



# DO WE GET INFORMATION?

**REPORT OF THE STUDY  
ON THE EFFICACY OF THE  
ACCESS TO INFORMATION  
ACT, 2016**

**MEDIA COUNCIL OF TANZANIA  
FEBRUARY 2020**

## 1.0 Background

It has been three years since the government passed the Access to Information Act, and two years of its application. The Act was published on September 30, 2016, and its regulations came into force on December 29, 2017. The Act was enacted in order to facilitate access to information held by public institutions. The law is meant to provide access to information, and promote transparency and accountability of information holders, among other objectives.

According to the chapter *Ten Challenges for the Right to Information in the Era of Mega-Leaks* from *The United Nations and Freedom of Expression and Information Critical Perspectives*, access to information enhances transparency and accountability.

However, two years after the law came into effect, a number of practical challenges in accessing information still persist. These include interrogation

of information seekers, denied access, lack of awareness on the part of the public on the formal information request process, as well as reluctance or refusal by some institutions to publish procedures for requesting information. Another challenge is the lack of a designated person responsible for releasing information in some institutions.

The Media Council of Tanzania (MCT), whose vision is to see a democratic Tanzania with free, responsible and effective media, is mandated to promote press freedom and the right to information. It is against this backdrop that in the past two years the Council has been conducting activities to test the efficacy of the ATI, 2016 by sending information seekers to selected public institutions to assess and gauge the process of accessing information.

The latest exercise to test the efficacy of the ATI, 2016 was conducted from September 2019 to November 2019.

### OBSERVATION FORM

OFFICE:..... DATE OF REQUEST SUBMISSION:.....

OFFICER RECEIVED:.....

No.	What did you observe	Yes	No	Additional Information
1	Does this company/ institution have tools of communication? E.g. email addresses, telephone lines, website.			
2	Does the company/ institution have an information desk display or an officer designated to receive requests for information?			
3	Did you experience good customer care when you visited or when you made a call?			
4	Does the office provide contact details for follow up?			
5	Were there published procedures for dealing with information requests?			
6	Did you get all the information you requested?			
7	Did you get the response within 30 days?			
8	Were you interrogated on the purpose of information you requested?			
9	Were you asked to pay for processing the information? How much?			

**NB:** Please add any additional information depending on your experience at the office you request the information. This can be the names of the people, for example an information officer; on which day you got the response to the request, or any comment, good or bad.

These exercises enable the Council and information stakeholders to develop interventions to address the gaps and challenges encountered during the studies, and come up with recommendations for different players.

## 2.0 Rationale of the Study

MCT is a voluntary, non-governmental and self-regulatory body that was established in 1995 by members of the media fraternity to oversee professionalism and ethical conduct. It is also mandated to promote press freedom and the right to information. The right to access to information is guaranteed under Article 18 (1) & (2) of the Constitution of the United Republic of Tanzania, 1977. The same is also provided for under regional and international instruments guaranteeing “everyone” the right to seek and receive information.<sup>1</sup>

The right to information is clearly stipulated under Section 5(1) of the Access to Information Act, 2016 (Act No. 6 of 2016), which states that “*Every person on request shall have the right of access to information which is under control of information holders*”. Section 5(2) further states that “*The information holder shall, subject to the provision of Section 6 and any other written laws, make available to the public or, on request, to any person, information which is under his control*”.

The AT1, 2016 further explains that information holders, as per Section 2 (2-a and b), are public authorities and private bodies registered under

any written laws which (i) utilize public funds; or (ii) are in possession of information which is of significant public interest.

It was for this reason that the Council decided to conduct a study aimed at testing the efficacy of the ATI, 2016 by looking at whether it has improved access to information and how responsive public officials are when they are requested to provide information.

## 3.0 Summary of Findings

While all offices that were assessed had tools of communication, and most (70%) had an information officer designated to handle information requests, many of the offices (about 57%) could not respond to requests within the 30-day limit in line with the ATI, 2016.

Customer care was generally good (60%), but only half of the public offices provided follow-up contacts. This means that researchers had to make follow-ups in person, thus delaying the processing and receiving of responses.

Moreover, most of the surveyed public offices did not have published procedures for handling requests for information.

The study has also established that despite the law indicating that some costs can be incurred in processing requests, no researcher was asked to pay for this.

## 4.0 Methodology of the Study

This exercise was conducted through

<sup>1</sup> Article 19 of the Universal Declaration of Human Rights; Article 9 of the African Charter on Peoples and Human Rights; and Article 6 (Access to Information) of the African Charter on Values and Principles of Public Service and Administration

regional press club coordinators, who played the role of information seekers. They sent requests for information to selected public institutions. The exercise was conducted from September 2019 to November 2019 in 18 regions – Arusha, Dodoma, Geita, Iringa, Kigoma, Lindi, Mara, Mbeya, Morogoro, Mtwara, Mwanza, Njombe, Rukwa, Ruvuma, Shinyanga, Simiyu, Singida and Tabora.

Three sets of questions were developed and submitted to Regional Police Commanders' Offices and Regional Administrative Secretaries' Offices, and used to test the efficacy of the said law in the two public offices.

The two offices were chosen because of their close and frequent engagement with the public.

### 1. Office of the Regional Police Commander (RPC)

a. **Question One:** *Ninaomba taarifa kuhusu kupata idadi ya mahabusu katika mkoa wako na kufahamu iwapo vyumba wanakohifadhiwa vinakidhi mahitaji. Je, vyumba hivyo vilitengenezwa kwa ajili ya kuhifadhi mahabusu wangapi?*

(The question sought to establish the number of remandees in the respective regions, and whether there was adequate space for inmates)

### 2. Office of the Regional Administrative Secretary (RAS)

b. **Question Two:** *Wanafunzi wa Darasa la Saba wanakaribia kufanya mtihani wao wa Taifa. Ninaomba kupatiwa takwimu za wanafunzi*

*ambao hawatafanya mtihani kutokana na ujauzito.*

(The question sought to establish the number of Standard Seven pupils who were unable to sit their national examination because of pregnancy)

c. **Question Three:** *Ninaomba kupatiwa taarifa kuhusu kiasi cha fedha zilizotolewa na serikali kwa ajili ya mpango wa utoaji elimu bure kwa shule za msingi kwa kipindi cha Januari 2019 mpaka Juni 2019. Je, fedha hizo zinakidhi mahitaji? Je, fedha zinatolewa kwa wakati?*

(The question sought to establish the total amount of funds disbursed by the government from January 2019 to June 2019 as monthly allocations to facilitate free primary education, and whether the funds were released on time)

Information seekers were required to submit the questions to the two offices. One question was directed to the RPC's office, while two were sent to the RAS' office.

Information seekers were provided with the Access to Information Request Form as found in the ATI Regulations, 2017, and the documents, which were duly filled in, were submitted to the respective public offices physically.

### A. Observation Forms Provided

Information seekers were also provided with an observation form as a tool meant to guide them in

observing the whole process from the time they submitted their requests for information, regardless of whether the requests would have been granted or not. The observation form is herewith attached as Annex 1.

### *Annex 1 Observation Form*

Information seekers submitted the questions, and had to follow up for responses after 30 days. Section 11 of the ATI, 2016 (sub-sections 1 a and b) states that *“Where access to information is requested, the information holder to which the request is made shall, as soon and practicable but not exceeding thirty days after the request is received, give a written notice to the person who made request as to whether the information exists and, if it does, whether access to information or part thereof shall be given and if the access is to be given, promptly give the person requesting the information”*.

Information seekers were to make follow-ups, and respond on observation forms what they experienced during the process.

After the expiry of the 30 days provided by the law, information seekers had to compile reports on how the exercise progressed, and attach the request and observation forms. However, depending on the institution, some had to submit additional documents, including introductory letters to the offices from which they were seeking information.

submitted (their reports) to MCT. The Council initially expected to receive 32 observation forms – two forms from each of the 16 information seekers, but 30 forms were collected.

Information seekers were requested to observe various aspects in relation to the service they were to have been provided in the respective offices where they went to request information, and were provided with a special form to fill in information on what they had observed. Analysis of these findings was based on the observation form provided to information seekers (attached Annex 1). However, other attachments, including reports information seekers submitted to the Council, were also used.

**QUESTION ONE:** *Does this company/institution have tool(s) of communication, eg. Email address, telephones line, website?* Of the 30 observation forms submitted, **ALL** confirmed that the offices to which they submitted request forms had tools for communication, and some had all –email, website and a telephone line.

**QUESTION TWO:** *Does the company/institution have an information desk display or an officer designated to take information requests?*

On question number two, of the 30 observation forms received, 21 (70%) responded that the offices visited had an information desk or an information officer designated to take information requests, and 7 (23.3%) said there was no desk or a designated officer, while 2 (6.7%) did not respond.

## 5.0 Detailed Findings

All 18 information seekers sent questions to the selected institutions. Sixteen (16) followed up, and

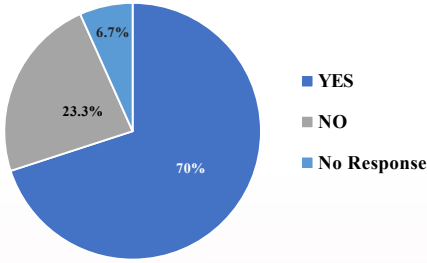


Figure 2: Percentage of offices displaying information desk/or with availability of information officer

**QUESTION THREE:** Did you experience good customer care when you visited or when you made a call?

On question number three, 18 (60%) information seekers experienced good customer care when they visited the offices, while 12 (40%) focal points did not experience good customer care.

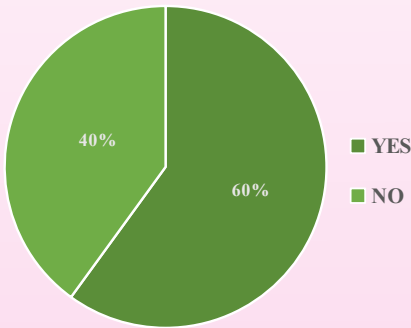


Figure 3: Percentage of offices providing good customer care.

**QUESTION FOUR:** Does the office provide contact details for follow-up?

On this question, 15 forms (50%) submitted said the offices visited provided a contact for follow-up, 14 forms (47.6 %) said the offices visited did not provide a contact for follow-up, and 1 (3.3%) did not answer.

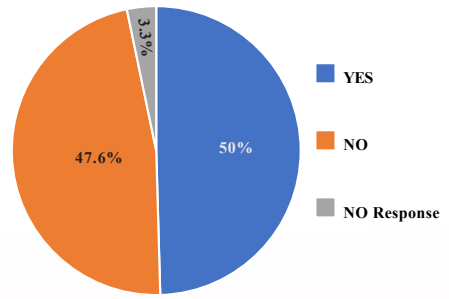


Figure 4: Percentage of offices providing contacts for following up the requests

**QUESTION FIVE:** Were there published procedures for dealing with information request?

Of the 30 observation forms submitted, 23 (76.7%) responded that there were no published procedures for dealing with information requests, 4 (13.3%) said there were published procedures for dealing with information, and 3 (10%) did not respond.

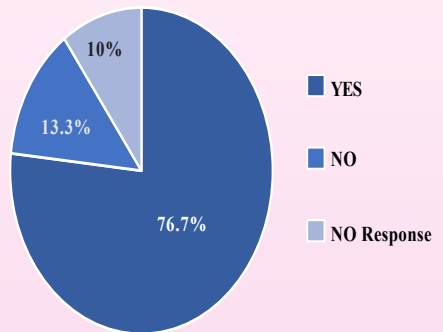


Figure 5: Percentage of offices with published procedures for dealing with information request.

**QUESTION SIX:** Did you get all the information you requested?

Of the 30 observation forms collected, 3 (10%) got all the information requested from the offices they visited, while 27 (90%) did not.

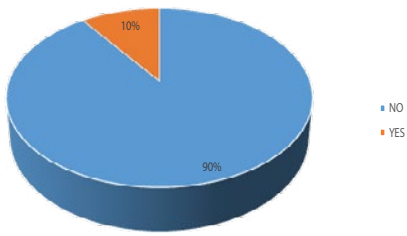


Figure 6: Percentage of information seekers who received all the information requested.

**QUESTION SEVEN:** Did you get a response within 30 days?

Over 50% of requests for information drew responses after 30 days, contrary to Section 11 of the ATI, 2016, which states that

*“Where access to information is requested, the information holder to which the request is made shall, as soon as practicable but not exceeding thirty days after the request is received - (a) give a written notice to a person who made the request whether the information exists and, if it does, whether access to the information or a part thereof shall be given”.*

Of the 30 submitted forms, 17 (56.7%) did not get a response within 30 days, 12 (40%) forms got a response within 30 days and 1 (3.3%) did not draw a response.

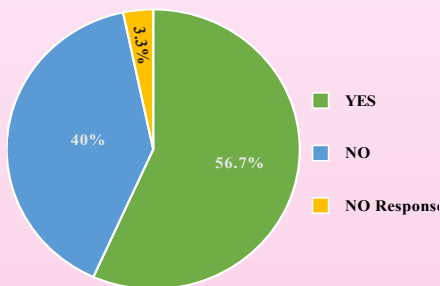


Figure 7: Percentage of information seekers who received responses within 30 days.

**QUESTION EIGHT:** Were you

interrogated on the purpose of information you requested?

The majority of information seekers were asked to state reasons for requesting information, contrary to Regulation 6 of the ATI Regulations, 2017, which states that *“Without prejudice to the provisions of section 10 of the ATI Act 2016 a person requesting information shall not be required by an information holder to give any reason for requesting the information or any other personal details other than those that may be necessary for communication with that person”.*

Data indicates that 19 (63.3%) were interrogated on why they requested information, 8 (26.7%) were not interrogated, while 3 (10%) did not respond.

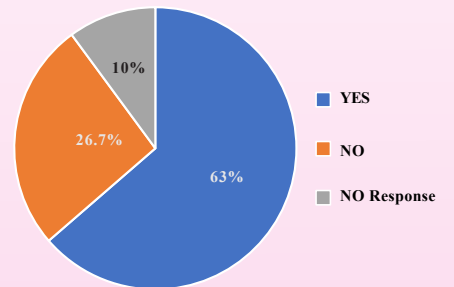


Figure 8: Percentage of information seekers who were interrogated as they requested for information.

**QUESTION NINE:** Were you asked to pay for the processing of information? (How much?)

Section 21 of the ATI, 2016 states that *“The information holder to which a request for information has been made may charge fees necessary for recovering*

*actual costs for production of the requested information”.*

However, none of the 30 information seekers who submitted observation forms was asked to pay anything to get the requested information.

#### 4.0 Summary of the Exercise from Information Seekers’ Reports

In addition to submitting observation forms that described their experiences, information seekers also presented short reports in which they further stated what they had observed. From these reports, some information seekers pointed out that they were threatened with arrest if the information they had requested leaked.

Others were threatened with arrest when they submitted their requests.

Some information seekers indicated the lack of procedures and designated information officers, which meant that they had to submit their requests to the registry, leading to request forms being misplaced. This meant that they had to submit fresh applications.

Some information seekers were asked to submit introductory letters detailing who they were, where they came from, reasons for seeking information and how they were going to use the information.

“I was asked to write a formal letter on the grounds the request form does not provide sufficient information,” reported one of the information seekers.

Others said they experienced good customer care in all the offices they submitted requests, and received their

responses within two weeks.

#### 5.0 Limitations of the Exercise

- a. There is no request form which is in Kiswahili, and this means that information seekers who are not conversant with English must seek assistance from the information holder.
- b. Information seekers had to use separate sheets of paper to write their requests in full since the space provided in the request form is not sufficient.
- c. Lack of clear procedures for processing requests for information makes it difficult for information seekers to understand where they should take their requests.

#### 6.0 Recommendations

- a. There is a need to increase awareness among information holders about the Access to Information Act, 2016, and what it entails as far as easy access to information is concerned.
- b. There is also a need to create awareness among members of the public about their right to access to information as stipulated in the Constitution, as well as the ATI, 2016.
- c. Information holders also need to fully implement key elements of the ATI, 2016 that aim to facilitate the general public’s access to information.
- d. Follow-up studies on ATI efficacy should be conducted to assess the law’s application.