



KHYBER PAKHTUNKHWA RIGHT TO INFORMATION COMMISSION

INTRODUCTORY GUIDE FOR CITIZENS

HOW THE RTI CAN HELP

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Disclaimer:

This is the first draft (work-in-progress) disseminated to share key information about KPK RTI, raise awareness about its importance and encourage exchange of ideas about its implementation. The information contained in this booklet will be updated and further polished before its publication. Every effort has been made to ensure accuracy of the contents of this publication. Any errors or omissions are not deliberate. These guidelines are also available on the web at www.kprti.gov.pk

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Introduction

Under the KPK RTI Act, 2013 all citizens now have the right to seek information from public (government) bodies

Right to information or RTI is an important tool to empower citizens.

This guide explains how citizens can benefit from RTI and details the procedure for submitting RTI requests and, if need be, making complaints.

A. RIGHT TO INFORMATION

Disclaimer: This guide is designed to help citizens understand the KPK RTI Act, 2013 and their responsibilities under it. However, this is not a legal document. It is important to refer to the law itself for legal interpretation.

1. What is right to information?

Right to Information (RTI) basically means that you, as a citizen, can ask for information from public bodies.

This could be information about the services public bodies provide, about their staff, about how much money they have and how they spend it, and much more.

(See question 6 for more details)

RTI is based on the principle that information belongs not to the government, but to the people.

2. I am just an ordinary citizen. How can the right to information help me?

Information lets you see exactly what the government is doing. Information is power. With information you can (for example):

- Ensure that public officials do not over-charge you for a service- once you know what the official fee is;
- Hold contractors to account for local development schemes such as roads and waterworks, once you know what work they were paid to carry out you can demand this is done fully and properly;
- Find out what happened to your application for a government job and, if you didn't get it, why were you rejected and someone else was chosen- once you know what the criteria were for selection and how many marks each candidate got, you will know if the selection process was carried out fairly;
- Push for better services in your area, e.g. schools, health facilities- once you know what services and facilities are budgeted for by the government, or what staff (e.g. teachers and doctors) are supposed to be working in them, you can demand these are provided/staff work properly.

Citizens can ensure service delivery through using power of RTI



These are just a few examples of the ways in which information about how government works and what it is doing can empower you, the ordinary citizen.

Ordinary citizens across the world are already using RTI to curb corruption, hold public officials accountable, obtain what they are entitled to and improve delivery of services such as education and health. (See Annex IV for specific examples.) You too can do the same in KPK.

B. KPK RIGHT TO INFORMATION ACT

3. What is KPK Right to Information Act?

Article 19-A of the constitution of the Islamic Republic of Pakistan already grants you the right to access information available with the public (government) bodies. Now the Government of KPK has promulgated the KPK Right to Information Act, 2013.

This law reinforces your constitutional right to ask for information from government bodies. The law also spells out exactly what type of information you can get, which public bodies you can ask for information from and their responsibilities to provide you information.

In short, the law makes it clear who does what and thus makes it much easier for you to get information.

4. Can anyone get information under the KPK RTI Act?

Yes, as long as they are citizens of Pakistan or a ‘legal person’ in Pakistan. ‘Legal person’ refers, for example, to private companies or NGOs. Any of these are entitled to access information under the KPK law.

There are no restrictions based on age, education, gender, wealth and so on.

Every Citizens of Pakistan can use KPK RTI law.



5. Which public bodies can I demand information from?

Under the KPK RTI Act, all public bodies being paid for through the provincial exchequer are obliged to provide citizens with information. The list includes:

- all government departments (e.g. Department of Education, Local Government Department etc. etc.)
- all attached organizations (e.g. Highways Department, KPK Police, Directorate General Public Relations)
- all autonomous bodies (e.g. KMC College, KPK Auqaf Organization, Boards of Intermediate and Secondary Education, PDA, Universities etc.)
- all local governments (e.g. your Tehsil Municipal Administration)
- any statutory body set up under a provincial law (e.g. the KPK Ombudsman Office, KPK Public Service Commission)
- Subordinate Judiciary
- the KPK Assembly (e.g. your MPA)
- the Secretariats of the Governor and Chief Minister of KPK
- any Board, Commission, Council or a body financed by the Government or any other body which undertakes public functions.

6. Is all information public? What types of information can I get?

The KPK RTI Act states that ‘information’ can be anything about the setting of the public body and its activities. Examples include:

- the laws, rules and regulations by which a public body operates;
- its budget- both allocated funds and actual expenditure;
- the organizational set up;
- staff numbers, grades and salaries;
- tenders and contract awards;
- services provided;
- annual and other reports.

The law is based on the principle of maximum disclosure- this means that anything not exempted (see question 8) can be disclosed.

7. Does it matter what form the information is in? What if it isn't a paper document?

The physical form of the information does not matter- as long as it can be disclosed under the law, you can access it. Thus you could obtain information in the form of books, memos, plans, contracts, orders, reports, letters, photographs, videos, information in electronic form and so on.

8. Is there anything I can't get information about?

Yes, there are some exemptions- i.e. things that cannot be disclosed. This is because disclosure of some types of information could cause harm. Examples are information which, if disclosed, could harm national security, or the economy, or Pakistan's relations with another country, or violate someone's right to privacy (e.g. personal bank accounts).

Such information is exempted under the KPK RTI Act and you cannot access it.

Annex II discusses the exemptions in detail. It also explains the public interest over-ride, by which some exemptions can be set aside.

9. Is there any information I can get without submitting an RTI request?

Yes, there is a lot of information that public bodies have to disclose even if no one submits RTI requests for it. This is called 'Proactive Disclosure'.

The KPK RTI Act has a long list of information that has to be proactively disclosed. This includes details of the services a public body provides, the laws under which it operates, its staff and their salaries, its budget and so on. (See

Annex III for full list.) This proactively disclosed information should be available on the website of the public body, as well as in its offices.

TIP: Before submitting an RTI request, check if the information has already been disclosed by the public body.

C. APPLICATION PROCEDURE

10. How do I submit an RTI request?

Submitting an RTI request is very simple.

You can either make the request on a plain piece of paper or you can obtain an information Request Form from the public body. These should be available online or in the public body's office.

In your request you need to write the following:

- Your own name and address/ contact details and copy of ID Card;
- Details of the information you seek;
- The name of the public body concerned;
- If you want, you can also state the form in which you want the information (e.g. paper document or soft copy) or you simply want to inspect the documents at the public body's office.

You should address your request to the Public Information Officer. (Note: each public body has Public Information Officer, whose job is to handle RTI

requests and assist citizens in making RTI requests). Either a signed and dated receipt be taken from the PIO or a receipt of the courier service/ post office be obtained, in case you subsequently have to pursue your request. This is a must.

Public Information Office receiving an RTI request from a citizen.



Box 1: Tips on wording to use in RTI requests

The wording of your RTI request can make a big difference to how successful you are in getting the information you want. You should try to make it easy for the Public Information Officer to find the information. Follow these tips:

- a) Try to make your request simple, clear and precise. The more specific your RTI request, the easier it will be for the Public Information Officer to find the information you want.
- b) As a general guide, avoid subjective questions (e.g. seeking explanations or opinions) and stick to more fact-based and objective questions.
- c) Don't ask for lots and lots of different information in the same RTI request. Submit separate requests for different types of information.

The following examples show how you can change the wording of your request to ensure a positive response:

E.g. 1: Don't ask 'How much does the government spend on foreign trips for ministers?' since this is very open-ended. The PIO could be confused about: 'Which ministers?- all of them, some of them; 'Over what time period?- the past year, since the elections, and so on. Instead ask, 'How much was spent on the February 2013 mission to Malaysia by the Minister of Education and his entourage?' this is much more specific and thus easier to find.

E.g. 2: Don't ask 'Why is my application for "x" allowance taking so long?' since this could be subjective and open-ended, but rather 'What has happened to my application for "x" allowance?' - getting this information will enable you to see for yourself where your application has been held up.

E.g. 3: Don't ask 'How many permits the District Government issued for butchers in the last fiscal year and how much is the District Government spending on water supply?' in the same RTI request, since these relate to completely different departments and types of information. It would be better to submit two separate RTI requests for this information.

11. How much does it cost?

Making an RTI request does not cost anything- it is free of charge.

However, you could later be asked to pay for photocopying (20 photocopies are free) or any other charges incurred in giving you the information you asked for. Each public body should have a schedule of fees for photocopying/ other expenses. You can check this to ensure that you are not being over-charged.

12. Do I have to give a reason for requesting information?

No, absolutely not.

13. What if I need help in making my request?

If someone is illiterate, or disabled, or has difficulty explaining the information they want, the Public Information Officer has a duty to assist them.

14. What happens next?

The Public Information Officer will review your request and should get back to you with one of the following responses:

- a) He will provide you the information you requested (in the form you asked for) and will also attach a certificate stating that the information is correct. This has to be dated, signed by the Public Information Officer and stamped;
- b) He will tell you the information you requested cannot be provided because it is exempt under the KPK RTI Act (or some other reason, e.g. it cannot be found);
- c) He will tell you that the information you requested is with another public body. In such cases, the Public Information Officer has to transfer your request to that public body and inform you in writing.
- d) He will tell you that the information you requested is with another public body but they don't know which one. It will then be up to you to try and find the relevant public body.

15. How long will it take to get a response to my RTI request?

The Public Information Officer has to respond to your request within 10 working days.

In case where the request requires searching through a large number of records, or where a third party has to be consulted, the law allows an additional 10 working days. However, in such a case, the Public Information Officer must inform you in writing that it will take longer and give you the reason.

16. Is there any ‘fast track’ procedure to get information quickly?

Yes. In case where the question of life or liberty of a person is involved, the Public Information Officer must respond to the request within two working days of receiving it.

Box 2: Sample RTI Request

To: Public Information Officer

Department of Education KPK

Subject: RTI Request- Information about school stipends in Kohat

In accordance with the right to information granted to citizens under the KPK RTI Act, 2013, I would like to know the following:

- a) How much funding was allocated for school stipends in District Kohat in the last fiscal year i-e 2013-14?
- b) How much of these funds have actually been disbursed to school children/their families during the last fiscal year?
- c) How many children/ families have received the stipends in this fiscal year?

I would like to have a hard copy of the documentation relating to the above.

Singed: Mr. XYZ (name of applicant) Address and contact details

D. COMPLAINTS PROCEDURE

17. What can I do if I have a complaint?

It is possible that you are not happy with the way your RTI request was handled: the Public Information Officer didn't respond, or is taking too long to respond, or didn't provide the information you wanted and didn't tell you why you're not happy with the reason, or overcharged you, and so on. You could lodge complaint about these and other such matters.

If you have any such complaint, then you can complain to the KP Information Commission, an independent body set up to handle complaints related to RTI requests.

18. What is the KPK Information Commission?

The KPK Information Commission is an independent and the main enforcement body for RTI, to which citizens can take any RTI related complaints. It has sufficient powers to enable it to carry out this role (see below).

The Commission also has other roles in relation to RTI: it sets the rules and procedures for RTI, it supports (guides) public bodies in implementing RTI and it helps raise awareness about RTI among the general public.

19. How can I complain to the KPK Information Commission?

If you are not satisfied with the response of the public body, you can lodge a complaint with the KPK Information Commission.

Again the complaint procedure is simple. Just write your complaint on a plain paper and give all the relevant details- the information and date on which you requested for information, the public body concerned, the name of the Public Information Officer concerned, the response you received and dates.

20. What happens next?

The Commission must decide on a complaint within a period of sixty days. In handling complaints, the Commission can exercise the powers of a civil court to issue summons for witnesses or documents, enforce attendance of persons and persuade them to give evidence, examine and inspect information, and so on.

The Commission can uphold the decision of the public body to refuse to disclose information or it can uphold the complaint and order the public body to disclose the information.

21. What sanctions can the Commission impose?

The Commission can, while inquiring into a complaint, impose a fine on a Public Information Officer. The amount would be a daily fine of Rs. 250 per day, up to a maximum of Rs. 25,000.

You should also be aware that, under the KPK RTI Act, anyone who willfully destroys or otherwise obstructs access to information that is subject to an RTI request, or complaint to the Commission, is committing an offence punishable by imprisonment of up to two years and / or a fine not less than Rs. 50,000.

Box 3: Examples of Unreasonable Excuses for Not Giving Information

When you submit an RTI request and don't get the information you asked for, sometimes the Public Information Officer will give you a valid reason but sometimes the reasons can be unjustified. Listed below are some examples of unreasonable excuses and suggestions for the response you could make:

Excuse: This information is exempted under another law.

Suggested Response: The KPK RTI Act takes precedence over all other laws. The information I requested is not exempted under the KPK RTI Act and hence you have to provide it.

Excuse: There is no Public Information Officer to deal with your request.

Suggested Response: Every Public body is required under the law to appoint Public Information Officers. If there is none, the head of the public body is automatically responsible for handling RTI requests.

Excuse: First explain why you want this information?

Suggested Response: Under the KPK RTI Act you have to provide me with this information and I do not have to give any reasons for why I want it.

Excuse: It will take a lot of time to find this information. We are very busy and have lots of other work to deal with.

Suggested Response: Under the KPK RTI Act you have to respond to my RTI request within ten working days. If it is hard to find, you can take a further ten

working days but you must inform me of that in writing. These are the time limits imposed by the law and you have to comply with them- irrespective of other duties.

Excuse: We don't have this information: it's with "x" department.

Suggested Response: Under the law, you have to transfer my RTI request to the Public Information Officer in "x" department and inform me of that in writing. This is your legal obligation.

E. FURTHER INFORMATION

You can obtain more information about RTI from:

- KPK Right to Information Commission,
7th Floor, Tasneem Plaza (Near Benevolent Fund Building)
6th Saddar Road, Peshawar.
Email: media@kprti.gov.pk
Ph: 92-91-9211131
Fax: 92-91-9211163

Annex II: Exemptions and Public Interest Over-ride

As explained in this guide, disclosure of some information could cause harm and this is therefore exempted under the RTI law.

The law does not give an exhaustive list of what is exempt, but rather defines a number of interests which must be protected. These include:

- National defence/ security/ public order;
- International relations of Pakistan;
- Legitimate privacy interests (e.g. details of someone's bank account);

- Legally privileged information (e.g. lawyer-client discussions);
- Legitimate commercial interests;
- The life, health or safety of any person;
- Tackling crime/ administration of justice;
- Ability of the Government to manage the economy;
- Policy formulation or success.

Any information which, if disclosed, could harm any of these interests is exempted under the KPK RTI Act.

Harm Test

The exemption does not mean that you can't access any information related to the above: you can't access only that information which would cause harm if disclosed.

For example, the police are responsible for public order. It would harm public order if, say, police plans for security at major events were disclosed, this information could be used by terrorists to plot attacks- hence this information is exempted. But there is no harm caused by disclosing information about police numbers and salaries- hence this information is not exempted.

Take another example, the Foreign Office is responsible for organizing foreign tours by Pakistan's leaders. It could harm Pakistan's international relations if sensitive discussions with other leaders were disclosed- hence such information is exempted. But there would be no harm caused in disclosing how much a foreign mission costs: indeed, this would be important to ensure that public funds are not being wasted- hence such information can and should be disclosed.

The 'harm test' has to be applied to decide if information related to any of the above interests can be disclosed or not.

Public Interest Over-ride

Even in cases where disclosure of certain information could cause harm to one of the interests listed above, if the public interest in releasing that information is greater than the harm caused, the information has to be disclosed. This is called the ‘public interest over-ride’ on exemptions.

Examples of actual cases across the world where the public interest over-ride was applied include:

- A request for information about accidents relating to nuclear weapons. Normally, this would be considered highly sensitive and not disclosed but if it was decided that the public interest in disclosure would be substantial and outweighed any harm caused- hence limited information would/can to be released.

Under the KPK RTI Act, it is the KPK Information Commission which determines if the public interest in disclosure of certain information outweighs the harm caused- if yes, it can direct the concerned Public Information Officer to provide that information.

Annex III: Proactive disclosure List

The KPK RTI Act makes it mandatory for all public bodies to release the following information proactively (i.e. without waiting for RTI requests):

- Basic information about the public body- what it does, its functions;
- Names, Duties and powers of its officers and employees;
- How the public body works: the norms and procedures it follows to carry out its functions:
- All Acts, rules, regulations, notifications and so on under which the public body operates;
- A list of the types of information held by the public body;
- The decision-making processes of the public body, and whatever opportunities there are for citizens to provide their views and comments;
- A directory of the officers and employees of the public body, along with their remuneration and any perks and privileges they receive;
- The budget of the public body, including both proposed and actual expenditure;
- Any subsidies which the public body provides, and details of beneficiaries;

- Any concessions, permits or authorizations granted by the public body and details of recipients;
- How to obtain information from the public body;
- Name, designation and other details of the public body's public information officer (PIO);
- Any other information that would be notified in the official Gazette.

Note that it is not enough for public bodies to make information available: they must also ensure it is easy to access, easy to understand and up to date.

Annex IV: Case Studies from Other Countries of Citizens Using RTI

South Africa: Using RTI to get water for a village

People in the South African village of Emkhandlwini had no water, while neighbouring villages were getting water deliveries from municipal tankers. The villagers filed an RTI request for minutes from the council meetings at which water programmes had been discussed and agreed, and for the council's Integrated Development Plan (IDP) and the IDP budget. This information showed that there were plans to deliver water throughout the region, but that somehow Emkhandlwini had been left out. Armed with this information, the villagers were able to successfully demand water for Emkhandlwini.

Uganda: Using RTI to stop corruption in the education system

In the Ugandan education system in the 1990s, lots of funds used to be transferred to schools via local authorities. However, a survey in the mid 1990s found that 80% of these funds never reached the schools. In response, the central government started publishing figures in local newspapers of the monthly transfers that had been made to local governments. This meant that both officials at the schools and parents of students could access information about the (intended) size of the transfers. A few years after the programme was started, the funds not reaching schools had dropped from 80% to 20%.

India: Using RTI to repair a village bridge

In one village in India, the bridge spanning the stream next to the village had collapsed six years ago. Local people had been petitioning the government every year to have the bridge repaired, but the officials told them that the government had not yet allocated the required funds. As a result they had to travel an extra ten kilometers every day in order to go to the neighbouring town or to catch a bus from the main road.

After the Indian RTI Act was introduced, the villagers submitted an RTI application asking the government for reasons why the bridge had not been repaired so far. In fifteen days they got a most surprising reply where the Commissioner's office informed them that as per official records the funds for the repair of their bridge had been sanctioned five years ago and that the bridge had already been repaired. In fact, last year additional funds had been sanctioned to

repaint the repaired bridge. However, as their RTI application suggested that the bridge had not actually been repaired, an inspection team was sent to enquire into the matter. The inspection team found that the local officials had pocketed the sanctioned money and had certified on paper that the bridge had been repaired. Therefore, action was initiated against the guilty officials and the bridge was finally repaired in reality.

India: Using RTI to ‘scare’ officials to issue a passport

An 80- year old widow in India had applied for a passport to visit her children who lived abroad. Months had gone by and she still didn’t have her passport. Whenever she went to the passport office to try and find out what the holdup was, she was accosted by touts who offered to get her the passport if she was willing to pay a hefty bribe. She then prepared an RTI request asking why she had not yet received her passport, who was responsible for the delay and what action the government intended to take against the responsible officer. When she arrived at the passport office and gave her RTI application to the concerned official, the official read her application, asked her to wait for a minute, went inside and came back with her passport, which he then handed to her- with the request that now that she had got her passport, she should not file the RTI application.

Pakistan: Using FOI (RTI) to ensure safe drinking water in Islamabad

The Capital Development Authority (CDA) has installed water filtration plants in various locations in Islamabad to provide citizens with safe drinking water. However, following numerous complaints from residents about the quality of the water, an NGO submitted a freedom of information (FIO) request to the CDA Water Management Division. They sought details related to water testing, frequency of changing the water filters, and display of information for the public.

CDA did not respond to the FOI request, so the NGO complained to the Federal Ombudsman- following which the information was provided. This FOI request led to CDA taking more care to ensure safe drinking water, and even inviting the NGO's representatives to accompany CDA officials when they changed some filters.

Thailand: Using RTI to secure education entitlements

In early 1998, shortly after the Thai RTI law was first adopted, a parent, Sumalee Limpaowart, used it to fight against corruption in the education system. Her daughter had been refused entry to a prestigious state-funded school. Admission was supposed to be based on a competitive entrance examination. Surprisingly, however, the student body was largely composed of children from elite families, suggesting that some form of bribery was involved. Sumalee sent a letter to the school requesting the marks and answer sheets of her daughter and the 120 students who were admitted. When she received no reply, she filed a petition under the Official Information Commission, which ordered disclosure of the information. Sumalee was eventually given access to the answer sheets and marks in March 1999. By that time, the school had already admitted to corrupt practices in the processing of the admission of 38 students.