



**Draft**

# **National Right to Information Policy**

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## ACRONYMS

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CLRC	Constitutional and Law Reform Commission
DA	Departments and Agencies
DIO.	Departmental Information Officer
DPMNEC	Department of Prime Minister and National Executive Council
FOI	Freedom of Information
DICT	Department of Information and Communications Technology
NACPA	National Anti-Corruption Plan of Action (2020 – 2025)
NACS	National Anti-Corruption Strategy (2010 – 2030)
NEC	National Executive Council
NGO	Non-Governmental Organization
OGP	Open Government Partnership
PIF	Pacific Islands Forum
PILAG	Pacific Institute of Leadership and Governance
PARBICA	Pacific Regional Branch of the International Council on Archives
PNG	Papua New Guinea
RIM	Records and Information Management
RTI	Right to Information
TI PNG	Transparency International Papua New Guinea
UNCAC	United Nations Convention Against Corruption
UNDP.	United Nations Development Programme
UNODC	United Nations Office on Drugs and Crime

## FOREWORD

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*(Please insert message here)*

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*Honorable Timothy Masiu, Member of Parliament  
Minister for Information and Communication Technology  
Member for South Bougainville  
Port Moresby  
[Date]*

## ACKNOWLEDGMENTS

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- Investment Promotion Authority (IPA)
- Transparency International PNG (TI PNG)
- United Nations Development Programme
- United Nations Office on Drugs and Crime

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## FEEDBACK

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Any comments regarding the RTI Draft Policy are welcome and can be addressed to:

*The Secretary  
Department of Information and  
Communications Technology  
Level 2, Tisa Ruma, Section 427 Lot 03 Hohola  
(Islander Drive), Port Moresby  
P. O. Box 85  
Vision City – Waigani  
National Capital District  
Papua New Guinea*

*Email: [secretary@ict.gov.pg](mailto:secretary@ict.gov.pg) /  
[flierl.shongol@ict.gov.pg](mailto:flierl.shongol@ict.gov.pg)*

*Tel: +675 325 0410*

*Website: [www.ict.gov.pg](http://www.ict.gov.pg)*

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## I. INTRODUCTION AND BACKGROUND

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The main principle behind the “Right to Information” (RTI) or “Freedom of Information” is that any person and organization has legal right to request access to information from public authorities, and in some cases from private bodies holding public functions except to the extent the records are protected from disclosure. Right to Information is a human right and is recognized under article 19 of the International Covenant on Civil and Political Rights (ICCPR) and article 19 of the Universal Declaration of Human Rights<sup>1</sup> as an integral part of the fundamental right to freedom of expression. These articles state that the fundamental right to freedom of expression encompasses the freedom to “seek, receive, and impart information and ideas of all kinds through any media and regardless of frontiers”. Article 10 of the United Nations Convention against Corruption (UNCAC) requires State parties to take measures to enhance transparency in public administration, including information on its organization, functioning and decision-making processes.<sup>2</sup> Under the Sustainable Development Goal (SDG) 16, the member States are required to enable public access to information to achieve the overall goal of peace, justice and strong institutions.<sup>3</sup> Under the Pacific Plan 2005,<sup>4</sup> the UN Pacific Strategy<sup>5</sup> and the 2018 Boe Declaration,<sup>6</sup> Pacific Island countries (PICs) have been urged to put strategies in place to implement and/or monitor RTI legislation. As of 2021, at least 128 countries have adopted RTI laws.<sup>7</sup>

### Benefits of RTI Regime

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The RTI has benefits for Papua New Guinea and its people, among others:

- 1) The RTI mechanism gives members of the public an opportunity to scrutinize work of the government and its administration. It increases the public sector accountability, reduces corruption, and increases trust in public institutions.

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<sup>1</sup> *Universal Declaration of Human Rights*, GA Res 217A (III), UN GAOR, 3rd session, 183rd plenary meeting, UN Doc A/810 (10 December 1948) Art. 19; *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) Art. 19

<sup>2</sup> *United Nations Convention Against Corruption*, GA Res 58/4, UN GAOR, UN Doc A/58/422 (14 December 2005) Art. 10.

<sup>3</sup> United Nations. 2019. The Sustainable Development Goals Report 2019. [online]. Available from: <https://unstats.un.org/sdgs/report/2019/>

<sup>4</sup> The Pacific Plan was endorsed by Leaders at the Pacific Islands Forum meeting in October 2005 and includes initiative 12.3 to enhance governance mechanisms such as FOI. See: PIFS 2005. The Pacific Plan. [online]. Available from: <https://www.adb.org/sites/default/files/linked-documents/robp-pacific-2013-2015-pacific-plan.pdf>

<sup>5</sup> Outcome 5 of the UN Pacific Strategy is that people and communities in the Pacific will contribute to and benefit from inclusive, informed, and transparent decision-making processes. See: United Nations in the Pacific. 2017. United Nations Pacific Strategy 2018 – 2022. [online]. Available from: [https://reliefweb.int/sites/reliefweb.int/files/resources/UNDP\\_WS\\_FINAL\\_UNPS\\_2018-2022.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/UNDP_WS_FINAL_UNPS_2018-2022.pdf).

<sup>6</sup> The Boe Declaration Action Plan includes the adoption and implementation of constitutional, statutory and/or policy guarantees for public access to information as a measure for success in ensuring peace and security across the region. See PIFS. 2018. Boe Declaration on Regional Security [online]. Available from: <https://www.forumsec.org/boe-declaration-on-regional-security/>.

<sup>7</sup> Access to Information laws, UNESCO. Available from: <https://en.unesco.org/themes/access-information-laws>



- 2) The business environment, including individuals, SMEs, foreign investments, can access important information about business opportunities, processes, and regulations.
- 3) Increasing public access to information is a key mechanism for strengthening public trust during emergencies such as natural disasters and the recent COVID-19 pandemic. Providing real-time information to the public about the government's crisis response helps people understand how to safeguard themselves and one another. Experience has also shown that proactive disclosure of procurements and contracts made in response to crises can enhance public accountability and ensure that crises are not turned into an opportunity to misuse public funds.

An effective RTI or FOI regime is of paramount importance for enhancing accountability and transparency in the public sector, and ultimately, the fight against corruption.

### **Constitutional Protection of Right to Information in Papua New Guinea**

Section 51(1) of the Constitution of the Independent State of Papua New Guinea (PNG) gives every citizen the right of reasonable access to official documents, subject only to the necessity for such secrecy as is reasonably justifiable in a democratic society subject to exceptions. Section 51(2) gives Parliament the discretion to enact a s. 38-compliant law to regulate or restrict the right to information while s. 51(3) mandates the establishment of procedural law by which citizens may obtain access to official information.

### **Accountability, Transparency and Anti-Corruption Efforts**

Over the past three decades, the Government of Papua New Guinea has taken progressive steps to address corruption. Over time, various international and regional instruments pertaining to the anti-corruption and right to information have been adopted by successive administrations. Papua New Guinea was the first nation in the Pacific region to ratify the United Nations Convention against Corruption (UNCAC) in 2007. Under UNCAC articles 5, 7, 9 10 and 13, state parties are required to observe and implement RTI in a number of key areas of governance such as ensuring proactive information disclosure, developing anti-corruption policies and practices, and taking measures to enhance transparency in the organization, operation and decision-making processes of public administration.

Other significant advancements have occurred in response to the Government's UNCAC obligations, including:

- a. **Anti-Corruption Strategy** - The National Anti-Corruption Strategy (2010 – 2030) and its associated rolling National Anti-Corruption Plan of Action (NACPA) 2020 – 2025.

- b. **UNCAC** - Active participation in the UNCAC Implementation Review Mechanism as both a State under review and a reviewing State.
- c. **EITI** - Joining the Extractive Industries Transparency Initiative (EITI) in 2014. The EITI aims to address the main governance issues in the extractive sectors and is a global standard for the good governance of oil, gas, and mineral resources. Member States are required to publish annual reports on relevant contracts and licenses, production, revenue collection and allocation, and social and economic spending.
- d. **SDGs** - Support for the Sustainable Development Goals (SDGs) in 2017, in partnership with the United Nations under the United Nations Development Assistance Framework (UNDAF) 2018-2022. Under Goal 16 of the SDGs, States are obligated to guarantee public access to information and the safeguarding of fundamental freedoms. Under the UNDAF partnership, PNG supports four Outcome areas, one of which is Outcome 4 - *“Peace: Promoting Inclusive, Governance, Justice & Peace”*, which calls for improved government and non-governmental institution performance in the areas of transparency, accountability, delivery of justice and promotion of peace and security by the year 2022.
- e. **UN Pacific Strategy** - Endorsement of the UN Pacific Strategy, a multi-country framework that seeks in Outcome 5 to enhance governance and community involvement so that by 2022, people and communities in the Pacific will contribute to and benefit from inclusive, informed, and transparent decision-making processes, accountable and responsive institutions, and improved access to justice.
- f. **Boe Declaration** - Endorsement of the 2018 Boe Declaration (an update to the Biketawa Declaration on regional security), under which Pacific Islands Forum (PIF) Leaders have undertaken to *“support regional initiatives and strengthen national efforts to combat corruption by public officials”* and to strengthen good governance, rule of law and anti-corruption and electoral processes under the Biketawa Declaration. *“Number of Member Countries that adopt and implement constitutional, statutory and/or Policy guarantees for public access to information”* is one measure of success.
- g. **Teieniwa Vision**. Seven Pacific Island Countries gathered in Kiribati in 2020 to announce the Teieniwa Vision,<sup>8</sup> which is an acknowledgement of and commitment to Pacific Unity Against Corruption. The Teieniwa vision acknowledges and promotes the right to information, the necessity to protect sincere whistle-blowers and the involvement of an independent civil society and responsible media in national and regional anti-corruption initiatives. The Teieniwa Vision was formally adopted on a regional level by the Pacific Islands Forum at a virtual Leaders’ Meeting on February 3, 2021.<sup>9</sup>

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<sup>8</sup> Teieniwa Vision Available at: <https://www.unodc.org/documents/southeastasiaandpacific/pacific/2021/.pdf>

<sup>9</sup> Anti-Corruption Commitment by Pacific Leaders Welcomed, UN-PRAC, UNDP in the Pacific. Available at <https://www.undp.org/pacific/press-releases/anti-corruption-commitment-pacific-leaders-welcomed>

## Initial RTI Efforts in Papua New Guinea

Since Papua New Guinea's independence and prior to the implementation of this Policy, several noteworthy developments had taken place. The foundation for RTI legislation was laid by a working group comprised of journalists, lawyers, the Registrar of the National and Supreme Courts, and directors of Transparency International PNG (TIPNG), which was established by the nation's First Legislative Counsel. The legislation, however, did not advance very far. Although it primarily focused on communication technologies, in 1993 the Government adopted a National Policy on Information and Communication that included references to access the information.<sup>10</sup> A draft RTI Bill based on section 51 of the Constitution was developed by TIPNG in 1999, but it was never progressed.<sup>11</sup> Then on 1st November 2000, a draft paper on RTI legislation was created and presented by TIPNG for comments at a workshop in Port Moresby.

## Current Information Disclosure Landscape

- a. **RTI Law:** There is no legislation on Right to Information in place yet. However, detailed information about PNG's Government departments and agencies is available through links provided on the website of the National Economic and Fiscal Commission, an independent Constitutional advisory body of the State.<sup>12</sup> Additionally, the laws of the country and performance reviews of the Parliament and its members are available online via the Parliament's website.<sup>13</sup>
- b. **Whistleblower Act:** A whistleblower protection section was included in the Organic Law on ICAC, which was ratified by the government in 2020 thus creating an Independent Commission Against Corruption. The Bill was approved unanimously by the National Parliament and a Whistleblower Act was passed in 2020.
- c. **NGO Advocacy:** A number of NGOs are active in many facets of national development, including human rights, and they play key roles in PNG's development strategy.<sup>14</sup> The 2019 publication of the document "*Our Right to Know, Their Duty to Tell*" by Transparency International PNG (TI PNG) contained recommendations for "*an immediate review of the proposed RTI Act and its precursory National Right to Information (NRTI) Policy*" and suggested an Information Commission as a model for enforcement. A report titled "*PNG Open Government Partnership – An update on progress of Freedom of Information Law*" was delivered by TI PNG to the DICT in May 2021.

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<sup>10</sup> Right to Information in Asia Pacific: How 11 Countries Perform on SDG 16:10, 2018 Transparency International, p. 42

<sup>11</sup> Status of the Right to Information in the Pacific Islands of the Commonwealth – A Report, Commonwealth Human Rights Initiative 2009, p. 39 [http://rti.img.kerala.gov.in/RTI/status\\_of\\_rti\\_in\\_pacific\\_island.pdf](http://rti.img.kerala.gov.in/RTI/status_of_rti_in_pacific_island.pdf)

<sup>12</sup> National Economic and Fiscal Commission <http://www.nefc.gov.pg/links/png-government.html>

<sup>13</sup> National Parliament of Papua New Guinea <http://www.parliament.gov.pg/>

<sup>14</sup> Human Rights in the Pacific – A Situational Analysis, 2016 <https://www.spc.int/sites/default/files/resources/2018-05/Human-right-Pacific.pdf>

Twenty-four (24) Government agencies were surveyed by TIPNG in 2019 to determine how well they could inform the public information both online and in person. Over 90% of the State agencies surveyed were found to be unable to provide public documents when asked in person, yet 54% of the agencies already had those same documents available online. TIPNG found a disconnect between officers and agencies and called for the creation of an RTI Policy and law outlining the procedure which allows a citizen to obtain information and to establish a dedicated body to assist citizens in their requests for information from the government agencies.<sup>15</sup>

In 2018, a community organization The Alliance of Solwara Warriors used the right to official documents under Section 51 of the Constitution to try to get a proposed deep-sea mine's environmental impact assessment released to the public.

- d. **Participation in the Open Government Partnership:** PNG demonstrated an intention to participate in the Open Government Partnership (OGP) by introducing an Access to Information Bill.<sup>16</sup> The Papua New Guinea's intention to join an Open Government Partnership (OGP) was announced at the Asia-Pacific Regional Conference in Bali, Indonesia, on 7th May 2014 by the country's then Minister of Foreign Affairs and Trade Hon. Rimbink Pato. This intention was formally endorsed by the Government on September 3rd 2015 through NEC Decision No. 285/2015 and was officially accepted and announced on 28th October 2015 at the OGP Global Summit in Mexico.

To honor its commitment, PNG established a National OGP implementation mechanism by creating a Focal Point Secretariat within the Department of National Planning and Monitoring and a National OGP Steering Committee comprised of twelve (12) government departments and ten (10) civil society organizations (CSOs). The Steering Committee delivered PNG's first OGP National Action Plan for 2018 – 2020 featuring four of the seven global OGP Cluster Commitments: *Freedom of Information, Public Participation, Fiscal Transparency, and Extractive Sector Governance*. The Freedom of Information commitment focuses on the development of three areas: *Access to Information Legislation, Integrated Government Information System (IGIS) and Open Data Portal*.

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<sup>15</sup> *Our Right to Know, Their Duty to Tell* Transparency International, 2019 <http://www.transparencypng.org.pg/2019/09/TIPNG-RTI-Report-FINAL-1.pdf>

<sup>16</sup> The OGP is a multilateral initiative that aims to secure concrete commitments from national and subnational governments to promote open government, empower citizens, fight corruption, and harness new technologies to strengthen governance. In the spirit of multi-stakeholder collaboration, OGP is overseen by a steering committee including representatives of governments and civil society organizations. <https://www.opengovpartnership.org/>

- i. **Access to Information Legislation:** The Department of Information and Communications Technology (DICT) and Transparency International PNG (TIPNG) are the principal government agency and CSO respectively in this commitment. The DICT had revived interest in drafting RTI legislation through the PNG Digital Transformation Policy (approved by NEC Decision No. 252/2020). The Department has continued its work following the National Integrity Summit held in Port Moresby in May 2021 during which the Secretary of the Department of Information and Communications Technology Steven Matainaho pledged to complete work on the legislation.
- ii. **Integrated Government Information System (IGIS):** The DICT continues to be in charge of project administration with the Department of Prime Minister and National Executive Council and TIPNG serving as the main government agency and CSO for the IGIS commitment. The Central eGovernment Platform outlined in the *Digital Government Bill 2020* includes IGIS incorporated into it (NEC Decision No. 252/2020). The Bill outlines the governance framework for strengthening PNG's cyber security capabilities and establishing ICT governance throughout all governmental institutions.
- iii. **Open Data Portal:** The Department of National Planning and Monitoring (DNPM) and TIPNG are the leading government agency and CSO committed to the Open Data Portal commitment. The *Papua New Guinea Strategy for the Development of Statistics 2018-2027* was created by the DNPM and provides a framework for centralizing datasets and access. NEC Decision No. 40/2021 mandates the DICT to create the open data portal while the DNPM will organize datasets. In addition, DICT was mandated to act as the principal coordinating body for the creation of a secure digital services platform and the establishment of a governing authority to manage and operate this platform. All government agencies were instructed to coordinate with DICT for the implementation of all public sector digital services, including their modification and the acquisition of new ICT and digital infrastructure services.

## The Way Forward

The next step in establishing a robust RTI regime is the development of the *National Right to Information Policy [2023 – 2032]*. This Policy subsumes all efforts undertaken since 1975 and forms part of a whole of Government strategy to increase government accountability and transparency, facilitate greater citizen participation in matters of governance, and provide the impetus for drafting and enacting a Right to Information law.

The Policy is designed to be realistic and implementable, considering limited financial and human resources and maximizing scarce resources. The Government also recognizes that disclosure of information presents both opportunities and risks for individuals. Hence, the constitutional right to privacy must be as equally protected as the right to information and this

Policy treats both as policy and legislative issues. A Data Protection (or privacy law) will be among the raft of legislative framework reforms that will be pursued in this context.

A sample of a broad timetable of the preliminary activities which must be undertaken initially as a matter of priority to lay the groundwork for implementation is included as **Appendix III**. Within the first year of the adoption of this Policy, a comprehensive RTI National Implementation Plan for its administration will follow and will include, among other important components, comprehensive training and public awareness initiatives, a monitoring and evaluation framework and the drafting of an RTI law.

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## II. NATIONAL RIGHT TO INFORMATION POLICY

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### DEFINITIONS

**“Applicant”** means any natural domestic or foreign person or legal entity who requests access to a record from a public or private body or who files a complaint under this Policy.

**“Application”** means a request for records or information made by an applicant to a public or private body and **“request”** has a corresponding meaning.

**“Archives”** means the National Archives and Public Records Services.

**“Cabinet”** means the National Executive Council.

**“Day”** means any day other than Saturday, Sunday, or a public holiday.

**“Exempt Material”** means any item that makes a portion of a document exempt from disclosure.

**“Hold”** means a record that must be produced under this Policy and is in the possession, custody, or control of a public or private organization, regardless of whether it was created by any of them or before the adoption of this Policy.

**“Information”** means information requested by an applicant, as opposed to a request for specific records.

**“Official language”** means any of the three official languages – English, Tok Pisin and Hiri Motu.

**“Private Body”** means any individual who currently engages in, or has previously engaged in a trade, business, or profession, or a partnership which carries on or has carried on any trade or business, or any existing partnerships that engage in, or have previously engaged in any such trade or business, excluding public bodies.

**“Proportionality Test and Public Interest Test”** means the evaluation of the relationship between the justifications for imposing limits and justifications for allowing access to information, with access to information being granted only when the public interest is being served.

**“Public Body”** means public authorities, other state authorities, bodies of the local and regional self-government units, legal entities and other persons vested with public authority, legal entities established by the Papua New Guinea or the local, provincial and regional self-government units, legal entities engaged in public service, legal entities entirely funded by the state budget or the budget of the local and regional self-government units, or from public resources/taxes, contributions, etc.), and companies in which Papua New Guinea or the local and regional self-government units hold individual or joint majority ownership, state departments and agencies, statutory bodies and publicly traded companies in which the Government owns more than 50% of the shares.



***“Public Information”*** means any information originating from the field of work of the bodies, occurring in the form of a document, case, dossier, register, record, or other documentary material (hereinafter referred to as "The Document") that was created by the body, by the body in collaboration with another body, or obtained from another person.

***“Public Services or Functions”*** means services or functions that are crucial to the welfare of the people of Papua New Guinea, and provided or supported by the Government and its agencies, or by a non-government agency on behalf of the Government.

***“Publish”*** means disseminating information to the public through one or more of the following methods:

- a. Publication on the Government’s website or the website of a public or private organization if the website is available
- b. Posting on notice boards
- c. Announcements to the Public and villages
- d. Press releases
- e. Daily and weekly newspapers
- f. Media broadcasts
- g. Existing Government and non-government networks
- h. Internet
- i. any other media or platform available for disseminating information at the Minister’s discretion, with “disseminate” having the same meaning.

***“Records”*** means data stored in any format, such as:

- a. a written record
- b. a map, plan, graph, or drawing
- c. a photograph
- d. a disc, tape, soundtrack, or any other device that contains sounds or other data (other than visual images) that can be reproduced (with or without the help of additional electronic equipment) whether stored in electronic form or otherwise
- e. any film (including microfilm), a negative, tape or other device in which one or more visual images are embodied, whether electronically or otherwise, in such a way they can be reproduced (with or without the help of other equipment) held by a public body, or a private body to which this Policy applies in connection with its function as such, whether or not it was created by them or before the adoption of this Policy.

***“Reproduction Fee”*** means a fee payable by an applicant for a copy of a record to which access has been granted by a public body or a private entity.

***“Responsible Minister”*** means the Minister responsible for administration of this Policy.



***“Re-use of Information”*** means the use of documents held by public sector organizations by natural or legal entities, for commercial or noncommercial purposes other than the initial purpose within the scope of the public task for which they were created. Reuse does not include the exchange of documents between public sector organizations solely for the purpose of carrying out their duties.

***“The Government”*** means the National Government of Papua New Guinea.

***“The Right of Access to Information”*** or ***“The Right to Information”*** or ***“Freedom of Information”*** means the applicants’ right to request and obtain information, as well as the obligation of public and some private bodies to grant access to that information in accordance with this Policy, and any other applicable policy, law or regulation. This right includes, but is not limited to:

- any information originating from the bodies’ fields of work that is in the form of a document, a case, a dossier, a register, a record or any other form or documentation material and was created by the body alone in collaboration with another body, or was obtained from another source;
- to take notes, extracts or certified copies of records of records or information;
- inspecting work, documents, or records; or
- taking certified material samples; or
- obtaining information in any form that has been stored on a computer or in any other device or form such as compact discs, diskettes, floppy discs, tapes, video cassettes or any other electronic mode or printed form.

***“Third Party”*** means any individual associated with the information other than the person requesting it, or any government or private entity providing it.

## VISION

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To lay the foundations for the enforcement of the right to information as a human right and to establish a supportive environment for Papua New Guineans to have an open, accountable and participatory government.

## MISSION

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Our mission is to ensure recognition and enforcement of the right to information as a fundamental human right in Papua New Guinea, to establish a clear framework for accessing and disseminating information acquired by public bodies through a citizen-centered approach; and to develop a structured, comprehensive approach to and improved, sustainable records and information management system across the public sector.

## OBJECTIVES

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The key objective of the National Right to Information Policy is to:

- 1) establish a clear framework for the residents of Papua New Guinea for requesting, releasing, and disseminating information that will increase the public sector's transparency and accountability and ensuring citizens access to public information in real-time for development;
- 2) support the creation of a robust and long-lasting information and records management system throughout the public sector and to provide guidance for the formulation of a comprehensive RTI law
- 3) encourage the development of a strong and sustainable information and records management system across the public service and inform the development of a comprehensive RTI law.

## RTI'S CORE PRINCIPLES

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The Policy is based on eight (8) key strategic principles<sup>17</sup> that are shared by effective RTI systems and are rooted in articles 19 of the Universal Declaration of Human Rights, article 19 of the International Covenant on Civil and Political Rights (ICCPR) and article 10 of UNCAC (noted earlier) with regard to the duty to respect the right of individuals to “seek, receive and impart information”. The principles are reflected in relevant publications such as the Commonwealth’s “*Model Freedom of Information Bill*”<sup>18</sup> and the Commonwealth Human Rights Initiative’s “*Information Disclosure Policy – A Toolkit for Pacific Governments*”.<sup>19</sup>

- a. **Principle of Maximum Disclosure:** A key underlying principle of the right to information, the principle calls for all information held by public bodies to be subject to disclosure, with certain exemptions. Accordingly, every member of the public has a right to receive information and should not be compelled to give a justification for their request. A public body must demonstrate that the information being withheld is within the scope of a limited set of exemptions and that there is no overriding public interest in favor of disclosure.
- b. **Right to Access Own Personal Information:** Every individual should have the right to know whether their personal information is held by a public body and for what purposes. If personal data is inaccurate or was obtained or processed in violation of the rules of the law under which it was obtained, every person should have the right to have their records rectified.
- c. **Obligation to Publish Information:** Governments can improve their accountability and transparency by proactively disseminating information to the public. This approach is likely to reduce the number of requests for information and the amount of information provided should increase over time, especially when new technologies make it easier to publish and disseminate information. To prevent the duplication of requests, public access to all information disclosed in response to RTI requests should be made available in forms and languages that are understood by all members of the public.
- d. **Promotion of Open Government:** To combat cultural norms of non-disclosure and secrecy when introducing an RTI system, promotional measures should be used to encourage public officials to regard RTI as a fundamental human right and not merely as a legal obligation. Such measures include training, public education and awareness campaigns, educational materials, the establishment of a central organization to facilitate the measures, and the provision of suitable funding. Additionally, heavy fines

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<sup>17</sup> The Principles were first articulated by the international human rights NGO, ARTICLE 19, in their publication “*The Public’s Right To Know: Principles on Freedom of Information Legislation* (the ARTICLE 19 Principles)

<https://www.article19.org/data/files/pdfs/standards/righttoknow.pdf>.

The Principles were endorsed by Mr. Santiago Canton, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression in his 1999 Report, Volume III of the Report of the Inter-American Commission on Human Rights to the OAS, by Mr. Abid Hussain, the then UN Special Rapporteur on Freedom of Opinion and Expression, in his report to the 2000 session of the United Nations Commission on Human Rights (E/CN.4/2000/63), and referred to by the Commission in its 2000 resolution on freedom of expression. The Principles were also referred to by his successor Mr. Frank LaRue in his report to the UN General Assembly in 2013 (A/68/362, 4 September 2013)

<https://www.article19.org/data/files/pdfs/standards/righttoknow.pdf>

<sup>18</sup> The Commonwealth. 2017. Model Freedom of Information Bill [online]. Available at:

[https://thecommonwealth.org/sites/default/files/key\\_reform\\_pdfs/P15370\\_12\\_ROL\\_Model\\_Freedom\\_Information.pdf](https://thecommonwealth.org/sites/default/files/key_reform_pdfs/P15370_12_ROL_Model_Freedom_Information.pdf);

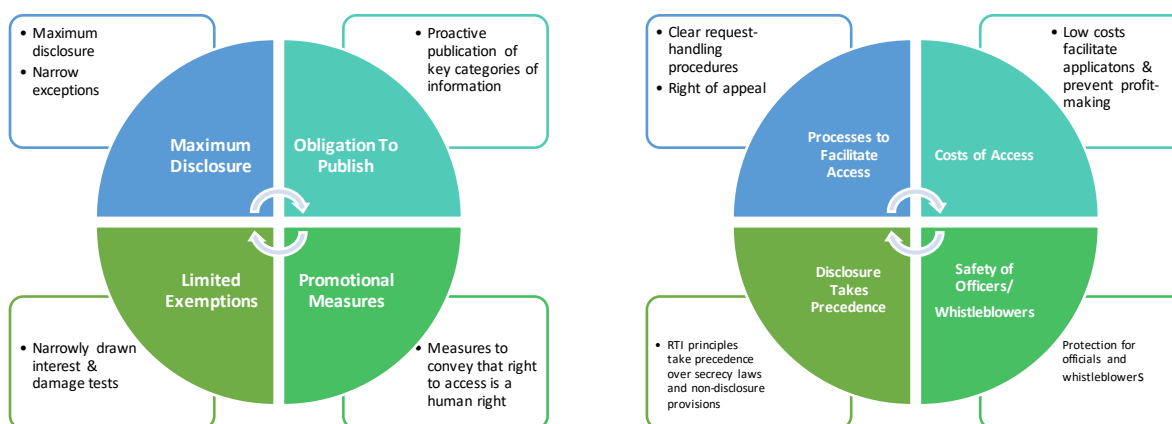
<sup>19</sup> Rodrigues, C. 2007. Information Disclosure Policy: A Toolkit for Pacific Governments, Commonwealth Human Rights Initiative. [online]. Available at:

[https://www.humanrightsinitiative.org/programs/ai/rti/international/cw\\_standards/pacific\\_info\\_disclosure\\_toolkit.pdf](https://www.humanrightsinitiative.org/programs/ai/rti/international/cw_standards/pacific_info_disclosure_toolkit.pdf).

should be imposed to address wrongdoing and promote public sector compliance with open government principles.

- e. **Limited Scope of Exemptions:** Too many exemptions can jeopardize the right to information and should not be justified by the need to shield government from criticism or the exposure of wrongdoing. Exemptions should be narrowly drawn (but only to the extent that they capture legitimate concerns regarding the protection of the public interest) and subject to 'harm' and 'public interest' tests.
- f. **Requests for Information:** Clear, simple procedures should be established to process requests for information rapidly and fairly. A right of appeal must be accessible to everyone who wants the choices made by agencies to be reviewed. Ideally, an independent and impartial review body that has authority to compel disclosure will be established. Contrarily, providing for courts to be an alternative to a review body can be slow and expensive and may discourage people from seeking review.
- g. **Costs:** It is necessary to strike a balance between the possible deterrent effect of fees and the requirement to recover part of the expenses related to granting access to information. Governments should ensure that the costs associated with processing and providing information are limited to what is actually necessary, that fees are not used to generate profits, that waivers are permitted when a request for information is made because it is in the public interest, or when doing so would result in financial hardship, and that there is no fee associated with filing an appeal.
- h. **Whistleblower and RTI Administrator Protection:** When information is disclosed in good faith and in accordance with an RTI law or policy, governments must ensure that public agencies and employees are protected from civil and criminal liability. This protection is crucial when disclosing information could, for instance, be considered a breach of contract, or breach of secrecy. The protection normally extends to whistleblowers (PNG enacted a Whistleblower Act in 2020). Governments should also consider the implications when an RTI law or Policy is inconsistent with the existing provisions like secrecy laws or codes.

## RTI PRINCIPLES<sup>20</sup>



<sup>20</sup> Status of the Right to Information in Pacific Island Countries, UNODC/UNDP, 2019

## 1. COVERAGE AND APPLICATION

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### a. Policy Application

The Policy applies to:

- i. Records held by all public bodies, which includes all levels of government agencies, all three branches of government, the office of the head of state, ministers, ministerial advisors, members of parliament, the National Parliament, parliamentary committees, all government departments (at all levels, including central, provincial and district level offices), all bodies established by the constitution or statute, the police, armed forces, prisons, courts administration, the Ombudsman Commission, and the Auditor-General, subject to the exemptions set out in this Policy.
- ii. Records/documents maintained by private bodies that deal with the public funds, or with public services or duties they perform whether wholly or partially funded by the Government or another organization.
- iii. Records held by an official of a public body or a private body to which this Policy applies.
- iv. Records held by independent contractors hired by public entities as well as private entities acting as contractors for the government.

### b. Non-application of Policy

This Policy does not apply to:

- i. Records created earlier than [1980] since they can be accessible as historic records without exemptions in accordance with the policy of the National Archives and Services [under the Archives Act].
- ii. Records that are included in the National Archives' private holdings.
- iii. Any record or part of a record or a document that is held by a media organization and which discloses the confidential source of any information obtained by any of them in the course of their work.

### c. Policy Duration

The policy will be reviewed by the [DICT in consultation with and with advice from the Department of Justice and Attorney General] every three (3) years and will be in effect for a period of ten (10) years until an overriding policy or law is introduced.

## 2. ROLES AND RESPONSIBILITIES

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### a. RTI Unit

An RTI Unit will be established to oversee the implementation of this Policy and will be housed inside [the Department of ICT]. The Unit will serve as a focal point of contact for public bodies with regard to RTI administration, and will be in charge of informing public officers and senior officials about the right to information and the Policy; developing an RTI training strategy, training modules and guidance materials to assist support and guide public officers on how to administer the Policy; creating and carrying out public awareness initiatives and campaigns, and collecting and analyzing statistics for reports; and fostering the development and maintenance of reporting partnerships. Additionally, the Unit will also monitor the government website and websites of other public entities to ensure that proactive publication requirements are met. To be sufficiently equipped to carry out its tasks across the many Government agencies, the Unit will be staffed with devoted, full time personnel, including those listed below:

- an RTI director
- 3 training officers
- 2 public education officers, and
- 2 publications officers who, among other things, will promote online public education and outreach and maintain social media accounts.

### b. RTI Steering Committee (RTISC)

DICT will convene the RTISC, which is a multi-agency, multi-disciplinary committee to coordinate effective RTI implementation strategies and to perform overall oversight over the RTI Unit's policy implementation activities. Members will be current senior Department officials with the expertise and/or accountability for the topics essential for a swift and efficient implementation of this policy. The suggested members could come from the following agencies and organizations:

1. RTI Unit
2. Department of Public Service
3. Department of Justice and Attorney General
4. Archives
5. Department of Information and Communications Technology
6. Department of Finance
7. The Constitution and Law Reform Commission
8. PNG Information Service

Depending on their expertise or purpose, RTISC subcommittees will assist specialized RTI implementation tasks. They will meet once a month (and more frequently as needed), particularly in the early stages of the policy implementation. The Committee will carry out its duties until the

RTI Policy is fully implemented, at which point it may be disbanded. The RTI Unit will act as the Committee's secretariat. The RTISC's terms of reference are listed in **APPENDIX I**

#### **c. Ombudsman Commission**

The existence of a mechanism through which the public may address complaints and appeals against decisions made regarding their RTI applications, or more broadly, regarding how the Policy is being administered, is a crucial component of a responsive disclosure system. Under this Policy, the Ombudsman Commission<sup>21</sup> will serve as the instrument for oversight and enforcement. The Ombudsman Commission is well-suited for this position given its oversight of government practices and procedures as well as the role it plays in the investigation of grievances regarding the administrative actions and judgements of government departments and agencies. The Commission is now working on projects that will be extremely helpful for RTI Policy implementation, such as setting up complaint's desks in Government bodies, conducting public awareness campaigns and initiatives, and monitoring government services.

#### **d. Public Bodies**

The Secretaries of Public Bodies will make every effort to ensure that this Policy is effectively implemented within their organizations and will be obligated to:

- Publish an initial statement of their organization and functions for the public's knowledge and benefit.
- Keep their records in a way that makes it easy to facilitate access to information.
- Ensure that officers receive RTI training.
- Create Disclosure Logs to catalogue their RTI decisions to prevent receiving similar requests again.
- Conduct internal reviews of their RTI decisions at applicants' requests.
- Report to the RTI Unit on their administration of the Act.

#### **e. Departmental Information Officers (DIOs)**

Public bodies must appoint or designate Departmental Information Officers (DIOs), to manage the internal implementation of the Policy on an ongoing basis. DIOs, who must be at a senior level, will serve as a focal point of contact for all public information requests. Among their responsibilities will be fulfilling their respective public bodies' proactive disclosure obligations, assisting the public with their RTI requests, promoting best practices outlined in guidance materials created by the RTI Unit, and receiving and addressing complaints from the public. DIOs may assign functions or portions of them as expediently or appropriately as they deem necessary, especially in cases where they are unable to perform their duties themselves (for example, due to illness). They may also ask for assistance from any employee of a public body to ensure that their duties are carried out in line with the Policy. A person whose

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<sup>21</sup> Ombudsman Commission <https://www.ombudsman.gov.pg/about-us/members-of-the-commission/>

assistance has been sought must give the DIO all the necessary support, but the DIO will, however, still be responsible for carrying out those tasks. DIOs may be requested to appear at RTI hearings conducted by the Ombudsman Commission to hear public complaints or appeals. Depending on the size and scope of their respective organizations, public bodies will decide how many DIOs are necessary.

#### **f. National Archives and Public Records Services**

The National Archives and Public Records Services (*the Archives*) of PNG are required by the National Libraries and Archives Act to oversee the preservation and accessibility of records with significant national and historical value, as well as the development of record-keeping procedures within government bodies. The National Archives will therefore play a significant role in setting standards for Records and Information Management (RIM) to prepare public bodies for their RIM obligations under the Policy, which will be done in collaboration with the RTI Unit.

### **3. PROACTIVE PUBLICATION OF INFORMATION**

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The Government is keen to encourage citizen re-engagement in governance and development initiatives through information disclosure. To achieve this, the Government is committed by this Policy to voluntarily (or proactively) release information that is of public interest or has received the most demand in the public domain. Public bodies must create publication schemes containing this information so that it is regularly accessible, ideally in machine-readable format, without the need for a formal request. This approach is pragmatic because it may result in fewer requests and less time spent by staff members searching for relevant records. It will also promote and openness of culture by encouraging organizations to make a habit of proactively and voluntarily publishing their information. Public bodies will continue to provide access to information where they are already required to do so by an Act, an existing policy or practice, or by a court order.

#### **a. Proactive Disclosure by the State**

Within the first *[12 months]* of its adoption, all public bodies covered by the Policy are required to publish the following on their websites (where they exist), the government website and in the official languages:

- i. A description of their department's structure, mandate, key areas of work, as well as the services they offer.
- ii. A list of the agencies under them, including their location, business hours, and the fields of work they deal with.
- iii. The name, business address and official contact details of Department Secretaries.



- iv. A list of all officers, including the total number of employees in the Department broken down by levels with the pay scales that apply to each level.
- v. A description of senior officials' duties and responsibilities, authority, and the procedures followed in decision-making processes.
- vi. A list of the types, categories of information and records the organization holds and publishes.
- vii. Speeches statements made by the Minister of the Department, press releases, policy documents (including drafts available for public discussion where appropriate), and quarterly and annual reports where prepared.
- viii. The schemes being carried out, programs managed and/or projects being implemented, including:
  - copies of all contracts held in electronic form, in particular: the names of contractors including payment schedules and criteria for payment; the deadlines for completion of the contracts, and penalties due from the public body and the contractor if the contract is not adhered to. All future contracts shall require the creation of an electronic copy
  - copies of all policies, guidelines, rules, and forms (all future documents of this type must be created in electronic copies).
- ix. Their annual budgets, including:
  - a breakdown by program/project as applicable to the Department
  - regularly updated reports (quarterly where possible) regarding the disbursement of the budget
  - the results of any audits and accompanying Departmental explanations.
- x. All decisions they have made, or policies adopted that have an impact on the public, their justifications, and any relevant background information and material
- xi. Any plans for public consultation with respect to the formulation or implementation of their policies.
- xii. Mechanisms for citizen participation (where they exist) including complaint mechanisms that apply to acts or failure to act by public bodies.
- xiii. The procedure to be followed for requesting information, as well as information about the facilities for obtaining information, such as the working hours of a library or reading room if one is maintained for public use.
- xiv. The names, contact details and other information about their DIOs.
- xv. Within the first [4 months] of the Policy's adoption, the Department of Treasury must publish the following information on the government website and in a newspaper(s) with the largest circulation:
  - a citizens' budget<sup>22</sup> with information on the national and local budgets as well as [quarterly] updates on expenditures and revenues; and

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<sup>22</sup> A citizens' budget is a report to the public summarizing and giving basic budget information in terms and language they can understand and in an easily accessible format.

- information regarding receipts for international development assistance, including the amount of funding granted by donors, their identity, and the related projects/programs.

xvi. Within the first [4 months] after the Policy's adoption, the PNG Electoral Commission and Attorney General's Department must publish electoral related information, including:

- all laws, rules and guidelines related to elections, including information on the government websites on nominating candidates and holding elections;
- details of every donation made to parliamentarians, political parties, and government officials, including the names of donors, the amounts, and the date of the donations; and
- all electoral rolls which must be available for inspection and provided to members of the public upon request.

Any information deemed useful to the public and intended for publication must be updated at intervals of not more than [6 months], or more frequently at the direction by the responsible Minister. For optimum public accessibility, the RTI Unit will ensure that the information to be published is widely disseminated, including on social media platforms where appropriate.

#### b. **Proactive Disclosure by Parliament**

- The Clerk of Parliament and [the Law Office] will work with the Department of Justice and Attorney General to ensure that at least one copy of each Bill, draft Rules, piece of final legislation, and piece of final regulations is kept either in their office or the parliamentary library for inspection by parliamentarians and members of the public.
- The RTI Unit will work with the Clerk of Parliament and [the Law Office] to ensure that all Bills, draft Rules, final legislation, and final regulations are published on the government website and widely disseminated to maximize public accessibility.

## 4. REQUEST PROCESS

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- General Right of Access:** Every person has the right to request access to any record from a public or a private body to which this policy applies, other than an exempt record, subject to this policy.
- Submitting RTI Requests:** Anyone may submit a record request free of charge in any of the official languages by phone, in person, or in writing (by letter or email). The application must be made to the public or private body which has the information. The applicant is not

compelled to provide a justification for the request, nor should they be. An application must include:

- i. Applicant's contact details such as mailing address, telephone or fax number, or email address. The applicant may use a pseudonym but if the request is being made on behalf of a third party, as the personal representative of a decedent, or as the next of kin, the applicant's real name must be provided along with the proof of status. What constitutes sufficient proof of status in each situation shall be determined by the Department of Justice and Attorney General.
- ii. A description of the record or information requested (including, if applicable, any dates, locations, themes, etc.).
- iii. The date of the request.
- iv. The format in which the information must be provided.
- v. a description of the record or information requested (providing, if possible, a reference to any relevant dates, locations, topics, etc.); and
- vi. the date of the request; and
- vii. the form in which the information is to be provided.

Where an RTI request is:

- i. delivered via postal service, it should be addressed to the head of the public body. If someone other than DIO of the public body receives the request, it must be immediately sent to the DIO, but no later than two (2) working days from the date of receipt. Upon receiving a written request, the DIO will date stamp it to indicate when it was received. If a date is not evident, but if there is a dispute regarding the date the request was filed, the applicant will be given the benefit of the doubt.
  - ii. received verbally (over the phone or in person), the DIO will note down the request in writing and provide the applicant with a copy for their records.
  - iii. for any records already accessible to the public in any other way included in a public register, or available for purchase through administrative procedures, and to the extent that is reasonably practical, the DIO must inform the applicant and assist him in locating the record as reasonably practicable.
- c. **Acknowledging Requests:** An RTI request must be received and acknowledged in writing within five (5) days of receipt, with the date of receipt and the name of the DIO handling the

request. The request must be logged into a system, either electronic or analog, and a case file must be created to keep track of how it was dealt with.

- d. **Transfer of Requests:** The DIO must transfer the request as soon as possible, but in any case, no later than five (5) days after receiving it if the records requested are held by another public body, or the subject matter is more closely related to the portfolio responsibilities of another public body. The DIO must also notify the applicant of the transfer, the name of the public body to which it is transferred and the DIO at that public body who will be handling the request. The public body to which the request is transferred must process the request within 30 days from the date of the transfer. A request for access to a record may only be transferred from one public body to another three times, provided the DIOs in question are convinced that additional transfers are required under the circumstances and the applicant is informed of and agrees to them.
- e. **Response Timeline:** The information requested by applicants shall be provided by public bodies within thirty (30) days unless any exemptions apply and after taking the public interest into account (**see 5. Exemptions and 6. Public Interest Test**). The first day the request is received marks the start of this time frame. A single 30-day extension may be requested but only in cases where the request is submitted for a large number of records, meaning the review process will take longer than 30 days, and the applicant consents to the extension. The DIO must consult with the applicant to refine or reformulate the request before asking for a deadline extension to see if fewer records than sought will suffice. A DIO will be regarded to have declined a request if they do not respond to it within 30 days or with a subsequent extension unless the delay was caused by circumstances beyond their control.
- f. **Grant of Access:** If a requested record is not subject to any exemptions, access must be granted. The decision must be communicated to the applicant in writing by registered letter, fax, or email, along with any fees payable. Once payment has been made, the records must be released in the format requested by the applicant within seven (7) days of the payment receipt (**see k. Forms of Access**).
- g. **Partial Grant of Access:** If a request is made for access to a record that contains exempt information, access will be granted to a version of a document that has the exempt information blacked out or removed. The applicant must be given a written notice about this, and the public body must specify the exemption that was applied, as well as the applicant's entitlement to request internal review or to make an appeal to the *[Ombudsman Commission]* (see the applicable timelines to do so in either case).
- h. **Deferral of Access:** A DIO may defer the granting of access to a record if it is:
  - i. A report that has been prepared for tabling in Parliament, in which case a grant of access may be deferred for *[5 days]* after the report has been presented to and approved by the Parliament; or

- ii. A report that has been prepared for an official or a public body, in which case the deferral will last until the report has been presented or made available to that person or body, or until [45 days] have passed after the application date, whichever comes first; or
  - iii. A record that must be published in accordance with a deadline required by any law, in which case, access must be deferred until the end of the deadline; or
  - iv. A record whose release would be in the best public interest once a certain event has occurred or after a certain amount of time has passed. The deferral will be in effect until the event occurs or the expiration after which its release would not be against the public interest has passed.
- i. **Denial of Access:** The request for information will be denied if an exemption applies to requested records, and the applicant will be notified in writing as soon as possible by registered letter or email with a detailed explanation of the reasons why the request was denied, the exemption that was used, and the applicant's right to an internal review followed by a complaint to the Ombudsman Commission. A request for information may be denied in addition to the use of an exemption from disclosure (**see 5. Exemptions**) if it is deemed to be vexatious or unreasonable (**see 7. Vexatious and Unreasonable Requests**).
- j. **Requirement for Consultation:** Prior to a decision to defer, deny or grant partial access to a record, a DIO must confer with a supervisor or the principal administrative officer of a public or private body.
- k. **Forms of Access:** If an applicant requests access in a specific form, access must be granted in that form. There are various forms to gain access to a record:
- i. The applicant may be given a reasonable opportunity to view the document in person or be given or a copy.
  - ii. Arrangements may be made for the applicant to hear the sounds or see the images on a record from which sounds or visual images can be reproduced.
  - iii. The applicant may be given a transcript of the data, or the words, sounds and images recorded or contained in the record if the record contains words that can be reproduced as sound and images, shorthand writing, or in a codified form.
  - iv. Examine public works and collect samples from them.

However, a public body may authorize access in a different format if the one requested would compromise the record's preservation or violate any applicable copyright laws for any information in the record. Copies of records to which access is granted must be authenticated in a way decided by Department of Justice and Attorney General.

- l. **Information that cannot be found or does not exist:** If a DIO makes every effort to locate the records requested and has reason to believe that the information is held by the public

or private body but cannot be found or does not exist, the DIO must notify the applicant in writing as soon as possible but no later than thirty (30) days after receiving the application.

## 5. EXEMPTIONS

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Once records relevant to an RTI application have been located, they must be examined to see if any exemptions from disclosure apply. The exemptions listed below correspond to those outlined in Section 51 of the Constitution:

- a) **Records affecting Security, Defense, or International Relations** - Records are exempt if they contain information that was submitted in confidence to the government by or on behalf of a foreign government or international organization or if their disclosure would jeopardize PNG's security, defense, or international relations.
- b) **Records affecting Law Enforcement** – Records are exempt from disclosure if their release would:
  - put someone's life or safety in danger,
  - impede the investigation of a law violation or potential law violation, a person's right to a fair trial, or the impartial adjudication of a specific case,
  - disclose, or enable a person to ascertain the presence or identity of a confidential source of information regarding law enforcement,
  - divulge legal methods or procedures for preventing, detecting, investigating, or handling matters involving legal violations or evasions, when doing so would, or could reasonably be expected to impair the efficacy of those methods or procedures,
  - aid the escape of a person from a place of legal detention or endanger the safety of any correctional facilities.
- c) **Cabinet Documents** – A record is exempt from disclosure if it is a Cabinet submission, a Cabinet Note or another document created for submission to the Cabinet and it has been or is intended to be submitted; or if it is a Cabinet Decision, or other official record demonstrating any deliberation of the Cabinet. This exemption does not apply to documents that are annexed to Cabinet documents that contain reports, research, studies, tests, or surveys of a scientific or technical nature, nor does it apply to documents that constitute the official publication of a Cabinet decision.
- d) **Records affecting National Economy** – A record is exempt from disclosure if its release, or premature publication would have, or could reasonably be expected to have a



significant negative impact on the economy or the Government's ability to control the economy. Records pertaining to taxes, duties or rates, interest rates, monetary and exchange rate policies, or currency or exchange rates are some examples of these records.

- e) **Records subject to legal privilege** – A record is exempt from disclosure if it would violate privileges of Parliament, be privileged from production in legal proceedings (unless the party entitled to the privilege has renounced it), in contempt of court, or if it would be a breach of confidence.
- f) **Records affecting policy making and conduct of public affairs** – A record is exempt from disclosure if its disclosure would prejudice the effective formulation or development of the Government policy; or adversely affect the implementation of a policy by its premature disclosure; or would inhibit the free and honest exchange of views for purpose or deliberation or it contains opinions, advice or recommendations prepared for Cabinet or a record of consultations or deliberations arising from the proceedings of the Cabinet or a Cabinet committee. This exemption does not apply to records that contain reports, studies, tests, or surveys of a scientific or technical nature.
- g) **Records pertaining to business affairs** - A record is exempt from disclosure if it relates to business affairs and its disclosure would reveal trade secrets, if it contains information about the commercial interests of any person or organization (including a public body) and a disclosure of that information would prejudice those interests; or if it contains any other information of a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information was disclosed. This exemption does not apply in cases where the applicant is the owner of the information or a representative of the information owner.
- h) **Records affecting personal information and privacy** - A public body may not grant access to a record if that would require disclosing personal affairs of any person, living or dead. This exemption does not apply if the person to whose affairs the record relates consents to the disclosure, or when the applicant is the guardian of a third party to whom the information relates and provides proof of guardianship, or if the person has been deceased for more than 20 years, or when the third party is or was an officer of the public body and the record or information relates to that third party's duties.

The Whistleblower Act 2020 and the Organic Law on ICAC both stipulate that whistleblowers' personal information is exempt from disclosure while acting in their official position to prevent the exposure of those who disclose corruption and other misconduct.

- i) **Records likely to endanger health and safety** – A record is exempt from disclosure if it would or is likely to pose a threat to one's life, physical or mental health, or safety.

- j) **Records pertaining to protected sites and the environment** – A record is exempt if its disclosure would result in destruction, damage, or interference with the conservation of historical, archaeological or anthropological resources; anything that has been designated as protected national heritage; anything else that is protected by PNG's laws; any species of plant or animal life so designated or endangered, threatened or otherwise vulnerable; or any other rare or endangered living resource.
- k) **Records containing geological or geophysical data pertaining to wells and ore bodies.**

#### Other exemptions:

- a) **Exemptions' Duration and Review:** After the record has existed for [10 years], or for such shorter or longer term as the responsible Minister after the consultation with the Department of Justice and Attorney General may decide the exemption of a record or portions of a record exempt from disclosure will no longer be in effect. The responsible Minister may review an exempt record within two (2) years of it being so classified and revoke the exempt status if it is no longer appropriate, except for the records containing personal information.
- b) **Classified Records:** Records may not be exempted from access under this Policy merely because of being classified as confidential or due to any other comparable restricted status. It is nevertheless necessary to review such records for disclosure in accordance with this Policy.

## 6. PUBLIC INTEREST TEST

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The use of exemptions is subject to what is known as "*the public interest test*". If the disclosure of the excluded material serves the public interest more than the exemption itself, the exemption is overridden. In other words, there is a compelling reason for disclosing the exempt information. Applying the public interest test often considers the following:

- Promoting accountability of public bodies and any officials subject to the 1998 Organic Law on the Duties and Responsibilities of Leadership to be accountable
- public monitoring of the use of the expenditure of public funds
- increasing public understanding of the processes or decisions of public bodies
- informing public debate and public participation in the government decision-making
- enhancing the responsiveness and effectiveness of the government services
- preventing or exposing wrongdoing or poor administration (for example, unauthorized use of public funds)
- preventing and exposing misuse of authority or negligence in the discharge of an official duty



- informing the public about any threats to their health, safety, or the environment
- exposing false or misleading information, deceptive actions of public officials, and
- protecting the human rights and holding violators accountable.

Factors which should not be considered when applying the public interest test include:

- embarrassment of, or loss of confidence in the PNG Government
- misinterpretation or misunderstanding of the information by the public
- that the author of the exempt record was or is of high seniority in the Government
- that access to the record could result in confusion or unnecessary debate.

## **7. VEXATIOUS AND UNREASONABLE REQUESTS**

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RTI requests that are meant to irritate, disrupt, or have a disproportionate effect on public bodies are occasionally encountered. These kinds of requests may put an excessive amount of strain on already limited resources, waste the time and money to seek for and get the sought information, and impair the capacity of public bodies to respond to legitimate requests. These requests may be rejected on the grounds that they are vexatious, repetitive, or may unduly divert the resources of a public body. To assess whether a request is vexatious, a number of factors may be considered, including:

- when a DIO determines there are no reasonable grounds for an application that is submitted by or on behalf of a party who has already requested the same information, and
- in cases where the application was rejected and the Ombudsman Commission or the Court upheld the rejection.

When considering whether a request might result in an unreasonable diversion of resources, consider the following:

- the nature and size of the public body (a small agency)
- the quantity, type and number of records needed to respond to the request
- the time needed to process the request.

## **8. DECISIONS AND JUSTIFICATIONS TO BE MADE PUBLIC**

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Public bodies must ensure that their decisions and justifications are made public unless the information that is to be disclosed is exempt under this Policy. The RTI Unit will develop the form of a running the disclosure log that must be used to publish this information.

## 9. REUSE OF INFORMATION

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Granting access to a record in accordance with this Policy should not be interpreted as approval or authorization to publish the record in violation of confidentiality laws or to take any other action that would violate intellectual property rights in any work contained in the record. There are no limitations on, or fees associated with the reuse of information obtained from public bodies, except in cases where a third party is the owner of a legally protected copyright over the information.

## 10. COMPLAINTS

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### a. Internal Review

If an applicant is not satisfied with the DIO's decision to refuse, postpone, or give access to only some of the records requested, an application for its review must be made within thirty (30) days of receipt of the public body's decision to the body that made the decision. This internal review process may reduce the number of appeals and complaints to the Ombudsman Commission. However, thirty (30) days after a request for a review has been submitted, the Secretary or a senior official above a specific public service grade other than the DIO who made the initial decision must conduct the review and respond to the applicant.

### b. The Ombudsman Commission

An applicants may file a complaint with the Ombudsman Commission if they are unhappy with an outcome of an internal review. The complaint procedure is the same, but the Commission must use all reasonable efforts to resolve RTI appeals and complaints within thirty (30) days of their receipt. A 30-day extension may only be allowed once. Applicants may also file complaints with the Ombudsman Commission regarding any aspect of how public bodies are enforcing the Policy. If the Ombudsman Commission finds something that might be considered criminal wrongdoing when looking into a complaint, a report of its findings must be given to the Minister of the relevant public body for a proper course of action. The Ombudsman Commission must also report the case to an ICAC or the public prosecutor where necessary. Where there are allegations that a public official is involved, the Ombudsman Commission will also refer the case to the Public Service Commission for action.

The Ombudsman's office will be required to develop more detailed guidelines on how the RTI appeal and complaints process will work in support of this Policy, including setting up a separate internal unit specifically for handling appeals, managing complaints, and creating the forms to be used for this purpose.

There cannot be any fees associated for filing a complaint with the Ombudsman as well as for requesting or conducting an internal review.

### **c. National Courts**

In accordance with the right to information set forth in Article 51 of the Constitution, an applicant may make an appeal to the Ombudsman Commission if he is not satisfied with the public body's decision regarding an RTI application, or with the outcome of an internal review, or the appeal to the Ombudsman Commission.

## **11. PROTECTION AND SANCTIONS**

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- a. Administrative or employment sanctions or detriment may not be imposed on a public official who violates this Policy while carrying out their duties in good faith.
- b. A public official who:
  - i. refuses to accept an RTI request;
  - ii. denies request in bad faith
  - iii. knowingly provides inaccurate or incomplete information
  - iv. unlawfully destroys records related to an RTI request
  - v. obstructs access to any information
  - vi. makes it difficult for an agency to fulfil its duties under this Policy
  - vii. interferes with the work of DIOs or those assisting them, or
  - viii. attempts to obstruct the objectives of this Policy in any other way

will be subject to any disciplinary actions taken by the public service *[under Parts VI and PART XIV of the Public Services (Management) Act 2014]* and, if the matter is brought before the Ombudsman Commission, to any sanctions available to that body under the Organic Law on the Ombudsman Commission.

## **12. FEES**

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No fee is to be charged for submitting an RTI request or reviewing it, for locating and reviewing requested/responsive records, removing exempt information, inspecting a record to which access has been granted by an applicant, or when a DIO has not responded to a request within the allotted time (the initial 30 days, or an extension of it). Applicants must not be charged for requesting an internal review, filing an appeal, or complaining to the Ombudsman Commission.

Fees should only be charged to cover the real expenses of copying records (for instance, photocopy paper) and mailing records to applicants, with no additional profit margin. If copies

can be delivered by email, they must be delivered at no charge. The applicant may be charged for the delivery in cases when the information must be delivered on a video, tape, CD, or computer disk. However, there can be no fee if the applicant provides their own copy. The costs incurred to physically redact exempt information may be assessed as fees (e.g., materials such as tape or black ink or the use of special equipment).

Applicants must be notified of the fees that will be charged, and the accepted payment options and payments must be made within seven (7) days of notification. Failure to pay the fee in the due date will be deemed a waiver of the request. When the applicant is the payer, the records must be delivered within seven (7) days of payment receipt.

Public bodies may waive, reduce, refund, or absorb the charged fees:

- if disclosure of the records requested would be in the public interest,
- to prevent the financial hardship after establishing that the applicant has insufficient resources (e.g., has low-income or is receiving government support), or for any other good reason,
- when only a small number of records are requested (as is the case in some countries),
- where any of the Policy's associated deadlines have not been met,
- where collecting a fee would incur administrative costs that would be greater than the fee itself,
- where the actual cost of responding to a request is higher than the chargeable fee communicated to the applicant earlier (absorption of the excess amount is recommended here),
- where the cost of responding to a request is lower than the specified one in the fees notice (a refund is recommended here).

The RTI Unit may specify any other circumstances in which a charge/fee waiver, reduction, refund, or absorption may apply. In conjunction with the Archives, DICT will develop a schedule of fees with upper limits for the approval of the responsible Minister to avoid a patchwork of rates.

### **III. MEASURES TO PROMOTE OPENNESS**

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#### **1. TRAINING AND CAPACITY DEVELOPMENT**

Public body training and sensitization are essential parts of the RTI implementation and support as they help RTI administrators by ensuring that they have a clear understanding of the Policy, their responsibilities under it, and best practices for administrative and procedural RTI. A key

component of the Policy implementation will be RTI training, which will be conducted at three levels:

- by the RTI Unit, through thorough 3 – 4-day RTI training courses,
- by DIOs inside their own entities after receiving training from the RTI Unit,
- by the Pacific Institute of Leadership and Governance (PILAG) through the inclusion of RTI in its training courses for the general civil service, for both new and existing public officers.

The RTI Unit will conduct training that is tailored to and targeted at DIOs and records officers, secretaries, CEOs, and key officers of statutory authorities, as well as customer-facing employees and the general civil service. This training will become more targeted and specialized over time with follow-up sessions aimed at entrenching understanding of the fundamental RTI law concepts and on important subject matters such as data protection, copyright, and intellectual property rights. Up until and after the end of the phased implementation, the National Archives will oversee the RIM training component of the general RTI training program and will schedule thorough, specialized multi-day RIM trainings separately. To facilitate the transition to open government, formal RTI training will be supplemented by courses on customer service, change management and other relevant topics. Additionally, the RTI Unit will provide briefings on strategic sensitization for heads of agencies and parliamentarians. To ensure consistency and on-message training across government agencies, an RTI training manual will be developed over time.

The completion of RTI training will be a performance indicator for DIOs, and their duties must be clearly defined in their job descriptions and employment contracts.

## **2. RECORDS AND INFORMATION MANAGEMENT**

Access to information as a legally recognized right is of little or no value if the information required by the public has either not been created, cannot be accessed, or found when requested, or cannot be trusted as authoritative. Therefore, the effectiveness of an RTI system depends on how easily accessible, high-quality, readily available and timely provided government records are, as well as how efficiently paper and electronic records are managed. Implementation of the RTI Policy in this regard provides a unique opportunity to improve records management policies and practices more widely.

The Government is committed to ensuring that records management systems are reinforced therefore all public bodies must make every effort to implement effective paper and electronic RIM systems and practices. This will take a lot of time and effort. Specific records management programs will be implemented where resources are available, but even in cases where this is not feasible, all organizations covered by the Policy are required to review and streamline their systems as well as create basic guidelines for staff on how to create, save, file, store, archive and discard of records and information. These activities will be managed by the Archives.

As more public bodies start their phased implementation, RIM training must be continuing. In its comprehensive records management training course, the Archives will give priority to RIM records officers falling under each successive phase.

### 3. ICTs AND RTI INFRASTRUCTURE

The use of information and communication technologies (ICTs) and e-governance will make several RTI activities under the Policy more convenient and straightforward. Online platforms and e-based solutions help public bodies track and monitor RTI requests, publish information proactively, retrieve documents from databases, organize records, conduct training (remotely and online), support public education and awareness initiatives, and communicate quickly within agencies, all of which are essential to the transfer of the requests process. ICTs must be incorporated into the RTI implementation process due to the general public's growing mobile phone and internet use, as well as their evolving online presence.

As of January 2021, there were over 1.37 million internet users, 930,000 thousand social media users and 3.11 million mobile connections (which accounts for 34.4% of the entire population), with many people having more than one mobile connection.<sup>23</sup> This indicates that many Papua New Guineans have access to the internet, use their phones to get all kinds of information, and are active on social media.

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Under PNG's Digital Transformation Policy, the Department of ICT will lead the development, testing and implementation of systems and technologies that will be supportive of the efficient roll out and administration of the RTI Policy

...

However, not every public body has a website to keep up with this change. In accordance with the PNG's Digital Transformation Policy, the Department of ICT will lead in developing, testing, and implementing the systems and technologies that will support the efficient rollout and administration of the RTI Policy. [Three key areas will be targeted:]

- d. **RTI Tracking System:** An RTI tracking system is a single, centralized system that tracks the processing of requests (from request intake to complaints and appeals) and generates statistical data to support the reporting and monitoring duties of RTI administrators and the RTISC. This approach helps avoid individual system fragmentation and time-consuming data collection and disaggregation.
- e. **E-mail RTI Requests and Website Upgrades:** Requests for information must be submitted in writing, including electronically. With the necessary technical

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<sup>23</sup> DIGITAL 2021: PAPUA NEW GUINEA, DataReportal, available at <https://datareportal.com/reports/>

improvements and upgrades, a centralized approach will be taken into consideration, enabling all email requests from the general public to be transmitted through the Government website, conveniently eliminating the need for applicants to search for the websites and e-mail addresses of each public body. Centralized reception and transmission of email requests is also practical for RTI Policy administrators since it streamlines the reporting process by generating a single database of requests and helps public bodies without online presence or specific website.

- f. **E-Governance:** E-Governance is the use of ICTs by the public sector to improve service delivery and to encourage citizens to interact with the government more actively. The expansion of e-governance will greatly increase information accessibility and business and other activities under the Policy in a style that promotes RTI, given that internet technology is being widely utilized by PNG.
- g. **Internet Access and Connectivity:** Due to PNG's archipelagic geography, the Digital Transformation Policy will give special consideration to internet access, to more access points and connectivity to support online RTI requests, as well as public education initiatives targeting outlying provinces.

DICT will ensure that implementation of the Digital Transformation Policy prioritizes these specific and other related ICT needs to include marginalized groups, and that the policy is reviewed periodically to ensure these goals are achieved.

#### 4. INFORMATION ACCESSIBILITY

PNG, which has a population of approximately 7.3 million, is one of the most linguistically and culturally diverse countries in the world, with over 1,000 tribes and 800 different languages. Despite the government's efforts to address literacy issues, there are still a great many challenges, especially given the fact that most people still live in rural areas. Therefore, a variety of publication and communication strategies will be deployed as much as possible to support initiatives for proactive disclosure, training, and public awareness. The Government is committed to ensuring that communication strategies use a variety of media such as notice boards, newspapers, television, radio networks, village announcements, posters, inspections at local government offices, the Internet, and social media. The Government will also make use of its external stakeholder partnerships (**see 6. Stakeholder Partnerships**) to further increase information accessibility throughout the country by channeling information through the existing networks.



## 5. PUBLIC EDUCATION AND AWARENESS

The development of an information disclosure regime's demand side is essential to its success therefore it is imperative that the public and civil society are made aware of the RTI Policy, its advantages, and the value it adds to their daily lives. The RTI Unit will launch public education and awareness campaigns under the direction and with the support of RTISC to inform the public, CSOs, NGOs, and the media about the RTI Policy in recognition of their important roles as stakeholder partners. Public forums, sensitization sessions, newsletters, annual RTI essay competitions, observance of key RTI calendar events like International Access to Information Day and Sunshine Week, and strategic media events to highlight them are just a few activities that will be used to educate the public and raise awareness.

The inclusion of RTI in the public education awareness initiatives of the Ombudsman Commission would help the RTI Unit even more in its campaigns for public education and awareness.

## 6. STAKEHOLDER PARTNERSHIPS

- a. **Internal Partnerships:** To provide DIOs, records officers and other key departmental officials with an internal forum, the RTI Unit will spearhead the formation of an RTI Association of Administrators. This enables peer-to-peer exchanges and debates about the initial and ongoing progress of the implementation, concerns and challenges, and the sharing of experiences, ideas, and best practices. This group will meet fortnightly throughout the phased implementation stages and quarterly thereafter.

...

- b. **External Partnerships:** In the early stages of the implementation and beyond, external partnerships between the Government and civil society create opportunities for the management of public expectations from the outset, collaborations on crucial implementation initiatives, and a promotion of a higher fostering sense of public participation and ownership of the new regime. In this context, CSOs and NGOs can also provide valuable, unbiased, and independent testing of the RTI request process and evaluation of the efficacy of the RTI implementation.

The RTI Unit will invite key members of the civil society to form an RTI stakeholder advisory group made up of representatives from a broad range of CSOs and NGOs such as human rights groups, the media, the private sector, and youth and women groups. The group will occasionally also liaise with the RTI Association of Administrators



## 7. GOVERNMENT MEDIA RELATIONS

The Government is aware that the media plays an essential role in any democracy, serving as a channel for the public to receive accurate information about government activities and decisions, as well as to express their opinions. The media's participation in this respect depends on having a robust and responsive RTI framework as it enables journalists to acquire source materials with less reliance on possibly unreliable and untrustworthy sources. The Government encourages the media to use this Policy to access information from public bodies to ensure that stories and reports are accurate, factual, fair, and balanced.

The [*Government Communications Unit*] is primarily responsible for ensuring that information is regularly shared with the media through press releases, briefings, and conferences, as well as the complete publication of important documents (e.g., the Budget) as necessary. The agency will be responsible for fostering cordial ties with the media, and to ensure that they have access to relevant, trustworthy, and timely information.

In accordance with this Policy, all Heads and Deputy Heads of Department will have the authority to make public statements to the media. This authority may be delegated as necessary, considering the size and functions of some public bodies. Reporters are advised to seek comments from the Government Communications Department and/or the relevant departmental officials.

## 8. IMPLEMENTATION

- a. **National Implementation Plan:** Within the first year of the Policy adoption, the RTI Unit will develop a cost-effective, time-bound National Implementation Plan to help with coordination, timeliness, and a whole-of-government approach to the RTI implementation. The Plan will build on various commitments and functions set out under the Policy by outlining key strategies and activities, the government agencies responsible for them, as well as the budgetary implications.
- b. **Guidance Materials and Publications:** The RTI Unit will partner with relevant government bodies (e.g., the National Archives) to develop guidance materials and publications to summarize and provide further details on the obligations and duties under the Policy. The materials will include:
  - i. A User Guide with best practices and useful advice to help RTI administrators better understand the procedures for processing RTI requests
  - ii. A proactive publication code of practice to set minimum standards for the public service
  - iii. A code of practice on managing records developed in conjunction with the National Archives and interested parties
  - iv. Guidelines on what defines public interest, how to apply the proportionality and public interest test, and criteria for determining vexatious, repetitive, and unreasonable requests
  - v. Schedule of Fees, developed in conjunction with the Department of ICT and the Archives for the Minister's approval
  - vi. An RTI training manual to help with internal DIO training within their organizations and governmentwide training that is consistent and on-message.

## 9. PHASED IMPLEMENTATION

- a. **Benefits of Phased Implementation of Policy:** Phasing the implementation of an RTI policy or law means that groups of public bodies start sequentially depending on how prepared they are to do so. This allows governments to better control the allocation of limited resources and manpower by focusing on a small number of organizations at once thus alleviating the financial burden of wholesale commencement. This strategy is especially helpful in areas with many public bodies because it enables RTI administrators to pinpoint and address issues like records management deficits, train public officials, create guidelines and guidance materials, and identify and address problems that could overwhelm the program.

*[This approach to implementation will be considered for adoption by the Government].* There are currently *[thirty-three (33)]* Departments in PNG with roughly twenty-seven (27) agencies falling under them. Therefore, it is projected that roughly five (5) phases spread over a period of six (6) years will be required. *The six-year phasing scheme is illustrated in **Appendix II** as*

*an example.* The RTI Unit will, however, make the ultimate determination of the number of phases and departments and agencies falling under each after adequate assessments of the state of departments and key agencies are completed, under the supervision of the RTISC. Private bodies that are covered by this Policy will be subject to its application at a later time, which will be decided and proposed by DICT in conjunction with the RTI Unit. A Parliamentary Committee specifically called for the purpose will evaluate the status of RTI implementation at the end of each year.

b. **Phased Implementation Schedule:**

- i. **Prioritized Activities:** Preparatory activities will be performed within the first year of the adoption of this Policy to prepare public bodies for proper administration of the Policy. These activities will include readiness assessments, commencement of record organization, and the appointment of DIOs and records officials (as necessary). The relevant agencies that must carry out these tasks, along with a general description of these duties, are listed in **Appendix III**. The RTI Unit in collaboration with RTISC will create a more detailed costed National RTI Implementation Plan that outlines these and other activities, accountable parties and timelines.
- ii. **Commencement of Policy Administration:** In collaboration with the RTISC, the RTI Unit will develop a schedule of phased implementation based on the first year of preparatory activities for the approval of the responsible Minister and the Cabinet. The responsible Minister will designate the public bodies who are to first commence the administration of this Policy under Phase I within the second year of the Policy adoption, and within the following forty-eight (48) months all other public bodies that are so planned under subsequent Phases.
- iii. **Private Bodies Performing Public Services or Functions:** These private bodies will be identified by the RTI Unit in conjunction with the DICT and they will be added to the phased implementation schedule as appropriate.

## **IV. REPORTING, MONITORING AND EVALUATION**

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**Public Bodies:** Until the phased implementation of the RTI Policy is complete, DIOs in the public bodies within each subsequent phased group are expected to provide monthly reports to the RTI Unit and quarterly thereafter (supplemented by ad hoc updates as may be required by the Unit). The reports must contain information about the number of requests for access that were made, granted (in full or part), deferred, or denied, the number of transfers that were made, the fees that were charged, the types of exemptions that were used, the quantity of requests for internal review and decisions taken, the number and types of complaints, the specifics of any disciplinary actions taken against officers involved in the Policy's

administration, the training of officers, activities pertaining to the obligation to publish information, and any recommendations for reform. All bodies covered by the Policy are required to set up monitoring systems, whether digital or paper-based, to collect information about the handling of applications and the administration of the Policy.

**RTI Unit:** To create monthly reports for the RTISC and quarterly reports for the Ombudsman Commission, the RTI Unit will study, review, analyze, and synthesize the reports from public bodies. Monthly reports to the RTISC will continue for the duration of the phased implementation of the RTI Policy, but after this period only the quarterly reports to the Ombudsman Commission will be required. Ad hoc updates as may be required by the Commission must be provided to supplement the reports. Additionally, the RTI Unit will report to the RTISC on its own activities.

The RTI Unit will develop paper-based and electronic reporting templates to be used by all RTI administrators.

**Right to Information Steering Committee:** The RTISC will report to the responsible Minister on a quarterly basis and more frequently as necessary, especially in situations when immediate actions must be taken. Reports must include the Committee's findings and recommendations, and any additional information deemed relevant. A biannual report on the implementation status must also be produced by the RTISC for the public benefit.

**Ombudsman Commission:** During the phased implementation of this Policy, the Ombudsman Commission will develop and publish quarterly reports on its website. The reports will include the information on the quantity and nature of complaints referred to it and its decisions, the exemptions categories typically invoked by public bodies, and an analysis on how public bodies have implemented the Policy. They will also include the statistics on the types of information requested, the responses given by officials and average response times, the costs associated with information disclosure, and specific recommendations for reform and improvement.

Additionally, the Ombudsman Commission will prepare annual reports that will be submitted to a relevant Parliamentary Committee for consideration. Following the submission of the Commission's Annual Reports, the Parliamentary Committee will provide feedback to the Parliament with comments and recommendations. The responsible Minister will provide a response to the Committee's report by the next session of the Parliament.

## **V. RTI POLICY SUPPORT FRAMEWORK**

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The Government is aware that the nondisclosure and secrecy restrictions that may be imposed by current regulatory frameworks are inconsistent with the principle of maximum disclosure.

When presented with the new RTI responsibilities, it may cause a confusion due to the pre-existing requirements, employment contracts, civil service norms and procedures, and confidentiality restrictions in legislation, which could result in non-compliance. The Government will ensure that the surrounding regulatory framework supports and promotes the right to information, and is, to the greatest extent, aligned with the Policy.

The Department of Justice and Attorney-General will be mandated to review administrative policies for consistency and make recommendations for a supportive legislative framework. The review and recommendations will encompass:

- a. **Secrecy Laws:** While PNG lacks a standalone Official Secrets Law as other Commonwealth countries already have in place, Part III, Division 1 of the 1974 Criminal Code Act does address the disclosure of official secrets. These provisions will need to be updated to ensure that they are only used in the most severe breaches that might cause substantial harm to the national security.
- b. **Information Disclosure Policies:** These policies govern how each Department discloses information.
- c. **RTI Law:** Drafting instructions will be prepared for an RTI law in line with the Government's commitment to the OGP partnership.
- d. **Privacy Act:** To enhance the protection of personal information provided by this Policy, a Data Protection Law will be taken into consideration for enactment.

## VI. RESOURCES

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Implementation of this Policy will require substantial budgetary support. To best meet these expenses and resource needs, government and extrabudgetary financing will need to be allocated.

- a. **Costs Supported by Central Funding** - Several implementation activities require government assistance and will be financed centrally. They include:
  - RTI training,
  - public education and awareness campaigns, and related materials,
  - government website upgrades,
  - tracking and monitoring systems,
  - technical support for e-based publication schemes,
  - computer systems, and
  - regional and international expertise to support specialized RTI training and records management upgrades.

- b. *Costs Covered by Public Bodies* - Public bodies are also required to identify RTI-related costs specific to their organizations and include them in annual budgets. The size of each public body's RTI budget will vary depending on the volume and type of expected requests, the number of RTI employees needed, and the upgrades that need to be made to their records management systems. Projected costs will include:
- employment of DIOs and records officers,
  - preparing proactive publication schemes,
  - preparing internal training programs,
  - conducting records surveys and RIM system upgrades,
  - purchasing equipment such as computers, printers, photocopiers, scanners,
  - supplying the necessary infrastructure such as paper, office supplies, and physical and digital storage facilities,
  - maintaining and updating computer systems and websites,
  - litigation costs necessary to prepare for and defend RTI complaints and appeals before the Ombudsman Commission, as well as in court cases.
- c. *Document Retrieval Systems*: Timely location and retrieval of records poses a significant challenge for public bodies when processing RTI requests. An Enterprise Content Management (ECM) system can considerably increase the accuracy and speed of this RTI Policy function by managing the document life cycle from generation to deletion. Public bodies are recommended to consider purchasing ECMs where practical and to budget accordingly.
- d. *Parliamentary Support* - To ensure that members of Parliament and Parliamentary staff have access to proper communications equipment and the internet, the *[Parliamentary Service budget]* will be used to provide the following:
- i. At least one computer with internet access, email facilities and a printer for the use by Parliamentarians. All members of Parliament are encouraged to use these tools to get informed and disseminate key information to their constituents.
  - ii. A computer with internet access, email facilities and a printer to enable the Clerk of Parliament and the Law Office to carry out their duties such as printing, circulating, and publishing bills, draft rules, final regulations, and legislation.
- e. *Donor Partnerships and Extrabudgetary Support* - The Government will also invite the active cooperation and assistance of local and international development partners to assist with extra-budgetary support where necessary, and to incorporate the implementation of PNG's RTI regime as a priority in the current and future relevant development assistance programmes, projects, and activities.

- f. *Cost Mitigation* – To mitigate some of the costs related to RTI implementation, public bodies are advised to take the following actions:
- i. Give emphasis to proactive disclosure to minimize requests, and consequently, labour, and resources.
  - ii. Identify opportunities for sharing or reallocating staff and resources.
  - iii. Strengthen the RTI request process to reduce delays and non-compliance, thus avoiding the costs to appear before the Ombudsman Commission (and, consequently the Commission's operating costs) and the Courts.
  - iv. Enhance public awareness initiatives and leverage newer and more affordable communication platforms and tools such as social media to disseminate information.
  - v. Where appropriate, utilize civil society partnerships for implementation assistance (e.g., free or at a reduced cost on RTI advertisements, media events, training venues).
  - vi. Utilize existing resources like PILAG and PARBICA to support RTI training and RIM initiatives.

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## VII. APPENDICES

### APPENDIX I. RTISC TERMS OF REFERENCE AND MEMBERSHIP

#### RTISC TERMS OF REFERENCE

##### 1. Objectives

- To co-ordinate an efficient implementation strategy for the Right to Information Policy.
- To promote a proactive disclosure of information, transparency and openness, a responsive RTI request process, and a change in the culture of information disclosure within the public sector.

##### 2. Functions

The RTISC (*"the Committee"*) shall:

- a) Facilitate the timely establishment of the RTI Unit.
- b) Ensure overall oversight of the RTI Policy's implementation.
- c) Facilitate the review of the laws inconsistent with the RTI Policy and recommend necessary amendments.
- d) Supervise the RTI Unit's development of a National RTI Implementation Plan and review its provisions.
- e) Track and monitor progress in line with the National Implementation Plan and ensure the milestones are met.
- f) Identify implementation challenges of specific agencies and recommend solutions to the responsible minister.
- g) Review and monitor record-keeping procedures in public institutions in collaboration with the National Archives and suggest improvements.
- h) Identify and evaluate an appropriate IT system for RTI Policy requirements that include access to proper software for tracking and monitoring requests.
- i) To evaluate government websites and propose upgrades to make it possible for the public to access information in electronic formats.
- j) Develop a strategy for thorough RTI training and awareness throughout the public sector in collaboration with the RTI Unit.
- k) Develop a communication strategy to sensitise the public officials on the importance of the RTI Policy and to increase public awareness and understanding of the Policy and the rights of public under it.
- l) Seek input from non-governmental associations, the media, the private sector and the general public on issues, concerns, viewpoints, needs related to freedom of information and support to RTI public awareness campaigns.
- m) Facilitate the development of an RTI law and regulations.

##### 3. Reporting

- a) The Committee is to report quarterly to the Minister for Information and Communications Technology and the Ombudsman Commission on the aforementioned issues, and as often as it may deem necessary, especially in cases that require immediate attention and action.



- b) The reports are to include the Committee's findings, conclusions, recommendations and any other information it deems appropriate.
- c) The Committee is to also produce a biannual report on the implementation progress for the public's benefit

#### **4. Composition**

- a) A chosen representative of the ICT Department will preside over the Committee.
- b) Members must be representatives from ministries, departments, and agencies with expertise and/or responsibility for the subject areas related to its functions and they should include senior executives from important institutions and organizations listed below:
  - RTI Unit
  - DICT
  - Department of Personnel Management
  - Department of Finance & Rural Development
  - Department of Justice & Attorney General
  - The Constitution and Law Reform Commission
  - The Archives
  - PNG Information Services

#### **5. Subcommittees**

To cover certain subject matter areas, the Committee may form subcommittees based on the competence of its members.

#### **6. Meetings**

- a) The Committee shall meet at least once monthly, with subcommittees meeting more frequently as required. However, the Committee can meet whenever it sees fit in order to fulfil its mandate.
- b) A quorum of the Committee shall be formed by one third of its members.
- c) The RTI Unit will serve as the Committee's secretariat.
- d) The Committee will continue to meet and perform its duties until the RTI Policy is fully implemented.

#### **7. MEMBERSHIP\***

1. RTI Unit
2. Department of Public Service
3. Department of Justice and Attorney General
4. Archives
5. Department of Information and Communications Technology
6. Department of Finance
5. The Constitution and Law Reform Commission
6. PNG Information Service

*\*Suggested*

## APPENDIX II. PHASED IMPLEMENTATION SAMPLE\*

Year 1 2023	Year 2 Phase 1	Year 3 Phase 2	Year 4 Phase 3	Year 5 Phase 4	Year 6 Phase 5
Upon approval of the Policy	Public Bodies	Public Bodies	Public Bodies	Public Bodies	Public Bodies
<i>Please see prioritized activities for Year 1 in Appendix III - (Preliminary Implementation Activities)</i>	1. Dept. of Prime Minister & NEC	1. Department of Agriculture	1. Dept. of Higher Education & Sports	1. Department of Civil Aviation	1. Department of Information & Communications Technology
	2. Parliament	2. Department of Mining	2. Department of Immigration and Border Security	2. Department of Environment and Conversation	2. Department of Works
	3. Department of Public Service	3. Department of Forestry	3. Department of National Planning & Monitoring	3. Department of Correctional Services	3. Department of Inter-Government Relations
	4. Department of Health	4. Department of Fisheries	4. Department of Labour and Employment	4. Department of State Enterprise	4. Department of Housing
	5. Department of Finance & Rural Development	5. Department of Petroleum	5. Department of Justice & Attorney General	5. Department of Community Development	5. Department of Land and Physical Planning
	6. Department of Education	6. Department of Treasury	6. Department of Tourism	6. Department of Defence	6. Department of Energy & Rural Development
	7. Police	7. Department of Foreign Affairs and Trade			7. Department of Commerce & Rural Industry
	8. Procurement Board				

Year 2 – 6*	<i><b>This schedule is for illustration purposes only and the RTI Unit/RTISC will determine the actual number and identities of entities per phase following adequate readiness assessments of public bodies.</b></i>
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### APPENDIX III. PRELIMINARY IMPLEMENTATION ACTIVITIES 2022 – 2023

- This proposed plan is subject to the approval of the RTI Policy by the end of 2022. In the event of a later approval, the activities remain applicable subject to the necessary adjustments to the timeline to so reflect*
- It lists the prioritized activities which ideally should be taken during the first twelve months following the Policy's ratification starting in 2023.*
- The country-specific context and any potential unforeseen circumstances affect the specified timelines.*
- A more detailed National Implementation Plan will be designed by the RTI Unit thereafter to include the activities to be undertaken for other key subject areas of the RTI Policy.*

ACTIVITY TIMELINES	RESPONSIBLE BODY	REMARKS
<b>Q4 - 2022</b>		
1. Finalise RTI Policy	Dept. of ICT	
2. Ratification of RTI Policy	NEC	
<b>Q1 - 2023</b>		
1. Appoint RTISC	Department of Prime Minister & NEC	
2. Establish RTI Unit	DICT/Public Service Commission	Allocate financial resources for personnel, infrastructure, and activities, and seek the support and assistance of donor agencies for things like equipment, etc. The bare minimum of staff needed for effective operation is as follows: <ul style="list-style-type: none"> <li>- Unit Manager</li> <li>- Public Education/Training Officer</li> <li>- Publications/Social Media Officer</li> </ul>
3. Commence development of an RTI draft law	CLRC (Lead) RTISC	
<b>Q2 - 2023</b>		
1. Establish RTI Unit (cont.)		

	DICT/Public Service Commission	It is anticipated that staff recruitment may continue throughout quarters 1 and 2 (from Q1 into Q2)
2. Commence oversight of initial implementation activities	RTISC	RTI Unit provides monthly progress reports to the RTISC. <i>(Note that a DICT representative is a member of the RTISC)</i>
<b>Q3 - 2023</b>		
1. Conduct preliminary RTI sensitization sessions	RTI Unit	Heads of DAs, including senior leadership officials are acquainted with the RTI Policy and briefed on their duties and responsibilities under Items 2, 3, and 6. below
2. Appoint/Designate DIOs & internal RTI Project Team to lead implementation in public bodies	Heads of DAs Public Service Commission	Define roles and specify duties and responsibilities of DIOs and Records Officers to have a clear understanding of job grading. The appointment of DIOs must take priority in the public bodies falling under Phase 1
3. Select and appoint Records Officers to oversee records management activities	Heads of DAs Public Service Commission	
4. Develop RTI Readiness Assessment survey tools	RTI Unit (Lead) RTISC	Readiness Assessment surveys will be used to assess current conditions in entities and varied levels of readiness to implement the Policy  These surveys then assist in the development of individual RTI Action Plans that specify the measures the entities will take to prepare for administering the Policy, as well as the priority tasks, lead persons and timelines
5. Disseminate information about the RTI Readiness Assessment Survey to departments and agencies	RTI Unit (Lead) DIOs	DIOs and RTI project team within entities are informed by the RTI Unit of the purpose of the assessment
6. Complete RTI Readiness Assessment Survey	DIOs (Lead)	Completion of the survey by DIOs should ideally be done within 1 month of briefing. However, the deadline for completion will be set by RTI Unit  An in-house RTI project team should assist DIOs in completing the survey  Early survey completion makes it easier to develop the Phased Implementation Schedule in 7. below
7. Finalise Phased Implementation Schedule	RTI Unit (Lead) RTISC	From completed Readiness Surveys, the RTI Unit assesses the DAs state of readiness and recommends to the RTISC:  <ul style="list-style-type: none"> <li>- The number of Phases</li> <li>- The number and identity of the public bodies falling under each phase</li> </ul>

8. A Review of Phase 1 public bodies' Records and Information Management practices	Archives (Lead) RTI Unit DIOs	The Archives begin records assessment and information management shortcomings in the public bodies' Phase 1
9. Report on the readiness, shortcomings, and recommendations for Records Management	National Archives	Report provided to the RTI Unit and the RTISC, who will implement the recommended fixes and make identified resources available
10. Review of ICT state in Phase 1 Entities	DICT (Lead) RTISC	
11. Report on ICT state and recommendations	DICT	Report delivered to the RTISC that will implement the recommended fixes and make the designated resources available  Report to address websites issues; online publishing skills, RTI staff training
12. Draft National Implementation Plan	RTI Unit (Lead) RTISC	RTI Unit submits draft to the RTISC
13. Draft Guidance Materials	RTI Unit (Lead) RTISC	RTI Unit to focus at this point on: - The RTI User Guide - Proactive Publication Guidelines
<b>Q4 - 2023</b>		
1. Obtain stakeholder feedback on the National Implementation Plan	RTI Unit	
2. Approval of National Implementation Plan	RTISC DICT	Proposed to be <i>[two months]</i> after the RTI Policy approval
3. Publish National Implementation Plan	RTI Unit RTISC DICT	DICT facilitates publication of Implementation Plan on the Government website, in newspapers, etc.  RTISC coordinates dissemination of the circular on the Plan's approval and the media release
4. Hold the first thorough RTI training (Phase 1 Entities)	RTI Unit	Thorough training on the RTI Policy requirements and obligations is held  DIOs and records officers from Phase 1 Entities DIOs and records officers are among the 1 <sup>st</sup> cohort of trainees
5. Consultations on Records and Information Management	Archives (Lead) RTI Unit	Collaboration between the Archives, RTI Unit, DIOs study Department information management policies, view registries and identify records management shortcomings before starting to build an e-records management policy and guidelines

## APPENDIX IV. SAMPLE DEPARTMENTAL INFORMATION OFFICER (DIO) JOB DESCRIPTION

<b>Job Title:</b>	Departmental Information Officer
<b>Grade:</b>	<i>[For Evaluation]</i>
<b>Salary Range:</b>	
<b>Reports To:</b>	<i>[Insert Position Title of Supervising Officer]</i>

### **Job Purpose Statement**

To facilitate the right to access to information held within the *[insert name of the Department/Agency]* in accordance with the Right to Information Policy and to provide efficient records management service in line with the directives and guidelines of the National Archives of Papua New Guinea.

### **Background Information**

The Right to Information Policy *[insert year of adoption]* is a result of a commitment by the Government of Papua New Guinea to ensure public's right to information and increased accountability, transparency and improved governance in Papua New Guinea. The right to access to information and records management responsibilities of each public body have greatly increased as a result of the National Right to Information Policy adoption. The Departmental Information Officer (DIO) role has been created to ensure a coordinated response in information disclosure and records management within the *[insert name of Department/Agency]*.

### **Dimensions**

- Provide RTI training to current and future employees in the organization.
- *[Manage an annual budget of xxx] [insert amount].*
- Respond to public requests for access to information.
- Develop and implement procedures and systems that allow the organization to respond timely and efficiently to requests for access to information in line with the RTI Policy and any other procedural requirements imposed by the Right to Information Unit *(the RTI Unit)*.
- Develop and implement information and records management systems that will allow the organization to manage records in line with the policies developed by the National Archives, for their creation, maintenance, classification, retention, and destruction of records.
- Facilitate the right to information by assisting members of the public to understand their requirements for their requests and by accepting, processing, investigating, coordinating, and responding to applications.
- Compile statistics and reports to help the RTI Unit and the Ombudsman Commission to monitor the organization's compliance with the RTI Policy.

### **Principal Accountabilities**

- i. Provide reports, information and testify about decisions on appealed requests for information before the Ombudsman Commission and/or a National Court.

- ii. Liaise with staff from the RTI Unit and the National Archives regarding RTI-related issues and organization's records management requirements.
- iii. Attend RTI training and sensitization sessions organized by the RTI Unit or sponsored by it.
- iv. Develop an internal RTI Organizational Action Plan and manage its implementation.
- v. Spearhead the formation of an RTI project team to assist with the implementation of the Organizational Action Plan.
- vi. Promote awareness and understanding of the right to information and best practices in Records Management among all staff within the organization.
- vii. Promote awareness and understanding of the right to information externally by assisting members of the public to understand their rights, and by keeping the content on the organization's website up to date where available.
- viii. Prepare the organization's publication plan and follow the proactive disclosure obligations in accordance with the National Implementation Plan's, and any newly developed RTI Guidelines' proactive disclosure duties.
- ix. To undertake any additional duties pertinent to the position.

### **Reporting Responsibilities** *[Specific to the Department/Agency]*

### **Knowledge, Skills and Experience**

#### ***Preferred Knowledge:***

- i. A good understanding of the right to information and privacy issues
- ii. A solid understanding of principles, concepts, and international best practices of records management is required, as well as a relevant B.A. or tertiary level course in or relevant to records and information management, or the willingness to pursue relevant education and training
- iii. An understanding of relevant legislation, regulations and procedures governing the organization
- iv. Knowledge of the organization's operations and the public sector as a whole
- v. Information technology understanding related to records and information management
- vi. *[Previous participation in the National Archive's records management courses is desirable]*

#### ***Preferred Experience:***

- i. Experience in developing policies and procedures for implementation across several organizational divisions, preferably three years of relevant experience in the areas of RTI and/or records management or information disclosure
- ii. Proven track record in providing training for internal staff.

#### ***Skills:***

- i. Time management and prioritisation skills which enable the adherence to strict reporting deadlines.
- ii. The ability to apply sophisticated professional standards and ethical practices relating to the right to information and records management, and the fair and balanced provision of access to information, as well as integrity and intellectual control over physical safety of public records.
- iii. The ability to develop, administer, and monitor record-keeping procedures and systems effectively within the organization.

- iv. Excellent oral and written communication skills and the ability to communicate effectively in person and in writing with the general public, Heads/CEOs of Departments, Senior Management, RTI Unit, National Archives, departmental records management staff, ICT staff, and other stakeholders.
- v. Computer literacy.

### **Assignment and Planning of Work**

- i. The post-holder receives general but not ongoing guidance from the organization's senior management team.
- ii. The work will be driven by public requests, which must be addressed within the time frames outlined in the RTI Policy. The post-holder must be able to prioritise and manage requests without supervision.

### **Supervision of Others** – *[Training Officers, Public Education Officer, Publication Manager]*

### **Other Working Relationships**

The post-holder will liaise mostly with:

- Members of the public
- The RTI Unit, Ombudsman Commissioner, the National Archives to gain access to specialized training, policy guidance and technical support
- The Attorney General's Office and the Ombudsman Commission during the complaint investigation

### **Decision Making Authority and Controls**

The post-holder is responsible for:

- Administration of the RTI Policy with regard to the appropriateness of information disclosure with regard to RTI applications, including determining whether information meets exemption criteria.
- Adhering to professional and ethical standards and best practices recommended by international records management and right to information organizations and professional bodies, or those drawn up by the post-holder's supervisors, as appropriate.

### **Problems/Key Features**

The implementation of the RTI Policy requires a change in the culture within the Government to one that values openness, transparency, consumer rights and locating the records that are necessary for RTI application, which may be time-consuming.

### **Working Conditions**

The post-holder may occasionally work in unventilated storage rooms and basements where records may be kept. Most of the work will be computer-based.