



POSITION STATEMENT & GUIDANCE NOTE

Office of the Ombudsman National Human Rights Institution statement on COVID-19 and right to information

RIGHT TO INFORMATION AND ACCESS TO INFORMATION

Numerous international statements have stressed, in general terms, the importance of access to information during the COVID-19 pandemic. The UN Secretary-General has noted the need for the

*“free flow of timely, accurate, factual information and disaggregated data”, including to enable the scrutiny and critique of the effectiveness of government measures responding to the pandemic.*¹

The right to information is a fundamental human right.² Such right imposes on the State a positive obligation to disclose on a proactive basis information including key emergency-related health information in times of emergency and crisis.³

The right to information is crucial for ensuring public awareness and trust, fighting misinformation, ensuring accountability as well as developing and monitoring implementation of public policies aimed at solving the pandemic. It is crucial that the right to information is maintained during the emergency as much as possible.

Furthermore, **governments are required to inform the public about the pandemic and the measures they are implementing by taking proactive steps to ensure the public have access to information that is necessary to inform and respond to the outbreak** including information on restrictions and vaccination.⁴

In terms of **proactive disclosure**, a number of international actors have called on States to make pandemic information widely available. Some specific recommendations include:⁵

¹ United Nations, COVID-19 and Human Rights: We are All in This Together, April 2020. Available at: https://www.un.org/sites/un2.un.org/files/un_policy_brief_on_human_rights_and_covid_23_april_2020.pdf.

² ICCPR, Article 19

³ See UNESCO, *The Right to Information in Times of Crisis: Access to Information – Saving Lives, Building Trust, Bringing Hope!* https://en.unesco.org/sites/default/files/unesco_ati_iduai2020_english_sep_24.pdf

⁴ See Article 19, *Ensuring the Public’s Right to Know in the COVID-19 Pandemic*, https://www.article19.org/wp-content/uploads/2020/05/Ensuring-the-Publics-Right-to-Know-in-the-Covid-19-Pandemic_Final-13.05.20.pdf

⁵ See UNESCO, *The Right to Information in Times of Crisis: Access to Information – Saving Lives, Building Trust, Bringing Hope!* https://en.unesco.org/sites/default/files/unesco_ati_iduai2020_english_sep_24.pdf

African Commission on Human and Peoples' Rights:⁶

"In times of public health emergencies, members of the public have the right to receive factual, regular, intelligible and science-based information on the threat COVID19 poses to their health, the role and impact of the measures adopted for preventing and containing the virus, the precautionary measures that members of the public should take, and on the scale of the spread."

Inter-American Commission on Human Rights:⁷

States should "proactively report in detail on the impact of the pandemic and on emergency spending, and do so in an open format accessible to all vulnerable groups, in accordance with best practices internationally".

GUIDANCE ON PROACTIVE DISCLOSURE OF INFORMATION DURING THE COVID-19

Some international civil society groups have developed quite specific guidance on proactive disclosure of information during the COVID-19 health emergency:⁸

Health

- Disaggregated data on COVID-19 cases, deaths and tests conducted.
- Information on health care facilities, supplies and capacity.
- Models and assumptions used to predict disease spread or other health predictions.
- Information on vaccine efficacy (including side-effects) or treatment trials.
- Emergency and contingency plans.

Organizational

- Information on authorities' operations, projects and contact information during the pandemic.
- Staffing changes due to the pandemic.
- Public services which are suspended or provided during the pandemic.

Financial

- Details on budgets and funds disbursed in response to the pandemic.
- Details on contracts, procurement.
- Tender procedures during the emergency, particularly for emergency supplies and equipment.
- Information on any emergency budget and pandemic-related grants or loans.
- Budget oversight, inspection and audit information.

Legal and human rights

- Laws, regulations and policies related to the pandemic, especially those which alter normal procedures or which are of high public interest.

⁶ Press Statement on Human Rights Based Effective Response to the Novel COVID-19 Virus in Africa, 24 March 2020, available at: <https://www.achpr.org/pressrelease/detail?id=483>

⁷ Resolution No. 1/2020, note 28.

⁸ Taken directly from UNESCO, *The Right to Information in Times of Crisis: Access to Information – Saving Lives, Building Trust, Bringing Hope! Issue brief in the UNESCO series: World Trends in Freedom of Expression and Media Development*, <https://unesdoc.unesco.org/ark:/48223/pf0000374369>, p. 8.

- Information on the human rights impacts of COVID-19 policies including information on prosecutions and penalties imposed under COVID-19 laws.
- Actions taken in response to disinformation/“fake news”.
- Information on the use of apps to contact trace or quarantine individuals, including data protection assessments.
- Policies and information aimed at specific vulnerable groups.
- Domestic violence data and resources.

COVID-19 AND RIGHT TO INFORMATION IN SAMOA

Since the start of Samoa’s state of emergency measures, the Government and the National Emergency Operations Centre Committee has been rapid in its response to imposing measures to ensure Samoa was protected from COVID. Such measures included lockdowns, certain restriction orders and halting international flights. A vaccination campaign was also launched twice to ensure everyone was immunized. Information about these and other measures were disseminated widely on the Ministry of Health Official [Facebook page](#) and [website](#), the Government of Samoa’s official [Facebook page](#) as well as its [Novel Coronavirus webpage](#). Information on COVID-19 related measures were and continue to be televised and broadcasted on various TV stations and radio stations.

Despite such active disclosure, issues around accessibility and the comprehensiveness of information disseminated have created some concerns and also confusion among some members of the public. For example, information regarding models and assumptions used to predict disease spread or other health predictions, and vaccine efficacy have been scarce to say the least.⁹ Some of these concerns have reached the Office.

Based on international human rights obligation in which Samoa is subject to¹⁰, it is essential that members of the public receive and access factual, timely and regular, comprehensive and science-based information on the threat COVID19. Having such information helps ensures public awareness and trust, make informed decisions, fighting misinformation, ensuring accountability as well as developing and monitoring implementation of public policies aimed at solving the pandemic.

Never is access to information as important as at times when critical decisions are being made that affects lives, livelihoods and freedoms. Therefore it is crucial that the right to information is maintained during emergencies such as a pandemic as much as possible.

NHRI Samoa therefore, urges the Government to ensure that it continues to strengthen measures on information sharing and transparency in dealing with the COVID-19 pandemic in Samoa in order for people to be well-informed.

⁹ There have been several complaints lodged with the Office on such issues. On File.

¹⁰ Samoa ratifies and became a party to the ICCPR in 2008 which Article 19 provides for freedom of expression which the right to information i.e. the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.