

**RTI Awareness  
Session for the  
Education  
Department**

21st August  
2018

*Welcome!*

# Centralized support from the RTI Unit

- The RTI Unit is the specialised unit to provide leadership and Support Functions such as:-
  - **Co-ordination** of implementation
  - **Training** of RTI Practitioners
  - **Responding** to agencies questions
  - **Monitoring** and **Reporting**
  - **Sustainability** of implementation
  - **Public education** (role dedicated)



# Two missing staff



**1. Publication  
Officer**

**2. Training and  
Education Officer**

# Implementation Planning Structure



**Prime Minister**

*RTI Commissioner*

*DSPPAC*

**RTI Steering Committee  
(RTISC)**

**RTI Unit**

All authorities represented  
| Ministries & dept.  
& statutory bodies

**IT**

**Implementation  
Planning**

**Training &  
RTI & Records  
Management**

**Public  
Participation &  
Communications**

“Knowledge is power,  
information is  
liberating”

Government of the people, by the people, for the  
people, shall not perish from the Earth:  
*Abraham Lincoln*



- Kofi Annan
- Former secretary general of the United Nations



# *Benefits of openness*

*Increase public knowledge of the activities and structure of government and encourages participation in national decision-making.*

*Greater public understanding on how government functions and consistent access to government records reduces impropriety and corruption.*

*Records management practices improves*

**THE RIGHT  
TO KNOW**  
**KEEPING GOV'T  
ACCOUNTABLE**

# WHY RTI

- The National RTI Policy 2014 and the RTI Act No. 2016 signals the Government of Vanuatu's continuing commitment to the recognition of access to information as a human right, and as a cornerstone of fundamental democratic principles of good governance.
- Nationally, the Policy represents part of a broader strategy of improved governance under the Comprehensive Reform Program (CRP), the National Priority Action Agenda and the Leadership Code and the SDG/NSDP.
- Internationally, it honors, to a large extent, a number of conventions to which Vanuatu is a signatory, including the United Nations Convention Against Corruption (UNCAC), which Vanuatu ratified in mid-2011. Regionally, the Policy is in line with Vanuatu's commitments under the 2005 Regional Pacific Plan.
- **The development of this policy is also timely in other respects, coming at a time when there is considerable interest in right to information on the part of civil society and the media, and with global development partners increasingly requiring greater transparency and accountability from aid recipients.**

# Right To Information

- The Right to Information (RTI) is defined as the citizen's right to access information held by public bodies including all government organizations at national and local level to non-governmental organizations, and any other body of public importance. **This principle indicates that all the information held by public bodies should be subject to disclosure unless there is an overriding public interest justification for non-disclosure.**
- Over 100 countries have adopted comprehensive Right to Information laws or national regulations.
- (People and Government are beneficiaries)



As senior public servants, you are the guardians of the governments vision on RTI and to ensure its goals are achieved through this mission statement

- **VISION**

- To provide open, accountable and participatory government for all the people of Vanuatu.

- **MISSION**

- It is our mission to promote the recognition of the right to information as a universal right in Vanuatu, guide public officials, the media, civil society and the public by providing a clear framework for accessing and disseminating information and provide an opportunity for a structured, comprehensive approach to the development of an improved and sustainable information management system across the public sector.

## Establish Institutional structure for Implementing RTI (The Framework)

- For an RTI law to be effective it needs to be supported by active implementation measures and supported by an institutional framework to undertake this task. **(RTI National Policy, RTI Legislation & implementation Plan)**
- There are three key institutional mechanisms for implementing RTI laws.
- Firstly, it is very useful to establish a focal point in the government to provide guidance and to monitor implementation. **(RTI Unit)**
- Secondly, each public authority needs to appoint a **dedicated RTI officer** to receive and process requests. Often this official is also responsible for leading on the putting in place other systems as required by the law.
- Finally, the law has provided for the establishment of an independent oversight body, known as an **information** commission or commissioner, which has the power to review complaints relating to requests and often also has a role in promoting awareness of the right.

# Information Commissioner

- To be appointed by the Judicial Service Commission;
- The JSC is also to determine the terms and condition of employment of the staff of this office;
- He/she is not subject to the direction of any other person or body in exercise of his/her functions or powers under the RTI Act or any other Act;
- Funds to run the operations of the Information Commissioner can either come from Government or any other funds received from other source;
- Function is to hear, investigate and make a decision on an appeal filed under this Act;
- Monitor and report on compliance by agencies
- Review exempt status of information and make appropriate recommendations;
- Refer to appropriate authorities cases where it appears that a criminal offence has been committed; etc

# Implementation provision under RTI Act

- The bill provides for the phase implementation of its provisions of two and a half years (30 months). Phase implementation means that the entities that the law will apply, by order made by Prime Minister who is responsible for the Act, be allowed to commence the administration of the Act.



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# Definition of Information

- *"information"* means any material in any form, including
  - Documents
  - Manuscripts
  - Memos
  - E-mails
  - Advices
  - Press releases
  - Circulars
  - Orders
  - Logbooks
  - Contracts
  - Reports
  - Samples
  - Photographs
  - Film
  - Sound recording
  - Map, plan, graph or drawing
  - Models
  - **Data material held in any electronic form** and
  - **Information relating to any private body which can be accessed by a public authority under any other law for the time being in force.**

# National Records & Information Management Policy

- The National Records and Information Management Development Committee was appointed by the PM in January 2017;
- Members comprises representatives from public sector, very experience records officers;
- Final draft of the National Records and Information Policy is ready to go before RTI Steering Committee, then to DCO and COM for approval;
- **Purpose**
- The purpose of this policy is to provide direction to government employees including temporary and casual employees and to contractors and volunteers for the creation, maintenance, storage and disposal of records and associated metadata within the Government of Vanuatu.
- The policy states the government's commitment to good recordkeeping in support of good governance, and to assign responsibilities for good recordkeeping within government. This is to make sure that the principles set out in this policy statement can be maintained.

# IT strategy

- Web Content writer to ensure standard content on [www.gov.vu](http://www.gov.vu) website for each public authority
- Provision of RTI e-mail addresses for all public authorities
- Upgrade of RTI website to provide information for the public and practitioners  
[www.rti.gov.vu](http://www.rti.gov.vu)
- The Web Accessibility Guideline

## PART 2 DISCLOSURE AND ACCESS TO INFORMATION

- (1) Subject to subsection 2(4), a Government agency or a relevant private entity must publish and disseminate an initial statement of its organization in each official language, including the following:
  - (a) a description of its structure, functions and duties; and
  - (b) a list of the entities falling under it including their location, opening hours, and subjects handled; and
  - (c) the title, business address and contact details of the principal administrative officer; and
  - (d) the particulars of its finances; and
  - (e) a directory of its officers and employees and a brief description of the powers and duties of its officers and employees;
  - (f) the procedure followed in the decision making process, including channels of supervision and accountability; and
  - (g) a simple guide to its records and information-keeping systems; and
  - (h) a statement of the types and forms of information and categories of documents that are held by it or used by its employees in the discharge of its functions; and



- (i) relevant details concerning any services it provides directly to members of the public; and
- (j) the content of all decisions or policies it has adopted which affect the public, along with the reasons for them, any authoritative interpretations of them and any important background material; and
- (k) the particulars of any arrangement that exists for consultation with or representation

# Application for access to information

- An application made under subsection (l) may be made in writing, orally or through any electronic means, in any official language, and to the relevant Government agency, relevant private entity or private entity, specifying the information required.

# An application under subsection (1) is to include the following information:

- a postal address, fax number or email address to which the information may be sent; and
- a telephone number at which the applicant may be reached; and
- the form of access required in accordance With section 28; and
- the language in which the information granted is to be supplied; and
- an indication of whether the application is being made on behalf of a person and the submission of proof of the capacity in which the applicant is making the application, to the reasonable satisfaction of the Right to Information Officer; and
- if the application is being made to a private entity - an explanation of why the information may assist in the exercise or protection of any right; and
- an indication of whether the applicant believes that the information is necessary to safeguard the life or liberty of himself or herself or any other person, and the basis for that belief.

# Deferral of access

- A Right to Information Officer may defer a grant of access to the information requested in the following circumstances:
  - if the information is a report that has been prepared for tabling in Parliament - the Right to Information Officer must defer the grant of access until 5 days after which it has been presented and approved by Parliament; or
  - if the information constitutes a report that has been prepared for the purpose of reporting to an official or an official body - the Right to Information Officer must defer a grant of access to information until the report has been presented or made available to that person or body or upon the expiration of 45 days from the date of the application, whichever is the earlier; or.....

# Deferral of access...(Continue...)

- if the publication of the information within a particular period is required under the provisions of any law relevant to that Government agency or relevant private entity - the Right to Information Officer must defer a grant of access to information until the expiration of that period; or
- if the premature release of the record would be contrary to the public interest - the Right to Information Officer must defer a grant of access to information until the occurrence of any event after which or the expiration of any period beyond which, the release of the document would not be contrary to the public interest.

# Decision made by RTI Officer

- Government agency or a relevant private entity must not deny access to information based on:
  - any of the applicants reasons as to why the application is being made; or
  - any opinion of an official as to the applicant's reason for applying.

# RTI Exemptions

- Personal information
- Legal privilege
- Commercial and confidential Information,
- Law enforcement,
- Defense and Security
- Health and safety
- Economic interest of the state
- Policy Making and Operation of Agencies
- Information relating to protected sites and the environment

# Part 1 (4) of the RTI Act on Application to RTI Act

- This Act does not apply to:
  - any information held by the system of custom, traditions and practices generally practiced throughout Vanuatu; or
  - any information of a relevant private entity relating to any function that is not public service related or funded in whole or in part by the Government; or
  - any information which for the purposes of journalism, art or literature is held by a publically owned media body in relation to its program content.



# Section 5: Act to Prevail

- (1) If a provision of this Act conflicts with a provision of any other written law other than the Constitution, the provisions of this Act will prevail.
- (2) This Act does not prevent a Government agency, relevant private entity or private entity from giving access to information other than as required by this Act where it has the discretion to do so or where it is required to do so by any other law, policy, practice or order of a Court.

*The Right To Information Act Part 2 (10, 11, 12) provides for the following:*

- **10. Appointment of Right to Information Officer for each Government agency**
- The Public Service Commission must, within 6 months of being specified by an Order of the Minister under paragraph 2(4)(a) and (b), appoint a person in writing to be a Right to Information Officer for each Government agency.
  
- **11. Right to Information Officer for relevant private entities and private entities**
- (1) A relevant private entity or a private entity must appoint a person or persons to be its Right to Information Officer.
- (2) If a relevant private entity or a private entity fails to appoint a Right to Information Officer, the principal administrative officer of that entity is to be the Right to Information Officer for the purposes of this Act.

## 12 Functions of a Right to Information Officer

- **(1) A Right to Information Officer has the following functions:**
- **(a) to promote, within the respective bodies, the best practices in relation to:**
  - **(i) the right to information, its importance and the role of officials in facilitating that right; and**
  - **(ii) records management, archiving and disposal of records; and**
- **(b) to serve as a central contact for receiving applications for information; and**
- **(c) to assist persons seeking information under this Act; and**
- **(d) to receive complaints under this Act; and**
- **(e) to carry out any other functions as set out in this Act or any other Act.**

## Function of information officer continues.....

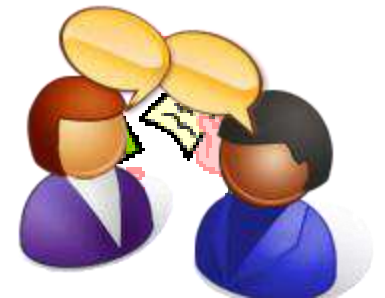
- **(2) A Right to Information Officer employed at a Government agency may request the assistance of any person employed at the Government agency as he or she considers necessary for the proper discharge of his or her functions under this Act.**
- **(3) A person whose assistance has been sought under subsection (3) must provide all reasonable assistance to the Right to Information Officer and for the purposes of any offences under this Act, is to be treated as a Right to Information Officer.**

# Options for appointing a RTI Officer

- 1. The appointment of an RTI Officer is mandatory under the RTI Act and is to be done by the Public Service Commission, or
- 2. Add extra responsibility to an existing officer or
- 3. Employ an officer under contract until a structure is in place that caters for the RTI position (s)
- 4. The CEO or head of the company takes on the responsibility of the RTI Officer, if the agency fails to identify an RTI Office.

# Communications and public participation strategy

- Start now on pro-active Publication (Sec 6 & 7)
- A genuinely open and active information policy:
  - does not just sit back and wait for requests for information to come in, but looks actively at how people can be offered information
- This could include altering the format of written work (minutes, submissions, reports etc.) in order to facilitate the pro-active disclosure of information as a matter of course.



# Reproduction fees

- An applicant must pay the prescribed reproduction fee if his or her request for access to information is granted.
- An applicant is not required to pay any reproduction fee:
  - when lodging an application; or
  - in relation to time spent by the Right to Information Officer in searching for the information requested; or
  - in relation to time spent by the Right to Information Officer in examining the information to determine whether it contains exempt matter or deleting exempt matter from the information.
- An applicant must not pay a reproduction fee in the following circumstances:
  - for the reproduction of personal information of the applicant, or if application is made on behalf of another person of the personal information of that person; or
- if the application is made on behalf of a natural third party for whom the applicant is a guardian.

# THIRD PARTY NOTIFICATION AND INTERVENTION

- Notice to third parties
- When considering an application for access to information under section 13 that is:
  - personal information of a third party; or
  - commercial and confidential information of a third party,
- a Right to Information Officer must take reasonable steps to ensure that the third party to whom the information relates, is informed of the application within 14 days after the application is received or transferred.



# Whistleblowers

- (1) A person is not liable to any civil or criminal action or any administrative or employment related sanction or detriment for:  
releasing information on any wrongdoing; or
- releasing information which would disclose a serious threat to health, safety or the environment,
- as long as they acted in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing or a serious threat to health, safety or the environment.
- (2) For the purposes of subsection (1), wrongdoing includes the commission of a criminal offence, failure to comply with a legal obligation, a miscarriage of justice, corruption or dishonesty, or serious maladministration regarding a Government agency, relevant private entity or private entity.

# Department or Agency Action Plan must include the following:)

- Draw up a structure that includes RTI team for the purpose of the implementation of the RTI Act.
  - a) This team will be responsible for taking a lead in the implementation and monitoring progress across the whole bureaucracy
  - b) It should include an RTI Officer and s records officer if you have two people doing.
  - c) Draw up an agency policy on RTI and procedure
- Development of start-up RTI budgets in anticipation of next budget period (2019)
- Commence or improve proactive disclosure activities
- Commence or improve records surveys, and records and information management activities and techniques in accordance with established records management protocols.

# Model Organisation Action Plan

*In the RTI National Policy Document you will also see the RTI Implementation Plan strategy. At the end under Annex III, you will find the MODEL ORGANISATION ACTION PLAN*

## **Explanatory Notes:**

*1. This Model Action Plan is designed for Public Bodies and Relevant Private Bodies to follow in order to coordinate, and where appropriate delegate, actions to assist in meeting the requirements of the RTI Act. 2. The Model may be amended as necessary. Explanatory Notes should be deleted from the approved version of this Plan.*

*3. The Action Plan is laid out for the strategic level of the organisation (e.g. Ministry/Portfolio) to complete Section 4 (to help effect coordination between departments) with the remainder of the document to be completed by both the Ministry itself and its agencies and departments.*

**Scope:** *The organisations covered by these strategic guidelines are:*

# Government Agency Action Plan

## Public Authority Section

### Staff & planning

**Objective:** Ensure the Public Authority ..... has the leadership, resourcing & planning in place to prepare for successful implementation of the RTI Law.

<b>Activity</b>	<b>Responsibility</b>	<b>Timeframe</b>	<b>Staffing, actions &amp; resourcing</b>
Appoint Information Officers		28 May 17	
Appoint Records and Filing Officer		28 May 17	
Complete Baseline Assessment		24 Feb17	

**Clause 86 of the RTI Act provides for the offences under this Act and states the maximum fines being VT500,000 or a term of imprisonment of not more than 1 year.**

- (1) **A person** (An officer of the government) who:
- (a) refuses to receive an application for information; or
- (b) in bad faith, denies an application for information; or
- (c) knowingly gives incomplete, misleading or wrong information;  
or
- (d) destroys information, without lawful authority; or
- (e) obstructs access in any way to any information; or
- (f) obstructs the performance of a Government agency, relevant private entity or private entity from carrying out a duty under this Act; or

## *Offences and penalty continues....*

- (g) interferes with or obstructs the work of the Information Commissioner, a Right to Information Officer or any other officer assisting the Information Commissioner or the Right to Information Officer; or
  - (h) directs, proposes, counsels or causes any person in any manner to do any of the above, commits an offence punishable on conviction to a fine not exceeding VT500,000 or by a term of imprisonment not exceeding 1 year, or both.
- (2) If a **Right to Information Officer**, without reasonable cause:
- (a) refuses to receive an application; or
  - (b) has not responded to an application within the time specified in this Act; or
  - (c) has vexatiously denied an application; or
  - (d) has given incorrect, incomplete or misleading information; or
  - (e) refuses to render any assistance under this Act; or
  - (f) obstructed in any manner the release of information, he or she commits an offence punishable on conviction to a fine of VT500,000.

# The RTI Act also supports the Deposit of Books Act

- (3) A person who fails to make a deposit of books under subparagraph
- 68(3)(e)(iv), commits an offence punishable on conviction to a fine of
- VT10,000.

# Baseline Assessment

- *Designed as a basis for Public Authority Action Plans*
- *Responses need to cover the entire organisation*
- *Best completed involving your Information Manager designate. May need specialist input (e.g. IT support staff)*
- *Needs to be returned to RTI unit by February (24 Feb17)*

## SECTIONS

- Q1            General Information
- Q2            RTI Awareness
- Q3            Records Management
- Q4            Staff resources
- Q5            Provision of information & proactive publication
- Q6            Identifying special RTI requirements
- Q7            IT readiness



# Immediate 'must do' requirements for Public Authorities

- Identify Information Officer
- Complete Baseline Assessments & submit to RTI Unit
- Complete Action Plans & identify Special Requirements
- Start thinking about proactive publication & disclosure of information STRATEGIES
- Consider inclusion of RTI in your 2019 budget



RIGHT TO  
INFORMATION

*Thank you for participating*



***Thank you***