

**ASSESSING THE EXTENT OF COMPLIANCE WITH REGARD TO
NATIONAL ARCHIVES AND RECORDS SERVICE OF SOUTH
AFRICA ACT AND PROMOTION OF ACCESS TO INFORMATION
ACT: IMPLICATIONS FOR GOOD GOVERNANCE AND
ACCOUNTABILITY**

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Abstract

Since 1994, several pieces of legislation were passed and thereby calling for relevant stakeholders to ensure their implementation. A need for sound records management in South Africa prompted the government to review National Archives Act, thereby giving birth to National Archives and Records Service Act (No 43 of 1996 as amended). According to the Act, the National Archivist is charged with the primary responsibility of ensuring sound records management in national governmental bodies throughout South Africa. Governmental bodies are expected to comply with the Act. Based on the foregoing, the purpose of this article is to demonstrate the fundamental role played by both governmental bodies and the National Archives and Records Service of South Africa (NARS) in ensuring sound records management. In order to clearly demonstrate the level of sound records management among governmental bodies, a survey was conducted. The paper concludes by indicating that lack of cooperation between governmental bodies and NARS would possibly result in poor records management and limited access to information. The Promotion of Access to Information Act (PAIA) is used as a benchmark for giving of access to information in South Africa. Governmental bodies would find it difficult to implement PAIA without sound records management programmes.

Keywords: Compliance, National Archives and Records Service of South Africa Act, Promotion of Access to Information Act

Introduction

In 1994, South Africa had its first democratic elections and thereby gave birth to a democratic government. Although most people are resistant to change, numerous changes with regard to the manner in which the previous regime governed and managed the affairs of the country were made. Organizations in custody of the public assets started to take accountability, good governance and transparency seriously. Various pieces of legislation aiming at enforcing accountability and good governance were passed.

The legislation includes the National Archives and Records Service of South Africa Act (NARS) (No. 43 of 1996 as amended), Promotion of Access to Information Act (PAIA) (No. 2 of 2000); Public Finance Management Act (PFMA) (No. 1 of 1999); and Promotion of Administrative Justice Act (No. 3 of 2000). In support of the democratic governance, the former South African Constitution was also reviewed in 1996. Unlike the old one, the new constitution ensured that the rights of the citizens irrespective of colour, race and gender were respected and catered for (Section 8 of the South African Constitution).

For the purposes of this paper, focus shall be given to the level of compliance by statutory bodies with regard to National Archives and Records Service of South Africa Act (No. 43 of 1996 as amended) and Promotion of Access to Information Act (PAIA) (No. 2 of 2000).

Background to existence of NARS Act and PAIA

Sound records management and right of access to information in South Africa are regulated by two statutory bodies, that is, the National Archives and Records Service of South Africa (NARS) in charge of NARS Act, and South African Human Rights Commission (SAHRC) in charge of PAIA. While the former was established by promulgation of the National Archives and Records Service Act (No. 43 of 1996 as amended), the latter was established by promulgation of section 8 of new Constitution of the Republic of South Africa.

In essence, NARS Act and PAIA share a common vision, that is, safety and access to primary sources of information. In both Acts, a

record is approached as the primary source of information. It can therefore be argued that without proper care and management of records, sustainability of first hand information is greatly jeopardized. Successful implementation of PAIA is solely dependant on compliance with regard to National Archives and Records Service of South Africa Act (No. 43 of 1996 as amended). For the purpose of this article, sound record management is associated with NARS Act while right of access to information is related to PAIA.

Sound records management: A mandate from NARS Act

The service provided by records management is vital to all organizations including employees themselves. Its primary function is to manage and facilitate free flow of records throughout the entire organization from creation to disposal. Efficient and effective records management programme is therefore a must to have rather than a nice to have for organizations (De Wet & Du Toit, 2000:75). Whether in electronic or manual format, information has to be well managed. However, many organizations continue to treat document management with a low priority compared to other organizational assets (Tuggey 2001:1). Accountability and good governance rest with proper care and management of public records.

Despite the crucial role played by information, records continue to be neglected and the role played by record keepers is almost invisible (Mnjama 2004:6; Wallace 2004:6). In consideration of the speed at which records are created and received, their management became a huge challenge for governmental bodies to cope with (Phachane 2004:1). Public enterprises handle recorded information casually without realizing that information constitutes a major resource comparable to finance, human and equipment (Mnjama 2004:2).

As recommended by Northwest Territories (2002:2), organizations continue to manage public records without relevant policies, manuals and approved classification systems. In addition, De Wet and Du Toit (2000:78) indicated that sound records management practices should include an approved filing system; records control schedule and systematic disposal authority. A high-quality records management program gives organizations legal defensibility, better customer service and improved governance (Langemo 1999:30). Furthermore,

it enables statutory bodies to conform to the principles of good governance as laid down in section 195 of the new South African Constitution.

It is within the above background that the South African government found it necessary to regulate the manner in which public records are managed. The National Archives and Records Service of South Africa was therefore mandated with the responsibility of ensuring that proper care and management of public records prevails throughout governmental bodies i.e. in terms of section 13 of the National Archives and Record Service Act (No. 43 of 1996 as amended), the National Archivist shall be charged with the proper management and care of public records in the custody of governmental bodies. This core function entails creating the environment in which NARS promotes efficient, accountable and transparent government through the proper management and care of records that are still in possession of government offices. To this end, NARS takes responsibility for the design and approval of records classification systems, the identification of records with archival value, training of public servants in records management and the inspection of records management practices of governmental bodies (Kirkwood 2000:6).

Right of access to information: A mandate from PAIA

South African Human Rights Commission was established to safeguard the rights of all the Citizens. Among others, Section 32 (1) (a) of the SA Constitution indicates that everyone has the right of access to information held by the State. Furthermore, section 32(1)(b) of the Constitution provides for horizontal application of the right of access to information held by another person to everyone when that information is required for the exercise or protection of any rights.

PAIA (No. 2 of 2000) therefore exists to foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information; and actively promoting a society in which the people of South Africa have effective access to enable them to more fully exercise and protect all of their rights. All records must be up to date and relevant and, if requested, an organization must be able to provide the file within specified period of time (Tuggey 2001:7).

Implementation of NARS Act & PAIA

Government, public institutions and public officials are all accountable for their actions in variety of ways. Records are key components for accountability and good governance as they provide full evidence of what transpired. Section 1 of the National Archives and Records Service of South Africa Act (No. 43 of 1996 as amended) defines a governmental body as any legislative, executive, judicial or administrative organ of state (including a statutory body) at the national level of government.

In terms of section 13(5)(a) of the National Archives and Records Service of South Africa Act (No. 43 of 1996 as amended), the head of a governmental body shall, subject to any law governing the employment of personnel of the governmental body concerned and such requirements as may be prescribed, designate an official of the body to be the Records Manager of the body. Section 13(5)(b) of the same act further states that the appointed Records Manager shall then be responsible to see to it that the governmental body complies with the requirements of the above act.

Through appointment of the Records Manager, interaction between governmental body and National Archives and Records Service of South Africa becomes active. The interaction exists to ensure that records management staff are fully trained in records management, filing system is approved and implemented, relevant procedure is followed before valuable records could be destroyed or transferred to an off site storage. It is based on the understanding that the National Archivist is charged with the responsibility of proper care and management of public records.

In terms of section 10(2)(b) of Promotion of Access to Information Act (No. 2 of 2000), every organization needs to supply South African Human Rights Commission with contact details of an Information and Deputy Information Officers. An Information Officer is defined in section 1 of the Act as a Chief Executive Officer, Municipal Manager or Head of Department. In terms of section 14(1) of PAIA, an Information officer of a public body must within six (6) months after the commencement of this section or the coming into existence of a public

body concerned compile in at least three official languages a manual. Furthermore, in terms of section 17(1) of PAIA, each public body must, subject to legislation governing the employment of personnel of the public body concerned, designate such number of persons as deputy information officers as are necessary to render the public body as are necessary to render the public body as accessible as reasonably possible for requesters of its records.

Both the Information and Deputy Information Officers are essential in terms of creating and maintaining contacts with South African Human Rights Commission. The interaction exists mainly to ensure that the public's right of access to information is respected and catered for. Officials from SAHRC therefore conduct free workshops and information sessions as an attempt to assist statutory bodies to comply with the Act.

In order to evaluate the current level of compliance with regard to implementation of the NARS Act and PAIA, a survey aiming at identifying both positive and negative areas was conducted.

Methodology

The study was conducted through a questionnaire approach. Three different questionnaires were compiled and distributed to three role players, that is, statutory bodies, National Archives and Records Service of South Africa, and South African Human Rights Commission. Participants were drawn from the government websites and supplied with a copy of a questionnaire each. Thirty Information Officers from each governmental body were sent an electronic copy of the questionnaire. Furthermore, different copies of questionnaires were sent both to National Archives and Records Service of South Africa; and South African Human Rights Commission. All participants were given five days or less to return the completed questionnaires. Questionnaires from Information Officers were analyzed through cross tabulation.

Response rate

Eighty percent of the participants from the statutory bodies returned completed questionnaires. Hundred percent of the participants from both the National Archives and Records Service of South Africa and

South African Human Rights Commission returned completed questionnaires.

Survey results

Records management: response from statutory bodies

The objective was to identify the level of compliance by statutory bodies with regard to sound records management. Twenty-seven of the respondents indicated that they are familiar with existence of NARS. While twenty-six of the respondents have regular contacts with NARS, the same number indicated advisory role as crucial for their interaction with NARS. The other contact is on training, meetings and discussions regarding file plans and application of disposal authority.

Twenty-three of the respondents indicated that their organization does not have designated records managers compared to three respondents who have appointed Records Managers. Ten of the respondents indicated that their organizations have approved classification systems or file plans while the others use unapproved file plans. Ten of the respondents with approved file plans indicated that all members of staff knew their filing system. While twenty of the respondents are storing their records in their offices, only six indicated that they store records in the central registry. All the respondents indicated that there is not sufficient space for records storage in their organizations. With regard to accessibility, twenty-six of the respondents indicated that their records are easily accessible.

Ten of the respondents indicated that their records management function receives enough attention from top management compared to sixteen who do not enjoy the support of top management. In support of the above response, ten of the respondents indicated that the records management function in their organization reflects as an objective in strategic planning of their organization.

Twenty-five of the respondents indicated that their organization does not have e-mail policy. Only ten of the respondents indicated that their organizations have records management policy. Three of the ten respondents with records management policies further indicated that their policies had been endorsed by their HODs and National Archi-

vist and the policies had been communicated to all staff members.

Records management: response from National Archives and Records Service of SA

The aim was to justify the role of National Archives and Records Service of South Africa with regard to sound records management by statutory bodies. Contacts are made with client offices on regular basis. It is interesting to note that both National Archives and client offices are involved in initiating the contact. The contacts range from training, inspections, records management surveys, discussions with regard to draft file plans, applications for disposal authorities to establishment of records management forums.

Promotion of Access Information Act: response from statutory bodies

The researchers aimed at identifying the level of compliance by statutory bodies with regard to PAIA. Hundred percent of the respondents indicated that their organizations have designated Information Officers and are fully familiar with existence of PAIA. With regard to existence of PAIA manuals, only twenty-six of the respondents indicated their organizations have PAIA manuals.

Promotion of Access Information Act: response from SAHRC

The aim was to determine the role of SAHRC with regard to PAIA by statutory bodies. There is a regular contact between them and statutory bodies. The client offices themselves normally initiate the contact. The role of SAHRC is to play an advisory role regarding PAIA. Although lack of adequate knowledge about PAIA by clients emerged as a major problem, almost all statutory bodies are complying with PAIA.

In order to measure the level of compliance, SAHRC makes use of submitted PAIA manuals and reports from various statutory bodies. Although SAHRC is satisfied with client offices, it still remains a problem with regard to handling of requests for information. It is therefore recommended that Information and Deputy Information Officers need to be trained on PAIA.

Findings

Based on the above results, it is therefore concluded as follows:

- Statutory bodies comply with PAIA to a greater extent than National Archives and Records Service of South Africa Act. It is evident that the culture of sound records management is very minimal in statutory bodies i.e. there is a general lack of awareness with regard to importance of recordkeeping and management.
- Lack of records management policy results in poor records management.
- The statutory bodies are currently not properly equipped to manage records that are generated and stored electronically.
- Most of the records managers in the statutory bodies have been designated rather than being appointed i.e. they have additional responsibilities beside records management. It is therefore assumed that records management receives little attention from designated records managers.

Recommendations

It is therefore recommended that:

- Both SAHRC and NARS should outsource some of their services to qualified professionals.
- Alternatively, NARS should employ more records management staff to be able to fulfill its statutory mandate.
- Statutory bodies should appoint records managers rather than designate other officials to become records managers.
- Top management should be sensitized about the importance of records management.

Conclusion

There is an urgent need for a culture of sound records management in the statutory bodies. This objective can be met through awareness campaigns and the training of staff members. Records management should be viewed as a collective responsibility and not only the responsibility of a records manager. It is essential that officials within the organizations be made aware of the value of a record as an

important information resource.

Records are and would remain the memory of an organization (Peters 1993:45). Based on PAIA, sound records management became a key function through which governmental bodies can provide access to information within a shorter space of time. Public Finance Management Act (No 1 of 1999) and others also motivated governmental bodies to take care of their records. In support of the above sentiments, Timothy (2000:12) indicated that responses to requests for information in terms of Freedom of Information legislation are dealt with easier and more speedily once an organization practices good records management.

The findings in this paper clearly illustrate the value of establishing key policies, activities and control framework necessary for proper records management. Setting up correct policies, procedures and practices is important towards building a culture of sound records management in an office. Top and senior management support has equally proved to be an essential element for a successful records management programme.

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