

Some Related FAQs

Q 1). If information asked for is too big, can it be denied? How much information can be asked in one application?

Answer. 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.

Q.2) What if there is a danger of the applicant misusing the documents he received under the Act?

Answer; _ 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.

Q.3) What if the applicant mutilates or destroys a record during inspection?

Answer. 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.

Q.4) If same kind of information is asked by more than one citizen, should it be made available to all the requesters?

Answer: 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.

Q.5) Will a PIO be penalised if the superior officer orders him not to release information to the requester?

Answer: 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.

Q.6) Should BPL applicants be charged additional fees for providing information requested by them?

Answer: 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.

Q.7) Can a PIO transfer an RTI application within the PA?

Answer: 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.

Q.8) To what extent should the PIO keep the applicant informed about the manner in which her / his request is being disposed?

Answer: 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... 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...

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.

Q.9) What is Public Interest?

Answer: 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]...

...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.

Q.10) 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?

Answer: 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]

“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]

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]