



AUDIT REPORT 2022

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ABBREVIATIONS

ATIA	Access to Information Act
ATI	Access to Information
HOIH	Head of Information Holder
IO	Information Officer
IC	Information Commission
MDA's	Ministries, Department, and Agencies

BACKGROUND

Introduction

The Information Commission (IC) is a neutral and independent body responsible for enforcing and promoting compliance of the Access to Information Act, 2018 (ATIA). Section 56 of the ATIA bestows auditing powers to the IC to assess compliance with this Act. These powers under subsection (1) includes the power to:

- Conduct inspections;
- Undertake any investigation it deems appropriate in the furtherance of the audit;
- Engage with the staff of the body;
- Request copies of any information; and
- Access any information it deems necessary to undertake the audit.

This report is a summarized compilation of ATIA compliance audits performed in 2022 on a selected number of public bodies broadly classified as Ministries, Departments, and agencies (MDA's) as well as civil society organizations financed directly or indirectly by the Government of Seychelles. The Information Commission conducted these compliance audits for the first time and they were performed during an audit cycle from May 2022 to November 2022. The terminology 'compliance audit' in this context is defined as an independent external evaluation by the IC on these aforementioned organizations vis-a-vis the law, rules, regulations and guidelines pertaining to this Act. The report highlights our main findings and recommendations.

Purpose

- 1) Assess and understand how the ATIA is being implemented across public bodies and guide effective practices and policies;
- 2) Ensure systematic independent monitoring of the ATIA across public bodies;
- 3) Produce an evidenced based and objective assurance of findings and recommendations;
- 4) Support ongoing ATIA regulation compliance, awareness and capacity building efforts.

Target Audience

This report is intended for both an outward and inward facing audience at two distinct levels.



Audit Team

The team responsible for the strategic development and execution of the compliance audits comprised of the following individuals:

- ★ Ms. Mina Accouche, Information Analyst/Auditor, as the primary lead investigator.
- ★ Ms. Thereza Dogley, Chief Executive Officer, as the reviewer.
- ★ Ms. Mumtaz Hasan, Mr. Antonio Lucas and Mr. Desire Payet, Chief Information Commissioner and Commissioners, as the steering committee.

AUDIT SCOPE

The timeframe that the compliance audits encompassed was for the period 2018–2021, from the start of the Act to the most recent completed calendar year over 7 months of fieldwork in 2022.

The areas of regulations covered were the broad length of the ATIA ranging from:

- Determining compliance and monitoring of Section 4, 5, 7, 11, 33, 34 and others.
- Testing and assessing the integrity of prior Section 54 Annual Reports submitted.

The design and depth of the compliance audits extended to site evaluations and desk reviews of policies, processes, procedures, files and documentation. The main participants were the designated IO's and HOIH's of selected organizations.

Special Notes:

- 1. Although the team initially attempted to conclude all field work and the compilation of our findings over a three-month period, this timeframe had to be adjusted and extended as the IC encountered various difficulties in the availability of the staff and available records.*
- 2. This report does not include investigative audits conducted separately as a result of appeal cases filed with the Commission.*

METHODOLOGY

Processes

The procedures for performing the compliance audits comprised the following key stages:

Stage 1 Internal Planning

- Identifying MDA's, setting audit procedures and timeframe.

Stage 2 External Notice and Preparation

- Two weeks official written notice to MDA's and entry meetings.

Stage 3 Assessment

- Site and desktop reviews, testing, 1 to 1 meetings and follow ups.

Stage 4 Exit and Conclusion

- Final feedback, compilation and publication of report.

The investigator and reviewer undertook short visits to the various organizations and conducted interviews with the IOs as well as key staff to observe current practices and procedures currently in place. A desk-based review approach was adopted, and different monitoring practices were used, such as testing the system when requesting information about a third party. Audits involved the use of questionnaires, person-to-person interviews with IOs and HIOHs, various sampling methods, and the review of files.

Evidence was obtained to support compliance with the Access to Information Act, and where non-compliance with the Act was observed and any weaknesses identified, the auditor provided the relevant recommendations. At the end of the audit, each organization was given an overall assurance rating, ranging from high assurance to very limited assurance. The audit, however, does not guarantee absolute accuracy in the detection of every non-compliance with the Act.

Organizations Audited

The following 15 organizations were selected to be audited out of which only 13 could be audited. This was due to changes in regulations; 3 organizations merged into one as the Acts under which they were operating were repealed. These were the National Biosecurity Agency, the Ministry of Environment, and Agriculture Department.

- 1) *Public Utilities Corporation*
- 2) *Seychelles National Youth Council*
- 3) *National Biosecurity Agency*
- 4) *Ministry of Environment*
- 5) *Agriculture Department*
- 6) *Seychelles Tennis Association*
- 7) *National Sports Council*
- 8) *Seychelles Trading Company*
- 9) *Seychelles Planning Authority*
- 10) *Lands Department*
- 11) *Seychelles Infrastructure Agency*
- 12) *Ministry of Education*
- 13) *Department of Employment*
- 14) *Seychelles Licensing Authority*
- 15) *Seychelles Investment Board*

Selection Criteria

Organizations were chosen based on the following criteria:

- Discrepancies observed in the figures being reported in the Section 54 Annual Report.
- Volume and nature of complaints.
- Tip-offs received from members of the public about the inaccuracy of records being received and difficulties accessing their records.
- Statistical random selection in categories related to budget amounts received.
- Diverse cross section of type of organization with a minimum of one or two association/federations.

RATINGS, FINDINGS AND RECOMMENDATIONS

This area of the report summarizes and pinpoint significant deficiencies in internal controls, material weaknesses, risks and recommendations to support effective targeted preventative and corrective measures.

The table below illustrates the assurance ratings awarded to the organizations at the end of our audit processes.

Public Body or Organization (as defined by the ATIA)	High Assurance	Reasonable Assurance	Limited Assurance	Very limited Assurance
Public Utilities Corporation				
Seychelles National Youth Council				
Agriculture Department				
Seychelles Tennis Association				
National Sports Council				
Seychelles Trading Company				
Seychelles Planning Authority				
Lands Department				
Seychelles Infrastructure Agency				
Ministry of Education				
Department of Employment				
Seychelles Licensing Authority				
Seychelles Investment Board				

1. Public Utilities Corporation (PUC)

The mandate of the Public Utilities Corporation is to provide an efficient, safe and reliable supply of electricity and water to treat and dispose wastewater, paying due regards to the environment and consumers' interest.

a) Findings

An audit of the Access to Information records and documentation was undertaken for the years 2018–2021, with an emphasis on record keeping and compliance with responses to requests received. The Corporation, however, provided feedback on the audit findings beyond the timeframe given. As a result, the Commission presented its findings without any amendments obtained from the Corporation. The audit observed missing non-disclosure agreements and information that was provided beyond the timeframe as per Section 11 of the Act.

The Public Utilities Corporation is having difficulties properly storing information, and this will prove to be a challenge over the coming years when information requests are being made relating to information dating a few years back.

b) Recommendations

- *The Commission recommended digitalizing records to prevent loss of documentation and health risks posed by fungus infestation.*
- *Information Officer should be familiar with Section 63 of the ATIA to understand the importance of compliance.*
- *Information Officer should go through ATI file and keep it up to date.*

2. Seychelles National Youth Council (SNYC)

The mandate of the SNYC is to represent the shared interests of youth organisations and uses its collective expertise to act on issues that impact on young people.

a) Findings

The Council failed to provide the Commission with any records after various attempts to get them to provide any documentation they had at hand. At the entry meeting held, the Information Officer and the Head of Information Holder of the SNYC informed the Commission that their records were only on soft copies and that they were going to have the IT personnel retrieve them. They then informed the Commission that they could not locate any documentation. Further contacts with the Council came to no avail, as they stopped responding to future communications.

The SNYC demonstrated a lack of awareness of how information risks can be managed and, as a result, failed to comply with Section 4 of the Act to maintain information.

The audit observed a lack of communication of lessons learned from previous incidents, as this was not the first time they had lost information through restructuring.

b) Recommendations

- *Improvement and better control of the environment for record keeping.*
- *Documents should be filed in a systematic and methodical way to avoid compliance risks.*
- *The Commission recommended digitalizing records to prevent loss of documentation.*
- *Retrieve and make available the information for the year 2018.*

3. National Biosecurity Agency/Ministry of Environment/Agriculture Department

The mandate of the National Biosecurity Agency is to prevent the entry, establishment and spread of animal and plant pests and diseases and invasive alien species into the Seychelles with the aim to protect plant and animal health, food safety, and human health.

a) Findings

The Commission attempted to perform an audit at the Biosecurity Agency as a fire had destroyed all records at the previous Secretariat of the Ministry of Agriculture and no other records were available at the previous Agriculture Department. However, after the entry meeting and interview conducted with the information officer, no further communication was received from the now-defunct Agriculture Department, despite the Commission's attempt to obtain the records.

The department had no audit trail of requests received since 2018, and no attempt was made to retrieve electronic copies. As a result, the Agriculture Department could be failing to act in accordance with the Access to Information Act and best practices. Non-compliance could lead to a loss of public trust, fines and penalties, and reputational damage.

b) Recommendations

- *Improvement and better control of the environment for record keeping.*
- *Documents should be filed in a systematic and methodical way to avoid compliance risks.*
- *The Commission recommended digitalizing records to prevent loss of documentation.*

4. Seychelles Tennis Association (STA)

The mandate of the Seychelles Tennis Association is to provide to the community a vibrant club with great facilities, striving to provide tennis where its members are engaged across all ages and levels to successfully compete locally, regionally and internationally.

a) Findings

An audit of the accounting records and documents of the association was undertaken with an emphasis on payments, revenue, wages, and salaries. Digital copies were provided by the information officer; however, the lack of records from the previous information officer and the current head of information proved substantial to the non-compliance of the Act.

The Association's website was found to be out of date, and the information officer's contact details could not be located. Since the members are not fully employed by the association and most of them are working on a voluntary basis, it is important that the web page be fully functional with clear guidance on how to obtain information and the necessary steps and procedures to be followed. This will enable members to fully exercise their rights under the Access to Information Act.

b) Recommendations

- *Documents should be filed in a systematic and methodical way to avoid compliance risks.*
- *Information should be provided within the appropriate time-frame.*
- *Requestors should be made aware of any delay in reply, and any responses given should be one within the appropriate time scale.*

5. National Sports Council

The mandate of the National Sports Council is to enhance the quality of physical education and school sports in all educational and sports institutions.

a) Findings

An audit of the accounting records and documents of the association was undertaken, with an emphasis on payments and revenue. After conducting the entry meeting and interviews with the Information Officer, we could not obtain any further information and/or documentation related to Access to Information requests. The audit observed a low prioritization of access to information throughout the Council that could result in breaches of the Act. As a result of its failure to conduct the audit, the Commission could not provide the proper guidance and recommendations to the Council, which would have in turn helped reduce the risks of non-compliance, which could eventually result in fines and penalties.

b) Recommendations

- *Improvement and better control of the environment for record keeping.*
- *Documents should be filed in a systematic and methodical way to avoid compliance risks.*
- *The Commission recommended digitalizing records to prevent loss of documentation.*

6. Seychelles Trading Company (STC)

The mandate of the Seychelles Trading Company is to ensure the availability of essential commodities on time, in full and at affordable prices, as well as ensuring a strategic stock of essential commodities as part of the food security solution.

a) Findings

An audit of the Access to Information records and documentation was undertaken for the years 2018–2021, with an emphasis on record keeping and compliance with responses to requests received. The audit observed a lack of record-keeping by the Information Officer. According to Section 54 of Annual Reporting requirement, the Information Officer of each public body shall annually, but no later than the end of the first quarter submit to the Information Commission a report stating in relation to the body in respect of the preceding year. However, it was observed that the Annual report was submitted past the timeframe.

b) Recommendations

- *IO should maintain a log, update records of all requests received related to the ATIA, and be able to provide details accurately.*
- *Documents should be referenced and filed in a systematic manner for ease of reference.*
- *IO should go over section 54(2) of the ATIA to understand his/her compliance obligations and engage accordingly.*

7. Seychelles Planning Authority (SPA)

The mandate of the Seychelles Planning Authority is to prepare land use development plans, enforce the country's planning act and its regulations and create an enabling environment for sustainable physical development in Seychelles whilst working with the general public to enhance land development.

a) Findings

An audit of the Access to Information records and documentation was undertaken for the years 2018–2021. The audit noted some missing records and some failures to comply with various sections of the Act.

b) Recommendations

- *The Planning Authority should document how they will monitor adherence to the requirements set out in the ATIA and ensure compliance with these requirements through routine and regular physical compliance monitoring checks.*
- *Information Officer should be familiar with Section 63 and Section 67 of the ATIA to understand his/her obligations under the ATIA Act and the importance of compliance.*
- *IO should update and make available all missing records identified as soon as reasonably possible.*
- *Documents should be filed in a systematic and methodical way to avoid compliance risks.*
- *IO should contact the third party at all times to request consent as soon as is reasonably possible but in any event within eight days after the request is received.*

8. Lands Department

The mandate of the Lands Department is to provide an efficient, sustainable, equitable use of land resources and facilitation of adequate housing provision in the country.

a) Findings

An audit examination of the records kept by the department revealed that there was a lack of records being maintained from 2018 up to 2021. The Information Officer failed to locate the missing files held by the department. There was a lack of evidence obtained as there was no handover from the previous information officer to the incoming one. The majority of records maintained by the outgoing information officer could not be sighted, and the department failed to retrieve any physical files as well as physical copies. The department failed to track the majority of paper files, which left no audit trail.

Landowners do not currently have an electronic database, and searching for information over the coming years will prove to be very tedious and pose health risks.

b) Recommendations

- *Land's Department should ensure that staff get the appropriate training, especially in records management for both physical and electronic copies. This should involve any new information generated as well as any transfer of files and documents.*
- *The Information Officer should be familiar with Section 63 and 67 of the ATIA to understand his/her obligations and the importance of compliance.*
- *Missing records should be updated immediately.*

9. Seychelles Infrastructure Agency

The mandate of the Seychelles Infrastructure Agency (SIA) is to facilitate the national and social economic development through sustainable and efficient use of land resources for habitat, economic, social and infrastructure needs.

a) Findings

The audit took note of areas where improvement was most needed, such as the transfer of requests not related to the agency and having a methodological filing system. It was observed during the audit that the agency was promptly and proactively disclosing information to members of the public by the majority of their staff, which resulted in fewer requests being received by the information officer.

Since the agency is now operating as a centralized body, measures must be taken to mitigate the risks of information loss in the event that the agency is relocated.

b) Recommendations

- *Documents should be filed in a systematic and methodical way to avoid compliance risks.*
- *Transfer requests should be completed within 5 days of date of request where the information is not held by SIA.*
- *Requestor should be made aware of any delay in reply, and any responses given should be done within the appropriate time scale.*
- *Information Officer should be familiar with Section 63 and 67 of the ATIA to understand his/her obligations and the importance of compliance.*

10. Ministry of Education

The mandate of the Ministry of Education is to advise the government on education matters at the level of early childhood, primary, secondary and tertiary education and training.

a) Findings

The auditor observed an unreconciled balance between the annual reports submitted to the Commission and the records provided. The annual report for the year 2018-19 stood at 1,275 requests; however, no records in hand could be sighted.

Various personnel within the ministry were attending to information requests; hence, the information officer failed to capture the requests being received and attend to them. The audit has highlighted in their findings for the ministry how to identify and channel requests to the information officer. The ministry failed to retrieve any information requests received from other staff members.

b) Recommendations

- *Perform a reconciliation between all missing documents and the annual report submitted to the IC and ensure accuracy of information reported.*
- *Information requests should be provided within the appropriate timeframe to avoid any offences.*
- *All request made under the ATIA from other law enforcing agencies should be recorded.*

11. Department of Employment

The mandate of the Department of Employment is to implement active labour market policies, advocate and enforce rights at work in collaboration with social partners and stakeholders, with the aim of increasing growth and job opportunities for all.

a) Findings

An audit examination of the records and annual report revealed that there were discrepancies in the figures being reported. The reported figures were overstated, which differed from the records the audit examined. In response to the recommendations provided, the Information officer stated that they would be taking on the recommendations to improve the filing records.

The information officer received guidance from the Information Commission based on the findings presented in the report. The officer promptly amended all figures, which then correlated with the records at hand. Non-compliance observed was a result of misunderstanding certain sections of the Act, and proper training was provided.

b) Recommendations

- Information Officer should be familiar with Section 63 of the ATIA to understand the importance of compliance.
- Information Officer should go through ATI file and update accordingly.
- Documents should reference and be filed in a systematic manner for ease of reference.

12. Seychelles Licensing Authority (SLA)

The mandate of the Seychelles Licensing Authority is to facilitate business socio-economic development through issuing and enforcement of the Licenses Act and License Regulations to create an enabling environment for sustainable business development in Seychelles.

a) Findings

An audit examination of the records revealed many deficiencies in the Authority's attempt to be compliant with the Access to Information Act. From tests performed on four documents, it was seen that no responses were provided to all four requests.

The auditor observed a lack of checks to ensure that information was being provided within the time limit and a systematic recording of information required complying with the Access to Information Act. The Authority recorded a total of 201 requests for the year 2021, 223 for 2020, and 196 for the years 2018–2019. Due to the non-consecutive filing

system, the records were incomplete, and information requests made under various other law enforcement agencies Acts were being recorded as well.

b) Recommendations

- *Information Officer should go through ATI file and update accordingly.*
- *Proof of justification for extensions should be filed in the IO's information request file.*
- *Documents should be referenced and filed in a systematic manner for ease of reference in the future.*
- *Information Officer should be familiar with Section 63 and Section 67 of the ATIA to understand the importance of compliance.*

13. Seychelles Investment Board

The mandate of the Seychelles Investment Board is to promote both local and foreign investments in Seychelles, offer first class services to attract and retain investments by working in close collaboration with key stakeholders to stimulate, identify and facilitate investments.

a) Findings

A few missing records were observed relating to refusals to provide information. The Information Officer and the Head of Information Holder did not get back to the Commission concerning the audit findings.

The audit could not ascertain whether the refusals were in compliance with Section 20 of the Act due to a lack of evidence. Documents in files are not always exempt from disclosure, as there are parts that can be severed or redacted before being provided to a requester as per Section 31 of the Act. A proper audit trail should be maintained for future audits.

b) Recommendations

- *Information Officer should be familiar with Section 63 and Section 67 of the ATIA to understand the importance of compliance.*
- *Information Officer should update all missing records immediately.*

Special Notes:

- 2 organizations, namely the National Sports Council and the Seychelles National Youth Council, failed to provide the Commission with any records after various attempts to obtain the documents.*
- The majority of issues raised in the audit findings and notified to the responsible personnel throughout the audit cycle to the best of our knowledge were not dealt with fully during the course of the audit.*

OVERALL GOOD PRACTICES

- ✓ All IO's and HOIH's have been designated within their organizations and officially gazzeted.
- ✓ Many IO's demonstrated the relevant knowledge to perform their work satisfactorily and found to be compliant to directives given by the IC.
- ✓ 4 out of the 15 public bodies were observed and rated as having an overall reasonable level of assurance, which the auditor assumed that processes and procedures are in place and that the audit has identified only minimal scope for improvement.
- ✓ IO's consult with their legal personnel to ensure they are being compliant to the Act. Legal advice is also provided by the Attorney General's office for even further guidance.
- ✓ IO's have a network and learn from each other.
- ✓ IO's attend the annual practical refresher training is conducted in small interactive batches by the IC and show interest.

CONCLUSION

It was observed that the majority of organizations have improved in their understanding and level of compliance with the Access to Information Act. This could be as a result of experience and a learning curve over the years and the availability of a dedicated organization such as the Information Commission for ground support.

However, the audits have identified risks for substantial improvement in certain organizations and observed clear breaches to some parts of the ATIA legislation. Consistent effort is needed not only by the Information Officers but also Head of Information Holders. Overall weaknesses exist in systematic record keeping, having information that is of quality and easily retrievable. Attention is needed at organization level to instill and implement internal controls, automate systems, educate and cultivate open mindsets. Information Officers and Head of Information Holders wear many hats and the ATIA is one of many competing priorities. Apart from good internal systems and controls, compliance largely relies on motivated individuals in each organization to drive it forward.

The Information Commission hopes that the audit process and report has offered valuable insight. Moving forward, we will aspire to keep using compliance audits as a tool to improve service delivery and compliance of the ATIA regulations.

We would like to express our heartfelt gratitude to all participating organizations and staff for their patience, effort and cooperation.