

# A Handbook for **PUBLIC BODIES**



National Information Commission  
**NEPAL**







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## Statement by National Information Commission:

The right of citizens to ask and obtain information is recognized as a fundamental right in the Constitution of Nepal. The right to information, as established in Article 27 of the Constitution, and the Right to Information Act, 2007 has been enacted for its implementation. The Right to Information Regulation 2008 has been issued, and the National Information Commission was established in 2008 as a regulatory body to implement the right to information, as per the Constitution and the laws.

The commission's primary responsibility is to ensure the citizen's right to seek and obtain information. Under the Right to Information Act, 2007, if a citizen's request for information on personal or public matters within a public body is denied by the information officer or office chief, the citizen can file a complaint with the commission. The commission is mandated to issue appropriate orders upon receiving such complaints, thereby ensuring the citizen's right to ask and obtain information as guaranteed by the constitution.

The law has also given the commission the responsibility of hearing the appeal as well as the promotional work related to the right to information. Although the officials of the public bodies responsible for disseminating



information, are aware of important rights such as the right to information enshrined in the Constitution and the law they are not found to have sufficient knowledge. There have been various promotional activities by the commission in this regard, but there have been complaints from the citizens about lack of ease of information flow. If the officials of public bodies, who are responsible for making citizens follow the constitution and the law, do not or cannot follow the law themselves, then citizens will not be able to follow the law either.

To ensure good governance, transparency, and accountability in public bodies, officials must possess adequate knowledge of the law and the willingness to follow it. This is not achievable without informing officials about the constitutional and legal provisions that enable citizens to ask and obtain information.

In this context, this handbook has been prepared to inform officials of public bodies about the legal provisions related to the right to information. The Commission is grateful for the significant support received from The Asia Foundation in preparing this handbook.

April 2024,

National Information Commission

## Introduction


According to Article 27 of the Constitution of Nepal, the Right to Information Act, 2007, and the Right to Information Regulations, 2008 any public body must fulfill the following obligations:

(The term "public body" refers to all three levels of the government - federal, provincial, and local governments, all government offices, public institutions, all national and international nongovernmental organizations, and all bodies established by law.)

### **Respect the citizens' right to information**

Article 27 of the Constitution of Nepal guarantees every citizen the right to ask and obtain information on any matter of public concern.

To facilitate the exercise of this fundamental right, Section 4(1) of the Right to Information Act, 2007 requires every public body to respect the citizens' right to information. Section 3(2) of the Act provides that every Nepali citizen shall have access to the information held by public bodies, making public bodies like open books for the citizens. As the state is governed by the rule of law, public bodies must implement the provisions made in the Constitution and the law in letter and spirit.



In sub-section (1) of section 4 of the Right to Information Act, 2007, issued to implement this fundamental right, it has been mentioned that every public body should respect the right to information of the citizens. Since sub-section (2) of section 3 of the Act provides that every Nepali citizen shall have access to the information contained in the public body, the public body should be like an open book for the citizens. When the State is governed by the rule of law, the provisions made by the Constitution and the law must be implemented in spirit, words, and actions.


### **Open and transparent work culture**

The following four principles mentioned in the preamble of the Right to Information Act, 2007 should be strictly implemented by the public bodies:

- The functioning of the state should be conducted according to the democratic principles.
- The functioning of public bodies should be accountable and responsible to citizens.
- The functioning of public bodies should be open and transparent.
- Citizens' access to information of public importance in public bodies should be made simple and easy.

Only by embracing the noble purpose behind the enactment of this Act can public bodies become






transparent and accountable, thereby providing citizens with a sense of good governance.

The practice of the principles mentioned in the preamble of the Act will directly help to end corruption, irregularities, and unethical practices, and to make public bodies accountable to the citizens. This is the first step for good governance.

### **All information should be provided, except for specific exceptions stipulated by law**

There may be a dilemma as to what information to provide to the public body and what information not to provide. In this regard, there is a legal provision in clauses (a) to (e) of sub-section (3) of section 3 of the Right to Information Act that exempts from the obligation to disseminate the following information:

- Information that could seriously jeopardize the sovereignty, territorial integrity, national security, public peace and order, or international relations of Nepal.
- Information that could directly affect crime investigation, inquiry, and prosecution.
- Information that could seriously undermine economic, trade, monetary interests or the protection of intellectual property, banking, or business confidentiality.
- Information that could endanger the personal privacy, life, property, health, or security of an individual.



Apart from the information mentioned above, there should be no hesitation in disseminating other information, and public bodies should be liberal in providing information.

### **Is the information mentioned above never to be disclosed?**

There is a prohibitive clause following the provisions of Clause (a) to (e) of Sub-clause (3) of Section 3 of the Right to Information Act. It states that except for having reasonable and sufficient reasons for not disclosing such information, public bodies cannot avoid the obligation to disclose information. Public bodies must take this seriously. If the information cannot be provided when requested, the reasons and justification for not providing the information must be clearly detailed in writing to the applicant.

The classification of the types of information that are not to be disclosed must include what kinds of information fall within the five categories of non-disclosure. When classifying in this manner, it must be specified with the basis for how long certain information cannot be made public. Only the information classified in this manner may public bodies not be obligated to disclose for the specified period.


## **What is information categorization?**

The Right to Information Act has provisions for five categories of information that public bodies are not obligated to disclose. Identifying the types of information that fall under these, and determining the duration for which each information will be protected, is called information categorization. While doing this, public bodies must keep the following in mind:

- The provisions for information categorization are made in Section 27 of the Right to Information Act.
- The law provides for the categorized information to be protected from disclosure for a maximum of 30 years.
- The chairperson of the Information Categorization Committee is the Chief Secretary of the Government of Nepal.
- Therefore, each public body must initiate the process for information categorization through the Secretary of the concerned ministry.
- In the absence of information categorization, generally, no information can be denied.

## **Responsibilities of public bodies**

Section 4 of the Right to Information Act stipulates the following obligations for public bodies to be proactive in providing information. Public bodies must mandatorily implement these responsibilities:

- 
- Respect and protect the citizen's right to information.
  - Categorize and update information, and make it public.
  - Make access to information easy and convenient for citizens.
  - The working procedures of public bodies must be open and transparent. Provide training to employees from time to time to make them efficient in disseminating information.
  - Disseminate information available in their bodies through various means of communication in different languages.
  - Section 5 of the Act has assigned the responsibility to public bodies to update and disseminate information from at least 20 years ago.

### **Supervision of subordinate offices's work**


- Each ministry, department, and other central-level bodies should make arrangements for the flow of information from their subordinate bodies in accordance with the law.
- For this, an internal procedure for information flow should be formulated and implemented so as not to conflict with the law related to the right to information.
- The information officers of the central and subordinate offices should meet at least twice a year, and train them, and facilitate the exchange of good practices.

- Each central-level body must conduct RTI audits encompassing the information disclosure practices of their subordinate offices.
- All central-level bodies should reward the information officers who disseminate the information in the best possible way throughout the year.

### **Provision for Proactive Disclosure**

According to the Right to Information Act, 2007 and the Right to Information Regulations, 2008, public bodies must proactively provide information every three months, even if citizens do not request the information. This is called "proactive disclosure". The legal provisions for this are as follows:

- As per subsection (3) of Section 5 of the Right to Information Act and Rule 3 of the Regulations, public bodies must publicly disclose details related to their body every three months under 13 and 7 headings respectively, totaling 20 headings.
- Such details must be published through various mediums during the following periods: (a) July-September, (b) October-December, (c) January-March, and (d) April-June.
- This information must be published within 15 days of completing each 3-month period, and a copy must also be sent to the National Information Commission.

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- The information must be published by posting it on the website, publishing it in a bulletin, displaying it on the notice board, and through other various mediums.
  - While doing such proactive publication, the public bodies must use the Proactive Disclosure Management System (PDMS) software developed by the Commission.

### **20 points for Proactive Disclosure**


The 20 points for proactive disclosure are as follows:

1. The structure and nature of the public body
2. The functions, duties, and rights of the public body
3. Number of employees in the public body and their job descriptions
4. Services provided by the public body
5. Branches of the body and responsible officers providing the services
6. Fees and duration required to obtain the services
7. Decision making process and responsible officers
8. Authority to hear appeals against decisions
9. Description of work performed
10. Names and positions of information officer and chief of the public body
11. List of acts, regulations, byelaws or guidelines
12. Updated details of income, expenditure and financial transactions
13. Other details as prescribed
14. Details of any programs or projects operated in the previous fiscal year

15. Details of the public body's website, if any
16. Details of foreign assistance, loans, grants and technical support received and agreements
17. Details of programs operated by the public body and their progress
18. List of information categorized and protected by the public body, and the duration of such protection
19. Applications received for information and the information provided
20. Details of the public body's information if that has been published or to be published elsewhere.

### **Provisions for Information Officer:**

The Right to Information Act, 2007 has provisions in Section 6 that stipulates each public body to appoint an Information Officer to facilitate the flow of information requested by citizens. While appointing the Information Officer, the public body must select a person who is knowledgeable about the public body, willing to fulfil the responsibilities of the Information Officer, aware, and citizen-friendly. Additionally, the law has obligated the public bodies to appoint the second or third-ranking employee after the chief of the office as the Information Officer. Such an official is the first or second-ranking officer who takes charge as the acting chief of the office in the absence of the office chief. Generally, the responsibilities of the public body regarding the Information Officer will be as follows:

- 
- The office chief must arrange for a regular flow of information to the Information Officer.
  - If necessary, the public body must arrange for an information section.
  - If the Information Officer's position falls vacant for any reason, another person must be appointed as the Information Officer within a maximum of 7 days.
  - The photo and contact number of the Information Officer must be posted on the homepage of the body's website.
  - A flex board with the contact number and photo of the Information Officer must be displayed prominently in the front area of the office premises.
  - The Information Officer must be provided with the necessary resources, means, and authority. The formats for requesting information, filing complaints, and appeals must be printed and provided to the information seekers free of cost.
  - The Information Officer must maintain a record of the information requests, complaints, appeals, and information provided, in the prescribed format, and submit a report to the District Monitoring Unit or District Post Office (for district level), the Monitoring Committee at the Chief Minister and Council of Ministers' Office (for provincial-level), and the Postal Service Department, and Ministry of Communications and Information Technology, and the National Information Commission (for federal-level) within 7 days of each month.





- Each public body needs to create an email ID: informationofficer@office'sname.com and make it public for use
- Every public body should arrange a budget to carry out promotional programs to bring the right to information at the citizen level.
- A separate mobile number must be provided to the Information Officer to facilitate easy contact and communication with the information seekers.
- Each public body must enter the details in the information technology system developed by the Commission, such as PDMS or any other system prescribed by the Commission. The responsibility for this lies with the Information Officer.

### **Guidelines for Providing Information**

According to the Right to Information Act, 2007 and Right to Information Regulations, 2008, public bodies must fulfil the following obligations in providing information to citizens in a simple and easy manner:


- Citizens requiring necessary assistance in requesting information must be supported. It is essential to provide a template for such requests and educate individuals about the nature of information available in their respective institutions. Additionally, discussions should be held to determine the type of information sought for what purposes, fostering cooperation and inspiration for requesting information accordingly.

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- Citizens are encouraged to submit written requests to inspire them to request information. Once such requests are received, they should be registered, and the requested information must be provided to the information requester. However, individuals, who are illiterate or have physical impairments and cannot write, should receive assistance from the Information Officer to convert their verbal requests into written ones. For individuals facing disabilities such as being physically challenged, elderly, or encountering language barriers, public bodies should have special provisions to facilitate easy requesting and obtaining of information.
  - Citizens can submit information requests by appearing in person or through a representative. Requests sent through post, courier, email, fax, etc. must also be accepted and information must be provided. There is a legal provision that the information officer must immediately provide the information requested by the citizen.
  - If the requested information needs to be compiled, the Information Officer must provide the information within 15 days. The citizen must be informed about the timeline for providing the information.
  - However, for information related to the life and safety of life, the law mandates providing it within 24 hours.
  - Generally, a certified copy of the requested information must be provided. If any citizen wants to study or view the information, an appropriate time must be made



available. If the requested information is not related to the public body, the citizen must be informed in writing immediately.


- The Information Officer must provide the information in the same format as requested, if possible.
- If the Information Officer is unable to provide the information within 15 days, the citizen must be informed and advised to file a complaint with the chief of the body if unsatisfied. If the Information Officer does not provide the information within 15 days or the citizen is unsatisfied with the provided information, the citizen can file a complaint with the chief of the body within 7 days. The chief of the body must register the complaint and order the Information Officer to provide the information.
- If the chief of the office is also unable to provide the information due to valid reasons, they must inform the citizen about the decision and the citizen's right to appeal to the National Information Commission.
- If citizens appeal to the National Information Commission and it issues an order to provide information, the requested information must be provided promptly. If the commission specifies a timeframe in its order, the information should be provided within that timeframe. Moreover, if the commission's order mandates providing the information free of charge, it must be provided without any cost.

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- In some cases, if a public body rejects a request for information, the citizen can appeal to the commission through a complaint, an objection, or a reconsideration. In such a situation, if the commission deems the complaint, objection, or reconsideration to be appropriate, the public body should provide the information. In some cases, if the concerned public body refuses to accept the request for information, the citizen can appeal to the NIC for reconsideration, relief, or reapplication. In such a situation, the NIC must properly consider the appeal, relief, or reapplication.
  - The Commission can call the relevant official/ Information Officer, demand documents, and take witness testimony during the appeal process. The public body must cooperate with the Commission in all these activities.
  - In this regard, the Commission can engage with the relevant authorities or Information Officers to discuss the proceedings and resolutions of the appeal. They can also submit written statements or affidavits if necessary, and witnesses can testify about the matter. The Commission may summon the appellant, respondent, their representatives, or relevant legal practitioners to be present. All these actions are intended to assist the Commission in its proceedings.
  - If the Commission orders a fine on the official for not providing information, the amount must be paid immediately. The Commission can write to the Chief District Officer to recover the fine.

- If an official fails to comply with the order issued by the Commission due to non-disclosure of information, the specified amount in the order must be paid immediately. The Commission has legal provisions to send a written notice to the Chief District Officer for the recovery of this amount if it remains unpaid. Additionally, if any employee is subjected to departmental action based on written evidence received from the Commission, the Commission's order must be implemented promptly. According to the law, action must be taken within three months of receiving such information, and the Commission must be informed accordingly.
- If someone files a claim for compensation due to not receiving information, and the Commission finds the claim justified, and after careful consideration, orders to provide compensation, the public body must provide reasonable compensation immediately.

### **Information fees:**

Every citizen has the right to ask and obtain information from public bodies as a Fundamental Right. Therefore, public bodies should provide information to information seekers free of cost as much as possible. All public bodies are required to update all their relevant information on their websites. By doing this, citizens can access the information for free. However, the following legal provisions exist regarding fees that citizens may have to pay for information:

- 
- The application for requesting information must be registered free of cost, and a receipt must be provided without charging any fee.
  - Citizens cannot be required to affix postal stamps on the application or complaint related to information requests.
  - The first 10 pages of information must be provided free of cost. After that, the fees are: Rs. 5 per page for A4 size, Rs. 10 per page for A3 size, Rs. 50 per CD or floppy, and the first half hour of study/observation of information is free, and Rs. 50 per person per additional hour.
  - Except for the above, other fees can be charged based on the actual cost incurred.
  - However, fees cannot be charged in excess of the provisions of the Right to Information law by citing other laws. If the Information Commission has ordered to provide information free of cost, no fees can be charged.

### **Actions against Misuse of Information**

- If a public body believes that a citizen has misused the information provided to them (as per Section 31(1) of the Right to Information Act 2007), they can file a complaint with the evidence to the Information Commission.
- If the Commission confirms the misuse of information as claimed, it can impose a fine of Rs. 5,000 to 25,000 on the person who misused the information.

- Public bodies can encourage information-seekers to state the purpose of the information request and promote the proper utilization of the information.


### **Protection of information:**

Section 28 of the Right to Information Act, 2007 has provisions related to the protection of information. It is the responsibility of every public body to implement this, as follows:

- Public bodies must protect personal information under their custody from unauthorized publication and dissemination.
- Personal information held by public bodies cannot be used without the written consent of the concerned person, except in the following three cases:
  - (a) Addressing severe risks to an individual's life or public health and safety.
  - (b) Matters that must be disclosed in accordance with prevailing laws.
  - (c) Dealing with corruption control measures.

### **Protection of Whistle Blower**

Section 29 of the Right to Information Act, 2007 has provisions for the protection of whistle blower. If any action is taken against an whistle blower by the public body or its chief due to the information provided, the whistle blower can file a complaint to the National Information Commission. The legal provisions are as follows:

- 
- It is the duty of the employee of the public body to provide information about corruption, irregularities, and any act that is considered a crime under the prevailing laws.
  - The identity of the whistle blower must be kept confidential by the information recipient.
  - The whistle blower cannot be punished by dismissal from the job or any other legal liability due to providing the information.
  - If the whistle blower is punished or suffered any loss in violation of this, the whistle blower can file a complaint with the Commission, claiming compensation.
  - If the Commission finds that the whistle blower was dismissed from the job, it can order to revoke that decision and provide compensation for the loss suffered by the whistle blower. Two such orders have been implemented so far.

### **Can personal information be provided?**

Section 30 of the Right to Information Act, 2007 has provisions for providing personal information. It is the responsibility of public bodies to implement this provision, as follows:

- If any person is holding a public position in a public body and requests information related to that position, the public body must provide the information as requested to the concerned person.




- If any concerned person requests information related to themselves from a public body, it must provide that information to the individual.
- In such cases, the information-seeker must follow the same process as for requesting other information.
- The information-seeker must also pay the prescribed fee according to the law for the information requested.

### **High Morale and Creativity**


The chief of the public body or the Information Officer must implement the right to information with high morale. For this, it is their responsibility to run creative and innovative programs. In this regard, the following points are noteworthy:

- Section 36 of the Right to Information Act, 2007 has a provision to protect actions taken in good faith. Accordingly, the chief or Information Officer of any public body cannot be sued or punished for any action taken in good faith regarding information dissemination.
- Section 35 of the Act has provisions to correct any incorrect information recorded in the public bodies.
- Every public body must observe National Information Day on Bhadra 3 and International Day for Universal Access to Information on September 28.
- On the initiative of the Information Commission, public body chiefs have expressed public commitment



to respect the right to information, regularly publish proactive disclosure, appoint Information Officers, and develop a culture of seeking and providing information, thereby promoting transparency, accountability, and good governance. This commitment must be implemented in practice.

- As per the Good Governance Act, all bodies must issue citizen charters, adopt transparency in decision-making, and put up hoarding boards at construction sites, among other actions.
- As per the Good Governance Act, public bodies must conduct public hearings, listen to citizens' grievances, and take initiatives to develop information technology and disseminate information through digital systems.
- All public bodies must develop and implement simple internal procedures for information flow.
- The Information Commission is collaborating with District Administration Offices, District Post Offices, and District Chapters of the Federation of Nepali Journalists in all 77 districts. In case of any ambiguity, coordination must be done with these public bodies to disseminate information.
- The Information Commission has been conducting RTI audits, rewarding exemplary Information Officers, and taking various other creative measures. Public bodies must actively participate in such activities.

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- It is imperative to provide Information Officers with the necessary facilities to inspire them, making the exercise and implementation of the right to information easily accessible and effective.
  - The orders issued by the Commission from time to time must be implemented strictly.
  - The effective implementation of citizens' right to information requires proactive engagement from all public bodies, including the federal government, provincial government, local authorities, as well as national and international non-governmental organizations and private sector entities.

## Appendices

### 1. Format for Maintaining Records of Information Requests

(The law does not prescribe a format for the records, so this format is only for the sake of convenience)

..... (Name and Address of the Body)

Register of Information Requests, Complaints, and Appeals

S.N.	Date	Information Requester/ Complainant/Appellant Name, Address, and Contact Number of the Appellant	Information request / Complaint / Brief details of appeal	Details of the actions taken on the application, complaint, and appeal	Other actions (proceedings that need to be documented/recorded) taken in this regard

## 2. Format for submitting progress report on the implementation of the right to information

(The law does not prescribe a format for the progress report, therefore this format is only for the sake of convenience)

### Note:

For the district and local level, the progress report on information requests, complaints, and appeals should be submitted to the district monitoring unit or the district post office, for the provincial level to the monitoring committee located at the Office of the Chief Minister and Council of Ministers, and for the federal level to the Postal Service Department, the Ministry of Communications and Information Technology, and the National Information Commission, within the 7th day of every month in the following format:

.....(Name and address of the body)

Period of the progress report: Monthly/Quarterly/Half-yearly/Annual progress report prepared on:

Name and contact number of the Information Officer:

S.N.	Whether an information officer has been appointed or not	If appointed, name, position, email, and mobile number of the individual	Whether information requests were made or not during this period	The number of information requests made, if any	Of the requests made, how many were provided information / how many were not provided information	If information was filed, in what timeframe it was provided / if not provided, the reason for not providing it	Whether complaints were filed or not with the chief of the office	If a complaint was filed, whether information was provided or not	Whether a separate record was maintained or not on the matters where information was provided or its provision was denied	Whether the details required to be published were published or not	If published, the medium used, and if not, the reason	Whether the information officer has received training or not	Any other details that need to be mentioned	Remarks
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### 3. Format for submitting an application to request information

(The law does not prescribe a format for the application, therefore this format is only for the sake of convenience)

**Dear Information Officer,**

.....(Name and address of the public body)

**Subject: Request to provide information.**

Regarding the above subject, I/we require the following information related to my/our public interest, as per Article 27 of the Constitution of Nepal and Section 7(1) of the Right to Information Act, 2064 (2007).

Details:

1.....

2.....

Applicant

Name:

Address:

Phone No.:

Email:

Date: ..... (Year/Month/Day)

#### 4. Format for filing a complaint with the chief of the office

(The law does not prescribe a format for the complaint, therefore this format is only for the sake of convenience)

**Dear Chief of the Office,**

.....(Name and address of the public body)

**Subject: Request to provide information that was not provided/  
refused to be provided, and information that was partially provided/  
provided incorrectly, and to take action against the Information  
Officer.**

Regarding the above subject, I/we had submitted an application to the Information Officer of this office on ..... requesting the information listed in the details below, as per my/our public interest. However, the Information Officer has failed to provide the information within the timeframe specified in Section 7(2) of the Right to Information Act, 2064 (2007), or has refused to provide the information, or has provided partial information, or has provided incorrect information. Therefore, I/we are filing this complaint as per Section 9(1) of the Right to Information Act, 2064 (2007).

Hence, I/we request that action be taken against the Information Officer who failed to provide the information, refused to provide the information, provided partial information, or provided incorrect information, as per Section 9(3), and that the information be provided as per Section 9(2).

Details:

- 1.....
- 2.....

Applicant

Name:

Address:

Phone No.:

Email:

Date: ..... (Year/Month/Day)

## 5. Format for filing an appeal with the National Information Commission

Through the Office of .....

To,  
..... Complainant

Versus  
.....Respondent

### **Subject: Request to provide the requested information.**

Mr./Ms. ...., the chief of the .....public body, has decided on .....that the information on the subject of ..... cannot be provided to me/us. However, I/we are not satisfied with this decision for the following reasons and grounds, and therefore, I/we are filing this appeal within the statutory period of thirty-five days as per Section 10(1).

- (a) .....
- (b) .....

The above statement is true and correct. If found false, I/we shall be liable as per the law. Enclosed documents:

- (a) Copy of the decision made by the chief of the public body.
- (b) .....
- (c) .....

Signature of the Appellant:

Name:

Address:

Phone No.:

Email:

Date: ..... (Year/Month/Day)







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