

THE BERLIN PRINCIPLES ON THE PROTECTION AND PROMOTION OF ACCESS TO INFORMATION COMMISSIONERS

Preamble

- Recalling that, in accordance with the Universal Declaration of Human Rights, everyone has the right to freedom of opinion and expression, including the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.
- Recognizing the importance of different regional human rights traditions, and taking into consideration the provisions of regional instruments on human rights which have contributed greatly to the foundations and guarantees of Access to Information.
- Recognising the importance of guaranteeing access to public information and the protection of fundamental freedoms, such as freedom of expression, in accordance with national legislation, policies, and international instruments.
- Highlighting the United Nations Sustainable Development Target 16.10's aim to ensure public access to information and the protection of fundamental freedoms, in accordance with national legislation and international agreements.
- Noting that Sustainable Development Indicator 16.10.2 measures the number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information.
- Recognising Access to Information's role as a fundamental pillar to social, economic and democratic governance, enhancing public accountability, fighting corruption and maladministration, and in empowering people, enabling their participation in decision-making processes.
- Noting that there are presently access to information laws in more than 140 countries, not all of which have independent oversight institutions, such as Information Commissioners.
- Recalling the International Conference of Information Commissioners' (ICIC) Mission to share knowledge and best practices, to build capacity, to help identify what is needed for global progress and to act as a collective voice in international fora with a view to improving people's right to public information and their ability to hold to account authorities that provide public functions.
- Recalling the ICIC's Goal to promote the development and adoption of international standards in access to public information in all regions across the world, including the establishment of independent oversight institutions.

- Recognising the existence of access to information laws and independent oversight institutions in different jurisdictions at the national, regional or local level, with different competences.
- Recognising that these Institutions have been adapted into the legal and political systems of the respective States.
- Recalling the UNESCO Tashkent Declaration on Universal Access to Information's call to create a legal, policy and institutional environment which ensures everyone's right to access information.
- Emphasising that independent oversight institutions are an essential element in providing for the effective oversight and implementation of access to information regimes.
- Expressing serious concern that interference with independent oversight institutions may undermine the right of access to information, whether by unjustifiably restricting transparency, limiting their autonomy, powers and funding, or imposing threats and attacks against those who uphold this fundamental right.

The International Conference of Information Commissioners has, at its closed session held on 25.06.2025 at Berlin, adopted these Principles on the Protection and Promotion of Access to Information Commissioners.

General

Independent oversight institutions have a crucial role to play in providing for the effective oversight and implementation of access to information regimes and their role as a fundamental pillar to social, economic and democratic governance strengthening democracy. There is no standardised model across all States, and these independent oversight institutions may be organised at different levels, both nationally and sub-nationally or may deal with particular sectors and the institutions may have different competences. These Principles apply to all those Access to Information Commissioners, Commissions, Ombudspersons and any other independent oversight institutions, including transparency councils or boards that are responsible for protecting, promoting and ensuring the respect of access to public information legislation within their respective jurisdictions (hereinafter referred to as "Information Commissioners").

States should create, maintain, and safeguard Information Commissioners, ensuring their operational independence and impartiality while refraining from any actions that could weaken their authority, hinder their effective functioning, or threaten their continued existence.

These principles should be used to support and strengthen Information Commissioners in their vital role of monitoring and implementing access to information laws. States are encouraged to undertake all necessary steps, including

constitutional, legislative and budgetary reforms, to create the right conditions for Information Commissioners to operate effectively, ensuring their capacity, independence, and impartiality. This will help guarantee the proper, timely, and effective implementation not only of these principles, but of the access to information systems that the Information Commissioners oversee.

Further, best practice is contained in the Annex to these Principles.

Creation and Appointment

Key Principles

1. The creation of the role and institution of the Information Commissioners, including their mandate, characteristics and functions should be based on a firm legal statutory or constitutional foundation.
2. Information Commissioners should be given appropriate powers, so as to be able to discharge their functions effectively.
3. Information Commissioners should be elected or appointed according to procedures provided for by clear legal, statutory or constitutional provisions, strengthening to the highest possible extent the authority, impartiality, independence and legitimacy of the Institution.
4. The office of the Information Commissioner, or, in the case of Information Commissioners consisting of multiple appointed individuals, the number of such individuals required to form a quorum, should not fall vacant and there should be procedures in place provided for by clear legal, statutory or constitutional provisions to enable the appointment of an interim Information Commissioner and interim appointees to avoid any risk of such a vacancy.

Operational Independence and Protections

Key Principles

5. Information Commissioners should have demonstrable autonomy in their decision-making authority to effectively fulfil their mandate. They should enjoy full operational, and decision-making independence, free from any undue influence, or control exerted by entities performing public or any other functions subject to their regulation.
6. Information Commissioners should not, during their term of office, engage in political, administrative or professional activities incompatible with their independence or impartiality.
7. Information Commissioners should only be subject to removal from office under a strictly defined and exhaustive set of clear, objective, and reasonable conditions and procedures established by a legally binding framework. These conditions should be

limited to fundamental criteria such as incapacity, inability to perform the functions of office, or misconduct, ensuring that dismissals are justified, transparent, and free from political or external interference.

8. Sufficient and independent budgetary and personnel resources should be secured to Information Commissioners to ensure full, independent and effective discharge of their responsibilities and functions.

Functions and Powers

Key Principles

9. Any individual or legal person should have the right to free, unhindered and free of charge access to an Information Commissioner to challenge an authority's decision not to disclose information in response to a request.

10. Information Commissioners should have appropriate legally enforceable powers to investigate cases, including a right to demand that officials and authorities respond and provide information to the Information Commissioner within a reasonable time.

11. Information Commissioners should have powers and mechanisms to monitor and assess performance and compliance with the access to information legislation.

12. Information Commissioners should have powers to promote the following of good practice by authorities in relation to the performance of their duties under the applicable access to information legislation. This should be combined with powers to formally recommend actions to be taken by an authority where it is found not to be complying with such good practice.

13. Information Commissioners should also have the ability to report on specific issues, as they see appropriate. Their reports should be made public.

14. Information Commissioners should have functions and associated powers to promote awareness of the access to information regimes, together with guidance and information about how to use those rights as well as in relation to public institutions' compliance with the law and good practice.

15. Information Commissioners should have discretionary power, on their own initiative to investigate systemic issues relating to the operation of any access to information regime for which they are responsible.

ANNEX TO THE PRINCIPLES ON THE PROTECTION AND PROMOTION OF ACCESS TO INFORMATION COMMISSIONERS

Best Practice

1. The procedure for selection of candidates should include a public call and be public, transparent, merit based, and objective.
2. The term of office of the Information Commissioner should be longer than the mandate of the appointing institutions or organisations and should preferably be limited to either a single term, or for any option for re-election or appointment to be exercisable only once.
3. Information Commissioners, the deputies and the decision-making staff should be immune from legal process in respect of activities and words, spoken or written, carried out in their official capacity for the Institution (functional immunity). Such functional immunity should apply also after the Information Commissioners, the deputies or the decision-making staff-member leave the Institution.
4. Any removal from post of an Information Commissioner should be determined by the legislature or courts rather than the executive.
5. As part of their mandate to monitor the implementation of the access to information regime within their jurisdictions, Information Commissioners should be empowered to carry out any form of dissemination of their findings that the Information Commissioner determines. This should include publicly presenting recommendations to Parliament or the Executive. This authority should include the ability to propose amendments to existing legislation or advocate for the adoption of new laws, ensuring that the legal framework remains effective, responsive, and aligned with international transparency standards.
6. An Information Commissioner should preferably have the power to make legally binding decisions to any authority within the competence of the Information Commissioner. Where the Information Commissioner has instead a power to make recommendations, that power should be exercisable in relation to any authority within their competence, and such recommendations should ordinarily be respected by such authorities.
7. Information Commissioners should report to the legislature or any other appointing authority on their activities annually. In this report, they may inform the legislature on the performance of authorities as well as of their own office.