

Guide for Implementing Law 14/2008 on Public Information Openness



CENTRE FOR LAW
AND DEMOCRACY



Introduction

Law 14/2008 has been in effect since 2010, and it places various obligations on Public Bodies, including to appoint an Information Management and Documentation Official (PPID), and to draft both a standard operating procedure for information provision (Information Service SOP) and a list of public information (DIP). However, only a relatively small proportion of all public bodies have actually implemented these minimum standards, and even fewer have brought themselves into line with better practice standards.

One of the reasons why Law 14/2008 has not been optimally effective is a lack of capacity among public bodies. There are an enormous number of public bodies across Indonesia that are subject to the law, and many lack an understanding of the specific steps needed to implement it.

These Guidelines have been drafted to provide a step-by-step guide to implementation of Law 14/2008, in order to help public bodies bridge the gap between their legal obligations and their current practices. The Guidelines are in five parts. The first introduces the overall framework for implementation which public bodies must develop. The next describes the substantive requirements for managing information, including how to categorise public information and to develop a list of public information. The next two parts discuss the two forms of information distribution, through proactive publication and through responding to access requests. The final part addresses what steps public bodies should take to resolve any disputes that arise over the provision of information.

These Guidelines are meant to be practical and complementary to other publications, including: *Implementation of the Right to Information: An Assessment of Three Indonesian Public Bodies* and *Interpretation of Exceptions to the Right to Information: Experiences in Indonesia and Elsewhere*.¹ These publications contain, respectively a more in-depth description of specific implementation obligations and an elaboration of how exceptions to disclosure should be interpreted. Public bodies are encouraged to consult these publications to enhance their understanding of their legal responsibilities.

We hope that these Guidelines will facilitate broader and more effective implementation of Law 14/2008.

¹ Available in English and in Bahasa at <http://www.law-democracy.org/live/projects/rti-in-indonesia/>.

Part 1: Establishing the Framework

According to Law 14/2008, public bodies are required to take certain steps to implement their openness obligations. These include:

1. Appointing an Information and Documentation Management Officer.
2. Adopting a standard operating procedure for information management and responses to requests.
3. Developing forms for requesting information.
4. Providing a list of public information.
5. Creating an information access point.
6. Publishing a website.

1. Appointing an Information and Documentation Management Officer (PPID)

The PPID is regulated by Article 13(1) of Law 14/2008, which states: “In order to constitute a quick, accurate, and uncomplicated service Public Body shall: a) appoint Information and Documentation Management Officer.” [official translation]

There are several important points to note about the PPID:

- The PPID is responsible for the storage, management, provision and dissemination of information in and by Public Bodies (Article 1(9) of Law 14/2008). These responsibilities are elaborated in CIC REG. 1/2010 and in this guide under **Issue 1 – Responsibilities and Powers of the PPID**.
- There are no rigid requirements for how the PPID should be structured. It can be a single person or a multi-person office, and it can be centralised or decentralised. This is discussed under **Issue 2 – Organisation of the PPID**.
- The head of the public body (the governor, mayor, regent etc.) appoints the PPID by decree. To ensure that the office will be able to perform its duties well, it is necessary to consider several factors in designing the PPID. This is discussed under **Issue 3 – Considerations for Designing the PPID**.

Issue 1 – Responsibilities and Powers of the PPID

CIC REG. 1/2010 states that the PPID’s responsibilities include:

- a. Managing and storing public information:
 1. To coordinate the management and storage of all public information under the public body’s authority.
 2. To coordinate the collection of all public information, in its physical form, from each working unit.
 3. To coordinate an inventory of public information possessed by each unit in the public body in order to create a public information list, to be updated at least once a month.
- b. Responsibility for the provision, publication and release of public information:
 1. To coordinate the provision and release of all public information under the authority of the public body.

2. To arrange for the publication of information, as subject to the law, and to respond to access to information requests.

For proactive publication, this includes:

- i. Publishing public information through appropriate and effective media to reach all levels of society;
- ii. Delivering information in correct and easily understandable Indonesian, as well as other local languages where appropriate.

For information requests, this includes:

- i. Coordinating the release of public information in response to requests;
- ii. Conducting a consequential harm test and a public interest test as provided for in Article 17 of Law 14/2008 before deciding that certain information is classified;
- iii. In the event of a refusal or partial refusal, providing a written response including the exact grounds on which the refusal is based;
- iv. Blacking out or blurring classified information where there are grounds to do so. An explanation should be provided in these instances;
- v. Developing the capacity of PPID support staff (archivists, computer administrators, information officers, etc.) in order to improve the overall quality of the information service.

- c. Responsibility for managing appeals, and ensuring that appeals are processed in accordance with proper internal dispute settlement procedures.

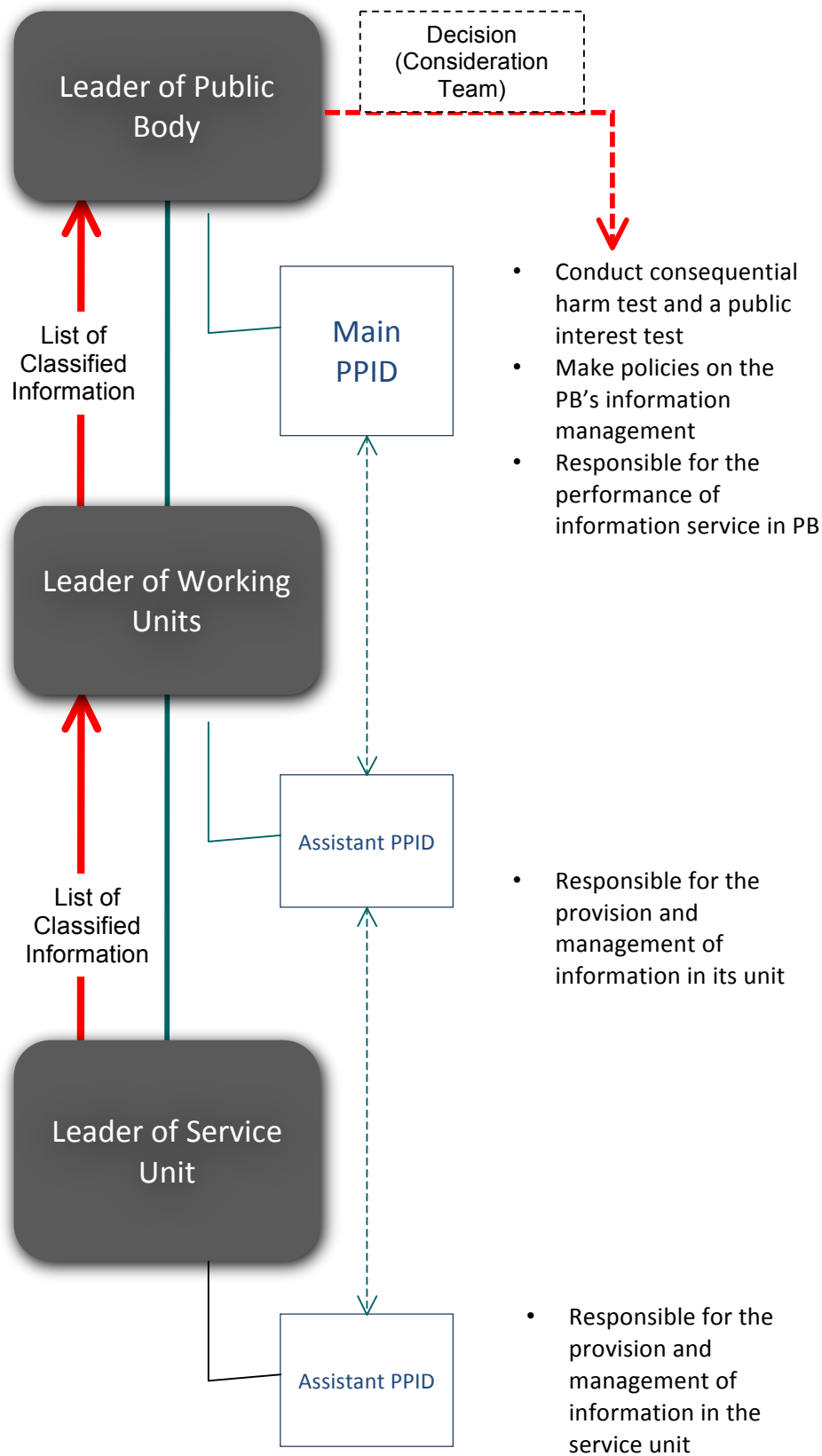
In performing these duties and responsibilities, the PPID has the following powers:

- a. To set central standards within the public body for the management and servicing of public information which are applicable to every working unit.
- b. To determine whether information ought to be classified or released based on the harm test and public interest test as provided for by Article 17 of Law 14/2008.
- c. To oversee the PPID support staff and direct them regarding the creation, maintenance and updating the list of public information.

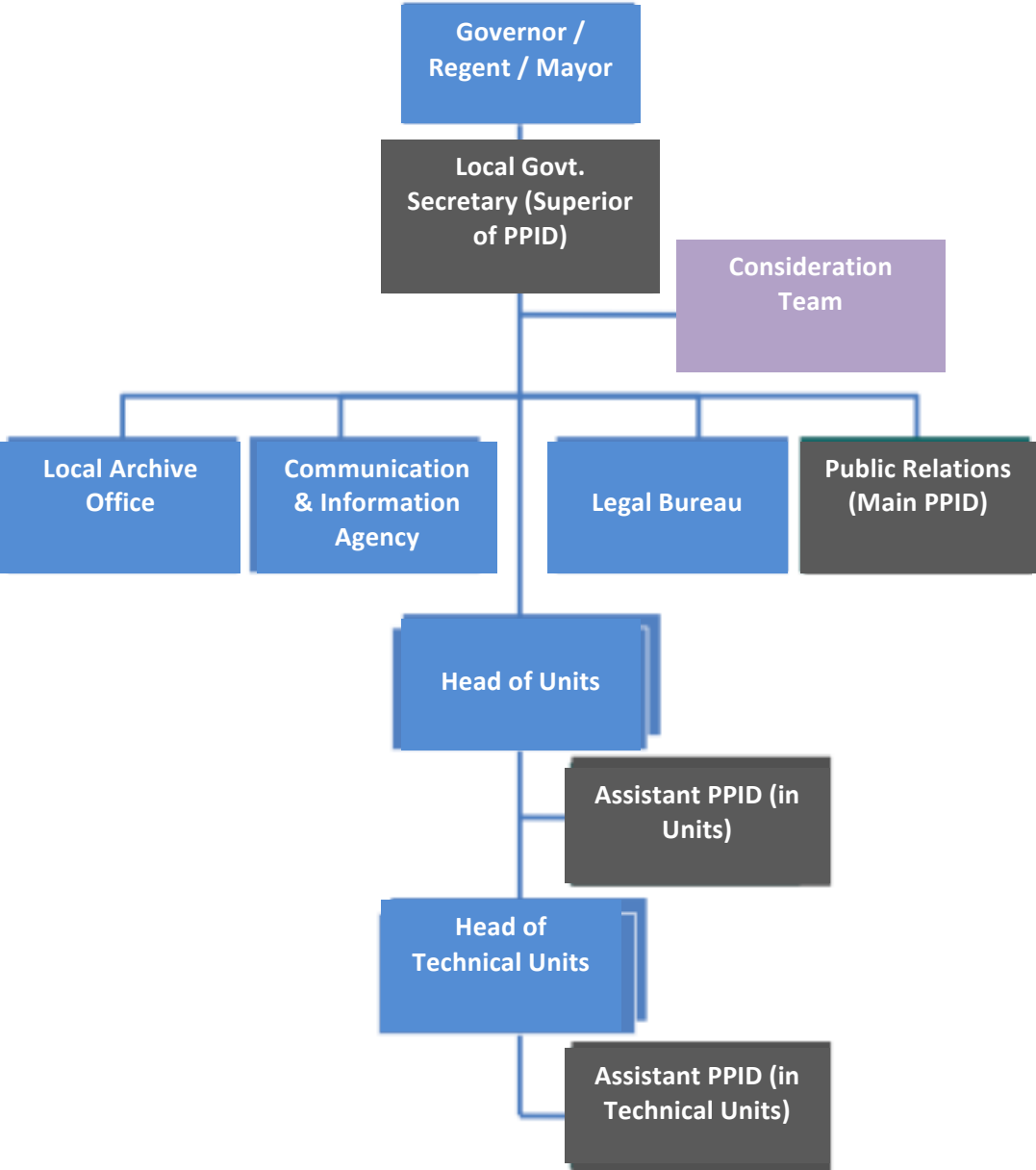
Issue 2 – Organisation of the PPID

There are different options for how to organise the PPID. Public bodies should consider the different models carefully to determine which would be most effective for their circumstances.

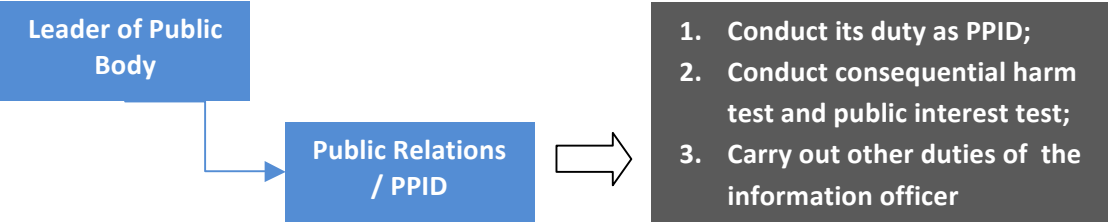
Example of a PPID Structure



Example of PPID Structure at the Local Government Level



Example of Structure of PPID in a Simple Organization



Issue 3 – Considerations in Designing a PPID

There are several factors to consider when designing the PPID:

- a. Involve all units within the public body in designing the PPID and elaborating the Standard Operating Procedure (SOP) for public information.
- b. Consider the main duties and functions of the PPID within the context of the main duties and functions of public body as a whole.
- c. Analyse whether information management functions should be centralised (concentrated in the hands of a single unit) or decentralised (divided among the different units).
- d. It is important to choose the right official to be the PPID and to select appropriate support staff, in consideration of their duties, responsibilities and authority.
- e. Create an effective mechanism for coordination between the PPID and their support structure.
- f. Ensure that the PPID is properly established through a Letter of Decree from the head of the public body.
- g. Create proper procedures for the PPID and its support structure, namely through drafting an SOP for responding to public information requests (see the next section).
- h. Create an effective mechanism for coordination between the PPIDs and the rest of the staff of the public body.
- i. Build the capacity of the PPID and its support structure to strengthen the management and provision of public information as mandated by Law 14/2008, CIC Reg. 1/2010 and the laws regarding archives.

2. Adopting a Standard Operating Procedure (SOP) for the Provision of Information by Public Bodies

The SOP has the following main functions:

- a. To define:
 - 1) The various systems for ensuring the provision of information in accordance with the law.
 - 2) Which officials bear which responsibilities.
 - 3) Which staff members are supposed to carry out which duties.
 - 4) Proper procedures for the exercise of these duties and responsibilities.
 - 5) Expected results in the fulfilment of duties regarding the provision of information.
 - 6) Expected timeframes for particular procedures.
- b. To create indicators for measuring performance.
- c. To establish a division of duties and responsibilities between relevant personnel.

In relation to the PPID system, the SOP should include regulations concerning:

- a. The structure of the PPID.
- b. The structure of the PPID's support staff (archivists, computer administrators, information desk officials, etc.).

- c. The division of duties, responsibilities and authorities in the event that there is more than one PPID official.
- d. The identity of the official who is the superior of the PPID and who is responsible for responding to appeals submitted by requesters.

With respect to the management and provision of information, the SOP should at least establish procedures for:

- a. Information management and organisation (data, documents, etc.).
- b. Information management with respect to the list of public information as established by Law 14/2008.
- c. Proactive publication of information (on websites, etc.).
- d. Responding to information requests.
- e. Standards of information provision and mechanisms for managing appeals within the public body.
- f. Reporting on the provision of information services.
- g. Managing disputes and appeals.

3. Developing Standard Forms for Information Service

CIC REG. 1/2010 and CIC REG. 2/2010 include several standard forms to facilitate interactions between requesters and public bodies. The forms elaborate minimum requirements for filing and responding to requests, as well as for dealing with further steps in the requesting process:

Standard Forms in CIC REG. 1/2010:

- Annex 3 – Public information request form
Contains the minimum requirements for requesters and officials in filing an information request, and a standardised and clear format for filing.
- Annex 4 – Registrar of public information requests
Helps public bodies to keep track of information requests received for the purpose of managing responses as well as statistical tracking of requests.
- Annex 5 – Form for following up with requesters
Public bodies are required to provide requesters with a written response to their request. This form spells out the minimum requirements for such responses.
- Annex 6 – Refusal of Information Form
Refusals to provide information should conform to the standards of Law 14/2008, including a requirement to provide an explanation. This form spells out the minimum requirements for a refusal.
- Annex 7 – Form for filing an appeal
Used by requesters to file an appeal against a refusal, blacking out of information or any other measure which they believe has infringed their right to information.
- Annex 8 – Registrar of appeals
Helps public bodies to keep track of appeals for the sake of management and statistical tracking.

Standard Forms in CIC REG. 2/2010:

- Annex 1 – Request for an appeal to the Information Commission
- Annex 2 – Mediation Settlement
- Annex 3 – Decree of Information Commission regarding settlement of a dispute

The complete set of forms can be found in the Annexes of CIC REG. 1/2010 and CIC REG. 2/2010 and are also available on the website of the Central Information Commission: <http://komisiinformasi.go.id>.

4. Providing a List of Public Information

The PPID should create a list of all information in the possession of the public body, along with details about which technical units possess the information and are responsible for issuing the information, and details about specific retention periods. These lists should be structured according to the categories of public information listed in Law 14/2008. How these lists should be constructed, as well as the appropriate categorisation, are further enumerated in Part 2.

5. Creating an Information Desk

The establishment of an Information Desk is mandated by Article 1(6) of CIC REG. 1/2010.

Some important points about the Information Desk:

- The function of the Information Desk is to provide the public with information and to respond to information requests, as well as to perform other functions which facilitate the broad dissemination of public information.
- The Information desk should not be understood in narrow terms as a piece of furniture or an office, but rather through its function, which it delivers at the location.

According to CIC Reg. 1/2010, the functions of the information desk include:

- a. Maintaining the list of public Information;
- b. Providing the public with Information request forms;
- c. Providing the public with written notification forms;
- d. Providing the public with forms for lodging appeals;
- e. Maintaining the registrar of appeals;
- f. Other relevant functions in support of public access to information.

6. Publishing a Website

A website can be a very effective and efficient means of disseminating information and connecting public bodies with the people. While it is not obligatory for public bodies to establish a website, this is a step that all public bodies should consider, including appointing at least one staff member to serve as the webmaster.

A good website should perform the following functions:

- Disseminate information proactively in accordance with the requirements of Law 14/2008, including all information which is required to be published periodically and immediately (See Categorisation of Public Information in Part 2);
- Integrate the lower and technical units with the management of the public body;

- Host a copy of the list of public information;
- Provide an online mechanism for requesting information. A good website should allow users to file information requests electronically, make electronic forms available for this purpose and allow users to track the progress of their requests online;
- Provide the public with access to information of timely relevance, particularly in response to public demand.

Part 2: Categorising Public Information & Developing a List of Public Information

Categorising Public Information

According to Law 14/2008, all information under the control of a public body can be divided into five categories:

1. Information which shall be provided and published periodically.
2. information which shall be published immediately.
3. Information which shall be provided at all times upon request.
4. Information which is classified under an exception taking into consideration the public interest test.

The fifth category is not explicitly spelled out in the law, but includes all information which does not fall into the preceding four categories. It is referred to in Article 52 of Law 14/2008 as "public information to be supplied on the basis of a request pursuant to this Law".

For further information see the chapter on Categorisation of Public Information in the *Training Manual for Public Officials* and CIC REG. 1/2010, Articles 11–13 and 17.

Developing a List of Public Information

The establishment of a List of Public Information is mandated by Article 1(7) of CIC REG. 1/2010.

This List is included among the public information that should be available at all times and should be updated periodically. In addition to being legally required, making this list available will also help to:

- a. Facilitate public information service. The list of public information can act as a guide for requesters, allowing them to understand what information is possessed by the body and in what format.
- b. Promote public information requests by publicising the information available within the public body.

How to Develop a List of Public Information

1. The optimal method of data inventory may depend on the size and complexity of the organisation:
 - Large public bodies may find it is best to require each technical unit to identify and organise the information under their control. The function of the PPID then becomes to compile and manage these lists into a central registry;
 - Smaller public bodies may adopt a more centralised process, appointing a small team to conduct the entire inventory;
2. The information should then be sorted into the five categories;
3. If the information falls into a category that is available to the public upon request, these documents should be prepared for release.
4. All information should be registered, noting the specific information in the categories below.

Format of a Public Information List

No.	Summary of the Content of the Information	Official/Unit who Possesses the Information	Official Responsible for the Creation of the Information	Time/Place the Information was Created	Available Formats (Hardcopy/Electronic copy)	Retention Time

Part 3: Proactive Publication

Proactive publication covers all information which is required to be published without a request, including information that is to be provided periodically or published immediately.

Category 1 – Provided and Published Periodically

This includes information that should be published and then updated periodically, either regularly or as the information changes. It includes:

- a. Information regarding the profile of the public body.
- b. Summary of current programmes and/or activities of the public body.
- c. Narrative summaries of the public body's performance, including activities that are currently being implemented as well as those that have already taken place, and their achievements to date.
- d. Summary of financial reports.
- e. Summary of reports regarding access to public information.
- f. Information regarding regulations, decrees and/or policies which are binding and/or have an impact on the public and which have been issued by the public body.
- g. Information on the right to and procedures for obtaining public information, as well as procedures for internal appeals and processes for dispute settlement and related contact information.
- h. Information on the procedures for making complaints about abuses of authority or other violations by officials of the public body or any other party who obtains permits or contracts for work from the public body.
- i. Information regarding announcements of the procurement of goods and services.
- j. Information on early warning and evacuation procedures in cases of emergency.

Public bodies should consider the following principles in their approach to proactive publication:

1. The official website of the public body should be used as a primary means of dissemination.
2. Online publication should be complemented by the use of offline options, including publicly accessible communication boards, leaflets, traditional mass media and any other effective means.
3. Information should be disseminated in readable and easy-to-understand Indonesian, as well as other local languages where appropriate.
4. Information should be distributed in ways that facilitate access by people with disabilities.

Category 2 – Published Immediately

This includes information that should be published as soon as it becomes available to the public body.

The information that falls under this category is regulated by Article 10 of Law 14/2008 and Article 12 of CIC Reg. 1/2010, and includes:

- a. Information on natural disasters, such as droughts, forest fires, crop pests and diseases, epidemics, outbreaks, extraordinary dangers and space-related dangers.

- b. Information on non-natural disasters, such as industrial or technological failures, industrial hazards, nuclear explosions, environmental pollution and space-related threats.
- c. Social threats, such as social unrest, social conflict between groups or between communities, and terrorist activities.
- d. The spread of potentially infectious diseases, as well as the distribution and areas known to be sources of such diseases.
- e. Information regarding poisonous contamination of food products.
- f. Information regarding the disruption of public utilities.

Procedures for the dissemination of information which shall be published immediately include the following:

1. The information should be published immediately, in an appropriate style which is easy to understand, and via the proper medium.
2. The information should be disseminated first to people who are potential victims.
3. It should include information regarding the steps and actions to be taken in emergencies or where such danger occurs, procedure and points of evacuations, means of getting aid, etc.
4. It should be published via the most appropriate media to reach people (i.e.: loudspeaker, radio, television, etc).

Because of the potential threat to public health and safety, public bodies' obligation to ensure this information reaches the impacted population is very important. The following measures will help public bodies disseminate this type of information accurately and effectively:

- Develop an effective mechanism for delivering emergency information. This mechanism should be quick and easy to implement, and capable of reaching large numbers of people on short notice.
- Ensure relevant working units understand their role within this mechanism.
- Identify what impacted populations could potentially need to know about particular types of information first. For example, in the event of a tsunami alert, there would be a particularly pressing need for the information to reach low-lying or coastal areas.

Part 4: Processing Requests

Step 1 – Requirements for Filing a Request

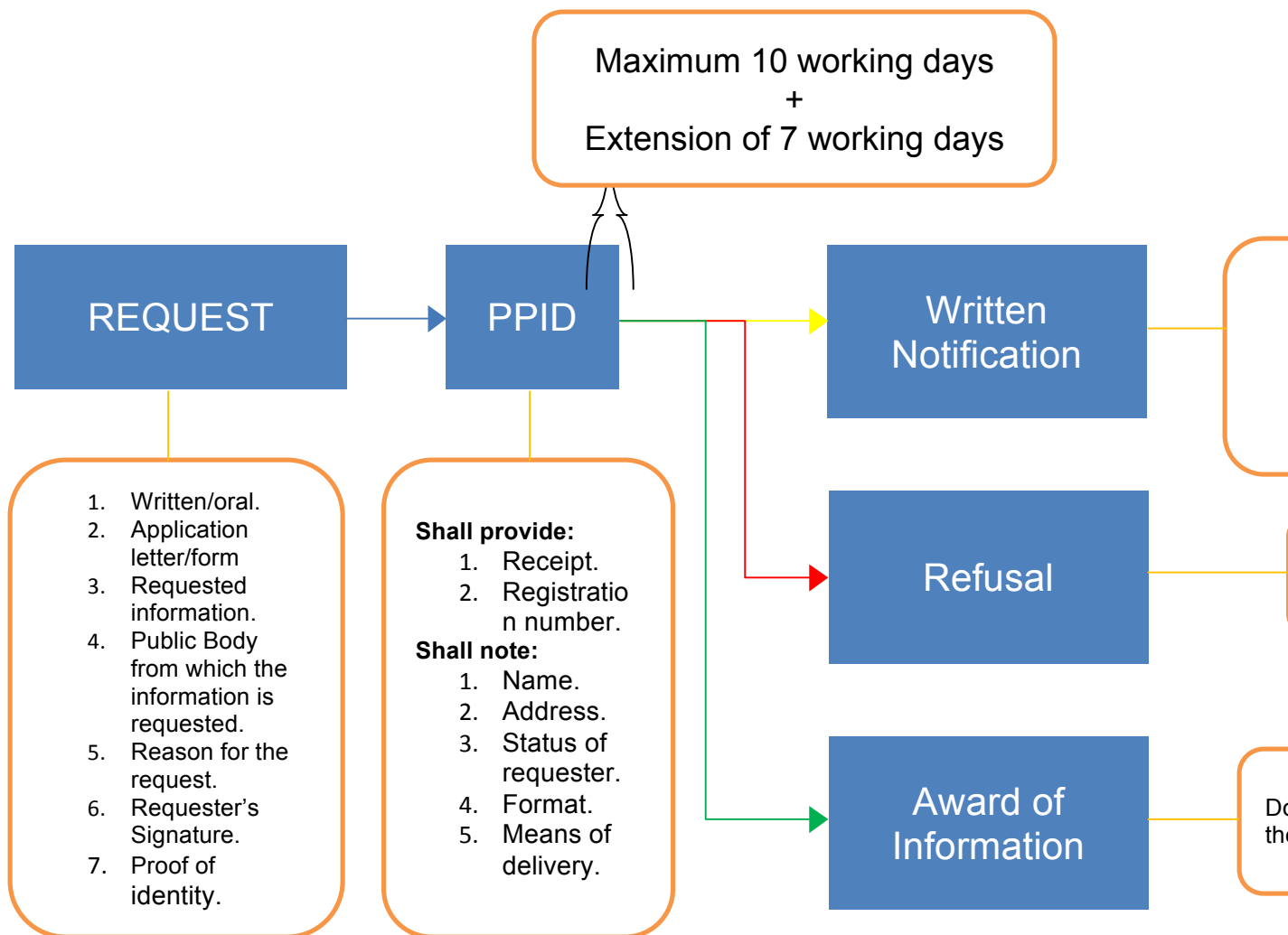
Article 1(12) of the Law 14/2008 states: “Public Information Requester means an Indonesian citizen or Indonesian legal entity filing a public information request as stipulated in this Act” [official translation]

Public bodies can require evidence of the eligibility of the requester, namely:

- For natural person: a copy of their identifying documents, such as a citizenship card, driving license or passport.
- For legal entities: Articles of Association registered and validated by the Ministry of Law and Human Rights.

In addition to presenting evidence of eligibility, requesters will need to complete a public information request form, as provided for in Annex 3 of Law 14.2008 (described in greater detail below).

Step 2 – Knowing the Procedure



Explanation

	Phase	Details	Timeline
1.	Making an Information Request	<ol style="list-style-type: none"> 1. Information requests can be made orally or in writing, directly or indirectly: <ul style="list-style-type: none"> - If the request is made in person and orally, the PPID should record the request on an information request form and ensure that the request is complete. - If the request is made in-person and in writing, the PPID should ensure that the request is complete. 	The 10 day clock begins to run as soon as the request is received.

		<ul style="list-style-type: none"> - If the request is made by telephone, the PPID shall record the request on the information request form and ensure that the request is complete. - If the request is made by e-mail or mail, the PPID should ensure that the request is complete and contact the requester immediately if it is not. 	
		<p>2. According to Annex III of CIC Reg. 1/2010, in order to be complete a request should include:</p> <ul style="list-style-type: none"> - Identity of the requester (name, address, contact info, etc.). - Details of the requested information. - Objective of the request. - Preferred format for provision of the information. - Means of delivering the information. 	
		<p>3. Note the information request in the public information request register. The PPID should provide a request number in the receipt of information request according to the format of the Registrar (Annex IV of CIC Reg. 1/2010).</p>	This should be done immediately.
		<p>4. Provide a receipt of the request to the requester.</p> <ul style="list-style-type: none"> - If the request is made in person, the receipt may be provided directly. - If the request is made remotely, the receipt should be sent to the requester in the same way as the request was made, insofar as this is possible. 	This should be done immediately.
2.	Processing an Information Request	<p>1. Assess whether the public body holds information which corresponds to the request. This involves assessing what information the requester is seeking and then finding out what information the public body holds that is responsive to the request.</p>	All of these steps must be completed within the 10-day period.
		<p>2. The PPID may need to consult with other relevant officials once he has decided what the request is about, to see if they hold information that is responsive to the request.</p> <ul style="list-style-type: none"> - To do this, it will be necessary to set up some sort of communication system 	

		internally within the public body which enables the PPID to pass on the request to relevant parties.	
		3. Once the information has been located, it should be reviewed to decide whether or not it falls within the scope of the regime of exceptions and whether it can be provided in the format asked for by the requester (and, if not, what form it should be given in.	
3.	Responding to the information request	<p>The following responses to requests are possible:</p> <ol style="list-style-type: none"> 1. The public body provides the requested information. In this case, the written notification shall indicate: <ul style="list-style-type: none"> - The format of the information. - Cost and means of payment to obtain the information. - Time needed to provide the information. 2. The public body does not hold the information. In this case, the written notification shall indicate: <ul style="list-style-type: none"> - That the public body does not hold the information. - Which public body possesses the requested information, in the event that the body knows this. 3. Public body refuses to give the requested information, in whole or in part. Refusal to provide classified information shall be done in accordance with Article 17 of Law 14/2008. In this case, the written notification shall indicate: <ul style="list-style-type: none"> - The exact grounds for the refusal. - An explanation of the blacking out of requested information, if any. - The right of the requester to lodge an appeal against this decision. 	Within 10 days.
4.	Extension of time	<p>An extension may be authorised in the event that a public body needs additional time to respond to an information request. Any extension of time should be notified in writing to the requester before the expiry of the original 10-day period for processing the request. Extensions may be authorised in the following cases:</p> <ul style="list-style-type: none"> - Public bodies need more time to decide 	Sent within 10 days; allows an extra 7 days.

		<p>whether or not the information falls within the scope of the regime of exceptions, including because of the need to consult with other parties.</p> <ul style="list-style-type: none"> - The information is possessed by the public body, but more time is needed to process it because of the complexity of the request. - Related public bodies partially possess the information. 	
--	--	---	--

Step 3 – Utilizing Basic Forms

In processing requests, public bodies should use the standardized form provided in CIC REG. 1/2010, as noted above in Step 1 Point 3: Forms for Information Service.

Costs:

As noted above, public bodies are permitted to charge for providing information. However, this is limited to the costs actually incurred: photocopying or duplication expenses, delivery of documents and expenses associated with arranging for permission from third parties. The amount charged should be stipulated by a letter of decree from the head of the public body and any fees received should be registered as non-tax State revenues.

Part 5: Dispute Resolution

Grounds for Dispute

Disputes can arise as a result of any barrier preventing access to public information, either stemming from an information request or a failure to publish information proactively. The main sources of disputes are:

- a. Refusal of requests.
- b. Failure to respond to a request.
- c. A response to a request which fails to satisfy it.
- d. Request is not fulfilled.
- e. Overcharging requesters for access.
- f. Breach of the timeframes for responding to requests.
- g. Failure to publish information proactively or to update information.

Mechanisms for Dispute Resolution

According to Law 14/2008, there are up to four phases for resolving disputes. Failure to resolve the problem at any one of these phases means the dispute may move onto the next one.

1. Internal appeal (within the Public Body)
2. Dispute settlement at the Information Commission
3. Dispute settlement at the Civil Court or Administrative Court
4. Cassation at the High Court

For further explanation of each stage of the dispute settlement process. See: Chapter 7 of the Manual on Implementation

Minimising Public Information Disputes

The best way to minimise information disputes is for public bodies to fulfil their obligations under Law 14/2008, properly including by:

1. Changing attitudes towards openness:
 - a. Shift institutional attitudes in line with the principles of maximum access and limited exceptions (MALE).
 - b. Expand proactive publication to encompass types of information that are subject to frequent requests. This will avoid the burden of having to respond to access requests, since the information will already be available.
 - c. Respond to information requests within the time limit prescribed by law.
 - d. Public bodies should bear in mind that the right to information applies regardless of the motives of the requester, and should not discriminate based on the requester's motive or status.
 - e. Information openness is not the same as public relations. The function of public relations is to present a positive image of public bodies, whereas openness is about performing a public service to ensure respect for the right to information. Information should be disclosed even if it presents the public body in a negative light.

- f. Information openness policies should not be limited to the digital world. It is also important to provide information through offline means, in order to serve segments of society that do not have access to the Internet.
2. Management Strategies
 - a. Appoint a PPID, develop an SOP on the management and provision of information, compile a list of public information, set up a public information access point, etc.
 - b. Conduct training to improve the capacity of staff to manage and deliver information.
 - c. Incentivise better practices in the management and delivery of information.
3. Communication and coordination
 - a. Improve internal communication channels between working units and among staff, as well as between employees and senior management.
 - b. Improve external communication channels to the public.

Other Issues

- It is important to delegate an official responsible for dispute resolution in order to ensure preparedness and a speedy resolution of complaints.
- The official tasked with dispute resolution should have the authority to make decisions around information disclosure on behalf of the public body, and to represent the public body during mediation processes.
- In mediation and adjudication processes, it is important for officials to consider the consequential harm and public interest tests carefully to ensure that they have been applied correctly. More generally, it is vital that public bodies adopt a good faith approach to mediation and adjudication processes, in recognition of the fact that access to information is a right. Public bodies should also bear in mind that, in the event of a dispute, the burden of proof lies on the public body to demonstrate that it has acted in compliance with the law.
- The mediation and adjudication process is final and binding. The public body should heed dates and deadlines given by the Information Commission.