

**International Records
Management Trust**



**TRANSPARENCY
INTERNATIONAL**

**PROCEEDINGS OF THE
INFORMATION FOR ACCOUNTABILITY
WORKSHOP**

held at
**The British Council Tanzania Auditorium
27-28 March 2000
Dar es Salaam, Tanzania**

organised by
**Transparency International Tanzania
and
The International Records Management Trust
Rights and Records Institute**



**The
World
Bank**

**●●●●●● The
●●●●●● British
●●●●●● Council**

Proceedings of the Information for Accountability Workshop

**Edited by
Dawn Routledge, Piers Cain,
and Kimberly Barata**

**Designed by
Jennifer Leijten**

27-28 March 2000

**Organised by
Transparency International Tanzania
and
International Records Management Trust,
Rights and Records Institute**

**Sponsored by
World Bank Danish Trust Fund
and
British Council Tanzania**

Published by the International Records Management Trust in collaboration with Transparency International Tanzania and sponsored by the World Bank Danish Trust Fund and the British Council Tanzania, June 2000.

Reproduction in whole or in part, without the express written permission of the International Records Management Trust is strictly prohibited.

Produced by the International Records Management Trust
12 John Street
London WC1N 2EB
United Kingdom

Printed in the United Kingdom

Inquiries concerning reproduction and requests for additional materials should be addressed to:

International Records Management Trust

Rights and Records Institute

12 John Street

London WC1N 2EB

United Kingdom

Tel: +44 (0)20 7831 4101

Fax: +44 (0)20 7831 7404

e-mail: info@irmt.btinternet.com

<http://www.irmt.org/>

ACKNOWLEDGEMENTS

The crucial nature of the questions addressed at this workshop resulted in our receiving the backing of a number of organisations. The organisers and the participants in the workshop wish to extend their thanks to both the sponsors and the funding bodies for their support.

The support and courtesy extended by the officials of the United Republic of Tanzania, key local interest groups, Transparency International Tanzania, the World Bank, and the British Council Tanzania, and their willingness to explore a wide range of complex issues made the workshop productive and enjoyable. The organisers would particularly like to thank the following individuals for their kind advice and assistance: Mr J Rugumyamheto, Permanent Secretary, Civil Service Department (CSD); Ms R Mollel, Director, Management Services Division, CSD; Mr P Mlyansi, Director, Records and Archives Management Division, CSD; Mr A S Kamwela, Chief Programme Co-ordinator, District Based Support to Primary Education (DBSPE) Programme; Mr M Wort, Chief Education Adviser, DBSPE Programme; Mr I Seushi, Mr E Hoseah and Mr B Cooksey, Transparency International Tanzania; Ms H Flanagan, Assistant Director (Projects), British Council; and Mr W Nyarko, Ghana Integrity Initiative (TI Ghana). We should also like to thank Mr Mike Stevens, World Bank Task Manager for the project and Mr Jeremy Pope, Executive Director of Transparency International, for their contributions to the design and delivery of the project. We are particularly grateful to Ms Ameeta Mehta of the British Council for her support throughout.

We would also like to thank the Members of Parliament, senior officials, local interest representatives and others who contributed to making the workshop a success. Their names are listed in these proceedings.

Special appreciation is extended to Mrs A Kamba, former Public Service Commissioner, Government of Zimbabwe, and Dr Justus Wamukoya of Moi University in Eldoret, Kenya, without their participation we would not have brought the workshop to a successful conclusion.



Piers Cain
Director of Research, Development and Education
IRMT - Rights and Records Institute

ORGANISING COMMITTEE

TI Tanzania

Ibrahim Seushi, Chairman
Brian Cooksey, Board member
Edward Hoseah, Board member

TI International

Jeremy Pope, Executive Director

World Bank

Mike Stevens, Task Manager

Rights and Records Institute, IRMT

Piers Cain, Director of Research,
Development and Education
Kimberly Barata, Research Officer
Dawn Routledge, Research Assistant
Angeline Kamba, Research Adviser
Justus Wamukoya, Research Adviser

British Council Tanzania

Honor Flanagan, Assistant Director (Projects)
Ameeta Mehta, Assistant Projects Officer
Linda Taege, Project Manager

TABLE OF CONTENTS

FOREWORD	1
INFORMATION ACCESS IN TANZANIA	2
INTRODUCTION	
Welcoming Remarks <i>Ibrahim Seushi, Chairman, Transparency International</i>	9
Keynote Address <i>Edward Hoseah, Director of Operations, Prevention of Corruption Bureau</i>	10
Workshop Agenda	13
List of participants	15
SESSION ONE: Matching Records to Information Needs	
Introduction	17
The Role of the National Archives <i>Peter Mlyansi, Director, Records and Archives Management Division, CSD</i>	18
District Based Support to Primary Education <i>A Kamwela, Chief Programme Co-ordinator, DBSPE</i>	20
Discussion	22
SESSION TWO: Record and the State	
Introduction	26
Information Access and the Law <i>Dr Harrison Mwakyembe, Senior Lecturer, Faculty of Law, University of Dar es Salaam</i>	27
Discussion	30
SESSION THREE: Options for Access	
Introduction	32
Opening Address <i>Joseph Rugumyamheto, Permanent Secretary, Civil Service Department</i>	33
Discussion	35
Closing address <i>Joseph Rugumyamheto, Permanent Secretary, Civil Service Department</i>	39

continued overleaf.....

WORKSHOP OUTCOMES

Analysis of Attitude Survey Results	41
Key Outcomes	43
Press release	46
Press coverage	48
Annex 1: Quantitative results of the Attitude Survey	52
Annex 2: Examples of Procedures	58
Annex 3: Resource material	60

FOREWORD

Open government is an essential requirement for good government. In turn, good government requires the participation of citizens. For this to happen there must be a free flow of information.

In many countries very little information reaches citizens about the availability of public resources, their allocation and utilisation. Accountability and openness cannot be achieved within an organisational culture that promotes confidentiality and secrecy. In an environment where information is withheld there will be inevitable tensions and mistrust; citizens can feel that government is somehow responsible for their misfortunes.

In Tanzania, every citizen has a constitutional right to be informed; yet many are not aware of their rights. Tied to this, the public lacks awareness about how to obtain information, particularly from government. Part of the problem is that many public servants find it difficult to know whether information is confidential and therefore whether to allow access to it or not. Institutional mechanisms often serve to restrict access to information rather than facilitate it.

The Government of Tanzania has adopted a Public Service Reform Programme (PSRP) that aims to transform the public service into one that has the capacity, systems and culture for client-orientation and continuous improvement of services. The goal is to deliver high quality public services under severe budgetary constraints. In recognising that it is a service delivery organisation, the government must accept that the demand for accountability will increase and, as a consequence, it will need to allow citizens to question actions taken on their behalf.

The goal of the *Information for Accountability Workshops* is to increase access to information to develop a more informed civil society, thus providing the means for greater participation in government. The Rights and Records Institute of the International Records Management Trust and Transparency International are working in partnership to achieve this objective.

The first *Information for Accountability Workshop*, held in Tanzania on 27-28 March 2000 provided government officials with an opportunity to identify and respond to citizens' reasonable demands for information on government programmes. On Day One of the workshop, participants were invited to define the problem, consider different perspectives and articulate needs. They explored the options available to facilitate improved access to government information on Day Two, considering whether the government could or should implement these options and how recommendations could be carried forward.

Improving access to information requires support from the government and also a demand from citizens. The *Information for Accountability Workshop* provided an opportunity to identify information needs and mechanisms for the provision of information in Tanzania. The next steps will be decided by the government and people of Tanzania.

Piers Cain
Director, Research, Development and Education
International Records Management Trust, Rights and Records Institute

INFORMATION ACCESS IN TANZANIA

Extract from the Tanzania Field Study Report

November 1999

In November 1999 a team from the Rights and Records Institute, International Records Management Trust carried out a short scoping study to identify issues that would be relevant to the design of the workshop agenda and programme.

The research team consulted widely in an effort to identify the relevant practical concerns and local realities. The following extract from the report identified key points from their consultations:

CITIZENS AND THEIR RIGHTS

In the case of Tanzania, there is reason to believe that there is a lack of awareness on the part of the general public of the nature of its rights. In addition, many lack the resources to litigate for the protection of these rights. Since human rights are an essential element of the democratic process, there can be no true democracy in a country where the majority of the people do not know their rights and duties. In such a situation, the public is bound to be misled, much to the advantage of demagogues.¹

There was agreement that most citizens are not aware of their rights. Public advocates, including NGOs, the media and legal aid groups, are working to inform citizens of their rights and play a key role in public sector information and data collection and distribution. However, the majority of Tanzania's citizens live in the countryside and the activities of the local press, legal aid providers and grassroots organisations only extend as far as the regional town centres. Therefore, radio serves as the predominant means for many citizens living in rural communities to obtain information.

Efforts to educate citizens about their rights must be sensitive to the fact that while systems exist in urban centres to inform the public, these may not extend easily to all parts of the country. Solutions are needed that ensure information is distributed equitably to all citizens.

PROVISION OF INFORMATION

Every citizen has the right to be informed, yet public servants have no obligation to provide information to them. Article 18, clause 2 (Part III Basic Rights and Duties) of *The Constitution of the United Republic of Tanzania* of 1977 states that:

Every citizen has the right to be informed at all times of various events in the country and in the world at large which are of importance to the lives and activities of the people and also of issues of importance to society.

¹ Andrew J Chenge. 'The Government and Fundamental Rights and Freedoms in Tanzania.' Chapter in Chris Maina Peter and Ibrahim Hamisi Juma, eds. *Fundamental Rights and Freedoms in Tanzania*. (Dar es Salaam: Mkuki na Nyota Publishers, 1998): 6.

The rights and freedoms enumerated in Part III of the Constitution are considered basic rights and are arguable before the courts.

There was agreement that many citizens in urban areas are aware that Article 18 exists, but few know how to exercise their right to obtain information. Mechanisms do not exist to provide guidance to citizens on accessing current government information. The *National Archives Act* provides for the right of citizens to consult public records that are over 30 years old. Such records have been selected specifically for long-term preservation in the National Archives, or any other archival repository, under the direction of the Director of the Records and Archives Management Division, Civil Service Department. Legislation has been drafted to reduce the 30-year closure rule on public records in Tanzania to 25 years, but this legislation has not yet been passed. At the moment, the National Archives building is almost full and virtually nothing post-dating 1973 has been transferred to the National Archives. As a result, most public records that belong in the Archives are still held in the ministries and are, therefore, inaccessible to citizens.

The view that citizens have a right to access more current information on Government decisions and actions (ie records that are less than 30 years old) is not well supported by public servants. Rhoda Howard, a human rights author points out:

*Constitutional provisions are in any case, a mere guide to statements of principle, to which adherence can be assumed only when the political culture engenders respect for the Constitution and when there are institutionalised mechanisms for forcing the government to respect it.*²

There is little by way of institutionalised mechanisms that require Government to facilitate the public's right to be informed. A *Code of Ethics and Conduct for the Public Service Tanzania* was issued by the Civil Service Department in June 1999. Section III, Part 5 of the Code addresses the issue of *Disclosure of Information*. It states that:

- i) *A Public Servant shall not use any official document or photocopy such as a letter or any other document or information obtained in the course of discharging his/her duties for personal ends;*
- ii) *Public Servants shall not communicate with the media on issues related to work or official policy without due permission;*
- iii) *Official information will be released to the media by officials who have been authorised to do so according to laid down procedures.*³

Although the requirements laid out by the code are reasonable, there is no corresponding obligation for public servants to provide information. As a result, when citizens or their representatives ask public servants for information, their questions are often met with a defensive reluctance to provide answers.

² Quoted in: Andrew J Chenge. 'The Government and Fundamental Rights and Freedoms in Tanzania.' Chapter in Chris Maina Peter and Ibrahim Hamisi Juma, eds. *Fundamental Rights and Freedoms in Tanzania*. (Dar es Salaam: Mkuki na Nyota Publishers, 1998): 6.

³ Civil Service Department, The United Republic of Tanzania. *Code of Ethics and Conduct for the Public Service Tanzania*. June 1999: 5.

The legal community has called upon the Constitutional Commission to include a provision in the Constitution that gives citizens the right to request information. To be effective, this provision will have to be supported by clear guidelines and procedures to facilitate access.

INFORMATION AND THE MEDIA

The procedure to release official information to the media is not adequate. The section on *Disclosure of Information in the Code of Ethics and Conduct for the Public Service Tanzania* is clear that ‘official information will be released to the media by officials who have been authorised to do so according to laid down procedures.’ Interviews with media representatives revealed that there are no known formal written procedures to substantiate this statement. Media professionals are expected to rely initially on information issued to them through press releases. Yet many press officers in the ministries are not trained journalists, and the general perception is that the information they produce is self-serving and not useful.

If journalists want to pursue a matter further they are asked to submit a questionnaire on letterhead and wait for a response; often no reply is forthcoming. The need for the Government to reply is only an understanding, not an obligation. Media representatives can ask to interview officials and will often be given permission to do so. However, their success is likely to depend upon the strength of the informal networks they have cultivated within government.

The Media Council of Tanzania is trying to address this situation by maintaining a register of developments likely to restrict the supply of information of public interest and importance. The Council reviews this register and investigates the conduct and attitude of individuals, corporations and governmental bodies towards the media. Reports of these investigations are made public through the press.

DEVELOPMENT OF INFORMAL NETWORKS

Informal networks for trading information provide the only reasonably reliable method of obtaining public sector information. Where a citizen does not have access to a network, information is very hard to obtain.

Networks take a significant investment of time and trust to evolve. The reliability of the information obtained and the speed with which it is provided may depend upon the character of the relationship. Individuals without a credible informal network often resort to speculation, suspicion and misinterpretation. For example, much criticism has been directed at the media in Tanzania for reporting misinformation. Poor reporting is often the result of badly trained journalists. However, it is also a reflection of the inability to obtain additional information needed to report accurately the facts about stories as they break.

Even with a network, some information is still difficult if not impossible to obtain. The national accounts and Auditor General’s Report are common examples. Although both documents are published for the benefit of Parliament, it is difficult to obtain a copy even from the government printing office. Budgetary information is perhaps the most sought after type of information. Civil society groups need budgetary and financial information to assess government priorities and determine which problems are being ignored or undervalued.

National and international NGOs expend significant resources to circumvent obstacles to obtaining government information and to gather their own data. The fact that they pay so much attention to other organisations' reports is a demonstration that there is no other way to get the information. If NGOs are unable to obtain material themselves or through other organisations, they often resort to using donor agencies to force Government to release information.

FORMAL MECHANISMS FOR APPEALS

Few Tanzanians recognise that they have a right to complain. Most citizens are afraid that complaining will bring them unwanted attention. There is no way of knowing who has what influence and therefore the extent of retribution any person can inflict. When people do complain it is often an indication that they have reached a point at which they feel they have little left to lose.

The Permanent Commission of Enquiry is the government body that functions most closely to that of an Ombudsman. However, it is not independent. The President appoints the Chairman and not more than four other members who then report directly to him. The President is not obliged to follow the Commission's recommendations, as the provisions concerning its authority are not properly provided for in the Constitution. Furthermore, the procedure for appealing to the Commission is not well known, and the Commission does not follow a transparent process; reports are not published. As a result, the courts rarely respect the decisions of the Commission.

An Ethics Inspectorate was established in 1998. It operates under the Civil Service Department (CSD) and according to the Public Service Act, thus placing the CSD in charge of civil service ethics and promoting its authority throughout Government. Despite advertising its establishment in the local papers, the Inspectorate is a virtually unknown body outside government. The role of the Inspectorate is to promote values in the civil service and to work to change attitudes. To achieve this aim, the unit publishes the *Code of Conduct* to let civil servants know what is expected of them. The Code's section on *Disclosure of Information* was discussed earlier in the report. The Inspectorate also investigates complaints about the ethical behaviour of public servants. Virtually all letters of complaint to the Inspectorate come from other civil servants. The Ethics Inspectorate produces a report detailing the number of complaints reported, the number investigated, a summary of how the complaints were resolved, appeals made and so on. This report is not for public consumption.

The independent Swahili newspaper *Majira*⁴ provides an informal communal channel for the public to voice complaints or to make an appeal to the Government. Citizens send letters to *Majira* which are then published unedited in the paper on a daily basis according to prescribed subjects (eg Thursday relates to politics, Friday to culture and education, Saturday to social services and so on). This process often has little effect. Although the paper tries to pressure government on the public's behalf, the letters rarely receive an official reply. The Ethics Inspectorate does scan *Majira* daily for criticisms and accusations and then

⁴ *Majira* has a circulation of approximately 45,000. However, its circulation is dropping from a high of 100,000 as a result of increased prices. The price increase is due to the Government placing a tax on imported newsprint. There is speculation that this was done to drive some papers out of business.

investigates accordingly. The Director claims that if a complaint appears in the newspaper it will be followed-up. However, the Inspectorate does not communicate the results of these investigations to the person complaining or to the media.

CULTURE OF CONFIDENTIALITY

*Secrecy is not compatible with democracy.*⁵

The widespread culture of confidentiality is an obstacle to change. Approximately two thirds of government records are classified 'confidential' and there is no standard procedure for declassifying them. Given the number of confidential records, there is reason to believe that the Official Secrets Act is being misinterpreted or misapplied. This may be partly to do with how the system operates. Non-confidential (ie open) records travel slowly through the system, confidential records are dealt with more quickly. Moreover, confidential registries tend to be more efficient than the open registries. As a result, the administration of the system provides incentives to designate records confidential.

Governments have the right to withhold documents for reasons of legislative provisions, national security and so on. However, accountability and openness cannot be achieved within an organisational culture that promotes excessive confidentiality and secrecy. If a public official is working on behalf of the rest of the population then the people have a right to know what actions have been taken and why. Until this issue is addressed there may be no use in pursuing a code of access to information.

Legislation

The Government has declared its desire to become more accountable to the citizens. Much of the existing legislation affecting the availability of information to the public has yet to be reviewed and may be in conflict with the objectives of openness, transparency and accountability. There is a strong need to re-examine this legislation.

For example, possession of confidential information is a criminal offence if the individual is not authorised to handle this information. One illustration of this is the case of a part-time journalist and small trader who was found in possession of a confidential letter written by a Regional Commissioner. The letter contained instructions to refuse him a trading license for spurious reasons. The journalist obtained this letter and took the Regional Commissioner to court on suspicion of corruption. However, because the document was classified, he was arrested for being in possession of a confidential document.

ACCESS TO INFORMATION REFORM IN TANZANIA

Policies, legislation and standards supporting open access to information have been developed in many countries, but if introduced in Tanzania they may not be successful. The international community must be realistic about what degree of open government can be achieved in differing circumstances and resource levels. Governments should not be pressurised to champion accountability initiatives that they cannot sustain. Emphasis should be directed toward ensuring that the underlying systems are in place to support new

⁵ Tony Harris, Auditor General, Australia quoted in 'Auditor Hits Government Secrets.' *The Sunday Telegraph* (Australia) 20 December 1998.

initiatives, that reforms are relevant to wider government programmes for poverty alleviation and that there is political will to sustain programmes.

In Tanzania, civil society generally has very low expectations of government. Many of those interviewed expressed the view that people are struggling simply to survive and to achieve their basic needs, accountability is not a priority. The workshop will consider ways of sensitising the public to the relationship between greater access to information and the ability to fulfil basic needs by encouraging greater participation in government programmes.

While the Government does recognise that people need information, many officials are apprehensive about opening access to government information or records. Some expressed reservations as to whether there was any point because the government is in charge of making decisions on behalf of the people. Civil society advocates will have to work actively with government and donor agencies to achieve meaningful change.

RELEVANCE OF THE WORKSHOP TO PUBLIC SERVICE REFORM IN TANZANIA

The public is entitled to know the business of government because it is mandated to take actions on behalf of citizens. Furthermore, civil society members should have the opportunity to comment on proposed reform of social service delivery programmes that affect their lives. Government would benefit from increased participation by gaining broad-based support for the reform agenda. One measure of the success of government service delivery reforms should be the development of a clear and well-established consultative process that involves the input of citizens at various stages. For this to occur there must be open channels of communication and a free flow of relevant information; this includes knowing what information is available, how to obtain it and how to appeal to government if information is withheld.

In 1991 the Government of Tanzania launched a Civil Service Reform Programme (CSRP). The overall objective of the programme was to achieve a smaller, affordable, efficient and effectively performing civil service. Despite the achievements in terms of structural and institutional reforms, little has been done to translate these results into improved service delivery for the people of Tanzania.

As a result, the Government is opting for a more comprehensive programme with a longer-term perspective, the Public Service Reform Programme (PSRP). The PSRP aims to transform the public service into one that has the capacity, systems and culture for client-orientation and continuous improvement of services. According to the World Bank's Project Implementation Document (PID).⁶

The PSRP seeks to improve the performance of the Government in service to all citizenry, communities and the private sector. It will benefit all society by improving the quality, efficiency and effectiveness of public services. The project will also benefit private sector operators by improving the policy and regulatory environment, and ensuring efficient use of public resources in promoting and delivering essential social services, including economic

⁶ Tanzania – Public Service Reform Programme. PID prepared 14 May 1999. Projected appraisal date: June 1999. <http://www.worldbank.org/pics/pid/tz60833.txt>

infrastructure. Furthermore, the program will ensure that taxpayers receive from the Government value for money, through strategic, transparent and accountable use of resources by public service managers. In addition, the project will promote integrity in the public service. It will also benefit public servants by enhancing their pay to correspond to their competence and performance, promoting meritocracy and fairness in public service appointments, improving their work environment and promoting their public image.

The PSRP will require more than a decade of sustained reform efforts. The aim is to deliver quality public services under severe budgetary constraints.

The programme will require a number of performance indicators and measures to ensure that reform efforts are meeting their targets and are sustainable. However, performance targets often focus internally within government rather than on the public's ability to achieve their basic needs as a result of improvements to services. In particular, the programme does not appear to ask 'How can Government improve service delivery if the public cannot ask basic questions about services?'

In recognising that it is a service delivery organisation, the Government will need to accept that the requirement for accountability will increase and, as a consequence, it will need to allow citizens to question actions taken on their behalf.

The workshop will provide a starting point for the Government to determine what kind of information is needed to demonstrate accountability and, therefore, which information or record systems are most critical for maintaining transparency in service delivery. Moreover, it will enable civil society stakeholders to decide what information they need from government to verify public sector accountability and build confidence in social services. The workshop provides an opportunity for Government to identify areas of legislation that may need to be amended. In addition, there is potential to increase broad-based support for and participation in the reform agenda.

INTRODUCTION

Welcoming Remarks by Ibrahim Seushi Chairman, Transparency International Tanzania Chapter

**At the Opening of the Workshop on Information for Accountability,
27-28 March 2000 at the British Council, Dar es Salaam**

Ladies and Gentlemen,

Allow me to say a few words before we commence our day's business. Let me say "Karibuni sana", to our friends from outside Tanzania.

Let me also welcome my Tanzania colleagues, Honourable MPs and thank you all for creating the time to be with us today.

Our workshop is on "Information for Accountability". Let us remind ourselves that public power is held and exercised in trust. This is a basic principle in the rule of law and democracy. Without accountability, we cannot measure the extent to which public trust is being observed. Indeed practice has shown that where accountability is not there, either by denial or by lack of demand, public power tends to be abused for private gain.

Information for accountability has therefore got to be given by public officers to the public as a right and it has to be demanded by the public as a right. Both sides have obligations to the supply and demand equation.

The information to be given could be of administrative, financial, operational or legal and regulatory nature.

Our workshop will draw on the Kinondoni District Based Support for Primary School Education Programme, as a case study – to focus our minds, but we will also draw on our individual experiences, especially during the group discussions.

Collectively we have a common goal and responsibility, to make the workshop a success, and to grow the seeds of transparency and accountability for a better tomorrow. With these opening remarks, may I now call upon our chief guest, Mr Edward Hoseah, Director of Operations, Prevention of Corruption Bureau, to give us his Keynote Address.

Mr Hoseah, welcome.

**Keynote Address by Major-General Kamizima,
Director, Prevention of Corruption Bureau, delivered by
Mr Edward Hoseah, Director of Operations, Prevention of
Corruption Bureau.**

Ladies and Gentlemen,

Let me begin by warmly welcoming all Parliamentarians, members of civil society, senior civil servants, participants, observers and the experts from Tanzania and overseas to this the world's first Information for Accountability Workshop. We certainly appreciate the privilege and honour given to our country to be host to this important gathering. You are most welcome.

Administrative responsibility, accountability and transparency are fundamental principles of good governance. Adherence to principles can be further enhanced if we can establish the necessary processes and systems that can sustain and nourish them. In the next two days we are going to discuss a most important and somewhat neglected topic: improving citizens' access to information from government.

This is not something that can be imposed from above either by the government or the international community. Without a firmly rooted *local* demand for public sector information, accountability initiatives and anti-corruption strategies are likely to fail because there will be no commitment by public servants to maintain the information systems required for transparency. This is something that we Tanzanians must decide for ourselves.

The Workshop will investigate the problems and solutions. For example, how should a citizen appeal against a decision and what is the best way to encourage indirect accountability through their representatives? It will consider the practicality of how citizens and their representatives will gain either direct or indirect access to information. In short, the workshop's goal is to encourage the formation of an informed civil society. Once equipped with information, individual citizens and their representatives can assert their civil rights, hold governments accountable, and help to detect and deter corruption and fraud.

In the next two days we need to consider some weighty questions. We need to ask how can we define improved access to government information? What does it really mean? What is the relationship between the citizens and the State and how does improving access to information improve the relationship between the citizen and the State?

There are four key reasons why citizens need improved access to government information:

1. because we are citizens of a free country
2. because without access to information you cannot have accountable government. How can you reason if you do not know the facts?
3. if the information is available you make better decisions and laws

4. it encourages more ethical government.

Furthermore business needs access to information, which is important for a healthy economy and to ensure that Tanzanian companies are not unfairly disadvantaged against overseas companies who do have access to information from their own governments.

Even more important, citizens need confidence in the institutions of State. The workshop should consider not only what is *desirable* but what is *practical* for Tanzania. We should also recognise the limitations of what we can do. For example, experience from other countries has shown that even the most advanced Freedom of Information legislation can only go so far. It can force the civil service to divulge information by improving procedures, but legislation cannot change a culture of secrecy to a culture of openness, where that exists. There is a difference between having transparency in procedures and civil servants having the confidence to release information.

Linked to this there has to be an acceptance on Government's part that public bodies need to explain what they do. In this workshop, we will look in detail at the government's District Based Support to Primary Education programme as a case study to focus our minds. In the end, improving access to government information is a very practical thing that should bring tangible benefits to the ordinary citizen.

One big problem with implementing policies for improving access to information is that government often has scant regard for the ability of the public to interpret information. This is not true. The public are well able to think for themselves, but of course citizens need information to contribute to a debate on the development of policy.

However, improved access to information does not mean that everything should be accessible to citizens at once. Government needs time for a considered opinion. However, equally, government should not withhold information until the policy is deliberated in Parliament. Rather, having formed its opinion, Government should make information available so that everyone can participate in deliberating policy.

Finally, let us remember that the absence of information or the inability to produce records is sometimes more uncomfortable than the presence of records. If the relevant document cannot be found the administration appears to be hiding something. Too often the appearance of covering up a mistake by officials can cause the government far more embarrassment or even damage than a frank admission that someone was at fault.

In making our deliberations, let us remember that the pressure for open government comes from government itself, but the pressure for freedom of information is driven by the public and is enforced by the courts.

In closing, allow me to thank Mr Joseph Rugumyamheto, Permanent Secretary, Civil Service Department and Mr Ibrahim Seushi, Chairman of Transparency International Tanzania for agreeing to chair sessions of this workshop. Furthermore I would like to thank Transparency International Tanzania and the International Records Management Trust (IRMT) for having chosen to organise this workshop in Tanzania. The close links between the IRMT and Transparency International Tanzania have made this co-operative endeavour a great success. I wish also to express thanks to the British Council for having assisted in the organisation of

the workshop. Lastly, to all participants and overseas observers, may I express my sincere hopes that you will have a fruitful workshop over the next two days, and a pleasant stay in our country. With this, I wish to declare the Workshop on *Information for Accountability* officially open.

Thank you.

WORKSHOP AGENDA

Information for Accountability Workshop/Tanzania		
DAY ONE		
8:30 – 9:00	<i>Registration</i>	
9:00-10:30	Mr I Seushi, Chairman, Transparency International Tanzania	Workshop Chairman's Opening Remarks
	Major General Kamazima, Director, Prevention for Corruption Bureau	Keynote Address
	Mrs A Kamba, Facilitator	Welcome Introduction/Opening Exercise
10:30 – 11:00	<i>Coffee Break</i>	
11:00 – 11:15	Mr P Mlyansi, Director, Records and Archives Management Division, CSD	The Role of the Records and Archives Management Division in the Provision of Government Information
11:15 – 11:30	Mr A S Kamwela, Chief Programme Director, DBSPE Programme	Ministry of Education, District Based Support to Primary Education (DBSPE) Programme Presentation
11:30 – 1:00	Mrs A Kamba, Facilitator [Break-out groups]	<p>Session One: <i>Matching Records to Information Needs</i></p> <p>Breakout Groups:</p> <ul style="list-style-type: none"> • Project Team: what information is the project producing? Who is responsible for producing it? Where is it kept? Who has access to it? • Civil Society: what information do you want about the project? <p>Discussion – where are the gaps? Does civil society want the records that exist? What do they want that wasn't mentioned? What information should people be entitled to?</p>

Session One Objectives:

- know what the project is about
- know what records the project produces
- know what information the people want
- know what records meet that need

1:00 – 1:45	<i>Lunch</i>	
1:45 -- 2:00	Dr H Mwakymbe, Faculty of Law, University of Dar es Salaam	Information Access and the Law
2:00 – 3:00	Mrs A Kamba, Facilitator [Break-out groups]	<p>Session Two Discussion:</p> <ul style="list-style-type: none"> • Does government have an obligation to provide information? (confront the culture of confidentiality) • The Government is committed to improving the delivery of education services to citizens. Why is it so difficult to obtain information about these services? (confront the public's low expectations) <p>Reporting back</p>
3:00 – 3:15	<i>Coffee Break</i>	
3:15 – 4:30	Mrs A Kamba, Facilitator [Break-out groups]	<p>Discussion: What records/information can the state reasonably keep restricted?</p> <ul style="list-style-type: none"> • What are the obstacles to obtaining unrestricted records/information? <p>Reporting back</p>

Session Two Objectives:

- Understand broadly the information environment within government (taking into account the balance between providing information to citizens and safeguarding the government's right to restrict access to classified information)
- Identify a list of project records that could be made publicly available
- Define the 'quick wins' for the DBSPE Project

Information for Accountability Workshop/Tanzania		
DAY TWO		
9:00 – 9:15	Mr J Rugumyamheto, PS, Civil Service Department	Workshop Chairman's Opening Remarks
9:15 – 10:30	Mrs A Kamba, Facilitator [Break-out groups]	<p>Discussion: <i>Options</i></p> <ul style="list-style-type: none"> improved communication channels (safeguards: notices, meetings, citizens advice bureau, ombudsman, appeals procedures) strengthening the role of the Auditor General and the Parliamentary Accounts Committee code of access to information (safeguards: citizens charter, ombudsman) freedom of information legislation (safeguards: ombudsman, democracy court/South Africa) <p>Breakout groups to make recommendations on the desirability, feasibility and capacity to deliver these options in Tanzania?</p>
10:30 – 11:00	<i>Coffee break</i>	
11:00 – 1:00	Mrs A Kamba, Facilitator	Reporting Back and Consensus Building
1:00 – 2:00	<i>Lunch</i>	
2:00 – 3:00	Facilitator [Break-out groups]	<p>Summary of Discussions & Next Steps</p> <p>Prioritise Actions</p> <ul style="list-style-type: none"> what should happen? who will be responsible? when will it happen?
3:00 – 3:15	<i>Coffee break</i>	
3:15 – 4:00	Facilitator	Review Outcomes/Identify Gaps
4:00 – 4:30	Mr I Seushi, Chairman, TI TZ Mr J Rugumyamheto, PS CSD World Bank British Council	Closing Ceremony
5:00	<i>Reception</i>	

INFORMATION FOR ACCOUNTABILITY WORKSHOP LIST OF PARTICIPANTS

MEMBERS OF PARLIAMENT

Hon Mr N A Hashul
Hon Ms Elizabeth Kasembe
Hon Dr Hassy B Kitine
Hon Mr Y K Mahmoud
Hon Mr Simai Pandu Makame
Hon Ms Aripa Marealle
Hon Ms Xaveria Nchimbi

CIVIL SERVICE DEPARTMENT

Mr Joseph A Rugumyamheto, Permanent Secretary
Mrs Ruth Mollel, Director of Management Services
Mr Peter Mlyansi, Director, Records and Archives Management Division, CSD

OFFICE OF THE CONTROLLER AND AUDITOR-GENERAL

Mrs Erika Chamla, Assistant Auditor-General

MINISTRY OF EDUCATION

Mr A Kamwela, Chief Programme Co-ordinator, DBSPE
Mr J B Mariki, Principal Establishment Officer
Dr Mike Wort, Chief Programme Adviser, DBSPE

LOCAL INTEREST GROUPS

Mr Bruce Downie, Education Programme Director, Voluntary Service Overseas
Ms M Kisisile, Co-ordinator, Teachers Resource Centre, Kinondoni
Mr J Langdon, Education Programme Officer, Voluntary Service Overseas
Mr A O Mnyanga, Programme Officer, MS
Dr Harrison Mwakyembe, Senior Lecturer, Faculty of Law, University of Dar es Salaam
Mr Adriano Mwhava, Chairman, Kunduchi Primary School
Mr Anthony Ngaiza, Executive Secretary, Media Council
Dr M Possi, Principal, Tanzania School of Journalism
Mr Jonathan Semiti, Investigator, Prevention of Corruption Bureau
Mr Ephrem B Tonya, Chairman, Kunduchi Teachers Resource Centre
Mr E Yuda, Teacher, Kunduchi Primary School

TI TANZANIA

Mr Ibrahim Seushi, Chairman
Mr Brian Cooksey, Board Member
Mr Edward Hoseah, Board Member
Ms Cynthia Stacey, Board Member

TI GHANA

Mr William Nyarko, Board Member

IRMT, RIGHTS AND RECORDS INSTITUTE

Mr Piers Cain, Director of Research, Development and Education
Ms Kimberly Barata, Research Officer
Ms Angeline Kamba, Workshop Facilitator
Ms Dawn Routledge, Research Assistant
Dr Justus Wamukoya, Acting as Research Adviser; Head, Department of Archives and
Records Management, Moi University, Kenya

THE BRITISH COUNCIL

Ms Honor Flanagan, Assistant Director (Projects)
Ms Ameeta S Mehta, Assistant Projects Officer
Mr Atumpalege Mwakyembe, Assistant Projects Officer
Ms Jackie Pease, Assistant Director (Projects)
Ms Linda Taege, Project Manager (Governance and Gender)

SESSION ONE

Introduction

Session One Objectives

- know what the DBSPE programme is
- know what records the DBSPE programme produces
- know what information the people want
- know what records meet that need.

Mr I Seushi, Chairman TI TZ chaired the first day of the workshop, which was designed to enable the main issues of civil society to be articulated and discussed. The opening session provided an introduction to the existing record management systems in Tanzania supervised by the Records and Archives Management Division, Civil Service Department. In addition it provided an introduction to the District Based Support for Primary Education (DBSPE) programme, run by the Ministry of Education and Culture. DBSPE provided a case study for the workshop discussions.

Participants were broken into two groups. One group, comprising participants associated with the DBSPE



programme, were asked to identify the types of information produced by the programme. The second group were asked to identify the types of information they would want about the programme from their perspectives as parents, citizens, local interest groups, government officials and MPs.

The results of these two discussions were presented to the session and the gaps were identified between what is available and what people want. A matrix was produced to relate the information needs to the documents produced by the DBSPE programme.

Role of the Records and Archives Management Division in the Provision of Government Information

**Mr Peter Mlyansi
Director, Records and Archives Management Division
Civil Service Department**

HISTORICAL BACKGROUND

The Records and Archives Management Division is a government department under the Civil Service Department in the President's Office. The National Archives was established in 1965 by Act of Parliament (National Archives Act No. 33/1965). Archives services actually started in 1963 through Presidential Circular No. 7 of 1963 whose main thrust was the proper care and disposal of public records. The National Archives, becoming the custodian of public archives, was charged with a threefold mission:

- firstly to select those records having permanent value
- secondly to preserve such public archives for future generations as written heritage in fulfilment of financial, legal and research requirements
- thirdly to make arrangements for their access by Government and its citizens.

Its role was confined to handling non-current records only. As a result of this, it became more an instrument to facilitate cultural heritage than an active player in providing information for accountability.

The collections at the National Archives consist of records of both the German and British colonial administrations, the post-Independence government and a few private papers. Government records contain vital information on official government transactions while private records contain a mixture of official and personal documents. Access is open to virtually anyone with a keen interest in these records. However it is important to point out here that access to correspondence files or unpublished official material is subject to a thirty-year rule.

The archives are the treasure of past knowledge that help to inform society and set precedents. Their continuing importance is embedded in both the content and context of the information contained in them. Preserving the most useful records is dependent upon the good control of records right from creation through to their eventual transfer to the National Archives.

REDEFINING THE ROLE OF THE RECORDS AND ARCHIVES MANAGEMENT DIVISION

Before 1996 the National Archives had not done much to effect changes in the efficiency and growth of modern government functions. The Government of Tanzania had embarked on a Civil Service Reform Programme which aims at achieving an affordable, well compensated, efficient and effectively performing civil service. Records did not form part of it.

It became evident that to support the Civil Service Reform Programme it was necessary to redefine the role of the National Archives. The National Archives recognised the need for an effective management programme to control records through the earlier phases of their life cycle. This is to ensure that managers have access to the information they need to manage resources efficiently and provide improved services to citizens.

In 1994 the UK Department for International Development (DFID), formerly the Overseas Development Agency (ODA), undertook an appraisal of records management requirements for the Tanzania Civil Service. The International Records Management Trust was contracted to review and facilitate a Records Management Project. In 1997 the Project began, tackling the issue of improving the quality of information available as well as enhancing efficient and timely retrieval mechanisms.

A number of measures are being undertaken to improve the quality of information. These include capacity building for records personnel and archivists, the installation of a new records management system that follows a life cycle approach ie creation, maintenance and use, and disposition of records. Key to the programme is the integration of the National Archives into the Civil Service Department and the transfer of the Records Management Project to the Archives, bringing the management of public records under one authority, the Records and Archives Management Division within CSD.

The management of records throughout their lifecycle relates to Organisation and Efficiency Reviews that are dependent upon information contained in the files. Without well-organised records, efforts of the Government to deliver efficient and effective services to the public and the civil servants are likely to be hampered.

THE CONTEXT OF ACCOUNTABILITY

In view of the growing demand for accountability, transparency and good governance, it is imperative to underline the importance of records management in the provision of accurate and reliable information. To make accurate and reliable information useful, it has to be accessed easily and quickly in order to reach the right person at the right time. This has been the objective of the current on-going records management project.

District Based Support to Primary Education (DBSPE)

Mr A Kamwela
Chief Programme Co-ordinator, DBSPE,
Ministry of Education and Culture

BACKGROUND

The District Based Support to Primary Education (DBSPE) is a community-based programme. The programme has been developed based on various projects/programmes piloted, tested and evaluated to select effective interventions to improve the quality of primary education. Common strategies have been adopted for dissemination country wide under the Sector Wide Approach.

INTRODUCTION

DBSPE is therefore a national programme for intervention under the Ministry of Education and Culture. The main objective of the programme is to:

- improve access, equity and the quality of primary education.

The focus is to improve the teaching and learning in the classroom with increased accountability of all stakeholders and beneficiaries towards school development.

STRATEGIES

- Sensitising and conducting school-community dialogue (SCD) a participatory approach for developing school plans.
- Development of Teacher Resource Centres to service cluster grouped in a range of 15 to 25 schools.
- Conducting professional and academic upgrading courses for teachers at TRCs in each cluster.
- Supporting district authorities and communities to rehabilitate school infrastructure and instilling maintenance skills.
- Improving the efficiency and effectiveness in managing primary education through capacity building at all levels.

DBSPE MANAGEMENT STRUCTURE

The Programme is managed by the Ministry of Education and Culture, through the Steering Committee known as the Basic Education Development Committee (BEDC) engaging Primary Education, Adult Education, Teacher Education, Planning and Inspectorate directors chaired by the Permanent Secretary and the donor partners as invited members. Day to day operations are handled by a small DBSPE Management Unit within the Ministry.

DBSPE INHERENT PRINCIPLES

- Transparency - avoids suspicion and encourage commitment of the stakeholders

-
- Accountability - respond and oblige to stakeholders
 - Collective participation - anchor ownership of the strategies of implementation
 - Team-work – harness individual’s potentialities for the benefit of the Programme
 - Sustainability – motivate stakeholders to gradually take over full responsibility of operationalising the strategies for improved access and quality of education of their children.

TARGET GROUPS

- Councillors as policy implementors at district level and elected representatives of communities
- Communities, the key suppliers of inputs to the education process in schools
- Teachers, processors of inputs into output-outcomes
- Pupils, the direct beneficiaries.

REACHING THE TARGETS

- Sensitise councillors in a full Council sitting
- Organise participatory discussions with communities through School – Community Dialogue (SCD)
- Regular meetings of managing committees at schools and Teacher Resource Centres
- Open meetings involving pupils organised by schools
- Circulation of various documents/modules at all levels.

EXPECTED OUTPUTS/OUTCOMES

- Communities empowered, involved in the development, management and implementation of school plans.
- More Teacher Resource Centres established.
- Many teachers benefit from TRC Upgrading programmes reaching more female teachers.
- Improved level of performance among pupils.
- Increased enrolment and retention in schools.
- Gender parity and recognition improved.
- Adequate and improved Physical facilities exist.

DISCUSSION SUMMARY

Session One

Mon 27 March 2000 (AM)

A group exercise was used to identify the location of records arising from the DBSPE programme and to analyse flows of information. The results revealed that information tends to flow from the centre to the local level and vice versa. There is little flow across levels, for example between districts. It was agreed that improving these flows would be desirable.

Policy guidelines are generated centrally in the Ministry of Education and Culture (MoEC). Information is also compiled at the district level, including school data, district education plan and evaluation material. School budgets and plans are kept at the individual schools and teacher resource centres (TRC), along with information on enrolments, school infrastructure, individual student progress reports and parents meetings.



Responsibility for the information is also taken at different levels. For example within the Ministry of Education and Culture, the Director of Policy and Planning and the Programme Officer are responsible for the production of information. In the districts, this responsibility lies with the District Education Officer. Co-ordinators in schools and TRCs also have the responsibility for compiling information.

Existing structures have the effect of restricting access to information. Reports are prepared for donors who contribute to the DBSPE programme. These reports are produced in English to meet donor requirements. There are currently no procedures for translating these documents into Kiswahili to make them more accessible to interested members of the public. Such reports are kept centrally at the Ministry of Education and Culture.

The analysis of those who receive information from the project revealed that much of the information never circulates beyond the DBSPE project team of the Ministry of Education and Culture. District education officers, school committees and parents did receive some information, but it was restricted to mainly operational information. There was a shortage of written publicity to inform the wider public. In principle project reports and documentation could be made available to NGOs and interested members of the public if a request was made to MoEC headquarters. However there is no active strategy for informing the public of this facility. There is little flow across the administrative structures or between districts.

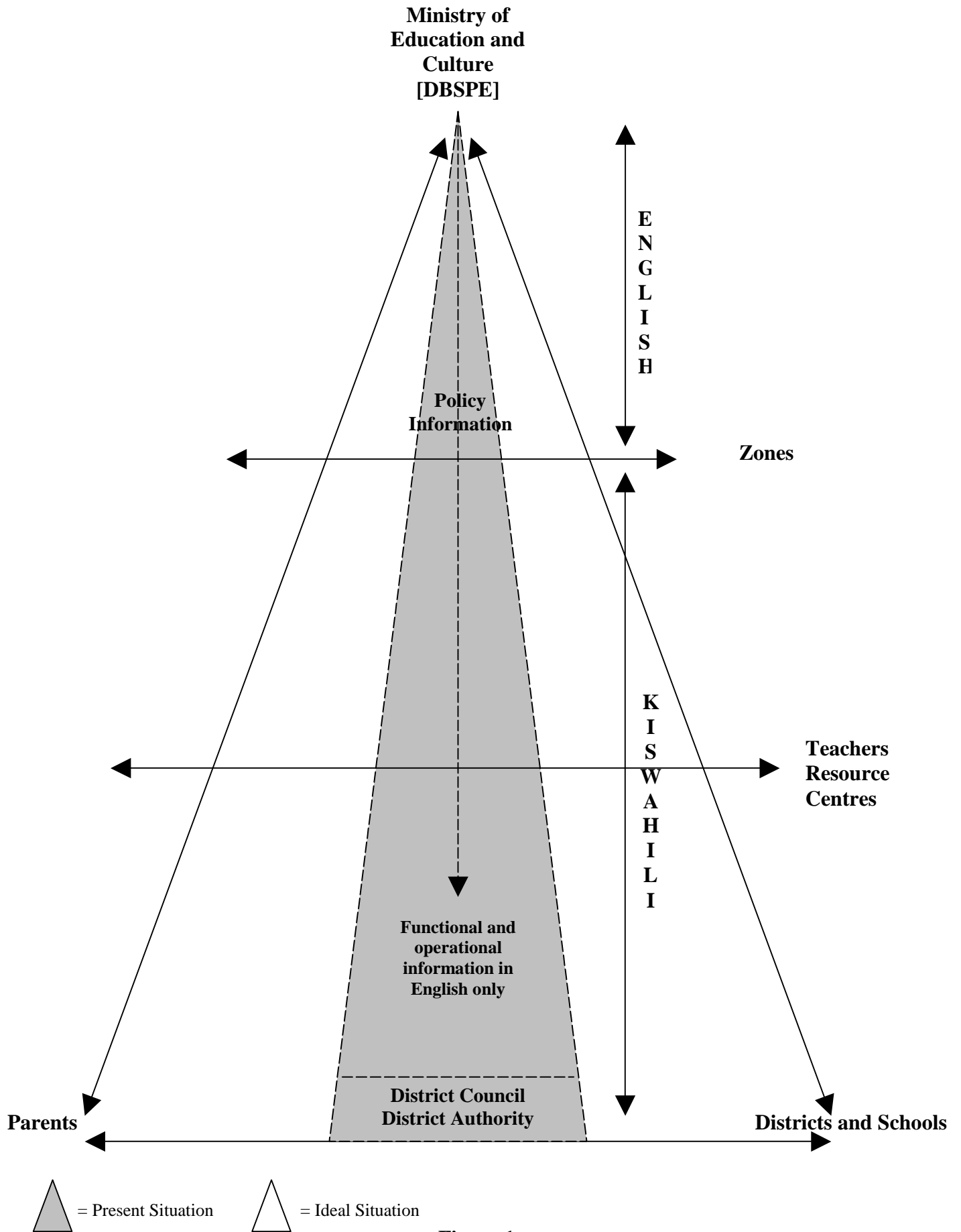


Figure 1
DBSPE Information Flow Model

The diagram above (fig. 1) represents both the existing information flows within DBSPE and also the improvements that DBSPE would like to achieve. This diagram was kindly provided by Dr Mike Wort, Chief Programme Adviser, DBSPE.

Participants recommended that there should be more information dissemination within government. Knowledge of the project within the MoEC was not widespread and concerns were raised that, given this situation, it was unlikely that information would be dispersed more widely to the public. Stakeholders, and the public generally, were identified as a key audience for programme information. It was also seen as important that managers within schools are kept informed. The requirement that donors receive information on the performance of the programme was recognised.

Civil society participants identified the key information that they felt the DBSPE programme should produce as follows:

1. Programme benefits to teachers, parents and pupils
2. Programme costs and source of funding / annual budgets / expenditure statements
3. Geographical coverage of the programme in the country and within districts
4. Enrolment trends
5. Programme monitoring and evaluation reports
6. Problems encountered and lessons learnt
7. Fund disbursement mechanisms
8. Financial and non-financial contributions by communities
9. Gender trends in enrolment
 - primary 1-5
 - primary 6-7
 - secondary school enrolment
10. Comparisons between programme and non-programme schools of
 - pass rates
 - contribution to budget by parents
11. Financial management systems
 - control
 - audit
 - banking arrangements
 - source and application of funds
12. Financial reporting to stakeholders
13. Co-ordination arrangement in the DBSPE programme
14. Sustainability

A matrix was prepared to relate the information needs identified to the documents produced by the DBSPE programme, and where they could be located.

QUESTION	DOCUMENT	WHERE
1. benefits		
2. funding (budget/expenditure)	Programme document Joint annual review Audit Quarterly financial reports	MoEC/Donors Zones MoEC/Partners MoEC
3. Geographical Cover	Poverty profile (now school mapping)	MoEC Districts
4. Selection Rationale	Operation manual	All levels
5. Enrolment Trends	District education profile B.E.S.T.	District MoEC/District Schools
6. Monitoring & Evaluation	Quarterly Reports (Research Studies)	Zones/MoEC/District
7. Problems/Lessons	Evaluation/reviews Problems: monthly reports/annual Lessons: review of manual & finance manual	MoEC/Partners Zones All levels
8. Funds Distribution	Monthly reports to partners	MoEC/District DEOs Schools
9. Financial/Non-financial Contributions by Communities	District quarterly reports	District/MoEC
10. Gender	FAWE/DBSPE manual Studies	MoEC Zone/District
11. Programme Comparisons	Impact Study (2000 June) (1996 Evaluation)	MoEC/Zone
12. Finance Control	Annual/Bi Reports to BEDC District Reports	MoEC/District
13. Stakeholder Reporting (finance)	School committees TRC Management Communic. Reports: parent meetings	School/TRC District → MoEC
14. Co-ordination within programme levels	Programme/operation manual District finance manual	MoEC → all
15. Sustainability	Annual review	MoEC/Partners

SESSION TWO

Introduction

Session Two Objectives

- Understand broadly the information environment within government (taking into account the balance between providing information to citizens and safeguarding the government's right to restrict access to classified information).
- Identify a list of project records that could be made publicly available.
- Define the 'quick wins' for the DBSPE project.

The session was introduced by an overview of the existing legislative provisions in Tanzania that promote or restrict access to government information. Following the presentation participants were broken into four mixed groups. Groups were comprised of participants from Parliament, government and civil society.

The groups were asked to discuss various aspects of the provisions of access to information with reference to the session objectives. They focused on the information that can be legitimately restricted and the obstacles faced by citizens seeking access. These were discussed in the wider Tanzanian context and with particular reference to the DBSPE programme. The four groups reported their findings which were then discussed by all participants.



Access to Information and the Law in Tanzania: Some Thoughts and Views

**Dr Harrison G. Mwakyembe,
Senior Lecturer in Law,
University of Dar es Salaam**

INTRODUCTION

Access to information, transparency and accountability are inextricably linked. The more access to information a people has, the more those in positions of authority and responsibility at all levels are placed in a public spotlight and inclined to discharge their duties much more diligently and honestly. If they do not, they promptly face the wrath of an informed public.

An uninformed public likewise, finds itself relegated to the sidelines and rendered a passive observer of its own affairs. It goes to the polls without any knowledge of the candidates and the parties they represent and become easy prey to manipulations and lies by unscrupulous politicians. These are some of the syndromes in a public denied access to information. For, as I have noted above, without access to information there is no transparency; without transparency there is no accountability; and without transparency and accountability, there is no democracy.

I am tempted to believe that the most accurate way to gauge the existence or non-existence of democracy in a given society, is to determine the extent to which information is accessible to the people. It is indeed true that information is power and every government in the world, without exception, would try as much as possible to control and guard jealously this vital and tremendous power. But one would expect a government claiming to be democratic to have its doors closed only with regard to certain matters of national security. Access to information should be a rule rather than an exception.

THE LAW IN TANZANIA

The Constitution of the United Republic of Tanzania 1977

The positive story regarding access to information in Tanzania begins in 1984 with the 8th constitutional amendment which introduced in the country's constitution of 1977, a Bill of Rights. My interest is in Article 18 of the Constitution which says:

“(1) Without prejudice to the laws of the land, every person has the right to freedom of opinion and expression, and to seek, receive and impart or disseminate information and ideas through any media regardless of national frontiers, and also has the right of freedom from interference with his communication.

(2) Every citizen has the right to be informed at all times of various events in the country and in the world at large which are of importance to the lives and activities of the people and also of issues of importance to society.”

Access to information, therefore, is a constitutional right in Tanzania, but a right subject to the 'laws of the land' and accompanied by no legal obligation on the part of the government to facilitate its enjoyment. As a result, government ministries, departments, organs, institutions, etc. do not feel legally obliged to give citizens access to the vital information they hold.

Media Laws

One other way to look at the public's access to information is to examine the extent to which the mass media which collect and distribute information for public consumption have access to the same. In Tanzania the media's access to information is not different from that of an individual citizen. The media do not benefit much from Article 18 of the Constitution either, primarily because of the absence of a specific piece of legislation obliging government functionaries to furnish the media with the information they need.

There is the Newspapers Act of 1976, which gives the Minister responsible for information a big stick to silence critical investigative papers which, on account of absence of access to information, are compelled to rely on un-official sources and even speculation to keep the public in the picture, at least.

The National Security Act of 1970 is also another law inhibiting free flow of information. The law makes it an offence attracting from ten years up to life imprisonment for collecting, writing and publishing information that might be directly or indirectly useful to a foreign power or "disaffected" person. This Act is too presumptuous and stretches the net too wide to the extent of cowing the media and individuals into submission. Even where they have access to information they lapse into self-censorship in fear of infringing the national security law.

The Ethics Law

The Public Leadership Code of Ethics Act of 1995, is also an important piece of legislation to look at. It obliges public leaders to declare their assets which are registered by the Ethics Secretariat. The objective of the Act is to place public leaders in a public spotlight to enable the people to know if their leaders are using their official positions to accumulate wealth. The register of assets declared by public leaders is by law available for inspection by members of the public. It looks quite a healthy avenue to promote access to information. But there are conditions which render access to such information difficult to realise.

- The person wishing to inspect the register must have lodged a complaint with the Ethics Commissioner against a specific public leader;
- The Ethics Commissioner must be satisfied that the complaint is genuine, relevant and is in good faith;
- The complainant must pay in inspection fee of T.Shs. 1000/(about 1 pound sterling).

Finally, the Civil Service law we inherited from the British remains a serious impediment to the public to access information. The law still underscores the necessity for secrecy and confidentiality on the part of civil servants even in inconsequential issues relating to, say, the number of female students in secondary schools in Tanzania or the national requirements for pencils in primary schools. Most of the matters, however simple they are, are considered confidential. Access to information is strictly considered an exception rather than a rule.

CONCLUSION

As we look at the government critically to question the openness of its system, we as citizens should also engage in a soul-searching exercise. First of all, there are already in Tanzania many other open doors giving us access to information. To what extent has the press or we ourselves, as individuals, utilized this opportunity?

We have a number of registries that charge a token fee of one dollar and attach no further conditions to inspect their records eg the Companies Registry and the Land Registry. We also have the National Archives at our disposal. But not many people or journalists access information from such sources. We continue feeding on rumours or to maintain a culture of silence. The critical question here may not be the lack of access to information but some kind of indifference to what is happening around us.

Finally, lawyers do insist that he who seeks equity should come with clean hands. We are demanding open-door attitude on the part of the government. But how open are we as citizens when, say, a crime has been committed in our midst and the government seeks access to the information or evidence we hold? How open are we to government agencies when it comes to singling out renegades and corrupt elements in our midst?

DISCUSSION SUMMARY

Session Two

Mon 27 March 2000 (PM)

Participants agreed that government has an obligation to provide information to citizens (see also the Analysis of the Attitude Survey Results in WORKSHOP OUTCOMES). In addition to citizens' right to know, access to information is essential for accountability and transparency. However it was accepted that there are legitimate restrictions on this. Examples of general exceptions agreed were for information relating to:

- national security
- national defence
- vital and sensitive installations
- confidential information.

The need to protect individual privacy was recognised. Examples of exceptions specific to the DBSPE programme were identified. These included the personal files of teachers and medical files relating to both students and staff. In addition it was agreed that examination papers must be kept confidential prior to examinations.

A number of obstacles to accessing information were identified. These related both to the DBSPE project and to the wider government situation within Tanzania.



Generally, concerns were raised about the lack of public awareness of where to go for information, who to ask and what to ask for. The public are not aware of what is legitimately available to them and what is restricted, and how to go about asking for that information they may see. There are cultural factors contributing to these obstacles. Tanzanians would not wish to cause

offence by pressing for information. Discussions took place about the appropriate way to make a request to avoid this problem. Further obstacles for citizens were observed in the presentation of official information, ranging from unwieldy formats to the language in which it was written. It was suggested that more should be made available in Kiswahili. There was also recognition that low levels of literacy was a barrier to accessing information.

Within the civil service excessive bureaucracy was identified as a significant obstacle. It was agreed that existing laws and regulations serve to restrict access, for example, the civil service guidelines, the *National Security Act*, the *National Archives Act*, etc. It was also suggested that the weak economic position of the government represented an obstacle as, even if attitudes were changed and a culture of openness promoted, there would be no

additional funds to support making information more widely available. Also poor records management had the effect of restricting access to information and this would require resources for improvements to be made. Corruption was considered another obstacle where officials tried to conceal wrong-doing or to control access to information for financial gain.

Constraints specific to the DBSPE programme were identified as a lack of co-ordination of information within the Ministry of Education and Culture – parts of the MoEC are not aware of the DBSPE programme, therefore it was considered unlikely that information will be made available to citizens. The more general issues cited above were reiterated in respect of DBSPE. Records management was identified as an obstacle as were the issues of lack of funds to make information available, and the problems of document formats, language and terminology, and illiteracy.

SESSION THREE

Introduction

Day Two Objectives

- Identify the appropriate locations for DBSPE records to improve access for citizens
- Understand the different options for providing access to information
- Determine the appropriate way forward for Tanzania.

The second day of the workshop was devoted to identifying areas where it might be possible to introduce improvements. Mr J. Rugumyameho, Permanent Secretary of the Civil Service Department chaired the second day of the workshop. The Civil Service Department has responsibility for public sector reform and is focusing on the improvement of service delivery. For Tanzania to move forward in this area government must take ownership of new initiatives.

A preliminary summary of the results of the attitude survey, completed by participants on Day One, was presented to the session. A full analysis of the findings along with quantitative results can be found in the section on WORKSHOP OUTCOMES.



Briefing papers had been circulated to participants providing summary information on different options for promoting access to information. These included Freedom of Information laws, non-statutory Codes of Practice on Access to Information, the introduction of Citizens Charters, etc (see Annex 2). Participants were broken into groups and asked to discuss the various options assigned to them. The groups then presented their

recommendations to the session. A discussion of these recommendations followed and consensus was reached.

At the end of the session the Workshop Facilitator, Angeline Kamba, synthesised the discussions of the two days. These outlined the restrictions on access to information faced by citizens in Tanzania, with particular reference to those seeking information on the DBSPE programme. The remedies suggested were also synthesised and agreed upon and are presented in the section on WORKSHOP OUTCOMES.

**Address by Mr Joseph A. Rugumyamheto,
Permanent Secretary,
Civil Service Department**

At the Second Day of the Information for Accountability Workshop

Mr Ibrahim Seushi, Chairman of Transparency International, Tanzania,

Honorable Members of Parliament

Madam Facilitator, Angeline Kamba,

Honorable guests,

Ladies and Gentlemen,

I feel honoured to chair this second and last day's session of the Workshop on Information for Accountability. I believe that on your first day which I had the pleasure to attend its first introductory session, you all had time to exchange and make a contribution towards building an informed society for Tanzania and elsewhere.

Also I believe you managed to explore different avenues which can contribute and strengthen the level of responsiveness of the government of its society's needs in the form of information. In doing so I hope you managed to propose ways of breaking the barriers which impede having an informed society and also having a responsive and accountable government to its citizens.

Today, being the second and last day, I believe you will spend your time and energy to draw practical proposals which will enhance availability of information to a broad section of society. As you know our number one agenda in this country is that of eradication of poverty in its every form. Every development programme that is currently drawn and every strategy for social change acknowledges that poverty eradication must occupy the highest consideration.

Yet, we are all aware that many forms of poverty are a product of ignorance; ignorance of one's economic rights; ignorance of one's legal rights, inability to access information on resource availability and many similar examples. It is also true that due to this widespread absence of information flow some government organs and officials conveniently find a reason to escape from being accountable, easily exploiting the non-information oriented societies or cultures.

This workshop provides a forum and an opportunity where these basics can be addressed. Indeed it comes at an opportune time when in this country we are about to launch the second phase of Public Service Reforms whose main thrust is quality Public Service delivery. Whereas we can draw elaborate mechanisms, models or instruments within the framework of the reform agenda for achieving this end, yet it remains clear that the final evaluation and appraisal of a programme like this depends on whether the public is able to nod a 'yes' or a

'no' to the government and to the public officials. I bet that they can only do this if they are well informed. If no information flows to them of what they can expect and what they are obtaining, then the programme would remain a "white elephant" from the word go.

Secondly, I heard yesterday Mr. Seushi referring to "power of information". The government believes that to exercise power one has to share that power with the stakeholders. In this context the next generation reforms emphasise on decentralisation. Meaningful decentralisation is where power is transferred to the people; where ownership of the agenda for development is shifted into their hands rather than being a monopoly of the centre. Thus the centre can become a strong overseer of the required power – power to provide leadership, and power to provide the required guidance.

It is obvious that to be able to achieve this a very efficient information flow has to be in place between the centre and the people. If this information flow is not efficient there is little room to hold government accountable at both levels: ie at the centre and at the grassroots! This really defines the power of information as alluded to yesterday!

Ladies and gentlemen,

It is not my intention to take over the discussion of this subject from your own innovative contribution, so let me end here. Suffice it to say that I expect you to spend the remaining part of this workshop to draw for us practising bureaucrats some useful and practical proposals which we can put on board to enhance information flow to the public and to make governments and public officials meaningfully accountable of their services to the public; and of course with one major ultimate aim – that of eradicating poverty among our people.

I thank you for listening and I wish you a good day!

Thank you.

DISCUSSION SUMMARY

Session Three

Tues 28 March 2000

Options for improving access to information were widely discussed. The sentiment of the meeting was that it was necessary to focus on finding a way forward that was appropriate for Tanzania rather than adopting solutions applied elsewhere. It was recommended that, as part of this, the publicity and dissemination of information about government services and initiatives should not only focus on written material but should be distributed via the radio in order to reach as many people as possible. This would help to address issues such as low literacy rates and the production of documents in English rather than Kiswahili.

Freedom Of Information Legislation

Although a Freedom of Information Act would breathe life into the constitutional provision for access, it was agreed that the institutions in Tanzania were not yet strong enough to support its introduction. The lack of responsibility of the media was particularly identified as a problem. It was suggested that reports by the press were often wrong or misleading.

Positive steps that could be taken towards Freedom of Information were discussed. These included the review of current laws and regulations restricting the freedom to access information; the creation of a favourable environment to inform citizens on their legal right to access information; and the development of legislation to make the provision of information obligatory.

<p>Key Finding</p> <p><i>Tanzanian institutions are not yet strong enough for a Freedom of Information Act</i></p>

Citizens' Charter

A discussion of citizens' charters concluded that they could be usefully introduced in Tanzania to provide a method of gradually improving service delivery including minimum standards for answering citizens enquiries. They must be straightforward to meet local conditions. It was suggested that they should focus initially on areas of "quick wins" with most impact on citizens.

The importance of wide dissemination was discussed. To compensate for communication and literacy difficulties, the methods of dissemination suggested were:

- pamphlets
- mass media – theatrical drama
- religious institutions.

The new charters could be supported by Citizens Advice Bureaux that would help citizens hold the government accountable for its performance according to the standards set down.

Key Finding

Citizens charters could be introduced to improve service delivery

Improved Communication Channels

A key recommendation for improving information flows between government and citizens was to expand the channels of communication. Public notices could be used to provide information. Important points to ensure their effectiveness were identified as:

- clarity
- language – to be written in Kiswahili
- located in easily accessible places.

It was suggested that regular public meetings would provide opportunities to disseminate information and encourage discussion of issues. Important suggestions were the need to:

- publish the time and place in advance
- prepare adequately
- ensure equitable participation
- provide feedback (reports).

The establishment of a network of independent Citizens Advice Bureaux and an independent Information Commissioner/Ombudsman were discussed. It was agreed that these institutions could be appropriate and beneficial for Tanzania.

A further key recommendation was to establish and publicise appeals procedures to:

- eradicate ignorance
- combat bureaucracy
- respect confidentiality.

Key Finding

Improved communication channels, Citizens Advice Bureaux and publicised appeals procedures could benefit Tanzania

Strengthening the Role of the Controller and Auditor-General (CAG)

The role of the CAG is to audit and query public expenditure. Also he is responsible for preparing and submitting to Parliament financial reports on government.

Recommendations were made of ways to strengthen the position of the CAG. It was suggested that the act to establish the office of CAG be amended to enable the office to initiate criminal proceedings against culprits in order to enhance accountability to government departments. The CAG should be given fuller access to government information to enable him to fulfil his responsibilities.

One area that could be addressed easily is making the CAG's reports more accessible by producing an executive summary with each report. The existing reports are too large to be read by more than the most committed and are difficult to understand. In addition, more copies of the CAG's reports should be printed and made available to the public. Meetings for citizens to discuss findings and make recommendations could be organised.

It was thought important that the CAG should be given power to follow-up the implementation of the findings of the previous year's report and take stern measures where action had not been taken.

It was noted that the Office of the Controller and Auditor-General is currently undergoing a programme of reform that may address some of these issues.

Key Finding

Provide 'citizen-friendly' executive summary to published CAG reports. Increase availability of published reports

The Public Accounts Committee (PAC) and the Local Authority Accounts Committee

The CAG prepares reports for the Parliamentary PAC. It was suggested that the PAC, upon discovering misuse of public funds, should recommend to the government the steps to be taken and its recommendation should be *binding* on government. An independent budget should be set aside to enable all relevant committees to function independently of government and conduct investigations. The independence of resources for the committees and the CAG was seen as key to strengthening their position.

Key Finding

Strengthen the PAC by making it more independent and making its recommendations binding on government

Strengthening the Permanent Commission of Enquiry (PCE)

The PCE provides an existing institutional framework that could be adapted to perform an Ombudsman role to mediate between citizens and government. However it was questioned whether this institution currently had the strength or independence to carry out such a function.

It was recommended that the legal framework be amended so that the PCE is answerable to Parliament and not the President. As part of this reform, the appointing authority should be designated as Parliament. The role of the PCE could be expanded to provide information about government services to citizens. Capacity could be strengthened in terms of

- human resources
- working tools and equipment
- rights of access to information in government departments.

Key Finding

Expand role of PCE to provide information about public services to citizens

Summary

Session Three identified a broad direction for introducing improved access to government information and made specific recommendations for future action. The outcomes of the two day workshop are discussed in detail in the following section.

**Address by Mr Joseph Rugumyamheto,
Permanent Secretary,
Civil Service Department**

At the Closing of the Workshop on *Information for Accountability*

Honoured guests,

Distinguished participants and observers,

Ladies and gentlemen,

We have now reached the conclusion of the workshop and it remains for me to thank those who have made this workshop possible.

First, I would like to thank all those who have taken time out of their busy working schedules to contribute to the workshop, whether as expert speakers, participants or resource persons.



I am briefed that a number of obstacles to accessing government information have been identified and, in particular, related to the DBSPE programme. The group expressed concern that existing laws and civil service regulations restrict

the flow of information to the public. This is made worse by citizen's ignorance of their rights and the lack of awareness of where to go to ask for information. Effective records management has been identified as key to providing citizens with access to information.

I am also told that the group identified that the format of documents can be a problem, particularly the reports of the Controller and Auditor-General's Department. One solution proposed was to create government documents with the citizen in mind. This would have an impact on the choice of terminology used, the way in which a document is written and the language used. Another solution offered is to disseminate more information via radio. For this I would like to congratulate all participants and deservedly they will be issued with diplomas for passing your exam which you can pick up from the organisers.

In conclusion, I would like to take this opportunity to thank those organisation whose generous support has made this workshop possible. These are the World Bank and the Danish Government, who have funded the Information for Accountability programme through the Danish Trust Fund for Governance and the British Council which has made

significant logistical and financial contribution to the workshop, including providing these meeting facilities. The Danish Government must be doubly thanked, because they have generously contributed to funding the programme for District Based Support for Primary Education, which is administered by the Ministry of Education and Culture and has provided such a valuable case study to enrich our discussions. We trust that these organisations will continue to support us and provide assistance to those outcomes of this workshop that the Government of Tanzania decides merit further attention.

Finally, I would like to thank Mrs Angeline Kamba for her sterling efforts as workshop facilitator. I would also like to take this opportunity to congratulate the organising committee, which comprises Transparency International Tanzania and the International Records Management Trust (IRMT) for their combined efforts in making this seminar a resounding success. To the foreign observers, I hope that you had a pleasant time in our country, and can stay on to visit various places of attraction and bring back home such fond memories of Tanzania as will make you and your friends want to visit us once again in the future. On this note, I wish to hereby declare the Workshop on *Information for Accountability* officially closed.

Thank you.

WORKSHOP OUTCOMES

Analysis of Attitude Survey Results

The attitude survey was intended to measure the perceptions of participants in the *Information for Accountability Workshop* with regard to information access in Tanzania.

There are many players in providing information on public services. Government provides information to the public, the media, Parliament and the Auditor-General. The Auditor-General provides reports to Parliament that are also made publicly available. The media provides information directly to the public. Perceptions of how well these information flows are working were also investigated.

All participants (100%) were agreed that citizens had a 'right to know'. Almost all participants (95.5%) also agreed that government has an obligation to provide information to its citizens. In a culture where secrecy is the norm and disclosure the exception, this demonstrates there is a clear pressure for change.

Previous research in Tanzania had indicated that citizens are not aware of their rights regarding access to information. There was clear recognition that improving access to information is an important issue. 63.7% of participants believe that the existing rights of access to information in Tanzania are either not adequate or poor. Participants identified that the important steps to achieving this included raising awareness amongst citizens and changing the culture within the civil service. These were the two most important steps listed, cited by 54.5% and 40.9% of participants respectively. Improving the management of the information was also strongly supported, with 36.4% of participants citing this as a key step.

63.7% of participants believe that the existing rights of access to information in Tanzania are either not adequate or poor.

Opinion was fairly evenly divided on the helpfulness of civil servants, while 41% of participants thought that the response of civil servants was helpful and 9.1% thought that they were very helpful, 41% thought that they were unhelpful. This response apparently contradicts the finding that 59.1% of participants identified obstructive officials as an obstacle to obtaining access to information.

The participants were very aware of the issues restricting access to information in Tanzania. The key obstacles identified were that citizens do not know where to go or who to ask (90.1%), obstructive officials (as above) and that information is considered confidential (54.5%). These concerns address the problem of the culture of secrecy within government, and also the lack of information about services disseminated to citizens. There was a perception that the information citizens require for accountability does exist; only 18.2% of respondents believed that this was not the case. However there was a significant level of concern regarding the management of this information, with 59.1% of participants agreeing that records are often too disorganised to be retrieved. Interestingly, considerations of cost (27.3%) and inconvenient office opening hours (0%) did not rank highly as obstacles.

There was a perception that the information citizens require for accountability does exist. However there was a significant level of concern regarding the management of this information, with 59.1% of participants agreeing that records are often too disorganised to be retrieved.

91% of participants thought that a Ministry or District Office should respond to a request for information within one month. 69.5% were of the opinion that responses would be received within this timeframe, however 30.5% were concerned that responses would be within three months or maybe never.

Members of Parliament (28%) and the media (24%) were identified as the most reliable sources of obtaining information on government services. Ministries and District Officers were ranked poorly with only 12% and 8% of participants respectively citing these sources. This reinforces the findings of the background research in Tanzania that cited the importance of informal networks in obtaining access to government services. Friends and/or personal contacts are ranked more highly than the formal channels as sources of information (16%).

Members of Parliament score highly as sources of information. Yet their ability to perform their function adequately is restricted by the lack of information provided to them by government. This is the finding of the attitude survey where 54.6% felt that the information provided to Parliament was insufficient compared to only 22.7% that thought it was sufficient.

54.6% felt that the information provided to Parliament was insufficient compared to only 22.7% that thought it was sufficient.

It was felt that the reports provided to Parliament by the Auditor-General were good (31.8%) or acceptable (27.3%), with only a total of 27.2% suggesting that they were not acceptable (22.7%) or poor (4.5%). Opinion was less favourable regarding the availability of these reports to the public. In law these are publicly available documents however 50% of participants thought that in practice availability was poor. 18.2% did not know, indicating a lack of awareness about their availability.

Attitudes toward the media were mixed. The public and privately-owned media were treated separately in the survey. Results showed that perceptions vary according to their status, with the performance of the privately-owned media being rated more highly (59.1% agreeing that they were very or reasonably independent, fair or objective as against 45.5% for the publicly-owned media).

The quantitative results of the Attitude Survey can be found at ANNEX ONE.

Key Outcomes

Outcomes of the two days of the Workshop were agreed at the end of Day Two. The workshop facilitator synthesised the discussion over the two days to address three main areas:

- DBSPE quick wins
- solutions to access problems
- possible actions to improve the information environment in Tanzania.

DBSPE QUICK WINS

Resolutions were agreed for strengthening the DBSPE programme and for addressing wider problems in government. Obstacles to accessing information were identified, and then possible remedies to these problems were drawn out from the discussion. Initially the focus was on information problems and solutions for the DBSPE programme as below. These resulted from discussions on Day One of the Workshop.

Obstacles to obtaining information identified for DBSPE programme:	DBSPE Quick Wins identified to address these problems:
1 Centralised bureaucracy	1 Project ownership at local level through community participation
2 Poor distribution	2 Presentation of information in simpler format/language Radio programme Kiswahili newspaper Cheap advertising (eg pens, t-shirts) Bookshop at MoEC
3 Budget constraints	3 Community participation through the use of locally available materials as teaching aids
4 Distribution channels	4 <i>No solutions identified</i>
5 Poor planning	5 <i>No solutions identified</i>
6 Capacity of MoEC staff/ no system	6 Sensitisation of stakeholders
7 Lack of accountability	7 Improve project records
	Plus: Change name of programme

SOLUTIONS TO ACCESS PROBLEMS

These recommendations were drawn from the discussion of options of improving access to information in the morning of Day Two. The key outcomes of the discussion are highlighted below.

Freedom of Information legislation is not yet a solution for Tanzania; further institution building must take place prior to any developments in this area.

Citizens charters could be a useful method of targeting improvements in service delivery provided that they were implemented in a way appropriate to Tanzania.

Improved communication channels, through public meetings, literature dissemination and publicised appeals procedures would strengthen information flow between government and citizens.

Provide a 'citizen-friendly' executive summary of published Controller and Auditor-General reports and increase the availability of published reports.

Decisions of the Public Accounts Committee, acting on reports from the Controller and Auditor-General, should be binding on the government.

The role of the Permanent Commission of Enquiry could be expanded to providing information on public services.

PROBLEMS IDENTIFIED THAT REQUIRE SOLUTION

Wider problems that citizens face in obtaining information were identified and ways forward were discussed. The results of the attitude survey revealed complex cultural and organisational issues that did not lend themselves to quick fixes. However participants were able to identify long term actions that would improve the information environment in Tanzania.

Typical obstacles are identified below:

- The information exists, but people cannot get it
- Civil service culture restricts access to information
- MPs do not get sufficient information to fulfil monitoring role
- Some government information (eg auditor-general's report) is not in a form that is easy to use
- Government records in ministries are disorganised and difficult to retrieve
- Information is made available in written form and primarily in English

POSSIBLE ACTIONS

On Day Two participants discussed a number of long term actions to address constraints to accessing information and assigned responsibility for taking these forward. Discussion centred on actions for the education sector and across government. All were agreed that actions to tackle these issues should begin as soon as possible. Many of the initiatives will only be effective over a long period of time.

ACTION	ISSUE	RESPONSIBILITY	DURATION
Civil education	To combat ignorance	MoEC Civil Service Dept Local government Press/NGOs Parliament Religious institutions	Initial 5 year programme – on-going
Decentralisation	Over-centralisation of information system	MoEC Civil Service Dept Local government	Long-term
Revise laws and regulations	Rid laws of ambiguities on information Provide guidance to civil servants	Law reform commission Civil service reform commission	Long-term
Identification of information with high public interest	Improper information packaging Use of Kiswahili Problems of presentation	MoEC Districts Local government TRCs Schools	Long-term
Improve records management by: <ul style="list-style-type: none"> ▪ capacity building ▪ restructuring records systems ▪ revision of Archives Act 	To improve access to information To provide a single administration for records management To improve responses	Government Parliament Judiciary Districts TRCs Schools	On-going Long-term
Raise awareness	Tackle the culture of confidentiality Tackle ignorance Address cultural factors	Government Political leaders MoEC NGOs Communities	Long-term
Deliver quality education across the whole country	Tackle problems of the social environment and poverty	MoEC/DBSPE	Long-term

PRESS RELEASE

Tanzania Pioneers Accountability Strategy

The world's first Information for Accountability workshop was held in Tanzania from 27-28 March 2000. The two-day workshop to discuss the issue of improving access to information took place at the British Council auditorium in Dar-es-Salaam. The workshop's goal was to encourage the formation of an informed civil society. Once equipped with information, individual citizens and their representatives can assert their civil rights, hold governments accountable, and help to detect and deter corruption and fraud.

In the opening speech read by Mr Edward Hoseah, a senior officer of the Prevention of Corruption Bureau, on behalf of the Director of the Bureau, Major General Kamazima, Mr Hoseah said that 'there are four key reasons why citizens need improved access to information:

- because we are citizens of a free country
- because without access to information you cannot have accountable government
- if the information is available you can make better decisions and better laws
- it encourages more ethical government.'

Gaining access to government information is recognised as a major challenge in Tanzania. Participants expressed concern that existing laws and civil service regulations restrict the flow of information to the public. It was felt that this is made worse by citizen's ignorance of their rights, a lack of awareness of where to go to ask for information and complex bureaucratic procedures. Effective records management was identified as key to providing citizens with access to information.

Participants also identified that the format of documents can be a problem, particularly the reports of the Controller and Auditor-General's department. One solution proposed was to create government documents with the citizen in mind. This would have an impact on the choice of terminology used, the way in which a document is written and the language used. Another solution offered is to disseminate more information via the medium of radio.

The focus was on developing a practical action programme to meet both short-term and longer-term objectives. A number of recommendations were made in the workshop for consideration by government. Some actions will require institutional change and capacity building.

The workshop brought together Members of Parliament, professional associations, local interest groups and senior civil servants. Members of Parliament represented both the ruling party and the opposition. The District Based Support for Primary Education programme run by the Ministry of Education and Culture provided the focus for discussion.

The workshop was organised by the International Records Management Trust (IRMT) in London, UK and Transparency International – Tanzania (TI TZ) with funding from the World Bank Danish Trust Fund and the British Council, Tanzania. The first day was chaired by Mr Ibrahim Seushi, Chairman of TI TZ, and the second day by Mr Joseph

Rugumyamheto, Permanent Secretary, Civil Service Department, Tanzania. Mrs Angeline Kamba, former Public Service Commissioner and National Archivist, Zimbabwe facilitated the workshop. Staff from the IRMT and Transparency International Ghana provided additional support.

This workshop initiative will be carried forward by a second workshop in Ghana in July 2000.

PRESS COVERAGE

The Guardian, Tuesday, March 28, 2000

‘Public information needed in war against corruption’

By Simon Kivamwo of PST

PUBLIC information systems are vital in making the on-going anti-corruption war succeed throughout the country, the Director of the Prevention of Corruption Bureau, Major General Kamazima, said yesterday.

He was opening a two-day workshop on Information and Accountability.

In a speech read on his behalf by a senior officer in the bureau, Edward Hosea, he said: “Without a firmly rooted local demand for public sector information, accountability initiatives and anti-corruption strategies are likely to fail.”

The failure would be due to the fact that there would not be any commitment by public servants to maintain the information systems required for transparency.

“This is something that we, Tanzanians, must decide for ourselves” – he said.

Stressing on the importance of information to the economy, he said that businesses needed access to information.

“We should build information systems which ensure that Tanzanian companies are not unfairly disadvantaged against overseas companies which have access to information from their own governments,” he said.

The absence of information or the inability to produce records was sometimes more unbecoming than the presence of records.

“If the relevant document cannot be found, the administration appears to be hiding something... Too often, the appearance of covering up a mistake by officials can cause the government embarrassment,” he said.

The workshop, which attracted several government officials and MPs, has been jointly organised by Transparency International Tanzania and the International Records Management Trust (IRMT).

Mtanzania, Jumanne, Machi 28, 2000

PCB yataka taarifa sahihi za rushwa

Na Leila Shamte

IMEELEZWA kuwa ili wananchi waweze kuibana serikali iweze kuwajibika na kudhibiti wizi na ulaji rushwa katika jamii, ni lazima raia au wawakilishi wao wawe na taarifa sahihi.

Akifungua warsha ya siku mbili ya upatikanaji wa taarifa kwa madhumuni ya uwajibikaji, kwenye Ukumbi wa British Council, jijini Dar-es-Salaam, Meja Jenerali Antony Kamazima ambaye hotuba yake ilisomwa na Mkurugenzi wa Uchunguzi wa PCB, Edward Hosea, alisema kwamba bila raia kuwa na taarifa, serikali, haiwezi kufanikiwa katika vita dhidi ya rushwa.

"Ni lazima kujenga misingi imara ya kupata raia wenye kuelewa stabiki kuhusu masuala yao, kwani ni pale tu raia wanapokuwa na taarifa wanaweza kuibana serikali, iwajibike", alisema Meja Jenerali Kamazima.

Alisema kwamba kama kuna upatikanaji wa taarifa sahihi, serikali itafanya maamuzi mazuri zaidi ambayo yatafuata kanuni na sheria za nchi.

Alisema kwamba upatikanaji wa taarifa utawezesha pia watumishi wa serikali kufuata maaditi katika utumishi wao.

Kiongozi huyo wa taasisi ya kuzuia rushwa, alisema kwamba raia wanahitaji ujasiri kwa serikali katika kuipa taarifa na akataka kuwepo na uhuru kwa raia kutoa taarifa bila kuwa na uwoga wowote.

"Ni lazima kuwepo na uwazi katika kutoa taarifa na pia watumishi wa serikali wawe huru kutoa taarifa bila uwoga," alisema.

Alisema pia kwamba raia pia wanahitaji taarifa mbalimbali ili kuweza kutoa mchango wao katika maendeleo ya taifa.

Warsha hiyo ya siku mbili ilihudhuriwa na wabunge, vyama vya kitaaluma, makundi mbalimbali ya jamii, 'viongozi waandamizi wa serikali na washiriki toka nje ya nchi.

Iliandaliwa na mashirika ya kimataifa ya Transparency International Tanzania na International Records Management Trust-Rights and Records Institute na kufadhiliwa na Benki ya Dunia, Danish Trust Fund na British Council.

Jumanne Machi 2, 2000

'Upatikanaji wa taarifa kutoka serikalini utasaidia uajibikaji'

Na Beatrice Bandawe

'MKURUGENZI wa Taasisi ya Kuzuia Rushwa nchini (PCB), Meja Jenerali Kamazima, amesema uboreshaji wa upatikanaji wa taarifa kutoka serikalini utasaidia uajibikaji wa watendaji kwa raia.

Akifungua warsha ya siku mbili jana juu ya "upatikanaji wa taarifa kwa madhumuni ya uajibikaji" Meja Jenerali Kamazima alisema kuwa kama serikali haitaboresha mazingira na taratibu za upatikanaji wa taarifa, watendani wake hawatawajibika.

Warsha hiyo ya kwanza kufanyika duniani, ilifunguliwa kwa niaba yake na Mkurugenzi wa Uendeshaji wa Taasisi hiyo, Bw. Edward Hoseah katika ukumbi wa *British Council*.

Meja Jenerali Kamazima alisema sababu nyingine ya warsha hiyo ni kuwafanya raia wajisikie wako kwenye nchi yao.

Washiriki watajadili mbinu na mikakati ya kuwezesha uajibikaji na uwazi katika utendaji kazi. Kwa mfano alisema, ni vipi raia wa kawaida anaweza kupinga au kukata rufani dhidi ya uamuzi fulani.

Aidha, watajadili juu ya njia zipi nzuri za kuwafanya watendani wawajibike hata kupitia kwa wawakilishi wa wananchi.

Warsha pia itaangalia njia na uwezekano wa raia na wawakilishi wao kupata taarifa sahihi kutoka kwa watendaji.

"Madhumuni ya warsha ni kujenga misingi imara yakuwa na raia wenye ueleo stahiki kuhusu masuala yao", alisema.

Warsha hiyo imeandaliwa na mashirika ya kimataifa ya *Transparency International Tanzania* na *International Records Management Trust - Rights and Records Institute* na kufadhiliwa na Benki ya Dunia, *Danish Trust Fund* na *British Council*.

Washiriki katika warsha hiyo ni wabunge wa chama tawala na vyama vya upinzani, vyama vya kitaaluma, makundi mbalimbali ya jamii na viongozi waandamizi wa serikali, washirika na mabingwa toka nje ya nchi.

TELEVISION COVERAGE

The opening session of the *Information for Accountability Workshop* was presented on the evening news, 27 March 2000 by the Tanzanian TV channels, Dar es Salaam Television and CTN.

Following the workshop an interview was recorded by CTN with:

- Piers Cain, Director of Research, Development and Education, IRMT – Rights and Records Institute
- Ibrahim Seushi, Chairman, Transparency International Tanzania
- Jackie Pease, Assistant Director (Projects), British Council Tanzania.

This interview was shown on CTN after the evening news on Wednesday 30 March.

ANNEX ONE

Quantitative Results of the Attitude Survey

ACCESS TO INFORMATION

1a) Do you believe that citizens should have the right to be informed about government actions taken on their behalf? (circle one)	Number	Percent
Yes	22	100%
No	0	0
Do not know	0	0

1b) Should government have an obligation to provide information to citizens about its actions? (circle one)	Number	Percent
Yes	21	95.5%
No	1	4.5%
Do not know	0	0

2 Are the existing rights of access to information: (mark one ✓):	Number	Percent
Good	1	4.5%
Adequate	3	13.6%
Not adequate	9	41%
Poor	5	22.7%
Do not know	3	13.6%
Not responded	1	4.5%

3 With which of the following statements do you most strongly agree? (mark one ✓):	Number	Percent
Information held by the government is held for official purposes and effectively belongs to the government	1	4.5%
Information held by the government is held on behalf of the public interest	17	77.3%
It is solely for the government to decide what information should, and what should not, be made available to the public	4	18.2%

4 Do you believe that all citizens have equal access to government information under existing arrangements, ie rich and poor, urban and rural, private citizens and the media? (circle one)	Number	Percent
Yes	4	18.2%
No	16	72.7%
Do not know	1	4.5%
Not responded	1	4.5%

5	Which is the most reliable source for obtaining information on government services? (mark one ✓):	Number	Percent
	Member of Parliament	7	28%
	Media	6	24%
	Friends/personal contacts	4	16%
	Ministry in Dar es Salaam	3	12%
	District Officer	2	8%
	Other <i>please specify</i> • Government policy announcements	1	4%
	Not responded	1	4%
	Question vague	1	4%

6	The information made available to Members of Parliament for them to discharge their functions is: (mark one ✓)	Number	Percent
	Good	2	9.1%
	Sufficient	5	22.7%
	Not sufficient	12	54.6%
	Poor	1	4.5%
	Not responded	2	9.1%

7	The <i>publicly owned</i> media's performance in informing the general public of government programmes and services is: (mark one ✓)	Number	Percent
	Very independent, fair and objective	2	9.1%
	Reasonably independent, fair or objective	8	36.4%
	Not very independent, fair or objective	9	41%
	Biased, unfair and lacking objectivity	3	13.6%

8	The <i>privately owned</i> media's performance in informing the general public of government programmes and services is: (mark one ✓)	Number	Percent
	Very independent, fair and objective	3	13.6%
	Reasonably independent, fair or objective	10	45.5%
	Not very independent, fair or objective	7	31.8%
	Biased, unfair and lacking objectivity	2	9.1%

9a)	The ability of the auditor-general to provide up-to-date financial information and reports to Parliament is: (mark one ✓)	Number	Percent
	Good	7	31.8%
	Acceptable	6	27.3%
	Not acceptable	5	22.7%
	Poor	1	4.5%
	Do not know	3	13.6%

9b) The availability of the auditor-general's reports to the general public is: (mark one ✓)	Number	Percent
Good	2	9.1%
Acceptable	2	9.1%
Not acceptable	2	9.1%
Poor	11	50%
Do not know	4	18.2%
Not responded	1	4.5%

10 When a journalist asks a Minister's department for information the department should: (mark one ✓)	Number	Percent
Provide the information unless there are good reasons why it should not, and if not, refer the matter to the Minister's office	18	81.8%
Refuse to provide the information unless it has been instructed to release it	3	13.6%
Refer the journalist to the Minister's office on a 'no comment' basis	0	0%
Not responded	1	4.5%

GOVERNMENT SERVICES

11 What aspects of government do citizens most want information about? (mark all that apply ✓)	Number	Percent
Education	16	72.7%
Government budget and expenditure	16	72.7%
Health	13	59.1%
Land ownership	12	54.5%
Legal system	9	41%
Pensions	8	36.4%
Public works, eg roads, bridges, etc.	8	36.4%
Other <i>not specified</i>	1	4.5%
• <i>government regulations</i>	1	4.5%
• <i>economic support</i>	1	4.5%
Not responded	1	4.5%

12 Do you believe that the information provided by government about their activities is: (mark one ✓)	Number	Percent
Very reliable	1	4.5%
Reliable	11	50%
Not reliable	8	36.4%
Wholly inaccurate	1	4.5%
Do not know	1	4.5%

13	If you are not satisfied that the information you have received from a Ministry or government office is accurate and complete, would you be: (mark one ✓)	Number	Percent
	Very confident to appeal	4	18.2%
	Reasonably confident to appeal	8	36.4%
	Not confident to appeal	9	41%
	Frightened to appeal	0	0
	Not responded	1	4.5%

14	Civil servants, when providing information in response to requests from citizens, are usually: (mark one ✓)	Number	Percent
	Very helpful	2	9.1%
	Helpful	9	41%
	Not helpful	9	41%
	Obstructive	0	0
	Not responded	2	9.1%

EDUCATION

15	How useful would you find it to obtain information on: (mark all that apply ✓)								
	essential		useful		not useful		don't know		
	No.	%	No.	%	No.	%	No.	%	
	Annual student progress reports	13	59.1%	7	31.8%	1	4.5%	0	0
	Government development programmes	13	59.1%	5	22.7%	1	4.5%	1	4.5%
	Examination results	12	54.5%	8	36.4%	1	4.5%	0	0
	Education budget	11	50%	8	36.4%	2	9.1%	0	0
	School annual accounts	10	45%	11	50%	0	0	0	0
	Distribution of school materials	7	31.8%	11	50%	2	9.1%	1	4.5%
	School maintenance	6	27.3%	13	59.1%	0	0	1	4.5%
	Other (please specify)	1	4.5%	0	0	0	0	0	0
	Curriculum	1	4.5%	0	0	0	0	0	0
	Grading/selection	1	4.5%	0	0	0	0	0	0

16 Which categories of information about primary education is it reasonable for government to keep confidential? (mark all that apply ✓)	essential		reasonable		not reasonable		don't know	
	No.	%	No.	%	No.	%	No.	%
	Information about individual student	8	36.4%	8	36.4%	4	18.2%	0
Teachers qualifications and performance	4	18.2%	6	27.3%	8	36.4%	0	0
Information about annual student progress	3	13.6%	7	31.8%	9	40.9%	0	0
Examination results	3	13.6%	5	22.7%	10	45.5%	0	0
Distribution of school materials	1	4.5%	3	13.6%	13	59.1%	0	0
School annual accounts	0	0	3	13.6%	14	63.6%	0	0
School building plans	0	0	4	18.2%	14	63.6%	0	0
Other (not specified)	0	0	0	0	1	4.5%	0	0
Other: none should be kept confidential	2	9.1%	0	0	0	0	0	0
Annual enrolments/dropouts	0	0	0	0	2	9.1%	0	0
Selections	0	0	0	0	1	4.5%	0	0

GOVERNMENT RESPONSE

17 Citizens face what obstacles in obtaining access to government information? (mark all that apply ✓)	Number	Percent
Do not know where or who to ask	20	90.1%
Records too disorganised for staff to locate relevant information	13	59.1%
Obstructive officials	13	59.1%
Information considered confidential	12	54.5%
Complicated procedures	11	50%
Distance to travel	9	40.1%
Cost, eg photocopying charges	6	27.3%
Information does not exist	4	18.2%
Apathy	1	4.5%
None apply	1	4.5%
Inconvenient office hours	0	0

18a) Please indicate below what should be a reasonable response time for a Ministry or District Office to answer a request for information from the public: (circle one)	Number	Percent
Up to 1 week	8	36.4%
Up to 2 weeks	6	27.3%
Up to 1 month	6	27.3%
Up to 3 months	1	4.5%
Never	1	4.5%

18b) Please indicate below when you would expect, in reality, to receive a response to a request for information from a Ministry or District Office (circle one)	Number	Percent
Up to 1 week	5	21.7%
Up to 2 weeks	6	26.1%
Up to 1 month	5	21.7%
Up to 3 months	6	26.1%
Never	1	4.4%

19 Well-maintained records are essential to support access to information principles. In Tanzania, are government records (mark one ✓):	Number	Percent
Good	0	0
Adequate	7	31.8%
Inadequate	13	59.1%
Poor	2	9.1%

20 List the three most important practical steps that need to be taken to provide access to information:	Number	Percent
Awareness raising	12	54.5%
Cultural change	9	40.9%
Records management	8	36.4%
Meetings	6	27.3%
Review legislation	5	21.7%
Media	3	13.6%
Government publicity	3	13.6%
Decentralisation	2	9.1%
Reduced bureaucracy	2	9.1%
Improvement in education	1	4.5%
Use of simple language	1	4.5%

ANNEX TWO

Examples of Procedures

Copies of the following material were made available to workshop participants. Full sets were distributed to the following locations after the workshop:

Parliamentary Library Dodoma Tanzania	University of Dar es Salaam Faculty of Law Library Dar es Salaam Tanzania	Records and Archives Management Division Civil Service Department PO Box 2006 Dar es Salaam Tanzania
---	--	---

Legislation	
AUSTRALIA Ombudsman Act 1976 Freedom of Information Act 1982	http://www.austlii.edu.au/cgi-bin/download/au/legis/cth/con.../oa1976114.tx
CANADA Access to Information Act 1982 Privacy Act 1983	http://canada.justice.gc.ca/FTP/EN/Law/Chap/P/P-21.txt http://canada.justice.gc.ca/FTP/EN/Laws/Chap/A/A-1.txt
IRELAND Freedom of Information Act 1997 (edited version)	http://www.irlgov.ie/finance.FREE1.HTM
SOUTH AFRICA Promotion of Access to Information Act 2000	http://www.polity.org.za/govdocs/legislation/2000/index.html
UK Data Protection Act 1998 Freedom of Information Bill 1999	http://www.hmso.gov.uk/acts/acts1998/19980029.htm http://www.publications.parliament.uk/pa/cm199900/cmbills/005/2000005.htm
USA Privacy Act 1974 Freedom of Information Act 1968	http://www.usdoj.gov/04foia/foiastat.htm http://www.usdoj.gov/04foia/privstat.htm
Manuals	
UK <i>Access to Public Records</i> , 1 st edn., September 1999	Public Records Office, Kew, Richmond, Surrey TW9 4DU, UK Tel: +44 20 8876 3444 Website: http://www.pro.gov.uk/

Please note that web site addresses may be subject to change. Addresses are correct as of April 2000.

UK <i>Open Government: a guide for staff to the Code of Practice on Access to Government Information</i> , Jan. 1997	Department for Education and Employment (DfEE), Records and Information Management Unit, L5 Caxton House, London SW1H 9NF, UK
Citizens Charters	
AUSTRALIA Office of the Commonwealth Ombudsman	http://www.comb.gov.au/publications/service_charter/Charter2.html
CANADA Canadian Charter of Rights and Freedoms	http://insight.mcmasters.ca/org/efc/pages/law/charter/charter.txt
INDIA Reserve Bank of India, Exchange Control Department	http://ns.securities.ru/Public/Public98/RBI/PR/char980604.html?all
UK Charter for Inland Revenue taxpayers Citizen's Charter for Northern Ireland The Public Record Office Citizen's Charter Statement	http://www.inlandrevenue.gov.uk/pdfs/irl67.htm http://www.ni-charter.gov.uk/charter.htm http://www.pro.gov.uk/readers/charter.htm
Codes of Practice	
EUROPEAN UNION Code of Conduct concerning public access to Commission and Council documents	http://europa.eu.int/en/comm/accdoc/code.html
HONG KONG Code of Access on Information	http://www.info.gov.hk/access/code.htm
UK Code of Practice on Access to Government Information, 2 nd edn., 1997	http://www.homeoffice.gov.uk/foi/ogcode981.htm
Information access initiatives	
INDIA MKSS, Rajasthan Public Affairs Centre	Village and PO Dev Dungri, Via Kabeda, District Rajasmand, Rajasthan, India 578 16 th B Main, 3 rd Cross, 3 rd Block, Koramangala, Bangalore 560 034, India Tel: +91 80 5520246/5525453/ 5525452 Fax: +91 80 5537260 Email: pacblr@blr.vsnl.net.in

Please note that web site addresses may be subject to change. Addresses are correct as of April 2000

ANNEX THREE

Resource Material

Freedom of Information (FOI)

Access to information legislation provides citizens with a statutory 'right to know'. In practice the specific provisions of the legislation will determine the extent to which citizens are able to obtain access to records of government activities. The intention is to provide access whenever disclosure is in the public interest, not for public officials to use the legislation as a secrecy law.

Key points of freedom of information laws are that they:

- confer legal rights on citizens that can be enforced
- seek to change the culture of secrecy within the civil service
- provide access to records not just information
- define exemptions
- define rights of appeal

RIGHT OF ACCESS TO INFORMATION

In many countries the principles of freedom of expression and free exchange of information are enshrined in the constitution. However specific freedom of information legislation is required for citizens to exercise these rights. For example, the 1996 Constitution of South Africa contains provisions for the rights of access to information, requiring that these rights be enabled by specific legislation. The Promotion of Access to Information Act was passed in February 2000.

Many countries that have introduced FOI are seeking to replace the 'culture of secrecy' that prevails within civil service with a 'culture of openness'. FOI laws are intended to promote accountability and transparency in government by making the process of government decision-making more open. The intention is to make disclosure the rule, rather than the exception. Although some records may legitimately be exempt from disclosure, exemptions should be applied narrowly (see section on exemptions below).⁷

FOI serves to make government more accountable to the legislature as well as citizens. By making information on executive programmes more accessible, the members of the legislative branch of government will be able to exercise their monitoring role more effectively because they will be better informed.

SCOPE

The jurisdiction of FOI legislation varies a great deal and it should be determined by the structure of government in the particular country. For example, in the USA the federal FOI Act applies only to the executive branch of the federal government. Most US states have supplemented the federal law by enacting their own 'sunshine' laws to apply the principles of FOI to state and local government. However in Ireland, as in many other countries, the Freedom of Information Act applies not only to the executive, but also to local government,

⁷ See Annex 1 for a list of countries that have freedom of information laws.

companies that are more than 50% state-owned and even to the records of private companies that relate to government contracts.

FOI laws can, but do not have to, be applied retrospectively. Many countries have adopted a non-retrospective law, adopting a progressive ‘rolling back’ approach. This means that only records created after the date the Act becomes effective fall under the jurisdiction of the Act. However others, for example South Africa, have adopted fully retrospective acts. This provision does not normally apply to information held on individuals (see section on Privacy Acts).

RIGHTS OF ACCESS TO RECORDS

Under freedom of information laws citizens usually have the right to request copies of documents, not just the information contained within. Many FOI laws provide that, where only part of the information may be disclosed, agencies should provide a copy of the document excluding the exempt information rather than refusing access. Fees may be charged for the provision of information but they should not be prohibitive. For example, in the USA many government bodies provide a great deal of information for free. Charges are then levied for more lengthy requests but these are usually restricted to cost-recovery.

Time limits for responding to requests and appeals should be set out in the FOI Act. These are legally binding. Failure to comply with these should constitute grounds for appeal to the Act’s external monitors, as would the imposition of unreasonable charges.

It is important to note that under many FOI Acts requests for information must be made in writing, whether by mail, fax or email. Requests made over the telephone do not constitute FOI requests.

PRIVACY ACTS

Some freedom of information legislation incorporates provisions for accessing records held on individuals. Alternatively this aspect may be dealt with separately in a Privacy Act. This is the planned approach in South Africa.

Unlike the access provisions for general records of government in many FOI laws, access to personal records held by government agencies is usually applied retrospectively. However the legislation is structured, access to personal information is usually restricted to records held within a system of filing and that are retrieved by some form of personal identifier, ie personal name, number, index, etc. For example, the Canadian Privacy Act established the requirement that personal information should be managed throughout its life cycle, that is from its creation through to its ultimate destruction or preservation in the National Archives. Along with the right of access to these personal files, a key provision of privacy laws is that citizens should have the right to have incorrect information amended.

RECORDS MANAGEMENT

Even legally enforceable rights of access to information are meaningless if government records are chaotic. Even if the information would be available in principle, if it cannot be found then it cannot be made available to citizens. Not only does this limit government accountability and their credibility in the eyes of their citizens, it has a serious impact on the capacity of government to discharge its duties efficiently.

Records management issues must be addressed by a FOI law and improvements implemented prior to its introduction. One of the provisions of most FOI laws is that agencies must publish lists of the records series that they hold. Therefore series must be organised and captured within a record keeping system. In Canada, in addition to the requirement that descriptions of records are published, there was a commitment to the introduction of policies, standards and best practice as well as systems to ensure that information was managed through its life cycle. This was in recognition of the fact that without such procedures, FOI could not be successfully implemented.

APPEALS

The right of appeal against adverse decisions is one of the most important provisions of a Freedom of Information Act, protecting against undue secrecy by providing a mechanism for the scrutiny of decisions. Without this safeguard, the effectiveness of FOI would be minimised. The law usually requires agencies, when denying requests, to notify requesters of their rights of appeal and the procedure to be followed. These are legal rights and are enforceable.

If access to records is denied the agency concerned should notify the requester of the reasons for their refusal, and cite the exemption that covers the records. Sanctions for non-compliance should be provided for in the legislation.

Most freedom of information legislation provides for a two-stage appeal.

- Firstly, there is an administrative appeal to the agency concerned. Citizens can lodge an appeal requiring the agency to conduct an internal review of the decision. This appeal should be heard at a more senior level than the original decision-maker. If the denial of access is upheld it is important that citizens then have recourse to an independent arbitrator.
- The second stage of the appeal process under most existing FOI Acts is to an independent Ombudsman or Information Commissioner.
- Alternatively the second appeal stage could be for judicial review as is the case in the USA. In the US, if an administrative appeal fails, complainants can apply to the district courts. This is made easier by allowing the individual seeking access to file their suit either in the district in which they are resident, or in the district in which the records are lodged. In some countries the Ombudsman could also take the complaint to the courts.

Whichever option is chosen, the key point is that there is an effective provision for impartial review. However the power of the appeal process lies in the sanctions that can be applied for non-compliance. See the paper, *The Role of the Ombudsman*, for a fuller discussion of their powers.

EXEMPTIONS

There are legitimate exemptions to the freedom of information provisions. One of the criticisms of many existing FOI laws is that categories of exemptions are defined quite broadly and may therefore be used to preserve secrecy. The intention should be that exemptions are defined as narrowly as possible, whilst protecting the public interest, to ensure maximum disclosure. Typical categories of exemptions are:

- national security

- records relating to the formulation of government policy
- law enforcement and security
- confidential and commercially sensitive information
- personal information (unless related to the person making the request)
- information exempted by other statutes.

It may be necessary to include provisions to prevent the disclosure of the existence of some classes of records. For example, the US FOI Act was amended in 1996 to exclude limited categories of records where admitting the existence of the record would result in the same damage as disclosure itself.

EDUCATING CITIZENS

Freedom of information legislation not only establishes the citizen's legal right of access to information, it also confers on government the obligation to facilitate access. The law should include provisions requiring agencies subject to FOI to publish information relating to:

- their structure, functions and operations
- the classes of records held by the body
- arrangements for access
- the internal procedures used by the agency in the conduct of its business.

Monitoring the extent of compliance with these requirements should be part of the remit of the Ombudsman. Governments should be required to actively inform citizens of the rights conferred on them by FOI and privacy legislation. This demonstrates their real commitment to openness and increased accountability.

Countries with freedom of information legislation

Sweden	1766
USA	1966
Denmark	1970
Norway	1970
Holland	1978
France	1978
Australia	1982
Canada	1983
New Zealand	1982
Hungary	1992
Belize	1994
Ireland	1997
Thailand	1997
Korea	1998
Israel	1998
Japan	1999
South Africa	2000

Code of Practice on Access to Government Information

A Code of Practice is a method of promoting and regulating access to information. As such it is a flexible tool for making government more open and accountable. The intention of a Code of Practice should be to make information available to the public unless there are good reasons why it should be withheld. It should not be used as an instrument for withholding information unless that information is legitimately exempt. However without the force of legislation and the powers of enforcement this implies it is possible that its impact may be limited.

Key elements of a Code of Practice are that it:

- does not require legislation
- provides access to information not documents
- defines categories of exemptions
- defines an appeals procedure
- determines performance criteria.

NON-STATUTORY CODE: A CASE STUDY FROM THE UK

A non-statutory *Code of Practice on Access to Information* was adopted by the United Kingdom in 1994, subsequently revised in 1997. It is important to note that the provisions of the *Code* are subject to any restrictions imposed by both existing and subsequent legislation.

In essence the *Code of Practice* seeks to promote open government by introducing procedures and performance targets for providing access to government information rather than an ad hoc system that relies on the attitudes of individual civil servants. It could be incorporated into or used as support to a civil service-wide Code of Conduct. Such Codes of Conduct are intended to improve service delivery and an essential part of that is the accessibility of information. Therefore prior to the introduction of a Code the government must be committed to citizens' rights of access to information.

Citizens can use such a code as a means to gain access to government information. This applies not only to private individuals and businesses, but also to interest groups and the media. A code will also provide a mechanism for members of the legislature to obtain information on government programmes.

The government has the power to determine the extent of the application of the Code. This may be related to the existing jurisdiction of an Ombudsman as is the case in the UK or, if a new Ombudsman is to be created to oversee the Code, it may be determined by the administrative structure of government. Implementation could be phased to allow more effective training and impact assessment, perhaps extending initially from central government to the districts; or from line ministries through to their executive agencies and associated branches. For example, in the UK the jurisdiction of the *Code* is central government departments and their non-departmental public bodies only, including private firms under contract to a department.

ACCESS TO INFORMATION NOT DOCUMENTS

The UK *Code of Practice* is explicit in restricting provision of access to *information* and not to the document in which it is contained. There is no requirement to provide copies of any public sector documents. In addition, government departments are not required under the Code to acquire information they would not normally hold or to provide information that is already published elsewhere.

A charge may legitimately be applied for the provision of information; this should not be prohibitive. Existing charging policies in UK departments tend to apply a sliding scale, many departments offering the first 4 or 5 hours work on a *Code* request free of charge, then recovering the cost of staff time or applying an hourly rate for enquiries that take longer to deal with. Departments are free to determine their own charges although, if these were deemed to be excessive by enquirers, an appeal could be made to the Ombudsman as described below.

EXEMPTIONS

There are many legitimate exemptions to information disclosure that are necessary to protect the privacy of individuals and the ability of Ministers to govern. Typical categories for consideration may include:

- national security or defence
- the conduct of international relations
- law enforcement and legal proceedings
- public safety/order
- immigration and nationality
- effective management of the economy/collection of taxes
- effective management of the public service
- time-consuming or unreasonable requests
- individual privacy
- information given in confidence
- disclosure prohibited by statute.⁸

However, even where information falls within an exempt category a ‘harm test’ should be applied to ascertain whether the potential damage from release outweighs the public interest in disclosure. A Code of Practice is not intended as a protection for corrupt or inept officials. It should be clear that where the only harm from the release of information would be the embarrassment of a public official that the information should be released as requested.

WRITTEN GUIDANCE

In the UK written guidance is offered to both citizens and staff about making and handling requests. This guidance is intended to ensure that

- citizens are aware of their rights
- citizens can get the most from the *Code*
- best practice for handling requests is identified.

⁸ For further details see the *UK Code of Practice on Access to Information*, 2nd edn., 1997

Providing such information for citizens and staff is an important method of improving the effectiveness of implementation. As stated above, the intention of a Code of Practice is to promote open government, and officials are supposed to encourage access rather than scouring the Code for relevant exemptions.

APPEAL PROCEDURES

Procedures for reviewing decisions to refuse requests for access to information should be included in a Code of Practice. The UK *Code of Practice* provides a two stage review as follows:

- i) internal review at senior level within the department
- ii) appeal to the Parliamentary Commissioner for Administration (the Ombudsman) through a member of Parliament.

It is good practice for those reviewing cases internally not to have been involved in making the original decision. If a request is again refused the petitioner may appeal to the Ombudsman but only through a Member of Parliament. However further investigation is at the discretion of the Ombudsman and he may not take the complaint any further. There is no recourse beyond the Ombudsman under the *Code*.

This external check on the actions of government is important for the effective implementation of the Code. It lessens the risk that applicants who have been refused information on spurious grounds will be treated unfairly. However in the UK this process is weakened as Ombudsmen often do not have the powers to order and enforce the release of information, their influence is limited to the negative publicity for government attached to adverse decisions.⁹

MONITORING COMPLIANCE WITH THE CODE

It is important for policy development that there are some means of monitoring the performance of the Code so that government can see whether it is working and, if not, identify where it is failing. Useful measures include:

- target response times for
 - dealing with requests
 - holding inquiries.
- annual statistical returns by departments of
 - total number of requests under the Code¹⁰
 - number of requests refused and exemption cited¹¹
 - number of departmental inquiries and outcomes
 - number of inquiries by Parliamentary Ombudsman and outcomes.

⁹ See paper on Ombudsmen for more information on the ombudsman system

¹⁰ NB In the UK this only includes requests that refer specifically to the *Code*.

¹¹ NB In the UK this applies to all requests for information regardless of whether the *Code* is cited.

Minimum targets, with which departments ought to comply, are laid out in the Code. Many departments in the UK have chosen to adopt their own more stringent performance targets. For example, the UK *Code of Practice* sets a target response time of 20 days for *Code* requests, the Department for Education and Employment employs its own target of 15 days for dealing with simple requests. Their performance is then assessed against these more stringent targets.

Annual reports are compiled that correlate statistics from agencies covered by the Code and these are made publicly available. This is an important mechanism for helping to deliver accountability of government departments to citizens for service delivery.

WHERE TO FIND MORE INFORMATION:

- See UK Home Office, *Open Government: Explaining the Code of Practice on Access to Government Information* and *Guidance note on handling openness cases under the Code of Practice on Access to Government Information*.
- UK Home Office, Freedom of Information Unit, <http://www.open.gov.uk/index.html>

The Role of The Ombudsman

An Ombudsman's role is to investigate complaints by citizens against agencies of government. This paper will focus principally upon the role of the Ombudsman in promoting access to information; in this paper the terms *Ombudsman* and *Information Commissioner* are used interchangeably. Freedom of information (FOI) legislation often establishes an ombudsman as the external monitor. Depending upon the particular country concerned, there may be a different Ombudsman to regulate this specific area or the Office of the Ombudsman may cover the whole spectrum of government, including FOI.

Key points regarding the role of the Ombudsman are that they:

- are established by law
- are independent
- act as mediator between citizens and government
- have powers to investigate complaints
- may have powers to enforce rulings.

RESPONSIBILITIES

The Ombudsman is usually given responsibility for the monitoring of government services, ensuring that the minimum standards for public service are observed. This should not be restricted to determining whether the exercise of government decision-making power complies with the law, but also whether their duties were administered fairly according to accepted standards of civil service conduct. The responsibilities of the Ombudsman under FOI usually include:

- investigating complaints
- promoting the following of good practice and agencies' compliance with the Act
- publishing reports – annual reports to the legislature and investigations of complaints
- encouraging the dissemination of information by agencies subject to FOI, and by their own office
- assessing whether an agency is following good practice.

In Australia the job of monitoring the FOI legislation has been given to the Commonwealth Ombudsman. They have chosen to establish a separate Privacy Commissioner to safeguard the rights of individuals to privacy under the FOI laws.

INDEPENDENCE

The position of Ombudsman must be established in law, usually through an Ombudsman Act. It is important that this provides for the independence of the office from government. It is clear that, if the Ombudsman is to be effective as a government watchdog, it cannot investigate its own master.

SCOPE

The scope of the Ombudsman will be determined by legislation, ie an Ombudsman Act, given the size and structure of government in a particular country. Their powers of investigation may be limited to the executive or, as in Ireland, be extended to include local government and associated agencies. Their role may also be limited to responding directly to formal complaints or they may also have wider scope to investigate the conduct of public agencies on their own initiative.

As with other access to information mechanisms, these are of limited impact without a programme of awareness-raising for citizens. Publication of the services offered and details of how to access them will increase the use of the Ombudsman by citizens. This demonstrates government commitment to the role.

MEDIATION

One of the most important points regarding the role of an Ombudsman is that they act as mediators between government and their citizens. They offer an alternative to an adversarial approach through the judiciary where government and citizens become hostile opponents.

To perform this role effectively they must be seen to be:

- easily accessible
- free
- fair in their dealings with both complainants and public agencies
- effective in resolving complaints.¹²

As well as protecting the rights of citizens, the Ombudsman can help to protect public officials. For example, one of the roles of the Office of the Ombudsman in Hong Kong, China is ‘indicating the facts when public officers are unjustly accused.’¹³ Providing a service for the resolution of complaints about public services is an important mechanism for maintaining public confidence. In many countries there are no private sector alternatives to services provided by the government, therefore the role of the Ombudsman as mediator can be particularly vital.

POWERS OF THE OMBUDSMAN

Although the office of Ombudsman is a statutory body their powers are often quite limited. Typical strengths are that they have the power to:

- examine the records of an agency under investigation
- require the attendance of witnesses
- sequester documents
- enter any premises in connection with an investigation
- publish reports.

¹² Kevin Murphy, Ombudsman and Information Commissioner Designate, Ireland: ‘Accountability and the Citizen’, Address to the *Annual Conference of the IPA*, Dublin, 7 Nov 1997

¹³ Office of the Ombudsman, Hong Kong, China: *Vision, Mission, Values and Roles*, http://www.sar-ombudsman.gov.hk/english/about_ocac/vision.htm

However these must be offset by the usual restrictions on the weight of adverse rulings by the Ombudsman. There are 3 models for the powers of enforcement usually allocated to them, as follows:

- making decisions binding on ministers
- making decisions binding, subject to ministerial veto or judicial appeal on a point of law
- making recommendations.

The most common option chosen is to limit the power of the Ombudsman to recommending disclosure. This is the case under the Code of Practice on Access to Information in the UK, and under the FOI legislation in Australia and Canada. The argument in favour of this is that ultimately accountability should reside with an elected minister who is directly responsible to the legislature and the electorate, rather than with an appointed official. It is also argued that, in practice, ministers would rarely ignore the recommendations of an Ombudsman because of the negative publicity this would generate.

In Canada, although the Information Commissioner's decisions are not in themselves binding, they also have the power to take a case to the courts. The decision of the court carries in these cases carries all the weight of the rule of law. This is an important tool for the Commissioner whose position may otherwise seem relatively weak. Relationships with the judiciary built into Ombudsmen legislation can have a significant impact on their powers.

However proponents of strengthening the powers of the Ombudsman point to the example of New Zealand. Contrary to claims that decisions of the Ombudsman would not be overturned, in the first 6 months of the operation of their FOI law, a ministerial veto was used 7 times. The law on the use of the veto was subsequently amended in 1987, making any decision to use the veto a collective Cabinet decision requiring an Order in Council, which is subject to judicial review. Since that time it has not been used.¹⁴

¹⁴ Maurice Frankel, Campaign for Freedom of Information, UK: Seminar, UK London School of Economics, 16 Feb 2000

Citizens' Charters

Citizens' Charters are documents that summarise details of the services that are provided by government agencies, how to obtain these services and what to do if services do not meet expectations. They aim to introduce measurable standards of service, arrived at through consultation with both staff and users. Their purpose is to increase accountability through the publication of government services. They can be introduced at central government or local government level, and at the level of national or local services. Key points of a Citizen's Charter are that they:

- are non-statutory
- are intended to increase citizen participation
- define standards of service
- require publication of information about services.

SCOPE

Citizen's Charters may be drawn up as part of an overall strategy for improving government services or as a means of addressing localised problems within a particular sector. They define the services that will be provided and the minimum standards that citizens should expect to encounter. However it is important that these provisions are set out clearly to enable their easy application in practice. If definitions are vague and general then civil servants will be unclear as to the targets they are expected to meet, and user satisfaction will be reduced.

STANDARDS

Key principles of public service are embodied by citizens' charters. One example is the charter programme in the UK that identifies 9 principles for public service delivery, as below:

- Set standards of service that are
 - relevant
 - simple
 - measurable
 - monitored
 - published
 - reviewed
- Be open and provide full information – about costs, performance, availability, etc.
- Consult and involve both staff and users
- Encourage access and the promotion of choice
- Treat all fairly
- Put things right when they go wrong
- Use resources effectively
- Innovate and improve
- Work with other providers¹⁵

¹⁵ UK Cabinet Office, *Service First*, 1998

These guiding principles can then be applied to particular services and performance targets.

Some easily measurable targets include

- response times
 - for written enquiries
 - for complaints
- waiting times for appointments
- charges and fees.

Charters seek to change the culture of service provision by ensuring that users are consulted and their needs and apprehensions are addressed by the system. Standards should be drawn up after consultation with members of the public and staff. This process identifies the needs of users and the realities faced by those delivering the services. This should help to ensure that these are more closely matched.

COMPLAINTS

Charters set out the procedure for making complaints. The intention is to shift the emphasis from complaints as something negative which are to be avoided, to viewing complaints as an important form of communication and feedback. Citizen's comments can then be analysed for targeting improvements in public services in areas seen to be failing.

The complaints process should include provision for an internal review and also external impartial adjudication, perhaps to an Ombudsman (see paper on *The Role of the Ombudsman* for more information). However it is important to note that failure to meet the performance targets laid out in a Charter, whilst constituting grounds for complaint, does not normally carry any sanction in law.

MONITORING

Charters should provide the means for monitoring public sector performance. One key aspect of this is the requirement for agencies to publish information about their performance. Agencies are required to collate and publish statistics as set out in the charter, allowing citizens and the legislature the opportunity to assess the performance of the service. If the charter applies across a national service, eg schools or hospitals, the performance of local units can be compared by using this process. As well as identifying problem areas, this will provide an opportunity to identify areas of strength and to track improvements in services.

ACCESS TO INFORMATION

Charters can be used to support freedom of information (FOI) legislation. These laws usually require the publication of information regarding the structure, functions, and operations of public sector agencies. Even in countries without FOI laws, charters can be used to establish a provision for the disclosure of such information. Information should be made widely available using all available means; these may include the media, public libraries or information technology.

Citizens' charters are intended to improve public sector accountability as well as service delivery. For example, in India citizen's charters are being used to tackle low level corruption by providing citizens with access to information about services where bribes were often levied. These charters describe the services that the government will provide, the time frame for each service, the government officer who should be contacted and a remedy should the service not be provided.¹⁶

¹⁶ SD Sharma, 'Mobilising Civil Society: NGO initiatives to fight corruption and promote good governance – in the Indian context', Paper presented at the *Workshop on Promoting Integrity in Governance* at the *World Conference on Governance*, Manila, Philippines, 31 May-4 June 1999. This initiative is the result of co-operation between Transparency International India and central government.

Citizens Advice Bureaux

Citizens' Advice Bureaux (CABx) are independent networks that provide free advice and information to those who need assistance on issues such as housing, debt, homelessness, and obtaining benefits. Key points about CABx are that they:

- disseminate information on public services
- provide free and independent advice to citizens
- provide a two-way channel of communication between citizens and government

SCOPE

Networks of CABx should cover the whole country, both urban and rural areas, guaranteeing the principle of equal access to their advisory services. A key feature of CABx is that the advice they give is free of charge. Often they are staffed by trained volunteers.

Although CABx may be funded by government, they must retain some independence to ensure that they are seen to offer a fair and impartial service. For example, in Mauritius the CABx are run by the Ministry of Urban and Rural Development. In the UK they are run by the National Association of Citizens Advice Bureaux, in England and Wales, and its sister organisations in Scotland and Northern Ireland - registered charities that receive much of their funding from statutory grants and charitable donations.

AIMS

Citizens Advice Bureaux advise on the typical social problems encountered by ordinary citizens. Their aims are twofold as illustrated by those of the New Zealand CABx service:

1. *To ensure that individuals do not suffer through ignorance of their rights and responsibilities, or of the services available; or through the inability to express their needs effectively.*
2. *To exert a responsible influence on the development of social policies and services, both locally and nationally.*¹⁷

INFORMATION PROVISION

Governments may be required by freedom of information legislation, or other provisions such as Citizen's Charters, codes of practice, etc., to publish and disseminate information about government services. The CABx can provide an effective means of reaching citizens through their national network, thereby helping government to fulfil its obligations. In New Zealand local CABx distribute a whole range of guidance leaflets produced by the government. However it is important to note that this role is limited by the availability of resources.

¹⁷ Glen Innes Citizens Advice Bureau, New Zealand: <http://www.geocities.com/SoHo/Veranda/2934/cabgi.html>

Information could be made available on:

- what services are available
- how to obtain them
- how to make complaints
- how to obtain redress

Information technology is being utilised by the National Association of Citizens Advice Bureaux in the UK to make their advisory service more accessible. Local CABx are using email to deal with enquiries, and there is a national *Advice Guide* available through the Internet. This draws on the information sources used by the advisers. In New Zealand local CABx are also developing web sites to make their services more accessible and in Mauritius information about the CABx service can be found on the government website.

ADVICE

The CABx provide advice on a whole range of issues that concern services provided by both the public and private sectors. In this paper we will focus upon their role relative to government services.

CABx advice is usually delivered through personal consultations where advice is given in response to a particular enquiry. They identify the citizen's legal rights and advise on how these can be upheld, the services available to assist them, and what to do if these services have not met expectations.

As well as providing an advisory service for citizens, the CABx also provide valuable advice to government on the development of services and the common grievances of citizens, providing a useful channel of communication for government.

COMPLAINTS

It is important to note that CABx cannot act for citizens when they wish to obtain redress for grievances. They are able to provide information on the process that must be undertaken, but they do not usually handle the cases themselves.

They can provide advice on the choices available for obtaining redress, and the necessary steps. CABx acknowledge that the recognition that citizens' have rights is difficult to enforce without specific enabling legislation, for example, anti-discrimination laws, a minimum wage, etc. The CABx can advise on how to use the enforcement mechanisms that are built into legislation for the protection of citizens. Alternatively they can act as a pressure group for change in government programmes.

As well as providing guidance on complaints about public services, they can inform the government about problem areas, enabling the government to target limited resources on the programmes that most need them. They can also provide valuable information to government about local needs and complaints about conditions that are not directly impacted by government services, but that should be addressed by the public sector.

For example, in Mauritius an important function of the network of Citizens Advice Bureaux is to provide a channel of communication from citizens to government regarding attitudes to local developments and planned projects. In the UK feedback from citizens enquiries is channelled from the local Bureaux to the national association through *Bureau Evidence Forms*. These are completed for enquiries that represent an example of a wider social problem. This information then forms the basis for widely-distributed published reports.