IMPLEMENTATION OF THE PROMOTION OF ACCESS TO INFORMATION ACT IN THE DEPARTMENT OF SPORT, ARTS AND CULTURE IN LIMPOPO PROVINCE

BY

JERMINA CHUENE KAKA

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Declaration

I, Jermina Chuene Kaka, declare that the mini-dissertation hereby submitted to the University of Limpopo, for the Master's degree Master of Public Administration has not been submitted by me for any degree or any other university; that it is my work in design and in execution, and that all material contained herein has been duly acknowledged, unless stated otherwise in this study.

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KAKA J.C. (MS)   **DATE**

Dedication

A special dedication to the Kaka's family in Lonsdale, Moletjie, for the love and support, especially my parents Mr. & Mrs. Philemon Noko & Josephine Sanaga Kaka; who unfortunately passed on in the middle of my studies. They both natured my character from childhood, to become the woman I am today. For that, I'm so proud, grateful. I feel blessed to have had parents of your calibre. I would like to further appreciate and dedicate my study to my daughter Musa; sisters: Tlou, Manoko, Florina, Kgabo, Paulina and Brenda, and to my brothers: Mashamaite, Harold, Marcus, Calvin and Emmanuel.

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Abstract

The Promotion of Access to Information Act (PAIA) was approved by the South African Parliament in February 2000 and went into effect in March 2001. The Act has been introduced in both public and private sectors with the intention of implementing the constitutional right of access to information and further foster a culture of transparency and accountability in both public and private bodies by giving effect to the right to access to information.   The purpose of this study was to examine the implementation process of PAIA in the Department of Sport, Arts and Culture in Limpopo Province. Using both the qualitative and quantitative approaches the study revealed that there are various factors that contribute towards non-adherence and compliance to PAIA. The main findings of the study are that, although access to information is regarded as the pillar of democracy in promoting transparency and accountability within the Department, PAIA, however, has not contributed to the improvement of access to information in the Department of Sport, Arts and Culture in Limpopo. One critical challenge the study identified is non-compliance with the requirements of the Act which is perpetuated by lack of seriousness on the part of management. The study recommends that the Department has to identify a Unit to be responsible for administering PAIA, capacitate the Unit with relevant skilled human resources and financial support. Furthermore, the study recommends that as mandated by the South African Human rights Commission, PAIA should be known to the public, staff members and stakeholders therefore awareness campaigns need to take place. Workshops and training sessions would also help in making this Act known, leading staff, people and stakeholders to use it for their benefit.

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CHAPTER ONE: - GENERAL INTRODUCTION

1.1 INTRODUCTION

Prior to 1994 the National Party government had a culture of secrecy and disinformation and restrictions on press freedom. Citizens had no access to information held by the government and they had no right to participate in government decision-making processes. Press freedom and access to information by citizens caused a limited exposure of government mismanagement and disinformation (Comtask Report, 1996:13). The apartheid system in South Africa was shrouded in secrecy and lack of transparency which resulted on a secretive and unresponsive culture in public institutions. The lack of the culture of transparency and accountability inevitably led to human rights abuses. The action of secrecy did not only happen in the public sector, but also within the private sector (Siphondo, 2005:12).

The introduction of constitutional guarantees as enshrined in the Constitution of the Republic of South Africa, 1996, hereafter referred to as the Constitution, promised to bring about a new, open and accountable government. The new Constitution requires frequent communication with communities, transparency, and information sharing and public participation in matters such as policy-making (ComTask Report, 1996:13). It therefore becomes imperative that citizens are provided with accurate and appropriate information in order to hold government accountable, play an active role in the process of governance and take advantage of the development opportunities that exist in the new democratic dispensation. Access to information is one of the critical pillars of democracy in South Africa. Not only does access to information promote transparency, but also empowers citizens to participate meaningfully in the process of policy-making, implementation and review (Public Service Commission, 2007:3).

1.2 BACKGROUND TO THE STUDY

The Right of Access to Information (RTI) is a requirement for every exercise of democracy that is based on the consent of the citizens who are well informed about their government's activities. RTI is also an important tool to counter abuses, mismanagement, and corruption, and it is also utiliszed to enforce essential economic and social rights as encapsulated in section 32 of the

Constitution of the Republic of South Africa, 1996 (Banisar, 2011:5). To ensure that the government complies with the Constitutional right of citizens to have access to information, there was a need for it to have a policy in that regard, thus the birth of the Promotion of Access to Information Act 2 of 2000, which came into effect in March 2001. The responsibility for the implementation of PAIA was placed on the Department of Public Service and Administration (Public Service Commission Report, 1997:2).

The South African government established an institution in terms of Chapter 9 of the Constitution to safeguard the human rights of everyone in the country: the South African Human Rights Commission, whose mandate is derived from both the Constitution of the Republic of South Africa, 1996 and the Human Rights Commission Act 54 of 1994 which promotes, protects, and monitors the observance of human rights. Access to information is crucial in many ways, as it is a prerequisite to gain knowledge which can be defined as a systematically organised amount of information (Roling, 2007:2). The inclusion of a constitutional right of access to information was motivated by a desire not to repeat the mistakes of the past apartheid system (McKinley, 2004:5). Based on the mandate of the Commission outlined above, public sector institutions, state owned enterprises and private sectors are obliged to implement PAIA. The Department of Sport, Arts and Culture (hereafter referred to as the Department) in Limpopo as part of the public sector is mandated by the Constitution to implement PAIA. It therefore became important for the researcher to determine the level of PAIA's implementation by the Department.

1.3 RATIONALE FOR THE STUDY

The study of implementation of PAIA is motivated by the outcome of studies that indicate a lack of commitment by most government departments in South Africa towards the implementation of the Act. The researcher has observed lack of knowledge on PAIA amongst employees of the Department of Sport, Arts and Culture as well as external stakeholders. The researcher has also observed lack of knowledge on PAIA amongst employees of the Department of Sport, Arts and

Culture as well as external stakeholders. Again, the researcher has also observed that the Department does not conduct workshops or educational sessions to inform and educate the public and its stakeholders about PAIA and its importance thereof. PAIA has not been properly or consistently implemented, not because of the newness of the Act, but because of the low levels of awareness and information of the requirements set out in the Act. As stated by Tilley (2010:21), it can be argued that the objectives of PAIA have not yet been fully realised and perfected primarily because the public has not been properly educated and made aware of the existence of the Act. Evidently there is little progress with the implementation of PAIA by the Department of Sport, Arts and Culture in Limpopo, which can also be partly ascribed to a lack of awareness and understanding of the PAIA by ordinary citizens.

1.4 SIGNIFICANCE OF THE STUDY

The study is vital as it highlights the importance of public's access to information in a democratic era as it encourages public participation in governance. The study will also contribute to the body of knowledge in the field of Public Administration regarding citizens' right to access to information. This is a study area that has not been adequately exhausted by most scholars, particularly in the South African context because of the colonial history of apartheid. The study may further assist the Department in realising the need for communities and stakeholders to have access to information and realize the importance of institutional arrangements to dispatch information when it is requested.

1.5 STATEMENT OF THE PROBLEM

It is now 21 years since the birth of democracy in South African and 14 years in the implementation PAIA, which operationalizes the Right of Access to Information and aims to create a framework for citizens to access records that the government holds, and sets out how the government should deal with such requests for information. The PAIA is one of the cornerstones that ensure transparency in the public service. It promotes ability of the citizenry

to exercise their rights depending on how well the PAIA is implemented in departments (Public Service Commission Report, 1997:3). However, there are still challenges facing the implementation process within the government, particularly the Department of Sport, Arts and Culture in Limpopo. The use of PAIA in the Department has been limited since the implementation process resumed.

Although the Department is obliged by the Constitution to implement PAIA, there seems to be a problem in the systems that facilitate its implementation. Again, it appears that citizens are not adequately informed of the internal appeal procedure, and the Department does not have a comprehensive communication strategy to provide the public with information on PAIA. It is therefore crucial for the researcher to undertake the study to evaluate the implementation of PAIA by Department of Sport, Arts and Culture.

1.6 AIM OF THE STUDY

The aim of the study is to evaluate the implementation of PAIA by the Department of Sport, Arts and Culture in Limpopo. The study will further identify gaps and provide possible solutions in the implementation of PAIA.

1.7 OBJECTIVES

The main objectives of the study are:

- To determine the effective implementation of PAIA in the Department Sport, Arts, and Culture;
- To determine whether the systems are adequate in ensuring the effective implementation of the PAIA;
- To identify challenges in the implementation of PAIA, and to further provide possible solutions.

1.8 RESEARCH QUESTIONS

Based on the objectives outlined above, the questions below are pertinent to the research:

- How effective is the implementation of PAIA by the Department of Sport, Arts and Culture in Limpopo Province?
- What systems are in place in the implementation of PAIA in the Department of Sport, Arts and Culture?
- What challenges are faced by the Department of Sport, Arts and Culture in the implementation process of PAIA?

1.9 DEFINITION OF TERMS

1.9.1 Communication

Communication is a two-way process whereby one transmits information with the aim of getting a response from the communicated message. It is also a process of reaching mutual understanding, in which participants not only exchange information, but also create and share the meaning of the message (van Niekerk, van der Walt & Jonker, 2001:162).

1.9.2 Strategic Communication

Strategic communications is "people-centered" and is the process of providing information with the aim of achieving a shared meaning based on organisational values and principles, such as trust, honesty, timeliness, and empathy. It provides the capability to rapidly identify, send, receive and understand strategic information that is credible, sensible, and relevant (van Niekerk, van der Walt & Jonker, 2001:158).

1.9.3   Access to Information

Access to information is one of the critical pillars of democracy, not only does it promote transparency but it also empowers citizens to participate meaningfully in the process of public policy-making, implementation and review. Access to information is a fundamental tool in the fight against corruption. It fosters a culture of transparency and accountability in both the public and private sectors by giving effect the right of access to information. Access to information effectively empowers communities as it enables them to fully exercise and protect their rights, and is one of the critical pillars of democracy (Communication 2000 Task Report, 1996:17).

1.9.4   Freedom of information

Freedom of information is a proven anti-corruption tool, and improves access to information, transparency and accountability in both the public and private sectors, thus assisting in the prevention of illegal activities. Freedom to access information enhances public sector accountability and promotes zero tolerance for corruption (Banisar, 2011:7). Further, access to information is a prerequisite to gain knowledge and understanding (Rolling, 2007:1).

1.9.5   Transparency and Accountability

Transparency and Accountability are some of the cornerstones of good corporate governance. They are interconnected notions and reciprocally reinforcing. There cannot be accountability if there is no transparency; and transparency would be of no value unless there is accountability added to an efficient and equitable management of an institution (Siphondo, 2005:12).

1.9.6 Transparency

Transparency is constructed on the free flow of information. Increased transparency means the market mechanism operates closer and closer to true efficiency, and gives all the stakeholders more authority. Increasing transparency is a standard requirement to protect community services by ensuring that there is accountability (Roling, 2007:6).

1.9.7 Accountability

Accountability is about being answerable to the action taken by a particular institution or an official in line of rendering service to community. It goes hand in hand with responsibility, obligation and cause. Accountability has three dimensions: political accountability for political bearers, statutory accountability exercised by public institutions normally appointed on the basis of professional expertise and qualification and managerial accountability, which is expected from head of sections in government such as heads of departments and senior managers (Napier, 2007:388).

1.9.8 Right to Information (RtI)

The right of access to information held by governmental bodies provides that individuals have a basic human right to demand information held by the government. This derives from the right of freedom of expression, to seek and receive information. Right of access to information is a requisite for exercise of democracy (Banisar, 2011:5). Right to Information is an important tool for countering abuses, mismanagement and corruption and for enforcing essential economic social rights. Right to it also lays a foundation upon which to build good governance, transparency and accountability (Siphondo, 2005:15).

1.9.9 Policy

A policy is a deliberate plan of action to guide and achieve a certain task. In most cases policies are the ones managing to keep order and systems intact. They are formulated in order to achieve certain outcomes. Policy is defined by Ranney (1968:7) as a declaration and implementation of intent, whilst Dye (1978:4-5) explains policy as a comprehensive framework of interaction. Easton (1952:129) states that policy as the authoritative allocation through the political process of values to groups or individuals in the society, while Starling (1974:4) defines policy as a kind of guide that delimits action. Furthermore, Baker, Michaels and Preston (1975:12-15) states policy as a mechanism employed to realize societal goals and to allocate resources.

1.9.10 Corruption

Corruption is any behaviour or conduct in which a person accepts, agrees, and offers any gratification for to another person with the purpose of acting in a dishonest manner. This kind of erratic behaviour is said to be endemic in all governments and is not peculiar to any region or continent or ethnic group. It affects both young and old, men and women and it is found in both democratic and dictatorial governments and in social and capitalist economies (Public Service Commission Report, 1997:2).

1.10   PRELIMINARY LITERATURE REVIEW

The Constitution makes provision for the right of access to any information held by the state. It further provides for the horizontal application of the right to access information held by another person to everyone when that information is required for the exercise or protection of any rights. It gives all the citizens the ability and power to speak to leaders, access information and participate in decisions affecting their lives. It also creates a culture of accountability and openness, and nurtures South African democracy. A functioning democracy needs an informed

citizenry; providing citizens with adequate information on priorities, programmes and activities, ensuring not only legitimacy of government, but also instituting regimes of transparency (Siphondo, 2005:15).

Access to information is a crucial element in the effort to reduce corruption, increase accountability, and deepen trust among citizens and their governments. Public access to government-held information allows individuals to better understand the role of government and the decisions being made on their behalf. With informed citizenry, government can be held accountable for its policies, and citizens can more effectively chose their representatives. Equally important, access to information laws can be used to improve the lives of the people as they request information relating to health care, education and other public services. Democracy depends on a knowledgeable citizenry whose access to a broad range of information enables them to participate fully in public life, help determine priorities for public spending, receive equal access to justice, and hold their public officials accountable. When government and quasi-government agencies perform under a veil of secrecy, people are denied the right to know about public affairs, and the press is only able to speculate and subsist on rumours (Neuman, 2002:5).

An efficient administration requires transparency. This transparency is a necessity in order for government to maintain its integrity. A legitimate government promotes open access to information and a free flow of information (Rassano, 2012:4). Information is just not a necessity for people; it is an essential part of good corporate and state governance. Weak public and private institutions depend on secrecy to survive. Secrecy allows inefficiency, wastefulness and corruption to thrive. Access to information allows people to scrutinize actions of their government and it is the basis for informed debate of those actions (Calland, 2002:15).

Fundamentally, official information held by the government belongs to the public. Information is a national resource which should be used solely for public purposes. The widespread of the need for freedom of information legislation by various states worldwide is recognition of the

fact that in a democracy, access to official information is vital in ensuring that people retain ultimate control over the functions of government. The breakdown in the flow of information in any democratic society impairs the democratic process and slows economic and social development as its citizens are unable to participate effectively in the processes of government, and cannot make informed choices on who should govern them. Government officials and politicians themselves also fail to benefit from public input, which could ease their decision making or improve the services they are rendering to communities (Ruth, 2000: 6).

1.11   RESEARCH METHODOLOGY

Research methodology refers to the method, procedure or process to be followed in conducting the research to ensure that there is order in data collection of a study or research. A research method is simply a technique for collecting data. It can involve a specific instrument, such as questionnaire or a structured interviews schedule (Leedy, 1993:40).

1.11.1 Research Design

The function of a research design is to ensure that the evidence obtained enables the researcher to effectively address the research problem as unambiguously as possible. A research design is a plan on how to collect information. It provides a framework for the collection and analysis of data. The research design should specify the number of groups that should be used, whether these groups are to be drawn randomly from populations involved or are assigned randomly to groups. A choice of research design reflects decision about the priority being given to a range of dimension of the research process (Leedy, 1993:10).

The researcher utilised both qualitative and quantitative research methods which deal with subjects that are produced by the mind of the respondents through interviews and questionnaires respectively, and will be presented in the form of theory and graphs. It is also the intention of the researcher to achieve insider's view by talking to subjects and getting their

perspective through interviews (Welman, Kruger & Mitchell, 2005: 8-9). Both qualitative and quantitative research approaches contribute to all aspects of evaluative enquiries and can successfully be used together. Educational researchers need both qualitative and quantitative modes of inquiry to advance the understanding of teaching, learning and other human phenomena (Mouton & Marais, 1990:169-170). A single approach cannot succeed in encompassing human beings in their full complexity. Only by using both qualitative and quantitative approaches can serve a purpose with evaluators increasingly collecting data from multiple sources and perspectives, using a variety of data collection methods, thus allowing for more complete representation of the problem under interrogation (Taylor-Powel, Steele, & Douglah, 1996:50).

According to Mouton (1990:135-140), qualitative research is primarily exploratory research used to gain an understanding of underlying reasons, opinions, and motivations. Qualitative research provides insights into the problem or helps to develop ideas or hypotheses for potential quantitative research. Qualitative Research is also used to uncover the trends in thought and opinions, and probe deeper into the problem. The sample size is typically small, and respondents are selected to fulfill a given quota. Quantitative Research is used to quantify the problem by way of generating numerical data or data that can be transformed into useable statistics. It is used to quantify attitudes, opinions, behaviours, and other defined variables - and generali results from a larger sample population. Quantitative data collection methods include various forms of surveys: paper surveys and face-to-face interviews (Wyse, 2011: 10).

The researcher will use questionnaires which will have both open-ended and close-ended questions. These will be used to acquire the views of the participants. The researcher will also conduct interviews which will be audio recorded. Questionnaires will be distributed to further allow the respondents to share their experiences, opinions and ideas. The selected methods will be applied in the study as they will enable the researcher to assess the implementation of PAIA in the Department of Sport, Arts and Culture in Limpopo Province and assist the

researcher to improve the validity of the research findings through graphs and responses from the interviewees.

1.11.2 Population

The population is a group of potential participants to whom the researcher wants to generalise the results of a study. The population is the study of objects and consists of individuals, groups, organisation, human products and events or conditions to which they are exposed (Welman, Kruger & Mitchell, 2005: 52). In this regard, the present study is about the implementation of PAIA by the Department of Sport, Arts and Culture in Limpopo, and the researcher will focus more on staff members. The Department has 268 staff members; 28 senior managers, 30 middle managers, 20 deputy managers, 132 administration officers (including PAs) and 58 general workers. The total population for the research is 268.

1.11.3 Sample

The study utilised stratified random sampling in preparation of data collection and analysis. Stratified random sampling requires smaller samples in order to obtain valid results. Naturally, in a stratified random sample approach, the researcher is required to be aware of the stratification variables, that is, the variables in terms of which the population may be divided into homogenous strata, such as organisation authority level, gender, age and others (Welman, Kruger & Mitchell, 2005:61- 62). The researcher distributed questionnaires to the selected people according the level of authority, gender, age and educational qualifications: ten (10) administration officers; ten (10) general workers and ten (10) managers from various directorates of the Department that are not directly linked with PAIA in order to assess their knowledge regarding PAIA, and also to target the manager responsible for PAIA implementation and Records Management. The researcher further assessed the in-depth knowledge of the two (2) senior managers on what is expected of them in support of the implementation of PAIA.

1.11.4 Data Collection

The researcher used secondary data from previous research by consulting research reports, dissertations and develops questionnaires that will assist in gathering primary data. Survey questionnaires are standardized measuring instruments and attitude scale. The distributed questionnaires to the selected participants as stipulated under 1.11.2 Population - 10 administration officers; 10 general workers and ten (10) managers - (5 senior managers and 5 managers) from various directorates of the Department that are not directly linked to PAIA. The researcher conducted interviews with the Information Officer of the Department of Sport, Arts and Culture to get additional information or views about the manager in charge of PAIA implementation in the Department of Sport, Arts and Culture.

1.11.5 Data Analysis

The true test of a competent qualitative research comes in the analysis of the data, a process that requires analytical craftsmanship and the ability to capture understanding of the data in writing. Qualitative content analysis as a tool for reduced, condensed and grouped content starts with a set of data, such as a transcribed interview (Mason, 2001: 115). The researcher captured the data on a spreadsheet to facilitate analysis. The spreadsheet was organised according to the headings and themes contained in the questionnaire. The process of analysis assessed the responses as captured in the spreadsheet to identify the overall trends, the knowledge and understanding of PAIA. Based on the findings that have been collected, a report was complied with its recommendation on PAIA implementation process.

12. ETHICAL CONSIDERATIONS

Ethics or what is considered to be acceptable or unacceptable in human conduct has become a key in research studies. They are a normal part of research. Ethical issues arise at a variety of stages of research. The issues of ethics cannot be ignored as they relate directly to the integrity

of the study and of the disciplines that are involved. A researcher has to respect the right to privacy of respondents and protect their identity through promoting anonymous answering of questions (Leedy, 1993: 175). Anonymity could also be supported by questionnaires without a space for name and identity. A research should be a fair exercise and it should be voluntary. Harm can entail a number of facts: physical harm, harm to participants' development or self-esteem, stress, harm to career prospects or future employment and making subjects to perform reprehensible acts. Prospective research participants should be given as much information as it might be needed to make an informed decision about whether or not they wish to participate in a study (Bryan & Bell, 2003:137).

The researcher assured the respondents that they would be indemnified against any physical or emotional harm. The researcher also guarded against manipulating respondents or treating them as objects or numbers rather than individual human beings. The participants were informed of the right of their privacy. The researcher further obtained the necessary permission from the respondents after they had been thoroughly and truthfully informed about the purpose of the interview and investigation. The information collected remains protected   in a private locked box.

13. Outline of Research Report

The present research study is divided into five chapters to ensure that all the chapters are well presented.

Chapter 1: Introduction and Background of the study
Chapter One provides the background to this study. It outlines the orientation of the study and introduces the reader to the study. The chapter further highlights the aims and objectives, significance of the study and problem statement. Moreover, the chapter provides key concepts used in the study and stipulates the research methodology used. Finally, the chapter briefly outlines ethical considerations.

Chapter 2: Literature Review

Chapter Two deals with the literature review including definition of PAIA, the state of PAIA's implementation in Africa, South Africa, Limpopo Province and the Department of Sport, Arts and Culture. It synthesises studies in the area under investigation in order to understand the core issues and challenges pertaining to the implementation of PAIA.

Chapter 3: Research Methodology

Chapter Three provides a discussion of the methodology used to collect data for the study. The discussion also deals with how data were collected. The chapter further provides research design, population and sampling procedure, data collection methods, research constrains and ethical considerations.

Chapter 4: Research Findings

Chapter Four presents the research results. This chapter deals with analysis and interpretation of the research findings derived from the data collected using the research methodology discussed in Chapter Three.

Chapter 5: Findings and Conclusion

Chapter Five as the last chapter of the study provides the discussion of the findings from Chapter Four. Recommendations and conclusions of the study are presented in this chapter.

Conclusion

This chapter introduced the entire study and the justification for the choice of the theoretical framework adopted in this study. The chapter further highlighted the methods or criteria that the researcher utilize to gather, analyze and interpret the data. The chapter concludes with an overview of each chapter of the study. The next chapter focuses on access to information.

CHAPTER TWO: LITERATURE REVIEW

2.1 INTRODUCTION

The right to freedom of information and particularly the right to information access held by government is becoming a global phenomenon, as international communities are steady becoming an information society.   The right to information is part of the basic human rights as citizens have the right to request and receive all official state information according to the rules and regulations of information laws in a particular country.

This chapter provides a theoretical framework on the state of the implementation of access to information laws which forms the basis of the study. In order to achieve the objectives of the study, this chapter begins with conceptualisation of access to information. It highlights the importance of access to information as a tool to enhance openness, transparency and accountability and as a tool to fight corruption, as part of human rights, and to promote public participation. The chapter highlights the global trend in the implementation of access to information laws. It further discusses the struggles for access to information laws in Africa and the South African legislation on access to information, and what PAIA is about and its administration.

Access to information laws has attracted a great deal of attention globally. International trends on the implementation of access to information laws together with freedom of information laws in Africa are discussed in this chapter.

2.2 CONCEPTUALISATION OF ACCESS TO INFORMATION

Access to information is crucial to communities as it empowers the recipients than it does to the distributor. Cheriyan, Sundan-Sharma & Simi (2012:2) state that access to information is a pre-condition to good governance, and makes democracy more vibrant and meaningful. It is a fundamental right as it is part of the right to freedom of expression. Ruth (2000: 5-7) notes that freedom of information and specifically held by public authorities is a fundamental element to freedom of expression and vital to the proper functioning of democracy.

Access to information is an essential right for every person in a country as it allows its citizens to protect their human rights, guards against abuses both of power and public funds, mismanagement and corruption. It can also be beneficial to governments as openness and transparency in the decision-making process improves citizen's trust in government actions as discussed below.

2.2.1 Access to Information as a Tool to Enhance Openness, Transparency and Accountability

Access to information promotes and enhances state openness, and transparency which have become defining features of democracies around the world. Part of the process of openness and transparency is accountability. A transparent government becomes more accountable and less corrupt. A state is obliged to account to the public on governance matters through information empowerment process. A state that is open, transparent and accountable relies on the public's freedom to access information (Public Service Commission Report (2007:10).

Ngouo (1997:490) points out that developing a culture of transparency in government guards against antisocial and avaricious activities, while Guan (1997:167-170) maintains that transparency helps to keep the government clean, effective and free from nepotism and other means of corrupt activities. Kaul (1996:149) emphasizes that there is a need for accurate, unbiased free flow of information as free flow of information strengthens government's climate of openness, transparency and accountability.

According to the Public Service Commission Report (2007:10), citizens require appropriate information in order to hold government accountable and play an active role in the process of governance. Transparency assists in fighting corruption in government by making information available. Transparency enables citizens to monitor the different stages of the public-policies implementation process, identify corruption and discourage public officers from engaging in corrupt acts. Transparency, openness, and accountability around access to information hold a significant benefit for both the government and its citizens. Transparency, openness, and

accountability are considered a precondition for preventing and revealing corruption and maladministration.

2.2.2 Access to Information as a Tool to Fight Corruption

Access to information is also seen as a tool to fight corruption in a democratic state. Transparency International (2004:7) defines corruption as the abuse of entrusted power for private gain. Corruption negatively affects countries' social and economic development, discouraging private investment. It reduces tax revenue, therefore jeopardising economic growth. Corruption also precludes the poor from accessing public services as most communities cannot afford to pay bribes. That limits the effectiveness of public policies since some of the money allocated stays in private hands. Corruption in many countries in the world is rooted and is able to reproduce itself in almost all areas of governance (Transparency International, 2004:9).

According to Transparency International (2004:7), the best weapon of a dictatorship is secrecy but the best weapon of a democratic state is openness. A democratic state is able to operate based on the principles of openness because corruption is less likely to thrive in an open society. The lack of public information contributes to corruption. Thus, governments worldwide are allowing access to information right as stipulated in their respective constitutions to ensure that communities have access to government records as part of anti-corruption strategy and promotion of transparency and openness.

According to Bansir (2011:3), the solution to corrupt activities in government includes an active and informed society which has access to government information that promotes transparency. There is a growing body of treaties, agreements, work plans and other statements that require and encourage nations to adopt access of information laws, especially in the area of anti-corruption, where most new treaties now require that signatories adopt laws to facilitate public access to information (Transparency International, 2004:7).

According to the UN Convention Against Crime, in October 2000, the United Nations General Assembly adopted the first international treaty against corruption, as the necessity for citizens'

participation in governance practices was recognised. The treaty stipulates that countries should take measure to combat corruption including publishing information, simplifying administrative procedures, and creating access procedures. The treaty goes a step further in stipulating and stating that states should promote active participation in fighting corruption. The UN General Assembly encouraged countries to strengthen the treaty through policies that would enhance transparency, ensure public has access to information, promote and protect the freedom to seek, receive, publish and disseminate information.

When government is transparent, there is less room for corruption and more room for accountability; hence there is a need for access to information laws in all the states worldwide for the total eradication of corruption and promotion of good governance through the free flow of information between government and the public. Akro-Cobbah (2007:9) states that with informed citizenry, government can be held accountable for its policies and implementation process by raising informed opinions. Transparency, openness and accountability assist in fighting corruption, but can only be effective if citizens participate in governance and decision making process, making access to information as part of human rights.

2.2.3   Access to Information as Part of Human Rights

Access to information underpins and supports other human rights and freedoms. Access to information law forms part of human rights and is the only basic human right that is a pre-condition for informed society through public participation. Roling (2007:12) states that access to information in not only a human right, but is essential for exercising various fundamental human rights in a state, and it is particularly important for the use of civil and political rights for any democratic participation in society. According to African Commission on Human Rights and People's Right (2012), the declaration states that access to information is an enabling right, a vital tool in realising other political, social and economic human rights. In its very first session in 1946, before any human rights declarations or treaties had been adopted, the United Nations General Assembly adopted a Resolution 59(1) which states that freedom of information is a fundamental human right and the touchstone of all freedoms to   which the United Nations is consecrated. The right may therefore be subject to certain restrictions, but these shall only be

such as are provided by law and are necessary: for respect of the rights or reputation of others and for the protection of national security or of public health or morals.

(Callad, 2003:3) states that access to information as a human right has come of age as it was previously not recognized by most countries in the past. Over thirty countries worldwide have passed access to information laws and it has now become a global trend to recognize the importance of implementing access to information as part of human rights.

2.2.4   Access to Information and Public Participation

Access to information is the cornerstone of democratic rights and freedom of expression; it is essential in enabling democracy and public participation to work in decision-making. Access to information promotes public participation as democracy is based on the consent of the citizens. Government is obliged and has responsibility to inform citizens about government activities at the same time recognizing citizens' rights to participate. The public is only truly able to participate in the democratic process when they have information about the activities and policies of government (Bansir, 2006:6). Ruth (2000:5) states that public participation allows citizens to scrutinize authority, participate in decision-making process, influence state resource distribution plan, and exercise their rights and responsibilities in an effective and informed manner.

Sausmer (2011:17), emphasises that access to information fosters citizens' participation in the decision-making process across all levels of government by giving the public information needed to take part in these processes, decisions and policies making processes. Public participation is more than a one-way channel of information from government to citizens; it is a two-way exchange, a process of dialogue. Effective public participation requires government to ensure that information reaches the majority of the citizens in time, and that it is accurate and accessible to communities in different languages.

The right of access to information is depicted as the 'oxygen of democracy' or the 'oxygen of knowledge', because without it, citizens cannot participate effectively in decision-making that affects them nor can they assess the performance of their government (Sausmer, 2011:18).

Akro-Cobbah (2007:1), summaries the importance of access to government information in promoting public participation as rendering the processes of government more open and giving meaning to freedom of expression, since one can only express meaningfully opinion on an issue when they are duly informed about a particular issue. Effective access to information transforms a 'mere' representative democracy into a participatory democracy that is not restricted to participation via election. Individuals can only form and utter opinions that are worthy of being expressed if they have access to relevant government information. The distribution of information to communities forms a considerable factor of economic power. Information sharing amounts to power sharing as information is power that has to empower citizenry. The state gathers and stores information on behalf of citizenry.

A nation that is not well-informed and does not participate in an open government would not be able to know and understand access to information as part of human rights. The citizens have the right to access information, and government is obliged to account to communities that it serves.

2.3 GLOBAL TREND TOWARDS ACCESS TO INFORMATION LAWS

In the so-called information society, in which information is a common currency and therefore expected to flow globally, every state worldwide has to participate and contribute in the international sharing of information. Freedom in this context means legal mandates and duties imposed so as to ensure that information is disclosed once requested in accordance with specific statutory law provisions (Sonou, 2013:7).

The World Summit on the Information Society (WSIS), where the Declaration of Principles was adopted in 2003, made the following specific reference to freedom of information:

> We reaffirm, as an essential foundation of the society, and as outlined in Article 19 of the Universal Declaration of Human Rights, that everyone has the right to freedom of opinion and of expression; that this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Communication is a fundamental social process, a basic human need and the foundation of all social organisation, it is central to the Information Society. Everyone everywhere should have the

opportunity to participate and no one should be excluded from such benefits the Information Society offers (Bansir, 2006:22).

The Office of the UN Special Rapporteur on Freedom of Opinion and Expression was established by resolution of the UN Commission on Human Rights in 1993 and requires that information be gathered from governments in the exercise of the right of freedom of opinion and expression. In recent years, the UN Special Rapporteur on Freedom of Opinion and Expression has regularly stressed the overriding importance of freedom of information (Bansir, 2006:24).

In 1995, the UN Special Rapporteur on Freedom of Opinion and Expression's report to UN Commission on Human Rights states that freedom will be bereft of all effectiveness if the people have no access to information. Access to information is basic to the democratic way of life. The tendency to withhold information from the people at large is therefore to be strongly checked (Bansir, 2006:26).

In 2000, the Council of Europe recommended a set of principles for national access to information laws including its General Principles on Access to Official Documents, stipulating that the public should have access to all information and documents held by public bodies. In 2001, the European Parliament, Council and Commission Regulation 1049 gave any European Union (EU) citizen or resident the right to access the institutions' documents. The Council of Europe Convention on Access to Official Documents, adopted by the Committee of Ministers of the Council of Europe in 2008, states that the exercise of the right to access official documents provides source of information for the public; helps the public to form an opinion on the state of society and on public authorities and fosters the integrity, efficiency, effectiveness and accountability of public authorities, thus helping affirm their legitimacy (Sausmer, 2011:9).

The Arab Charter on Human Rights which guarantees the right to information and to freedom of opinion and expression, as well as the right to seek, receive ad impart information and ideas through any media, was adopted at the Summit Meeting of Heads of States of the members of the league of Arab states in 2004. The Charter, which replaces the 1994 charter, further emphasises that rights and freedoms shall be exercised in conformity with the fundamental

values of society. The Charter has been signed by several countries but not yet received the required seven ratifications to go into force (Bansir, 2006:14).

Sausmer (2011:10) notes that the Organization of American States (OAS) has frequently recognized the right to information. Article 13 of the American Convention on Humana Rights includes the right to information in the right to freedom of expression. The General Assembly also endorsed resolution in 2003 and 2004 that called on member states to adopt right to information laws. The 2000 Inter-American Commission on Human Rights-Declaration of Principle on Freedom of Expression lays out the right to access information and the obligation of the state guaranteeing this right, and also provides that individuals have the right to access their own information whether held by public or private bodies (Bansir, 2006:44).

According to (Bansir, 2006:10), the first access to information legislation was enacted in Sweden in 1766 when the government passed the Swedish Freedom of the Press Act. As of September 2013, at least 95 countries had established the right and the procedures for the public to request and receive government-held information including four countries with actionable Access to Information laws regulations such as Argentina, China, Niger and Tunisia. More than 53 countries worldwide have draft legislation pending or strong lobbies for legislation including population giants such as India, Russia and most countries in Europe and central Asia and more than half of the countries in Latin America (Cook, 2003:35).

In Asia more than 20 nations have adopted Freedom of Information laws including Kasakhstan, South Korea, Japan, China and Indonesia. In South Asia, countries such as Afghanistan, Bhutan, Maldives and Sri Lanka, have not adopted any related legislations. Only Nepal (2007) Bangladesh (2009), Pakistan (2002) and India (2005) have such laws. Sausmer (2011: 8-9) notes in the Middle East only two countries have right to information laws. These are Jordan and Israel. The Jordanian law is regarded as weak as its impetus came solely from the government and no input from civil society.

2.3.3 Precursors of Free Access to Information

Arko-Cobbah (2007:3) states that there are both social and infrastructural preconditions that are necessary for the successful implementation of free access to information for a country's people. These conditions include:

(1) Political stability, rulers of a stable state enjoy sufficient confidence that they are not averse to openness nor citizen involvement in governmental decision-making;

(2) Independent judiciary that is independent, impartial and informed is expected to ensure the realization of a just honest open and accountable government and re more likely to make a ruling that may be contrary to the interests of the government;

(3) Communication infrastructure does not only refer to physical needs to be established and maintained by the state for both the travel and telecommunications set-up, but also personal development that takes the form of information literacy; and

(4) Library and information services that encourage free access to information through their open-for-all policy and the organization of official documentation in a manner that enhances easy access to them.

Political stability and the independence of the judiciary have symbiotic effect on free access to information. A spin-off of open government is political stability, just as a judiciary that is independent encourages openness in governance. Libraries are essential to the functioning of a democratic society as libraries are a great symbol of the freedom of the mind.

Access to information laws is increasingly becoming more common worldwide. The global community has come to realize that democracy can never work in a state where citizens do not have free access to information as it promotes public participation in governance and public-policy making. On the African continent, momentum of adoption of access to information laws is building. Most countries in Africa have adopted these laws while some have draft bills.

2.4 FREEDOM OF INFORMATION (FOI) LAWS ON THE AFRICAN CONTINENT

A large number of states recognises the importance of access to information laws as large number of states have enacted such legislation, particularly in the last twenty years, and the moves are afoot throughout the world. The widespread acceptance of the need for freedom of information legislation is recognition of the fact that in a democracy, access to official information is vital to ensure that the people retain ultimate control over the functions of government (Ruth, 2000: 6).

Banisar(2011:3) states that openness is starting to emerge in Africa. Most African states enacted access to information laws since 2001 and many countries in Southern and Central Africa have done so. African Union formerly known as Organisation of African Unity (OAU) adopted Article 9 of the main African Human Rights treaty that provides for freedom of expression titled African Commission Charter on Human and People's Rights which was adopted in Nairobi in 1981; the Charter stipulates that freedom, equality, justice and dignity are essential objectives of the achievement of the legitimate aspirations of the African peoples'.. The African Commission Charter provides inter lia for the establishment of bodies to promote and protect human and people's rights. Southern African Development Community (SADC) is party to international treaties that guarantee the right to receive and impart information. In the African regions, domestic constitutions with the exception of Swaziland also provide for the right to access information. Despite these wide ranging commitments at the national level, most SADC countries have yet to enact access to information legislation (Ruth, 2000:15).

 In November 2000, the African Commission on Human and People's Rights (ACHPR) adopted a joint statement noting the importance of freedom of expression and the limited protection given to this important right by Article 9 of the Charter (African Commission Charter, 1981: 19). The African Commission on Human and Peoples' Rights adopted a Declaration of Principles on Freedom of Expression in Africa in October 2002. Principle IV of the declaration states that:

(1) Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only clearly defined rules established by law;

(2) The right to information shall be guaranteed by law in accordance with the following:

(a) everyone has the right to access information held by public bodies;

(b) everyone has the right to access information held by private bodies which is necessary for the exercise or protection of any right;

(c) any refusal to disclose information shall be subject to appeal to an independent body or the courts;

(d) public bodies shall be required, even in the absence of a request, actively to publish important information of significant public interest;

(e) no one shall be subject to any sanction for releasing in good faith information on wrongdoing, or which would disclose a serious threat to health, safety or the environment; and

(f) secrecy laws shall be amended as necessary to comply with freedom of information principles.

Shado (2004: 48) notes that African states are parties to the International Covenant on Civil and Political Rights and to the African Commission Charter on Human and Peoples' Rights. In keeping with the obligations under these human rights treaties, most states have constitutions which protect fundamental human rights.

On the African continent, more than ten countries have access to information laws: Angola, Ethiopia, Guinea Conakry, Liberia, Nigeria, Rwanda, Sierra Leone, South Africa, Uganda and Zimbabwe, whilst Niger and Tunisia have actionable access to information laws. Although there are countries that have access to information laws, implementation remains a challenge. Again,

although the African continent has begun with the process of access to information laws implementation there are, nonetheless, challenges in the implementation process (Shado, 2004: 48).

The authors share same sentiments on the importance of access to information laws worldwide and in the African continent, as it empowers communities. Furthermore, access to information can be utilised as a tool to enhance openness, transparency and accountability; a tool to fight corruption and serves as part of human rights and improves on public participation. The authors agree that access to information laws can only be operational, efficient, and effective if there is a political stability and the independence of the judiciary.

2.5 SOUTH AFRICAN LEGISLATION ON ACCESS TO INFORMATION

In 1660, Jan van Riebeeck of the Dutch East India Company ordered the planting of bitter-almond hedge across Cape Town. The hedge separated the crops and cattle of the Dutch settlers from the land occupied by Africans, the original inhabitants. It was not only physical barriers, but also a significant symbol. It designated groups of people separating those who were part of the 'civility' from those who were not. Those outside played confined roles in the emerging society, subject to constraints on their freedom of movement and access to knowledge, power and information (Underwood & Darch, 2005: 2).

The system ensured that communities were oppressed and did not have access to information. Government operated in secrecy, communities were powerless and uncivilized. South African Parliament noted that the system of government before 1994 resulted in a secretive and unresponsive culture in the public and private bodies which led to an abuse of power and human rights. South Africa is the first African country to enact access to information legislation. The new democracy of South Africa fortified its success by negotiating a formidable Bill of Rights, located within its Constitution. Tilley (2010:12) states that the Promotion of Access to Information Act (PAIA) finds genesis in Constitutional injunctions and international norms, enjoying equal status with other fundamental rights in the Bill of Rights.

After 1994, the majority of South Africans had huge expectations of radical societal change. When the Constitution was adopted in 1996, those expectations soared even higher as South Africans have been shaped by generations of an absence of the right to information. Since the end of the apartheid regime, South Africa is faced with the challenge of strengthening democracy and transforming public administration at all spheres of government in order to provide citizenry with high quality services including access to information and public participation in government activities. In order to ensure that the administration is built based on the rule of law, the South African government has introduced Promotion of Access to Information Act No. 2 of 2000 (PAIA), which is a law binding both public and private sectors (South African Human Rights Commission Annual Report, 2011: 12).

The right of access to information was accepted by South Africa as a prerequisite for a democratic state pursuing the values of accountability, transparency, openness and responsiveness in the affairs of government institutions. During the country's struggle for liberation, information became a crucial resource for the liberation forces and their allies, including international solidarity movements, in their efforts to expose brutality of the apartheid regime (Underwood & Darch 2005: 3).

The Promotion of Access to Information Act No. 2 of 2000 (PAIA) was passed by Parliament in 2000 and came into effect in 2001, to give effect of the right of access to information enshrined in the Constitution of South Africa. The Constitution makes provision for the right of access to any other information held by state. Section 51 of PAIA provides for the horizontal application of the right to access information held by another person to everyone when that information is required for the exercise or protection of any rights. Also, Section 52 of PAIA gives all citizens the ability and power to speak to leaders, access information and participate in decision-making affecting their lives. It also created a culture of accountability, openness, and nurtures South African democracy. A functioning democracy needs an informed citizenry; providing citizens

with adequate information on priorities, programmes and activities ensures not only legitimacy of government, but also institutes regimes of transparency (Tilley, 2010:12).

2.5.1 DEFINITION OF PAIA

The Bill of Rights contained in the South African Constitution ensures equal protection of human rights and contains, as one of the entrenched rights, the right to 'Access to Information'. The right requires government departments to foster transparency by providing the public with timely, accessible and accurate information (Public Service Commission, 2007:3). The Promotion of Access to Information Act (PAIA) was passed by Parliament in 2000 to give effect to the right of access to information enshrined in the Constitution which states that:

According to Section 2 of the Promotion of Access to Information Act, No. 2 of 2000, the Act is intended to foster a culture of transparency and accountability in public and private sectors by giving effect to the right of access to information and actively promote society in which the people of South Africa have effective access to information to enable them to fully exercise and protect all their rights. The Act further highlights the objectives of PAIA which include: to promote transparency, accountability and effective governance of all public and private bodies, by empowering and educating everyone to understand their rights so that they are able to exercise their right in terms of public and private bodies; to ensure that the state takes part in promoting human rights culture and social justice; to encourage openness and to establish voluntary and mandatory mechanism or procedures which give effect to the right of access to information in speedy, inexpensive and effortless manner; and to effectively scrutinize and participate in decision making by public bodies that affect their rights.

PAIA relates to all information that is held by the state and any information that is held by another person which is required for the exercise or protection of any rights. The aims of the Act is to ensure the right of access to any information held by a public or private body may be limited to the extent that the limitations are reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom as contemplated in section

36 of the Constitution. Reasonable legislative measures may, in terms of section 32(2) of the Constitution, be provided to alleviate the administrative and financial burden on the State in giving effect to its obligation to promote and fulfil the right of access to information.

PAIA is a good tool to hold government accountable for decisions on spending and service delivery, and is one of the few pieces of access to information legislation in the world to apply to both private and public sectors. It also applies to the exclusion of any provision of other legislation that prohibits or restricts the disclosure of a record. PAIA is different from much of freedom of information laws from other parts of the world and is groundbreaking as it is based on, and backed up by a specific constitutional right of access to information entrenched by Bill of Rights and the Act is applicable to both public and private sectors (Callad, 2003:6).

McKinley (2003: 3-4) states that there is only one right contained in the Constitution which is the right to access to information that symbiotically connects to all other rights and uphold basic human rights. The inclusion of a constitutional right of access to information was motivated by a desire not to repeat the mistakes of the past apartheid. The control of information and enforced secrecy was at the heart of the anti-democratic character of the apartheid system. The primary requirement of a post-apartheid South Africa was to lay down new foundation of an institutionalized affirmation of basic human rights.

PAIA forms the basis of the constitutional right of access to information and fosters a culture of transparency and accountability in public and private bodies, 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 information, to enable them to fully exercise and protect all of their rights. PAIA is different from much of freedom of information laws from other parts of the world and it is ground breaking in at least two resects: first, it is based on and backed up by a specific constitutional right of access to information, and secondly the Act is applicable not only to information in government possession, but also to information held by the private sector (Siphondo, 2005:3).

PAIA operationalizes the Right of Access to Information; it is aimed at creating a framework for citizens to access the records that government holds, and sets out how government should deal with such requests for information. The purpose of PAIA is to give effect to the constitutional right of access to any information held by state, and any information that is held by another person. PAIA, in recognition of the connection between the right of access to information and democratic accountability and transparency, makes a direct link between the secretive and unresponsive culture in public bodies during the apartheid-era and the abuse of power and human rights violations (McKinley, 2003:5).

According to the researcher's observations, PAIA is a tool to hold government accountable, ensures equal protection of human rights, and fosters transparency and democracy. Furthermore, the Act is in line with the Constitution, and symbiotically connects to all other rights and uphold basic human rights. In the South African perspective, PAIA is seen as a corrective measure of the past mistakes of the apartheid.

2.6 PAIA ADMINISTRATION

The South African government introduced PAIA as one of the fundamental policy frameworks that seeks to ensure that citizens can indeed enjoy access to accurate and timely information. The country's rapid movement from autocratic information management towards democratic transparency has made that national context quite distinctive, and more similar to post-communist Eastern Europe than to such stable long-term democracies as Australia or Canada. The introduction of access of information legislation has been derived more from a constitutional imperative than from a popular pressure from global communities. It was implemented by the South African government voluntarily (Public Service Commission Report, 2007:2).

According to the Constitution of the Republic of South Africa, 1996, Section 32, there are various role players that are tasked with the implementation of PAIA, including South African

Human Rights Commission (SAHRC), the Department of Justice and Constitutional Development, the Public Service Commission, and the Government Communication and Information Service (GCIS). These bodies are constitutionally mandated to promote, monitor and protect human rights in South Africa. The public institutions are also mandated to monitor compliance by the public and private sectors. The promotion of human rights culture in South Africa is seen against the background of apartheid, which was characterized by secrecy, abuse of power, and control over information. The South African State institutions responsible for ensuring that PAIA is implemented are as follows:

a. South African Human Rights Commission

SAHRC is an institution created by Section 184 of the Constitution of South Africa to, among other things, promote respect for human rights; promote the protection, development and attainment of human rights, and to monitor and access the observance of human rights. SAHRC has a constitutional mandate to promote human rights culture in South African society. It is also primarily responsible for the implementation of the PAIA.

b. The Public Service Commission

The Public Service Commission (PSC) is, in terms of Chapter 10 of the Constitution (Section 196), an independent and impartial institution of state. It promotes the basic values and principles governing public administration as contained in sections 195 of the Constitution. It does this through monitoring and evaluating all public administration practices in national and provincial departments. The role of PSC in relation to PAIA is to promote the Constitutional values and principles of public administration including fostering of transparency through providing the public with timely, accessible and accurate information. Monitoring whether the public has access to information therefore falls within the mandate of the PSC, and the PSC shares the responsibility with SAHRC.

c. The Government Communications and Information System (GCIS)

Before 1994, the National Party government had a culture of secrecy, disinformation and restrictions on press freedom. Media restrictions caused limited exposure of government mismanagement and disinformation. This changed from May 1994 when the government of National Unity brought a new spirit of freedom of expression. The introduction of constitutional guarantees for freedom of public's right to information promised a new accountable style of government. At that time government recognised freedom of expression as an integral part of a new democratic society, but this was within the context of a society with an inheritance of severe deprivation in regard to information and dialogue with government. It also operates within an organizational structure and structural framework that was not geared to modern systems of communications and information delivery. According to the Communication 2000 1996:8), in 1995 the then Deputy President Thabo Mbeki appointed a task team which was given a responsibility of reviewing government communications at the local, provincial, national and international levels. It had to make recommendations on how government communication should be structured in line with constitutional principles of freedom of expression and transparency and openness of government. Recommendations had to address new policies, structures and budgets and information dissemination nationally and internationally.

The Communication Task Team (Comtask) consulted with a broad range of stakeholders and delivered a final report in 1996 which recommended the transformation of the old South African Communication Service (SACS) into a new centre of government communications system. The Cabinet later adopted the committee's proposal of developing a group of professional, effective government communicators to streamline government communication in South Africa. Comtask processes resulted in the launch of Government Communication and Information System in 1998 during the Communication Budget Vote in the South African Parliament. The core vision was to achieve integrated, coordinated and

clear communication government and the South African citizens to enable them to be involved in the country's transformation (Communication Task Team Report, 1996:7).

The Government Communication and Information System (GCIS) were established in May 1998 following the dissolution of the South African Communication Service by Cabinet. The Department was established largely on the basis of recommendations contained in the report of the Task Group on Government Communications (Comtask Report, 1996: 58). It functions as a strategic unit in the Presidency in terms of Section 7 on the Public Service Act, 1994 (Act 103 of 1994). The GCIS is located in the Presidency and its primary responsibility is to provide coherent, responsive and cost effective communications service to all government programmes. GCIS is also responsible for setting up the government's communication system and continuously working with the rest of government to communicate and inform the public about the policies and programmes of government aimed at improving the lives of communities. GCIS also promotes communication between the government and the public. GCIS plays a critical role in ensuring that the public has access to information about the programmes and the government's plans, which are aimed at empowering all South Africans to attain a better life (Communication 2000 Task Team Report (1996:8).

Section 16 of the PAIA requires the Director General of GCIS to publish the postal and street addressed, phone and fax numbers, and if available, electronic mail addresses of the information officers of every public institution in every telephone directory issued for general use. The GCIS is therefore a major role player in creating public awareness of the right of access to information.

d. The Minister of Justice and Constitutional Development

The core function of the Department of Justice and Constitutional Development is to give effect to the constitutionally mandated requirements that South Africa has a fair, equitable

and accessible system of justice. The Minister of Justice and Constitutional Development is obliged to make regulations in terms of Section 92 of the PAIA, regarding any matter that is required by the PAIA to be prescribed. This includes uniform criteria to be applied by the information officer of a public body when deciding which categories of records are to be made available and any administrative or procedural matter necessary to give effect to the provision of the PAIA. The Department of Justice and Constitutional Development is the last institution to receive publication of certain public records. The Minister must, by notice in the Government Gazette, publish records that are automatically available without a person having to request access in terms of the PAIA. The Minister may, though, by notice in the Government Gazette, exempt any person or category of persons from paying any fee and determine the fee structure applicable for accessing information (Public Service Commission Report, 2007: 4).

The Government also has a responsibility of transforming public service in order to improve service delivery to the people of South Africa. Access to decent public service and information was no longer a privilege to be enjoyed by the chosen few; it is now the rightful expectation of all citizens, especially those that were previously disadvantaged, hence the establishment *Batho Pele* Principles that led to the development of the White Paper on the Transformation of the Public Service (WPTPS) in 1995. The paper set out eight transformation priorities. Government wanted to turn words into action, and ensure that users of public services are consulted about their needs and priorities (Public Service Commission Report, 2007: 5).

2.6.3   PRE-REQUISITES FOR PAIA IMPLEMENTATION

All South Africans have the right to access information which affects their lives and well-being. They have a right to know how government functions and how decisions taken by them may affect their lives. The transparent flow of information between government and its citizens is necessary for democracy (Communication 2000 Task Team Report, 1996:8). In terms of section

14 of the PAIA, public bodies are required to compile a manual on how members of the public can access information held by the public body. The PAIA states that each body must appoint information officers and deputy information officers who will be responsible to process application for access to information and help applicants to apply for information (Public Service Commission, 2007:12-13).

Public institutions require capacitated administration, and institutional leadership will ensure the successful implementation of PAIA. Once legislation such as PAIA is enacted, public authorities are obliged to release information upon a request being made unless it can be proven beyond any reasonable doubt that public harm is likely to override public interest in issuing that piece of information. In South Africa, PAIA is applicable to all government departments in all three spheres of government (national, provincial and local), eventually to all public institutions given importance of the legislation in promoting the constitutional values of transparency and accountability. According to the Public Service Commission Report on PAIA (2007:27-29), pre-requisites for PAIA implementation include administrative and institutional capacity such as:

a. **Appointments of Deputy Information Officers (DIOs)**

The appointment of DIOs is a mandatory and basic compliance element as the existing performance management instrument is used to ensure accountability for the implementation of the PAIA. The appointments of DIOs also ensure that implementation of the PAIA is incorporated into the normal management practices.

b. **Training of officials**

Training is a major factor that affects the functioning of deputy information officers in public institutions. Training will ensure that DIOs have a proper understanding of their roles

and responsibilities and are able to make appropriate decisions regarding requests for access to information. Training has to also focus on ensuring the rights of citizens and enhance a workplace culture of accountability and democracy. Training also improves the awareness level of the PAIA.

c. PAIA manuals available to citizens

PAIA manuals are part of the basic systems underpinning the access to information infrastructure. The manuals become a meaningful element in the compliance infrastructure if they are updated periodically and are translated in the indigenous languages according to the geographic demarcation. The manuals should be distributed to citizens as part of awareness campaigns.

d. Informing citizens of their rights to information

Citizens require awareness on PAIA and understanding of the right to information. Citizens can only understand and know their rights through intense awareness campaigns that will teach the citizens about their rights, the procedures and processes of requesting information and on what kind of information can be requested. Public institutions must publish their internal appeal process and reinforce campaigns such as "Know your Rights Campaign" and other public service campaign such as "*Batho Pele"* Principles.

e. Improving institutional systems to manage requests for access to information

The institutional system requires proper record keeping and filing system and basic administration functions in implementing the PAIA. Public institutions must develop formal systems, which deal with all aspects of the requests for information processing as that can ensure that citizens are provided with information timeously.

f. Providing information to public institutions

Departments are obliged to report to the Department of Justice and Constitutional Development and the SAHRC to ensure that citizens know what information is already available to them to request (SAHRC Annual Report, 2011/12:24-30).

The researcher has observed that the Department has no system in place to have any form of request for information as there is no formal unit or structure dedicated to PAIA implementation as an obligation. Furthermore, the proper record keeping, filing system and the basic administration functions in ensuring that PAIA is implemented.

2.7 PAIA COMPLIANCE WITH REFERENCE TO THE DEPARTMENT OF SPORT, ARTS AND CULTURE IN LIMPOPO

Section 14 of the PAIA requires public institutions to compile a manual that would assist the public to obtain access to information held by the public body and stipulates minimum requirements which a manual must comply with. The purpose of the manual is to outline the procedures to be followed in accessing information held by the public institutions in accordance with PAIA. The manual also contains information on the functions of the Department, the structure of the Department, the contact details of the information officer and deputy information officer, as well as subject areas of records kept by each branch. These records are in the form of publications, notifications, and also information published on the departmental website. The manual has to be publicized on the departmental website and has to be updated for the public to know and understand the procedures and process of requesting information and what information can be accessed (SAHRC Annual Report, 2011:45-46).

Compliance with the PAIA requires an organisation to implement clear policies and procedures, understood and complied with by all in the organization. Every public institution and some private bodies (business entities) in South Africa are obliged to prepare an information manual,

which sets out the categorization of information, and the procedures required to apply for access to the information of that entity. The PAIA provisions carry a mandatory obligation for all levels of public bodies to comply with section 32 of PAIA. The required section 32 report seeks to inform the monitoring duty of the South African Human Rights Commission in respect of transparency and accountability in the public sector. The Commission is charged with the receipt of section 32 reports in terms of PAIA from all public bodies annually. The reporting period for the section 32 report in terms of PAIA is from 1 April to 31 March every year, meaning that public bodies must submit their section 32 reports within the first week of April each year (Public Service Commission Report on PAIA, 2007:25-29).

According to the South African Human Right Commission (2011:05) the Department of Sport, Arts and Culture in Limpopo Province is amongst state institutions that are obliged to implement the PAIA and ensure that all requirements are met as part of its mandate of promoting public's access to information. The Department is expected to:

(1) Consolidate the section 32 report and submit it to SAHRC on annual basis;
(2) Ensure that the PAIA manual is available and updated yearly;
(3) Ensure that PAIA manual is accessible to the public, stakeholder and staff and also translated into relevant language for public easy understanding;
(4) Ensure that Deputy Information Officer is appointed;
(5) Workshops are conducted as part of PAIA awareness campaign ;
(6) PAIA regulations are integrated into the departmental strategic management plans and budgeting process;
(7) Avail financial and human resources that ensure that PAIA is implemented, and
(8) Ensure that record management is done properly and the public is informed about the available information and records.

The researcher has observed that the Department of Sport, Arts and Culture does not adhere to PAIA obligations as outlined as the manual was last updated in 2012 no annual reviews were

made since it was placed on the website. No translated manuals are available at the information desk for distribution purposes. The Department hardly holds awareness campaign to inform all stakeholders including staff and the public about the importance of PAIA and what records are readily available and the procedure to be followed. PAIA is not integrated in the departments' strategic objectives and budgeting.

2.8 CONCLUSION

The discussions in this chapter indicate that there is a strong link between democracy and access to information as part of basic rights and openness, transparency and accountability through public participation. The chapter further highlighted that engaging public in decision-making process can enhance the quality and legitimacy of decisions and further build community trust in government.

This chapter provided a theoretical framework on the state of implementation of access to information laws which forms the basis of the study. In order to achieve the objective of the study, this chapter began with conceptualization of access to information. It then highlighted the importance of access to information as a tool to enhance openness, transparency and accountability and discussed the struggles for access to information laws in Africa and the South African legislation on access to information and what PAIA is about. The objectives of PAIA and the institutions responsible for PAIA implementation were also discussed in this chapter, concluding with requirements of PAIA administration, which indicates that there is a need for political will, human and financial resources to ensure proper and successful implementation of PAIA in an institution. The following chapter discusses the methodology used to collect data for the study.

CHAPTER THREE: RESEARCH METHODOLOGY

3.1 INTRODUCTION

The previous chapter provided a theoretical framework on the state of the implementation of access to information laws which forms the basis of the study. The chapter began with conceptualisation of access to information, whereby the importance of access to information as a tool to enhance openness, transparency and accountability and as a tool to fight corruption, as part of human rights, and to promote public participation is highlighted. The chapter highlights the global trend in the implementation of access to information laws. It further discusses the struggles for access to information laws in Africa and the South African legislation on access to information, and what PAIA is about and its administration.

This chapter discusses the research methodology employed in the study including strategies, data collection and analysis methods. The chapter further elaborates on research instruments utilized in the pursuit of the research objectives and the quest for solutions to the problem of the research study.

3.2 RESEARCH METHODOLOGY

Research Methodology refers to the method, procedure or process to be followed in conducting research to ensure that there is order in data collection pertaining to the study. Research methodology also has a different focus in that it is concerned with steps, procedures, techniques and specific tasks to be followed by the researcher to implement the research design. A research method is simply a technique for collecting data. It can involve a specific instrument, such as self-completion questionnaire or a structured interviews schedule, or participant observation (Hanekom 1977:40).

According to Rajaseka, Philominatho & Chinnathambi (2006:8), research methodology is a systematic way to solve a problem, a science of studying on how research is to be carried out. Essentially, the procedures by which researchers go about their work of describing, explaining

and predicting phenomena are called research methodology. Research Methodology is also defined as the study of methods by which knowledge is gained, aimed at giving the work plan of research. Leedy (1993:121) describes methodology as an operational framework within which the facts are placed so that their meaning may be seen more clearly. A structured research process can only be done by means of a systematic plan of action. An outline of the plan of action is provided in order to give structure to the research process. It was therefore crucial for the researcher to employ and utilize a research methodology and design appropriate to the topic chosen with the aim of achieving the anticipated goals and objectives of the research study. The present study used both qualitative and quantitative approaches and therefore the both interviews and questionnaire are relevant and fit this research study.

3.3 RESEACRH DESIGN

According to Mouton (2001:55) a research design is a plan or blueprint of how one intends conducting the research, and specifies the tasks; number of groups that should be used, whether these groups are to be drawn randomly from populations involved or should be assigned randomly to groups. Bryman & Bell (2009:10) state that the research design provides a framework for the collection and analysis of data. A choice of research design reflects decision about the priority being given to a range of dimension of the research process.

According to Mouton and Marais (1990:23), research design is an arrangement of conditions for collecting and analyzing data in a manner that aims to combine relevance to the research purpose with economy in procedure. This study employs both qualitative and quantitative methods to gather and analyze data. These two approaches are explained below.

3.3.1 Qualitative Approach

According to Morse (1991:75) qualitative research is primarily exploratory research used to gain an understanding of underlying reasons, opinions, and motivations. Qualitative Research is also

used to uncover the trends in thought and opinions, and probe deeper into the study. Qualitative research approach involves an in-depth understanding of participants' reasons that govern participants' reasoning (Mouton 2001: 137). The present research is exploratory in nature and therefore the researcher had to employ qualitative research approach to gain understanding, opinions and knowledge of employees regarding PAIA implementation. The approach further enabled the researcher to uncover trends within the Department and to probe deeper into the topic under discussion. The qualitative approach sample size was typically small simply because it is hugely labour intensive as interviews had to be transcribed before analysis.

3.3.2   Quantitative Approach

Quantitative research is used to quantify the problem by way of generating numerical data or data that can be transformed into useable statistics. It is used to quantify attitudes, opinions, and other defined variables and generalize results from a larger sample population. Quantitative data collection methods include various forms of surveys: paper surveys and face-to-face interviews (Wyse, 2011: 10). Quantitative research involves the use of structured questions where the response options have been predetermined and a large number of respondents are involved. Simply put, quantitative research considers numbers, symbols, measurements and statistics in outlining key variables for the collection, analysis and interpretation of data. However, measurements applied must be objective, quantitative and statistically valid (Mouton & Marais, 1990: 136). The use of both qualitative and quantitative methods allowed the removal of grey areas and strengthened the orientation and argumentation of the analysis and synthesis of the study.

3.4 Population

The population is a group of potential participants to whom the researcher wants to generalise the results of a study. The population is the study of objects and consisting of individuals,

groups, organizations, human products and events on conditions to which they are exposed. A research problem therefore relates to a specific population and the population encompasses the total collection of all units of analysis about which the researcher wishes to make specific conclusion (Welman, Kruger & Mitchell, 2005: 52). The Department of Sport, Arts and Culture in Limpopo Province has 268 staff members. Of these, 28 are senior managers, 30 middle managers, 20 deputy managers, 132 administration officers (including PA's), and 58 general workers which makes the total population for the research to be 268.

3.5 Sample

The study followed stratified random sampling in preparation of data collection and analysis. Random sampling is the best single way to obtain a representative sample. The stratified random sample typically reflects the characteristics of the population as a whole. Stratified random sampling requires smaller samples in order to obtain valid results (Welman, Kruger & Mitchell, 2005:61-62). According to Manson (2001), stratified random sampling is appropriate and meaningful allowing comparison between sub-groups in the population (Wyse, 2011: 10). Sampling theory supports stratified random sampling as an efficient choice because the means of the stratified samples are likely to be closer to the means of the population overall.

No technique guarantees a representative sample, but the probability is higher for the procedure than for any other. In this study, the researcher focused much on employees of different directorates of different levels of occupation. The researcher ensured that all levels were represented when selecting the population with the aim of ensuring that the results of the gathered data represented different groups. The researcher distributed questionnaires to the selected 60 administration officers; 20 general workers, 10 deputy managers, 15 managers and 14 senior managers, totaling 119. Out of the 119 distributed 87 were returned which is 70%. These are from various directorates of the Department that are directly linked with PAIA. The researcher is aiming at gathering information from all levels of staff members to assess their awareness of PAIA. Regarding the general workers and administration officers, the

researcher wants to understand their knowledge regarding PAIA, whilst at the level of managers and deputy managers the researcher wants to know the level of PAIA implementation process in the Department as managers and deputy managers are operational. In terms of senior managers, the researcher wants to find out if the Department complies with PAIA prescripts as outlined in the Act and the Human Right Commission of South Africa.

3.6 Data Collection

There is a need to distinguish between two kinds of data which is the primary data and the secondary data. Secondary data refers to data that is available in published literature such as journals and reports, while the primary data refers to the data which was obtained from the original source (Hanekom, 1987:28). In this research study, the researcher realized the necessity of collecting primary data because the researcher held the view that there was not sufficient or accessible data available on the topic under investigation. Primary data in this instance include South African Human Rights Annual Reports, South African Human Rights Compliance Manuals as well as the Public Service Commission on PAIA implementation. The other method of collecting data in this study also includes the questionnaire and interviews to gather primary data. The data was obtained from the original sources, which in this case were the respondents. A questionnaire is a set of written questions or statements which the research subjects are to respond in order to obtain data which are relevant to the research topic (Morse, 1991:45). A questionnaire consisting of both open-ended and closed questions provides a greater depth possible (O'sullivan, Berner & Rassel, 2008:216). For the purposes of this study, the researcher distributed questionnaires as a measuring instrument to employees of the Department which included general workers, managers, deputy managers and senior managers. The researcher distributed questionnaires to the selected participants as stipulated under item 3.4.: sixty administration officers, 20 general workers, 10 deputy managers, 15 managers and 14 senior managers. The questionnaires were designed to assist the researcher to understand the views, perceptions and experiences of the staff members on whether PAIA implementation in the Department is effective or not. The questionnaire also included

questions related to the aims of the study and the research questions as highlighted in Chapter One of the research study. The researcher further interviewed, on one-to-one basis, the manager (deputy information officer) who, according to the South African Human Rights Commission, serves as the link between the Department and the Commission. The intended interviewee was available for the interview and furthermore the questionnaires we collected from individual participants.

3.7 Data Analysis

According to Leedy (1993:96) all research studies require logical reasoning. Data analysis usually involves two key steps, namely (a) reducing the collected data to manageable proportions and (b) identifying patterns and themes in the data (Mouton, 1990: 161). Babooa (2008: 152) agrees that the first step in the analysis of data is a critical examination of the collected data. Data analysis involves reducing accumulated data to a manageable sise and developing summaries in response to the problems and questions. The researcher analysed the data by grouping each response according to themes and patterns arising from the questions asked in the questionnaire and interviews. The information gathered from both the interviews and questionnaires was thoroughly scrutinized according to the questions asked in both the interviews and the questionnaires, recorded in a graphic format and conclusions drawn on whether the Department of Sport, Arts and Culture is effectively implementing PAIA. If not effectively implemented, then the researcher looked at what could be the challenges and on how best the Department could overcome these.

3.8 ETHICAL CONSIDERATIONS

Ethics are a normal part of research. Ethical issues arise at a variety of stages of research. The issues of ethics cannot be ignored as they relate directly to the integrity of a piece of research and of the disciplines that are involved. A researcher has to respect the right to privacy of respondents and protect their identity through promoting anonymous answering of questions (Dalton, 1959: 275).

3.8.1   Anonymity

The present researcher protected the identity of the participants no names or any other personal information such as identity number were asked to be provided. The questionnaire further gave respondents assurance that responding to the questionnaire will not harm them in anyway as their participation would remain private and assuring them the right of their privacy. The questionnaire and interviews further highlighted the importance of the study, but also stated that participation was voluntary.

3.8.2   Data protection

According to Bryman & Bell (2003:143) data protection is a matter that is regulated by law rather than being a matter that requires professional guidance, so researchers are obliged to comply with this. The extent to which information can be used for research purposes that may be different from the reasons for collecting the information in the first place are addressed through making judgments, about who owns the data and under what circumstances they are entitled to use it. The researcher gave the respondents the assurance that they would be indemnified against any physical or emotional harm, guarded against manipulating respondents and they would not be treated as objects or numbers. In other words, they would be treated as individual human beings. The researcher further assured the respondents that information collected and used to interpret research findings would be protected in a locked box and stored in a safe, private place.

3.8.3   Permission requested

The researcher obtained the permission from the Department; and the respondents after they were thoroughly and truthfully informed about the purpose of the interview and the investigation. The respondents were assured that the collected information would not be used for public consumption.

3.8.4 Plagiarism

The researcher further avoided plagiarism as that is tantamount to unethical practice which can result in the research report being rejected or the researcher being suspended or dismissed from an institution. The researcher gave due credit to the authors and writers where the ideas of the same were incorporated into the text.

3.9 Conclusion

The research design, research methodology procedures and processes used in designing the instrument of collecting data and data analysis methods used in this study were thoroughly discussed in the above discussions. There was also an attempt to define the concept of research design, subsequently, the applicable concepts of the research methodology such as research approach, qualitative and quantitative approaches interviews and questionnaires. The population sampling procedure also received attention. The chapter further provided a detailed description of data collection methods used which include qualitative and quantitative approaches using both questionnaire and interviews as measuring tools or instruments, given that the study is exploratory in nature. The chapter also highlighted the logic behind the combination of both approaches. The sampling criterion chosen, which is the stratified random sampling, was also discussed. The manner in which data were carried out was also discussed, that is, the collecting of both primary and secondary data. The chapter also highlighted the sample and the character of the respondents as employees of the Department of Sport, Arts and Culture from the lower level (general workers) to the highest level of management. Ethical issues were also discussed. The next chapter of the study concentrates on the research findings with the interpretations of the results.

CHAPTER FOUR: ANALYSIS AND INTERPRETATION OF DATA THE RESEARCH

4.1 INTRODUCTION

Chapter three of the research study discussed the research design and methodology as well as appropriate data collection methods. The primary focus of this chapter is to present the findings and also to analyse the research data obtained and collected through the distributed questionnaires and interviews. This chapter further intends to provide possible solutions to the problem as highlighted in Chapter One which is seeking to understand whether the Department of Sport Arts and Culture in Limpopo Province is implementing Promotion of Access to Information (PAIA). The next section of this chapter discusses the characteristics of the sample in order for the findings to be understood.

4.2 THE RESPONDENTS

Questionnaires were distributed by hand to employees of the Department of Sport, Arts and Culture in Limpopo Province. These were later collected and divided into two categories, namely management and non-management. The Management was asked twelve questions of which the first three were based on the need to understand their personal particulars such as age, position and years of service in the Department. Then the other set of respondents (officials) was asked nineteen questions with Section A's questions, from one to six, focusing on personal or demographic particulars such as age, gender, occupation, educational level or qualifications and years of service in the Department.

As indicated in Chapter three, the focus has been on the Department of Sport, Arts and Culture's employees combining both management and officials. The researcher distributed 119 questionnaires, one group directed to junior officials and the other directed to management (from deputy managers to general managers). Out of the 119 distributed, 87 questionnaires were returned which is 70%. The respondents were randomly selected: 60 administration

officers, 20 general workers, 10 deputy managers, 15 managers and 14 senior managers of various directorates of the Department that are directly linked with PAIA. Only 105 questionnaires were returned: 59 were from administration officers, 19 general workers, 7 deputy managers, 11 managers and 9 senior managers.

The sample was randomly selected according to the above mentioned population. The respondents were males and females; with different academic qualifications and occupation with different years in service. The responses from the questions asked in the questionnaire and interviews are discussed in detail.

4.3 DATA ANALYSE FOR NON-MANAGEMENT CATEGORY

4.3.1 Section A: Demographic Data

The following section provides an overview of the demographic profile of the sample.

4.3.2 Occupation

According to the Figure 4.1 below, the majority of the respondents are clerks as they constitute 45, 9 percent followed by general workers at 24 percent, then personal assistance at 20, 5 percent and administrators at 10, 5 percent. All the participants responded to this particular question. The data presented indicate that the majority of the respondents are subordinates, that is, they do not hold managerial positions. The positions of the above mentioned group can have an impact and influence on the outcome of the research study.
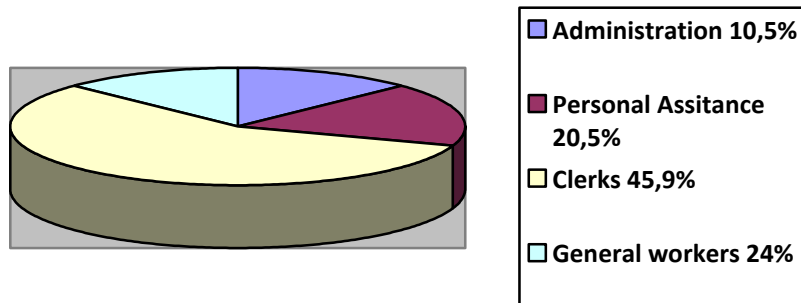
Figure 4.1: Occupation

4.3.3 Education level

The illustration shows that the respondents answered the question on educational level and the indication is that they are literate; they are able to read and write, especially in their mother tongue. According to the results to this question, the level of literacy is at the primary education level stands at 9, 9 percent followed by secondary at 20,5 percent then tertiary at 70 percent. The level of education according to the response will have a positive influence on the results. The outcome of the question shows that the Department of Sport, Arts and Culture has a high number of employees who have tertiary education who hold junior positions, as questionnaire was specifically intended to junior staff from level 3 to level 8.
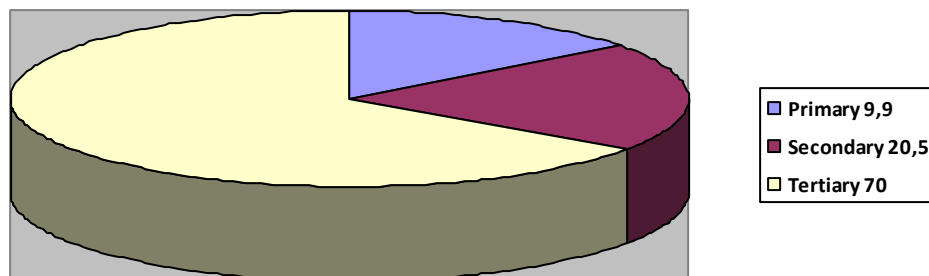
Figure 4.2: Educational Level

4.3.4 Race

The graph illustrates that the Department of Sport, Arts and Culture is dominated by Africans. Thus, the sample is biased towards African respondents followed by Coloureds. One could also conclude that the response by Africans could be influenced by the intention of PAIA, which is to redress the imbalance of the past which could have influenced Africans' interest and responses. According to the workforce population distribution based on the Quarterly Labour Force Survey (QLFS) published by Statistics South Africa on the Economically Active Population (EAP) Africans including both males and females constitute 75.2 % while coloured is 10.6%, Indians constituting 3.1 % and Whites constituting 10.8%. In Limpopo Province, males constitute 50.3% as compared to females at 45.1%.
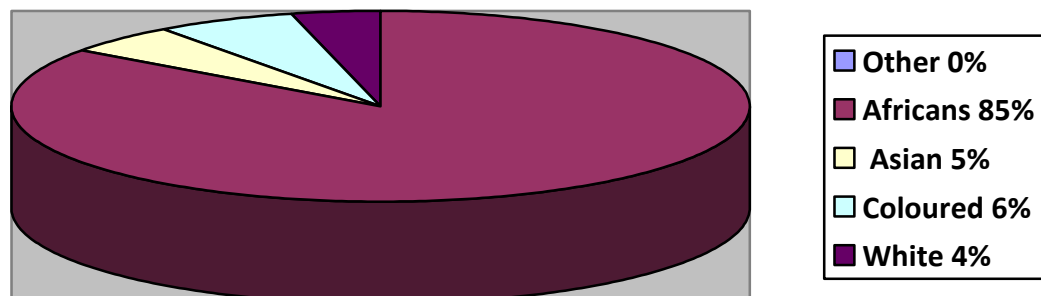
Figure 4.3: Race

4.3.5 Gender

The graph below indicates that there are 59.6 female respondents and 40.4 male respondents. The graph also highlights that the Department has a high number of women and also has interest in the subject matter: PAIA implementation. The imbalance between males and females in responding to the questionnaire will not have an influence and impact on the results of the study. The National Gender Demographics indicates that males of all races in the country constitute 54.0% whilst the females constitute 46.0%. In Limpopo Province, African male and females constitutes 95.4% and Coloureds are at 0.8; Indians at 0.8% and Whites at 3.1%. This is in accordance to the Quarterly Labour Force Survey (QLFS) published by Statistics South Africa.

Female 59.6%
Males 40.4%
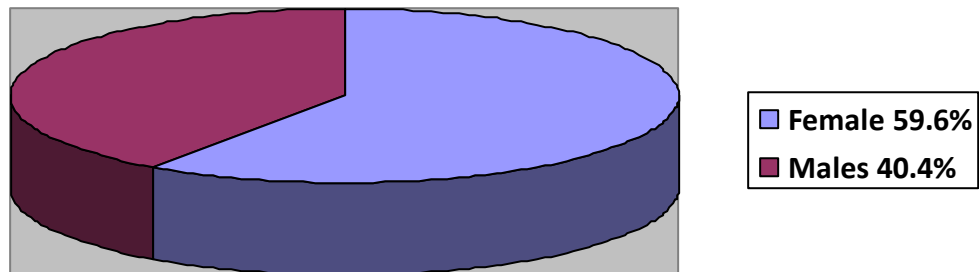
Figure 4.3: Gender

4.3.6 Age

The age factor was considered when consolidating the questionnaires, as age will assist in determining the most affected working class in terms of PAIA implementation.

The graph shows that the category of ages between 20 and 29 years is 5%; while the 30-39 and 40-49 categories are 25% respectively and 50-59 category is 45%. Based on the outcome on the response to the question, one can conclude that the Department is dominated by adults aged between 50 and 59 years at 45%.
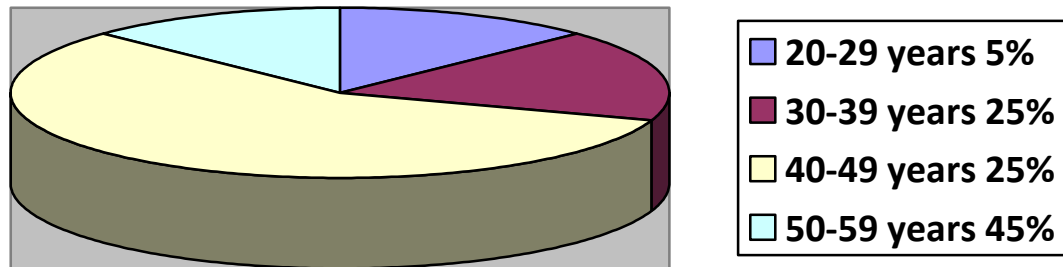
Figure 4.4: Age

4.3.7 Years in Service in the Department: The purpose of the question was to check years in service in the Department.

The outcome of the question indicate that the majority of the respondents, constituting 45 percent, have been working for the Department for more than 10 years followed by more than 20 years of service which constitute 35 percent, while the more than 37 years constitute 12 percent followed by the 40 years of service at 3 percent. Of the entire respondents, 45 percent have been working for the Department of Sport, Arts and Culture in Limpopo Province for a period between 10 and 20 years. The number of years within the Department will assist in providing first-hand experience and encounter with PAIA implementation since its adoption in March 2003. The period of years of service will further assist the study to be more informed and have the ability to draw conclusions and recommendations.

Legend:
- 0-5 years 5%
- 6-15 years 45%
- 16-26 years 35%
- 27-37 years 12%
- 38-45 years 3 %
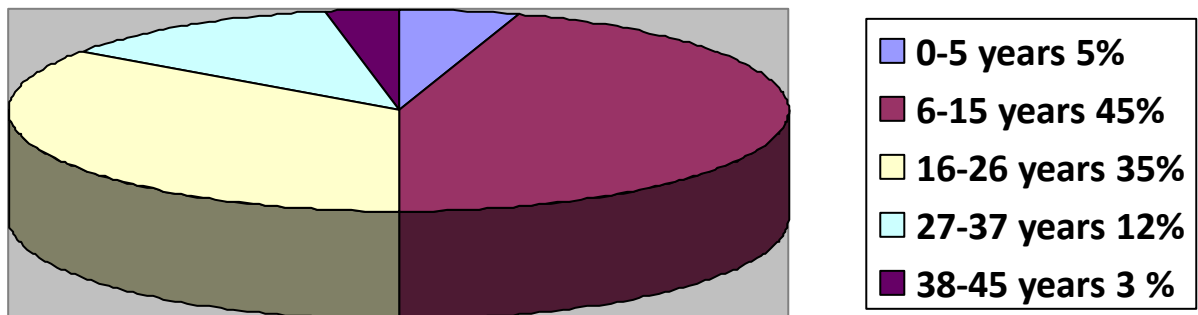
Figure 4.5: Years in Service in the Department

Section B: Knowledge on Implementation of Promotion of Access to Information Act

PAIA understanding

4.3.8 PAIA understanding: The purpose of the question was to seek the level of PAIA understanding
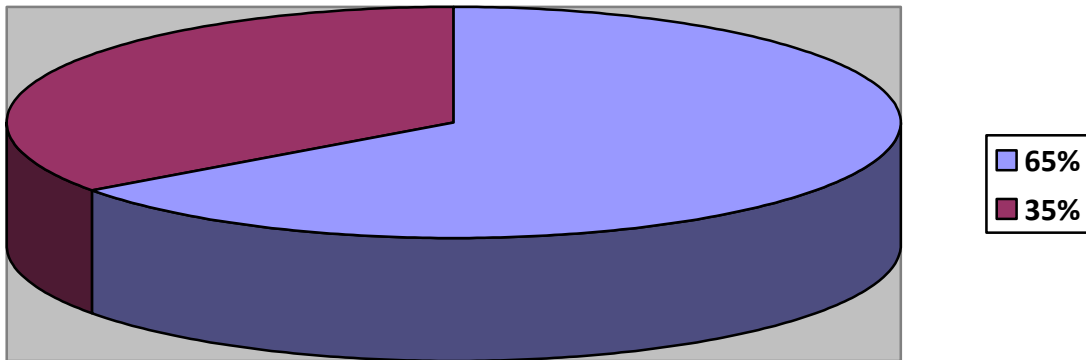
Figure 4.6: PAIA understanding

The above graph indicates that the majority of the respondents, 65%, do not have knowledge and understanding of Promotion of Access to Information Act (PAIA), its existence and the importance of the implementation processes. They further indicated that they did not even know that PAIA is intended to promote the right to request information as stipulated by the PAIA manual. While 35% of the respondents indicated that "Yes" they had heard and they knew about PAIA although their knowing it did not come through to them in a formal way. The respondents further explained that they knew about PAIA from the media and corridors. They knew that it existed but its objectives and intentions were not well known and understood, that

it was intended to encourage communities to request information, promote stakeholder relations and also assist in enhancing service delivery.

Kisson (2010:6) indicates that awareness remains a key barrier impacting on both implementers and users; also the lack of government commitment in ensuring PAIA implementation. The other factor contributing to low levels of PAIA implementation is public bodies which do not budget for PAIA delivery. The Department have weak or non-existent internal PAIA policies and they do not integrate information sharing into their activities and do not plan for PAIA delivery. Further, there are no personnel dedicated to administering PAIA.

SAHRC Annual Report (2011/12:3-4) indicates that PAIA requests are received by departments and institutions but the response remains very low. There is a dismal level of compliance in terms in PAIA implementation. The use of PAIA is extremely low since it started operating and it is clear that few South Africans are using the legislation while mostly are not aware of its existence. The major weaknesses in South Africa's access to information legislation according to McKinley (2004: 12) include;

(1)   The lack of a cheap, accessible, quick and effective mechanism for resolving disputes under the Act;

(2)   Record keeping and voluntary disclosure of information, time limits and relief fees; and

(3)   Scope of exemption from PAIA and circumstances under which public interest dictates that request should be refused.

4.3.8 The question was seeking to assess if ever the importance of PAIA was discussed during Unit meetings. If yes, then what it was all about is explained.

The below graph indicates that the majority, 65%, have never discussed the importance of Promotion of Access to Information Act (PAIA) and the importance of the implementation processes. On the other hand, 35% of the respondents indicated that "Yes" they have discussed the importance PAIA in their Unit meetings though it came as an issue not as part of agenda point. Management is obliged to engage non-management officials and promote PAIA in all departmental activities including meetings and report writing.
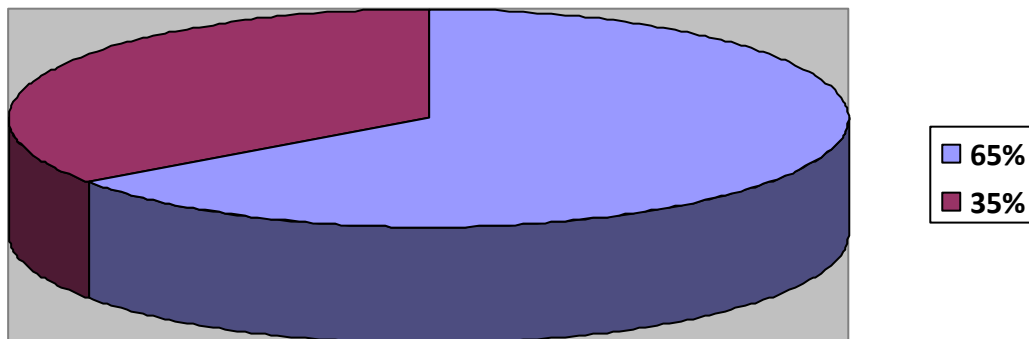
Figure 4.7: The importance of PAIA

4.3.9 Is there any demonstration in your daily activities or duties that symbolises that your Unit is implementing the Act (PAIA)? This question sought to assess if there was any demonstration in the daily activities or duties of the Unit that indicated that PAIA was being implemented or it was work in progress in terms of PAIA implementation.

The above illustration reveals that the majority of the junior officials have a little knowledge about PAIA as the Act is not discussed in their meetings. The above graph shows that 94% of respondents do not discuss PAIA in their meetings while 6% of the participants indicated that the matter is discussed as part of their job description. It was further indicated that they discuss PAIA not as a subject matter but as an object; a tool that they work with as obliged by the job description. They discuss PAIA because they are obliged to facilitate PAIA implementation for the institution not as an Act applicable to their daily duties.

According to the Public Service Commission Report on PAIA (2007:27-29), pre-requisites for PAIA implementation include administrative and institutional capacity. Public institutions require capacitated administration, and institutional leadership will ensure the successful implementation of PAIA. Once legislation such as PAIA is enacted, public authorities are obliged to release information upon a request being made unless it can be proven beyond any reasonable doubt that public harm is likely to override public interest in issuing that piece of information. In South Africa, PAIA is applicable to all government departments in all three spheres of government (national, provincial and local), eventually to all public institutions given importance of the legislation in promoting the constitutional values of transparency and accountability.
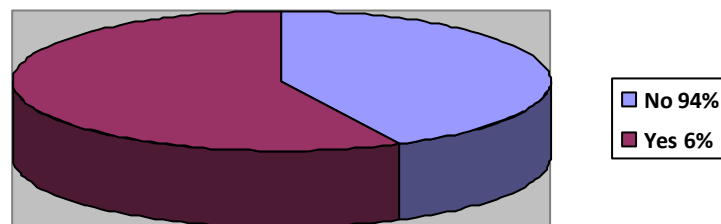
Figure 4.8: PAIA implementation activities

4.3.10 The researcher was seeking to find out if the respondents have ever attended a workshop about the importance of PAIA?

The Figure shows a high number of non-attendances of workshops on PAIA implementation. Ninety-five percent of the respondents indicated that they have never had the opportunity to attend a workshop or any other form of training or educational session related to PAIA implementation. Five percent of the respondent's showed that the workshop they attended was due to the fact that they work with PAIA. The training was about educating attendees about PAIA and how to administer PAIA that's how they learnt what PAIA is all about and its objectives. According to the respondents the workshop was fruitful, an eye opener on information sharing and distribution. They further indicated that the workshop showed the power and the importance of information.

Citizens require awareness on PAIA and understanding of the right to information. Citizens can only understand and know their rights through intense awareness campaigns that will teach the citizens about their rights, the procedures and processes of requesting information and on what kind of information can be requested. Public institutions must publish their internal appeal process and reinforce campaigns such as "Know your Rights Campaign" and other public service campaign such as "Batho Pele" Principles.
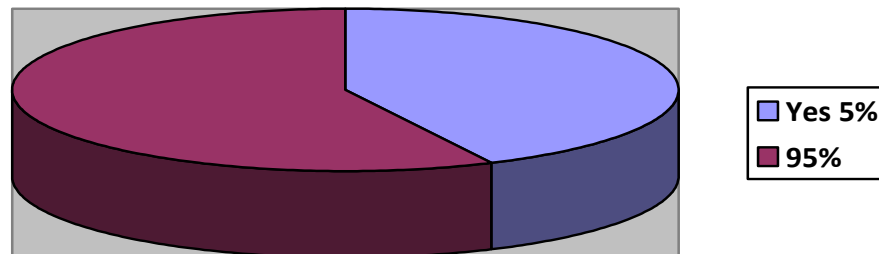

Figure 4.9: PAIA workshop attendance

4.3.12 Do you find PAIA manuals accessible to all staff, communities and other stakeholders and also are these translated into various languages? Were you ever offered a translated manual in your own preferred language? The researcher wanted to find out if the PAIA manuals are accessible to staff, communities and other stakeholders and if those manuals are translated into various local languages in the area.

The figure indicates that 96% of the participants do not find translated manuals accessible to staff, communities and other stakeholders including staff members, and that they were never offered manuals. Also, they have never seen any manual translated into the language of their preference. The 4% indicated that they have access to the manuals as they work with PAIA and are responsible for the administration of the distribution process of the manuals. They confirm that the manuals are available at a minimal rate and for compliance purpose only. Section 14 of PAIA requires public bodies to compile and publish a manual as an important tool that facilitates sharing of information by public bodies. PAIA manual is usually referred to as a roadmap to an institution that is obliged to implement the Act. Section 14 requires the manuals to describe the request procedure, the fees applicable and remedies available to requesters whose request for access has been declined.
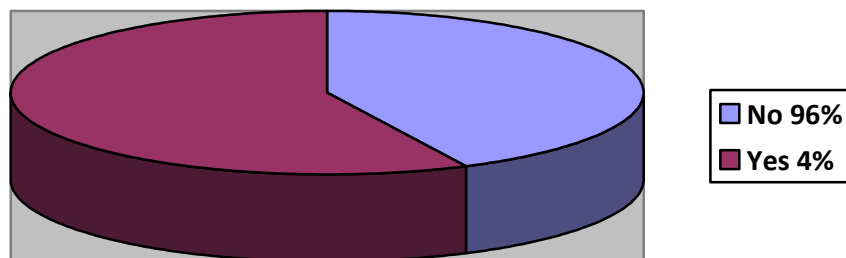
Figure 4.10 PAIA: Manual Accessibility

4.3.11 The purpose of the question was assess if the PAIA can contribute towards promoting transparency and improving the quality of service the Department is rendering to communities. This question sought to find out if PAIA was well implemented and if it was going to assist in improving the quality of service the Department was rendering to communities.
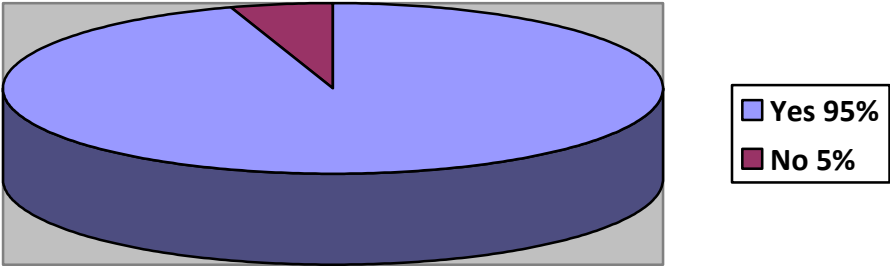
Ninety-five percent of the respondents indicated that indeed if PAIA implementation process was adhered to according to the research, then services would improve through transparency and interaction with communities. The veil of secrecy would be prevented at all costs. The respondents further said that through PAIA the Department would be in a position to create awareness of the service it is rendering, inform people about the importance of sport, arts and culture, promote social cohesion and nation building. The 5% that said "No", their reasoning was that the Department needed more than PAIA to improve service delivery, interaction and transparency. They further said that the Department needed staff members who adhered to all legislative frameworks such Public Finance Management Act (PFMA) and the Constitution, who were learned, and were fair and honest. In this manner they would assist in improving service delivery and promoting transparency and information sharing.

An efficient administration requires transparency. This transparency is a necessity in order for government to maintain its integrity. A legitimate government promotes open access to information and a free flow of information (Rassano, 2012:4). Information is just not a necessity for people; it is an essential part of good corporate and state governance. Weak public and private institutions depend on secrecy to survive. Secrecy allows inefficiency, wastefulness and corruption to thrive. Access to information allows people to scrutinize actions of their government and it is the basis for informed debate of those actions (Calland, 2002:15).

Access to information promotes and enhances state openness, and transparency which have become defining features of democracies around the world. Part of the process of openness and transparency is accountability. A transparent government becomes more accountable and less corrupt. A state is obliged to account to the public on governance matters through

information empowerment process. A state that is open, transparent and accountable relies on the public's freedom to access information. Ngouo (1997:490) points out that developing a culture of transparency in government guards against antisocial and avaricious activities, while Guan (1997:167-170) maintains that transparency helps to keep the government clean, effective and free from nepotism and other means of corrupt activities. Kaul (1996:149) emphasizes that there is a need for accurate, unbiased free flow of information as free flow of information strengthens government's climate of openness, transparency and accountability.

According to the Public Service Commission Report (2007:10), citizens require appropriate information in order to hold government accountable and play an active role in the process of governance. Transparency assists in fighting corruption in government by making information available. Transparency enables citizens to monitor the different stages of the public-policies implementation process, identify corruption and discourage public officers from engaging in corrupt acts. Transparency, openness, and accountability around access to information hold a significant benefit for both the government and its citizens. Transparency, openness, and accountability are considered a precondition for preventing and revealing corruption and maladministration.


Figure 4.11: PAIA's Contribution Towards Transparency

4.3.12 Have you ever identified any system in place to ensure effective PAIA implementation process in the Department of Sport, Arts and Culture? Through this question the researcher wanted to understand if indeed the Department of Sport, Arts and Culture has any systems in place to ensure the effective implementation of PAIA. The graph below shows how the participants responded.
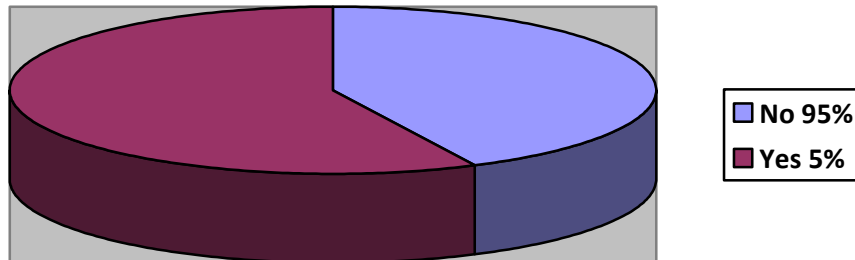
Figure 4.12: Systems in Place for PAIA Implementation

The above graph indicates that only 5% of the respondents agree to the identified system in place to ensure the effective implementation of PAIA within the Department of Sport, Arts and Culture. They further highlighted that the system which was in place was a unit belonging to the human resources section which has since been absorbed to become Record Management Unit. Ninety-five percent said there was nothing in place that ensures the effective implementation of PAIA. The 95% percent further highlighted that the Department was not taking PAIA matters seriously as there was no forum or platform for the discussion of PAIA. There were no manuals available and there were no workshops conducted in relation to PAIA; and, the Department was supposed to have a fully functional structure that appeared on the organogram. Such a structure is currently not available as there is no movement regarding PAIA as compared to other support programmes of various directorates.

4.3.13 Is there any formal organisational structure (Personnel such as deputy information officer as part of SAHRC requirements for all public service entities) dedicated to ensure the proper implementation of PAIA, report to SAHRC and the monitoring and evaluation of PAIA? The researcher was seeking to assess if there was any formal organizational structure (Personnel such as deputy information officer as part of SAHRC requirements for all public service entities) dedicated to ensure the proper implementation of PAIA, report to SAHRC and the monitoring and evaluation of PAIA. Below is the illustration of the outcome of the participants' response.
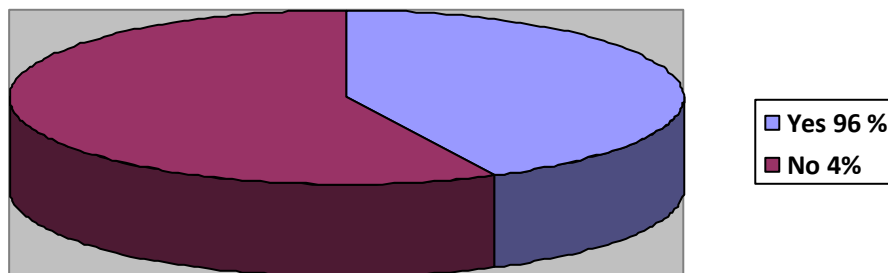
**Figure 4.13: Organisational Structure available**

Ninety-six percent of the respondents indicated that the Department of Sport, Arts and Culture did not have the any formal organisational structure as required by South the African Human Rights Commission. The Commission requires They further indicated that they had never heard of the monitoring and evaluation of PAIA as this is not part of their daily duties and they had never heard that there is a need to report on PAIA. Four percent of the respondents said there is a structure though not very effective. They indicated that the Department had a unit that is not entirely dedicated to PAIA, but to Archives Service Management Unit. The issues related to PAIA were not entirely their responsibility but it was part of their duty to coordinate PAIA implementation process within the Department. Those who respondent in the affirmative said

that there was a structure, pointing out that the Department has a Deputy Information Officer who reports directly to the Head of Department who also serves a link between the Department, the other sister departments and SAHRC.

Arko-Cobbah (2007:3) states that there are both social and infrastructural preconditions that are necessary for the successful implementation of free access to information for a country's people. These conditions include:

(1) Political stability, rulers of a stable state enjoy sufficient confidence that they are not averse to openness nor citizen involvement in governmental decision-making;

(2) Independent judiciary that is independent, impartial and informed is expected to ensure the realization of a just honest open and accountable government and re more likely to make a ruling that may be contrary to the interests of the government;

(3) Communication infrastructure does not only refer to physical needs to be established and maintained by the state for both the travel and telecommunications set-up, but also personal development that takes the form of information literacy; and

(4) Library and information services that encourage free access to information through their open-for-all policy and the organization of official documentation in a manner that enhances easy access to them.

4.3.14 Do you think you can benefit from services PAIA is offering? The researcher needed to find out if there were any benefits that employees could reap from PAIA's objectives and goals and could the Act improve or change the working conditions if PAIA was well implemented?
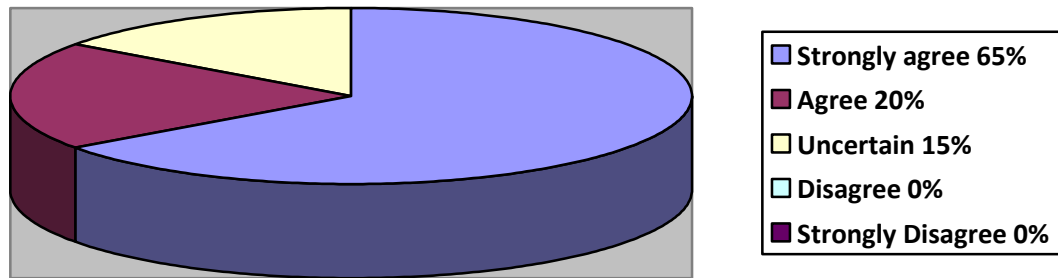
Figure 4.14: PAIA services benefits

The above graph indicates that though the staff members were not aware of PAIA they strongly agreed that if the Act was well implemented then they would benefit as the Act would promote transparency. Sixty five percent of the respondents further explained that where there was transparency there were no secrets and corruption. The PAIA could also make sure that the service the Department is rendering to communities is of high quality through promotion of transparency and Batho Pele Principles. The PAIA would open the channels of communication between stakeholders and the Department and strengthen working relationship and further assist in ensuring the services rendered are of quality. Twenty percent of the respondents agreed that PAIA can assist in requesting information regarding job interviews and other information that would benefit their working conditions. Fifteen percent of the respondents are not certain whether the Act would bring in any benefits for their working conditions or improve service delivery. The category of disagree is 0% and the same goes to the strongly disagree category. The results are a clear indication that there is lack of communication regarding PAIA in the Limpopo Department of Sport, Arts and Culture as is one of the strategic objectives of the department.

4.3.15 Can your working conditions improve and change if PAIA is well implemented in terms of accessing information? The researcher wanted to assess the level of consultation, that is, any stakeholder's consultation on a regular basis on PAIA, any sessions, meetings or workshops.

Strongly agree 80%
Agree 15%
Uncertain 5%
Disagree 0%
Strongly Disagree 0%
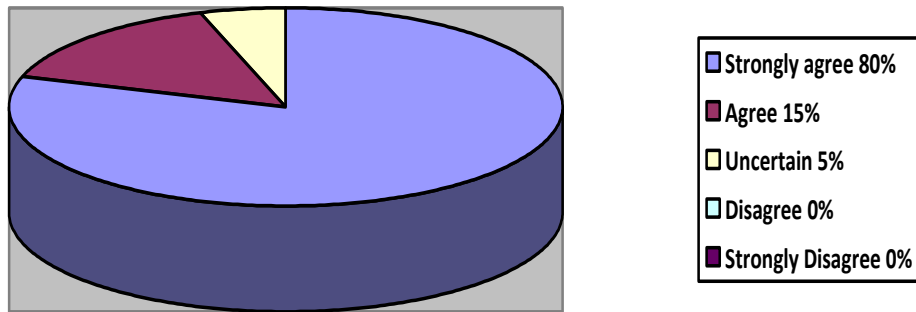
Figure 4.15: PAIA improving working condition

The graph above illustrates that the level of consultation is very low as 80% of the respondents indicated that there is no consultation at all regarding PAIA. One can deduce from their responses that the Department of sport, arts and Culture is not taking issues related to PAIA in a serious manner. The 15% also support the 80% that there is no consultation while 5% of the respondents stated that it was not sure. It is uncertain about consultation as they only heard about it through the questionnaire. They further said that usually they were consulted on any other matter when there is a crisis but never with PAIA.

The Right of Access to Information (RTI) is a requirement for every exercise of democracy that is based on the consent of the citizens who are well informed about their government's activities. RTI is also an important tool to counter abuses, mismanagement, and corruption, and it is also utiliszed to enforce essential economic and social rights as encapsulated in section 32 of the Constitution of the Republic of South Africa, 1996 (Banisar, 2011:5). To ensure that the

government complies with the Constitutional right of citizens to have access to information, there was a need for it to have a policy in that regard, thus the birth of the Promotion of Access to Information Act 2 of 2000, which came into effect in March 2001. The responsibility for the implementation of PAIA was placed on the Department of Public Service and Administration (Public Service Commission Report, 1997:2).

The respondents made various suggestions regarding PAIA implementation with the Limpopo Department of Sport, Arts and Culture. They made suggestions that only if employees can go through workshop and briefing sessions, be kept abreast of the developments of the Act and further integrate the Act at the strategic planning of the department with the aim of cascading an to the of the operational plan then monthly and weekly activities. They further indicated that if the ACT can be taken into consideration, service delivery would improve as public participation, consultation and feedback mechanism would equally improve. At the same time the Act would oblige the Department to adhere to the relevant prescripts, thus promoting transparency and minimizing unfair practices that lead to corruption.

4.4 FINDINGS FROM THE QUESTIONNAIRE TO MANAGERS AND ANALYSIS OF RESULTS

Section 1 of the questionnaire is based on Biographical details

4.4.1 The respondents were asked about gender with the aim of analysing the understanding of PAIA according to gender and gender representation within the Department of Sport, Arts and Culture in Limpopo.
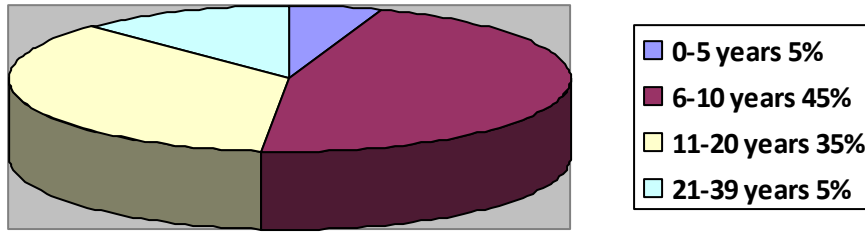
**Figure 4.17: Years of service in the Department**
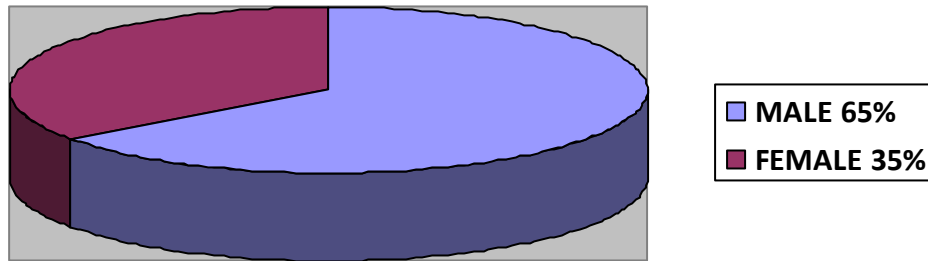
Figure 4.16: Gender

The results to the question indicate that the Department of Sport Arts and Culture's senior management is dominated by males as 65% the participants are males, whilst only 35% are females. This is a contrast of the outcome of the same question to junior officials as females

dominate. The imbalance between males and females in responding to the questionnaire will not have an influence and impact on the results of the study, however. The main objective of the question was to have an idea on the level of interest related to PAIA based on gender. According to the workforce population distribution based on the Quarterly Labour Force Survey (QLFS) published by Statistics South Africa on the Economically Active Population (EAP) Africans including both males and females constitute 75.2 % while coloured is 10. 6%, Indians constituting 3.1 % and Whites constituting 10.8%. In Limpopo Province, males constitutes 50.3% as compared to females at 45.1%.

4.4.2 The question on the exact managerial position in the organizational structure was asked.
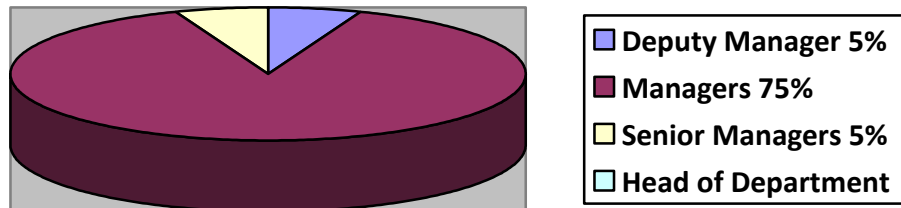

Figure 4.16: Occupation

The outcomes of the question on position on the organizational structure indicate that managers participated in high numbers and dominate the Senior Management Committee. The managers are operational and actively participated as their questionnaires were returned to the researcher before the deadline. The participation of the management team in the study in crucial as this can impact positively or negatively on the research study. Managers serve as supervisors who are responsible to ensure that legislative frameworks such as PAIA are implemented and to the prescripts.

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4.4.3 The years of service in the Department question was asked. The question will assist in determining the seriousness of the Department in implementing PAIA since its adoption.
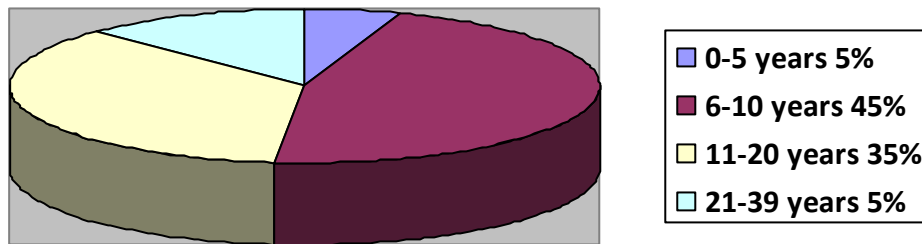

Figure 4.17: Years of service in the Department

According to the graph above, the Department has managers who have served for more than ten years. As indicated in (Graph 4.16), high rate of managers have worked for the Department for more than 10 years. Managers who have worked for 5 years and less constitute only 5 %; 6-10 years constitute 45%, while 11-20 years constitute 35% and 21-29 constitute %. The years of service in the Department can have an impact as the years of experience serves as a barometer towards PAIA knowledge since the adoption and implementation process, furthermore, the outcome of the results of the research study as they will assist in determining the implementation process of PAIA and assess the knowledge and understanding of PAIA.

SECTION 2

The section seeks to provide management's view, understanding and knowledge on Promotion of Access to Information Act in the Department of Sport, Arts and Culture. The respondents furnished the questionnaire with the views on the importance and impact PAIA has in promoting transparency and improving the quality of service the Department renders to communities.

4.4.4 Management's understanding and the rationale behind the establishment of PAIA in line with the functions of the managers.
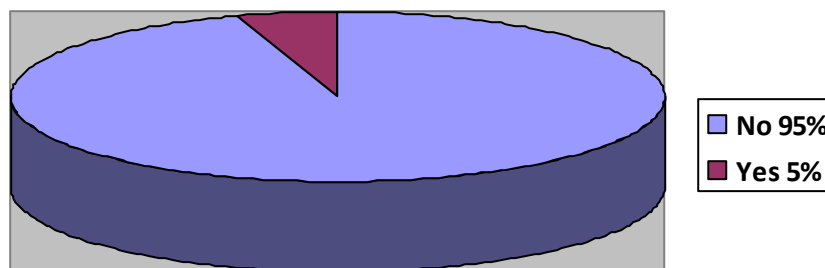

Figure 4.18 PAIA understanding

Ninety-five percent of the respondents according to the graph above do not understand PAIA as they were never informed about it. Meanwhile, 5% agree that they knew about PAIA as a tool to promote information sharing and public participation in government activities, creating awareness of the services the Department is rendering, assisting communities and employees in exercising their rights and further improving and strengthening public participation and

promoting transparency. Management job descriptions highlight that one of their duties is to ensure information dissemination.

According to Public Commission Report (2007:28- 30), the study conducted established that the implementation of the PAIA is not being adequately prioritized and addressed by government departments. Departments are failing to link PAIA to the improved service delivery; failing to inform citizens of the rights to information, failing to make PAIA manuals available to citizens and strengthening human resource dedicated to handle PAIA related requests.

4.4. The question was about finding out if the Promotion of Access to Information Act assists in enhancing the right to request information, which ultimately improves service delivery and the working conditions.
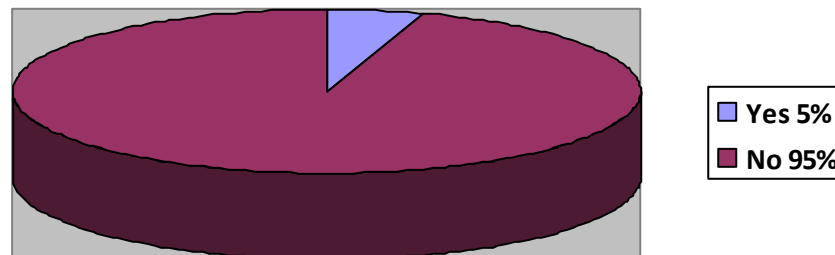

Figure 4. 19: PAIA promoting right to request information

The above graph indicates that 5% of the respondents understand PAIA as an Act that promotes the right to request information and assists in enhancing service delivery and the working conditions of the employees. They also explained that PAIA fosters a culture of transparency and accountability within the Department by giving effect to the right to information that is required for exercising and protection of individual or organizational rights. Meanwhile, 95% of the respondents stated that they did not have much understanding and knowledge about PAIA,

but further indicated that government has many Acts, and that although they are implemented they do not have an impact on working conditions and hardly manage to improve service delivery. As for service delivery, the respondents indicated that service delivery could only be improved if relevant individuals who were committed to deliver quality service and plan ahead.

SAHRC Annual Report (2011/12:3-4), indicates that PAIA request are received by department and institution but the response remains very low, there is a dismal levels of compliance in terms in PAIA implementation. The use of PAIA is extremely low since it started operating and it is clear that few South African are using the legislation while mostly are not aware of its existence. The other challenge is government entities do not have ready access to information when requests are made due to poor filing system and records management.

4.4.6 Have you ever discussed the importance of PAIA in your Unit meetings? The question was about the discussion of the importance of PAIA in Unit meetings.
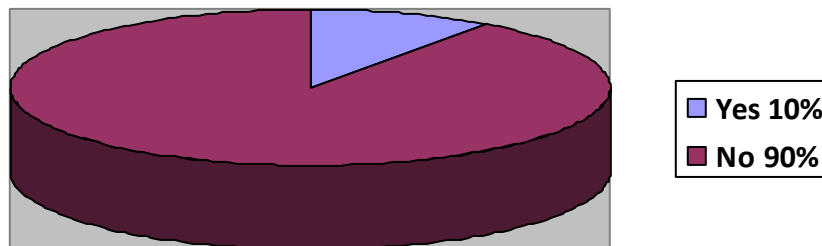

Figure 4.18: PAIA Discussion during Unit meeting

The above graph indicates that 90% of the respondents show that PAIA is not integrated with the strategic goals of their respective Units. The respondents stated that if it was integrated they were not aware of such a decision as PAIA was never discussed with management by the Head of the Department and Political Head. The respondents stated that their knowledge about the Act was very minimal to be able to elaborate further to subordinates and other stakeholders. And, 10% of the respondents indicated that indeed PAIA was part of their external strategic goals as some of their goals include: awareness campaign, community outreach and information sharing sessions. They further said that although the Act was not fully implemented and not taken seriously by the Department, they were expected to give progress report on a quarterly basis regarding community interaction with the Department.

Sipondo (2005:8) states that there have been problems in the implementation of the PAIA and its use has been limited, as PAIA has not been properly or consistently implemented, not because is new but because of low levels of awareness and information of the requirements set out in the act. The objectives of PAIA have not yet been fully realized and perfected, primarily because the public has not been properly educated and made aware of the existence of the PAIA; consequently, ordinary people hardly make use of the provisions of the act. The challenges do not only relate to lack of education and awareness on the part of ordinary citizenry and public officials, but also the lack of institutional arrangements to dispatch information when it is requested. Enforcement and resource limitations highlight the key challenge to successful realization of the implementation of access to information process.

4.4.7 Is PAIA integrated into your strategic plan goals? The question was about if there was a slot given in the executive and branch meetings to discuss PAIA and its benefits to the institution.
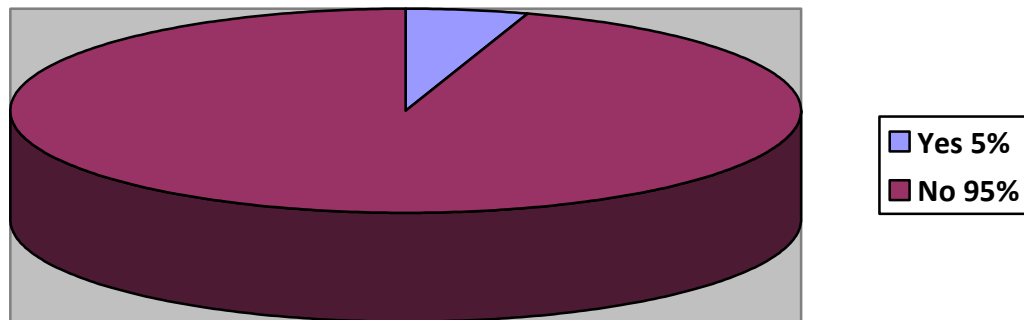

Figure 4.19:   PAIA integrated with strategic plan goals

According to the graph above, 95% of the respondents indicate that they did not discuss PAIA related matters during the branch and executive management meetings, hence there is little knowledge regarding the Act. Meanwhile, 5% of respondents showed that PAIA related matters were discussed during branch meetings and not during executive management meetings. Even though it was discussed, it was just as a meeting item not as a subject matter such as checking the progress report in terms of PAIA implementation. The branch has the responsibility of translating PAIA and other documents for government, hence the discussion. The meetings look at the translation part of it not the implementation part.

Kisson (2005:6) indicates that awareness remains a key barrier impacting both implementers and users also the lack of government commitment and its lack of recognition of the importance of PAIA remains a huge challenge. The other factor contributing impacting on low

levels of implementation is public bodies which do not budget for PAIA delivery; have a weak or nonexistent internal PAIA policies and they do not integrate information sharing into their activities and do not plan for PAIA delivery. There are no personnel dedicated to administering PAIA.

4.4.8 The question was intended to find out if since appointment in the Department, the respondent has ever discussed PAIA related issues and its importance.
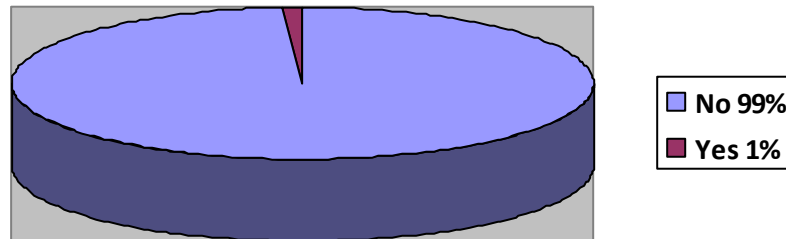
Figure 4.20: PAIA discussion during executive meetings

The graph above shows that it is only 1% of the respondents who have attended PAIA related workshop. The elaboration of the answer indicates that the workshop they attended was on how to administer PAIA to ensure that the Department was implementing and not on how to implement PAIA. The respondents further showed that since their job description was PAIA related, they were obliged to attend the workshop and again the workshop was fruitful and entirely for their benefits only not for sharing with the colleagues.

4.4.9 Respondents' opinion on whether PAIA could assist in promoting transparency and improving the quality of service the Department was rendering to communities.
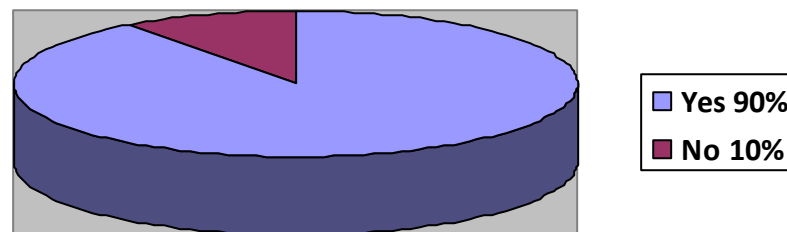
**Figure 4.20 PAIA assisting in promoting transparency**

Ninety percent of the respondents agreed that if PAIA could be well managed and implemented, it could assist in promoting transparency and improving the quality of service the Department was rendering to communities. The respondents further stated that the Act promoted the right to request information by both staff and communities; also fostered a culture of transparency and accountability, transparent governance and promoted quality service and accelerated provision of services. On the other hand, 10% of respondents indicated that although they did not know much about PAIA, the Act can never have an impact or effect on enhancing service delivery as it mainly deals with information sharing; therefore information sharing cannot bring about service delivery.

Access to information promotes and enhances state openness, and transparency which have become defining features of democracies around the world. Part of the process of openness and transparency is accountability. A transparent government becomes more accountable and less corrupt. A state is obliged to account to the public on governance matters through

information empowerment process. A state that is open, transparent and accountable relies on the public's freedom to access information. Ngouo (1997:490) points out that developing a culture of transparency in government guards against antisocial and avaricious activities, while Guan (1997:167-170) maintains that transparency helps to keep the government clean, effective and free from nepotism and other means of corrupt activities. Kaul (1996:149) emphasizes that there is a need for accurate, unbiased free flow of information as free flow of information strengthens government's climate of openness, transparency and accountability.

According to the Public Service Commission Report (2007:10), citizens require appropriate information in order to hold government accountable and play an active role in the process of governance. Transparency assists in fighting corruption in government by making information available. Transparency enables citizens to monitor the different stages of the public-policies implementation process, identify corruption and discourage public officers from engaging in corrupt acts. Transparency, openness, and accountability around access to information hold a significant benefit for both the government and its citizens. Transparency, openness, and accountability are considered a precondition for preventing and revealing corruption and maladministration.

4.4.10 Accessibility of manuals/leaflets and posters to all staff, communities and other stakeholders, and translation of these into various local languages.
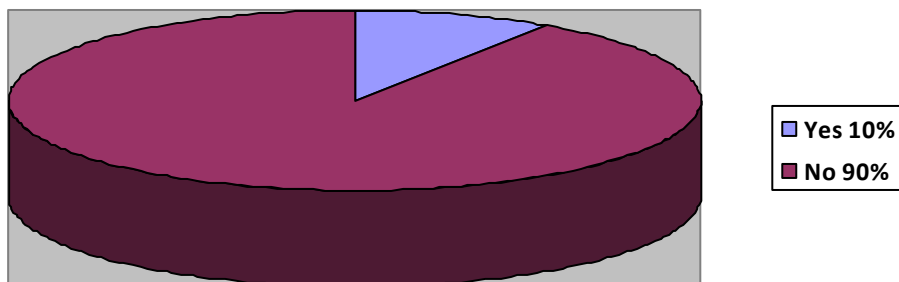
Figure 4.21: PAIA Manual and leaflets

According to the graph above, 10% says that the manuals are accessible and available in various indigenous languages dominating in Limpopo. The 90% of managers indicated that since it was their responsibility to translate government documents and therefore their unit understood and knew that the manuals were available and were translated into various local languages. Ninety percent indicated that the manual, leaflets and flyers on PAIA were available but at a minimal rate and were not accessible to everyone as the distribution strategy was not efficient. In terms of translation, the respondents indicated that the few available documents were in English.

4.4.11 Determining if there were systems in place to ensure the effective PAIA implementation process in the Department of Sport, Arts and Culture.
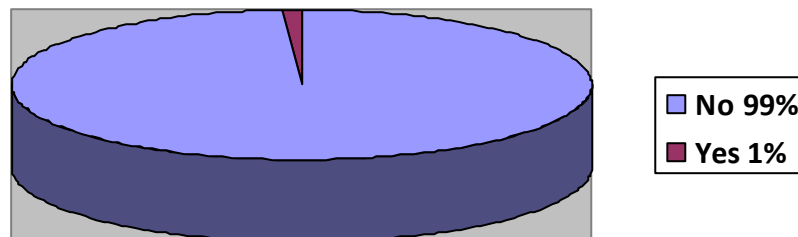
Figure 4.22: System in place to ensure PAIA implementation

The graph indicates that 99% of the participants responded that there was no system in place to ensure the effective PAIA implementation process in the Department of Sport, Arts and Culture. The respondents showed that there was no budget in place to ensure that the implementation process of PAIA ran smoothly. Meanwhile, 1% indicated that there were informative workshops by different branches conducted regularly though at a minimal rate.

According to Public Commission Report (2007:28- 30), the study conducted established that the implementation of the PAIA is not being adequately prioritized and addressed by government departments. Departments are failing to link PAIA to the improved service delivery; failing to inform citizens of the rights to information, failing to make PAIA manuals available to citizens and strengthening human resource dedicated to handle PAIA related requests.

4.4.11 The question seeks to understand if there is any formal Organisational Structure or personnel such as deputy information officer as part of SAHRC requirements for all public service entities dedicated to ensure proper implementation of PAIA, report to SAHRC and the monitoring and evaluation of PAIA.
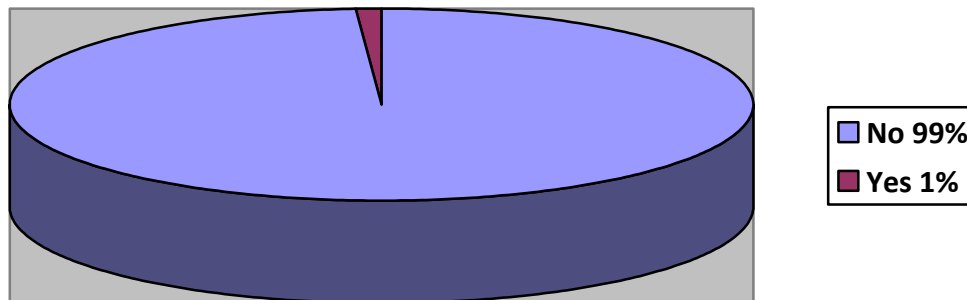
Figure 4.23: Organisational Structure availability

According to the illustration above, 99% of the Managers are of the view that the Department of Sport, Arts and Culture has no structure or internal protocols for dealing with requests as per the requirements of section 17 of PAIA to administer requests for information in terms of PAIA and to respond to mandatory compliance requirements stipulated in Section 14,15 and 32 of PAIA. Meanwhile, there is 1% that indicates that there is a structure as there is Information Officer who serves as the head of department and a deputy Information officer who handles requests and the general administration of PAIA.

According to PAIA Annual Report (2011/12: 10), even though in South Africa, the Promotion of Access to Information was passed more that thirteen years ago but citizens are still unable to access records or information from government. Though there is an indication that requests for information from the public has increased, government readiness to meet the demand remain consistently very low. There are also dismal levels of compliance with regard to the roadmap for government departments on how to implement PAIA.

4.4.12 Have you identified any system in place to ensure effective PAIA implementation process in the Department of Sport, Arts and Culture? The question was addressing if the Departmental strategy incorporated PAIA implementation process.
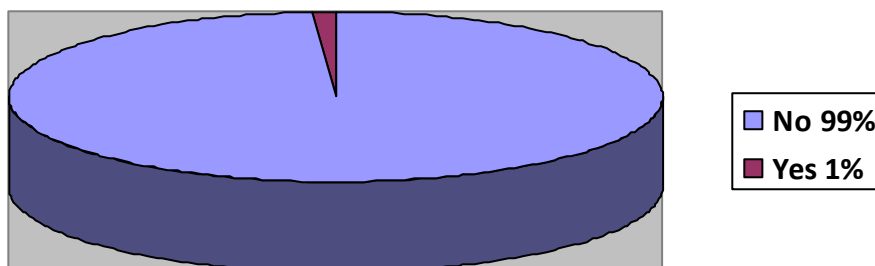
Figure 4.24: Departmental strategy incorporated with PAIA

The graph clearly indicates that the departmental strategy is not incorporated with the PAIA as per mandatory requests in terms of the objectives of the Act. Ninety-nine percent of the respondents were of the view that the Department's strategy and PAIA were in two separate corners. Each category is being planned in silos and there is no integration. On the other hand, 1% of the respondents are of the view that there is departmental strategy which is

incorporated with PAIA through programmes such as Sport, MEC Outreach, Language Promotion, Library Services and Arts and Culture whereby the leadership of the Department gets the opportunity to interact with communities, thus promoting public participation, social cohesion and nation building.

4.4.13 Have you identified any system in place to ensure effective PAIA implementation process in the Department of Sport, Arts and Culture? The question was about assessing if there were any evaluation tools that assisted in monitoring and controlling the implementation of PAIA in the Department of Sport, Arts and Culture.
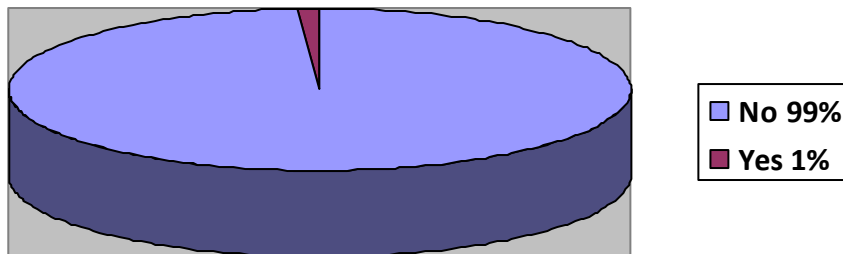
Graph 4.25: Evaluation tool to monitor and control PAIA implementation

According to graph above ninety-nine percent of the respondents were of the view that, if there was no implementation of the Act, then there would be no monitoring. Therefore, there is no monitoring tool to ensure the proper implementation of PAIA. The 1% of respondents indicated that there were at times questionnaires that circulated to both staff and communities regarding the effectiveness of PAIA implementation. The 1% further indicated that there were

at times dialogues on different topics related to PAIA that were conducted by the unit that directly deals with PAIA headed by the deputy information officer as per PAIA request.

PAIA has positive elements but these positive attributes are overshadowed by the teething problems of implementation. Where people have tried to access information they have faced delays and found it to be expensive. Government and business have often found delaying tactics for meeting request for access to information. The major weaknesses in South Africa's access to information legislation according to (McKinley, 2004: 12) include;

(1)   The lack of a cheap, accessible, quick and effective mechanism for resolving disputes under the Act;

(2)   Record keeping and voluntary disclosure of information, time limits and relief fees

(3)   Scope of exemption from PAIA and circumstances under which public interest dictaes that request should be refused

Freedom of information laws (FoI) is recognised worldwide and in the African continent, but there is an indication that in most countries especially in the developing countries the implementation process is faced with challenges which results into the implementation process not being effective as it should. FoI play a crucial role in promoting democracy and transparency, public participation; fight corruption and improve service delivery. It can be utilized to achieve of socio- economic justice.

4.5 Discussion of the results

The Promotion of Access to Information Act (PAIA) was passed by Parliament in February 2000 and came into force in March 2001. PAIA gives effect to the right of access to information and intended to foster a culture of transparency and accountability in public and private bodies. The Act further gives effect to the right of access to information and actively promotes society in which the people of South Africa have effective access to information to enable them to fully exercise and protect all of their rights.

4.5.1 PAIA implementation obligations

In terms of the Constitution, the South African Human Rights Commission is obliged to promote, protect and monitor the attainment of the Right Access to Information and the implementation of PAIA; it also has a monitoring mandate. The monitoring aspect obliges the Commission to monitor PAIA compliance by public institutions through compliance audits. The Department of Sport, Arts and Culture is one of the public institutions that is obliged to adhere to the Commission's mandate and is monitored.

4.5.2 PAIA compliance

PAIA places a number of compliance and reporting obligations on public institutions. These obligations are listed under Section 14, 15 and 23 of PAIA. Section 14 of PAIA requires public bodies to compile and publish a manual as an important tool that facilitates sharing of information by public bodies. PAIA manual is usually referred to as a roadmap to an institution that is obliged to implement the Act. Section 14 requires the manuals to describe the request procedure, the fees applicable and remedies available to requesters whose request for access has been declined.

According to the results of the present study, it is clear that the Department of Sport, Arts and Culture in Limpopo do no fully comply with Section 14 regarding distribution of manuals that have to be of high quality and translated into the various indigenous languages of Limpopo Province. The respondents indicated that although manuals were available, they nevertheless were of questionable quality and further, they were not available at the maximum expected rate as well as not visible at entry points of the Department's head office and the five district offices.

4.5.3 Distribution of manuals

The distribution of the manuals should form part of the awareness campaign, but since the manuals are not easily accessible, that affects the levels of understanding of PAIA. According to the results from both officials and management, the levels of PAIA awareness are very low amongst stakeholders as the results show that the majority of people do not have the knowledge and the understanding of the importance of PAIA. Furthermore, it was highlighted that the relevancy of PAIA to their daily working condition is not fully understood.

4.5.4 Commitment towards PAIA implementation

The other areas of concern that respondents raised when answering questionnaires is the lack of commitment in ensuring the implementation PAIA by senior management, lack of capacity to administer PAIA training; the absence of system to receive and process requests and lack of adequate human and financial resources. PAIA activities are not budgeted for as they do not form part of the strategic goals and objectives of the Department. PAIA is not incorporated in the Annual Performance Plans of the Department since it came into force in 2001.

4.5.5 PAIA integrated with Departmental Strategies

According to PAIA, the Department of Sport, Arts and Culture is supposed to put in place internal mechanisms including adequate allocation of both human and financial resources for PAIA implementation. The Department is further expected to make a commitment towards enabling staff to promote and empower communities to understand their right to request information from the Department. The outcome of the study indicates that the Department does not have human resource or structure in place to ensure the implementation of PAIA. The outcome of the research study indicates that the Department has no internal mechanism for implementation of PAIA including guidelines, policy documents or plan for documenting

requests, processing requests on time and assisting requestors and voluntary publishing of records.

4.6. Conclusion

The chapter analysed and interpreted the findings derived from the data collected using the research methodologies discussed in Chapter Three. The chapter further provided possible solutions to the problem as highlighted in Chapter One which is seeking to understand whether the Department of Sport Arts and Culture in Limpopo Province is implementing Promotion of Access to Information (PAIA).

CHAPTER 5   RECOMMENDATIONS AND CONCLUSIONS

5.1. INTRODUCTION

The previous chapter discussed the analysis of data and findings of data obtained through questionnaires and interviews. This final chapter of the research study draws together the main conclusion from the topic under discussion. The chapter focuses on the overall conclusions, findings summary conclusions. The conclusive remarks are based on the general findings of the study. The chapter will further make general recommendations on how to improve the implementation process based on the outcome of the gathered data.

5.2. SUMMARY OF CHAPTERS

The research study consists of five chapters. Chapter one provided the background to the study as the chapter outlined the orientation of the study and introduced the reader to the study. The chapter further highlighted the aims and objectives, the significance of the study and the problem statement. Moreover, the chapter provided key concepts to be utilised in the study and stipulated the research methodology used. Finally, the chapter outlined ethical considerations.

In chapter two, the emphasis was on literature review. The chapter gave an overview on literature and further evaluated the literature that deemed relevant to the research study. The literature includes definition of PAIA, the state of PAIA implementation in Africa, South Africa, Limpopo Province and the Department of Sport, Arts and Culture and PAIA implementation challenges based on opinions and views by various researchers and authors whose work is significant and relevant to the present study.

Chapter three discussed the research methodologies design used in the study including strategies, data collection and analysis methods. The chapter elaborates on research instruments utilised in the pursuit of the research objectives and the quest for solution of the problem of the research study. The chapter further addressed the research methodology which

included both qualitative and quantitative approaches that the researcher employed in gathering data. The chapter also discussed research design, population and sampling procedure, data collection methods, research constrains and ethical considerations.

Chapter Four discussed the analysis and interpretation of data collected through qualitative and quantitative methodologies as has been indicated. The analysis and interpretation in this chapter is chronologically arranged according to the sequence of questions as listed in the distributed questionnaire. The interviews conducted were also based on the questionnaire.

Chapter Five, being the last chapter of the study provided the discussion of the findings from the previous chapter. The chapter also suggested ways in which the Department of Sport, Arts and Culture can improve in terms of PAIA prescripts and ensuring compliance with PAIA. This chapter is aimed at providing solutions to the problem statement as highlighted in chapter one which asks whether the Department of Sport, Arts and Culture in Limpopo Province is in compliance with PAIA. The Conclusion and recommendations follow. The following section summarises the findings of the research results.

5.3. SUMMARY OF FINDINGS

The findings of the study are selectively discussed in line with their importance and significance. The research found that the majority of the participants never experienced PAIA implementation process as the results indicate that most non managers and managers haven't yet acquired sufficient knowledge and understanding regarding PAIA and the implementation process. The study was aimed at determining the listed objectives;

- **To determine the effective implementation of PAIA in the Department Sport, Arts, and Culture**

Although PAIA plays a significant role in the development of good governance, public participation, communication and transparency that ultimately impact positively on service delivery, thus far, however, the Act has not contributed to the improvement of the quality of services the Department is rendering to communities and to its staff members. The findings reveal that the level of awareness is low, and this affects the levels of communication,

consultation and transparency. The veil of secrecy still prevails; the majority of people do not have knowledge about their rights to access information, and the request process is not known as well as the type of information that can be requested.

- **To determine whether the systems are adequate in ensuring the effective implementation of the PAIA;**

The outcome of the questionnaire reveals that, the PAIA manual is available in hard copy and electronically on the website both at a minimal rate. However, the majority of the employees are not aware of the availability of such a document manual on the website or in a hard copy format. The few that have accessed the manual indicated that the manual is not of quality and is not user-friendly and equally not easily understandable as it not in a simple manner to explain the procedure to request information and how to access information as departmental stakeholders. Beyond crisis and a need, the Act is not viewed as an aider when executing the daily duties and taking decisions in line with PAIA. PAIA does not form part of executive management, branch and unit meetings as it should. The study also reveals a lack of buy-in from management in terms of PAIA implementation as managers themselves know little or nothing related to PAIA. The Act fosters the culture of transparency and openness, but there is a communication barrier between management, staff and stakeholders in terms of information sharing. Furthermore, management does not ensure that human and financial resources are allocated for proper implementation process. The staff members assisting in administering PAIA are entirely responsible for PAIA as they also deal with archive services. PAIA is just some occasional function that they have to perform. Furthermore, there is no control as there is no one who is obliged to ensure PAIA is administered as their Performance Management System employment contract does not feature PAIA. Therefore, there is no one who can be disciplined and charged based on non-compliance with PAIA activities. According to the results, there is lack of training for the very same operation officials on PAIA; the majority of the staff members who are expected to assist in administering PAIA are not trained as expected. Therefore, the level of understanding amongst those employees is low which ultimately affects the requesters. The staff members are the ones who are supposed to assist in encouraging requesters or

communities to exercise their human right, which is the right to access information, to come forward to request information but it is proving to be difficult as employees themselves do not understand the Act. It they "so called PAIA administrators" had PAIA understanding then they would be able to conduct sessions with stakeholders.

- **To identify challenges in the implementation of PAIA, and to further provide possible solutions.**

The results indicate that the adherence to proper implementation of PAIA will assist in eliminating the culture of secrecy within the Department and promote transparency; open the channels of communications between the department and all stakeholders especially communities and officials; improve service delivery and fulfil the mandate of the Department by ensuring that the public's right to have access to information is realised.

5.3.1. PAIA implementation barriers in South Africa

Since PAIA came into force in 2001, a number of stakeholders have been conducting studies aimed at testing the state of compliance with and implementation of PAIA. Most studies found out that there was a low compliance with PAIA and poor implementation of PAIA was placing the legislation well beyond the reach of the majority or ordinary South Africans. Siphondo (2005:8) states that there have been problems in the implementation of the PAIA and its use has been limited, as PAIA has not been properly or consistently implemented, not because it is new but because of low levels of awareness and information of the requirements set out in the Act. The objectives of PAIA have not yet been fully realised and perfected, primarily because the public has not been properly educated and made aware of the existence of the PAIA; consequently, ordinary people hardly make use of the provisions of the Act. The challenges do not only relate to lack of education and awareness on the part of ordinary citizenry and public officials, but also the lack of institutional arrangements to dispatch information when it is requested. Enforcement and resource limitations highlight the key challenge to successful realisation of the implementation of access to information process.

According to Public Commission Report (2007:28-30), the study conducted established that the implementation of the PAIA is not being adequately prioritised and addressed by government departments. Departments are failing to link PAIA to the improved service delivery; failing to inform citizens of the rights to information, failing to make PAIA manuals available to citizens and strengthening human resource dedicated to handle PAIA related requests.

SAHRC Annual Report (2011/12:3-4) indicates that PAIA requests are received by departments and institutions but the response remains very low. There is a dismal level of compliance in terms in PAIA implementation. The use of PAIA is extremely low since it started operating and it is clear that few South Africans are using the legislation while mostly are not aware of its existence. The other challenge is that government entities do not have ready access to information when requests are made due to poor filing system and records management. Researchers claim that PAIA's implementation failure is caused by a lack of political leadership and guidance in response to the Act; the lack of state resources to ensure effective implementation of the Act and the absence of an accessible independent oversight body and appeals mechanism other than the High Court, and language barriers as mostly English is utilised more than the other 10 official languages (Underwood, 2005: 83).

The major weakness in South Africa's access to information legislation according to McKinley (2004: 12) includes;

(1)   The lack of a cheap, accessible, quick and effective mechanism for resolving disputes under the Act;

(2)   Record keeping and voluntary disclosure of information, time limits and relief fees; and

(3)   Scope of exemption from PAIA and circumstances under which public interest dictates that request should be refused.

Freedom of information laws (FoI) is recognised worldwide and in the African continent, but there is an indication that in most countries, especially in the developing countries the implementation process is faced with challenges, resulting in the implementation process not being effective as it should. FoI plays a crucial role in promoting democracy and transparency

and public participation. It also fights corruption and improves service delivery. It can be utilised to achieve a certain level of socio- economic justice.

According to PAIA Annual Report (2011/12: 10), even though in South Africa the Promotion of Access to Information was passed more that thirteen years ago, its citizens are still unable to access records or information from government. Though there is an indication that requests for information from the public has increased, the government's readiness to meet the demand remains consistently very low. There are also dismal levels of compliance with regard to the roadmap for government departments on how to implement PAIA.

Siphondo (2005:15) indicates that although South Africa has one of the most revered information legislations in the world, information from the public sector is not always made available to the public when needed. This suggests that the implementation of PAIA has been found lacking and sluggish in pace. There are always attempts to subtly prevent the public from accession of information including records ad documents.

5.4. RECCOMMENDATIONS

5.4.1. Training and Workshops

The Department of Sport, Arts and Culture in Limpopo Province has to ensure that the effort to build capacity to give effect to the requirements is strengthened as part of promotion of good governance. The PAIA is essential to the building of a transparent and accountable culture within the Department through the promotion of the right to access to information. The Department should further work on ensuring that stakeholders and communities become aware of the role information plays in the improvement of the quality of lives. There is a need for regular and thorough training of departmental officials about the importance of PAIA and how it impacts on service delivery, transparency and the right to access information. Such training could enhance and improve the attitude of employees and communities towards PAIA implementation.

5.4.2. PAIA's organisational structure

The study indicated that there is no organisational structure that is entirely responsible for PAIA. Therefore, the Department has to ensure that a system should be instituted to deal with PAIA. Furthermore, the department needs to ensure that deputy information officer (DIO) is appointed, as according to the PAIA regulations as stipulated by the South African Human Rights Commission which states that it is mandatory and also a basic compliance element. The appointed DIO should be trained to ensure that he/she is able to deal with requests for information in a manner that is customer-driven and ensures easy and timeous access to information. The establishment of this structure may further assist in managing internal processes such as filing systems and basic administration functions. It is suggested that a system has to be developed which will deal with all aspects of the requests for information process. The structure should include statutory compliance such as the availability of quality manuals, Records Management Policy, internal procedure and guidelines.

5.4.3 PAIA Manuals Availability and Visibility

The Department of Sport, Arts and Culture should make PAIA manuals available to all stakeholders and translated into various indigenous languages, and these have to be updated periodically. The manner in which the manuals are distributed should be revisited. The Department has to ensure that manuals are available at all entry points of the department's building, and should further be all public gatherings. The manuals should be user friendly. The general public and stakeholders should be able to understand its content and it should be designed in a book size that can be carried easily. The Department is mandated by the South African Human Rights Commission to make communities and all stakeholders aware of the importance of PAIA. The distribution of the manual should also form part of awareness campaigns and public gatherings or sessions can be utilised to raise awareness about PAIA.

5.4.4 PAIA has to be incorporated with institutional strategy

The Department has to ensure that PAIA is incorporated within the institutional strategy which has to be cascaded to the Unit level to ultimately be part of the operational plan. Section 32 of PAIA places an obligation on the Department to make annual submissions to the Commission on PAIA requests. The Department should educate the public about the importance of PAIA. Following this, the stakeholder and the public will make requests. And when requests are made, the Department has to ensure that the staff members are trained to be able to handle requests. Therefore, the report to be submitted has to be realistic. It should not only be entertained during the reporting period, but the undertaking should be an ongoing process.

5.4.5 Records Management and Information protocol

The study further recommends that the Department should develop a process and procedure that will be followed when information demand request arises. There is further a need to make the procedures known and be practised. Based on the above mentioned findings and recommendations, below are the conclusions made by researcher following the outcome of the participants' responses.

5.5 CONCLUSIONS

The conclusion of this study is that the level of understanding PAIA and its functions is very low and has not contributed in terms of promoting access to information which ultimately improves service delivery. Therefore, employees including management and non-management need to be empowered with information and knowledge of matter concerning PAIA, which should be passes to all affected stakeholders through training and workshops. Intensive training is crucial to ensure that the implementation process of PAIA is realised.

Furthermore, the study established that compliance in the implementation of PAIA is not prioritised and addressed by the Department of Sport, Arts and Culture in Limpopo. The

compliance level is not satisfactory although there is a little progress such as a limited number of manuals being available in terms of PAIA implementation, but the compliance levels remains low. The study has identified how management dichotomy, the limited financial and human resources, lack of consensus on the department strategy in incorporating PAIA and poor institutional arrangement have impacted negatively on the implementation of PAIA.

The study has further revealed that for the successful implementation of PAIA by the Department of Sport, Arts and Culture, it is essential that management is committed in owning PAIA, creating awareness and instilling the culture information sharing by removing the veil of secrecy.

5.5.1. Further Possible Research Areas

The study was only limited to the Department of Sport, Arts and Culture in Limpopo Province. However, the study has identified the need for further research that will expand upon the existing body of knowledge which will assist in describing how PAIA should be implemented. It is therefore, suggested that the Limpopo Office of the Premier should conduct a study of this calibre in all the provincial departments to enforce and ensure PAIA compliance. This will show the importance of PAIA and will make the general public, staff members and the stakeholders to understand what the Act stands for and its functions.

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