedicated officials (information officers) or units with a responsibility for ensuring that they comply with their information disclosure obligations.	0-2
55.	A central body, such as an information commission(er) or government department, is given overall responsibility for promoting the right to information.	0-2
56.	Public awareness-raising efforts (e.g. producing a guide for the public or introducing RTI awareness into schools) are required to be undertaken by law.	0-2
57.	A system is in place whereby minimum standards regarding the management of records are set and applied.	0-2
58.	Public authorities are required to create and update lists or registers of the documents in their possession, and to make these public.	0-2
59.	Training programmes for officials are required to be put in place.	0-2
60.	Public authorities are required to report annually on the actions they have taken to implement their disclosure obligations. This includes statistics on requests received and how they were dealt with.	0-2
61.	A central body, such as an information commission(er) or government department, has an obligation to present a consolidated report to the legislature on implementation of the law.	0-2