

REPORT OF THE SELECT COMMITTEE ON EDUCATION, TRAINING AND ICT ON THE ACCESS TO INFORMATION BILL, 2019



June 25th 2020.

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Introduction

Following the second reading of the **Access to Information Bill 2019** on the 5th December, 2019, by Hon. Abubacarr M. Tambadou, the Attorney General and Minister of Justice, plenary, in accordance with Clause 68 (1) of the Revised Standing Orders 2019, referred the said bill to the Assembly Business Committee (ABC). The ABC further committed the Bill to the Select Committee on Education, Training and ICT as provided for in Clause 68 (2).

The Select Committee was tasked to review the bill, consult relevant stakeholders and report back to the plenary its findings and recommendations on the draft bill.

The Committee engaged some key stakeholders in relation to the bill, and noted their opinions and recommendations. The stakeholders that were engaged include the Ministry of Information, Communication and Infrastructure (MoICI), The Gambia Press Union (GPU), The Gambia Federation for the Disabled (GFD), Westminster Foundation for Democracy (WFD), and representatives from different media institution.

Committee Members

1. Hon. Yaya Gassama - Chairperson
2. Hon. Alhagie Mbow - Vice Chairperson
3. Hon. Saikouba Jarju - Rapporteur
4. Hon. Muhammed Mahanera - Rapporteur
5. Hon. Fakebba N.L Colley - Member
6. Hon. Abdoulie Ceesay - Member
7. Hon. Alhagie Darboe - Member
8. Hon. Ousman Touray - Member
9. Hon. Bakary Njie - Member
10. Hon. Ndey Yassin Secka - Member
11. Hon. Alfusainey Ceesay - Member
12. Hon. Sankung Jammeh - Member
13. Hon. Sainey Touray - Member
14. Hon. Sidia S. Jatta - Member
15. Hon. Matarr Jeng - Member
16. Hon. Muhammed Magassy - Member
17. Hon. Alhagie S. Darboe - Member

Support Staff

1. Mrs. Sarata Bojang Secretary
2. Ms. Isatou Sonko Secretary
3. Mr. Alhagie M. Dumbuya Senior Research Officer
4. Mr. Sulayman Jallow Senior Legal Officer

Subject Matter Specialists

1. Sekou O.M Dibba
2. Mr. Momar K.F Samba

Methodology

- Drafting a work plan and identifying Stakeholders
- Meeting with Stakeholders
- Writing, Review and Finalisation of Report

Stakeholder Consultations

The Select Committee engaged personnel from the following stakeholder institutions:

1. Muhammed Krubally - Chairperson, Gambia Federation for the Disabled
2. Madi Jobarteh - Westminster Foundation for Democracy
3. Mr. Saikou Jammeh - Secretary General, Gambia Press Union
4. Ms. Mammy Saidykhan - Programme Assistant, The Gambia Press Union
5. Mr. Demba Kandeh - School of Journalism, University of The Gambia
6. Mrs. Amie Njie Joof - Permanent Secretary, MoICI
7. Mrs. Aisha Davis- Ann - Director Information, MoICI
8. Mr. Amadou Nyang - Director ICT, MoICI
9. Ms. Isatou Jawara - Gambia Daily Newspaper
10. Mr. Yusef D. Taylor - Gainako Newspaper
11. Ms. Aminata Jobe - Eye Africa TV
12. Mr. Bubacarr Manga - Eye Africa TV
13. Mr. Momodou Jarju - Foroya Newspaper
14. Mr. Mansour Jobe - Director LID NHRC
15. Cherno Marena - SG & LS Ministry of Justice

Committee Findings/Conclusions

Having considered all the views, concerns and recommendations of individuals and stakeholder institutions, the Committee herein presents the following recommendations on **Access to Information Bill, 2019** for consideration and adoption by the plenary:

1. That the objects and reasons of the original Bill be maintained. This is worded as follows:

“This Bill seeks to provide the framework for ordinary Gambians to access public records and information held by public authorities or by persons providing services for them, to provide for the procedure to obtain access to that information. In line with international standards, the Bill also provides necessary exceptions to the right of access that should be limited and specific. Thus, the Bill inter-alia protects the privacy of individuals with respect to personal information about themselves held by public bodies, medical records and communication with legal practitioners as well as security sensitive information for law enforcement and the defense of the state. The Bill provides for the setting up of an independent commission to ensure that decisions on the disclosure of Government information should be reviewed independently.”

2. That the guardianship of the Bill would be the Ministry of Justice.
3. Access to information must be all-inclusive taking into account people living with disability, and that information or reports shall as well be user friendly to cater for people with disability.
4. “Requester” should mean the “Institution, Federation or Groups”. In the Bill, it says that ‘Requester’ means a person, group or institution who requests access to information under this Act or any person acting on behalf of the group requesting information.

5. Section 27(3a) be extended to read, “an attack against the state by a Gambian or Foreign element.”
6. Section (38) EXTENT OF THE EXEMPTION to be deleted. The reason is to avoid giving the Minister sweeping powers. Where the need for exemption arises in the future, approval should be sought from the National Assembly in the form of an Amendment Bill.
7. On the establishment of a Commission on Access to Information, we recommend that to be assigned to an already existing Commission like the National Human Rights Commission.
8. Section 42(1) procedure for the appointment of Members of the Commission can be directly derived from the qualification and criteria laid down in the National Human Rights Commission Act 2017.

Section 5(1) of the National Human Rights Commission Act 2017 states: “The President shall, after consultation with the Public Service Commission, appoint the members of the Commission...” subsection (2) of the Act indicates that: “The President shall appoint the members of the Commission, who shall include at least two women, from amongst persons –

- a. Of high morals and proven integrity who have so distinguished themselves in their respective fields as to command the respect of the public; and
 - b. Well versed in and of proven record of respect for human rights.
9. Subsection (2d) be added to Section 43 as “Any person who has conflict of interest cannot be a member of the commission.”
 10. Punishment for “Offences” in section 76 to be increased to a fine of D250, 000- or 2-years imprisonment or both.

11. Section 79 'Annual report and Audited Financial Statement' to the Hon. Minister and the National Assembly.

12. Section 80 (Regulation) to only stop at Sub-section (1).

Recommendations

1. The Committee recommends that the duties and responsibilities of the proposed commissioners be placed under a special directorate at the National Human Rights Commission with the same rights and responsibilities.
2. The directorate to be staffed with the appropriate personnel to be able to perform their duties in accordance with the Act.
3. The **Access to Information Bill, 2019** be passed with the recommended amendments.

Acknowledgement

The Members of the Select Committee on Education, Training and ICT hereby acknowledge the positive contributions made by institutions and individuals that were invited, and the office of the Clerk for facilitating all the meetings held during the period.