

Day 7

Module III

Process of Seeking Information

Chapter 7

Application Process

Chapter Scheme

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List of Abbreviations / Acronyms

<i>APIO(s)</i>	Assistant Public Information Officer(s)	<i>PIO(s)</i>	Public Information Officer(s)
<i>FAA</i>	First Appellate Authority / Authorities	<i>RTI</i>	Right to Information
<i>IC(s)</i>	Information Commission(s)	<i>Ss</i>	Section(s)
<i>PAs</i>	Public Authority / Authorities	u. S.(s)	under Section(s)

Receiving Right to Information (RTI) Applications...

- ❑ The Public Information Officer (PIO) at the administrative unit level and the Assistant Public Information Officer (APIO) at the sub-district, sub-divisional level are designated and authorised to receive RTI applications from citizens.

[S. 5(1) & (2)]

Receiving RTI ApplicationsII

- An information seeker should make an application **in writing** or **through electronic means** to the PIO / APIO of the PA concerned... in **English / Hindi / ...official language of the area** in which the application is being made,

The application can be sent by post or through electronic means or the information seeker can deliver it personally in the office of the PA.

Receiving RTI ApplicationsIII

The application should specify particulars of the information sought accompanying such fee as may be prescribed... [S. 6(1)]

- If a person is unable to make a request in writing, the PIO shall render all reasonable assistance to the person making the request orally to reduce the same in writing
- Where a decision is taken to give access to a sensorily disabled person to any document, the PIO shall provide such assistance to the person as may be appropriate for the inspection of records.

Receiving RTI ApplicationsIV

- ❑ An applicant shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting... **[S. 6(2)]**
- ❑ A PIO can seek assistance of another officer from within the PA **[S. 5(4) & (5)]** – as has been elaborated upon in Chapter 5, Module II.

Receiving RTI Applications.....v

- ❑ If the **subject matter** of an application concerns any **other PA**, it should be **transferred to that PA**
- ❑ If **only part** of the application concerns an other PA, that should be transferred, clearly specifying the part which relates to that PA, and the fee received.
- ❑ The **applicant** should **be informed** of the same.
- ❑ Transfer of the application or part thereof should **be made as soon as possible but not later than 5 days** from the receipt of the application. **[Ss. 6(3) & 7(1)]**

Processing RTI Applications...

- ❑ The PIO on receipt of a request shall,
as expeditiously as possible, and in any case
within 30 days of the receipt of the request,
either provide the information or
reject the request for any of the reasons
specified in Ss. 8 & 9.

[S. 7(1)]

Note: The provisions of S. 8 & 9 have been covered in detail
in Chapter 10, Module IV.

Processing RTI Applications.....II

- ❑ where an application for information or appeal is given to an APIO, a period of five days shall be added in computing the period of response
- ❑ Where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request [S. 7(1)]
- ❑ If the PIO fails to give direction on the request for information within the period specified the PIO shall be deemed to have refused the request.
[S. 7(2)]

Processing RTI Applications.....III

- ❑ PIO may decide to provide the information and in the format requested (e.g. printed or electronic format [s. 7(5)]) on payment of any further fee representing the cost of providing the information... to be intimated to the applicant with other details... (as stated later)
- ❑ The period intervening... the despatch of the... intimation and payment... shall be excluded for the purpose of calculating... 30 days. [s. 7(3)]

Processing RTI Applications.....IV

- ❑ The fee... prescribed... shall be reasonable...
- ❑ No such fee shall be charged from the persons who are of below poverty line. [s. 7(5)]
- ❑ Requester shall be provided the information free of charge where a PA fails to comply with the time limits specified. [s. 7(6)]

Processing RTI Applications.....VI

Time-limits for disposal of applications

Nature of application	Time limit
Normal	30 days
Concerns life & liberty	48 hours
Application submitted to an APIO	35 days
Third party information sought	40 days
Corruption or human rights violations in scheduled and intelligence agencies	45 days

Processing RTI Applications.....VII

According to the Right to Information (Regulation of Fee and Cost) Rules, 2005 framed by the Central Government and similar rules framed by most State Governments, an applicant can make payment of fee in cash or by demand draft or banker's cheque or Indian Postal Order payable to the Accounts Officer of the PA. [Fee rules are different for different Appropriate Governments]

If any PA does not have any Accounts Officer, an officer may be designated as such for the purpose of receiving fee under the RTI Act or rules made thereunder.

Processing RTI Applications.....VIII

About Fees

Description	Fees	Mode of payment
Application	Rs.10	Cash/DD/Banker's Cheque Accounts Officer of Public Authority
Access Fee		
Copies provided or created in A4/A3 size	Rs.2	
For larger size	Actual cost	
Samples/ models	Actual cost	
Inspection of records	1 st hour: No fee. For each 15 min thereafter: Rs.5	
Diskettes, floppy	Rs.50	
Printed form	Price fixed for publication	
Photocopies of extracts from publication	Rs.2 per page	

Processing RTI Applications.....IX

- ❑ If third party information is requested... A PIO is to
 - send a written notice to third party, within 5 days inviting it to make an oral / a written submission, and keep the submission in view while decision-making
 - consider the oral / written submission, if received within 10 days from the date of receipt of above notice **[S. 7(7)]**
 - not disclose information if it is exempted under the RTI Act i.e. because of being a trade or commercial secret protected by law, it cannot be disclosed
 - that apart, if larger public interest warrants disclosure, notify the decision to disclose in writing to the third party within 40 days of receiving the application, which the latter can appeal against (as detailed in Chapter 8, Module III)

Replying to RTI Applications...

- An information shall ordinarily be provided in the form in which it sought

unless it would disproportionately divert the resources of the PA

or would be detrimental to the safety or preservation of the record in question. [S. 7(9)]

- Where an RTI application is transferred to another PA, the applicant should be immediately informed about the transfer. [S. 6(3)]

Replying to RTI Applications.....II

- In case further fee is to be charged, the 'intimation' to the requester, should provide:
 - the details of further fees representing the cost of providing information with the calculations and total amount in accordance with the application fee
 - a request to deposit the fees
 - information concerning her right with respect to review the decision as to the amount of fees charged
 - Particulars of the appellate authority, time limit, process
 - any other forms **[S. 7(3)(a) & (b)]**

Replying to RTI Applications.....III

- If information requested is exempted u. Ss. 8 / 9, the PIO has to reject the request and should communicate (to the applicant): **[S. 7(1) & (8)]**
 - the reasons for rejection
 - the period within which an appeal against such rejection may be preferred and
 - details of the appellate authority and the time for filing an appeal limit

Note: Such information [as in Ss. **7(3)(a) & (b) & (1) & (8)**] also has to be provided to the applicant where the PIO is providing partial information requested (the other part being exempted)

Some Related Frequently Asked Questions (FAQs)...

Q. A PA has been providing information to people on the basis of their oral requests in the past. Does the RTI Act require such informal practices to end?

A. No, the RTI Act, 2005 does not require that the conventional, informal practice of giving information upon oral request be discontinued.

If information can be provided quickly upon an oral request it is better to give such information to the requester rather than require him / her to put in a formal application. This also helps a PA / PIO by way of reduced paperwork.

Some Related FAQs.....II

Q. If information asked for is too big, can it be denied?
How much information can be asked in one application?

A. A request cannot be denied / rejected on the ground that information asked for is too big. A PA may invite the applicant to inspect the records and specify the information he wants. Information must be provided in the form in which it is requested for unless it disproportionately diverts the resources of the public authority. The Act does not put any restrictions on the amount of information that can be asked for through one application.

Some Related FAQs.....III

Q. What if there is a danger of the applicant misusing the information received under the RTI Act and blackmailing the officers with the information?

- The Act also specifies the categories of information which need not be kept in public domain, therefore, there is no danger of information being misused by the applicant.

In fact, disclosure of information as per the provisions of the Act will prevent honest and sincere officers from being black mailed.

Some Related FAQs.....IV

Q. What if there is a danger of the applicant misusing the documents he received under the Act?

- It has been suggested that the Government devise means to authenticate documents released under the Act.

A PIO may mark every page with a rubber stamp impression containing the phrase, "Documents released under RTI Act containing XX pages". Electronic files may be given in (un-editable) PDF / TIFF format. This will obviate the need for certifying the documents separately.

Some Related FAQs.....v

Q. What if the applicant mutilates or destroys a record during inspection?

A. To start with, A PA would do well to fix particular days of a week for allowing inspection to all applicants who asked for it. Rules may be made regarding the procedure of inspecting records under the Act.

That said, a PA must take adequate precautions for preserving the safety of records.

In case, an applicant mutilates or destroys a record during inspection, the PA should, immediately, lodge a complaint with appropriate authorities.

Some Related FAQs.....VI

Q. If same kind of information is asked by more than one citizen, should it be made available to all the requesters?

A. Yes. It is possible, however, that if such records are digitised as far as possible and uploaded on the internet to facilitate easy access, and the public made aware of its availability on the Internet, the number of RTI applications would be less or would come down post-disclosure-on-the-Internet .

Some Related FAQs.....VII

Q. If the information is already disclosed, can PIO / APIO refuse to accept a citizen's application?

A. No. That some information has already been disclosed proactively or to a citizen, cannot be a reason for rejecting an application. The PIO concerned must provide the information. (The APIO concerned must forward the application to the PIO concerned). For such information to be provided in a given format, reasonable additional fees may be charged and information should be provided upon payment of the prescribed fees.

Some Related FAQs.....VIII

Q. Can an application for accessing a 'current' or 'live' file be rejected on the ground that the final decision has not been taken?

A. Rejection of an application should be strictly on the grounds mentioned under S. 8 & 9 of the Act. Therefore, a request cannot be rejected on the ground that the case is pending for final consideration. If the information asked for falls under any of the exempted categories under S. 8 & 9, the same may be rejected while providing reasons for the same. Information regarding future course of action need not be disclosed.

Some Related FAQs.....IX

Q. Will a PIO be penalised if the superior officer orders him not to release information to the requester?

- ❑ The PIO is an independent authority under the Act. There is no need for her / him to take the approval of her / his superior for releasing the requested information.

The PIO alone is responsible for any decision taken by him, whether with the approval of his superior or not. If the IC, concerned, finds that the PIO has malafidely rejected the request, it is the PIO who will be penalised and not the superior officer.

Some Related FAQs.....X

Q. Should BPL applicants be charged additional fees for providing information requested by them?

A. The 'RTI Act, 2005' specifies that no fees need to be charged for 'Below the Poverty Line' applicants either at the time of making an application or while providing access to information requested by them.

Some Related FAQs.....XI

Q. Can a PIO transfer an RTI application within the PA?

A. A PIO can seek assistance of another officer from within the PA... who shall render all assistance and shall be a “deemed PIO” as per **S. 5 (4) & (5).**

However, the ‘RTI Act, 2005’ does not provide for transfer of RTI applications within the same PA.

Some Related FAQs.....XII

Q. How should a PIO respond if opinions are asked for?

A. "opinions" are included in the definition of information in the 'RTI Act, 2005'. CIC has clarified that although "opinion" is indeed "information", to so qualify it must be held in material form- (**Adjunct to Complaint No. CIC/WB/C/2007/00196-28.03.2008**)

Some Related FAQs.....XIII

Q. What should a PIO do if an RTI application is not accompanied by the prescribed application fee?

A. The PIO concerned should, first, find out whether the citizen making the request is a person below poverty line, in which case no application is required to be paid. If not, the PIO should write to the citizen asking her / him to deposit the application fee to get information.

It is suggested that the PIO need not reject the application. However there is no obligation on her / him to provide information unless the requisite (application and / of further) fee is deposited.

Some Related FAQs.....XIV

Q. To what extent should the PIO keep the applicant informed about the manner in which her / his request is being disposed?

A. A PIO would do well to keep an applicant informed about key actions pertaining to the request. To start with if an application is not clear about the information requirements, the applicant may be informed about it and also be told that the PIO would provide her / him all reasonable assistance in filing a proper application. Applications by e-Mails may have to be replied to with an intimation about the fees to be paid. It has been...

Some Related FAQs.....xv

...suggested that it would be proper to acknowledge the receipt of applications.

If the PIO decides not to disclose 3rd party information because it is exempted or because the PIO accepts its submission about not disclosing information, the candidate should be communicated the rejection of application.

If PIO decides to disclose information, the applicant has to be asked to wait till the appeals (if applicable) are decided or the time limits for making appeals are over...

Some Related FAQs.....XVI

...If partial information is disclosed, the applicant will have to be, accordingly, informed about both the above points.

Incidentally, 3rd party should not be given information about the applicant, which can be seen as personal information.

Where an application is transferred to another PA, it has been suggested that the applicant be informed of such details as: whether the complete application or appropriate part of it has been transferred; reasons for transfer; name and contact details of the other PA and the PIO concerned.

Some Related FAQs.....XVII

Q. What is Public Interest?

A. The Act does not define 'public interest'. We may rely on the interpretation given by the Central IC and the Supreme Court in this regard.

Disclosure of information that leads towards greater transparency and accountability in the working of the PA is 'Public Interest' [Central IC in one of its decisions]...

Some Related FAQs.....XVIII

...Public interest covers public health, public security, morals, economic welfare of the community and the objects mentioned in the Directive Principles of State Policy

[Supreme Court in State of Gujarat v Mirzapur Moti Kureshi Kasab Jamat & ors AIR 2006 Supreme Court 212]

Note: With these decisions as a reference, a PIO / FAA may still have to closely examine the issues involved - on a case-by-case basis.

Case I...

- If a request is received which a PIO cannot understand and needs more clarity on the particulars of the information sought, what can be do?

CIC has advised to hold a personal discussion with the requester in the following Decisions:

- “If there was general confusion regarding the kind of information that has been called for and that could have been supplied, it could have been easily resolved by a personal sitting between the appellant and the respondents”

[CIC/WB/A/2006/00810-5 July 2006]

Case III

- “The CPIO and the AA may, however, be well advised that... it is better to call the petitioner over for a discussion about what precise information he seeks.

...the petitioner had come all the way in appeal to the Commission in spite of the fact that the PA was willing to share with him all the information which he had requested. A personal discussion would have avoided litigation.”

[CIC/AT/A/2006/00157-5 July 2006]

Case II...

A request for information related to hundreds of 3rd parties is received by a PIO. It is not practical to give a notice to all of them as required by the S. 11(1). What can a PIO do?

In a similar case CIC advised,

- “in view of the fact that the number of third-parties in this case runs to over 800, the FAA [or PIO] may choose to call for hearing certain representatives of all 3rd parties, selecting them from samples of large, medium and small investors and, pass a speaking order...”

[CIC/AT/A/2007/01554, 30th May 2008]

References

- 'Right to Information Act', 2005 – Bare Act.
A soft copy is available on this website. It is downloadable.

☐ www.rti.gov.in

☐ www.cic.gov.in

End of Chapter 7

You must take the Quiz for this Chapter before proceeding to the next Chapter!