

ACCESS TO INFORMATION (ATI) HANDBOOK FOR MEDIA PRACTITIONERS IN MALAWI



January 2023





**This handbook
provides direction
on how media
practitioners should
pursue information
for investigative
journalism and
development
reporting**





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Acknowledgements

The Media Council of Malawi is indebted to the National Endowment for Democracy (NED), the United States Embassy in Malawi, OXFAM Malawi, and Human Rights Commission of Malawi for their profound technical and financial support that has made this work possible.

The council also extends its gratitude to the Ministry of Information and Digitalization, MISA-Malawi, Malawi Broadcasting Cooperation, Times Media Group, Nation Publications Limited, Zodiac Broadcasting Station, Malawi Institute of Journalism (MIJ), Malawi University of Business and Applied Sciences (MUBAS), the Association of Community Radios (ACORA), and all media stakeholders in Malawi for their invaluable input during consultations to develop this handbook.

In particular, the council would like to mention Mr. Aubrey Chikungwa, National Coordinator MISA Malawi, Mr. Chance Kalolokesya of the Malawi Human Rights Commission, and Mr. King Machewere, media Consultant, for their technical contributions towards the review and proofreading as part of the development of this handbook.







Foreword

The Media Council of Malawi is indebted to the work of the Human Rights Commission in Malawi which has been assigned responsibilities by Government of Malawi to provide oversight mandate over the implementation of the Access to Information Act (ATIA) in the country.

The Commission has made efforts towards sensitizing and raising awareness about access to information and the right to access to information through media campaigns and community meetings.

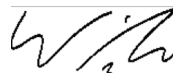
The Commission has also trained information holders on the provisions of Access to Information Act and ATI regulations which are steps in the right direction to achieve some key objectives in the implementation of the ATIA.

Media Council of Malawi has developed this manual as a reference framework for media practitioners in using the Access to Information Act (ATIA) while executing their role as one of the key pillars of democracy. It aims at equipping media practitioners with what they need to know to fully utilize opportunities presented by

ATIA and provide accurate and verified information to maintain public trust and enable the citizenry to enjoy their right to information.

This handbook provides direction on how media practitioners should pursue information for investigative journalism and development reporting. This will promote a culture of engagement and openness in both public and private bodies in working with media practitioners which will eventually promote transparency, accountability and good governance.

It is our hope as the Council, that media practitioners and stakeholders will find this handbook useful in their line of duty when demanding access to information to enable the citizenry make informed decisions and enjoy their right to information.



Wisdom Nelson Chimgwede
Board Chairperson
MEDIA COUNCIL OF MALAWI

Glossary of Words

ATI: Access to Information

ATIA: Access to Information Act

Access: the process of obtaining information or records from a public or relevant private body through a formal mechanism prescribed by law or policy.

Application fee: means a fee payable by an applicant under this Act as reasonable standard charges for document duplication, translation or transcription, where necessary

Appeal : the process of applying for relief where there has been an unsuccessful request for access to a record or information

Commission: The Human Rights Commission of Malawi

Exemptions: list of information that is not subject to release when a request is made under the ATI laws.

Information: Includes an original or copy of any material, record or document which communicates facts, opinion, data or any other matter regardless of its form, characteristics or date of its creation

that is in custody or under control of any information holder with compliance obligations under the ATI Act

Information Holder: a public body or relevant private body under the ATI Act

Internal appeal: a process where a requester is dissatisfied with the decision of an information officer and lodges an appeal to the head of the institution where the request was made.

Media Practitioner: a person engaged in professional writing, editing, and transmitting of information to the general public

Person: means an identifiable individual or an institution.

Personal Information: means information about an identifiable individual
I think 'term' has already been defined above

Private body: means a person or organization, not being a public body, who or which carries out any business in relation to public interest or to rights and freedoms of people

Public body: means the Government, statutory body, or any other body appointed by the government to carry out public functions

Record: means any recorded information in any format, including electronic format in the possession or control of a public body or relevant private body, whether or not that body created it.

Relevant private body: means a body that is wholly or partially owned or controlled or financed directly or indirectly by public funds

Requester: any person who has submitted a request for access to information to an information holder under the ATI Act

Whistleblower: a person who discloses information obtained in confidence in the course of an activity, if the disclosure is of public interest



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Setting standards to enable a strong and ethical media that contributes to a democratic and just society in Malawi

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Introduction



The right of access to information is being promoted globally. Most African governments including Malawi, are beginning to recognize the usefulness of this right and are passing laws that allow better access to information by the public.

The aim of the right to information is to ensure the availability of information and the provision of equitable access to information to citizens.

Access to public information is a human right enshrined in both the Malawi Constitution and international instruments to which Malawi is a signatory.

Malawi adopted and publicized the Access to Information Act on the 16th of February, 2017 to lay down principles and procedures for the enjoyment of the right to access to information already provided for in the Constitution.

The Constitution of Malawi covers the right to access information in Section 37, but it does so in general terms without expounding on the actual parameters of this right.

This gap necessitated the formulation of a law that spells out some important parameters for the respect, fulfillment, provision, and promotion of this right.

The ATI Act was operationalized in September 2020. The main principles of the ATI Act are:

- a) Promote ATI as a right
- b) Promote maximum disclosure
- c) Promote minimum exemptions
- d) Promote proactive disclosure
- e) Whistleblower protection
- f) Provide for simple access procedures
- g) Provide for independent oversight



Unit 1

Why this Manual?



1.1 Access to Information Law and the Media

The Law provides for the right to information for the media and the general citizenry, and to use the information for the realization of other rights, as prescribed by law.

The importance of this piece of legislation to the media cannot be overemphasized as they are bestowed with the obligation to provide timely and accurate information to the citizens on matters of public interest and hold duty bearers and power holders accountable.

The Access to Information Act provides a conducive environment for media practitioners to undertake important roles of collecting, assessing, verifying, analyzing, reporting news and transmitting information.

This, therefore, justifies the significance of understanding the Access to Information Act amongst media practitioners as it spells out some important parameters worth noting in their line of duty.

As the right to access information continues to gain ground in the country, it is high time fresh perspectives are sought about the importance and role of the media in advancing the right of access to information. This is the core reason the Media Council of Malawi has developed this handbook to aid media practitioners.

This manual provides a reference framework for media practitioners in using the Access to Information Act (ATIA) when executing their role as one of the key pillars of a functioning democracy. It aims at equipping media practitioners with what they need to know to fully utilize opportunities presented by the ATIA and provide accurate and verified information to maintain public trust.

The handbook is intended to serve as a guide for media practitioners and users to understand the scope of how the ATIA currently operates so that they effectively exercise the right to information whose principal aim is to ensure the availability of accurate and verified information and the provision of equitable access to information to citizens.

The objectives of this booklet are to:

a) Increase media practitioners'

- b) Encourage an understanding of ATIA as a tool for investigative journalism;
- c) Develop journalists' capacity to promote the right to information;
- d) Reflect on the practical application of ATIA laws in Malawi;
- e) Define the role of media practitioners in promoting the right to information.

1.1 What to Know About Access to Information?

"A person shall have the right to access information, in so far as that information is required for the exercise of his rights, which is in the custody of, or under the control of a public body or a relevant private body to which this Act applies, in an expeditious and inexpensive manner" (ATIA s5).

It is a fundamental human right to ask for and receive public information. It is critically important to make sure that information held by the public, and in some cases relevant private institutions is available and accessible to citizens in a form and/or language understandable to them.

Unit 2

Legal & Policy Framework

The Access to Information Act was enacted to provide for the right of access to information in the custody of public bodies and relevant private bodies as well as provide guidelines on the processes and procedures related to obtaining that information.

The main objectives of the ATIA are to;

- a) make provision for access to information that is held by Information Holders;
- b) ensure that public bodies disclose information that they hold and provide information in line with the Access to Information Act and constitutional principles of public trust as well as good governance;
- c) provide for a framework to facilitate access to information held by Information Holders in compliance with any right protected by the Constitution and any other law;
- d) promote routine and systematic information disclosure by Information Holders based on

constitutional principles of accountability and transparency;

- e) provide for the protection of persons who release information of public interest in good faith; and
- f) facilitate civic education on the right to access information under this Act.

Section 37 of the Constitution of the Republic of Malawi duly provides for Access to Public Information as a human right in a broad sense. The more comprehensive conceptual framework of the jurisprudence has been covered under statutes, international law, and case law that provide for the public to enjoy their right to be informed through unrestricted access to information. The Local Government Act and the Communications Act of Malawi also mention Access to Information as a right for the public to be informed.

Malawi has ratified and endorsed a number of Global, Regional and national instruments that guarantee the public and the media the right of access to information. The following are some of the Declarations and Key points:

2.1. Article 19 Universal Declaration of Human Rights 1948.

states that everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

2.2. Article 19 International Covenant on Civil and Political Rights,

encompasses the right of access to information held by public bodies. The scope of this right was generated by United Nations Committee in General Comment No. 34.

2.3. Article 21 Convention on the Rights of Persons with Disabilities

requires states to specifically guarantee the right of access to information for persons with disabilities.

2.4. Article 5 Convention on Elimination of All Forms of Racial Discrimination,

requires states to eliminate racial discrimination in freedom of expression including the right of access to information.

2.5. Article 9 African Charter on Human and Peoples' Rights,

guarantees the right of every individual to receive information as well as the right to express and disseminate information.

2.6. The Banjul, Gambia. Declaration of Principles on Freedom of Expression and Access to Information in Africa 2010,

which guarantees individuals the right to

receive information as well as the right to express and disseminate information. This declaration affirms the principles for anchoring the rights to freedom of expression and access to information in conformance with **Article 9 of the African Charter and the Access to Information (ATI) Act.**

2.7. National Access to Information Policy 2014:

The National Access to Information Policy shall govern the provision of access to public information to enhance participatory democracy and good governance.

2.8. Corrupt practices Act 1996:

An Act to provide for the establishment of an Anti-Corruption Bureau; to make comprehensive provision for the prevention of corruption; and to provide for matters connected with or incidental to the foregoing

2.9. National ICT Policy 2013:

provides policy direction on key issues that are central to the development and functioning of the Information and Communication Technology (ICT) sector in Malawi

2.10. National Education policy:

The National Education Policy (NEP) is the Government of Malawi's document that spells out Government policy on education. It outlines the sector's priorities and defines the country's education policies that will guide the development of the education sector in Malawi

2.11. Malawi 2063 vision: The Malawi 2063 (MW2063) aims to transform Malawi into a wealthy and self-reliant industrialized 'upper-middle-income country' by the year 2063.

2.12. Cyber & Electronic transaction Act 2016: provides for electronic transactions; for the establishment and functions of the Malawi Computer Emergency Response Team (MCERT); to make provision for criminalizing offenses related to computer systems and information communication technologies; and provide for investigation, collection, and use of electronic evidence; and for matters connected therewith and incidental thereto

2.13. Data Protection Act 2022 (draft): provides for the protection of personal data of natural persons; the regulation of the processing and movement of personal data in compliance with principles of data protection; the rights of natural persons with respect to the processing of personal data relating to them

While these instruments empower and guarantee the right of access to information, information seekers especially media practitioners are reminded of journalistic ethics in exercising freedom of expression within the framework of the Malawi Media Code of Ethics and Professional Conduct.



Unit 3

Key Provisions of the Access to Information Act



3.1 What is information?

As defined under Section 2 of ATIA, information includes an original or copy of any material, record, or document which communicates facts, opinion, and data on any other matter regardless of its form, characteristics, or date of creation that is in the custody, or under the control, of any Information Holder to which the Act applies.

3.2 What is the purpose of the Access to Information Act?

The main purpose of ATIA is to improve the flow of information from government to citizens and ensure that citizens access the information held by public and relevant private bodies.

The understanding is that public and some private bodies are simply custodians of the information they possess and that the public has the right to access that information subject to request and clearly defined limitations as enshrined in the Act.

This right of access to information places key obligations on the information holders to:

- a) publish and disseminate key information about what different public bodies are doing
 - b) receive requests from the public for information and respond, either by letting the applicant of information inspect the original documents or by sending them copies of documents and information held by the public bodies
- Information disclosure by Information Holders falls into two categories as per the Act, namely Pro-Active and Request-based.

3.2.1 Proactive Disclosure?

Proactive disclosure entails that public bodies continually and voluntarily make information available for public consumption as a sign of transparency in their activities through their communication channels like websites, social media platforms, internal notice boards, and using daily papers.

All public entities and some private institutions are duty bound to make some information available to people without necessarily waiting for applications or requests from the citizenry. This helps the public and the media to exercise their checks and balance role because they are equipped with accurate information.

3.2.2 What is Request-based-Disclosure?

For the sake of this handbook, this is the information that the public and private entities disclose after receiving a request for information as provided for under the ATI Act. This entails that the citizens (media practitioners included) have the right to ask for information from public and relevant private entities for the exercise of other rights.

3.3 Why is Access to Information (ATI) law important to media practitioners?

The purpose of the law is to promote transparency and accountability in government transactions and relevant private sector institutions. It is paramount for media practitioners to understand how this law works and how they can make use of it in their line of work. It gives media practitioners legal backing when seeking information from relevant institutions where such institutions are reluctant on their own to disclose such information.

3.4 What are the benefits of the Access to Information (ATI) law?

- a) Section 37 of the Malawi Constitution states that everyone has the right of access to information from the government or its agencies
- b) Protects person(s) who release information of public interest in good faith (whistle-blowers)

- c) Creates a framework for government bodies to provide information upon receiving requests from citizens
- d) obligates Information Holders to voluntarily disclose information to the public
- e) Gives mandate to the Human Rights Commission to ensure that the ATIA is followed; and
- f) Creates a way for civic education of the masses about their right to information.

3.5 Who has the obligation to provide the information requested?

The Act obligates every public body, NGO, and relevant private bodies to designate or appoint an Information Officer to be responsible for providing information to whoever seeks information from the institution. In an instance where no such powers have been delegated to someone, the principal or controlling officer of the institution becomes the primary officer to provide such information.

3.6 Which information or institution does the right to access information apply to?

Public bodies such as Ministries Department and Agencies (MDAs), are mandated by the Access to Information Act to have citizens access all information in their custody unless that information is exempted under Part VI of the Access to Information Act.

Legislation of this nature typically tends

to grant a general right of access to information, but it may be withheld from disclosure on well-recognized grounds, such as where there is a need to protect an individual's right to privacy, where the information is commercially sensitive, or where it relates to the defense and security of the state, to name but a few.

This privilege also applies to relevant private entities whose information will help citizens exercise their rights, including media freedom and freedom of expression.

Some of the exemptions under this Act include:

- a) Cabinet records and those of its committees;
- b) Court records prior to the conclusion of a matter;
- c) Information that challenges the national security of Malawi;
- d) Information that endangers someone's safety, health, or life (this may include revealing the whereabouts of a protected whistleblower).
- e) Privileged information such as information shared between a journalist and his/her source (Refer to Section 32 of the ATI Act)

3.7 What is the procedure for accessing information?

A request may be made orally or in writing and addressed to an Information Officer in a particular institution. In the event that there is no Information Officer, the head of

that institution acts as the Information Officer, and all correspondences in relation to access to information shall be addressed to that officer.

Section 18 (2) states that where an applicant makes an oral request for information, the Information Officer shall deduce the oral application into writing, which shall then be read to the understanding of the applicant to secure his consent. Where a request for information is made, an Information Officer shall within 15 working days notify the applicant;

- (a) Give written notice to the applicant as to whether the information requested exists and, where it does, access to the entire or partial information is permitted; and
- (b) Where access shall be given, promptly give access to the applicant.

However, in a circumstance where the information being requested is not available and requires further information to locate or identify it, the applicant shall be notified within seven working days of receiving the request. Cumulatively, it takes a maximum of 15 working days for requested information to be in the hands of the applicant if that information exists and is granted.

If the information requested concerns the life or liberty of a person, the Act provides for mandatory provision of such information within 48hrs of the receipt of the request (Section 19 (3)).

3.8 How are requests for Information Involving Third Parties treated?

Information may involve not only public bodies but rather also third parties e.g., contractors and other suppliers of goods and services. In such circumstances and when it is determined by the Information Holder, he shall notify the third party in writing within ten working days. However, when it is established that harm is likely to fall on the third party as a result of the disclosure of such information, the Information Holder should not disclose that information.

3.9 What is partial disclosure of information?

It is not always that all requested information could be made available to the media (media practitioner) or any other party that has requested for information under the Act. In a situation where an Information Holder decides not to provide you with the information (denial), or if the information doesn't really answer your question, you may make a request for review within that institution.

3.10 What happens when your request is not honored?

When your request for information is not honored, the Information Holder is obliged to inform the information seeker in writing stating the grounds/ reasons for denying access to the said information.

This also means that when the Information Officer has failed to furnish you with information within the stated period, the officer shall be deemed to have refused to offer access to the requested information. The party requesting for the information can proceed with the internal appeal process.

one is not granted the requested information or is not convinced with the time taken to be provided with the information, the costs charged or being given unconvincing reasons for being denied information, a complaint can be lodged with the Commission for intervention and redress.

3.11 Where to go for redress when not satisfied with the handling of information requests?

The ATIA mandates the Human Rights Commission to oversee the implementation of law. Some of its roles are to review the denial of access to information and to raise awareness about the Act. In the event that

3.12 What are the offenses and penalties for refusal of disclosure of information?

Sections 51 to 54 of the Act determine the offenses and possible penalties associated with the Access to Information Act.

	Category		Sentence	
	Person/Entity	Offense	Fine-maximum	Term of imprisonment (not exceeding or both
1	Information Holder	Wrongful denial of disclosure of information	MK3 000,000 MK3,000,000	3 yrs.
2	Any person	Prevention of disclosure of information	MK3 000,000	3 yrs.
3	Any person	Misuse of information	MK3 000,000 MK3,000,000	3 yrs.
4	Any person	Provide false information	MK500,000	2 yrs.



Unit 4

Exercising the Right of Access to Information



This Unit explains the process of filing information, timelines, and strategies media practitioners can use to make their requests successful. This provides a guide ranging from submission of a request, and tactical approaches relevant to media practitioners who want to use access to information laws in news gathering.

4.1. How can media practitioners promote the utilization of the Access to Information Law?

In an ideal situation, a media house, editors and owners of media houses shall use the Access to Information law in obtaining information for exclusive stories.

Media practitioners need to consider the following in exercising their right to access information:

- a) Take your time to inform colleagues about the Access to Information law and get support from your legal team if available.
- b) Build your argument to the editors and owners of media houses based on evidence

from other countries on how Access to Information has helped to come up with a strong story.

- c) Explain in detail to your fellow reporters that access to information is not only for investigative media practitioners, but all reporters pursuing stories that need complex information.
- d) Make follow-ups to implementation of the law.
- e) Organize an in-house training session and invite experts from the MHRC as well as MCM to explain to your colleagues how Access to Information works and how it helps the media in holding public institutions accountable.

4.2 When to submit an information request

Firstly, a media practitioner should know that some public institutions are good at pro-actively disclosing and possibly the information being sought is already available through the institution's internal initiatives. You must, therefore, find out if the information you are seeking has not been published on their website, social media, and other publications since for some information, the Information Holder might not be obliged to pro-actively provide.

While appreciating public bodies that proactively disclose information, as well as media practitioners who

try this means of getting information, one has to decide when and how to use information that a public body has disclosed, proactively. For the sake of professionalism, verification through the utilization of ATIA is still advisable. This is because sometimes information proactively disclosed, might raise some questions about its objectivity.

However, there is some information that institutions would not willingly disclose without being moved, reactive disclosure. It is thus imperative not to waste but go straight to the Information Officer of a particular institution.

This would happen when;

- a) A media practitioner is requesting information that is sensitive and one wants to be able to prove that it was sought through legal means.
- b) A media practitioner suspects that he or she may not get the information clandestinely, but only through legal means thus utilizing the Access to Information Law
- c) Where the media practitioner suspects that he or she needs to use the legal means to obtain certain information due to its sensitivity hence rendering it lethal if obtained without legal backing. As such, the use of the Access to Information Law becomes necessary.

4.2.1 Remember to always plan

Have you ever thought of submitting the access to information request whenever you are looking for information? This is the right time to submit one. Do not wait for all your possibilities to run out before submitting the request. Submit your request as soon as possible when you are chasing a story.

4.3 What should one say in the request for information?

It is advisable and recommended that your request for information is clear and specific so as to help the Information Officer to assist you, accordingly. Though the law has not indicated that it is required to identify the specific document, but for your own benefit and for the speed of the process, it is highly recommended that you precisely state what you want in your request. Media practitioners seeking information should know that there is a request form called Form Number 1, that is used to request information.

Also, as a media practitioner, you have to understand that the job of an Information Officer is to attend to all other media/citizens requests and not only yours. You need to be patient, even though your editor might not have time for that. It is advisable to plan your story development than to act in haste.

Media practitioners should also take note of decongesting the request. This increases your chances of getting instant feedback from the respondent. Always bear in mind the techniques for

interviewing sources.

More importantly, mention your right to Access to Information as enshrined in Section 37 of the Constitution of the Republic of Malawi and Section 5 of the Access to Information Act.

4.4 The newsroom culture for Access to Information

Ask yourself whether your media house has a culture of using the Access to Information Act to get information for stories. If it has, then you are good to go, but if not, you might be the pioneer of that and might change the newsroom culture.

Additionally, you have to follow the editorial processes to persuade your editors and owners of the media house that submitting and pursuing Access to Information requests is not a waste of time but it is a useful part of media practice. If there seems to be resistance to change, there are a few things you can do which might help:

- a) Take time to inform and educate colleagues about the usage of access to information in journalism as a routine
- b) Collect examples from within the country or other countries about how access to information can lead to strong stories.
- c) Explain to your fellow reporters that access to information is not only for

investigativemedia practitioners but for all reporters researching a story and all media outlets.

- d) Organize an in-house training and invite experts to talk about how useful access to information is to the life of a reporter.
- e) Submit access to information requests on your own initiative and write stories based on that. Share the experience with your colleagues and encourage them to do the same. Remember to follow editorial processes to ensure this becomes your newsroom culture.
- f) If you have friends working with international media organizations based in countries with strong access to information law, talk to them about what submitting requests is like and also gather some positive examples of how access to information can lead to crafting better and more useful stories.

4.5 What kind of information should I provide when making a request for information?

Before embarking on an Access to Information request, media practitioners should be aware that the law does not allow anonymous requests. As such, the applicant must

clearly identify oneself, state precisely what information he or she wants, and briefly state the purpose of the information being requested.

As an information seeker, you are supposed to provide all the relevant information including your address, name, and contact details such as email address, if you want to access the information electronically.

4.6 How to make an information request?

In an ideal circumstance, there is no template for making information requests in Malawi unless otherwise stated. Media practitioners are encouraged to make requests in writing and keep a copy of the document for reference in case you want to make an appeal in the event that access to information has been denied.

Here are two ways how you can do it;

- a) If you deliver the request by hand, take two copies and get one stamped.
- b) If you sent it via email, use the registered email as evidence.

4.7 In what format can I access the requested information?

By virtue of this Act, a media practitioner can access the requested information in different formats, including the following:

- a) As attachments to e-mails
- b) DVDs or CDS

- c) In a Flash Disk
- d) Photocopies sent by post or collected

However, media practitioners are encouraged to specify the kind of format in which they want the requested information to be delivered.

is sour, this cannot thwart the legal obligation of the Information Holder to furnish the information seeker with the requested information. However, as a media practitioner, the significance of cultivating positive relationships cannot be overemphasized.

4.8 When will one get the requested information?

The Information Holder is obligated to use all means necessary to avail the requested information to the information seeker. In an instance where the information is not readily available, the ATI Act indicates that at least 15 working days after receipt of the application, an applicant has to access the information.

However, where the information concerns the life or liberty of a person, such information shall be provided within 48 hours of the receipt of the application.

One should confidently disclose to the officer that it is their legal right under the law to access information from a public body and that information is of public interest.

There have been registered unfortunate instances where public institutions tend to avoid media practitioners upon introducing themselves, as such, it is therefore important from the onset to indicate that you are a citizen who is exercising the right of access to information. This should not happen and when it does, one has to complain to either the MHRC or to Media Council of Malawi.

4.9 The rapport between the information seeker and the Information Officer

Good working relationship with an Information Officer of the institution always works to the benefit of a media practitioner. That notwithstanding, the law does not explicitly stipulate the need for good working relationship with a public body for one to qualify for requesting information.,

For the record, it is important for media practitioners to be sharing their experiences on public institutions that are predominantly problematic in abiding by this law.

Therefore, even where the relationship

Unit 5

Exemptions and Grounds for Refusal to Access to Information



This might be of help when building a case and justification in future, when naming the institutions that are not abiding by the Access to Information Act.

This chapter explains how media practitioners should handle information that is exempted from their request for information.

There are times when media practitioners do anticipate that certain information might not be granted to them and as such when making access to information requests, it is advisable to separate such questions.

5.1 What to do when you are not granted information?

There are a number of ways in which one can express his/her frustration as a result of not being furnished with information after a request has been made.

In some cases, it may not be that you are denied access to such information, but that there are exemptions. Here are some of the responses you get from Information Holders:

- a) You may get part of the information asked for but not an entire refusal (partial

- b) response)
You are told that the information “is not held” by that body
- c) You are given information in an edited format
- d) The period for processing the request has been extended or
- e) You do not get any reply at all; “administrative silence”

In all these cases you have the right to appeal internally to the head of the institution and if not successful, to the Commission to look into the matter. Before you lodge a complaint to the Commission on incomplete access to information, check that your information was not vague as it might be misinterpreted.

Checklist before writing a story about incomplete access and refusals

- a) Look carefully at the request for information to see whether it was clearly worded and whether the public or the private body might have misunderstood what you were asking for. You do not want to criticize a public body for failing to answer a request that was badly written or confusing. If you are not sure, ask a couple of your colleagues for help.
- b) Check carefully which information you were given (if at all any) as well as what you were refused.
- c) And finally, be clear on the stand you want to take as

a result of the refusal of access to information. If you wish to lodge a complaint to the Commission, go for that and do not stay idle because the public or private body will be used to empty threats and resort to a habit of declining to give information to media practitioners.

5.2 Copyright problems and reuse of public information

Copyright and rules of reuse of public information are important issues that media practitioners need to be aware of.

Generally, if the information has been released from public institutions or authorities under access to information laws, it may be reused by the media for stories and radio or TV programs and for posting on websites, social media, and personal blogs.

Due to the significance of freedom of expression, some countries consider this as a “fair use” of the material and not subject to copyright and reuse licenses. A media practitioner should acknowledge the source of information.

The right to information is fundamental to the realization of economic and social rights as well as civil and political rights.



Unit 6

Conclusion



The right to information is internationally affirmed under Article 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. In Malawi, this right is provided in Section 37 of the Constitution and ATIA. While the ATIA has been operationalized, the challenge remains on two fronts:

- a)The low level of awareness of the right-to-information legislation,**
- b)Resource allocation for the oversight on the implementation of the law**

It is our hope that media practitioners will effectively use and utilize this handbook as a resource to ably work with key actors, i.e. individuals working in public sector institutions, civil society organizations, and other media entities to transform these laws from their paper form into vibrant practice.

There is also a need to challenge some laws against access to information and guarantee protection for those pursuing the information including whistleblowers.



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- (10) Global Witness: Dealing with Disclosure – Improving transparency in decision making over large-scale land acquisitions, allocations, and Investments, available at: <http://www.oaklandinstitute.org/dealing-disclosure-improving-transparencydecision-making-over-large-scale-land-acquisitions>

Annex 1 Access to Information Request forms

FORM 1

REQUEST FOR ACCESS TO INFORMATION PART A __ PARTICULARS OF INFORMATION HOLDER

Name of the institution/ Information Holder.....
Address of the institution/ Information Holder.....
Location (District/Town/City/TA/ Village).....

PART B __ PARTICULARS OF INFORMATION SEEKER

Full Name:.....
Date of birth.....Sex.....National ID Number.....
Postal

PART C __ PARTICULARS OF PERSON ON WHOSE BEHALF THE REQUEST IS MADE

(To be completed if request is being made on behalf of another person that indicates that you are authorized to act for the other person) Particulars of person on whose behalf the request is made (Please attach any documentation
Name:

PART D __ PARTICULARS OF INFORMATION BEING SOUGHT

Provide details about the nature of information being sought and justification. Include relevant details that can help in retrieving the information, such as source, author, date of publication, etc.
.....

.....
Explain the purpose for which you seek this information and why it is important that the Information should be provided to you
.....
.....

PART E__FORMAT OF INFORMATION BEING REQUESTED

State the format in which you want to access the information, e.g. print, electronic etc.

1. Normal print version (.....)
2. Braille print version (.....)
3. Other (state other preferred formats)

Signed at on this day of 20
.....Signature of the information seeker

Annex 2 Access to Information Appeal form

FORM 5 (reg. 23) REQUEST FOR INTERNAL REVIEW OF A DECISION

PART A__ PARTICULARS OF INSTITUTION/INFORMATION HOLDER WHOSE DECISION IS A SUBJECT OF THIS REQUEST

Name of institution/information holder.....
Address of institution/information holder.....
Location (District/Town/City/).....
Email Address.....
Telephone.....

PART B__ PARTICULARS OF THE INFORMATION SEEKER

Full Name:.....
Date of birth..... Sex.....
National ID Number
Postal address.....
Physical address.....
Telephone number.....
Email address.....

PART C__ PARTICULARS OF PERSON ON WHOSE BEHALF THE REQUEST IS MADE

(To be completed if a request is submitted on behalf of another person)

Particulars of person on whose behalf the request is made

Full Name:.....
Date of birth..... Sex.....
National ID Number

Postal address.....
Physical address.....
Telephone number.....
Email address.....

Reason(s) for representing the information seeker

.....
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.....

PART D__SUMMARY OF REQUEST

(Give reasons why you disagree with the decision of the information officer) Provide a summary of your request for information and why the information should be

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.....
.....
.....

PART E__TYPE OF ASSISTANCE REQUIRED

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.....
.....
.....

FORM 6 (reg. 23)

REQUEST FOR EXTERNAL REVIEW OF A DECISION

PART A__ PARTICULARS OF INSTITUTION/INFORMATION HOLDER WHOSE DECISION IS A SUBJECT OF THIS REQUEST

Name of institution/information holder.....
Address of institution/information holder.....
Location (District/Town/City/).....
Email Address.....
Telephone.....

PART B__ PARTICULARS OF THE COMPLAINANT

Full Name:.....
Date of birth..... Sex.....
National ID Number
Postal address.....
Physical address.....
Telephone number.....
Email address.....

PART C__ PARTICULARS OF PERSON ON WHOSE BEHALF THE REQUEST IS MADE

(To be completed if a complaint is submitted on behalf of another person)

Full Name:.....
Date of birth..... Sex.....
National ID Number
Postal address.....
Physical address.....
Telephone number.....
Email address.....
Capacity in which the request is made:.....

PART D__ EXHAUSTION OF INTERNAL REVIEW MECHANISM

Decision made by the information holder) (Please state the steps taken to resolve the matter with the information holder and the final

.....
.....

PART E__ NATURE OF THE COMPLAINT APPLICABLE (PLEASE) CIRCLE OR TICK WHICHEVER IS

The complaint relates to__

- 1. Refusal of access to information by the information holder
- 2. Unreasonable fees payable
- 3. Failure to comply with set time limits by the information holder
- 4. Any other matter relating to a request for information (Please specify)

.....
.....

PART F__ SUMMARY OF REQUEST to complain.

Please indicate, where possible, name of the file or document and dates (relevant to the complaint including date when the information was requested and date when the response was received)

Provide a summary of your complaint and describe the action or events that prompted you.....

PART G__ TYPE OF ASSISTANCE REQUESTED

(Describe the type of assistance sought from the Commission)

.....

Signed at.....this..... day of..... year

.....Signature of the information seeker



Important Contact Info

The Executive Director,

Media Council of Malawi,
Plot Number 6/289A,
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Lilongwe, Malawi.

Tel: +265-888-877-999

Email: ed@mediacouncil-mw.org

Executive Secretary,

Malawi Human Rights Commission,
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Tel: 01750900

Email: info@mhrcmw.org

The National Director,

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