



REPUBLIC OF KENYA

MINISTRY OF INFORMATION, COMMUNICATIONS AND THE DIGITAL ECONOMY

DRAFT NATIONAL ACCESS TO INFORMATION POLICY, 2023

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FOREWORD

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Access to information is widely recognized under international law as a fundamental human right that is pivotal to democracy and good governance. The United Nations 2030 Sustainable Development Goals (SDGs), (indicator 16.10.2), advocates for access to information as a fundamental freedom and a key pillar in building inclusive knowledge societies. This indicator calls for countries to adopt and implement constitutional, statutory and/or policy guarantees for public access to information. Similarly, Kenya's long term economic blueprint, the Kenya Vision 2030 calls for the adoption and implementation of policy, legal and institutional reforms necessary to promote transparency and accountability within the public sector by expanding access to information in order to advance the vision of information as a universal public good.

In response to this global and national call, Kenya has made significant strides in this regard. Under Article 35 of the Constitution, the right of access to information held by public institutions, is to be enjoyed by every citizen. The Access to Information (ATI) Policy provides a framework for the access to public information which is essential for protecting civil, political, and socio-economic rights, as well as promoting accountability and transparency in the public sector. This Policy therefore responds to both the Kenya Vision 2030, which identifies public access to information and data as a strategy to encourage participation of citizens in development, governance and democratic processes and the SDGs, which also identify access to information as an integral part of freedom of expression and an important tool for promoting the rule of law, other rights and building trust.

Successful implementation of this Policy will be predicated on the active involvement and participation of a wide spectrum of stakeholders mainly the public sector, private sector, civil society, faith-based organizations, the media and academia among others. This calls for a concerted and team effort from all stakeholders, especially those identified in the Policy itself.

I wish to express my sincere gratitude to all the organizations and individuals who have been involved in the development of this ATI Policy for their immense contribution.

**ELIUD OWALO, FIHRM
CABINET SECRETARY FOR INFORMATION, COMMUNICATION AND THE DIGITAL
ECONOMY**

PREFACE

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There is growing global acceptance of freedom of, and access to, information as a fundamental human right. The Access to Information Policy is a very important mechanism for promoting and maintaining participatory democracy and an informed, enlightened society. Information empowers citizens to make informed choices and decisions about their lives and consequently their participation in national development and governance processes.

The legal instruments governing access to information at the global and national levels are premised on the fundamental principle of a functioning democracy; that the governing hold power on behalf of the governed, that public bodies hold information in trust for the citizens of any nation.

Access to Information is recognized internationally as a vital tool for fostering other social benefits such as access to education and health care, gender equality, children's rights, clean environment, sustainable development and the fight against corruption.

Access to Information is an integral part of the fundamental right of freedom of expression, as recognized by Article 19 of the Universal Declaration of Human Rights (1948), which states that the fundamental right of freedom of expression encompasses the freedom to "to seek, receive and impart information and ideas through any media and regardless of frontiers".

This Policy, therefore, provides a firm foundation on how public information should be managed and shared with the public to enhance their participation in development and governance processes. The policy further aims at promoting a culture of transparency, openness and accountability in Government and public bodies and all those who deal with Government.

I trust that the National Access to Information Policy will not only help promote open government but that it will help citizens fully realize their right to access public information and enjoy the same for the development of individuals and communities in the country.

EDWARD KISIANG'ANI, Ph.D
PRINCIPAL SECRETARY
STATE DEPARTMENT FOR BROADCASTING AND TELECOMMUNICATIONS

ACKNOWLEDGEMENTS

The Ministry of Information, Communications and the Digital Economy in collaboration with the Commission on Administrative Justice appreciates the valuable work, time, material, intellectual and professional support of everybody who participated and contributed to the development of this Policy. The development of this policy was in great part due to the visionary leadership and guidance of the Cabinet Secretary, Mr. Eliud Owalo, FIHRM and the Principal Secretary, Prof. Edward Kisiang'ani

The Commission expresses its appreciation to the Access to Information Commissioner Lucy Ndung'u and Acting Communications Secretary, National Communication Secretariat, Eng. Vincent Adul, HSC for the dedication and leadership in development of the policy. The Commission thanks the Committee for development of the National Access to Information Policy co-chaired by the ATI Commissioner and the National Communication Secretariat Communication Secretary. The Representatives of the Committee were drawn from the Ministry of Information, Communications and the Digital Economy; National Communication Secretariat; the Commission on Administrative Justice; Kenya Law Reform Commission; Office of the Attorney General; Office of the Data Protection Commissioner; Ministry of Foreign and Diaspora Affairs; Open Government Partnership (Kenya Chapter); Article 19 Eastern Africa and Mzalendo Trust. The Committee worked tirelessly in strategy, research and drafting to ensure that this policy becomes a reality.

The Commission commits to play its role in the implementation of this policy and ensure that the right to access information is fully achieved in Kenya.

HON. FLORENCE KAJUJU, MBS
CHAIRPERSON, COMMISSION ON ADMINISTRATIVE JUSTICE

LIST OF ACRONYMS

African Charter	African Charter on Human and Peoples' Rights
ATI	Access to Information
ATI Act 2016	Access to Information Act, 2016
BETA	Bottom-up Economic Transformation Agenda
CAJ	Commission on Administrative Justice
CBO	Community Based Organization
CEO	Chief Executive Officer
CIDP	County Integrated Development Plan
CVS	Concurrent Versions System
FBO	Faith Based Organization
ICCPR	International Covenant on Civil and Political Rights
ICT	Information, Communications and Technology
KNADS	Kenya National Archives and Documentation Service
KPI	Key Performance Indicator
NGO	Non-Governmental Organization
OGP	Open Government Partnership
SDGs	Sustainable Development Goals
SIG	Special Interest Group
UDHR	Universal Declaration of Human Rights
UN	United Nations

DEFINITIONS

Citizen	any individual holding Kenyan citizenship or any private entity that is controlled by one or more Kenyan citizens.
Commission	means the Commission on Administrative Justice established by section 3 of the Commission on Administrative Justice Act, No.23 of 2011
Data	means information which is processed by means of equipment operating automatically in response to instructions given for that purpose; is recorded with intention that it should be processed by means of such equipment; is recorded as part of a relevant filing system; forms part of an accessible record; or is recorded information which is held by a public entity.
Data Anonymization	the removal of personal identifiers from personal data so that the data subject is no longer identifiable;
Electronic Record	means a record generated in digital form by an information system, which can be transmitted within an information system or from one information system to another and stored in an information system or other medium
Information	all records held by a public entity or a private body, regardless of the form in which the information is stored, its source or date of production.
Information Disclosure	to make known, a revelation or the uncovering of information that was previously undisclosed.

Machine Readable	means a structured arrangement of information that can be processed by a computer
Metadata	documentation to give context to the data for users. This includes information such as date and location of collection, publication, variables assessed, any modifications made on the data, among others.
Person	includes a company, association or other body of persons whether incorporated or unincorporated
Private Body	means a body:- <ul style="list-style-type: none"> (a) that receives public resources and benefits, utilizes public funds, engages in public functions, provides public services, has exclusive contracts to exploit natural resources (with regard to said funds, functions, services or resources); or (b) in possession of information of significant public interest due to relation to protection of human rights, the environment, public health and safety or exposure of corruption or illegal actions or where release of the information may assist in exercising or protecting any right.
Proactive Disclosure	routine and systematic dissemination of information without the requirement of a request for that information.
Public Entity	an office in the National and County Governments in Kenya or in the public service including entities performing a function within a commission, agency or anybody established in the Constitution.
Public Record	Includes any record in written or any other form containing information relating to the conduct of the public entity's business, prepared, owned, used or retained by a public entity regardless of physical form or characteristics.
Public Officer	(a) any State officer; or

	(b) any person, other than a State Officer, who holds a public office
Reactive Disclosure	making information available in response to a request for that information
Record	documents or other sources of information compiled, recorded or stored in written form or in any other manner and includes electronic records.
Records Management	the efficient and systematic control of the creation, receipt, maintenance, use and disposal of records.
Records Management System	a set of interrelated or interacting elements to establish policies, procedures and processes necessary for the creation, capture and management of records.
Requester	means a person who has requested access to information from a public entity or private body under the policy
State	the collectively of offices, organs and other entities comprising the government of the Republic of Kenya
State Officer	means a person holding a State office

EXECUTIVE SUMMARY

The right to information is crucial to livelihoods, accountability, good governance and has emerged as a universally recognized right. This has been captured in several international instruments, among them Article 19 (2) of International Convention on Civil and Political Rights and Article 19 of the Universal Declaration of Human Rights. Kenya has made significant efforts towards the realization of this right and attendant obligations. The promulgation of the Constitution in the year 2010 and the enactment of the Access to Information Act, 2016 were and are seen as remarkable milestones in this endeavor.

However, the existing legal framework lacks the backing of an elaborate policy framework. This is because the ATI legislation was a time bound law that required enactment in the implementation phase of the Constitution (within 5 years). Consequently, in order to meet the set constitutional deadline, the primary ATI Act was enacted devoid of a comprehensive policy framework save for scattered policies on other aspects associated with ATI. This state of affairs has occasioned gaps as encountered in the implementation phases of the law. In hindsight, had there been a policy in place, some administrative aspects such as internal appeals as well as emerging issues such as the digitalization of services while promoting ATI would have been addressed.

This National Access to Information Policy (hereinafter the ATI Policy) is thus developed pursuant to Article 35 and other provisions of the Constitution as well as international instruments to which Kenya is a party. In line with ATI principles and best practices, the Policy seeks to promote, protect, fulfil, enhance and secure ATI in Kenya. The Policy thus provides broad policy: directions, objectives, priority areas and tangible strategies in relation to access to information held by both public and private entities. Further, the Policy provides the institutional mechanisms for planning, implementation, coordination, monitoring, reporting and oversight in relation to matters ATI.

CHAPTER ONE: BACKGROUND AND CONTEXT

1.0 INTRODUCTION

Access to information is universally recognized as a fundamental human right. Globally, the right to information is promoted and protected through legal frameworks that provide citizens the right to access information held by the State. The ease and availability to access of public information is a key determinant in empowering citizens to participate in decision making and good governance with the aim of enhancing accountability and transparency in public service delivery. Access to information and communication is pivoted on internationally and locally recognized instruments which collectively encompass the core principles of democratic governance, participation, transparency and accountability.

1.1 GLOBAL

International human rights law specifically recognizes the right of access to information. Article 19 of the International Covenant on Civil and Political Rights, echoing Article 19 of the Universal Declaration of Human Rights, protects everyone's right to seek, receive and impart information of all kinds. As such, States have an obligation to respect and ensure everyone enjoys this right without distinction.

Additionally, the United Nations 2030 Sustainable Development Goals (SDGs), indicator 16.10.2, advocates for access to information as a fundamental freedom and a key pillar in building inclusive knowledge societies. Similar provisions exist in other conventions such as *Article 12* and 13 of the Convention on the Rights of the Child and Article 21 of the Convention on the Rights of Persons with Disabilities that guarantee the rights of access to information for children and persons with disabilities respectively. Kenya has ratified these treaties and through Article 2 (6) of the Constitution of Kenya they therefore form part of Kenyan law. Kenya has also endorsed the Open Government Partnership (OGP) declaration, an initiative where participating countries have made commitments to make their governments more open and accountable.

1.2 REGIONAL

Kenya is a signatory to various regional instruments that safeguard the right of access to information. Article 1 of the African Charter on Human and Peoples' Rights (African Charter) obliges member

States to adopt legislative, or other measures to give effect to the rights, duties and freedoms enshrined therein. Notably, Article 9 of the African Charter establishes the right for individuals to receive information and express their opinions within the boundaries of the law. In 2019, the Declaration on Principles of Freedom of Expression and Access to Information in Africa further expands Article 9 by clarifying the components of freedom of expression and access to information, both offline and online, and includes provisions for the protection of whistleblowers.

Additionally, Article 24 of the Protocol to the African Charter on the Rights of Persons with Disabilities in Africa affirms the right of individuals with disabilities to access information. It also imposes obligations on state parties to promote good governance, transparency, and accountability in their administration.

The African Union Convention on Preventing and Combating Corruption, in Article 9, requires states to adopt legislative measures and other actions to facilitate access to information necessary for combating corruption and related offenses. Further, the African Charter on Democracy, Elections and Governance aims to foster conditions conducive to citizen participation, transparency, access to information, freedom of expression, and accountability in public affairs. States Parties are obligated to implement programs and activities that promote good governance and transparent administration. The Model Law on Access to Information for Africa, issued by the African Commission on Human and Peoples' Rights, offers detailed guidance on the content that should be included in national access to information laws.

The Africa Agenda 2063 projects an Africa of good governance, respect of human rights, justice and the rule of law and seeks for a peaceful and secure Africa where accountability and transparency are its foundation. The Access to information policy supports this agenda by facilitating the achievement of citizen engagement in governance as a prerequisite for accountability, security and peace. Other relevant treaties include the African Charter on Values and Principles of Public Service and Administration, Africa Youth Charter, African Charter on Statistics, East Africa Treaty among others. Together, these instruments emphasize the importance of access to information, freedom of expression, transparency, and accountability in the region.

1.3 NATIONAL

The Constitution of Kenya explicitly guarantees access to information for citizens under Article 35. Subsequently, a comprehensive Access to Information law was enacted in 2016 (the Access to Information Act, 2016) which operationalized the right of access to information in Kenya. In addition

to the Constitutional guarantee and the enactment of the ATI Act 2016, there are other laws which enhance the realization of access to information in different contexts. The Public Service (Values and Principles) Act provides for transparency and the provision of timely and accurate information stating that a public officer shall not give inaccurate information and not to unduly delay the provision of information where required.

In addition, the County Government Act provides that every citizen shall on request have access to information held by any county government. The Act further requires all county governments to designate an office for facilitating county information as well as enact legislation to ensure access to information. Further, the Public Finance Management Act, 2012 bolsters access to information by requiring the Parliamentary Budget Office to ensure that all reports and documents produced by the office are prepared, published and publicized not later than fourteen days after production. The Act also requires County Executive Committee Members for Finance to ensure adequate public participation in the county budget process. The Data Protection Act, 2019 complements realization of access to information by providing a framework for protection of personal data in information disclosures. Other laws which enhance access to information include the Public Procurement and Assets Disposal Act 2015, Kenya Information and Communication Act, Public Archives and Documentation Services Act, Ethics and Anti-Corruption Commission Act among others.

Kenya's development blueprint, Kenya Vision 2030, seeks to transform the country into a globally competitive and prosperous nation with a high quality of life. The vision broadly outlines three pillars: social, political and economic and is implemented through the five-year successive medium-term plans. The vision further highlights Information Communications Technology (ICT) as one of the key cross-cutting enablers for the achievement of its objectives. Consequently, improving public service delivery by among other approaches the attendant development of ICT infrastructure is to be undertaken by the State to catapult information access and spur growth.

Further, the Government, through the Bottom-up Economic Transformation Agenda (BETA) has outlined broad policy strategies addressing the following focus areas: i) Agricultural Productivity, (ii) Healthcare, (iii) Housing and Settlement, (iv) Micro, Small and Medium Enterprises and (v) Digital Superhighway and Creative Economy. The Digital Superhighway pillar seeks to expand the national ICT infrastructure by providing digital broadband to enhance public service delivery and access to information.

1.4 POLICY RATIONALE

1.4.1 Constitutional Imperatives

The Constitution of Kenya, under Article 35, guarantees citizens the right of access to information held by the State and private bodies. The article provides that every citizen has the right of access to information held by the State and private bodies, and which is required for the exercise or protection of any right or fundamental freedom. Article 232 (f) of the Constitution further outlines transparency and provision to the public of timely, accurate information as a value and principle of public service which is in line with Article 10 that highlights the overall principles and values of governance. The right to access information is also guaranteed for persons living with disabilities under Article 54 (c). These provisions place an obligation upon the State to publish and publicize information affecting the nation. It further outlines that every person has the right to the correction or deletion of untrue or misleading information that affects the person.

1.4.2 Access to Information Act, 2016

Kenya enacted the Access to Information Act to give effect to Article 35 of the Constitution and to confer on the Commission on Administrative Justice the oversight and enforcement functions and powers with respect to access to information. Pursuant to the Constitution and the Access to Information Act, public institutions are obligated to ensure proactive disclosure of information and release of information upon request. The Act also empowers institutions to protect certain information under public interest and other lawful reasons.

1.4.3 ATI Implementation Gaps and Overlaps

The development of this Policy is informed by the need to enhance disclosure and access to information held by public entities and private bodies without compromising their operations and data privacy. The Policy is also intended to address the existing policy gaps and harmonize other Government policies and legislation governing access and disclosure of information held by public entities and private bodies. It is expected that full implementation of this Policy and the corresponding Access to Information legislation will increase openness and transparency and improve accountability and public access to information held by the State.

1.5 APPROACH AND ARRANGEMENT OF THE POLICY

1.5.1 Policy Development Approach

In formulating the Access to Information Policy, a stakeholder analysis was undertaken and views from key stakeholders and members of the public were incorporated as well as consultation with interested groups utilizing the right to access information held. Public participation was undertaken through a call for submission of comments and memoranda which gave stakeholders and members of the public an opportunity to submit comments on the draft policy. The calls for comments were shared through mainstream print media and online platforms including the Ministry of Information, Communication and Digital Economy website, The Commission on Administrative Justice website, the National Communications Secretariat website and also on these institutions' social media pages and accounts.

Further, a call for comments was made through letters sent to targeted stakeholders including State Departments in all Ministries, Parliament, Judiciary, County Governments, State Corporations, Boards and Authorities, Constitutional Commissions, Public Universities, relevant private bodies, professional bodies, Civil Society Groups and development partners. The views and comments received from Stakeholders were considered and incorporated into the draft policy. Further, stakeholders' validation forum was facilitated to confirm acceptance of the Policy.

1.5.2 1.5.2 Policy Arrangement

The Policy is arranged in Four Chapters: Chapter One on the Background and Introduction; Chapter Two is the Situation Analysis; Chapter Three is Policy Direction and Chapter Four Management and Review.

1.6 POLICY SCOPE AND APPLICATION

This Policy applies to all public entities, State Officers and Public Officers at National and County Government level, private bodies as defined herein and all Citizens of Kenya.

CHAPTER TWO: SITUATION ANALYSIS

2.1 OVERVIEW

Access to Information is imperative for human development with the emergence of knowledge societies in the information age. The ability of individuals to access information held by the government is central to strengthening democracy by improving their capacity to make informed choices. Furthermore, a well-informed public can carry out its obligation to shape policy and effectively participate in nation building. Development and Implementation of an Access to Information policy holds the promise of fostering good governance by improving information management, enhancing transparency, accountability and greater participation of citizens in public discourse. Access to information is to also be assured through instituting measures that enable individuals to obtain information and allows institutions to disclose information lawfully. Below is the current situation.

2.2 OPERATING ENVIRONMENT

2.2.1 Political

Kenya has a devolved system of governance comprising the national and 47 county governments. The national government has three arms namely: the Executive, the Legislature and the Judiciary. The County Governments comprises the county assembly and the executive. All the levels of government are required to work collaboratively on the basis of mutual consultation while respecting the principle of independence. Further, the Government is required by Article 10 of the Constitution and various laws to embrace public participation as a key driver for enhancing governance and development in the Country. The government has embraced access to information which is an enabler to national values and principles of governance and has undertaken a number of initiatives including enactment of relevant laws among them the Access to Information Act the Bottom-up Economic Transformation Agenda (BETA) supports open government and resonates well with the implementation of Access to Information in Kenya.

2.2.2 Economic

Access to information is broadly influenced by the prevailing economic factors in the country. Countries with high income are likely to experience improved access to information than those with low income. Communities with better economic conditions and higher cultural quality have a higher degree of dependence on modern information media than other communities. The demand and supply

of information is influenced by the price that the consumer incurs to access information and the production costs incurred by the supplier. High costs of access that include time taken, bureaucracy and travel costs, may lower the demand for information even when the information supply is high. Inadequate resources may affect the capacity of public bodies to provide information. With low resources, record management and statistics generation may be insufficient to support access to information. It is the intention of this policy to keep the cost of access at the bare minimum to enable universal access to information.

2.2.3 Social

Access to information is vital for empowering all citizens, including vulnerable and marginalized groups, to claim their fundamental rights and freedoms. As such, access to information becomes an important catalyst to the realization of other rights and freedoms. The right is a necessary condition for the realization of the principles of transparency and accountability which are essential for the promotion and protection of basic constitutional tenets. Citizens should be involved in the formulation and implementation of policies, programs, budgets, legislation and other activities relating to their rights, because there is a greater likelihood that these will be more effective in meeting the citizens needs if designed and implemented with their involvement. The potential contribution to good governance through access to information lies in both the willingness of information holders to make it available to the citizens, as well as the ability of citizens to demand and use the information for better governance and public services.

2.2.4 Technological

The proliferation of ICTs and other modern technologies has accelerated globalization and made the world a global village. This is evidenced by the development of various digital platforms affecting how citizens generate, access, use and share information. Social media platforms have further accelerated sharing of information without boundaries. The ICT trends continue to evolve and have revolutionized access to information, making it convenient and accessible. Emerging technologies have a significant impact on access to information by presenting new opportunities and resultant challenges related to information access, quality, privacy, security and equality that need to be addressed.

The Government has implemented initiatives aimed at enhancing provision of public services through digital platforms. These include the e-citizen portal, institutional websites and public procurement portals among others. The Government is also building the digital superhighway infrastructure by expanding its fiber network coverage country wide. The digital superhighway provides for free public

Wi-Fi hotspots as well as digital village smart hubs in each of the administrative wards. This enables citizens to access government services, information, online trading and online job opportunities, among others.

Technological advancements pose existential threats such as invasion of privacy, computer crimes, cyber security risks, digital disinformation and other abuses. The import of these technological advancements is that ATI can be made much easier and faster with deliberate efforts to make the information shared relevant, timely, credible, accessible, secure, and cost-effective.

2.2.5 Environmental

In an era of climate change concerns, citizens are more likely to pay attention to environmental issues as they go about their business. It is envisaged that demand for information on environmental quality, impact of climate change on flora and fauna, individual health, and weather forecast will increase. People will also seek information on how to respond to natural disasters and how to enhance their sustainability. Increased use of electronic devices to enhance access to information may add to global warming and increase e-waste thus polluting the environment. Environmental information needs to be well accessed. ATI also means that innovative approaches towards environmental sustainability have to be adopted such as “digital superhighways” and “paper lessness” as opposed to manual approaches that may adversely exhaust natural resources and further exacerbate climate change.

2.2.6 Legal

The Constitution of Kenya is the foundational ATI legal regime in Kenya with a number of provisions that seek to promote, protect and fulfil access to information. In Article 35 (1), the Constitution states that: every citizen has the right of access to information held by the State and information held by another person and required for the exercise or protection of any right or fundamental freedom. In addition, Article 35(3) does obligate the State to publish and publicize any important information affecting the nation. Other relevant provisions include: (i) Article 11 (2) (a) on promotion of national and cultural expressions, (ii) Article 33 on freedom of expression, (iii) Article 34 on freedom of the media, (iv) Article 46 on consumer rights, (v) Article 47(3) on fair administrative action, (vi) Article 54 on access to information by persons with disabilities, (vii) Article 118 on Public Access and Participation and (viii) Article 125 on power to call for evidence among others. The import of these provisions is that information needs to be proactively disclosed and issued when requested unless exempted.

The detailed ATI legal framework, however, is set out in the Access to Information Act. The Act substantively provides for the manner and mechanisms upon which the right of access to information is to be realized. The Act does also prescribe the lawful ATI limitations/exemptions together with oversight and appeal mechanisms when the ATI right has been breached or violated.

In addition, there are a number of Acts which augment ATI among them: the Public Archives and documentation Service Act, the County Governments Act, the Public Finance Management Act, Public Service (Values and principles) Act, Data Protection Act and the Public Procurement and Asset Disposal Act. Additionally, Kenya has adopted several policies and administrative instruments which impose obligations on the state and private bodies to facilitate the enjoyment of citizens’ right of access to information. Some of these include: the National ICT Policy and the National Film Policy.

More than a decade after the promulgation of the Constitution, there are a number of ATI issues that have emerged. This is partly due to lack of specific policy on ATI occasioning gaps, non-uniformity and overlaps in the existing legal and policy framework. Further, the growth of the digital space, proliferation of technologies as would have not been anticipated at the time of enactment of the ATI law, have catapulted the legal and policy imbalance between the expectations and that is actually being implemented. In addition, the Government of Kenya in its manifesto, “the Plan” has set out an ambitious digital transformation framework aimed at reengineering delivery of services and information. This calls for a review of the previous frameworks and to develop such a national policy post enactment of the ATI Act.

2.3 STAKEHOLDERS ANALYSIS

Stakeholder	Role	Expectations
1. Ministries Departments and Agencies	▪ Implementation of ATI Policy	<ul style="list-style-type: none"> ▪ Collaboration with other actors on the implementation process ▪ Capacity building and technical support

2. County Governments	<ul style="list-style-type: none"> ▪ Mainstream ATI Policy in the County Integrated Development Plans (CIDP) ▪ Enact County ATI Laws 	<ul style="list-style-type: none"> ▪ Collaboration on the implementation process ▪ Capacity building and technical support
3. Judiciary	<ul style="list-style-type: none"> ▪ Interpretation of ATI legislative framework ▪ Enforce ATI compliance 	<ul style="list-style-type: none"> ▪ Collaboration on the implementation process
4. Parliament	<ul style="list-style-type: none"> ▪ Legislation ▪ Budget allocation ▪ Oversight 	<ul style="list-style-type: none"> ▪ Effective implementation
5. Public	<ul style="list-style-type: none"> ▪ Utilize the right of access to information 	<ul style="list-style-type: none"> ▪ Lawful information disclosures ▪ Awareness creation on right to ATI
6. Media	<ul style="list-style-type: none"> ▪ Utilize the right to access information ▪ Use accessed information to advance public good 	<ul style="list-style-type: none"> ▪ Lawful Information disclosure ▪ Capacity building on the right to ATI
7. Constitutional Commissions & Independent Offices	<ul style="list-style-type: none"> ▪ Oversight on the right ▪ Use information to advance public good ▪ Capacity building on ATI 	<ul style="list-style-type: none"> ▪ Effective ATI implementation ▪ A state of Constitutionalism
8. Private Sector	<ul style="list-style-type: none"> ▪ Implement the policy ▪ Utilize the right to access information ▪ Use accessed information to enhance public good 	<ul style="list-style-type: none"> ▪ Lawful Information disclosure ▪ Capacity building on Access to Information
9. International Community	<ul style="list-style-type: none"> ▪ Support ATI implementation 	<ul style="list-style-type: none"> ▪ ATI utilized to spur development

10. Civil Society – NGOS, Faith- Based Organizations, CBOs, SIGs	<ul style="list-style-type: none"> ▪ Utilize the right of access to information to advance public good ▪ Oversight and demand for implementation of ATI policy by the government ▪ Create awareness 	<ul style="list-style-type: none"> ▪ Lawful disclosure ▪ Capacity building on ATI ▪ Collaboration to enhance implementation 	Information
11. Academia	<ul style="list-style-type: none"> ▪ Utilize the right to access information ▪ Use accessed information to advance public good ▪ Capacity building 	<ul style="list-style-type: none"> ▪ Lawful disclosure ▪ Collaboration to enhance implementation and innovation 	Information
12. Professional Bodies	<ul style="list-style-type: none"> ▪ Utilize the right to access information ▪ Use accessed information to advance public good ▪ Capacity building 	<ul style="list-style-type: none"> ▪ Lawful disclosure ▪ Collaboration to enhance implementation and innovation 	Information

2.4 CHALLENGES AND OPPORTUNITIES

2.4.1 Challenges

There are various challenges that have been encountered during the implementation of the right of Access to Information. These include lack of uniform government approach on ATI, inadequate legal and institutional framework, inadequate monitoring and evaluation framework, poor records management, culture of secrecy and bureaucracy in government, inadequate financial and human resources, weak collaboration between key actors on ATI as well as insufficient awareness on ATI.

To ensure full realization of the right of access to information, there is a need to identify and adopt one vision for access to information. This policy broadens avenues for identification and utilization of opportunities under the ATI including ICT and emerging areas. The policy provides measures to address the challenges and threats on access and disclosure of Information. Further, the Policy provides direction towards establishing standards and infrastructure for enhancing access to information.

2.4.2 Opportunities

Access to information was identified as a key driver for the achievement of the UN 2030 Agenda for Sustainable Development to promote just, peaceful and inclusive societies. In Africa the Pan-African e-network programme under the African agenda 2063 aims to put in place policies and strategies that will make information the basis of service delivery in both public and private sector thus transforming Africa into an e-society. In Kenya, the Bottom-up Economic Transformation Agenda, prioritizes the digital superhighway and creative economy pillars and commits the government to develop a robust national ICT infrastructure to support online delivery of government service and enhance universal access to information. These initiatives create opportunities for: gathering, packaging, publication and dissemination of information; establishment of ATI Infrastructure; capacity building and development; research and development; digitalization of Government services and records; innovation and job creation.

2.5 CASE STUDIES

Many countries around the world have implemented various practices to ensure effective realization of the right of access to information. Some of the initiatives undertaken include enacting comprehensive ATI legislation. These laws have given effect to key issues such as: proactive disclosure of information, expeditious provision of information on request, establishment of oversight bodies, and protection of whistleblowers. The practices adopted and utilized align with internationally accepted and recognized principles on access to information. Thus, sharing and adopting these practices on access to information contributes to a culture of openness and empowerment of citizens. The following are some of the case studies in respect of the aforementioned practices.

2.5.1 Access to Information Laws

Several states have enacted comprehensive access to information (in some States known as Freedom of Information) laws that guarantee citizens' right to access government-held information. The United States' Freedom of Information Act provides a legal framework for requesting and obtaining records from federal agencies. It includes provisions for proactive disclosure, expedited processing, and an independent oversight mechanism. Other countries, such as Canada, the United Kingdom, and Australia, have also implemented similar legislation with varying degrees of success.

2.5.2 Open Data Initiatives

Open data initiatives aim to proactively publish government-held data in accessible formats for public use. States like Canada and the United Kingdom have developed national open data portals, providing a wide range of datasets for research, analysis, and innovation. These initiatives enhance transparency, enable evidence-based decision-making, and stimulate economic growth by fostering the development of data-driven applications and services. Through the Open Government Partnership (OGP), of which Kenya is a member, the right to access information is recognized as a critical component of open government and as a key policy reform area.

2.5.3 Right to Information Commissions

Some States have established specialized bodies known as Right to Information Commissions or Ombudsman offices to oversee and enforce access to information laws. India's Central Information Commission, for instance, plays a crucial role in adjudicating appeals, monitoring compliance, and promoting awareness of the right to information. Pakistan, Albania, Peru and Mongolia have their right to information laws entrusting oversight of the right to information on independent ombudsman offices. These commissions act as independent arbiters, ensuring transparency, accountability, and timely resolution of access to information disputes.

2.5.4 Proactive Disclosure Policies

Proactive disclosure policies have been used in some jurisdictions to promote disclosure of information by public entities without the need for formal requests. These policies outline “openness principles” which inherently obligate entities to proactively publish and widely share public held information. This is the case in Sweden, where the principle of "public access to documents" mandates that all public information be documented and made accessible to everyone. Such policies promote a culture of transparency and reduce the burden on individuals to make specific requests. This approach has enhanced the realization of the right to information.

2.5.5 Protection of Public Interest Disclosures

Some States have ensured that persons making disclosure of information which is meant to benefit the public or a larger part of the society in good faith are protected from reprisals and thus encourage public interest disclosures. States like the United Kingdom, South Africa and the United States, have legal frameworks safeguarding public interest disclosures and hence protecting persons disclosing such information from retaliation by providing procedures and mechanisms for public interest disclosure in

good faith. These protections are vital for uncovering and addressing corruption, human rights abuses, dangers to public health and safety, and other wrongdoing.

2.6 CURRENT INSTITUTIONAL ARRANGEMENTS

The current institutional arrangement on access to information comprises three functional levels as follows.

2.6.1 Policy and Legislative

Parliament is required to enact laws that enhance implementation of the right of access to information including strengthening existing legal framework for applicability and coherency. The Cabinet Secretary responsible for information is required to develop, review and lead policy implementation.

2.6.2 Oversight and Enforcement

The Commission on Administration of Justice is mandated by the Access to Information Act, 2016 to oversee and enforce the implementation of the Act and consequently this Policy.

2.6.3 Implementation and Reporting

All public entities in both National and County Government, and private bodies are required to implement the policy and report to the Commission on Administrative Justice annually as guided by the Commission.

CHAPTER THREE: POLICY FOCUS

This Policy identifies access to information as an effective element in promoting participatory democracy and effective decision making that is essential for fostering accountability and in assessing the performance of Government. The Policy provides broad policy directions, key objectives, and key priority areas relating to the right of access to information, implementation arrangements, and monitoring and evaluation plan.

3.1 VISION AND MISSION

3.1.1 Vision

An informed and empowered Kenyan society.

3.1.2 Mission Statement

To facilitate equitable and secure access to information held by public and private entities through effective legislative and institutional frameworks in Kenya.

3.2 GUIDING PRINCIPLES

The Access to Information Principles and best practices require that information held by public entities and other relevant bodies should be made accessible to citizens, both individuals and corporate. Experience drawn from countries implementing access to information laws shows that citizens greatly benefit from the provision of public information. This facilitates their interaction with the public bodies and increases their participation in the democratic process and nation building. Public information is a key resource to promote active engagement between the Government and Citizens for inclusive economic growth and overall development of a Country. To ensure optimal implementation of access to information in Kenya, this Policy requires the following principles to guide the implementation of this policy:-

- i. Maximum access to information;
- ii. Clear procedures for making information available;
- iii. Standards on records management;
- iv. Clear exemptions on information disclosure
- v. Safeguarding public interest disclosures; and
- vi. Appeals and complaints mechanism.

3.2.1 Maximum Access to Information

a. Right to Information

The right of Citizens to information is fundamental in any society governed by rule of law and subscribes to international best practice, where Governments hold information in trust for their Citizens. In principle, all information held by public entities and private bodies should be accessible by citizens in line with Article 35 of the Constitution and the resultant pieces of legislation which provides that every citizen has the right of access to information held by the State and by another person where that information is required for the exercise or protection of any right or fundamental freedom. This requires all public entities and private bodies to facilitate access to relevant, accurate and adequate information to Citizens and the public in general.

b. Duty to Disclose Information

Under the Constitution, all public entities and private bodies have a duty to disclose information held by them to citizens and general members of the public except those sets of information which are exempt from disclosure as per the law. This duty obligates these entities to publish and publicize information as widely as possible, especially that which is of significant public interest.

c. Open Data

Information proactively published, as well as that released in response to requests, shall be made available in machine readable formats that embrace open data principles of openness, interoperability, timeliness, accessibility and inclusivity, without restrictions on its further use and publication. Where applicable, information shall be availed in consideration of linguistic diversity and accessibility to persons with disabilities.

3.2.2 Clear Procedures for Making Information Available

a. Responsible Officer

The Chief Executive Officer (CEO) of a public entity or relevant private body as defined in this Policy has the primary responsibility for ensuring implementation of the right of access to information at the institutional level. This responsibility entails creating an enabling environment for right of access to information implementation through leadership prioritization of access, resources sourcing and allocation, planning, decision making and establishments of appropriate access to information infrastructure. The CEO may enlist other institutional staff for the purpose of ensuring that all

information held by the Institution is managed and disseminated in accordance with this Policy and the law in place on access to information.

b. Proactive Disclosure

Proactive disclosure of information requires public entities and private bodies to make information available to citizens without waiting for requests for such information from them. This principle supports entities to reduce timelines and administrative procedures for access to information upon requests by enabling access to such information before a request is made. Public entities and private bodies are expected to disseminate information of relevance, importance and of interest to the public routinely and proactively to the public. Institutions are required to provide a guide sufficient to enable members of the public and Citizens wishing to access information to identify the classes of information held by the Institution, the subjects to which they relate, the location of any indexes to be inspected and whether such information may be subject to exceptions as indicated by the law. To facilitate maximum disclosure and access to information to widest population of the public, public entities and private bodies are required to disseminate information taking into consideration public interests in information disclosure, the quality and quantity of information disclosed, correct and up-to-date information, the costs of access to such proactively disclosed information, language consideration, access needs by persons with disabilities, the requirement to enhance the information understanding and the most effective method of communication. At a minimum, all institutions implementing access to information are required to facilitate access to information in electronic form in addition to other access methods as appropriate and relevant to the implementing institution's environment.

c. Requests for Information

All Citizens are entitled to make requests for information from public entities and private bodies if such information has not been availed by the Institution proactively or through other means. All public entities and private bodies which receive requests for information are required to process such requests promptly and decisions made thereof communicated to the requester. Within a set period from receipt of the application, the public entity or private body concerned is supposed to grant access to the requested information or, in a written response, state the reasons for total or partial refusal to grant access to the requested information and inform the requester of his or her right to lodge an appeal with the Commission.

d. Providing Information

Public entities and private bodies should comply with all requests for information in accordance with the appropriate statutory requirements and endeavor to assist Citizens in exercising their right of access to information. Where a decision to grant access to requested information, the Institution shall make information available in any of the following ways: -

- i. A copy of a document or copies thereof;
- ii. Electronic form;
- iii. Inspection of the information; and
- iv. Summary information.

Since institutions hold information as a custodian for citizens, all information held should be accessible at no cost save to reasonable costs attributable to reproduction or supply of such information as applicable which costs the requester of such information should bear.

e. Transfer of Requests for Information

Where a request for information is made to a public entity for access to information and such information is not in the possession of that public entity but is, to the knowledge of that public entity, in the possession of another, or the subject-matter of the information is more closely connected with the functions of another public entity than with those of the public entity to which the request is made; the public entity to which the request is made shall transfer the request to the other public entity within the time specified by the law. The entity to which the request for information has been transferred to has an obligation to respond to the transferred request promptly as specified in the law and further within the confines of the law.

3.2.3 Standards on Records Management

The Government recognizes that the right of access to information is of little use if reliable records are not created in the first place, if they cannot be easily retrieved or cannot be found when needed, or if the arrangements for their eventual archiving or destruction are inadequate. To enable maximum disclosure of information held by public entities and private bodies, all institutions shall create and keep records that are accurate, authentic, have integrity and are usable in a manner to allow access to information. Institutions should leverage technology for increased management of information and records including digitization of records and automation of information management systems in line

with existing legal framework. Further, institutions are required to provide mechanisms for management of records including their disposal and consequences for illegal or wilful destruction of records dealt with in accordance with the law.

3.2.4 Exemptions on Information Disclosure

Whereas disclosure of information is the norm, there are categories of information which may need to be protected against potential unauthorized access, misuse, abuse or other unlawful purposes. Such information ought to be exempt from disclosure. Information disclosures in all Institutions therefore should be in conformity with this Policy. The following categories of information shall be exempt from disclosure: -

- i. undermine the national security of Kenya;
- ii. impede the due process of law;
- iii. endanger the safety, health or life of any person;
- iv. involve the unwarranted invasion of the privacy of an individual, other than the applicant or the person on whose behalf an application has, with proper authority, been made;
- v. substantially prejudice the commercial interests, including intellectual property rights, of that entity or third party from whom information was obtained;
- vi. cause substantial harm to the ability of the Government to manage the economy of Kenya;
- vii. significantly undermine a public or private entity's ability to give adequate and judicious consideration to a matter concerning which no final decision has been taken and which remains the subject of active consideration;
- viii. damage a public entity's position in any actual or contemplated legal proceedings; or
- ix. infringe professional confidentiality as recognized in law or by the rules of a registered association of a profession.

3.2.5 Protection of Public Interest Disclosure

The Government is committed to ensuring disclosure of information on official wrongdoing in the fight against corruption and other vices in order to enhance efficiency in public service delivery. To achieve this, all institutions shall put in place mechanisms that minimize the risk of victimization of persons making disclosures in public interest. All public service employees are expected to conduct themselves with integrity, impartiality, and honesty. To achieve this, public officers are encouraged to report their concerns about malpractices, illegal acts, and failure to comply with set standards without fear of reprisals or victimization. Public entities and private bodies shall put in place

appropriate protection mechanisms for persons making public interests disclosure including anonymization; protection from retaliation, discrimination, punishment or dismissals; investigations of alleged violation of protection commitments and disciplinary measures.

3.2.6 Access to Information Appeals and Complaints Mechanism

Many countries implementing access to information laws do not have internal review mechanisms within entities making ATI decisions. This is based on the recognition of the nature of the right of access to information which means that prolonged times in processing information requests may lead to delay in accessing information thus defeating the purpose of information. This has a likelihood of affecting the realization of other fundamental rights. Thus, this Policy creates complaints and appeals mechanisms outside the entities making decisions on ATI. The mechanisms established by this Policy are administrative and judicial mechanisms whereby the administrative review and complaints mechanism is situated within an independent administrative body and the judicial mechanism is in the court system. Hence, to ensure that the right of access is fully realized, an appeal mechanism consisting of administrative review and complaints procedure with an additional possibility of court process is established.

3.3 POLICY OBJECTIVES

The objectives of this policy are to: -

- i. strengthen the legal framework to enhance access to information;
- ii. strengthen institutional frameworks for effective implementation of access to information; and
- iii. increase public awareness and education on the right of access to information.

3.4 POLICY STATEMENTS

These three objectives will be achieved through the following policy statements and strategies

a. The government shall strengthen legal frameworks to facilitate access to information.

This policy mandates the review and harmonization of the existing legislations as well as development of the new legal framework to enhance access to information. The existing legislation on access to information, data and records management shall be reviewed to conform to the requirement of Article 35 of the Constitution and the Access to Information Act.

b. The government shall strengthen the institutional framework for effective implementation of access to information

This policy aims to ensure collaboration and coherence in the implementation of access to information Policy and the resultant legislations. The policy calls for building capacities of public entities and private bodies to embrace and support the implementation of the right of access to information. Institutions are required to establish the necessary structures within their organizations with clear responsibilities on implementation, tracking and reporting on ATI.

c. The government shall increase public awareness and education on the right of access to information

This policy calls for an emphasis and increase in awareness campaigns and stakeholder engagements so as to educate the public and increase knowledge about ATI.

3.5 POLICY STRATEGIES

a. Institutional Coordination and Collaboration

The Commission on Administrative Justice (CAJ) has a mandate to ensure oversight and enforcement of the right of access to information. The Ministry of Information, Communication and the Digital Economy has an important role in implementation of access to information in Kenya through policy and standards development to enhance the achievement of ATI objectives. There are a number of public entities that play a significant complementary role. Some of these complementary entities are: The Judiciary, National Communication Secretariat, Kenya National Archives and Documentations Services, ICT Authority, County Governments, Public Service Commission, Ethics and Anti-Corruption Commission, Witness Protection Agency, and Kenya National Bureau of Statistics.

This policy recognizes that access to information may not be fully realized through efforts of a single entity. While information in most cases is developed, managed, owned and stored by individual entities, the same should be a shared resource between institutions since information in the hands of public entities is a key economic resource and the raw material for the transition from a commodity-based economy to a knowledge-based economy. Again, the sharing of information between institutions makes service delivery to citizens efficient and more effective. Further, with the likelihood that information meant for disclosure may be in the custody of another entity amplifies the need for

institutional coordination to ensure realization of access to information to spur citizen participation and thus inclusive growth of the Country.

The Policy therefore requires: -

- i. Building information sharing frameworks to facilitate the flow of information between institutions.
- ii. Institutions to put in place frameworks to enhance institutional collaboration and coordination on information sharing, management and storage.
- iii. Development of initiatives allowing integration and interoperability to support secure exchange of information among institutions.
- iv. Development and strengthening of monitoring and evaluation frameworks outlining how information will be collected, analysed and reported to measure progress in the implementation

b. Addressing Cultural Imbalances

Public officers, as custodians of public information, have the obligation to be transparent in, and accountable for, the discharge of their duty by disclosing information on their institutions' activities. Many officers in public service have been inducted and worked in a culture of secrecy which has been brought about by the existing legal framework. This position is supported by the fact that all public officers sign on employment, an undertaking whose import is to withhold information. The frameworks on implementation of access to information such as digitization of records and automation of information management systems brings changes which may not be easily embraced or are likely to be a source of anxiety among officers at the institutional level.

To enable an effective transition to open Government, the Policy requires all institutions to:

- i. Develop and implement strategies on sensitization, capacity development and incentives on access to information;
- ii. Establish and strengthen legal and administrative procedures for information disclosure, information management and information storage; and
- iii. Leverage on technology to enhance information access.

c. Resource Mobilization

Successful implementation of the National Access to Information Policy requires adequate resources. Presently, Government Ministries, Departments and Agencies are directing their resources towards

their core functions. To effectively drive implementation of access to information, organizational, human, regulatory, change management and collaboration capacities of all institutions and citizenry is of essence. Hence, this Policy requires investment in developing institutional capability and staff competencies to support access to information implementation. This Policy requires institutional prioritization and allocation of resources for implementation of ATI.

d. Awareness Creation and Capacity Building

Institutions are expected to take necessary measures to create awareness and inform the public on the right of access to information and to build capacity of their staff to enable them support citizens in exercising their rights under this policy.

i. Awareness Creation

This policy lays emphasis on the need to keep the public and other stakeholders informed of their right of access to information and the avenues for realizing the same. This will require public and private entities to undertake deliberate and targeted engagement and publicity initiatives. The agencies are also mandated to proactively share routine information with the public on any developments being undertaken towards the realization of ATI. The awareness initiatives ought to be done in a language that the public understands and through platforms that are easily accessible to the target audience.

ii. Capacity Building

Capacity building is an effective tool in promoting and entrenching the values of open governance thereby supporting in realisation of the collective vision of this policy. This Policy aims at strengthening the human and institutional capacities of institutions to enable effective implementation of the right of access to information. Training, for instance, facilitates officials charged with the responsibility of implementing access to information with requisite knowledge, skills, tools and attitudes to position themselves as champions of change in the process of enabling full realization of the right. Institutions are required to initiate measures including training staff on access to information and other emerging areas, continuous capacity development programmes, refresher courses, and recruitment of staff where necessary. This will ensure staff with requisite knowledge and skill sets are in place to facilitate information disclosures while lawfully managing various competing interests on information management. Broadly, Institutions should undertake ATI specific and targeted capacity building initiatives at the individual, institutional and systemic levels including training, development

of targeted internal ATI policies, institutional and procedural restructuring, as well as advocacy, consultations and initiation of ATI specific reforms.

e. Knowledge Management

To ensure maximum disclosure of information held by public entities and private bodies, all institutions are required to develop comprehensive Information Management Frameworks in accordance with existing legal framework. These frameworks shall ensure achievement of standards to enable access to information including reliability, authenticity, integrity and usability. Institutions are required to utilize information technology systems to enhance access to information including digitization of records and automation of information management systems.

Further, institutions are required to develop or strengthen frameworks on records retention and disposal including guides on information held by the institution; retention, management and disposal of records as well as creating linkages for appropriate archiving as provided by existing legal framework. The institutional frameworks should encompass information in both paper and digital formats, and should at a minimum guarantee: -

- i. Proper documentation which enables access to information including reliability, authenticity, integrity, retrievability and usability;
- ii. Ease of access to information and records, regardless of the form or medium; and
- iii. Training and guidance to employees and contractors regarding institutional records management responsibilities.

CHAPTER FOUR: INSTITUTIONAL AND IMPLEMENTATION FRAMEWORK

4.1 INTRODUCTION

Information is a cross-cutting resource which facilitates the functions of organizations and individuals in both the public and private sectors. This Policy grants the organizations that play key roles the fundamental responsibilities for administration and management of access to public information. This section defines the roles and responsibilities of the institutions which will facilitate efficient, effective, and accountable provision of access to information.

4.2 INSTITUTIONAL ARRANGEMENTS

The existence of a cohesive institutional framework is essential for the attainment of the objectives of this policy which is to ensure that every Kenyan can exercise their right of access to information. In this regard, the following institutions will play a critical role in facilitating the same.

4.2.1 The Ministry of Information, Communications and the Digital Economy

The Cabinet Secretary will be responsible for policy implementation, monitoring and evaluation and review.

4.2.2 The Commission on Administrative Justice

The CAJ is established under the Commission on Administrative Justice Act, 2011 to inter alia, facilitate the promotion and protection of the fundamental rights and freedoms in public administration.

The functions of the Commission are to:

- i. Develop and facilitate public awareness programmes on right to access to information;
- ii. Work with public entities at the National and County government and private bodies to promote the right to access to information and monitor compliance;
- iii. Monitor state compliance with international treaty obligations relating to right of access to information; and
- iv. Hear and determine complaints and review decisions arising from violations of the right of access to information.

4.2.3 Kenya National Archives and Documentation Service

The Public Archives and Documentation Service Act mandates the KNADS to make available for public inspection or acquisition, archives which have been in existence for not less than thirty (30) years subject to any written law prohibiting or restricting the disclosure of the information. KNADS

therefore will examine and preserve public records in their custody, publish and disseminate guides to public archives as well as regulate the conditions under which members of the public may inspect the archives.

4.2.4 The ICT Authority

The ICT Authority is mandated with the rationalization and streamlining of the management of all Government ICT functions. ICT framework provides important tools that facilitate the collection, collation, storage and ease of access to information. The Authority in fulfilling its mandate shall facilitate access to information by:

- i. Setting and enforcing ICT standards for the public service;
- ii. Promoting ICT literacy and capacity;
- iii. Promoting e-Government services;
- iv. Facilitating optimal electronic, electronic form, electronic record and equipment use in the public service;
- v. Promoting ICT innovation and enterprise; and
- vi. Facilitating the establishment, development and maintenance of secure ICT infrastructure and systems.

4.2.5 Implementing Institutions

All Public Institutions and private bodies are required to implement this policy by creating an enabling environment for realization of the right of access to information through prioritization of access to information requirements in planning, decision making and budgeting processes.

4.2.6 County Governments

The County Governments Act, 2012 provides for the powers, privileges and immunities of county governments in the delivery of public services while observing the principles of equity, efficiency, accessibility, non-discrimination, transparency, accountability, sharing of data and information, and subsidiarity. County Governments are further mandated to provide mechanisms for public participation in the conduct of their activities, governance and in development planning under Article 196 of the Constitution. To ensure effective access to information at county levels and in compliance with section 96 of the County Governments Act, all County Governments are required to develop or strengthen information disclosure mechanisms including establishment of offices or information focal points in

devolved units as well as enact County Access to Information Laws to take care of their unique aspects on information disclosure.

4.3 MONITORING AND EVALUATION

The implementation of the Policy shall be monitored and evaluated for effectiveness, adherence to legal requirements, contribution to transparency and accountability and responsiveness in meeting intended goals and objectives. Monitoring will be done on a periodical basis as may be determined. Evaluation shall occur less often than monitoring and shall look at the bigger picture to assess whether and to what extent policy implementation has succeeded in making the intended impact.

During the lifespan of the Access to Information Policy, necessary periodic and regular revisions shall be made in relation to its key elements to meet changing developmental objectives and priorities as well as changes in the global economy and advances in the technological environment. Periodic policy reviews will be carried out every five years or as need arises.