



UNIVERSITY OF
KWAZULU-NATAL

INYUVESI
YAKWAZULU-NATALI

**Preparedness of the public sector for the implementation of the Access to
Information Act (2016) in Kenya.**

Victor Kabata

Submitted in fulfilment of the requirements for the degree of Doctor of
Philosophy (Information Studies) in the School of Social Sciences, College of
Humanities, University of KwaZulu-Natal, Pietermaritzburg, South Africa.

Supervisor:

Dr. Francis Garaba

March, 2019

DECLARATION

I, Victor Kabata declare that

1. The research reported in this thesis, except where otherwise indicated, is my original research.
2. This thesis has not been submitted for any degree or examination at any other university.
3. This thesis does not contain other persons' data, pictures, graphs or other information, unless specifically acknowledged as being sourced from other persons.
4. This thesis does not contain other persons' writing, unless specifically acknowledged as being sourced from other researchers. Where other written sources have been quoted, then:
 - a. Their words have been re-written but the general information attributed to them has been referenced
 - b. Where their exact words have been used, then their writing has been placed in italics and inside quotation marks, and referenced.
5. This thesis does not contain texts, graphics or tables copied and pasted from the internet, unless specifically acknowledged, and the source being detailed in the thesis and in the References sections.

Victor Kabata _____

Date.....

Dr. Francis Garaba _____

Date:

Supervisor

ABSTRACT

Access to public information impacts on all spheres of human development. That is, economic, political, social, cultural among others. Access to information laws seek to facilitate citizen access to public information. This is premised on the understanding that public information is collected and collated using public resources. In essence, public information belongs to citizens with the government only playing a custodial role. As such, enactment and effective implementation of ATI laws enables citizens to participate in public policy formulation, decision-making and delivery of public services thus fostering good governance.

This study sought to investigate the capacity of public bodies in Kenya to implement the Access to Information (ATI) Act 2016 with a view to providing an implementation roadmap. The study sought to address the following research questions: What is the extent of leadership and political will for institutionalization and implementation of the ATI regime in Kenya? What is the level of awareness of duty bearers of their ATI responsibilities as stipulated in the Act? What systems, processes and structures are in place in public bodies for the implementation of the ATI Act 2016? What is the current records management regime and its impact on the implementation of the ATI Act and What recommendations for improvement can be made from the areas of strengths or weaknesses identified?

A complement of theoretical models and concept underpinned the study thus facilitating the understanding of the multifaceted phenomenon of access to information. These were the United Kingdom (UK), Department of Constitutional Affairs (DCA), Model Action Plan (MAP) 2003; the Carter Centre's, Access to Information (ATI), Implementation Assessment Tool (IAT); the concept of 'Meaningful engagement' and the records continuum model. Literature was reviewed based on the themes generated from the research questions, the supporting models and broader areas of the study. The study adopted a pragmatic paradigm using a mixed methods approach that had a bias towards a quantitative dominant, complemented by a qualitative follow up and triangulation during data collection. Survey research design was used to collect data using questionnaires, semi-structured interviews, observation checklists and document review. Participants in this study included Public Communication Officers; Records managers; Registry clerks; the Ombudsman; Director of Public Communication; Director of Administration in ministries/department and the Director National Archives.

A census approach was adopted with all the 22 ministries that make up the public sector in Kenya being surveyed. Reliability and validity of the instruments was determined through triangulation, peer debriefing, member checking and Cronbach alpha. Quantitative data was coded and analysed through Statistical Package for Social Sciences (SPSS) and presented in form of tables, graphs and figures where applicable. On the other hand, qualitative data was analysed thematically and presented through narrative description.

The findings of the study revealed that Kenya's leadership had taken certain actions that demonstrated preparedness and willingness to implement the ATI Act 2016. However, more needs to be done to spearhead the ATI agenda. In particular, the crafting of a legislative framework that supports openness; committing funds to actualize ATI programmes; formulating an ATI policy framework and deployment of trained personnel to handle ATI requests. Further, the study established that government ministries had only undertaken short-term preparations to create awareness among public officers on their ATI responsibilities as stipulated in the Act. However, long-term measures that would entrench a culture of openness among public officers were yet to be undertaken. These include: formulation of an ATI training framework; prioritizing ATI capacity building across the public service and rallying senior officers to spearhead the openness agenda. In relation to the systems, processes and structures in place for ATI implementation, the study revealed that government ministries had put in place informal mechanisms to facilitate handling of ATI requests. In particular, although the Ombudsman had issued instructions to public entities on handling of ATI requests, these instructions were not anchored on an elaborate legal framework thus prone to litigation. Lastly, the study revealed that the existing records management regime largely facilitated the implementation of the ATI Act 2016. However, the study noted that more needed to be done to harmonize the ATI legislation and the Public Archives Act; provide adequate and appropriate records storage space; develop systems and standards for e-records management and build capacity for e-records management.

The study therefore concluded that government ministries in Kenya had only undertaken short-term measures towards implementation of the ATI Act 2016. In line with its purpose, the study proposed a raft of long-term measures that would ensure effective implementation of the ATI Act 2016.

ACKNOWLEDGEMENT

First, I wish to thank God for his unwavering care and blessing of a healthy life before, during and after my PhD studies.

Secondly, am greatly indebted to my supervisor Dr. Francis Garaba for the invaluable insight, support and encouragement from the initial proposal stage up to and after the submission of this thesis. Indeed, you made this journey one to behold.

Many thanks go to the respondents across the public sector who sacrificed their time to fill the questionnaires and respond to the interviews thus providing credible data that made this research a success.

Special mention goes to the staff at the School of Information Sciences and my fellow PhD information studies students' class of 2017 and 2018. Indeed, we shared knowledge, experiences and made friendships that will last forever.

Lastly, special thanks go to the New Arts Building (NAB), PhD Room 351 family; Earnest, Dr. Antony, Eyerusalem, Stella and Dr. Simon for your hospitality. Despite the rigorous nature of the journey, we shared great moments, encouraged each other and had fun.

DEDICATION

This work is dedicated to my parents Francis and Bernice Kabata who instilled ethos of hard work and determination in me at a young age. Also to my siblings, Dr. David and Dr. Faith Kabata who preceded me in this journey and encouraged me throughout the process. Lastly, to my little son Ian, I hope this work inspires you some day to avidly pursue excellence.

Table of Contents

CHAPTER ONE	1
BACKGROUND TO THE STUDY	1
1.1 Introduction.....	1
1.2 An overview of international legal framework and standards for Access to Information...3	
1.2.1. The African Charter on Democracy, Elections and Governance	7
1.2.2 The African Union Convention on preventing and combating corruption	7
1.2.3. ‘African Charter on values and principles of public service and administration’	8
1.3 ATI Legislation in Africa.....	9
1.3.1. ATI law in Kenya.....	11
1.3.2. Legal Framework on ATI in Kenya	13
1.4 Site of study	27
1.5. Statement of the Problem.....	29
1.6. Purpose of the study.....	31
1.7. Research Objectives.....	31
1.8 Research Questions.....	31
1.9 Significance of the Study.....	31
1.10. Originality of the study	32
1.11. Definition of Terms.....	32
1.12. Scope and limitations of the study	33
1.13. Assumptions underlying the study.....	34
1.14. Ethical issues.....	34
1.15. Structure of the study	34
1.16. Summary.....	35
CHAPTER TWO	36
THEORETICAL FRAMEWORK	36
2.1 Introduction.....	36
2.2 The use of theory in quantitative, qualitative and mixed methods researches.....	37
2.3 Theoretical underpinning of the study	38
2.4 The ‘United Kingdom (UK) Department of Constitutional Affairs (DCA) Model Action plan’ (MAP) (2003)	39
2.4.1 Relevance of the Model Action Plan (2003) to the study	46
2.4.2 Gaps in the model	47

2.5 Carter Centre’s Implementation Assessment Tool (IAT)	48
2.5.1 Relevance of the Implementation Assessment Tool (IAT) to the study	49
2.5.2 Gaps in using the IAT for this study	50
2.6 The concept of ‘Meaningful Engagement’	50
2.6.1 Relevance of the concept of Meaningful Engagement to the study	51
2.6.2 Gaps in the use of the concept of ‘Meaningful Engagement’ for this study	52
2.7 Records Continuum (RC) Model	52
2.7.1 Relevance of the Records Continuum (RC) Model to the Study	56
2.7.2 Gaps in the use of the RC Model	57
2.8 Summary	57
CHAPTER THREE	59
LITERATURE REVIEW	59
3.1 Introduction.....	59
3.2 An overview of the state of enactment and implementation of ATI legislation, Global and African perspective	60
3.3 Review of empirical literature on access to information legislation implementation	62
3.4 Review of literature based on the main themes of the study	71
3.5 Leadership and policy	72
3.5.1 Existence of formal institutional architecture for ATI	73
3.5.2 Appointment of a senior official to steer ATI implementation	75
3.5.3 Resource allocation for ATI implementation.....	76
3.5.4 Existence of policies for ATI implementation	79
3.5.5 Government pronouncements in support of an open regime	80
3.5.6 Existence of legislative framework that supports ATI.....	83
3.6 Training and awareness.....	89
3.7 Systems and procedures for accessing information	99
3.8 Records management practices in the public sector and their impact on access to information.....	109
3.8.1 Relationship between access to information legislation and records management.....	109
3.8.2 Global perspective of records management practices in the public sector.....	112
3.8.3 Review of related empirical studies on public sector records management practices in Africa	117
3.8.4 An overview of management of public sector records in Kenya	123
3.8.5 Records management practices and their impact on access to information	126

3.9 Records Management systems and procedures.....	127
3.9.1 Legislation and policies for records management.....	128
3.9.2 Standards /manuals/code of practice for records management	132
3.9.3 Records creation and capture	133
3.9.4. Management of mail	134
3.9.5 Organizing and classification of records.....	136
3.9.6 Access and retrieval of records	137
3.9.7 Survey of records	138
3.9.8 Appraisal and retention of records	139
3.9.9 Disposal of records	141
3.9.10 Storage and preservation of records.....	142
3.9.11 Vital records and disaster management.....	144
3.9.12 Summary	145
CHAPTER FOUR.....	147
RESEARCH METHODOLOGY.....	147
4.1 Introduction.....	147
4.7 Research design	148
4.7.1 Survey	149
4.7.2 Study population	151
4.7.3 Sampling procedure	153
4.2 Research paradigm.....	156
4.2.1 Justification of the research paradigm.....	159
4.3 Research approaches.....	160
4.4 Quantitative approach	161
4.5 Qualitative approach	161
4.6 Mixed methods.....	162
4.6.1 Justification for using mixed methods approach.....	164
4.6.2 Key decisions in mixed methods approach.....	165
4.8 Data collection procedure and instruments.....	168
4.8.1 Questionnaire	169
4.8.2 Interviews.....	173
4.8.3 Observation	176
4.8.4 Document review/analysis	177
4.9 Validity and reliability of the instruments	179

4.10 Data analysis and presentation.....	183
4.11 Ethical considerations	185
4.12 Evaluation of research methodology	187
4.13 Summary	188
CHAPTER FIVE	190
DATA ANALYSIS AND PRESENTATION OF FINDINGS	190
5.1 Introduction.....	190
5.2 Response rate	190
5.3 The findings	193
5.4 Political will for implementation and institutionalization of the ATI regime	194
5.4.1 Whether ATI is incorporated in Ministry/Department strategic plan	194
5.4.2 Whether Government Ministries/Departments had formulated an ATI policy.....	195
5.4.3 Whether Ministries/Department had an action plan for ATI implementation	196
5.4.4 When the action plan was formulated.....	197
5.4.5 Whether senior officers are involved in creation, adoption or review of ATI policy	198
5.4.6 The frequency of involvement of senior officers in the creation, adoption or review of the ATI policy.	198
5.4.7 Whether there is top management support for ATI implementation	199
5.4.8 Nature of support given by top management	200
5.4.9 Availability of physical resources for ATI implementation.....	201
5.4.10 Availability of physical and virtual space.....	202
Table 12: Availability of designated space for receiving and responding to requests (n=26)	203
5.4.11 Adequacy of the designated space	203
5.4.12 Availability of space for proactive disclosure.....	204
5.4.13 Adequacy of designated space for proactive disclosure.....	204
5.4.14 Whether Ministries/Departments had deployed specific staff to handle ATI requests.....	205
5.4.16 Adequacy of the deployed staff	207
5.4.17 Appointment of officer to undertake proactive disclosure.....	207
5.4.18 Whether Ministry/Departments have set aside funds for undertaking ATI activities.....	208
5.4.19 Estimated funds allocated for ATI Activities.....	209
5.5 Level of awareness of duty bearers of their responsibilities as stipulated in the Act.	209
5.5.1 Availability of ATI training plan in Ministries/ Departments.....	211
5.5.2 Form of training captured in the training plan	211
5.5.3 Whether Ministries/ Departments had conducted ATI training	212

5.5.4 Period when the ATI training was conducted	213
5.5.5 Categories of staff targeted by the ATI training	214
5.5.6 Mode of delivery of the ATI training.....	215
5.5.7 Duration of the Training	216
5.5.8 Calibre of the trainers.....	217
5.5.9 Areas covered in the training	217
5.5.10 Whether the ATI training met the staff training needs	218
5.5.11 whether officers have been trained on proactive disclosure	219
5.6 Systems, procedures and structures in place in public bodies in Kenya to facilitate access to information.....	220
5.6.1 Availability of guidelines for handling ATI requests	220
5.6.2 Frequency of reviewing the ATI guidelines.....	221
5.6.3 Specific areas that are covered by the guidelines.....	221
5.6.4 Systems in place for handling ATI requests	221
5.6.5 Format in which ATI requests are received	223
5.6.6 ATI activities that can be performed by the system.....	224
5.6.7 Whether ATI activities in Ministries/Departments were audited.....	225
5.6.8 Whether Ministries/Departments included ATI in their performance review	225
5.7 The current records management strategies in government ministries and the extent to which they facilitate or undermine implementation of the Access to Information Act (ATI) 2016.....	226
5.8 Leadership and policy in records management.....	227
5.8.1 Existence of a records management policy	227
5.8.2 Aspects covered by the records management policy	228
5.8.3 Whether Ministry's official with authority over policy actively participates in the creation, adoption and review of the records management policy.....	229
5.8.4 Frequency of involvement of senior officials in the creation adoption and review of records management policy	230
5.8.5 Existence of records management procedures	231
5.8.6 Aspects covered in the records procedure manual.....	232
5.8.7 Reference points for records management decisions	233
5.8.8 Budgetary allocation for records management activities	234
5.8.9 State of registry for those with budgetary allocation	236
5.8.10 Experience challenges due to current state of registry funding	237
5.8.11 Specific challenges encountered due to the current state of registry funding.....	238
5.8.12 Skills, competencies and capacity building for records management.....	239

5.9 Records systems and procedures	240
5.9.1 Records creation.....	240
5.9.2 Criteria used in creating files	241
5.9.3 Mail management.....	242
5.9.4 File classification	243
5.9.5 State of file classification scheme	244
5.9.6 Records access and retrieval	245
5.9.7 Access to e-records	246
5.9.8 Aspects of access and retrieval of e-records	247
5.9.9 Records storage space	248
5.9.10 Records storage equipment	249
5.9.11 Exposure of records to hazards	250
5.9.12 Registry design and layout	251
5.9.13 Physical condition of the records storage area	251
5.9.14 Control of the environmental condition	252
5.9.15 Records Survey and use of a records inventory checklist.....	253
5.9.16 Information captured in the inventory checklist	254
5.9.17 Records appraisal	254
5.9.18 Reasons for undertaking records appraisal	255
5.9.19 Existence of a retention and disposal schedule	256
5.9.20 Implementation of the retention schedule	257
5.9.21 Reasons for ensuring implementation of the retention schedule.....	257
Table 33: Reasons to monitor and ensure the implementation of retention schedules once developed (n=9).....	258
5.9.22 Existence of a records disposition programme	258
5.9.23 Nature of the records disposition programme	258
5.9.24 Reasons for undertaking records disposal.....	260
5.9.25 Records preservation.....	260
5.9.26 Vital records management programme	262
5.9.27 Purpose of a vital records management programme	262
Figure 41: Reasons for vital records programme (n=7)	263
5.9.28 Methods of protecting vital records	263
5.9.29 Existence of a Business Continuity Plan (BCP)	264
5.9.30 Purpose of a business continuity plan	265
5.9.31 Existence of a fire protection system	266

5.9.32 Training on fire fighting.....	267
5.9.33 Storage of e-records	268
5.9.34 Back-up facilities for e-records.....	269
5.9.35 System for managing e-records.....	269
5.9.36 Aspects of e-records management covered by the system.....	270
5.9.37 Information captured by the system during records creation	271
5.9.38 Access to information and public records.....	272
5.9.39 Specific challenges faced in providing access to public records	273
5.10 Summary	274
CHAPTER SIX.....	275
INTERPRETATION AND DISCUSSION OF FINDINGS	275
6.1 Introduction.....	278
6.2 Interpretation and discussion	279
6.3 Extent of political will for implementation of the ATI Act 2016.....	275
6.3.1 Efforts made by the state to introduce legal and regulatory reforms to facilitate institutionalization of an ATI regime	275
6.3.2 Efforts by the state to initiate or actively support ATI legislation implementation	276
6.3.3 Efforts made by the state to create platforms and administrative mechanisms that facilitate citizen access to government information.....	277
6.4 Extent of leadership for implementation of the ATI Act 2016.....	279
6.4.1 Whether the Ministry's/Department strategic plan incorporates the aspect of ATI.....	280
6.4.2 Existence of ATI policy in government ministries/departments.....	281
6.4.3 Existence of an ATI action plan in government ministries/ departments	281
6.4.4 Establish when the action plan was developed in relation to the enactment of the ATI Act 2016.	282
6.4.5 Whether policy makers in ministries/departments are involved in creation, adoption and review of ATI policy.....	283
6.4.6 Frequency of involvement of policy makers in creation adoption and review of ATI policy.	284
6.4.7 Whether there is top management (Principal Secretary level) support in ATI implementation	285
6.4.8 Nature of top management support for ATI.....	286
6.4.9 Availability of physical infrastructure to facilitate implementation of the ATI legislation...	286
6.4.10 Availability of physical and virtual space.....	287
6.4.11 Adequacy of designated space	288
6.4.12 Availability of space for proactive disclosure.....	289

6.4.13 Adequacy of designated space for proactive disclosure.....	290
6.4.14 Whether Ministries/Departments had deployed specific staff to handle ATI requests	291
6.4.15 Total number of fulltime staff deployed to handle ATI requests	292
6.4.16 Adequacy of the deployed staff	293
6.4.17 Appointment of officer to undertake proactive disclosure.....	293
6.4.18 Whether Ministry/Departments have set aside funds for undertaking ATI activities	294
6.5 The level of awareness among public officers of their duties as stipulated in the ATI Act 2016.....	295
6.5.1 Presence or absence of an ATI training plan	296
6.5.2 Nature of courses in the ATI training plan.....	297
6.5.3 Whether ministries had conducted any ATI training	298
6.5.4 Period when the training was conducted in relation to the enactment of the ATI Act 2016..	299
6.5.5 Categories of staff targeted by the ATI training	300
6.5.6 Mode of delivery of the ATI training.....	301
6.5.7 Depth of the training	302
6.5.8 Calibre of the trainers.....	303
6.5.9 Areas covered by the training	304
6.5.10 Whether the ATI training met the staff ATI needs	306
6.5.11 whether officers have been trained on proactive disclosure	306
6.5.12 Level of awareness among public officers of their ATI duties as provided in the ATI Act 2016	307
6.6 Systems, procedures and structures in place for facilitating access to information in public bodies in Kenya.....	308
6.6.1 Availability of regulations to operationalize the ATI Act	308
6.6.2 Availability of guidelines for handling ATI requests	310
6.6.3 Systems in place for handling ATI requests	312
6.6.4 Format in which ATI requests are received	314
6.6.5 Features of systems that handle ATI requests.....	315
6.6.6 Availability of publication scheme for proactive disclosure.....	317
6.6.7 Whether Ministries/Departments included ATI in their performance review	321
6.7 The current records management strategies and the extent to which they impact on the implementation of the ATI Act 2016.....	323
6.8 Leadership and policy in records management.....	324
6.8.1 The Archives legislation and access to information	324
6.8.2 Existence of a records management policy	325

6.8.3 Aspects covered by the records management policy	327
6.8.4 Whether the Ministry's official with authority over policy actively participates in the creation, adoption and review of the records management policy.....	329
6.8.5 Level of engagement of senior officials in the creation adoption and review of records management policy	330
6.8.6 Existence of records management procedure manual	331
6.8.7 Reference point for records management decisions.....	332
6.8.8 Budgetary allocation and state of registry funding for records management activities	333
6.8.9 Whether ministries experience challenges due to current state of registry funding and the specific challenges experienced	335
6.8.10 Skills, competencies and capacity building in records management	336
6.9 Records systems and procedures	338
6.9.1 Records creation.....	339
6. 9.2 Existence of mail management programme.....	342
6.9.3 Existence of a file index.....	343
6.9.4 Records access and retrieval	344
6.9.4.1 Access to electronic records.....	345
6.9.5 Records storage space	346
6.9.5.1 Physical condition of records storage area.....	350
6. 9.5.2 Exposure of records to hazards	351
6.9.5.3. Control of the environmental condition	352
6.9.6 Use of a records inventory checklist	353
6.9.7 Records appraisal	354
6.9.8 Existence of a retention and disposal schedule	356
6.9.9 Existence of a records disposition programme	357
6. 9.10 Records preservation.....	358
6.9.11 Existence of a Business Continuity Plan (BCP)	360
6.9.12 E-records Management	363
6.9.13 Features of the e-records management system.....	365
6.9.14 Challenges in providing access to information	366
6.10 Summary	366
CHAPTER SEVEN	368
SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS.....	368
7.1 Introduction.....	368
7.2 Summary of the findings.....	369

7.2.1 Leadership and political will for implementation and institutionalization of the ATI regime	369
7.2.2 Existence of a formal institutional architecture for ATI	370
7.2.3 Existence of a supportive legal and regulatory framework for ATI implementation	370
7.2.4 Existence of an ATI policy	371
7.2.5 Existence of ATI Action plan	371
7.2.6 Top management support for ATI implementation	372
7.2.7 Availability of infrastructure for ATI implementation	372
7.2.8 Deployment of specific staff to handle ATI requests.....	373
7.2.9 Allocation of funds for ATI activities.....	373
7.2.10 Overall extent of leadership and political will for ATI implementation.....	374
7.3 Level of awareness of public officers on their ATI duties as provided in the ATI Act 2016	374
7.3.1 Existence of ATI training plan.....	374
7.3.2 Whether Ministries had conducted ATI training	375
7.3.3 Categories of staff targeted by the ATI training / mode of delivery of ATI training.....	375
7.3.4 Depth of the training and calibre of trainers	375
7.3.5 Areas covered by the ATI training.....	376
7.3.6 Overall level of awareness among public officers of their ATI duties as provided in the ATI Act 2016.....	376
7.4 Systems, structures and procedures are in place in public bodies in Kenya to facilitate access to information	376
7.4.1 Availability of regulations to operationalize the ATI Act 2016.....	377
7.4.2 Systems in place for handling ATI requests	377
7.4.3 Format in which ATI requests are received	377
7.4.4 Feature of systems that handle ATI requests	377
7.4.5 Availability of publication schemes for proactive disclosure	377
7.4.6 Whether ATI activities in Ministries/Departments were audited.....	378
7.4.7 Whether Ministries/Departments included ATI in their performance review	378
7.4.8 Overall systems, procedures and structures in place for handling ATI requests	378
7.5 The current records management practices in the public sector and the extent do they facilitate or undermine access to information.....	378
7.5.1 The Archives legislation and access to information	378
7.5.2 Existence of a records management policy.....	379
7.5.3 Existence of records management procedure manual	379
7.5.4 Budgetary allocation and state of registry funding for records management activities	379

7.5.5 Skills, competencies and capacity building in records management	379
7.5.6 Overall state of leadership and policy for records management	379
7.5.7 Records systems and procedures.....	380
7.5.7.1 Records creation.....	380
7.5.7.2 Existence of mail management programme	380
7.5.7.3 Existence of a file index.....	380
7.5.7.4 Records access and retrieval	380
7.5.7.5 Records storage space	381
7.5.7.6 Records appraisal	381
7.5.7.7 Records disposition.....	381
7.5.7.8 Records preservation.....	381
7.5.7.9 Existence of a Business Continuity Plan (BCP)	382
7.5.7.10 E-records Management	382
7.5.7.11 Overall state of records management practices and its impact on access to information	382
7.6 Conclusions.....	382
7.6.1 Conclusion on the extent of leadership and political will for implementation of the ATI Act 2016	383
7.6.2 Conclusion on level of awareness of public officers of their ATI duties as stipulated in the ATI Act 2016	383
7.6.3 Conclusion on the systems, procedures and structures in place for handling ATI requests in public entities in Kenya	383
7.6.4 Conclusion on the records management practices and their impact on access to information	384
7.6.5 Overall conclusion of the research problem.....	384
7.7 Recommendations.....	385
7.7.1 Recommendations: leadership and political will for ATI implementation	385
7.7.2 Recommendation: Training and awareness	387
7.7.3 Recommendation: systems, processes and structures in place for ATI	387
7.7.4 Recommendation: Records management regime and its impact on access to information ...	388
7.7.5 Roadmap to effective implementation of ATI Act 2016.....	390
7.8 Implication of the study for theory, practice and policy.....	392
7.9 Originality of the study	393
7.10 Suggestions for further research	393
7.11 References.....	395

Appendix 1: Questionnaire for Public Communication officers in government ministries ..	447
Appendix 2: Interview Schedule for the Chairperson of the Commission on Administrative Justice (Ombudsman).....	449
Appendix 3: Interview schedule for the Director of Administration, Ministry of Information and Communication Technology	452
Appendix 4: Interview schedule for the Director of Public Communication	454
Appendix 5: Interview schedule for the Director, Kenya National Archives and Documentation Service	456
Appendix 6: Interview schedule for the Director of Administration in a Ministry/Department	459
Appendix 7: Questionnaire for Public Communication officers in government ministries ..	461
Appendix 8: Observation checklist for institutional capacity for ATI	476
Appendix 9: Questionnaire for records Managers in government ministries	479
Appendix 10: Questionnaire for registry clerks in government ministries.....	491
Appendix 11: Observation checklist for current records management practices	499
Appendix 12: Letter of introduction	502
Appendix 13: Letter of informed consent to respondents.....	503
Appendix 14: List of Respondents (Directors of Administration; Public Communication Officers and Records Managers).	506
Appendix 15: Research Permit	513
.....	513
Appendix 16: Research Authorization letter.....	514
Appendix 17: Ethical Clearance	515
Appendix 18: Gatekeeper's letter	516
Appendix 19: ATI (1 hour) Training Programme	519
Appendix 20: ATI (2 days) Training Programme for CAJ Staff	520
Appendix 21: Circular to public entities on implementation of the ATI Act 2016	522
Appendix 22: Access to Information Application Form.....	525
Appendix 23: Amendment of personal data	527
Appendix 24: Access to Information register	529
Appendix 25: Proactive Disclosure reporting form	530
Appendix 26: Proposed Action Plan for implementation of the Access to Information Act, 2016 (Developed by a consultant commissioned by Commission on Administrative Justice)	531

Appendix 27: Notice on the review of the Public Archives and Documentation Service Act.	534
Appendix 28: ATI (2days) Training Programme for County Officers	535 537
Appendix 29: Template on reporting on ATI infrastructure.....	538

LIST OF FIGURES

Figure 1: Records Continuum model	54
Figure 2: Physical Resources available for ATI functions	202
Figure 3: Total number of staffs handling ATI requests	206
Figure 4: Public official tasked with proactive disclosure	208
Figure 5: Form of ATI courses in the training plan	212
Figure 6: When ATI training was conducted	213
Figure 7: Categories of staff targeted by ATI training	214
Figure 8: Methods used to deliver training	215
Figure 9: Duration of the training	216
Figure 10: Areas covered in the training	218
Figure 11: Whether officers are trained on proactive disclosure	219
Figure 12: Systems used to retrieve ATI requests	222
Figure 13: Format in which systems allow requests	223
Figure 14: Ministries with records policy	227
Figure 15: Aspects covered in the records policy	228
Figure 16: Participation of senior officials in review of records policy	230
Figure 17: Frequency of their involvement	231
Figure 18: Existence of records procedure manual	232
Figure 19: Aspects covered in the records manual	233
Figure 20: Reference point for records management decision	234
Figure 21: Budget allocation for records management activities	235
Figure 22: State of registry funding	236
Figure 23: Experience challenges due state of registry funding	237
Figure 24: Specific challenges experienced	238
Figure 25: Attended records management course in the last five years	240
Figure 26: Criteria used in creating files	242
Figure 27: Existence of mail management programme	243
Figure 28: Existence of a file index	244
Figure 29: State of the file index	245
Figure 30: Existence of file tracking tools	246

Figure 31: Created or adopted a system for access and retrieval of e-records	247
Figure 32: Aspects of access and retrieval of e-records	248
Figure 33: Records storage equipment	250
Figure 34: Exposure of files to hazards	251
Figure 35: Physical condition of the storage room	252
Figure 36: Regulation of environmental condition	253
Figure 37: Contents of the records inventory checklist	254
Figure 38: Nature of the records disposition programme	259
Figure 39: Preservation strategies	261
Figure 40: Existence of a vital records management programme	262
Figure 41: Reasons for vital records programme	263
Figure 42: Methods used for vital records protection	264
Figure 43: Existence of a business continuity plan	265
Figure 44: The purpose of business continuity plan	266
Figure 45: Existence of a fire protection system	267
Figure 46: Received training on fire-fighting techniques	268
Figure 47: Storage devices and back -up facilities	269
Figure 48: Has created or adopted a system for managing electronic records	270
Figure 49: Aspects of electronic records management covered by the system	271
Figure 50: Information captured when creating electronic records	272
Figure 51: Faced challenges in providing access to information	273

LIST OF TABLES

Table 1: Distribution of the study population	152
Table 2: Questionnaires and interviews response rate	192
Table 3: Ministry/ Department Strategic plan incorporate access to Information	195
Table 4: Ministry/ Department with ATI Policy	196
Table 5: Ministries/departments with ATI policy and have developed an action plan for ATI act implementation	196
Table 6: Ministries with ATI action plan when it was developed	197
Table 7: Ministry/ Department official with authority over policy level of engagement in the creation, adoption or review of ATI policy	197
Table 8: How often officers with authority participated in meetings with public officers responsible for ATI activities	199
Table 9: Senior management support for ATI implementation in Ministry/ Department	200
Table 10: Specific areas for ATI implementation supported by senior management	200
Table 11: Public officers responsible for ATI functions and duties with regular access to necessary equipment	201
Table 12: Availability of designated space for receiving and responding to requests	203
Table 13: Adequacy of designated space	203
Table 14: Ministry/ Department established space for public viewing of proactively disclosed information	204
Table 15: Adequacy of designated space for proactive disclosure	205
Table 16: Ministry/ Department deployed specific staff to handle ATI requests	205
Table 17: Adequacy of deployed staff	207

Table 18: Ministry/ Department specifically allocated financial resources necessary for fulfilling its ATI functions and duties	209
Table 19: level of awareness of roles and responsibilities in providing information as provided by ATI Act 2016	210
Table 20: Ministry/ Department with ATI implementation training plan	211
Table 21: Ministry/ Department conducted ATI training/ awareness	212
Table 22: Ministry/ Department created or adopted specific guidelines on ATI	221
Table 23: Functions performed by the system	224
Table 24: Ministry/ Department internal oversight body/ auditing mechanism take into account ATI functions and duties	225
Table 25: Ministry/ Department performance review take into account ATI	226
Table 26: Ministry created or adopted a system for creating and capturing records	241
Table 27: Records storage space	248
Table 28: Records inventory checklist	253
Table 29: Conduct records appraisal	255
Table 30: Reasons for undertaking records appraisal	256
Table 31: Have a records retention and disposal schedule	256
Table 32: Monitor to ensure the developed schedules are implemented	257
Table 33: Reasons for monitoring and ensuring the implementation of retention schedules once developed	257
Table 34: Existence of a records disposition programme	258
Table 35: Purpose of disposing records	260
Table 36: Specific challenges faced in providing access to records	273
Table 37: Roadmap to effective implementation of the ATI Act 2016	390

LIST OF ABBREVIATIONS

ACHPR	African Charter on Human and People's Rights
ACHR	American Convention on Human Rights
AFIC	African Freedom of Information Centre
APAI	African Platform on Access to Information
APRM	African Peer Review Mechanism
ASACDS	Australian Society of Archivists Committee on Descriptive Standards
ATI	Access to Information
ATIA	Access to Information Act
AU	African Union
AUCC	African Union Convention against Corruption
BNARS	Botswana National Archives and Records Services
CAJ	Commission on Administrative Justice
CAK	Communication Authority of Kenya
CG	County Government
CIC	Commission on the Implementation of the Constitution
CIPEV	Commission of Inquiry into the Post-Election Violence of 2007-2008 in Kenya
COK	Constitution of Kenya
CRKM	Clever Record Keeping Metadata
DCA	Department of Constitutional Affairs
DoPT	Department of Personnel Training
DPM	Directorate of Personnel Management
EA	Evidence Act

EACC	Ethics and Anti- Corruption Commission
ECOWAS	Economic Community of West African States
EROS	Electronic Records in Office Systems
ESARBICA	Eastern and Southern Africa Regional Branch of the International Council on Archives
FOI	Freedom of Information
FOIA	Freedom of Information Act
FOIANet	Freedom of Information Advocates Network
FSP	Film and Stage Play
GAA	Government Advertising Agency
GCC	Gaborone County Council
GORK	Government of the Republic Kenya
IACHR	Inter-American Court of Human Rights
IAT	Implementation Assessment Tool
ICCPR	International Covenant on Civil and People’s Rights
ICJ	International Commission of Jurists
ICO	Information Commissioner’s Office
ICT	Information and Communication Technology
ICTA	Information and Communication Technology Authority
IFAI	Federal Institute for Access to Information
InterPARES	International Research on Permanent Authentic Records in Electronic Systems
IPRMS	Integrated Public Records Management System
IRMS	Integrated Records Management System

IRMT	International Records Management Trust
ISO	International Organization for Standardization
KICA	Kenya Information and Communication Act
KODI	Kenya Open Data Initiative
LI	Leadership and Integrity
MAP	Model Action Plan
MOREQ	Model Requirements for the management of electronic records
MSPS	Ministry of State for Public Service
NAA	National Archives of Australia
NARA	National Archives and Records Administration
NDADS	National Digital Archives of Data Sets
NGO	Non-Governmental Organization
NLC	National Lands Commission
NSW	New South Wales
OAS	Organization of American States
ODAC	Open Democracy Advice Centre
OGP	Open Government Partnership
OP	Office of the president
OS	Official Secrets
PADS	Public Archives and Documentation Service
PAIA	Promotion of Access to Information Act
PCOs	Public Communication Officers
PFM	Public Finance Management

POE	Public Officers Ethics
PP	Powers and Privileges
PPD	Public Procurement and Disposal
PPS	Preservation of Public Security
PSC	Public Service Commission
PSRP	Public Service Reform Programme
RC	Records Continuum
RD	Records Disposal
RKMS	Record Keeping Metadata Schema
RTI	Right to information
SA	Statistics Act
SA	Standards Australia
SADC	Southern African Development Community
SAHA	South African History Archive
SAHRC	South African Human Rights Commission
SERs	Socio-Economic Rights
SPIRT	Strategic Partnership with Industry Research and Training
SPSS	Statistical Package for Social Sciences
TNA	The National Archives
UBC	University of British Columbia
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UKZN	University of Kwa Zulu-Natal

UN	United Nations
UNCAC	United Nations Convention against Corruption
UNDHR	Universal Declaration of Human Rights
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNGA	United Nations General Assembly
UPS	Uganda Public Service
VERS	Victoria Electronic Records Strategy
YASHADA	Yashwantrao Chavan Academy of Development Administration

CHAPTER ONE

BACKGROUND TO THE STUDY

1.1 Introduction

This study seeks to establish the preparedness of public bodies in Kenya for the implementation of the access to information (Kenya ATI Act 2016). ATI laws are enacted with the aim of providing a framework through which citizens can access information held by the state. Therefore, ATI laws spell out among other things; the application process to be followed when requesting information, criteria for release or denial and the appeal process to be followed in case of information request refusals.

World over, access to information is regarded as a vital right that is recognised in international conventions, national constitutions and national laws. Indeed, access to information is regarded as the ‘touchstone of all freedoms’ as it plays a key role in the attainment of other rights and democratic principles (Odote 2015). Further, access to information laws are anchored on the understanding that public bodies hold information, not for their own interests, but for public good (Stiglitz 2002). Consequently, public bodies are expected to make this information accessible to the public. ATI laws therefore reinforce the democratic premise that government servant of the people (Odote 2015). This principle is aptly captured in the following statement:

In democracies, the government exists only to represent and act on behalf of the people. The information it gathers is done for the public benefit, with public funds, for public purposes. The collection, use, storage and retrieval of information are all carried out for the sake of the wider public good. People have a right to have access to that information; to seek it and to receive it (Burgman, Daruwala and Nayak 2007:10)

In the developed world, access to information can be traced back to 1766 when Sweden became the first nation to recognise the right to information by enacting a law allowing the press to seek obtain and publish information held by the state. Finland followed suit in 1951, while the

United States enacted the ATI legislation in 1966. According to Darch and Underwood (2010), a euphoria of freedom of information laws swept the globe in the period between the collapse of the Soviet Union in 1991 and the terrorist attack on US Pentagon in September 2001. Indeed, in that decade alone, 26 countries legislated guarantees for the right of access to government information hence occasioning a golden period of openness (Darch and Underwood 2010). While the September 2001 terrorist attack heralded a new era of secretiveness in the United States, in the rest of the world, the transparency wave continued to spread as more countries enacted access to information legislations (Darch and Underwood 2010).

By 2008, Vleugels (2008) reported that over 80 ATI legislations had been enacted in the Americas, Europe (post-communist east), Asia (India and China) and few parts of Africa. Apart from Africa, the other part of the world where the pace of uptake of ATI laws has been slow is in the Arab world (Middle East and North Africa) which is characterised by autocratic regimes, corruption and poor record of human rights (Darch and Underwood 2010). Indeed, in the Middle East, for example, by 2014, only Yemen, Israel and Jordan had enacted laws guaranteeing access to information.

But what occasioned this rapid wave of openness? According to Darch and Underwood (2010), the rapid diffusion of the ATI laws can be attributed to firstly, a democratisation process that has seen the introduction of pluralist electoral systems and the abandonment of the planned economy in favour of a 'free market'. This democratisation led to the fall of the Soviet Union, disappearance of the socialist bloc and the expansion of the world economy. Indeed, Darch and Underwood (2010) opine that in this new global order, barriers to diffusion of ideas such as freedom of information are non-existent. Secondly, rapid advancements in information and communication technologies have brought about technology that is able to process and share information at unprecedented levels. This has resulted in increased information flows, a change in the culture around information and heightened citizen's expectations of their right to know the operations of government (Dokeniya 2013). Thirdly, there was an upsurge of new civil society groups lobbying for the adoption of new concepts and liberal policies particularly on transparency in development contexts. These civil society groups include; Article 19, Carter Centre, Transparency International, Open Society Foundation, Publish What You Pay, Commonwealth Human Rights Initiative, International Budget Partnership among others (Dokeniya 2013). Indeed, these civil society organisations subscribe to western liberal values

and view the enactment of ATI legislations as part of a larger struggle for human rights (Darch and Underwood 2010). Indeed, these struggles have led ATI to be regarded as a fundamental right that is recognised in international conventions, national constitutions and national laws. Below is a discussion of the international legal framework that underpins access to information.

1.2 An overview of international legal framework and standards for Access to Information

At international level, the right to information has its origin in the “Universal Declaration of Human Rights (UDHR)” that was adopted by the United Nations on 10 December 1948. The UDHR states in Article 19 that:

Everyone has the right to freedom of opinion and expression; 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 (Universal Declaration of Human Rights [UDHR] 1948: 74).

This was a confirmation of a resolution in 1946 by the United Nations General Assembly at its first session when it resolved that:

Freedom of information is a fundamental human right and ... the touchstone of all the freedoms to which the UN is consecrated (United Nations General Assembly (UNGA 1946: 95).

Later, Article 19 was officially recognized in December 1966 with the adoption of the International Covenant on Civil and People’s Rights (ICCPR)” by the “United Nations (UN) General Assembly” as resolution 2200A. ICCPR adopted similar wording to that of UDHR. It provided that:

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, orally, either in writing or in print, in the form of art, or through any other media of his choice (International Covenant on Civil and People’s Rights (ICCPR 1966: 178).

Although both the UDHR and the ICCPR mainly focus on freedom of expression, several clarifications have been made to the effect that the “right to information” is not just an appendage of the “freedom of expression” but a distinct right of its own (Odote 2015). Specifically, the “UN special Rapporteur on Freedom of Opinion and Expression” made these clarifications. For example, in the 1998 Annual report, the “Special Rapporteur” made a case for freedom of information as a distinct right by providing that:

(T) he right to seek, receive and impart information imposes a positive obligation on states to ensure access to information, particularly with regard to information held by Government in all types of storage and retrieval systems. (United Nations [UN] Report 1998:4).

Other international instruments that recognize the right to information include, the “American Convention on Human Rights (ACHR)” that was adopted in San Jose, Costa Rica by several American Nations in 1969. Although the United States is not a signatory, this document took effect after ratification in 1978 (Darch and Underwood (2010). “Article 13 of the American Convention” recognizes the right to information using similar language as the UDHR and ICCPR. It provides that:

Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one’s choice (American Convention on Human Rights [ACHR] Article 13 1969:6).

Article 13 of the American Convention is particularly significant as it formed the basis in the case of *Claude Reyes and others versus Chile*. Indeed, in September 2006, the “Inter-American Court of Human Rights” made a ruling based on the provisions of Article 13 that stated that: “people everywhere have a concrete general right of access to government information.” The court explicitly recognized a link between ‘freedom of information’ in this narrow sense and well-established human rights such as ‘freedom of expression’ and political participation (Darch and Underwood 2010). The ruling was termed as groundbreaking as it established for

the first time in an international tribunal that a citizen right to information actually exists (Darch and Underwood 2010).

Within the commonwealth, access to information was first recognized in 1980 through the Barbados Communique. The Commonwealth Law of Ministers a top organ of the Commonwealth recognized the fact that:

Public participation in the democratic and government process was at its most significant when citizens had adequate access to information. (Open Democracy Advice Centre [ODAC] 2011:19).

Later, in 1999, an Expert Group on RTI assembled by the Commonwealth pointed out that:

Right to information should be guaranteed as a legal and enforceable right permitting every individual to obtain records and information held by the executive, the legislative and the judicial arms of the state, as well as any government owned corporation and any other body carrying out public functions (Open Democracy Advice Centre [ODAC] 2011:19).

The Commonwealth Law Ministers adopted this principle and other guidelines on access to information, which stated that:

- Member countries should be encouraged to regard right to information as a legal and enforceable right;
- There should be a presumption in favour of disclosure and governments should promote a culture of openness;
- The right of access to information may be subject to limited exemptions that are narrowly drawn;
- Governments should maintain and preserve records; and
- In principle, decisions to refuse access to records and information should be subject to independent review (Open Democracy Advice Centre [ODAC] 2011:20).

The Ministers also urged the Commonwealth to promote these principles among its member states (ODAC 2011). Additionally, to promote ATI adoption in the Commonwealth, the

Commonwealth Secretariat has developed a model ATI law to guide countries that are yet to enact ATI laws (Odote 2015).

In the African context, the ‘African Charter on Human and People’s Rights’ (ACHPR) was adopted by the ‘Organization of African Unity’ (OAU) in 1981 and came into effect in 1986. ‘Article 9’ of the charter states that:

- Every individual shall have the right to receive information; and
- Every individual shall have the right to express and disseminate his opinions within the law (African Union [AU] 1986:4).

Later, in 2002, at an ordinary Session of the African Commission on Human and Peoples Rights (ACHPR) in Banjul, the Gambia, African Union adopted a Declaration of Principles on Freedom of Expression in Africa, which states that:

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 to clearly defined rules established by law (African Union [AU] 2002:3).

Further, the African Commission on Human and People’s Rights (ACHR) has developed a model ATI legislation that countries can consider adopting as a framework for the realization of the right to information at national level (African Union [AU] 2013). However, unlike the Universal Declaration of Human Rights (UDHR), the Banjul Charter is limited in that it uses a comparatively cautious language when describing the information rights. In fact, it only provides for the receiving of information while the aspect of seeking for information is omitted (Darch 2013). This omission of the aspect of seeking for information in the Banjul charter hampers effective implementation of ATI legislation in many African countries, as it does not explicitly support requests for information by the citizenry.

Although Kenya has ratified several international laws and covenants on access to information, Wamotsa (2014) notes that Kenya’s Article 35 (1) provision on access to information contradicts international law and covenants on ATI. Specifically, Wamotsa (2014) points out that Article 35 only provides for access to information by citizens. This is contrary to the provisions of the UDHR and ICCPR, which provide that: the right of access to information is

a right of everyone regardless of nationality, citizenship or race. In view of this, Wamotsa (2014) recommends amendment of Article 35 (1) of the constitution to align it with Kenya's obligations under international law, as set out in the covenants.

The right to information is also guaranteed in other 'African Union Charter' documents namely:

1.2.1. The African Charter on Democracy, Elections and Governance

In 2007, the African Union Assembly adopted the AU charter on democracy, elections and governance. The charter seeks to among other things in Article 2 to:

Promote the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs (African Union [AU] 2007: 3, 8).

Further, Article 19 of the charter requires all member states to:

Guarantee conditions of security, free access to information, non-interference, freedom of movement and full cooperation with the electoral observer mission. (African Union [AU] 2007:3, 8).

Ironically, Kenya is yet to ratify this charter, yet the country has suffered post-election related violence particularly during the 2007-2008 disputed elections. Indeed, the African charter on democracy, elections and governance outlines key issues on sound management and transparency of the electoral process (AFIC Report 2014). In this regard, Kenya's ratification and domestication of this charter would go a long way in advancing good governance in the country.

1.2.2 The African Union Convention on preventing and combating corruption

This convention which was adopted in 2003 and came into effect in 2006 applies to both public and private sector seeks to: "establish the necessary conditions to foster transparency and

accountability in the management of public affairs (Article 2, 5).” The Convention obliges African states to: “respect the rule of law and good governance” (Article 3, 3).

Regarding access to information, ‘Article 9’ of the convention requires countries to: “use legislative and other means to engender the right of access to any information to facilitate the fight against corruption” (African Union [AU] 2003:12). The convention further provides that: “the media and the civil society should be provided with information in cases of corruption and related offences on condition that the information provided does not jeopardise investigations and the right to a fair trial” (Article 12, 4) (African Union [AU] 2003:14).

1.2.3. ‘African Charter on values and principles of public service and administration’

The charter was developed by the “African Public Service Ministers” and adopted by the “Ordinary session of the African Union assembly” in January 2011. The charter is an undertaking by the African Union to: “reform the continent’s public services and confront service delivery challenges” (African Union [AU] 2011:5). Regarding access to information, the charter stipulates that the public service should:

- Provide users with guidelines on public service delivery;
- Inform users of all decisions made concerning them, the reasons behind those decisions, as well as the mechanisms available for appeal;
- Establish effective communication mechanisms to inform the public about service delivery, to enhance access to information by users, as well as to receive their feedback and inputs; and
- Ensure that administrative procedures and documents are presented in a user-friendly and simplified manner” (African Union (AU 2011:5).

Having looked at the various global and regional instruments that underpin ATI, it is important to provide background information on the state of ATI legislation in Africa. This is important because it provides a picture of the state of enactment and implementation of ATI laws in the continent and further contextualises the study on preparedness for ATI implementation in Kenya.

1.3 ATI Legislation in Africa

In Africa, the uptake of ATI legislation has been slow as pointed out by several scholars (Banisar 2006, Vleugels 2008 and Dimba 2008). Indeed, prior to 2011, only five countries had ATI legislation representing only 9% of the continent (Banisar, 2004). As a way of encouraging more countries to enact ATI laws, the ‘African Union’ adopted a model freedom of information law prepared by the “African Commission on Human and People’s Rights” (ACHPR) (Odote, 2015). In the year 2000, South Africa enacted the ‘Promotion of Access to Information Act’ (PAIA) 2000 thus becoming the first African country to have an ATI Law (South Africa 2000). Currently, more countries have enacted ATI legislations. These include Angola, Ethiopia, Guinea Conakry, Liberia, Nigeria, Kenya, Uganda and Zimbabwe. Several others especially in Southern Africa have access to information bills pending adoption. These include Botswana, Malawi, Mozambique, Zambia, Burundi, Egypt, Ghana, Senegal, Sierra Leone, Southern Sudan and Tanzania (Mutula, 2006).

Despite efforts by the ‘African Union’ to advance the right to information in the continent, some African countries are still lagging behind. Indeed, the ‘Carter Centre’, a global non-government organisation that monitors implementation of ATI laws across the globe noted that the African region is trailing the rest of the world (Carter Centre 2010a). Similarly, Vleugels (2008) noted that out of the 53 African countries, 36 (or 68 per cent) have been uninterested in the freedom of information agenda. That is, there is no deliberate efforts to petition the state, no civil society activity and no imminent draft legislation. Another 11 (or 21 per cent) have pending draft legislation while two countries are still lobbying for ATI (Vleugels 2008). The situation is particularly dire in francophone countries where except Cameroon, which is bilingual, no French speaking Sub-Saharan African country has demonstrated public interest in freedom of information (Darch 2013).

However, it’s not just the enactment of ATI laws in Africa that has been poor. Darch (2013) noted that African countries with ATI constitutional guarantees and national laws in place were unable to effectively implement them largely due to weak governance systems. Indeed, an ATI summit in Ghana in 2010 made a similar observation by stating that:

Where regional instruments, constitutional provision and national laws exist, often they have inadequately advanced the right of access to information due to factors such as insufficient political will, weak legal and administrative guidelines and ineffective implementation and enforcement. At their worst,

some national legal frameworks have even repressed rather than enabled the right of access to information (Carter Centre 2010b:2).

Nonetheless, there is still light at the end of the tunnel concerning the right to information in the African continent. Indeed, a report by ‘African Platform on Access to Information’ (APAI) (2011) outlines a number of activities and advocacy campaigns that have been undertaken to advance ATI in Africa. These developments include:

- Endorsement of the regional action plan to promote ATI in Africa at an ATI summit in Accra on February 2010;
- Endorsement of the ‘African Platform on access to information declaration of 2011’, that details key principles critical to the full realization of the right of access to information;
- The ratification of ‘resolution 222’ by the ‘African Commission on Human and Peoples’ Rights in 2012’. This resolution mandated the ‘Special Rapporteur on Freedom of Expression and Access to Information in Africa’ to incorporate ATI in the ‘Declaration of Principles on Freedom of Expression’. It further recommended that September 28 be recognised as ‘International Right to Information Day in Africa’. This according to the ‘Special rapporteur on access to information’ will provide a platform for governments, citizens and the international community to deliberate on human rights and governance in the continent (Africa Freedom of Information Centre [AFIC] Report 2015);
- The adoption of the ‘model law on ATI for Africa in 2013’, prepared by the ‘African Commission on Human and Peoples’ Rights’ and
- The adoption of the ‘Midrand Declaration’ on press freedom in Africa by the ‘Pan-African Parliament in 2013’, which requires ‘African Union’ member states to: “adopt and review ATI laws” (African Platform on Access to Information (APAI 2011).

To reinforce the gains realized at continent level, efforts are also being made for the endorsement of the ‘African Platform on Access to Information (APAI) declaration’ at the international level particularly the ‘United Nations’ (UN) through the ‘United Nations Educational, Scientific and Cultural Organization’ (UNESCO) (APAI 2011).

In sum, the right to information is gaining momentum in the new constitutions of emerging democracies in Africa. This is attributed to two factors; firstly, the importance of ATI is now well established with international and regional instruments articulating clear principles of the right. Indeed, the ‘United Nations’, ‘African Union’ and regional bodies such as ‘Southern African Development Community’ (SADC) and ‘Economic Community of West African States’ (ECOWAS) all have provisions in their instruments recognizing the principle of freedom of information (Peled and Rabin 2011). Indeed, it is only the ‘East African treaty’ that is silent on access to information. All the same, the treaty broadly recognises the need for good governance and accountability and echoes provisions on transparency found in the UN and ‘AU treaties’ (Article 19 Eastern Africa 2014). Secondly, developing African democracies have embraced the notion that information is needed as a tool to hold government accountable and ensure public oversight of government (Peled and Rabin 2011). Going forward, the ‘African Union’ is determined to create a cohesive, thriving and peaceful Africa. To achieve this, the union has positioned citizens access to information and transparency at the heart of the continent’s Agenda 2063. The vision identifies the enactment and effective implementation of ATI, press freedom and expression laws as critical for public participation and accountability (Africa Freedom of Information Centre-AFIC Report 2015).

1.3.1. ATI law in Kenya

In Kenya, Odote (2015) notes that the campaign for the enactment of an ATI law started from the year 2000 and has lasted more than a decade. In that period, four drafts bills were proposed but none was passed by parliament (Daily Nation 2015). The delay in enactment of an ATI law was largely attributed to lack of political will. Indeed, only one out of the four drafts bills that were presented to parliament for debate was government sponsored indicating the government’s unwillingness to facilitate access to information (Article 19 Eastern Africa 2015).

In the absence of ATI legislation, a number of statutes were guiding the collection, storage and disclosure of public information. These statutes are; ‘Records disposal Act of 1962’, ‘Public Archives and Documentation Service Act of 1965’ and the ‘Statistics Act of 2006’. Some laws such as the ‘Official Secrets Act of 1968’ entrenched a culture of secrecy by prohibiting access to information (Article 19 Eastern Africa 2014).

However, the Government desire to enact ATI legislation was demonstrated with the launching of Kenya economic blueprint ‘Vision 2030’ in 2006. Under the political pillar, the country envisioned to create a conducive legal and regulatory framework to promote openness in public affairs by 2012 (Kenya 2007 Vision 2030). In 2007, the calls to enact ATI legislation intensified following the post-election violence. Indeed, the ‘Commission of Inquiry into the Post-Election Violence’ (CIPEV) recommended the enactment of ATI to give room for more accountability and assist towards transitional justice process (Kenya 2008 CIPEV Report). Indeed, the need for ATI legislation was highlighted in the 2008 national accord. Specifically, the accord noted that an ATI law would fast-track planned institutional reforms calling for openness in government (Article 19-Eastern Africa 2014). Following these recommendations, the Government drafted an ATI Bill in 2008 promising that it would be presented to cabinet and later to parliament for discussion; however, this never happened as the Bill was overshadowed by deliberations on the creation of a special tribunal to try suspects of war crime during the post- election violence (Article 19 Eastern Africa 2014).

The campaign for an ATI law gained impetus after 2010 when the new constitution was promulgated. In particular, ‘Article 35’ of the ‘constitution of Kenya’ (2010) provides for citizens’ right to information held by the state. Efforts to introduce the ATI Bill in 2014 in parliament did not materialise. However, in August 2015, the ATI Bill was presented as a private member’s Bill and by April 2016, it was passed by National Assembly and forwarded to the Senate for consideration. The president assented to the bill in August 2016 (Daily Nation 2015, AFIC Report 2015).

The enactment of the ATI law will change the information management landscape in Kenya in several ways; firstly, it repeals ‘Section 3 of the Official Secrets Act’ by “giving citizens right to access information held by public authorities.” Secondly, ‘Section 5 of the Act’ provides for proactive disclosure by making it an obligation for public bodies to publicize information in their possession. Thirdly, ‘Section 7 of the Act’ compels public authorities to: “respond to information requests from the public within 21 days.” Further, the Act recognizes that poor records keeping practices would hinder access to information. To address this, ‘Section 17 of the Act’ requires public entities to: “effectively manage records to assure their authenticity and accuracy” (Kenya Law, ATI Act 2016).

1.3.2. Legal Framework on ATI in Kenya

Effective implementation of ATI laws is predicated on a legal and regulatory framework that supports openness and transparency. For purposes of this study, the ability of the government to create a supportive legal and regulatory regime for openness demonstrates commitment and preparedness towards implementation of the ATI Act 2016.

Kenya has undertaken local and international legal measures aimed at advancing openness and accountability in public affairs. Indeed, Kenya has ratified international instruments relating to ATI thus committing itself to fulfilling the requirements of these instruments. For example, the country ratified the ‘African Charter on Human and People’s Rights’ (ACHPR) in 1992 thereby committing itself to promoting and protecting human rights and basic freedoms (Article 19 Report- Eastern Africa 2015). Furthermore, the ‘Constitution of Kenya’ recognizes ratified international instruments and conventions as forming part of the law of Kenya. In particular, ‘Article 2(5) and 2(6)’ of the constitution provide that:

The general rules of international law shall form part of the new law in Kenya and any treaty or convention ratified by Kenya shall form part of the law of Kenya under the constitution (Kenya, Constitution of Kenya [COK] 2010: 12, 13).

Further, additional measures have been put into place to ensure adherence to international obligations on ATI. These include; provisions like ‘Section 21 of the ATI Act 2016’ that grants the Ombudsman powers to: “monitor state compliance with international treaty obligations relating to ATI and protection of personal data” (Kenya ATI Act 2016). Similarly, ‘Article 21 (4) of the Constitution’ compels the state to: “enact and implement legislation to fulfil its international obligations in respect of human rights and fundamental freedoms” (Kenya, Constitution of Kenya [COK] 2010).

Kenya is signatory to several international and regional instruments that compels states to implement ATI. These include:

- ‘Universal Declaration of Human Rights’ (UDHR) and specifically ‘Article 19’;
- ‘International Convention on Civil and Political rights’ (ICCPR);
- ‘African Charter on Human and People Rights’ (ACHPR) and specifically ‘Article 9 (1)’;

- ‘United Nations Convention against Corruption’ (UNCAC); and
- ‘African Union Convention against Corruption’ (AUCC).

At the national level, access to information is based on the provisions of the ‘Constitution of Kenya’ (2010) and specifically ‘Article 35’, which states that:

35(1) every citizen has the right of access to- (a) Information held by the state;
and

(b) Information held by another person and required for the exercise or protection of any right or fundamental freedom.

(2) Every person has the right to the correction or deletion of untrue or misleading information that affects the person.

(3) The state shall publish and publicize any important information that affects the person (Kenya COK 2010:26).

This constitutional guarantee therefore obliges the government to: “provide information to the public to enhance openness and public participation in government decision-making” (International Records Management Trust (IRMT Report 2011). Apart from ‘Article 35’, there are also other provisions within the ‘Constitution of Kenya’ COK (2010) that have a bearing on the right of access to information. These provisions include:

- **Article 10 -Values and principles of governance**

This provision stipulates the need to adhere to the rule of law and respect for human rights. Indeed, this provision is relevant to the right to information because as will be pointed out elsewhere in this study, ATI is not only a central right that facilitates the enjoyment of other rights but is part of human rights guaranteed to individuals in democratic societies (Odote 2015). Therefore, by emphasizing on the need to safeguard human rights, this provision also implicitly safeguards the right to information. Further, ‘Article 10’ requires all state organs to: “uphold the doctrine of rule of law, democracy, citizen participation, transparency and accountability” (Kenya COK 2010). These principles are only achievable through access to information hence underscoring how this provision advances ATI. Indeed, transparency,

openness, accountability and participation form ‘the axes of free access to information’ (Arko-Cobbah and Olivier 2016). Government failure to provide information would compromise the ideals of democracy as espoused in the constitution.

- **Bill of Rights Article 20(4)**

‘Article 20 (4) of the Bill of rights’ also demonstrates the importance of access to information. Specifically, ‘Clause 4’ directs courts to: “ensure that they interpret the constitution in a manner that promotes an open and democratic society based on human dignity, equality, equity and freedom (Kenya COK 2010).” Indeed, an open society is predicated on transparency and access to information thus by referring to an open society, the constitution is signalling Kenya’s commitment to access to information.

- **Article 232 - Values and principles of the public service**

This provision also advances access to information. Specifically, ‘Article 232(1) (f)’ provides that: “transparency and provision of timely and accurate information to the public shall be one of the principles of the public service” (Kenya COK 2010). This proviso demonstrates government’s commitment to ATI by ensuring that the information that is availed to the public is accurate and that it is provided in a timely manner. This proviso is also relevant to this study as it implicitly demonstrates government’s willingness to maintain accurate and authentic records to facilitate access to information.

- **Article 24 -Limitations of rights and Fundamental Freedoms**

This proviso also relates to the right to information. It provides that: “the right to information is limited by law, just like other rights in the Bill of rights as long as that limitation is justifiable in an open and democratic society based on human dignity, equality and freedom taking into account all the relevant factors” (Kenya COK 2010). These factors include among others; “ensuring that the enjoyment of the rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others” (Kenya COK 2010). Essentially, this proviso alludes to the fact that: “the right to information is not absolute”. Indeed, in line with this provision, ‘Section 6 of the ATI Act 2016’ clearly elaborates the circumstances under which the right to information may not be granted.

- **Article 31 -Privacy**

This article provides that: “every individual has the right to privacy, which includes a) the right not to have information relating to their family or private affairs unnecessarily required or revealed and b) the right not to have their communication infringed” (Kenya COK 2010). Indeed, in pursuance of this constitutional provision, ‘Section 21 of the ATI Act 2016’ empowers the ombudsman to: “undertake certain functions that relate to the protection of personal data”. Data protection laws are the flip side of the access to information law. They seek to ensure that: “automatically processed data is not disclosed to third parties without the permission or consent of the person from whom the information is obtained” (Commission on the Implementation of the Constitution, CIC Report 2011). Kenya is yet to enact a Data protection Act. However, the government has drafted the Data protection Bill 2018 that seeks to: “safeguard access to personal data”. The Bill is currently being debated in parliament.

- **Article 33 - Freedom of expression**

‘Article 33(1)’ provides that: “citizens have the right to freedom of expression that includes the freedom to seek, receive or impart information or ideas” (Kenya COK 2010). This provision relates to access to information as it, can be interpreted as authorising persons to disseminate any information in their custody. Indeed, the only limitation to the right to disseminate information is the requirement: “to respect the rights and reputation of others” (Kenya COK 2010). For purposes of this study, it is worth noting that: “public agencies have no reputation rights to lose and therefore are not covered by this exemption” (Commission on the Implementation of the Constitution (CIC Report 2011).

Beyond the Constitution, there are also other sectoral laws in Kenya’s statute books that relate to access to public information by citizens. Some of these laws have provisions that facilitate access to information, while others have provisions that entrench the culture of secrecy. For example, the ‘1985 *Penal Code*’ empowers cabinet secretary in charge of internal security to: “sanction the importation or production of any publication on the account of national security.” Although this provision, unlike the others, outlines a review process, this arrangement is faulty since the appointment process of the Board members could be influenced. Essentially, this provision criminalises disclosure of information (Abuya 2013). On the other hand, it is also worth mentioning that there are other constitutional provisions that facilitate access to information implicitly. For example, “provisions compelling constitutional and

independent offices to publish annual reports informing the public of their operations implicitly give effect to Article 35” (Wamotsa 2014).

However, with the promulgation of the ‘constitution of Kenya 2010’ that recognised access to information as a fundamental right, most of the laws that contained provisions that embedded the culture of secrecy have been reviewed in tandem with the requirements of ‘Article 35’ of the constitution on access to information. An understanding of the various laws that contain provisions that have an implication on access to information is important for this study because one way of ensuring effective preparedness for implementation of the ATI Act in Kenya is repealing laws that hinder access to information. Indeed, the need for states to: “amend laws that contradict the principle of maximum disclosure” was outlined as one of the principles that states should adhere to by the special rapporteur on the right to information (United Nations UN Report 2000).

In view of this, below is a discussion of laws that relate to access to information spelling out the specific provisions that facilitate or hinder access to information.

- **Kenya Information and Communication (KICA) Act, revised 2013**

This Act provides the framework for regulating the communication and broadcasting sector in Kenya. The Act was first formulated in 1998; however, after the endorsement of the constitution of Kenya 2010, it was amended to align it with ‘Articles 33 and 35’ of the constitution that provide for freedom of expression and access to information respectively. In relation to access to information, ‘Section 93’ of the revised Act allude to the fact that: “the powers of the Communications Authority in relation to disclosure of information shall be implemented pursuant to Article 35 of the Constitution” (Kenya KICA revised 2013). The revision of the Act to realign it with ‘Article 34 of the constitution’ ensures that the Act facilitates ATI. The Act also promotes public disclosure by providing guideline on the setting up of public portals (‘African Union (AU) African Charter on Human and People’s Rights’ (AU ACHPR- Report 2014).

- **‘Public Archives and Documentation Service (PADS) Act Cap 19 of the Laws of Kenya’**

An Act of parliament that establishes the Kenya National Archives and Documentation Service and provides for the management of public records and archives in Kenya (Odote 2015, Kenya

PADS Act revised 1991). Several provisions of this Act were amended by the enactment of the ATI Act 2016 and are now more aligned towards facilitating access to information. For example, 'section 5A' of the Act that provided that: "creating agencies to restrict access to their records once they are in the custody of the National Archives." This was reviewed and the limitation to access restricted to exempted information covered in 'section six' of the ATI Act 2016 (Kenya ATI Act 2016). Similarly, 'section (7) of the 'Public Service and Documentation Service Act' on destruction of public archives was reviewed following the passing of the ATI Act 2016. This means that before authorising the destruction of public records and archives the Director, National Archives has to consult the Ombudsman. The requirement to have the ombudsman consulted prior to destruction of records is a form of check and balance that guarantees that valuable records are not condemned. This implicitly facilitates access to information by ensuring that all relevant records are available when a request is made.

Further, 'section six (2) (3)' of the Act were also repealed following the enactment of the ATI Act 2016. This facilitates access to information in that the Director, National Archives was stripped of the powers to deny access to public archives stored in the National Archives.

Furthermore, Wamotsa (2014) noted that the 'Public Archives and Documentation Service Act' is vague on citizen's access to public archives. It only requires that: "public records in existence for not less than thirty years be disclosed." Therefore, the Act tends to focus on archiving as opposed to access to public records (Wamotsa 2014).

Another concern relates to timeliness and relevancy of the information that is released thirty years after its creation. Indeed, Wamotsa (2014) noted that: "there is need to review that Act to harmonize it with Article 35 of the constitution and statutes such as Urban Areas and Cities Act, No. 13 of 2011, which compels state officers to provide timely information to citizens to facilitate decision making." The changes should ensure that the Act complies with the requirements of 'Article 24' of the constitution on restriction to the right of access to information (Wamotsa 2014).

- **Records Disposal (RD) Act Cap 14 of the Laws of Kenya**

An act of parliament that provides: “guidelines on disposal of records in the custody of the high court or the register general” (Kenya RD Act revised 2015). The Act facilitates access to information by outlining a disposal schedule, which, if implemented would facilitate decongestion of court registries and optimize use of space thus easing physical retrieval of the records (International Records Management Trust [IRMT] Report Kenya 2011). However, the Act is limited in the sense that it does not provide basic guidance on the management of current and semi-current records, nor does it address the management of electronic records (IRMT Report Kenya 2011). The failure of the Act to guide the management of current and semi-current records impedes access to information in that records are managed haphazardly thus cannot be retrieved when requested for, as well as when required for reference purposes.

- **National Lands Commission (NLC) Act**

An Act that outlines the mandate of the National Land Commission, qualifications and procedures for appointments to the Commission; to give effect to the objects and principles of devolved government in land management and administration (Kenya NLC Act Revised 2016). The Act empowers the commission in ‘Section 5 (2)’ to: “develop and maintain an effective land information system to manage public land” (Kenya NLC Act Revised 2016). Therefore, the Act implicitly recognises the need to facilitate access to information on land matters and authorises the commission to: “come up with a system to ensure proper management of that information”. Further, ‘section 6(2)’ of the Act empowers the commission to “gather any relevant information from any source, including any state organ, and to compel the release of such information where it considers necessary” (Kenya NLC Act Revised 2016). The Act acknowledges that availability of information is key in management of public land and thus makes this proviso to guarantee the commission access to any information necessary to achieving its mandate.

- **Ethics and Anti-Corruption Commission (EACC) Act 2012**

This Act was formulated pursuant to Kenya’s ratification of the ‘United Nation Convention against Corruption’ (UNCAC) in 2003 that requires states to: “implement certain measures towards preventing corruption by creating a conducive legal and regulatory framework” (United Nation Convention against Corruption [UNCAC] 2003). Indeed, Kenya acknowledged the relevance of access to information in combating corruption in its 2008–2012

implementation report to UNCAC. The report cited absence of an ATI law as a hindrance to combating corruption in the country (Article 19- Eastern Africa chapter 2014).

The Ethic and Anti-Corruption Act' (EACC) Act establishes the Ethics and Anti-corruption Commission. It recognises the role of information in the fight against corruption. Indeed, an effective corruption strategy is predicated on disclosure as well as information gathering and access (Odote 2015). 'Section 29' of the Act has a specific provision on management of information. It provides that: "a request for information from the commission by a citizen is subject to payment of a reasonable fee and to the confidentiality requirements of the commission." However, the Act provides that: "every member and employee of the commission to sign a confidentiality agreement." The signing of confidential agreements perpetuates secrecy.

- **Leadership and Integrity (L&I) Act 2012**

This Act recognises that access to information is critical for operationalizing provisions of Chapter six of the constitution on leadership and integrity. The 'leadership and integrity Act' links information to integrity and include a provision that seeks to protect misuse of official information. While 'Section 22' of the Act prevents disclosure and use of certain information, it explicitly states that: "use of information for furthering the interests of the Act and for educational and research purposes is not considered as misuse of information" (Odote 2015). The Act also underscores the need for access to authentic information in 'section 30' where it provides that: "a public officer is expected to provide authentic information to the public (Kenya L&I Act 2012)."

- **The County Government (CG) Act 2012**

Two sections of this Act facilitate access to information. That is, part eight and nine that deal with citizen participation and public communication respectively. Indeed, 'Section 87 of the Act' recognises "timely access to information, relevant for policy formulation and implementation as one of the principles influencing public participation at the county government" (Kenya CG Act 2012). 'Part 9' on the other hand articulates aspects of "public communication and access to information in the management of county affairs." Specifically, 'section 96 (1)' guarantees Kenyan citizens "access to information in the custody of county governments". It provides that: "every Kenyan citizen shall on request have access to

information held by any county government or any unit or department thereof or any other state organ in accordance with Article 35 of the constitution”. Further, ‘section 96(2)’ provides that: “the county government and its agencies should provide an office to facilitate access to information.” The county government is further required in ‘section 96(3)’ to: “formulate an ATI law to facilitate access to information but which should be based on the national ATI law (Kenya CG Act 2012).”

- **Public Procurement and Disposal (PPD) Act**

Access to information is also critical in the procurement process as it ensures transparency and accountability. Indeed, ‘Section 67’ of the ‘Public Procurement and Disposal Act’ on confidentiality specifies the “categories of information that the procuring entity, its employees or agents are prohibited from disclosing”. This includes; information relating to:

- a) a procurement whose disclosure would impede law enforcement or whose disclosure would not be in the public interest;
- b) a procurement whose disclosure would prejudice legitimate commercial interests, intellectual property rights or inhibit fair competition; and
- c) the evaluation, comparison or clarification of tenders, proposals or quotations; or (d) the contents of tenders, proposals or quotations (Kenya PPD Act 2015:41).

To ensure adherence to this provision, “employees, agents or members of committees of the procuring entity are required to fill a confidentiality declaration form”. Further, in ‘Section 67 subsection 5’, the Act “prohibits public officers from disclosing procurement information unless under the following circumstances:

- (a) if the disclosure is for enforcement of the Act;
- (b) if the disclosure is for review of the Act; and
- (c) if the disclosure is pursuant to a court order; or (d) if the disclosure is made to the Authority or Review Board under the Act (Kenya PPD Act 2015: 41).

Beyond the disclosure of procurement information, the PPD Act 2015 also has a provision on the management of procurement records. This provision ensures that records are managed

effectively thus facilitating access to authentic and reliable records. In particular, ‘Section 68 of the Act’ provides guidelines as to the retention period of procurement records. The proviso states that:

An accounting officer of a procuring entity shall keep records for each procurement for at least six years after the resulting contract has been completed or, if no contract resulted, after the procurement proceedings were terminated (Kenya PPD Act 2015: 41).

Indeed, ‘Section 67 subsection two of the Act’ also specifies the “categories of procurement records that the procuring entity is expected to maintain.” In addition, the Act provides guidelines for any fees that may be charged by a procuring entity to information seekers. Lastly, the Act requires accounting officers to have a sound filing system that links procurement and expenditure files and that facilitates an audit trail thus emphasizing on the need for authentic records (Kenya PPD Act 2015). Notably, the government of Kenya in an attempt to improve management of procurement records developed a procurement records management manual in 2008 to provide guidelines to public entities on management of procurement records.

- **‘Public Finance Management (PFM) Act 2012’**

This Act recognises the need for access to information in public financial matters and contains provisions that facilitate public disclosure of information. Specifically, ‘Part two, section 10(f) provides that: “budgetary office at parliament must ensure documents produced by the office are publicised within fourteen days after production subject to Article 35 of the constitution” (Kenya PFM Act 2012). In addition, ‘section 39(8) of the Act’ also requires “the national treasury, the intergovernmental budget office, the economic policy committee, the county treasury and the county executive committee member for finance to publicize information” (Odote 2015). Indeed, these roles are further anchored in ‘Article 35 and Article 201(a) of the constitution’ that recognises “public participation as a guiding principle for financial management” (Article 19 Report- Eastern Africa 2014). Therefore, the Act largely contains provisions that promote public disclosure of information to citizens. Indeed, section 198 of the PFM Act makes it “an offense for any public officer to conceal information on public finances to obtain a financial benefit either for the officer or another person (Kenya PFM Act 2012).”

- **The Official Secrets (OS) Act Chapter 187**

This Act provides for “preservation of state secrets and state security.” It was inherited from the colonial government and has formed the basis for non-disclosure in Kenya for a long time (Africa Freedom of Information Centre [AFIC] Report 2015). Indeed, Article 19- Eastern Africa (2014) rightly observed that: “this Act has entrenched the culture of secrecy by requiring public servants to take oath.” For example, section 3(7) of the Act prohibits persons from:

- a) Communicating the code word, plan, article, document or information to any person, other than a person to whom he is authorized to communicate it or to whom it is his duty to communicate it; b) To have in his possession any official document or code word issued for the use alone of some person other than himself without lawful authority or excuse; and
- c) On obtaining possession of any official document by finding or otherwise neglects or fails to restore it to the person or authority by whom or for whose use it was issued or to a police officer (Kenya OSA Revised 2015: 8).

Fortunately, the passing of the ATI Act 2016 amended ‘section three’ of the official secrets Act and specifically ‘subsection 8’ which clarified that: “section 3 (7) would only be applicable subject to Article 35 of the Constitution and the ATI Act 2016” (Kenya ATI 2016:22). However, the retention of clauses that prohibit information disclosure in the statutes undermines the right to information.

- **Preservation of Public Security (PPS) Act Chapter 57**

This is an Act of parliament that seeks to: “preserve public security by:

- a) Defending the territory and people of Kenya;
- b) Upholding the rights and freedoms of the individual;
- c) Safeguarding of persons and property; and
- d) Maintenance of the administration of justice among other ways” (Kenya PPS Act Revised 2012).

However, in pursuit of preservation of public security, the Act stifles access to information. For example, ‘section 4 (2) (d)’ of this Act provides that: “the president shall formulate rules for the preservation of public security.” These rules may entail “censorship, control, sanction

against communication of any information” (Kenya PPS Act Revised 2012). The Act therefore gives the government extensive powers to “restrict the circulation of information that is held by the state” (Odote 2015). Indeed, the provisions in this Act negates Kenya’s commitment to freedom of expression by providing for arrest and detention of journalists for disturbing public order.

- **Evidence Act Chapter 80**

This Act relates to: “provision of evidence in judicial proceedings in or before any court other than the Kadhis court.” Some sections of the Act “prohibit disclosure of information on the grounds of public policy.” For example, ‘Section 132’ of the Act allows “public officers not to disclose information if they feel that the disclosure would undermine public interest” (Kenya Evidence Act revised 2014). Similarly, ‘Section 133 of the Act’ provides that: “judges, magistrates or police officers have no obligation to reveal when they got information relating to the commission of any offence” (Kenya Evidence Act revised 2014). Therefore, this Act undermines access to information by “giving public officials wide discretion to decide whether to release public information that is in their custody and which could be prejudicial to public policy.” Worse still, there are no provisions for appeal or review, nor are the officials required to explain (Odote 2015).

- **Film and Stage Play (FSP) Act Chapter 222**

An Act of parliament that regulates filming and licensing of stage plays theatres and cinemas (Kenya FSP Act revised 2012). This Act impedes openness by placing restrictions on filmmakers and exhibitors. Specifically, the Act allows “a police officer or the Board of Censors to ban filming” (Odote 2015). Worse still, “the Act has no provision for appeal nor does it require a police officer to assign any reason for his or her decision.” Further, it provides that: “any person who fails to comply with such an order is liable for prosecution” (Odote 2015).

- **Statistics Act 2006**

This is an Act of parliament that establishes the Kenya National Bureau of Statistics for the collection, management of statistical information and the management of the national statistical

system (Kenya SA 2006). Some of the provisions of this Act that facilitate access to information include; ‘section 20 of the Act’, which empowers officers of the bureau to: “access information from any public entity where that information is relevant for undertaking the duties of the bureau.” In fact, ‘section 24’ provides for “prosecution of any person who obstructs or wilfully refuses to produce information required for the purposes of this Act.” Although ‘section 23’ of the Act empowers the bureau’s Director General to “grant information to persons upon payment of requisite fee,” it is not absolute. “The requester must commit himself or herself in writing that they will use the information only for research purposes and that they will not release the information to a third party without the consent of the Director General.” Further, the Act facilitates disclosure of information by providing that: “the bureau’s Director General, with the approval of the Board may disseminate statistical data collected by the bureau to the public after ascertaining its accuracy and safeguarding the confidentiality with respect to the information” (Kenya SA 2006). However, several sections of the Act restrict access to information. For example, ‘section 22’ of the Act “limits access to statistical information to statisticians working in the bureau” (Kenya SA 2006). Similarly, ‘section 11 of the Act’ provides that: “employees of the bureau have to take an oath of secrecy.” Fortunately, the enactment of the ATI Act 2016 amended this proviso “restricting disclosure only to exempted information outlined in section six of the ATI Act 2016.”

- **National Assembly (Powers and Privileges) Act**

This Act defines the “powers and privileges of the National Assembly and of the members of the National Assembly.” This Act hinders access to information in several ways. Under ‘Section 17’, “a witness may refuse to testify before a committee by claiming that the testimony is of private nature and has no effect on the matter being investigated.” Similarly, ‘section 18’ outlines conditions that public officers should adhere to when giving evidence to committees. Firstly, “not to adduce evidence in parliament matters relating to the military except with the permission of the President;” and secondly, “not to reveal any documents or evidence that the President has directed against” (Kenya PP Act Revised 2012). These provisions undermine transparency and accountability by hindering scrutiny of government by Parliament and need to be amended ((Article 19-Eastern Africa 2014).

- **‘Public Service Commission Act 2012’ (Revised 2015)**

“An Act of parliament that makes provisions on the functions, powers and administration of the public service commission pursuant to Article 233 of the Constitution of Kenya 2010” (Kenya PSC Act 2015). ‘Section 29’ of the Act gives “guidelines on management of information.” It provides that: “a request for information by a citizen shall be addressed to the secretary of the commission and may be subject to the confidentiality requirements of the commission” (Kenya PSC Act 2015). Further, ‘Section 29(3)’ stipulates that: “the commission may refuse disclosure of information subject to the provisions of the ATI Act 2016 and Data protection Act.” Some of the grounds under which an information request may be declined include; “if the request is unreasonable in the circumstances; failure of payment of the prescribed fee; if the information is at a deliberative stage and if the applicant fails to satisfy the confidentiality requirements of the commission.” Although, the Act is aligned to the access to information Act 2016, it still contains provisions that hinder access to information. For example, ‘section 29(5)’ makes it an obligation for “all employees and members of the commission to sign a confidentiality agreement.”

- **Public Officers Ethics (POE) Act 2003**

An Act of parliament that outlines the code of conduct and Ethics for public officers and requiring financial declarations from certain public officers (Kenya POE Act revised 2009). The Act impedes access to information by making it “an offense for public officers to divulge information acquired in the course of his or her duties.” Luckily, the enactment of the ATI Act 2016 reviewed ‘section 41 of this Act’ clarifying that: “persons will only be considered to have committed an offense and liable for conviction for disclosing information that is exempted in section 6 of the ATI Act” (Kenya POE Act revised 2009).

Another issue that has implication on access to information and particularly on proactive disclosure is the aspect of whistle-blowers protection. Indeed, the relevance of the whistle-blowers protection in facilitating access to information cannot be gainsaid. It is one of the principles identified by Article 19, which should be adopted by national governments in order to extend transparency, in line with global best practice (Darch and Underwood 2010). Currently, Kenya has no overarching legislation on whistle-blowers protection. Instead, provisions to safeguard persons who disclose information in public interest are fragmented in various individual laws. For example, ‘section 16 of the ATI Act 2016’ seeks to protect whistle

blowers by providing that: “a person shall not be penalized in relation to employment or holding an office as a result of disclosing information that was obtained in confidence in the course of the activity.” The Act is very specific that: “the disclosure should be in public interest and should be made to a law enforcement agency (Kenya ATI Act 2016).” It further outlines matters that would be considered to be of national interest. These include; “violation of human rights, corruption, abuse of office among others.”

Whistle-blowers protection is significant as it gives citizens the confidence to disclose information on various matters that are of public interest. Indeed, protection of whistle blowers was recognised in the ‘African Platform on Access to Information declaration’ (APAI) as critical to the full realization of ATI (APAI 2011). Although Kenya has a ‘Witness Protection Act 2006’, the protection accorded in the Act only extends to: “witness who are part of legal proceedings and not whistle blowers that are not within a criminal trial framework.” This means that the ‘Witness Protection Act’, therefore, does not protect whistle-blowers unless and until they offer to testify in a judicial process (African Freedom of Information Centre (AFIC Report 2015). In essence, in Kenya, the quest for an overriding whistle blower protection regime is still on. Indeed, civil society organisations have been lobbying for the enactment of a stand-alone whistle blowers law arguing that it would ensure certainty, clarity and seamless application of public information disclosure framework (Transparency International-Kenya 2015).

1.4 Site of study

According to the Constitution of Kenya (2010), Kenya has a two-tier system of government. That is; the national government and the county governments. However, as indicated in the scope of the study later in this chapter, this study focused on the national government only. The national government is further divided into three arms namely; ‘the executive’, ‘the legislature’ and ‘the Judiciary.’ As pointed out later in this chapter, this study focused on the capacity of public bodies in the executive arm of the Government to implement the ATI legislation. According to the ‘Constitution of Kenya (2010)’, the executive arm of Government consists of the presidency, the Deputy President and the cabinet. Further, ‘Article 152 of the Constitution of Kenya (2010)’ specifies that: “the cabinet should consist of not fewer than fourteen ministries and not more than twenty- two ministries.” Currently, the executive arm of government is made up of 22 ministries. Within the 22 ministries, there are 35 state

departments, but 7 ministries have no departments. This enumeration of the structure of the executive is important for this study as it guided the identification of the respondents for the study. Indeed, the respondents for the study were sourced from the 22 ministries that make up the executive. Below is a profile of the main respondents and their relevance to the study.

The information and records management function in every ministry and department falls under the administration department, which is headed by the Director of administration. The Director of Administration is in charge of the day-to-day administrative activities in the Ministry. He/she is allocated financial, human and physical resources to facilitate the smooth operation of the Department. The Director of Administration was important for this study since he/she provided insight on whether the aspect of ATI is included in the ministry's strategic plan and the measures that the ministry had put in place to facilitate ATI.

The Director of information/public communication is charged with formulation, implementation and coordination of the information and public communication policies, strategies and programmes in the public service (Kenya Revised scheme of service for information and public communication officers 2007). In this regard, the Director of information coordinates access to information services in government and administers the scheme of service for information officers in consultation with the 'Public Service Commission'. The Director of Information was relevant for this study by providing information on the state of national information infrastructure and the existence of a national information policy, shedding light on the resources that the executive has set aside for ATI implementation, providing insight on the adequacy of the information officers in the wake of the passing of the ATI legislation and the mechanisms that the government has put in place to facilitate effective implementation of the ATI Act 2016.

Public Communication Officers (PCOs) spearheads the information function in specific ministries and departments where they are deployed. Currently, there are 35 Public Communication Officers for each of the 35 departments plus an additional 7 Public Communication officers for the 7 ministries that have no departments. PCOs were relevant for this study because they are involved in receiving, processing and responding to information requests. Specifically, the information officers provided information on their level of awareness

of the Act and the availability of access to information guidelines in their respective workstations.

A record management officer (Head of records) leads the records management function in each of the 22 ministries. The record management officer oversees and coordinates the management of records in the ministry and its departments. In essence, the head of records in each ministry was important for this study as he/she provided information on the policy decisions taken to improve records management in a particular ministry. In addition, each of the departments has several registries which are manned by registry officers. The registry officers were important to this study since they provided information on the records management regime.

Another key informant of this study was the Director National Archives since the Public Archives and Documentation Service Act Cap, 19 of the Laws of Kenya mandates him/her to oversee the administration of records in the public sector. The Director National Archives was therefore relevant to the study by providing insight on management of public records particularly in terms of policy and leadership.

The researcher also sought the views of the Commission on Administrative Justice (CAJ) and specifically the ombudsman. Indeed, the ATI Act 2016 mandates the ombudsman to oversee its enforcement and implementation. In December 2016, the Commission designated one of its commissioners as the information commissioner to spearhead the access to information function. The information commissioner was relevant to the study by providing information on measures that the commission had put in place to promote public awareness of the Act and whether the commission has the necessary resources to facilitate implementation of the Act.

1.5. Statement of the Problem

In the last decade, freedom of information has gained international recognition with many countries enacting the access to information law. Indeed, according to Odote (2015), by 2014, 99 countries around the world had established laws and mechanisms for citizens to request information that is in the custody of the state. While passage of the ATI law is a useful step towards enhancing openness in public affairs, enforcement and implementation of the ATI laws around the world has been challenging particularly in countries with a weak rule of law and poorly capacitated institutions (Calland and Neuman 2007). Indeed, Banisar (2004) in an assessment on access to Government records around the world noted that effective

implementation of ATI is hampered by limited awareness of and preparedness for ATI legislation implementation. For instance, in Uganda, whereas the Access to Information Act (ATIA) was enacted in 2005, the rules for facilitating access to information came into place 6 years later in 2011 signalling a lack of preparedness by the authorities hence delaying implementation of the Act (FOIANet 2013). Similarly, in South Africa, whereas the 'Promotion of Access to Information Act' (PAIA) specified that an information request had to be responded to within 30 days, this had to be extended to 90 days for the first year of the law's operation and to 60 days for the second year as most public bodies were not adequately prepared to handle the information requests (PREMnotes 2004). Indeed, the issue of public bodies unpreparedness for implementation of the ATI law was also highlighted by Adeleke (2013) who noted that; in South Africa, as far as government is concerned, the level of internal administrative readiness is a key barrier because most public institutions do not put mechanisms in place that will meet the demand for information when requested.

According to Adeleke (2013), some of the signs that demonstrated that public bodies in South Africa were unprepared for the effective implementation of the 'Promotion of Access to Information Act' (PAIA) 2000 included: lack of budgetary provision for PAIA delivery, weak or non-existence policies to guide the public in accessing information, poor records management across all levels of government and lack of designation of government employees as information officers in departments. This state of affairs is worsened by the fact that the 'South African Human Rights Commission' (SAHRC), the body charged with overseeing implementation of PAIA, lacks the powers to penalize government institutions for non-compliance. This lacuna in law has permitted many government institutions in South Africa to disregard their access to information obligations as specified in PAIA (Kisoon 2010).

Notably, some countries attempted to circumvent the aspect of preparedness by rushing the implementation of the ATI legislation. This was the case in Jamaica, Peru, Mexico and South Africa where the governments rescheduled implementation for one year or less (Calland and Neuman 2007). However, in all the cases, the governments experienced obstacles, as they were unprepared of the procedural details relating to ATI implementation. For instance, in Jamaica, the government had to reschedule the implementation of the law thrice and amended the enabling legislation to allow for phased commencement (Calland and Neuman 2007).

From the above analysis, it is evident that after passage of an ATI law, public bodies require some level of preparedness for them to be in a position to effectively implement ATI legislation

particularly handling information requests. Kenya has recently passed the Access to Information Act, 2016. Although, the Act specifies that public bodies should implement certain actions within a given timeline of its enactment, it is unclear whether many public bodies will adhere to this timeline, as their level of preparedness is unknown. This study seeks to fill this research deficiency by assessing the state of readiness of public bodies towards implementation of the ATI law.

1.6. Purpose of the study

The study seeks to investigate the extent to which public bodies in Kenya are capacitated to implement ATI Act 2016 with a view to providing an implementation plan.

1.7. Research Objectives

Specifically, the research aims at establishing whether the elements necessary for successful ATI implementation are present in public bodies in Kenya.

1.8 Research Questions

The study seeks to answer the following research questions;

1. To what extent, if any, is there leadership and political will for implementation and institutionalization of the ATI regime?
2. What the level of awareness of the duty bearers of their responsibilities as provided in the ATI Act?
3. What structures, processes and systems are in place in public bodies in Kenya to facilitate access to information?
4. What are the current records management practices in the public sector and to what extent do they facilitate or undermine access to information?
5. What recommendations for improvement can be made from the areas of strengths or weaknesses identified?

1.9 Significance of the Study

Creswell (1994:111) notes that the significance of a study focuses on three main questions namely; how the study is going to add to scholarly research and literature in the field, how the study will improve practice and how the study will improve policy. Firstly, this study

contributes to the already existing literature on the law and practice of access of information, primarily because its insights are drawn from empirical work. Secondly, this study contributes to policy and practice by providing empirical results from which an ATI implementation action plan can be developed. Indeed, results from this study guide the formulation of ATI implementation guidelines and training manuals. The Ministry of Information and Communication Technology can draw some lessons from this study on how best to facilitate access to government information to the public. Thirdly, the study contributes to literature by providing information that will be a benchmark of good practice to countries that are intending to enact ATI laws, on how best to prepare for successful implementation. Fourthly, the study will shed light on whether the public sector reforms initiated by the Government of Kenya over the years that were aimed at improving management of records in the public sector have indeed been fruitful by establishing the current records management strategies in public bodies and their impact on ATI implementation. Lastly, the study will benefit stakeholders in the information industry such as records managers, archivists, ATI activists and academicians as it adds to the existing empirical body of knowledge on access to information.

1.10. Originality of the study

Gill and Burnard (2012) contend that the hallmark of any doctoral research is its ability to make an original contribution to knowledge. According to Phillips and Pugh (2005), some of the common definitions of originality include; providing an original technique, observation or result, undertaking empirical work that has not been done before, being multi-disciplinary and using diverse methodologies and providing new interpretation of existing theories. This study's originality is underscored by it providing the first empirical evidence on the readiness of public bodies in Kenya to release information and respond to requests. Further, the study shall also adopt a multidisciplinary approach by including the concept of meaningful engagement whose theoretical foundation is in law to the concept of access to information. Undoubtedly, there have been previous studies assessing the public records management regime in Kenya for example (Kemoni 2007). However, only this study has focused on the influence that records management practices have on ATI thus breaking new ground.

1.11. Definition of Terms

Information includes all records in the custody of a public entity notwithstanding the form in which it's kept, its origin or the date of creation (Kenya ATI Act 2016).

Preparedness in this study refers to the state of readiness of public entities to release information and respond to requests.

“Public entity means any entity performing a function within a commission, office, agency or other body established under the constitution (Kenya ATI Act 2016).”

“Public record includes any information that relates to government transactions, created, used or stored by a public entity irrespective of physical form or characteristic (Kenya ATI Act 2016).”

Public sector refers to agencies controlled by the state that deliver services to the public. Public sector refers to state corporations and agencies (Mutula and Wamukoya 2009).

1.12. Scope and limitations of the study

This study focuses on assessing preparedness on the supply side (the government) of ATI law implementation leaving out the demand side that involves non-state actors such as the citizenry, the media, private sector and the civil society. Although this study focuses on preparedness on the supply side, it is, however, important to point out that successful implementation of an ATI law is a collective responsibility by both demand and supply sides. Indeed, Calland and Neuman (2007) noted that with a poor demand side, an ATI law is likely to wither on the vine).

The study will focus on preparedness on the executive arm of the government excluding the Judiciary and the legislature. This is informed by the fact that the role of generating public information and synthesizing it for decision making on provision of public services lies with the executive arm. Indeed, Banisar (2006) pointed out that most FOI laws focus on the executive and public in the executive, FOI laws rarely focus on the courts and the legislature.

Although the Ministries to be studied have decentralised their services to the counties, this study will only focus on Nairobi, the administrative capital of Kenya and the headquarters of all the ministries to be surveyed. Further, the study excludes county governments though they are also public bodies; this is because policy decisions’ regarding national matters is the

preserve of the National Government as per the fourth schedule of the Constitution of Kenya 2010.

1.13. Assumptions underlying the study

The present study shall be based on the following assumptions:

- There exists an imbalance of information between the state and the citizenry hence the enactment of the access to information legislation;
- Access to information legislation cannot be effective without proper records management; and
- The state is obliged to provide access to public information to citizens.

1.14. Ethical issues

Cooper and Schindler (2008:34) define ethics as “the norms or standards of behaviour that inform our behaviour and our relationship with others.” In research context, therefore ethics refers to “the correctness of the researcher’s behaviour in relation to the respondents and those that are affected by the study.” This researcher endeavours to adhere to the ethical code in conducting this study. In this regard, the researcher shall ensure that all the respondents who shall contribute to this study do so voluntarily without coercion. Similarly, the principle of confidentiality shall be observed with the researcher ensuring that the information obtained from the respondents is only used for academic purposes. Respondent’s participation shall be based on informed consent and should a respondent feel uncomfortable with the study, he/she has the right to withdraw. In sum, the researcher shall adhere to the University of KwaZulu-Natal research ethics policy (University of Kwa Zulu Natal [UKZN] 2007) and comply with the University code of conduct for research.

1.15. Structure of the study

This study is **structured** in seven chapters as shown below:

Chapter 1 provided the background to the study and introduced the main research problem to be investigated. Other issues to be addressed in this chapter include; the problem statement; purpose of the study; research objectives; research questions; significance and originality of

the study; scope and delimitations of the study; a brief introduction of the theoretical framework; summary of the methodology and an outline of the thesis

Chapter 2 provides a detailed overview of the theoretical framework introduced in chapter one.

Chapter 3 presents a review of both theoretical and empirical literature in order to situate the study by looking at the previous studies on access to information both in developed world and in Africa.

Chapter 4 discusses the research design and methodology to be employed in the study. It further explains the study's paradigm; the study's approach; study population; methods of sampling; sample sizes; procedures for data collection; reliability and validity of the instruments; ethical considerations; presentation and analysis and interpretation of data.

Chapter 5 presents the empirical findings of the study in form of figures, tables and narrations.

Chapter 6 provides an interpretation of the results and relate them to the research questions and the literature review.

Chapter 7 provides a summary and recommendations for the study findings based on the research questions. This chapter also suggests areas for further inquiry.

1.16. Summary

The chapter commenced by giving an insight into the historical development of access to information in the developed world and as has been shown; this phenomenon has a long history dating back to 1766 with the Swedes laying the foundation. Accordingly, an overview of the international, regional and national legal framework and standards for Access to Information in an effort to contextualize the study was also undertaken. Further, the chapter provided an outline of the status of enactment and implementation of the ATI law in various countries in Africa and more importantly the journey towards enactment of the Access to information Act 2016 in Kenya. Other aspects discussed in this chapter include: 'the statement of the problem', 'the purpose of the study', 'research objectives' and the 'research questions', 'the significance and delimitations of the study' as well as 'the originality.' Lastly, the chapter introduced the theoretical framework, literature review and the methodology adopted.

CHAPTER TWO

THEORETICAL FRAMEWORK

2.1 Introduction

Several scholars have defined the term theory differently. According to Creswell (2014), theory explains the relationship between variables, thus connecting the variables. However, the definition of the term theory that has been cited most is that of Kerlinger in 1979 (Anfara and Mertz 2006; Cohen Manion and Morrison 2007; Creswell 2009). According to Kerlinger (1979:64), a theory is a set of interconnected constructs (variables), definitions and propositions that presents a logical view of phenomenon by stating relations among variables with the purpose of explaining natural phenomena. Other scholars who have defined the term theory include Ocholla and Le roux (2011). They defined the term theory as a conceptual explanation of a phenomenon and how it interacts with others (occurrences) in space and time in order to broaden our understanding and application of a concept. However, for purposes of this study, the most appropriate definition of theory is a set of concepts used to define or explain some phenomenon (Silverman 2000:77). Indeed, the theories used in this study are aimed at expounding and predicting the relationship between variables on the discourse of ATI legislation implementation.

Theoretical framework on the other hand refers to an articulation of the theoretical assumption or supposition on which the research is based; the why and how of the research and how it permits you to move from simply describing a phenomenon to generalizing about various aspects of that phenomenon through observation (Ocholla and Le roux 2011:63).

Further, Ocholla and Le roux (2011) also weighed in on the raging debate of whether it is possible to conduct research without a theory and concluded that there is no research without a theoretical framework. Indeed, there seems to be a unanimous view among scholars that nothing can be studied empirically in the absence of a theory and research methods (Bergman 2011). Similarly, King, Keohane and Verba (1994) also noted that no empirical investigation could be successful without theory to guide its choice of research questions. Theory therefore provides a “back cloth and rationale of the research that is being conducted” (Bryman 2012). Further, Wacker (1998) provided three reasons why theory is important for research. Firstly, it

provides a framework for analysis. Secondly, it provides an efficient method for field development and thirdly, it provides a clear explanation for the pragmatic world. Similarly, Udo-Akang (2012) argues that the systematic nature of theory is to explain a problem, to describe the distinct aspects of a phenomenon, and to provide predictive value.

As indicated in chapter one, besides theory, this study was also guided by a model and concept hence the need to explain what these terms refer to and their relationship with theory. According to Ngulube, Mathipa and Gumbo (2015), models, concepts, constructs and propositions form the building blocks of a theory. Silverman (2000) notes that models derive from experiencing the world and may be in form of verbal, visual or mathematical representations. Further, a concept derives from a given model, while a theory is a set of concepts used to define or explain some phenomenon (Silverman 2000). A model is a simplified depiction of a real situation including the main aspects of the real situation it depicts (Botha 1989; Cornford 1991; Kemoni 2008). It describes a phenomenon and embodies a theory. Indeed, Koutsoyiannis (1979) explains that models serve the purpose of analysis and prediction. A concept on the other hand refers to components of theories that help us to understand the real world (Bryman 2012).

2.2 The use of theory in quantitative, qualitative and mixed methods researches

Quantitative studies use a deductive approach where the theory is identified at the start of the research process and is used to formulate the research questions or hypothesis followed by data collection and analysis. The research findings therefore seek to confirm or reject the theory leading to its revision (Ngulube Mathipa and Gumbo (2015). Therefore, in quantitative research, the variables to be measured are identified in advance and the theory becomes the framework of the entire study (Ngulube Mathipa and Gumbo 2015).

On the other hand, qualitative studies use inductive approach where theories are derived from data and are thus the outcome of a research process. In this case, theory is built on data and themes that emerge from the research process (Ngulube Mathipa and Gumbo 2015).

Creswell (2009) argues that since mixed methods involve use of both quantitative and qualitative methods, when it comes to use of theory, mixed methods may both test and generate theories. This study adopted the use of mixed methods in which the quantitative aspect is

dominant while the qualitative is less dominant. In view of this, several theoretical models were used as orienting lenses to the study.

2.3 Theoretical underpinning of the study

The purpose of the study was to assess the capacity of public bodies to implement the Access to information Act (ATI) with a view to providing an implementation roadmap. As mentioned earlier, a theoretical framework helps shape the research questions and provides focus for a study. In this regard, the following research questions shaped this inquiry:

1. To what extent, if any, is there political will for the institutionalization and implementation of the ATI regime in Kenya?
2. What is the level of awareness of public officers of their duties and obligations as provided by the Act?
3. What are the current records management practices in public bodies in Kenya and to what extent do they facilitate or undermine access to information?
4. What systems, structures and processes are in place to facilitate access to information in public bodies in Kenya; and
5. What recommendations for improvement can be made from the areas of successes and weaknesses identified?

The study was underpinned largely by the ‘United Kingdom (UK) Department of Constitutional Affairs (DCA) Model Action plan (MAP) (2003) for preparing for freedom of information’ (FOI) and the ‘Carter Center’s Implementation Assessment Tool’ (IAT). These two were supplemented by the ‘concept of meaningful engagement’ and the Records Continuum Model. This combination of more than one theory is referred to as theoretical triangulation. Indeed, Denzin (1978) and Ngulube, Mathipa and Gumbo (2015) noted that theoretical triangulation enhances the researcher’s understanding of phenomenon under investigation and increases the validity of the explanations.

The first two models addressed access to information, which is the main theme of this study. However, none of them was adequate since ATI is a multifaceted phenomenon that lacks a firm theoretical underpinning. This necessitated the need to bring on board the concept of meaningful engagement and the records continuum model to address all the research questions of the study comprehensively. Indeed, the multifaceted nature of ATI was also restated by Calland and Jonason (2011) who noted that part of the contemporary understanding of ATI is

to acknowledge its theoretical and conceptual intricacy; that it has a multi-dimensional character, a multi-functional character and a multi-rationale character.

Below is a detailed discussion of the models and concept that underpin the study.

2.4 The ‘United Kingdom (UK) Department of Constitutional Affairs (DCA) Model Action plan’ (MAP) (2003)

The UK, DCA, MAP 2003 identifies five areas that are key for preparing for implementation of the freedom of Information Act 2000 in the United Kingdom (UK). These are ‘leadership and policy’; ‘training and awareness’; ‘information and records management’; ‘customers and stakeholders’ and ‘systems and procedures. These five areas are discussed below:

a) Leadership and policy

The model recognizes leadership as a key element in the implementation of an ATI legislation particularly in coordinating preparation and in delivering the level of assurance required for the implementation of the Act (‘United Kingdom’ (UK), ‘Department of Constitutional Affairs’ (DCA), ‘Model Action plan’ (MAP) (2003). Indeed, the aspect of leadership and policy is pertinent to the present study since it seeks to establish the extent of commitment by political leaders towards institutionalization of the ATI regime. In this case, commitment may be manifested through pronouncements, policy decisions and actions by political leaders, which have an influence on the implementation of the ATI law.

UK DCA MAP (2003) envisions the need for leadership for ATI legislation implementation at several levels. Firstly, the appointment of an information champion to spearhead the FOI campaign. The model therefore recommends the nomination of a high-ranking official in an agency to act as an information champion and to spearhead issues relating to ATI (UK DCA MAP 2003). For instance, in the UK, the preparation for the ‘Freedom of Information Act 2000’ was led by the Lord Chancellor and his ‘Department of Constitutional Affairs’ (Ministry of Justice) was responsible for the implementation of the Act (Shepherd 2007). The Lord Chancellor headed the ministerial sub-committee on FOI charged with coordinating government approach to FOI and its arrangements for the implementation of the FOI Act 2000 (‘United Kingdom’ (UK) ‘House of Commons, Constitutional affairs Committee first report’ 2004/05). Further, the DCA developed a policy where senior officers were nominated to act as FOI champions and coordinate its implementation in their respective entities (Shepherd 2007).

To facilitate implementation of the FOI Act, ‘a code of practice’ was issued to “guide public entities on the administration of the Act.” This was known as the ‘secretary of state’s code of practice’ on “the discharge of functions of public authorities under part 1 of the FOI Act specifically dealing with access arrangements” (section 45) (‘United Kingdom (UK) Department of Constitutional Affairs’ (DCA), 2002a, 2002b). Specifically, section 45 addressed among other things; “advice and assistance to applicants, details on transfer of requests from one institution to the other, complaints procedure and terms for disclosing information in public contracts” (Amos and Holsen 2004).

Shepherd (2007) notes that the second level of leadership that UK DCA MAP (2003) identifies is that which relates to public pronouncements by political leaders committing themselves to support access to government information by the public. For example, in the UK, in June 2005, the Lord Chancellor made the following statement:

A presumption of openness has been created, the central government should aim to set an example to the rest of the public sector in pursuit of greater openness.....making the information we release available to the widest possible audience.....listening and engaging with our stakeholders to enhance our own customer service (Shepherd 2007:127).

Such a pronouncement by a policy leader is important in the implementation of the ATI law as it demonstrates commitment by government towards making information accessible.

The third level of leadership identified by the model relates to presence of a formal institution that oversees FOI implementation. For example, in the UK, Shepherd (2007) noted that: “the Information Commissioner is an independent office holder appointed by the crown to oversee enforcement of the FOI Act across the public sector.” To safeguard his/her independence, “the Information Commissioner reports to parliament and not Government, though s/he works closely with the government” (United Kingdom (UK) Information commissioner 2005a). Therefore, the existence of formal institutions that are charged with implementation of the access to information (ATI) legislation is a demonstration of commitment towards successful implementation of the law. However, the institution must be independent in terms of resources and non-interference from the political class for it to discharge its mandate effectively.

The fourth level of leadership espoused by the model relates to committing sufficient resources for FOI. Indeed, Shepherd (2007) noted that resources would entail “financial as well as

provision of sufficient expert staff to manage FOI.” This means that for a state to be seen to be committed towards implementation of ATI legislation it must provide financial, human and physical resources to facilitate implementation of the access legislation. For example, in the UK, Shepherd and Ennion (2007) noted that the Government had not funded the costs of resourcing FOI. Worse still, in one of the organizations that Shepherd and Ennion (2007)’s study focused on, “FOI duties were added to the workload of existing staff such as the records manager, but no additional resources were provided” (Shepherd and Ennion 2007).

On the question of policy, the UK DCA MAP (2003) recommends the establishment of an access to information implementation unit. Such a unit would coordinate implementation of the ATI legislation hence ensuring uniformity in implementation across the executive. For example, in the ‘United Kingdom’ (UK), the ‘Department of Constitutional Affairs (DCA), House of Commons, Constitutional Affairs Committee first report’ (2004/05) indicates that “the Lord Chancellor and the Information Commissioner decided in 2001 to form an advisory group whose role was to coordinate the implementation of the FOI Act.” Similarly, a freedom of information practitioners group consisting of the DCA and other public officials was set up. Further, the Lord Chancellors advisory council on national records and archives was set up and was charged with the responsibility of advising the Lord Chancellor on the release of historical records. That is; those over 30 years old (United Kingdom (UK) Department for Constitutional Affairs” (DCA) 2002b).

Another aspect that relates to both leadership and policy is the question of appointment of a project team. Indeed, UK, DCA, MAP (2003) proposes that the information champion should exercise leadership by engaging a project team to prepare the organization for the implementation of the Act. The project manager of the team will coordinate the preparation of the ATI implementation project. Involvement in ATI issues will provide the project team members with skills which the organization can leverage to ensure effective ATI implementation (UK, DCA MAP 2003).

Another policy aspect identified by the UKDCA MAP (2003) relates to the need to draw an ATI implementation project plan. Indeed, the model recommends that public entities should formulate plans that identify critical milestones for FOI implementation and set out a timeline for their achievement. The plan should be understood by all staff such that each staff is aware of their role in successful implementation of the ATI legislation (UK DCA MAP 2003). Indeed,

having a plan ensures that the ATI implementation project is based and run on standard project management principles (UK DCA MAP 2003).

Still on policy, the UK DCA MAP (2003) also recognizes the need to assess the effectiveness of the ATI implementation project plan. Indeed, the model emphasizes the need evaluate whether the ATI implementation project has been implemented within the set timeframe; using the budgeted resources and met the quality specifications set out in the plan. This assessment is key as it provides an opportunity for the organization to identify the weaknesses in the ATI implementation process and devise ways of addressing them.

b) Training and awareness

The second aspect covered by the model relates to training and awareness. Indeed, UK DCA MAP (2003) emphasizes the need to train staff in order to raise their awareness on their responsibilities and obligations prior to and after implementation of the Act particularly handling of information requests. Indeed, the issue of training is an important aspect for this study as it seeks to establish the level of awareness of the duty bearers on their responsibilities and obligations as specified by the At.

This second aspect is therefore relevant to this study as it advocates that an institution should have an internal communication strategy that will ensure all staff are familiar with the Act; are able to make the right decision when handling a request for information; are able to understand how the Act impacts on their work (UK, DCA MAP (2003).

Further, this second aspect recommends that institutions should analyze their training needs and subsequently develop an ATI training plan. The training plan should outline the measures to be undertaken to fulfil ATI training needs and ensure the training provided is effective (UK DCA MAP 2003). Further, the model emphasizes the need for regular training after the Act is implemented.

The second aspect also points out that the nodal agency could develop a model training plan that can act as guide to other public entities in developing their own training plans. For example, in the UK, the DCA developed a training framework that guided public entities in developing agency-specific training plans (UK DCA MAP 2003).

Further, this second aspect advocates the need to review the training programme to enhance its effectiveness and specifically ensuring that it is on schedule, it is relevant and that it targets the

right audience. Indeed, the effectiveness of the training programme can be ascertained by conducting staff awareness surveys after which measures can be taken to address any gaps that are identified (UK DCA MAP 2003).

c) Information and records management

The third aspect that the model addresses relates to information and records management. Indeed, UK DCA MAP (2003) recognizes good records and information management as an enabler to effective FOI implementation. In this regard, the model advocates the need for the state to develop an information management system and practices that will provide information on the records that are in the custody of the public entity, their location, and how they can be retrieved in a timely and efficient manner (UK DCA MAP 2003).

In particular, this third element submits that sound management of records facilitates access to information. In this regard, it emphasizes the need for public entities to ensure that their records facilitate access to information. To achieve this, third aspect recommends that the nodal agency in liaison with the national archival institution should develop records management guidelines that public entities should adhere to. For example, in the UK, Shepherd (2007) noted that: “parliament established the Lord Chancellor’s code of practice on management of records under the FOI Act.” This code (section 46) outlined “good practice in records management which all public bodies were expected to adhere to in managing their records.” A specific code of practice for the “different public sectors in the UK was developed in order to satisfy the requirements of different sectors” (Shepherd 2007). These are; ‘higher and further education institutions’, ‘central government’, ‘local government’, ‘police force’ and the ‘National health service’. The action plan specifies the requirements for effective records managements systems to ensure FOI requests are handled efficiently within the prescribed time limits. For example, the records management Model Action plan (MAP) (2003) for higher education institutions required the institutions to undertake the following measures;

- i. Review the structure of the organization to ensure a coordinated approach to the management of information;
- ii. Pursue an integrated approach to records management and other information management functions by establishing close liaison working arrangements;
- iii. Allocate the responsibility of the implementation of the records management function to designated qualified person;

- iv. Conduct an evaluation of the records management practices against the code of practice to ensure compliance;
- v. Ensure the availability of adequate resources to support the records management function;
- vi. Develop and communicate an approved records management policy to all staff;
- vii. Put in place a records management system that meets the operational needs of the organization and complies with the regulatory requirements;
- viii. Ensure that records management is incorporated in all induction programmes; and
- ix. Develop a programme of continuing professional development for records staff (United Kingdom (UK), The National Archives (TNA) 2003).

To monitor compliance with the code, the ‘UK National Archives’ developed a records management code evaluation workbook for evaluating public entities to establish compliance of their records management systems with the code (United Kingdom (UK) The National Archives (TNA) 2005).

Further, this third element recognizes the need for the records management function in the organization to be led by a qualified and professional staff. In this regard, the model recommends the appointment of a records manager prior to the implementation of the Act to streamline records management (UK DCA MAP 2003). Indeed, a culture of proper record keeping enables the organization to comply with FOI requirements much more easily (UK DCA MAP 2003).

d) Customers and stakeholders

The fourth aspect identified by the model relates to customers and stakeholders. Indeed, UK DCA MAP (2003) outlines the need for public entities to have an effective communication strategy in place to raise awareness of the Act. Specifically, the model identifies proactive disclosure as an important aspect of preparation for FOI. In this regard, this fourth aspect recommends that: “public entities should develop comprehensive publication schemes that outline the type of information an organization holds and how that information is to be made available.” UK DCA MAP (2003) therefore emphasizes the need for public entities to know the records they hold as this will facilitate development of publication schemes (Shepherd 2007). In essence, this fourth element submits that public entities can only facilitate access to information if they are aware of the information in their custody. In this regard, having a

publication scheme means that the organization is aware of its collection and therefore capacitated to provide access.

The publication scheme should be tailored to meet the type of requests of information that the organization currently receives as well as those anticipated in future (UK DCA MAP 2003). As pointed out in chapter three of this study, in some countries, the nodal agency develops a general publication scheme that guides other public entities in developing organization's specific publication schemes. For example, in the UK, the 'information Commissioner' produced the following documents to facilitate proactive disclosure:

- A preliminary guide to publication schemes;
- The criteria to be used in approving schemes from the various public bodies (United Kingdom (UK) Information Commissioner Office (ICO) 2001).

This fourth aspect further point out that effective communication strategy with customers and stakeholders entails contacting relevant third parties informing them of the new requirements (UK DCA MAP 2003). Indeed, this fourth aspect emphasizes the need for public entities covered by the Act to ensure that other organizations, which they transact with, are familiar with the institution's new responsibilities as stipulated in the Act and the consequences of these obligations. For example, in the UK, contracts with third parties, which were hitherto deemed confidential, were subject to disclosure under the Freedom of Information 2000 Act. In this regard, Part VIII of section 45 Code of Practice of the UK FOI Act 2000 specifically covers contracts and provides guidance on how requests for information related to contracts should be handled (UK DCA MAP 2003).

Similarly, fourth aspect recognizes that public entities may hold information on behalf of third parties that may be subject of requests for information. In such circumstances, the model recommends that public entities should consult regularly with third parties when responding to such requests for information. Specifically, a public entity should ensure that third parties are aware of the time constraints that the organization is under and are able to respond expeditiously to enable it to respond to requests within the set timelines (UK DCA MAP 2003). For example, in the UK, Part VII of section 45 Code of Practice of UK FOI Act 2000 sets out the standards that public entities should aim for in this area (UK DCA MAP 2003).

e) Systems and procedures

UK DCA MAP (2003) also recognizes that for organizations to successfully implement the FOI Act, they need to have mechanisms in place for responding to FOI requests. In view of this, the fifth aspect of the model recommends that organizations should put in place procedures and adapt systems that facilitate easy retrieval of information. Systems and procedures will be required for receiving and responding to requests, processing requests as well as monitoring the handling of requests to ensure compliance with the requirements specified in the ATI Act (UK DCA MAP 2003).

The first aspect under systems and procedures relates to reviewing the document structure to facilitate access to information. Indeed, UK DCA MAP (2003) is alive to the fact that when ATI legislation is operationalized there are certain types of documents that are regularly requested. These include: “advice notes to senior staff and minutes of board meetings” among others. In view of this, the model recommends that the structure in which such documents exists should be reviewed to make it as easy as possible to access them. For example, in Wales, all advice notes to ‘Ministers at the Welsh Assembly’ were categorized such that information was detached from the analysis of the issue, and then published” hence making it possible to avail information requested for (UK DCA MAP 2003).

This fifth aspect advocates the need to have access to information regulations and procedures to guide the release of information to requestors. The regulations should address issues such as “the fees to be paid, internal complaints and the duty to assist” (UK DCA MAP 2003). For example, in the UK, ‘section 45 Code of Practice’ “sets out the procedure for discharging responsibilities under the UK FOI Act 2000” (UK DCA MAP 2003). Further, the DCA published guidelines on “the handling of FOI requests and the application of exemptions that related to information in the custody of government departments” (UK DCA MAP 2003).

UK DCA MAP (2003) also recommends on the need for public entities to have mechanisms for monitoring requests for information made under the ATI Act. In this regard this fifth area of the model recommends that the nodal agency should develop guidelines on monitoring requirements for FOI requests for public entities.

2.4.1 Relevance of the Model Action Plan (2003) to the study

Globally, the basic frameworks for preparation for implementation of the FOI Act are as outlined in the UK DCA MAP (2003), that is; ‘leadership and policy’; ‘records management’; ‘training and awareness’; ‘customers and stakeholders’ and ‘system and procedures. UK DCA MAP (2003) is therefore relevant to this study as a theoretical model as it outlines the main

elements necessary when preparing for FOI implementation. Although the model was not mandatory for public agencies in the UK, it represents best practice that can be replicated in other nations hence its relevance for this study. Indeed, the model is intended as an instrument to provide guidance to public entities in crafting a roadmap towards full implementation of the Act (UK DCA MAP 2003).

UK DCA MAP (2003) is “a general guidance on the actions that authorities should undertake to prepare for implementation of the Act and provides a coherent, structured path to effective implementation of the Act” (UK DCA MAP 2003). In this regard, the model is pertinent to the present study in that its purpose resonates with the purpose of the present study, which is to provide an ATI implementation roadmap for public entities in Kenya.

Further, the relevance of the model for the present study is underscored by the fact that it has been used in other studies on preparedness for FOI implementation. For example, in the UK, Screene (2005) used the model to assess the preparedness of public bodies for the implementation of the FOI Act 2000. Similarly, Shepherd and Ennion (2007) used the same model in conducting a study on ‘the impact of the UK freedom of information Act 2000 on archives and records management services.

2.4.2 Gaps in the model

UK DCA MAP (2003) was developed and applied in a developed country (United Kingdom) where the ATI regime and indeed the concept of open government are entrenched and prioritized. Indeed, the model clearly states that: “many of the steps outlined in it are based on best practices from overseas jurisdictions that have implemented ATI legislation” (UK DCA MAP 2003). In this regard, the model is based on the assumption that the same ethos of openness and accountability are entrenched and prioritized in developing countries like Kenya. However, this may not necessarily be the case. Indeed, a report on the global right to information noted that owing to economic hardships, many countries in Sub-Saharan Africa have prioritized economic issues at the expense of human right agendas and right to information (Freedom of information Advocacy network [FOIANet] 2013). Furthermore, Mase (2015) noted that the idea of open government is still new in the African continent.

Although the model guided this study by outlining the elements necessary for public entities to implement access to information law, it did not provide the specific actions that public bodies were supposed to take to sustain their successes and improve on their weaknesses in implementation. Indeed, the model states clearly that: “it is designed as a general document not

as a detailed implementation plan” (prescriptive) hence cannot address public entities’ specific needs nor can it be applied to unique organizational structures (UK DCA MAP (2003)). In this regard, the model could not address the last objective of this study (strengths and weaknesses) that sought to provide a way forward for public entities hence could not take the study to its conclusive stage.

2.5 Carter Centre’s Implementation Assessment Tool (IAT)

This tool was developed by the ‘Carter Center’, an international non-government organization that promotes human rights and democracy. The center through its Global Information program realized that most of the countries that had enacted the Access to Information legislation (ATI) were facing challenges in implementation. To address the situation, ‘Carter Center’ developed the ‘Implementation Assessment Tool’ (IAT) to analyze countries’ ability to implement the ATI law. The tool was therefore developed to diagnose the extent to which public entities were capacitated to respond to requests and to provide information as well as providing an ATI implementation roadmap for public entities (Carter Center 2014b).

The tool therefore assesses the specific inputs that a public entity has put in in place or failed to achieve, in furtherance of a well-implemented access to information law (Carter Center 2014b). Indeed, it is worth noting that the tool is not designed to assess the sufficiency of an access to information (ATI) law or its effectiveness but whether the elements necessary for the implementation of the ATI law are present in a public entity (Carter Center 2014b). Further, the IAT is designed to serve as an input for each public entity in which it is applied and not as a comparative index across countries (Carter Center 2014b).

The IAT framework consists of functions and elements that allow public officials to manage information properly, handle information requests and provide information to the public efficiently (Carter Center 2014b). Therefore, IAT assesses the capacity of public entities to perform the three key ATI functions namely; handling ATI requests, proactive disclosure of information and management of records.

To assess these functions, the IAT uses a number of elements that are regarded as the building blocks of an effective ATI law implementation. These elements are outlined in the Carter Center’s IAT methodology manual (2014a) and they include:

i. *Leadership*

The IAT has indicators that assess the level of engagement of policy makers in a public entity in the implementation of the ATI law. This policy leader is expected to ensure that the necessary systems and procedures required for ATI implementation are put in place.

ii. *Rules*

The IAT consists of indicators that assess the existence of rules to guide public officials on their access to information functions. The rules might be in form of compulsory instructions or planned actions aimed at facilitating implementation of the ATI law.

iii. *Systems*

The IAT consists of indicators that assess the institutional processes that are in place in a public entity for receiving and responding to requests, managing records as well as proactively disclosing information.

iv. *Resources*

The IAT consists of indicators that assess the resources present in a public entity to facilitate implementation of the ATI legislation. These include infrastructure, technology, trained personnel and a dedicated budget for ATI (Carter Center 2014b).

v. *Monitoring*

The IAT regards monitoring of a public entity's ATI functions as an important aspect of effective implementation of the ATI law. In view of this, the tool has indicators that allow officials to identify areas of successes and weaknesses and make the necessary changes. Further, monitoring information could also guide decisions on formulation of rules, allocation of resources and other modifications that may be required to enhance implementation of the ATI law (Carter Center 2014b).

2.5.1 Relevance of the Implementation Assessment Tool (IAT) to the study

This study sought to establish whether public entities in Kenya have the necessary elements required to implement the recently enacted Access to Information Act 2016. Therefore, this study is not concerned output of the ATI requests received by public entities performing ATI functions. Instead, it is concerned with the inputs required by public entities to fulfill their ATI

obligations. In view of this, this tool is relevant for this study as it provides a mechanism for assessing the preparedness of public entities to undertake their ATI functions. Indeed, the relevance of the tool for this study is underscored by the fact that the variables that this study seeks to investigate that is; ‘leadership and policy’, ‘training and awareness’, ‘records management’ and ‘systems and procedures’ are the same indicators that the IAT uses to establish whether public entities are prepared for implementation of an ATI regime.

More significantly, the ability of the tool to provide specifics of what is required for successful ATI implementation means that it will provide government agencies with an ATI implementation roadmap. Indeed, Kenya’s public entities are still at the nascent stages of implementing the ATI law hence an implementation action plan would be useful.

2.5.2 Gaps in using the IAT for this study

Although the tool assesses the availability of personnel for undertaking access to information functions in public entities, it does not specifically assess whether the duty bearers are aware of their duties and obligations as provided by the Act. This therefore means that the tool does not address objective two of this study, which seeks to assess the level of awareness of the duty bearers of their duties and obligations as specified in the Act. For this reason and for the purposes of this study, the tool had to be supplemented by other models to ensure that all the objectives of this study were comprehensively addressed.

2.6 The concept of ‘Meaningful Engagement’

Wesley Hohfeld (1919), an American jurist, described the right to information as a relation between two actors; that is; the state and the citizens. In this case, the state through public bodies creates and holds information relating to management of public affairs. On the other hand, citizens demand and require that information to have a say in management of public affairs and to hold the state accountable. Indeed, Miriyoga (2011) noted that access to information allows citizens to enter into conversation with the state on contentious issues of service delivery and realization of social-economic rights. This dialogue between the state and its citizens represents the concept of ‘meaningful engagement’ that was developed and used by the constitutional court of South Africa in the enforcement of entrenched social economic rights in the 1996 South African constitution (Orago 2013). Essentially, the concept is an order of the court requiring parties to litigation to engage in meaningful dialogue with each other and come up with an amicable and mutually acceptable solution (Orago 2013).

There exists an inseparable nexus between the concept of meaningful engagement and access to information. Indeed, Holmes (2011) noted that access to information is one of the elements of the practice of ‘meaningful engagement’. Similarly, transparency, openness, accountability and participation, which form ‘the axis’ of free access to information are clearly evident in meaningful engagement (Arko-Cobbah and Olivier 2016). Furthermore, Miriyoga (2011) noted that Government has an obligation to provide information to citizens to create an enabling environment for ‘meaningful engagement to take place. In this regard and for the purposes of this study, preparedness for ATI implementation by public bodies will ensure greater access to quality information that allows citizens to engage more meaningfully with their Government and thereby hold it to account (Snell and Sebina 2007:67).

2.6.1 Relevance of the concept of Meaningful Engagement to the study

Meaningful engagement seeks to cultivate a culture of dialogue between the state and the citizenry and recognizes access to information as a building block for engagement. In the same vein, preparedness for ATI implementation will facilitate accessibility of information thus minimize the culture of secrecy that is prevalent in government and which prevents citizens from engaging meaningfully and in honest terms with the state (Miriyyoga 2011). Indeed, government’s willingness (political will) to provide information to citizens creates a conducive environment for public dialogue between the state and the citizens.

Meaningful engagement is therefore relevant to this study as it advocates the need for both actors in a dialogue to have sufficient information to facilitate dialogue. The relevance of the concept of meaningful engagement to this study is further underscored by the fact that it has been used in other studies on access to information. For example, Arko-Cobbah and Olivier (2016) used the concept to demonstrate the causal linkage between access to information (ATI) and social economic rights. Indeed, meaningful engagement facilitates realization of access to information (ATI) and social economic rights (SERs) (Arko-Cobbah and Olivier 2016).

Further, ‘meaningful engagement’ is relevant particularly when ATI is perceived as a ‘power’ right that has the potential to change relations between different actors providing an opportunity for less powerful actors to engage meaningfully with more powerful actors in their deliberation over political choices that will impact on the former (Calland 2013).

The relevance of the concept of meaningful engagement is further underscored by the fact that it is anchored on the principles of public participation in governance and decision making

which are predicated on the availability of information and are entrenched in the Constitution of Kenya (2010) (Orago 2013).

2.6.2 Gaps in the use of the concept of ‘Meaningful Engagement’ for this study

The concept of ‘meaningful engagement’ only addressed the aspect of government willingness to facilitate access to information thus addressing only objective one of this study (political commitment). In view of this, the concept could not be used as a stand-alone conceptual underpinning for the study and had to be supplemented by other models to ensure that all objectives of the study were comprehensively addressed.

As mentioned in chapter one, this study is limited to assessing preparedness on the ‘supply side’ of access to information leaving out the ‘demand side’, which consists of the media, civil society and the citizenry. In this regard, this study was only assessing the preparedness of one of the actors of the process of dialogue, which is the state. In view of this, the concept of ‘meaningful engagement’ that espouses dialogue between the state and the citizenry was only applied partially to conceptually underpin the study.

2.7 Records Continuum (RC) Model

According to the Australian standard on records management, records continuum refers to a consistent and coherent regime of management processes from the time of the creation of records through to the preservation and use of records as archives (Standards Australia (SA) 1996).

The model was advanced in the 1990s by Australian Frank Upward as a reaction to the criticism of the lifecycle model by Canadian Jay Atherton in 1985. Atherton (1985) questioned the rationale behind the linear sequence of managing records in the life cycle model. On the management of current records, Atherton (1985) wondered whether the management of current records was the first stage in the administration of archives and whether the continuing preservation of the valuable records was the last stage in records management. To address these questions, Atherton (1985) argued that all stages in records management are interrelated forming a continuum in which both records managers and archivists should be involved to varying degrees in the process of managing records. To support his argument, Atherton (1985) explained that records experience a series of recurring and reverberating activities as they progress through their lifecycle. Indeed, according to Atherton (1985) the underlying unifying or linking factor in the continuum is the service function to the creators and users.

The records life cycle theory has also been criticized for its separation of the roles of the records manager and the archivist. Specifically, Atherton (1985) questioned the notion that an archivist had no role to play in serving the creator of the records and in determining disposal periods or developing classification systems. In the same vein, Atherton (1985) questioned the notion that the records manager had no responsibility in identifying permanently valuable records and serving researchers. To address these concerns, Atherton (1985) proposed a symbiotic relationship between the records manager and the archivist arguing that effective management of recorded information required co-operative interaction between the two. This symbiotic relationship according to Atherton (1985) would ensure creation of the right records, containing the right information and in the right format.

Atherton (1985) therefore concluded that the separation of the records management and archives administration as outlined in the records lifecycle model was unsatisfactory. Instead, Atherton (1985) proposed the replacement of the life cycle model with the records continuum model's four stages namely; creation or receipt, classification, establishment of retention/disposal and maintenance and use. The four stages are interconnected forming a continuum where both records managers and archivist are involved.

Upward (2000) revised the records continuum (RC) model proposed by Atherton (1985) and instead came up with an elaborate presentation of the RC model that outlined four principles of the model through a diagrammatic representation. The four principles as outlined by Spiteri (2012:23) are:

- Records are used for transactional, evidentiary and memory purposes and should be handled by unified approaches to archiving/record keeping regardless of retention periods;
- Records to be viewed as logical rather than physical entities regardless of whether they are in paper or electronic form;
- The recordkeeping profession needs to integrate recordkeeping into business and societal processes and purposes; and
- Archival science is the foundation for organizing knowledge about records keeping.

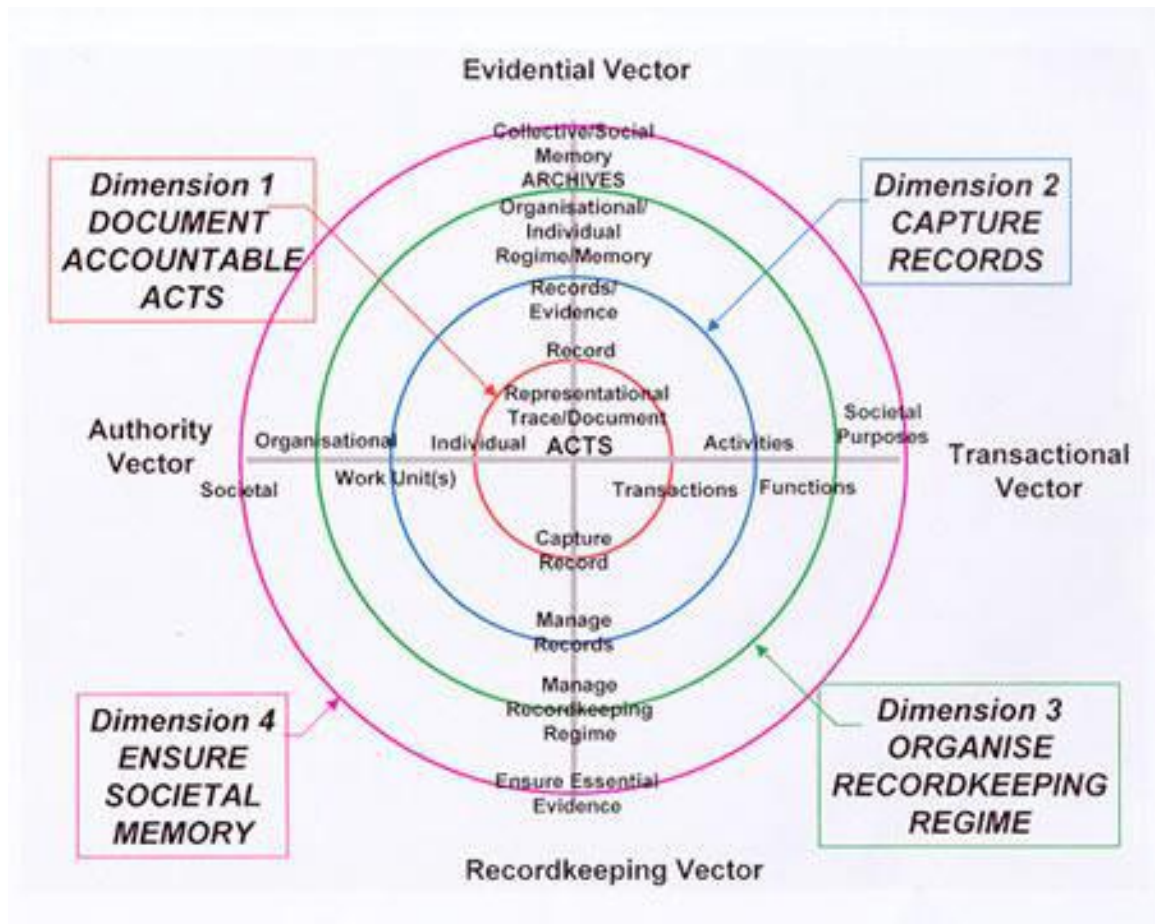


Figure 1: Records Continuum Model (Source: Upward 2000:123)

Flynn (2001) notes that the RC model identifies four major themes in archival science namely; ‘authority/identity, transactionality, evidentiality and records keeping containers/vector’. Flynn (2001) further notes that the themes are joined by concentric circles representing the dimensions of the continuum joining the individual record to its context as shown in Figure 1. The themes serve as coordinates giving the diagram a structure. Flynn (2001) further observes that the circular layout unlike the linear one in the lifecycle model demonstrates the synchronic nature of the records continuum model. The RC model consists of four dimensions namely; create, capture, pluralize and organize. These dimensions according to Upward (2000) are not boundaries, the coordinates are not invariably present, and things may happen simultaneously across dimensions. Similarly, Shepherd and Yeo (2003) agree with Upward (2000) that the dimensions in the continuum are not time based but represent different perspectives on the management of records. The dimensions are described below:

a) Create

This dimension involves the creator, the transaction in which they take part in of which the document is the result, the document itself (with or without the archival characteristics) and a trace that is a representation of that transaction embodied in the document. In this dimension therefore, the model identifies accountable acts and creates reliable evidence of such acts by capturing records supporting the transactions (Spiteri 2012).

b) Capture

This dimension involves the recordkeeping systems that capture documents to support their function as evidence of the social and business activities of the respective units. Capturing ensures that records that have been created or received are tagged with metadata indicating how they are linked to other records. Spiteri (2012) notes that capturing of metadata means that records now attest to evidence of action and can be distributed, accessed and understood by others involved in the business activities.

c) Organize

This dimension involves categorizing the records according to the functions and activities of the organization. This ensures that the records form the organization corporate memory, are identifiable, retrievable and available over time (Spiteri 2012).

d) Pluralize

This dimension entails the placement of records in the society that is, the broader social, legal and regulatory environments in which the records operate. Spiteri (2012) notes that pluralizing ensures that records are reviewed, accessed and analyzed beyond the agency for social, legal and cultural accountability for as long as they are required.

As for the axis, Spiteri (2012) notes that the recordkeeping axis represents the state of the record. It mirrors the traditional lifecycle model as it follows a record from creation to description, organization and to incorporation in the general body of information. Indeed, the axis is about context rather than the passage of time.

On the other hand, the identity axis indicates the entity that the record is associated with while the transactional axis is concerned with the use of the record. Lastly, the evidence axis is concerned with the record's state as evidence. Spiteri (2012) notes that a record may be involved in any of the axes depending on when it is considered and the context.

2.7.1 Relevance of the Records Continuum (RC) Model to the Study

The RC Model espouses a mutual relationship between the records manager and the archivist under an integrated record keeping framework aimed at guaranteeing the reliability, authenticity and completeness of records. This is particularly important for this study, as public agencies are required to keep authentic records to be able to respond effectively to information requests. The RC model is therefore relevant for this study as it facilitates public entities to comply with Section 17, subsection 2 (a) of the Access to information Act (2016) which requires public entities to keep and maintain accurate, authentic and useable records (Kenya Law ATI Act 2016).

The integrated records keeping framework as advocated by the RC model also ensures records are available promptly to those who have a right and requirement to see them (Spiteri 2012). This is particularly important to this study as it implies that the model facilitates the implementation of the ATI Act by ensuring the availability of records whenever they are requested through an information request.

The records continuum model is also considered relevant for this study because it focuses on records as logical rather than physical entities. This is particularly significant for electronic records given that the essential qualities of a record (content, structure and context) are not necessarily all physically present in an electronic record but may be available to the user logically or virtually (International Records Management Trust [IRMT] 2009). The records continuum (RC) model therefore recognizes electronic records and advocates all records irrespective of their formats to be properly managed (Mase 2015). Indeed, Kenya's ATI Act 2016 provides for requests to be made for information in both paper and electronic format thus the need to use a model that supports the management of records in all formats.

Mase (2015) further notes that the records continuum model advocates holistic management of records from creation to final disposition. Similarly, Ndenje-Sichalwe (2010) posits that in a records continuum model archives and records management responsibilities are interconnected as current records can also become archives right from creation instead of waiting for final disposition. This is particularly important for this study because requests for information can be made both for current records and for archives thus the need to adopt a model that supports management of records throughout their lifetime. Indeed, the need to manage records holistically is also supported by Flynn (2001) who pointed out that democratic government or government bodies make their records (including archives) available whether for right to know

or as obligated by legislation. Similarly, Pederson and John Curtin Prime Ministerial library (2001) posits that the RC model presents an overview of a seamless and dynamic record-keeping regime that transcends time and space to capture and manage records for as long as they are required to satisfy business, regulatory, social and cultural requirements. Indeed, an access to information request by a citizen is a regulatory requirement that public entities are expected to fulfill.

The relevance of this model is further underlined by the fact that it has been used in other similar studies. For example, Kemoni (2007) used the model to investigate the records keeping practices in Government ministries in Kenya and the extent to which they affected public service delivery. Similarly, Garaba (2010) used the RC model to investigate the management of the records and archives for former liberation movements in East and Southern Africa held by national and private archival institutions.

2.7.2 Gaps in the use of the RC Model

Whereas, the RC model provided a general framework for establishing the records management practices in government ministries in Kenya, it could not specifically address the records management requirements necessary for access to information thus could not be used as a stand-alone theoretical model for the study. To address the specific question of the extent to which records management practices are facilitating or undermining access to information, the study adopted the UK DCA MAP (2003) and the Implementation Assessment Tool (IAT) as complementary models.

2.8 Summary

This chapter has outlined and discussed in details the main models and concept that underpin this study. These include; UK DCA Model Action plan (2003), Carter Center's Implementation Assessment Tool (IAT), the records continuum model and the concept of meaningful engagement. Indeed, the chapter has outlined the relevancy of each of the model and concept to the study as well as the gaps in the usage of each of the models and concept and how combining the various models addresses the gaps and helps in the understanding of the concept of access to information. Lastly, the chapter has outlined other theories and a court ruling that are relevant to the discourse of access to information legislation and demonstrated their relevance to the present study.

This chapter therefore outlined the theories/models underpinning the study. From the conceptual framework, the following variables that are fundamental to the study will form the main themes of the literature review in the next chapter:

- Leadership and policy
- Training and awareness
- Records management
- Systems and procedures

CHAPTER THREE

LITERATURE REVIEW

3.1 Introduction

Various scholars have deliberated on the relevance of a literature review in a research study (Blaxter, Hughes and Tight 2006:122; Creswell 1994:22; 2003:29; Polit and Beck 2004:88; Marczyk, DeMatteo and Festinger 2005:33; Mugenda and Mugenda 2003:21; Ridley 2008:1; Trochim 2001:27). However, the need to review literature when undertaking a research study is best captured in the statement that:

researchers never conduct a study in an intellectual vacuum, no matter how innovative the topic or the procedure is, their studies are usually undertaken within the context of an existing knowledge base (Neuman 2006:111; Polit and Beck 2004:88).

Similarly, Neuman (2006) review of literature is based on the understanding that knowledge accumulates, and that people learn from and improve on earlier studies. Indeed, some researchers have even argued that reviewing literature in the given discipline marks the beginning of any research project (Iivari, Hirschheim and Klein 2004). Creswell (1994) support this view by pointing out that a review of literature provides background to the problem –who has written about it, who has studied it as well as who has indicated the significance of studying the issue and the methodological approaches used in those studies. Other scholars have also added their voices with regard to the benefits of literature review. For instance, Mugenda (2003) posits that literature review reveals the strategies, procedures and methodologies that have been found useful in investigating the problem in question. This is useful to the researcher as it ensures they benefit from other researcher’s experience as well as avoid the repetition of previous mistakes. Creswell (2014) sums up the benefits of literature review to three broad reasons:

- It shares with the reader the results of other studies that are closely related to the one being undertaken;
- links the study to the larger, ongoing dialogue in the literature filling in gaps and extending prior studies; and

- It provides a framework for establishing the importance of the study as well as a benchmark for comparing results with other findings (Creswell 2014).

Creswell (2014) noted that literature review is placed differently depending on the research design adopted. For instance, in quantitative research literature review is positioned at the beginning of the study to frame the problem. On the other hand, qualitative research and in particular studies grounded on data place literature review towards the end of the research process. For a mixed methods research study such as the present study, Creswell (2014) noted that the researcher adopts either a qualitative or a quantitative approach to the literature depending on the strategy being used. In essence, literature usage in a mixed methods research study depends on the strategy and the prominence given to the quantitative and qualitative strands in the study (Creswell 2014). In the present study, the quantitative strand is dominant while the qualitative strand is subordinate. In view of this, since the first phase is quantitative, the study will adopt a substantial literature review orientation from the outset that will help in establishing the rationale for the research questions (Creswell 2014).

Before analysing literature that relates to the main themes of the study, it is important to get a general picture on access to information legislation enactment and implementation from a global and African perspective. Indeed, this review of literature is important as it situates the present study in the context of extant literature on enactment and implementation of ATI legislation.

3.2 An overview of the state of enactment and implementation of ATI legislation, Global and African perspective

The state of enactment and implementation of the ATI laws varies in different regions and countries across the globe. In the Americas, by 2013, twenty countries had enacted right to information laws. These included; United States, Canada, Chile, Colombia, Jamaica, Honduras, Mexico, Peru among others. However, implementation of the ATI law in this region varied across countries. Indeed, by 2013, only eight of the twenty countries had a nodal agency to oversee implementation of the ATI law (FOIANet 2013). Notably, enactment of ATI laws in the region has been boosted by the regional body, that is; Organization of American States (OAS) which has developed a model ATI law to guide states in the region to develop their own access laws. Although most countries in this region have ATI laws, a culture of secrecy pervades in most countries in the Americas thereby undermining openness (FOIANet 2013).

In Australasia and Oceania region, Australia and New Zealand that represent Australasia were early adopters of the ATI legislation having enacted the law in early 1980s (FOIANet 2013). Implementation of ATI laws in Australia has been boosted by effective management of records in government entities, a professional public service as well as commitment to openness through membership to Open Government Partnership (OGP). However, a culture of secrecy in government has undermined implementation of ATI regime (FOIANet 2013). On the other hand, Oceania is made up of twenty-two Pacific island states and territories. These include nations such as Tonga, Fiji, Papua New Guinea, Vanuatu, Solomon Islands among others. Notably, majority of these are developing countries that have a poor record of democratic practices. For most countries in the Pacific, RTI law is perceived as a tool to fight corruption. However, implementation of RTI law in many countries in the region is undermined by inadequate technical capacity, meddling by the political class, inadequate financial capacity, poor records management and poor public service infrastructure (FOIANet 2013).

The East and Southeast Asia region consists of seventeen countries namely Japan, China, North and South Korea, Taiwan, Indonesia, Malaysia, East Timor, Singapore among others. By 2013, seven countries in the region had enacted ATI laws. These are; South Korea, China, Thailand, Japan, Indonesia, Taiwan and Mongolia (FOIANet 2013). Implementation of ATI laws in the region is mainly driven by the need to control corruption that is endemic in the region as well as adoption of sub-national ATI laws that have piled pressure for the adoption of national laws (FOIANet 2013). However, effective implementation of ATI regime is still undermined by poor respect for human rights, weak laws and complacency due to economic growth.

Europe represents the region with the highest number of RTI laws. Indeed, of the 49 countries in Europe, 42 had enacted RTI laws by 2013 (FOIANet 2013). The region is considered the cradle of democracy since the first RTI law has its roots in the region, specifically in Sweden. Within Europe, adoption of ATI laws varies per region. For instance, western Europe were early adopters, specifically France and Netherlands in the 1970's while Eastern and Central Europe only adopted ATI laws after the collapse of authoritarian communist regimes (FOIANet 2013). Enactment and implementation of ATI regimes in Europe has been buoyed by several factors namely; many countries in the region are largely stable democracies, active support by government as part of open data movement, ratification of the RTI treaty within the Council of Europe and a culture of respect for human rights and RTI in particular. However, a few issues

still undermine ATI implementation in the region. These are; closed administrative culture especially in Southern European countries such as Spain, budget cuts on bodies charged with overseeing implementation of the ATI laws, limited scope of RTI laws and privatization of some government agencies and services thus locking them out of the realm of RTI laws (FOIANet 2013).

In Middle East and Northern Africa, enactment and implementation of RTI laws has been undermined by firstly, authoritarian political regimes that have little regard for human rights. Secondly, emerging radical Islamist political organizations. Indeed, by 2013, out of the twenty-one Arab states in the region, only three countries had adopted ATI in the region. That is; Jordan, Tunisia and Yemen while Morocco was the first country to incorporate an RTI provision in its constitution in 2011 (FOIANet 2013). However, following the wave of ‘Arab spring’ that swept many countries in the region from 2011, citizens are eager to regain their dignity and freedom. Indeed, it is expected that the new regimes will uphold human rights and specifically the right to ATI (FOIANet 2013).

In South Asia, by 2013, four out of the eight countries in the region had enacted RTI Laws. These are; India, Bangladesh, Pakistan and Nepal. Indeed, success in implementation of ATI laws in the region can be attributed to a robust civil society that is able link the right to information to attainment of other socio-economic rights such as health, food and education (FOIANet 2013). However, political instability undermines enactment of ATI laws particularly in Afghanistan.

ATI legislation in Africa is discussed in section 1.3 of chapter one of this study.

3.3 Review of empirical literature on access to information legislation implementation

Several studies on access to information have been conducted in the developed world particularly in countries that have enacted ATI legislation. However, majority of the studies have focused on analyses of the contents of ATI laws and implementation efforts in various countries (Banisar 2006; Mendel and UNESCO 2008; Darch and Underwood 2010). Indeed, few studies have addressed the aspect of preparedness of public bodies towards implementation

of ATI legislation. Below is a discussion of some of the studies on ATI legislation implementation that are relevant to the present study.

In Scotland, the Scottish Information commissioner commissioned a consultancy firm, Craigforth Consultancy and Research, to conduct an assessment of the state of readiness amongst Scottish public authorities for the Freedom of Information (Scotland) Act 2002. The study covered the period between September to November 2004 and was a follow up to a previous study conducted between December 2003 and January 2004. The study revealed that most mainstream public authorities had made progress and were assured that they would comply with the legislation. Specifically, the study established that: records management in many public authorities was still an area of concern. Secondly, awareness of the consequences of the legislation had increased among staff and in most entities. However, in terms of staff training, many authorities acknowledged that they still had a lot to do to ensure that staffs are aware of their obligations under the Act. Thirdly, majority of the public authorities found their publication schemes beneficial in locating information that was in their custody (Scotland Information Commissioner Office 2004). This study is relevant to the present study as it addressed the same research gap as the current study and used a similar methodology. As such, the results of the assessment of the level of preparedness of Scottish public authorities can be used as a yardstick for comparison with the findings of the current study to identify trends.

Lemieux and Trapnell (2016) conducted a two years research study that sought to establish the state of RTI implementation in various countries in diverse regions and with different income levels around the world. Specifically, the study explored the historical development of RTI laws, the factors that facilitate enactment and effective implementation of these laws, the operation the laws, and the impact of ATI laws in different country contexts and the challenges of assessing the impact of RTI laws to development (Lemieux and Trapnell 2016). The study revealed that the drivers for effectiveness and challenges to effective implementation of ATI legislation vary by country. Further, the study emphasized on the need to have enabling conditions for ATI implementation within a country. These enabling conditions include; robust demand for access to information, institutional capacity for implementation of RTI, robust mechanisms for monitoring and independent oversight (Lemieux and Trapnell 2016). Notably, two of the findings of Lemieux and Trapnell (2016)'s study was particularly relevant to the present study. Firstly, the revelation that institutional capacity was possibly the most important

domain of RTI implementation. Indeed, this finding underscores the purpose of the present study which is to establish the capacity of public bodies for ATI implementation with a view to providing an implementation roadmap.

Banisar (2004) conducted a survey on the state of FOI in countries that had adopted ATI laws. The survey covered 57 countries and attributed the growth in transparency to pressure by civil society and international lenders. The survey revealed that access laws in most of the countries were largely similar comprising of a general right by citizens to request information from government entities, exemptions for releasing sensitive information, mechanisms for appeal and oversight. Although, Banisar (2004) noted that there were challenges in implementation due to factors such as low demand for information and lack of awareness, the survey did not address the aspect of institutional capacity of public bodies to implement the access legislation. In 2006, Banisar released an updated version of the survey report which covered implementation efforts in more than 70 countries (Banisar 2006).

Carter Centre, a global non-government organization that advocates human rights and democracy has also made efforts at analysing countries ability to implement the ATI law. Through its global Access to Information Program, the Centre is in the process of developing an Implementation Assessment Tool (IAT) as an objective means of analysing countries' capacity to implement access to information laws (Carter Centre 2010a). Specifically, the tool assesses public bodies' capacity to handle ATI requests by evaluating the three main access to information functions that is, receiving and responding to requests, proactive disclosure and records management. This assessment is based on five components namely; leadership, rules, systems, resources and monitoring (Carter Centre 2014b). The tool offers a benchmark of good practice and has so far been piloted in 11 countries namely Mexico, South Africa, Bangladesh, Chile, Indonesia, Uganda, Scotland, Jordan, Georgia, Guatemala and United States. The present study differs from past Implementation Assessment Tool (IAT) studies in terms of scope. Whereas the IAT application was restricted to a few select ministries in the countries where it was piloted, this study will be conducted across all government ministries hence giving a complete picture of preparedness for ATI implementation.

Dokeniya (2013) conducted a survey of ATI implementation in various countries. The survey covered 8 countries namely Albania, India, Mexico, Romania, United Kingdom, Moldova, Peru and Uganda. Specifically, the study sought to establish how ATI laws have been

operationalised particularly in developing countries context, extent of enforcement and their effectiveness in improving democracy and service delivery. The study revealed that assessing the use and compliance to an ATI law required statistics on the number of requests made annually as well as statistics on requests fulfilled and those denied (Dokeniya 2013). However, the study noted that getting these statistics was difficult since in most countries the monitoring systems were weak. Indeed, official data on ATI requests was only available in the United Kingdom, Romania, Mexico, Peru and India. In addition, the study revealed that there is inadequate empirical evidence of the impact information access and transparency have on good governance and improved service delivery (Dokeniya 2013). Although, the report also details the various elements required for successful implementation of ATI law and appreciates the need for preparedness, only one out of the case study countries in the report conducted an assessment study of public bodies preparedness for ATI implementation. Dokeniya (2013)'s study is similar to the present study in that both studies outline the various elements required for effective implementation of ATI legislation.

Freedom of Information Advocates Network (FOIANet), an umbrella body of civil society groups from across the world advocating the right to information, compiled a global report on right to information. The report sought to assess the global development of the RTI from a civil society's perspective. Specifically, the report highlights the strength, weaknesses, opportunities and threats in implementing the RTI from the experiences of civil society groups in Africa, Asia, Europe, Americas and Australasia (FOIANet 2013). Although, the report does not address the issue of preparedness for ATI implementation, it is important for this study as it highlights the main challenges that nations across the globe grapple with in implementing the right to information legislation. These are; poor records management, weak oversight systems, low levels of awareness among others. As such, the report underscores the main argument of this study that these elements need to be in place in public bodies for effective openness to be achieved.

Screene (2005)'s study assessed the readiness of public bodies towards implementation of the FOI 2000 Act in the United Kingdom (UK). Screene (2005)'s study was based on the UK's Department of Constitutional Affairs (DCA), Model Action plan (MAP) (2003) for preparing for FOI. The study established that many public entities in the UK were only ready for the implementation date, by undertaking short-term measures to address certain ATI issues within

their organizations (Screene 2005:41). Screene (2005)'s study is similar to the present study in that both studies are guided by the elements of preparing for FOI outlined by the United Kingdom (UK) Department of Constitutional Affairs (DCA) Model Action plan (MAP) (2003). These elements are leadership and policy, records management, training and awareness, systems and procedures. However, Screene (2005)'s study differs from the present study in one respect. Whereas, Screene (2005)'s adopted a case study approach of four public institutions (the Metropolitan Police, National Museum, a Local Authority and University College London) to assess the state of preparedness of UK public bodies for FOI legislation, the present study focused on a broader scope of the public sector in Kenya hence giving a clear picture of the readiness of public bodies for ATI legislation.

Another closely related study worth mentioning is by Ennion (2005) who conducted an investigation that sought to establish the impact of the United Kingdom (UK) FOI legislation six months after its implementation that is between January to June 2005 and the effect of FOI on management of archives and records. Ennion (2005)'s study was later analyzed and summarized by Shepherd in 2007 (Shepherd and Ennion 2007).

Ennion (2005)'s study focused on an analysis on whether FOI implementation arrangements were sufficient and the impact the Act had on public bodies between January and June 2005. Just like Screene (2005)'s study, the research was guided by the United Kingdom (UK) Department of Constitutional Affairs (DCA), Model Action plan (2003) and used four case study approach in four organizations namely; University College London, the Metropolitan police, Peterborough City Council and Soham Village College. The study revealed that all four organizations were well prepared in the first six months of FOI implementation. They managed to answer requests, comply with the exemptions in the Act, and had systems that worked effectively in handling all the requests received (Ennion 2005). Ennion (2005)'s study is similar and relevant to the current study in that both studies sought to address the same research gap.

However, Ennion (2005)'s study differed from the present study in terms of scope. Whereas, Ennion (2005)'s study used four-case study organizations and focused on a specific time frame of six months after the implementation of the FOI Act, the present focused on a broader scope of the public sector in Kenya hence giving a clear picture of the state of preparedness of public bodies for ATI legislation and has no specific time frame. In addition, unlike Ennion (2005)'s

study that sought to establish the impact of FOI implementation on management of archives and records, the present study sought to establish the extent to which records management practices in government ministries facilitate or undermine access to information.

Indeed, many of the empirical studies on ATI have predominantly focused on what happens after implementation of the ATI law in various countries. For instance, several studies in the United Kingdom (UK) (Shepherd, Stevenson and Flinn 2009; Amos and Holsen 2005:34; Amos and Holsen and Rahman 2006:22; Amos and Holsen 2007:17 and Bourke, Worthy and Amos 2008) focused on the effect of implementation of the ATI legislation on records management. Although these studies address the broad theme of access to information legislation and its implementation, they are not particularly relevant to the present study because the present study's focus is readiness of public bodies before implementation or during the implementation of the ATI legislation.

In Africa, the few studies on ATI have mainly focused on implementation efforts in various jurisdictions, analysis of specific ATI legislations as well as the impact of ATI in countries that have enacted the legislation (Dimba 2009; Mutula 2006; Shado 2004). Indeed, only Sebina (2006)'s study partly focused on the aspect of preparedness towards ATI implementation.

Sebina (2006) conducted a study on access to information in Botswana that sought to bring out the relationships between records management and ATI legislation. Sebina (2006) further sought to establish Botswana's readiness to ATI legislation by evaluating management of records in the public sector in Botswana. The findings of the study were then related to those of other countries that had either implemented ATI or had constitutional guarantees on access to information. These were; South Africa, Malawi, Ireland and the United Kingdom thus providing learning lessons for Botswana. The study revealed that Botswana was ready to embrace FOI legislation.

However, Sebina (2006) emphasized on the need for Botswana to assess the efficiency records management practices in the public sector as it worked towards adoption of the legislation. Sebina (2006)'s study is similar to this study in one respect; both studies examined records management strategies in the public sector as a variable that affects implementation of ATI legislation. However, this study differs from Sebina (2006)'s study in several respects. Firstly, it assessed other variables that influence implementation of ATI legislation such as leadership

and political will, awareness levels of the duty bearers on their duties as provided in the Act and the existing systems and processes for handling information requests in the public sector. Secondly, this study did not make comparisons with other countries that have implemented ATI legislation. Thirdly, at the time Sebina (2006)'s study was conducted, Botswana had not enacted an ATI law and hence the assessment of readiness was done in anticipation that the country would enact an ATI law at a future date. However, in Kenya's case, the ATI law has been passed and there is a timeline specifying when certain actions regarding its implementation should be undertaken hence making this study more relevant.

Memeza (2005) conducted a baseline survey relating to the state of ATI in Southern African Development Community (SADC) countries. The study revealed that there was deficiency of ATI legislation in the region. Indeed, according to the study, by 2005, Swaziland, Angola and Botswana lacked legislation for releasing information to the public. On the other hand, Mozambique, Malawi, Zambia, Lesotho and Namibia had pending ATI bills. The study noted that South Africa had an admirable legislative framework for ATI in the region, although its implementation is beset by various challenges. Ironically, although Zimbabwe has an ATI and Privacy Protection Act passed in 2002, its provisions provide the opposite. Indeed, the Act gives the government sweeping powers to emasculate the media by making it mandatory for journalists to register and penalizing free expression (Memeza 2005). Although, Memeza (2005)'s study pointed out the challenges that each of the countries was facing with regards to providing information to the public, it did not address the question of public bodies' preparedness for ATI implementation. Memeza (2005)'s study is pertinent to the present study in that it provides background information on ATI implementation in other jurisdictions.

Similarly, Mutula (2006) conducted a study on the status of Freedom of Information in the Southern African Development Community (SADC) region and specifically focused on its implications for development and human rights. The study revealed that most of the countries in the SADC region had pending access to information bills. However, South Africa and Zimbabwe were the exception since they had already promulgated ATI legislations. On the implications of ATI legislation, the study pointed out that an effectively implemented ATI law provided a solid foundation for openness, democratic governance, development, corruption eradication and efficient use of public resources. Mutula (2006)'s study is relevant to the present study in that it highlighted some of the elements that are key to effective

implementation of an ATI legislation such as political will and provision of adequate resources. Indeed, the study noted that effective implementation of ATI legislations in South Africa and Zimbabwe was hampered by absence of political will. However, the study did not address the question of public bodies' preparedness for ATI implementation thus the need for this study to fill this research gap.

In Kenya, few studies on ATI exist perhaps because the country had not enacted ATI legislation. Odote (2015) in conjunction with the International Commission of Jurists (ICJ) - Kenya Chapter prepared a report that detailed the contested process of passage of the ATI law in Kenya and compared the provisions in the Kenyan ATI Act to global good practices. Although the study is relevant in terms of outlining Kenya's journey towards having access to information regime, it makes no mention on Kenya's readiness towards ATI law implementation.

Abuya (2013) in conjunction with the African network of constitutional lawyers conducted a study that explored the measures that needed to be undertaken to realize the right to access to information in Kenya. The study cited absence of an ATI law, changing the culture of secrecy and repealing of secrecy laws as some of the hurdles that needed to be surmounted to realize the right of access to information in Kenya. Abuya (2013)'s study is pertinent to the present study as it provides background information on the state of ATI in the country as at 2013. However, the study did not address the question of public bodies' preparedness for ATI implementation in Kenya thus the need for this study to fill this research gap.

The International Records Management Trust (IRMT) (2011) conducted a study that sought to establish whether public records were being managed effectively to in relation to ICT/e-government and freedom of information in Eastern Africa. With regards to Kenya, in terms of Freedom of Information, the study revealed that ATI legislation was yet to be enacted and that the government had not adopted any plan on ATI implementation. Regarding the management of public records, the study revealed several issues. Firstly, the national archival institution was not positioned centrally in government to enable it to fulfil its cross-cutting function. Secondly, a government wide records management policy that defined records management responsibilities and its connection to ICT/e-government and FOI bodies was yet to be adopted. Thirdly, that the government was yet to adopt a standardized records management functionality

in ICT systems. Fourthly, that the country lacked a national retention and disposal schedule to inform the disposal of both physical and e- records. Fifthly, there existed a cadre of records management staff in the public service. Sixthly, the national archival institution lacked adequate resources to fulfil its mandate. Seventh, the absence of adequate storage space and equipment for storage of semi current records in ministries and departments.

The IRMT (2011) study is similar to the present study in one respect. It recognizes records management as key to effective FOI implementation and investigated various aspects on management of public records sector in Kenya. These aspects include legal and policy framework, physical resources as well as staffing and standards. The study is also relevant to the present study in that it highlighted issues that were likely to undermine the effectiveness of an ATI regime in the public sector. These issues included; poor records management and provisions of the Archives legislation that were inconsistent with an ATI regime. On the question of preparedness for ATI implementation, the IRMT (2011) study sought views of records and information management staff from the National Communications Secretariat and the Ministry of Lands who pointed out that Kenya was ill prepared for FOI, particularly because government records were in disorder. This study sought to establish whether this assertion is correct.

Another study on ATI is by Wamotsa (2014) which focused on the operation of right of access to environmental information. Specifically, the study sought to examine Kenya's legislation on access to information in general and access to environmental information in particular. The study revealed several issues. Firstly, the constitutional provisions on access to information were not enough. Secondly, absence of a specific law on ATI and that the existing sectoral laws on information were insufficient. Thirdly, it was not necessary to formulate a specific law on access to environmental information. The study therefore recommended the enactment of an ATI legislation to implement the constitutional right as well as drafting of access to environmental information regulations. Wamotsa (2014)'s study is pertinent to the present study in that it provides background information on access to information regime in Kenya. However, the study did not address the issue of preparedness for ATI implementation hence the need for the present study to address that research gap.

The above analysis of literature has demonstrated that the few empirical studies on access to information have predominantly focused on the effectiveness of ATI legislations in different jurisdictions as well as impact studies focusing on impact of ATI on various aspects such as records management, human rights and development. However, the present study posits that the preparations that take place before or during the implementation of an ATI law are the determining factor of the success in implementation. Accordingly, any ATI law implementation should be preceded by a study on public bodies' preparedness to forestall implementation challenges currently affecting many countries. This study provided information that ensures Kenya does not follow a similar path and that implementation of the ATI law in the country is predicated on credible research findings.

3.4 Review of literature based on the main themes of the study

The purpose of this study was to assess the degree to which public bodies in Kenya were capacitated to implement ATI Act with a view to providing an implementation roadmap. This was achieved by addressing the following research questions:

1. To what extent if any, is there political will for implementation and institutionalization of the ATI regime?
2. What is the level of awareness of public officers on their obligations and duties as provided by the ATI Act?
3. What structures, processes and systems are in place in public bodies in Kenya to facilitate access to information?
4. What are the current records management practices in the public sector and to what extent do they facilitate or undermine access to information? and
5. What recommendations for improvement can be made from the areas of strengths or weaknesses identified?

This chapter is organized based on the themes highlighted in the underpinning theoretical framework and the research questions. Review of literature will therefore be based on the following themes: leadership and policy; training and awareness of public officers implementing the Act; records management; and systems and procedures for access to information.

3.5 Leadership and policy

This study sought to establish the extent of political leadership for the implementation of the ATI regime in Kenya. Specifically, the study focused on establishing whether the various elements that demonstrate political will for implementing ATI are indeed present in Kenya. These elements include; existence of formal institutional architecture for ATI, commitment of resources for ATI, formulation of policies in support of ATI implementation and public pronouncements by senior public officials and in government action plans in support of ATI. In addition, the study sought to establish the policy measures that have been undertaken by the government to facilitate implementation ATI legislation.

Brinkerhoff (2010) defined political will as the commitment of political leaders and bureaucrats to undertake actions to achieve a set of objectives and to sustain the costs of those actions overtime. Indeed, for the purposes of this study, indicators of genuine political will would include:

- efforts by the state to deliberately support ATI legislation implementation;
- efforts by the state to address the fundamental challenges related to delays in implementation of ATI law;
- efforts made by the state to introduce legal and regulatory reforms to facilitate institutionalization of an ATI regime;
- efforts made by the state to create platforms and administrative mechanisms that facilitate citizen access to government information;
- efforts made by the state to allocate adequate resources for ATI implementation;
- efforts made by the state to mobilize stakeholders in support of implementation of an ATI regime; and
- efforts made by the state to impose sanctions for breach of the provisions of the ATI Act (Malena 2009).

Indeed, various scholars who have written on ATI implementation efforts in various countries acknowledge that successful implementation of ATI legislation requires strong political will (Dokeniya 2013; Calland and Neuman 2007; Mutula 2006). Indeed, according to the Australian Law Reform Commission (1994), the success of an ATI regime is to a large extent dependent on government's priority for the same. In essence, when there is government support

for ATI and commitment by top leadership then other public officers will buy in the ATI agenda.

Below is a detailed discussion of the various elements that demonstrate political leadership/will and policy action for ATI legislation implementation.

3.5.1 Existence of formal institutional architecture for ATI

Shepherd (2007) noted that political leadership for ATI implementation should be effected at several levels. The first dimension of political leadership relates to presence of formal institution architecture for ATI implementation. According to Martini and Transparency International (2014), a formal institutional architecture is important for effective implementation of an ATI law and allows citizens to easily access information. The institutional architecture includes the establishment of oversight bodies and other bodies within the public administration that support the proactive and reactive disclosure of information. Similarly, Dokeniya (2013) noted that well-resourced bodies responsible for oversight and promotion of the law facilitate effective implementation of ATI legislation by providing training and capacity building, promoting awareness of the law as well as ensuring that the necessary processes/systems for responding to information requests are in place. In Kenya, the Commission on Administrative Justice (CAJ) headed by the Ombudsman shall spearhead enforcement of the ATI Act. Indeed, the ATI Act 2016 clearly provides for an independent oversight body. Specifically, section 20, subsection 1 of Kenya's ATI Act 2016 mandates the Commission on administrative justice to oversee and enforce the Act. Further, the Act empowers the Commission to undertake the following functions; develop and facilitate public education awareness on ATI, receive compliance reports from public entities with respect to implementation of the Act, work with other public entities to create awareness on the right to access to information, mediate complaints and review decisions arising from violations of the right to access to information among other functions (Kenya ATI Act 2016).

Another institution that is closely related to an independent oversight body is a nodal agency which basically is an implementation unit within the executive. Indeed, Calland and Neuman (2007) observed that dedicated units and oversight bodies are critical in ensuring effective implementation and compliance with the law. Specifically, they noted that:

Without a continuous oversight body, government efforts are dispersed and diluted with no clarity in responsibilities or guidelines and reduced ability to conduct long-term

planning and to promote best practices, thus costing governments more in terms of human and financial resources” (Calland and Neuman 2007: 20).

Similarly, Rodrigues (2008) noted that governments can set up ATI implementation units to assess compliance, identify obstacles to access, assess ATI practices in public entities, formulate guidelines clarifying the parameters of the law, develop curriculum for ATI training and public awareness campaigns. In Kenya, this study established that government ministries were yet to establish ATI implementation units to support the implementation of the ATI Act 2016.

Indeed, an analysis of literature on ATI indicates that several countries have set up ATI implementation units. In Jamaica, for instance, the Government established an ATI Unit that was domiciled in the Prime Minister’s Office and was mandated to coordinate implementation of the ATI law (Rodrigues 2008). Unfortunately, the unit’s operations were undermined by inadequate resources and staff. Nonetheless, the unit managed to form an association of information officers from various agencies to share experiences and ATI best practices (Rodrigues 2008).

Likewise, in Scotland, the Scottish government formed an FOI implementation group that comprised of senior state officials as well as a section of Scottish public authorities. The group was formed in 2001 thus had ample time to prepare for implementation of the Scottish ATI Act in 2005. Other countries that have set up ATI implementation units include South Africa and Trinidad and Tobago (Rodrigues 2008). However, it is not enough to have a nodal agency to oversee implementation of the ATI Act. In addition, the agency needs to be staffed with the right personnel for it to function effectively. For example, in Uganda, Dokeniya (2013) noted that although an executive body exists, it was staffed with partisan individuals and was ill-funded thus slowing implementation of the ATI law.

However, not all countries that have enacted the ATI legislation have both executive and independent oversight bodies to enforce the Act. Indeed, Dokeniya (2013) posits that in countries lacking an independent and well-resourced oversight agency, the implementation of the law is ineffective thus undermining transparency and accountability. Dokeniya (2013) observed that the absence of implementation and oversight mechanisms signifies lack of political will during the implementation phase. In Uganda, for example, the Access to Information Act (ATIA) 2005 has not provided for an independent oversight body. Instead, an

executive oversight body was established but staffed with partisan individuals and without meaningful budget allocated for its operations. As a result, there is an implementation gap and suspicion in the system with citizens, the media and NGOs resorting to private connections to access public information (Dokeniya 2013). Similarly, in Romania, the law 544 on access to public information lacks a provision for an independent oversight body. Instead, a general secretariat within government is mandated to undertake the oversight role. This arrangement has stifled implementation of the law since there is no independent champion for the law. Worse still, the secretariat is inadequately funded. (Dokeniya 2013). Other countries that have designated departments within government as focal points for ATI implementation include India, Mexico and the United Kingdom (Dokeniya 2013).

3.5.2 Appointment of a senior official to steer ATI implementation

Another indicator of the existence of political will and leadership for ATI implementation is the question of who spearheading implementation of the Act is. Indeed, the UK, DCA, MAP (2003) recommends the appointment of a senior official in the organization to act as an information champion and to steer all information matters in the organization. Undoubtedly, when a senior public official spearhead the implementation, then he/she is able to implore and influence other public officers towards implementation of the ATI Act. Indeed, Calland and Neuman (2007) noted that effective implementation of an ATI regime is hinged who is spearheading the implementation. For instance, appointing a lead implementer with appropriate seniority, and influence sends a message to other parts of the administration, public service, and civil society that the government is committed (Calland and Neuman 2007). In Kenya, Section 20, subsection 3 of the ATI Act points out that the Commission on Administrative Justice (CAJ) shall designate one of the commissioners as an "Access to Information Commissioner" to specifically perform the functions assigned to the Commission under the Act (Kenya ATI Act 2016). This therefore means that the ATI campaign is spearheaded by an information Commissioner.

Similarly, in other countries that have ATI legislation, senior officials have been involved in championing preparation for ATI implementation. For example, in the UK, the Lord Chancellor spearheaded preparation for the implementation of the FOI Act 2000 from the highest political level and his Department of Constitutional Affairs (DCA) (Ministry of Justice) was responsible for the operationalization of the Act. The Lord Chancellor presided over the ministerial sub-committee on freedom of information whose role was to supervise government

policy on FOI and its preparations for the implementation of the FOI Act 2000 (United Kingdom (UK) House of Commons, Constitutional Affairs Committee first report 2004/05).

Likewise, in Jamaica and Nicaragua, the key implementers of the ATI legislations were placed in the office of the president or prime minister with the intention of increasing political support and compliance by the other ministries (Calland and Neuman 2007). On the contrary, where the ATI campaign is not steered from the highest level, implementation will be a challenge. For example, in South Africa, the implementation campaign is spread across line function ministries thus increasing the possibility of peer ministries ignoring the directives resulting in inconsistent implementation and compliance with the law (Calland and Neuman 2007). Similarly, Screene (2005)'s case study on the preparedness at the University College London revealed that lack of proper leadership resulted in allocation of inadequate resources for ATI. Further, the study revealed that FOI duties were conducted by existing staff with senior managers offering advice only in emergency cases. Screene (2005) concluded that lack of leadership hampered the implementation of the FOI project plan.

In addition, Rodrigues (2008) observes that although effective operationalization of the law is a collective responsibility of the entire government, nonetheless experience has shown that having 'information champions' both within and outside government is an effective way of overseeing the process of change, assessing the performance of public entities and promoting public awareness of the law. For example, in the UK, the Department of Constitutional Affairs (DCA) came up with a policy of nominating senior officers in each public sector to act as FOI champions and push through its implementation in their respective organizations (United Kingdom (UK) House of Commons, Constitutional affairs Committee first report (2004/05). Indeed, the need for ATI project leaders to dedicate their efforts solely to ATI implementation was also emphasized by Screene (2005) in the case study of the local authority where the study revealed that the leader FOI project also had other responsibilities. This meant the leadership was not fully dedicated to ATI agenda (Screene 2005). In Kenya, this study established that government ministries were yet to identify and nominate information champions.

3.5.3 Resource allocation for ATI implementation

Another component of political leadership relates to commitment of sufficient resources for ATI implementation. Resources in this case may be in terms of money, time and personnel. This study established that government ministries lacked dedicated budgets for ATI implementation. Likewise, the study revealed that the personnel deployed to handle ATI

requests were inadequate. Indeed, Calland and Neuman (2007) noted that just like other laws, appropriate staffing and resources are fundamental in ensuring effective implementation of the ATI law. Furthermore, adequate resource allocation is regarded as a sign of political will to promote transparency. Consequently, governments that fail to provide the necessary resources to implement ATI law are sending a message to their public officials that the law should not be taken seriously (Calland and Neuman 2007). Similarly, Mutula (2006) opines that enactment of an ATI law should be backed up by a strong political will and allocation of sufficient resources to ensure its effective implementation. The need for allocating sufficient resources for ATI implementation was also emphasized in the African regional plan of action meeting on ATI in Accra, 2010. Specifically, African states were required to show commitment by allocating adequate budget for effective implementation of ATI laws (Carter Centre 2010b). In addition, the need to allocate resources for ATI implementation is also emphasized as one of the requirements of an effective RTI legislation under the principle of promotion of open government that is championed by Article 19. Specifically, the principle states that the government should set aside necessary resources to ensure effective implementation of ATI laws (Article 19, 2016).

However, as far as resources are concerned, one challenge facing many countries with ATI laws is the ability to determine the actual resources that are adequate for effective ATI implementation. Indeed, Calland and Neuman (2007) argued that, in many countries, there seems to be a lack of know-how regarding the costs of establishing access to information systems. Indeed, most governments lack specific budget resources and rely on public officials who take on this additional task. However, a few countries have established separate budget lines for access to information efforts, but the amounts vary quite significantly. For instance, the Mexican government spends approximately 0.033 percent of GDP to finance its ATI system. In Canada, this amount is much lower: 0.0007 percent of GDP (Calland and Neuman 2007). To address the question of estimating the cost for ATI implementation, Calland and Neuman (2007) submit that broadly, costs for a new information regime should include three categories: start up, ongoing, and exceptional. Start-up costs may include an assessment of the records and archives management system, development of a new or streamlining of the existing archiving system, basic training of public officers, acquisition of equipment for processing requests such as photocopiers and printers; and expenses for establishing an ATI coordination unit. Ongoing costs on the other hand would include annual staff salaries, ongoing costs on

record management training, promotions and awareness-raising activities, costs for renting premises, equipment maintenance and stationery fees. Lastly, the exceptional category may cover items such as unexpected litigation costs and large seminars (Calland and Neuman 2007).

Generally, the issue of availability of resources for ATI implementation has been a challenge for many countries. Indeed, Calland and Neuman (2007) noted that on a daily basis government's face competing demands and the reality that there are not enough resources in the national reserves to meet all demands. The situation is particularly dire in African countries where governments have to deal with many competing needs and the right to information agenda may not be prioritized. Indeed, a report on the global right to information update noted that due to economic hardships, many countries in Sub-Saharan Africa have prioritized economic issues at the expense of human right agendas and right to information (FOIANet 2013). But, economic hardships are not unique to developing countries; even developed countries face the same challenge. In the UK, for instance, the Department of Constitutional Affairs Committee received a submission from the local government association stating that:

Resources are the single most important issue in FOI compliance, by far the largest issue for local authorities is the lack of resources. They do not have the time, money, or personnel to easily organize information on a corporate basis in order to allow ready retrieval for FOI purposes. The costs of organizing their manual systems and/or introducing an electronic document or records management system (EDMS) are beyond many of their means (United Kingdom (UK) House of Commons, Constitutional Affairs Committee first report 2004/05:24).

Similarly, a study conducted by Screene (2005) seeking to establish the preparedness of public bodies in the UK for the implementation of the FOI Act 2000 revealed that the Government had not allocated specific funds for FOI. In fact, in some of the case study organizations covered by Screene (2005)'s study, FOI duties were added to the workload of existing staff such as the records manager without availing additional funds (Shepherd 2007).

Likewise, in the United States, although there have been efforts to improve the implementation of the Freedom of Information Act, no additional resources have been provided, raising concern whether there was genuine commitment (Calland and Neuman 2007). Notably, in some countries, resources were allocated during the first few years of implementation of the ATI legislation but could not be sustained. For instance, in Canada, Roberts (2006) noted that the

government deliberately begun cutting back on annual grants for ATI implementation. Worse still, in some cases, the budgets of some institutions were cut by as much as one-third (Roberts 2006). The result of these actions was that information requests could not be dealt with timeously leading to more complaints about delay being filed with the information commissioner (Roberts 2002). Even worse, in some countries, resources for ATI implementation has been hard to come by. For example, in South Africa, Dimba (2009) noted that between the year 2000 and 2003 hardly any money was allocated for official public awareness campaigns on ATI. Indeed, Kisoon (2010) noted that although the South African Human Rights Commission (SAHRC) is mandated by South Africa's PAIA 2000 to oversee and enforce the Act, it is ill-funded thus undermining its effectiveness.

In sum, in light of economic hardships, governments in Africa and elsewhere shall continue facing the political dilemma of addressing the socio-economic needs of the public against meeting the costs of achieving openness and good governance (Calland and Neuman 2007).

3.5.4 Existence of policies for ATI implementation

Another aspect of leadership and policy that indicates preparedness towards ATI implementation relates to formulation of policies that support implementation of an ATI regime. Rodrigues (2008) noted that one way of demonstrating government's commitment to openness is by developing and publishing a detailed action plan that identifies implementation tasks, agencies responsible for executing them and the timelines for completion. Indeed, a nodal agency charged with the overall responsibility for implementation should develop government's ATI action plan. This ensures a unified approach to implementation across the government. Further, it will also enable the nodal agency to monitor all ATI implementation activities (Rodrigues 2008). Indeed, in countries where ATI implementation has been guided by a plan of action, the implementation process is coherent, structured and consistent across the public service. For example, in the UK, the government developed the Model Action plan 2003 that guided public entities in implementation of the UK Freedom of Information Act 2000. Although the plan was not mandatory for public entities, it provided a framework for effective implementation of the Act.

However, in countries where ATI implementation is not guided by a plan of action, implementation efforts have tended to be disjointed. For example, in South Africa, a report submitted to the African Peer Review Mechanism (APRM) on the progress of the implementation of the South Africa's Promotion of Access to Information Act (PAIA) 2000

revealed that South Africa's lacked an action plan for PAIA implementation. Worse still, there was no dedicated budgetary allocation for ATI programmes. As a result, access to information continues to be a challenge in South Africa (Kisoon 2010). In Kenya, the findings in Chapter five of this study revealed that government ministries were yet to develop agency- specific ATI action plan. However, the findings revealed that the Ombudsman had developed a draft national ATI implementation action plan to guide the implementation of the ATI Act 2016.

However, it is not enough to just develop an ATI implementation plan of action, but it is also important to ensure that there is a team to implement the plan. In this regard, the information champion should demonstrate leadership by appointing a project team to oversee the ATI legislation implementation project. The project team will be led by a project manager and will be responsible for coordination the ATI implementation preparation project. Indeed, UK, DCA, MAP (2003) notes that over time, the project team members will have considerable expertise in freedom of information issues. As such, the organization should leverage this expertise as a point of reference both pre-implementation and once implementation is complete and the Act is in use (UK, DCA, MAP 2003). However, in Kenya, this study established that government ministries were yet to constitute project teams to oversee implementation of the ATI Act 2016.

In addition, project management best practices dictate that there is need to review and evaluate a project plan to ensure that the project goals are on course. In this regard, the project manager of the ATI implementation project needs to assess whether the aims of the project particularly with regards to time, quality and resource specifications have been achieved. This assessment is important as it enables the organization to identify challenges in the implementation of ATI legislation and come up with ways of addressing them. In Kenya, this study established that government ministries lacked mechanisms to monitor and evaluate ATI implementation. However, things changed in July 2017 following the mainstreaming of ATI and specifically its inclusion in the performance management framework. Details on monitoring of the ATI Act 2016 are in section 6.6.7 of Chapter 6 of this study.

3.5.5 Government pronouncements in support of an open regime

The other aspect of political leadership that demonstrates government's preparedness towards implementation of the ATI legislation relates to pronouncements by public officials in support of ATI implementation. Pronouncements in this case entail public statements by senior government officials in support of ATI as well as statements of commitment to openness in government documents such as economic blueprint, strategic plans and programs. Rodrigues

(2008) while emphasizing on the need for government to make declarations in support for ATI noted that:

Unless the leadership makes clear statements, and proper systems that reward openness are put in place, bureaucrats might well doubt that facilitating access to information is an activity they should prioritize in their daily work. It is therefore vital that ministers, parliamentarians and senior bureaucrats are encouraged to take up the issue of right to information proactively and consistently pledge their unequivocal support for a new openness regime (Rodrigues 2008:5).

In Kenya, the government has clearly stated its commitment to openness through pronouncements made in national strategic plans. For example, the Kenya economic blueprint Vision 2030 outlines the importance of information access and provision for the realization of the vision. Indeed, access to information is captured under the political pillar as part of efforts to promote transparency and accountability. Further, the country endeavours to create an accountable regime that is open, transparent and one that facilitates free flow of information (Government of the Republic of Kenya [GORK] Vision 2030 2007). Kenya's commitment to openness is also demonstrated by the fact that it is a member of the Open Government Partnership (OGP) forum. This partnership is currently made up of 70 countries where governments, civil society and the private sector engage in actions aimed at making states more open, accountable and responsive to citizens. In 2016, Kenya renewed its commitment to Open Government Partnership by submitting its second national plan of action within the framework of OGP. The plan outlines eight smart obligations that focus on creating a legal and policy framework for openness, access to information and records management, extractive sector transparency, budget transparency, open contracting, anti-corruption and climate resilience (Kyalo and Sing'oei 2016). Further, in 2011, the country also demonstrated its commitment to openness by launching the Kenya Open Data Initiative (KODI), a portal that allows the public to freely access more than 300 data sets of public information. The portal contains critical statistics on development, demographic, and the budget data in electronic format for use by policy makers, researchers, Information Communication and Technology (ICT) developers and the general public (Article 19 Eastern Africa 2014).

Other measures that the government has undertaken that demonstrate commitment to openness in governance include the establishment of the department e-government under the Office of the President (OP) in 2004. This department was charged with overseeing e-government

projects within government to enhance service delivery. One of the major achievements of the department was the formulation of a national ICT master plan and the creation of a national ICT infrastructure (Article 19 Eastern Africa 2014). In 2015, the department was renamed as Information and Communication Technology Authority (ICTA) and given government-wide powers to oversee ICT projects in government under the Ministry of Information Communication and Technology (ICT). Another initiative that demonstrates the government's commitment to openness is the introduction of citizen delivery charters in public institutions. These charters are developed to create awareness to the public on the services offered by government entities. They encourage public participation in public policy formulation and decision-making officials.

In other countries, pronouncements by political leaders have also contributed towards advancing the ATI regime. For example, in the UK, in June 2005, the Lord Chancellor made the following statement:

A presumption of openness has been created, the central government should aim to set an example to the rest of the public sector in pursuit of greater openness.....making the information we release available to the widest possible audience.....listening and engaging with our stakeholders to enhance our own customer service (Shepherd 2007:127).

In addition, while explaining the role of the Department of Constitutional Affairs (DCA), the Lord Chancellor made the following statement:

My department has identified successful implementation of FOI as one of its principal objectives.....we are providing clear and emphatic leadership across Whitehall in relation to FOI.....we will not be passive in this role (United Kingdom (UK) House of Commons, Constitutional Affairs Committee first report 2004/05: 27).

These statements demonstrated the UK government's commitment towards openness. Similarly, in Uganda, Ngabirano (2013) noted that, in 2009, the Ugandan Minister for information while giving a keynote speech in a meeting of ATI experts drawn from East and Southern Africa, promised to fast track the formulation of ATI regulations. This commitment came to pass as the regulations to operationalize ATI legislation in Uganda were passed the following year in 2010.

However, not all countries that have enacted ATI legislation have enjoyed political will in terms of pronouncements by political leaders in support of ATI implementation. For example, in South Africa, Dimba (2009) noted that there was no sense of political leadership on the compliance with and implementation of South Africa's Promotion of Access to Information Act (PAIA) 2000. Indeed, throughout the 9 years term of former president Thabo Mbeki, he failed to make any public statements in support of South Africa's PAIA 2000 despite the fact that he sponsored the enactment of the legislation as deputy president (Dimba 2009). In Kenya, this study established that indeed, there have been pronouncements by the President particularly directing public entities to proactively disclose information relating to procurement of public goods and services. However, there is the concern that these proactive disclosure initiatives are not anchored in ATI frameworks.

3.5.6 Existence of legislative framework that supports ATI

The other dimension of political leadership which demonstrates government's preparedness towards implementation of the ATI regime relates to creation of a supportive legislative framework that promotes openness. Indeed, Rodrigues (2008) observed that ATI laws don't operate in isolation but are part of legal and policy framework that advances openness. Crafting a supportive legislative regime for ATI entails two issues; firstly, enactment of supplementary laws and regulations to support implementation of the ATI legislation and secondly, repeal and amendment of laws that hinder access to information. In Kenya, the findings in Chapter five of this study revealed that the government was yet to formulate supplementary laws and regulations to support the implementation of the Kenya ATI Act 2016.

However, following the promulgation of the Constitution of Kenya (COK) 2010 that recognized the right to access to information, several laws that have been formulated after 2010 have taken cognizance of the provisions on access to information while some that existed before have been amended to realign them with the provisions of Article 35 of the constitution of Kenya 2010 on access to information. These include;

- Section 93 of the Kenya Information and Communication Act (KICA) 2013 was amended to provide that: "access to information and restrictions on disclosure of information held by the Communications Authority shall be implemented pursuant to Article 35 of the Constitution (Kenya KICA 2013)." This amendment ensures that the Act does not impede public disclosure of information.

- Section 29 of the Ethics and Anti-Corruption Commission Act (EACC) 2012 stipulates that: “an information request may be denied subject to Article 35 of the constitution and on grounds of non-payment of the prescribed fee and failure to fulfil the confidentiality requirements of the commission (Kenya EACC Act 2012).”
- Section 96 (1) of the County Government (CG) Act 2012 stipulates that: “Kenyan citizens have the right to access information held by any county government or any unit or department thereof or any other state organ in accordance with Article 35 of the constitution (Kenya CG Act 2012).”
- Part two, section 10(f) of the Public Finance Management (PFM) Act 2012 provides that: “the parliamentary budgetary office must ensure that all reports and other documents produced by the office are prepared, published and publicized within fourteen days after production in line with Article 35 of the Constitution of Kenya 2010 (Kenya PFM Act 2012).

The enactment of the ATI Act 2016 also triggered repeal and amendments to provisions in several sectoral laws that undermined public disclosure of information. Some of the provisions in different sectorial laws that were amended by the Act include:

- Section 3 (7) of the Official Secrets Act which previously made it an offense for persons to communicate information to any person, other than a person to whom s/he is authorized to communicate it or to whom it is his/her duty to communicate it to, was amended by inserting subsection 8 which states that: “the provisions of section 3 (7) shall apply in line with Article 35 of the Constitution and the ATI Act 2016 (Kenya ATI 2016).”
- Section 5A of the Public Archives and Documentation Service (PADS) Act 1991, which previously provided that: “a creating office may restrict circulation of its published documents that have been submitted to the Director, National Archives was amended and the restriction for circulation now only applies to information covered under exemptions in section six of the ATI Act 2016 (Kenya PADS Act 1991).”
- Section 7 of the Public Archives and Documentation Service (PADS) Act on destruction of public archives was also amended to provide that: “the Director, National Archives has to consult the Commission on Administrative Justice (CAJ) before authorizing the destruction of valueless public records and archives.” The provision that the ombudsman has to be consulted before authorization of destruction of records

means that there is additional verification to ensure that no records of value are destroyed.

- Section 6 (2) and 6(3) of the Public Archives and Documentation service (PADS) Act that previously authorized the Director, National Archives to make decisions on the class of records that are accessible by the public were repealed subject to the ATI Act 2016.
- Section 2 of the Records disposal (RD) Act 1962 was amended to include the Commission of administrative Justice in the making of decision to dispose court records held by the high court and the register general (Kenya RD Act 2015).
- Section 11 of the Statistics Act 2006 that previously required persons employed by the Kenya National Bureau of Statistics to take an oath of secrecy before commencing their duties was amended such that: “the oath of secrecy only applies to information that is exempted in section 6 of the ATI Act 2016 (Kenya ATI Act 2016).”
- Section 29(3) of the Public Service Commission (PSC) Act 2012 provides that: “the Commission may decline to provide information subject to the requirements of the ATI Act 2016 and data protection Act (Kenya PSC Act 2015).
- Section 41 of the Public Officers Ethics (POE) Act 2003 was amended to read that: “one will only be found guilty of an offense and liable for conviction for divulging information that is outlined as exemptions in section 6 of the ATI Act (Kenya POE Act 2009).

From the foregoing analysis, it is evident that a lot has been done to create a conducive legal and regulatory regime to support enforcement of the ATI Act 2016. However, Kenyan statute books still have some provisions in that impede on access to information. These include:

- Section 6(1) of the Public Archives and Documentation Service Act that limits access to records until 30 years after their closure.
- Section 5 of the Public Archives and Documentation Service (PADS) Act entrenches the culture of secrecy by providing that: “the Director and other officers under the service have to take an oath of secrecy to access public records transferred to the national archives from other sources and for which disclosure is prohibited or restricted to certain persons.” This provision therefore makes any disclosure punishable (Kenya PADS Act 1991).

- Section 29(5) of the Ethics and Anti-Corruption Commission (EACC) Act 2012 requires “every member and employee of the Commission to sign a confidentiality agreement.” This impedes access to information because the Commission can sneak into the confidentiality agreements with the employees’ important information thus entrenching the culture of secrecy (Kenya EACC Act 2012).
- Section 4 (2) (d) of the Preservation of Public Security (PPS) Act restricts transmission of information held by the state by allowing the president to formulate regulations aimed at preserving public security. These regulations may entail “censorship, control and ban of communication of information or recording of ideas or information (Kenya PPS Act 2012).” The Preservation of Public Security (PPS) Act allows the state to arrest and detain journalists for ‘compromising public safety and order (Kenya PPS Act 2012).
- Section 132 of the Evidence Act allows public officers not to disclose information if they feel that the disclosure would undermine public interest (Kenya Evidence Act revised 2014).
- Similarly, Section 133 of the Evidence Act provides that: “judges, magistrates or police officers have no obligation to reveal when they got information relating to the commission of any offence (Kenya Evidence Act revised 2014).”
- Section 12 and 13 of the Film and Stage plays Act impedes openness by placing restrictions on filmmakers and exhibitors. Specifically, the Act allows a police officer or the Board of Censors to stop all these activities (Odote 2015). Worse still, the Act has no provision for appeal nor does it require a police officer to assign any reason for his or her decision. Further, any person who fails to comply with such an order is liable for prosecution (Odote 2015).
- Section 22 of the Statistics Act limits access to statistical information to statisticians working in the bureau (Kenya SA 2006).
- Section 17 of the National Assembly Powers and Privileges Act undermines access to information by providing that: “a witness may refuse to testify before a committee by claiming that the testimony “is of private nature” and has no effect on the matter being investigated.”
- Similarly, section 18 of the National Assembly Powers and Privileges Act gives public officers two types of restrictions on presenting evidence to committees (Article 19 Report- Eastern Africa 2014). Firstly, “not to adduce evidence in parliament matters

relating to the military except with the permission of the President;” and secondly, “not to reveal any documents or evidence that the President has directed against (Kenya PP Act Revised 2012).” These provisions undermine transparency and accountability by creating major obstacles to effective scrutiny of government by Parliament and need to be amended ((Article 19-Eastern Africa 2014).

- Section 29(5) of the Public Service Commission (PSC) Act 2012 entrenches a culture of secrecy by requiring that: “every member and employee of the Commission to sign a confidentiality agreement (Kenya PSC Act 2012).”

In addition, in many countries, Kenya included, the public service manuals are also littered with a myriad of rules that prohibit public servants from sharing government information with the public. For example, in Malaysia, Rodrigues (2008) observed that the government has developed guidelines that restrict public officers from releasing information to the public or the media unless after approval by the senior officers. Following the enactment of an ATI law, such rules will need to be amended to align them with the new dispensation of openness. In Kenya, the current study established that the government was yet to make deliberate efforts to amend provisions of the public service manual that restricts public officers from releasing information. This has undermined implementation of the ATI Act 2016.

There is also the question of harmonizing the ATI legislation with other related laws such as Data Protection Act and the Privacy Act. Indeed, Rodrigues (2008) observed that failure to harmonize data protection; privacy and ATI laws may lead to ambiguity which can be exploited by rogue public officers to unreasonably deny information requests. Indeed, data protection and privacy laws, which are designed to safeguard personal data sometimes contradict public disclosure rights (Rodrigues 2008). According to Calland and Neuman (2007), one way of harmonizing the ATI legal framework is by including in the ATI law a clause stating its primacy over other laws dealing with information. This approach was adopted in Jamaica and in the state of Sinaloa in Mexico (Calland and Neuman 2007). In Kenya, as mentioned in chapter one of this study, section 21 of the ATI Act 2016 grants the ombudsman several functions that relate to the protection of personal data. Further, this study revealed that the proposed Data Protection Bill 2018 has provisions that are consistent with the ATI Act 2016. Specifically, Section 17, sub-section (3) of the bill states that: “the procedure for making an

application for access to and amendment of personal data shall be guided by the ATI Act 2016 (Kenya, Data Protection Bill 2018).”

Further, although Kenya is yet to enact a data protection Act, the ATI Act 2016 mandates the Ombudsman to work with other relevant bodies in promoting and ensuring compliance with data protection measures particularly the legislative aspect (Kenya ATI Act 2016). In compliance with this provision, this study revealed that the Ombudsman has issued instructions on the protection of personal data and was also a member of the tribunal that drafted the Data protection Bill 2018.

Indeed, the lack of political will to create a legislative framework committed to openness has stifled implementation of ATI legislation in several countries. For example, in South Africa the introduction of the Protection of State Information (secrecy) bill in 2004 was largely seen as an attempt to curtail implementation of South Africa’s PAIA 2000. Similarly, in Uganda, Ngabirano (2013) noted that notwithstanding the presence of Uganda’s access to information Act (ATIA), the country still has laws such as the Evidence Act and the Official Secrets Act, on its statute books that impede access to information. This is despite the fact that some of the provisions in these laws have already been declared illegal by the courts (Ngabirano 2013). In Kenya, as the implementation of the ATI legislation takes shape, this study revealed that the government was yet to take deliberate measures to repeal archaic laws in its statute books and public service rules that perpetuate secrecy. These laws include; National Assembly (Powers and Privileges Act, 2012), Preservation of Public security Act, 2012, Official Secrets Act, 2015 and the Evidence Act, 2014.

Evidently, a supportive legislative framework is key to a successful ATI regime. Indeed, Stones (2004) posits that for an ATI law to function effectively ‘all the legal obstacles operational against’ it must be removed. Indeed, the need to have a legislative framework that is committed to openness was also echoed in the African regional plan of action meeting on ATI in Accra, 2010. Specifically, African states were required to demonstrate political leadership by crafting a conducive legal and regulatory framework for ATI through harmonizing existing laws with the ATI legislation (Carter Centre 2010b).

From the foregoing discussion on the various extents of political leadership and policy, it is evident that implementation of an ATI law is undeniably and unavoidably a political process. Indeed, in countries where political will for FOI is lacking there is reduced democratic space

manifested in political instability, human rights violations and suppression of opposition groups (FOIANet 2013). As such, political will is a key element towards successful ATI implementation. Indeed, Calland and Bentley (2013) noted that ATI implementation reforms and institutional mechanisms alone are unlikely to succeed if not backed up by political will. In addition, while attaining political will is one thing, ensuring that it is sustained particularly during the ATI legislation implementation phase is a significant challenge that has to be addressed in the implementation efforts (Dokeniya 2013).

3.6 Training and awareness

The second objective of this study sought to establish public entities preparedness for the implementation of the ATI Act 2016 in Kenya by determining the level of awareness of the duty bearers on their access to information duties and responsibilities as specified by the Act. Specifically, the study sought to establish; firstly, whether access to information awareness campaigns have been mounted in public bodies; secondly, identify ATI training plans and programmes available in public offices. From the copies of training plans and awareness programmes obtained from public offices, the researcher was also in a position to obtain information regarding the time when the training plans were developed and implemented, the extensiveness of the training, frequency of the awareness programmes and the category of public officials targeted. This information was critical in shedding light on the readiness of public bodies towards implementation of the ATI Act 2016. Further, information on the degree of awareness of Public Communication Officers on their ATI duties will also shed light on state of preparedness of the public entities for ATI implementation. According to Martini and Transparency International (2014), ATI awareness raising, training and capacity building are instrumental in enabling officials to understand the law and to improve their information management and dissemination skills.

Although training and awareness is an important component of ATI implementation, it has been ignored in many countries. Indeed, Banisar (2006) in an assessment conducted in several countries around the world noted that public officials had limited awareness of and preparedness for ATI legislation. Similarly, Alianza Regional (2009) noted that lack of awareness was one of the hurdles to ATI implementation. As such, effective implementation of ATI is predicated on robust training and awareness programmes. Indeed, Roberts (2006) supports the need to train public officials on ATI by arguing that successful implementation of

ATI in government institutions depends on public official's ability to perform their ATI duties. In view of this, public officials need to be trained on the provisions of the Act to enable them to perform their duties effectively (Roberts 2006). Indeed, training of public officials on handling of information requests was also identified as one of the actions that states should undertake during the African regional plan of action meeting on ATI in Accra, 2010. Specifically, African states were required to sensitize the ATI duty bearers and create public awareness campaigns to encourage citizens to demand information (Carter Centre 2010b). Similarly, the Inter-American Court of human rights in its ruling on the Claude Reyes and others versus Chile case echoed the need for access to information requests to be handled by trained personnel. Specifically, the court noted that:

Chile must adopt the necessary measures to guarantee the protection of the right of access to State-held information, and these should include a guarantee of the effectiveness of an appropriate administrative procedure for processing and deciding requests for information, which establishes time limits for taking a decision and providing information, and which is administered by duly trained officials (Inter-American Court of Human Rights [IACHR] 2006:60, 61).

Furthermore, the need to train public officials on ATI implementation was also emphasized during the Pan-Africa conference on freedom of expression and ATI held in Kampala, Uganda, in March 2017. Specifically, delegates recommended that the African Union should ensure targeted training of public officials on ATI as a way of advancing ATI in the continent (Africa Freedom of Information Centre [AFIC] 2017). Similarly, the Organization of American States (OAS) general assembly recently ratified a model ATI law that highlights the need for training. The OAS member states are expected to develop their countries ATI law based on the model law (Torres and Esquivel 2011).

In addition, the need to train public officials is also recognized as one of the requirements of an effective RTI legislation under the principle of promotion of open government that is championed by Article 19. Specifically, the principle states that a right to information legislation should outline measures of addressing the culture of secrecy within government. These measures should compel public entities to provide comprehensive RTI training for their employees (Article 19 2016). Indeed, the principle points out that; public officials should be sensitized that openness in governance is an obligation as well as a fundamental human right.

An analysis of literature on ATI training and awareness programmes reveals a number of issues that have a bearing on the level of preparedness in terms of awareness of public officials towards the implementation of the ATI legislation (Screene 2005, Ennion 2005, Rodrigues 2008, Roberts 2006). These issues include, the time when the training plan was developed and implemented, the extensiveness of the training and awareness programme and the frequency with which the training and awareness programmes are conducted. As mentioned earlier, to fulfil the requirements of this study, the researcher obtained this information by studying copies of the existing training plans in government ministries.

However, an elaboration of the relationship between the above-mentioned issues and level of preparedness of public bodies for ATI implementation is useful.

Firstly, regarding the time when the training plan was developed and implemented, training plans that were developed and implemented before or just few days after the passing of the ATI Act demonstrated preparedness for ATI implementation given that there was ample time to sensitize public officials on the provisions of the Act. On the other hand, training plans that were developed and implemented long after the passing of the Act indicate unpreparedness as the training was conducted in a rush. Indeed, in the UK, Screene (2005)'s study on the preparedness of public bodies for the implementation of the UK FOI Act 2000 revealed that the timing of the training and awareness programme undermined the state of preparedness for ATI implementation. Further, the study established that some organizations developed and implemented their training plan too late thus undermining their success. Specifically, Screene (2005)'s study noted that in most cases the case study organizations planned late and lacked adequate resources to complete the ATI training plans by January 2005. This predisposed the organizations to difficulties at the start of the implementation of UK FOI legislation 2000 (Screene 2005).

Indeed, the link between the time when the training plan is developed and implemented and the level of awareness of public officials of their ATI obligations and responsibilities is demonstrated by Shepherd (2007) who argued that in relation to the timing of the ATI training, it is a delicate balance for institutions implementing ATI legislations since when it is conducted, too much; too early the staffs tend to forget. On the other hand, when it is conducted too late, staff will not be adequately prepared to handle access to information requests.

In Kenya, the findings in Chapter Five of this study revealed that public bodies were yet to develop and implement ATI training plans. Unlike the UK FOI Act 2000, which had a commencement date of January 2005, the Kenya's ATI Act 2016 took effect upon the signing of the Act into law by the president. In light of this, this study revealed that ATI training conducted in government ministries in Kenya was done long after the enactment of the ATI Act 2016 thus indicating that public bodies were ill prepared for the implementation of the Act.

The other aspect that has a bearing on the level preparedness in terms of awareness of public officials on their access to information obligations is the depth/extensiveness of the training and awareness programme. Depth/extensiveness in this case refers to; firstly, whether the ATI awareness provided to public officials is basic training or a comprehensive formal training. Secondly, extensiveness also entails; the scope of the awareness programme and whether it covers both theoretical and practical aspects. Indeed, In the UK, Screene (2005)'s study noted that in most of the case study organizations, there were few resources available to carry out the awareness, this forced most of the organizations to conduct just basic training while full training was to be conducted after the January 2005 commencement date. This, of course, resulted in low level of readiness for the UK FOI Act 2000. Specifically, Screene (2005) noted that, at the Local Authority, official training was provided only to managers with specific FOI duties while other staffs were informed through web-based information leaflets. This approach according to Screene (2005) was insufficient for a big organization and the substantial dependence on managers and team leaders not prudent. On the other hand, the Metropolitan Police Force invested substantial resources on comprehensive training programme conducted by external consultants. The training targeted different groups of staff, depending on their FOI responsibilities and its duration ranged from 4 days to half-day courses (Ennion 2005). In Kenya, the findings in Chapter Five of this study revealed that government ministries conducted basic ATI training. This indicated that government ministries had only taken short-term measures to create awareness on the ATI Act 2016.

Regarding the scope of the training, Calland and Neuman (2007) noted that any ATI training and awareness programme should aim at achieving two objectives; firstly, to improve the information management and dissemination skills and secondly, to enfeeble the bureaucratic resistance to openness that is prevalent in the public sector. Indeed, Rodrigues (2008) notes that ATI training offered to public officials should, at least, address the following areas; ATI duties to be undertaken by public officials, the obligations of public officers in facilitating

openness as an essential value of public service as well as the records in the custody of the institution and how access to them will be provided.

Similarly, the RTI legislation requirements, under the principle of promotion of open government championed by Article 19 also propose the areas that RTI training should cover. These include; the significance and scope of the ATI law, the access procedure, effective maintenance and access to records, the scope of the whistle blowers protection and the public disclosure requirements (Article 19 2016). Furthermore, Rodrigues (2008) noted that the content of the ATI training and awareness programmes should be reviewed regularly so that it is tailored to the challenges facing public officials. This is particularly true after the implementation of the Act because public officials will be in a position to identify the problem areas based on their experiences in dealing with information requests. Against this background, in Kenya, the findings in Chapter Five of this study revealed that the scope of the ATI training offered by government ministries was very narrow. Specifically, the study revealed that the training programmes focused on general issues relating to the ATI law while missing out on aspects relating to records management and data protection. This limited the level of awareness of public officers on the Act thus undermining its implementation.

In addition, the depth/extensiveness of awareness programme also entails how varied the ATI training offered is. Indeed, Roberts (2006) points out that the training and awareness offered should be both theoretical and practical. While, information on the contents of the Act is important, application of the Act is even more fundamental. Indeed, Roberts (2006) emphasizes on the need for public officers to undertake practical exercises to test their familiarity with the provisions of the Act. Roberts (2006) suggests that the trainees could, for example, be given a list of fictitious requests and be required to classify the requests as personal or non-personal, to calculate the applicable access fee in each case and to determine whether there are valid grounds for refusing a request (Roberts 2006). This sort of exercise will ensure that public officials possess practical skills in handling an access to information request. For instance, in the United Kingdom (UK), the information Commissioner developed guidelines that expounded on the exemptions under the Act including practical examples on exemptions. These guides were useful in imparting practical skills on handling information requests (Rodrigues 2008). In Kenya, the findings in Chapter Five of this study revealed that the extensiveness of the ATI training and awareness programmes offered to public officials by government ministries was shallow. Indeed, the ATI training programmes did not have

practical sessions on implementation of the ATI Act 2016. Accordingly, this meant that public officers only had theoretical knowledge of the ATI Act thus undermining their level of awareness of their ATI obligations and indeed state of readiness of the public bodies for ATI implementation.

Another aspect that influences the level of preparedness in terms of awareness of public officials on their ATI obligations is the frequency of the ATI training and awareness programmes. Indeed, Rodrigues (2008) recommends that ATI training should be conducted within the following intervals; firstly, to new staff whereby an openness training is included in their induction curriculum. Secondly, to mid-career officials whereby middle level training programs on the content of the ATI legislation are conducted when need arises and lastly, regular refresher training to address emerging questions that officials may have about implementation over time (Rodrigues 2008). Further, Dokeniya (2013) noted that sometimes the training could be triggered by adjustments to the law or to existing policies and procedures as well as changes to implementation plans.

An analysis of extant literature on ATI law implementation revealed that, in some cases, the frequency of the ATI training and awareness programmes was inadequate hence undermining the level of awareness of public officials on their ATI obligations. For example, Ennion (2005) conducted a study at the summer of 2005 that expressed concern that most organisations lacked the provision for future training of staffs in their training plans. Further, Ennion (2005)'s study noted that some organizations prioritized access to information by incorporating FOI awareness and management of records training part of the staff induction programme. However, some trainers lacked expertise and tended to rely on generic FOI training materials. In addition, Shepherd (2007) noted that most organisations in the UK were in a rush to beat the January 2005 implementation deadline. As such, all staff members had to undergo short-term training in late 2004 and early 2005. However, there was no training of internal trainers to ensure continuity. In Kenya, the findings in Chapter Five of this study revealed that the training plans formulated by government ministries mainly focused on introductory ATI courses with no much emphasis on future ATI training courses. This undermined the level of awareness of public officials on their access to information obligations.

Another issue relates to the category of public officials to be targeted for ATI training. Although, information officers should be the first target audience, there is need for all staffs in the organisation to understand the provisions of the ATI legislation. As such, other staffs in

different cadres should also be trained. Indeed, the need to raise awareness among all staffs was emphasized by Sarah Tyacke, the Chief Executive Officer of the UK National Archives, who noted that, all staff from the frontline to the highest cadre need to understand the Act so that they can respond to requests for information appropriately (United Kingdom [UK] The National Archives [TNA] 2004/05).

Similarly, Rodrigues (2008) noted that public officials in all departments and at all levels should be sensitized on ATI. Likewise, Dokeniya (2013) argues that ATI implementation should be viewed as a systemic change management exercise for the whole organisation and not just information officers. However, public entities could also decide to have two separate forms of training based on the target audience. For example, in Mexico, the Federal Institute for ATI (IFIA) has categorised training into two forms: one targeting public officials and intended to raise awareness on the culture of transparency, and the significance of the ATI law and another for information officers on procedures of handling ATI requests (Torres and Esquivel 2011). For the purposes of this study, the findings in Chapter Five revealed that ATI training offered in government ministries mainly targeted Public Communication Officers. However, as explained in Section 6.4.7 of Chapter Six of this thesis access to information officers can only be effective in their ATI roles if backed by top managers.

An analysis of extant literature on ATI training and awareness programmes revealed that countries have adopted varied approaches to handling the issue of training of public officials on ATI implementation (Martini and Transparency International 2014, FOIANet 2013, and Rodrigues 2008). Indeed, Torres and Esquivel (2011) noted that in some countries the ATI legislation explicitly provides for the training of public officers while in other countries it does not. For example, Chile, Ecuador and Mexico have ATI legislations that include explicit provisions for training of public officials. Additionally, Torres and Esquivel (2011) noted that ATI implementation plans, and guidelines should have provisions for training. For example, in the United Kingdom (UK), the Department of Constitutional Affairs (DCA)'s implementation plan gave detailed guidelines on training. Indeed, the Department of Constitutional Affairs (DCA) developed an ATI training framework that guided public entities in developing their own ATI training plans.

Similarly, in Mexico, the training department at the Federal Institute for ATI (IFIA) has an annual strategic plan that guides its activities (Torres and Esquivel 2011). Indeed, integrating ATI training provisions into the ATI legislation or attendant regulations and into ATI action

plans enhances ATI effectiveness in several ways. Firstly, it ensures there is clear definition of responsibilities hence improving resource allocation and subsequently training efforts. Secondly, the clear demarcation of responsibilities reduces overlapping among various agencies hence ensuring that the various agencies work in synergy towards a common goal. Thirdly, it ensures that resources for training are budgeted for during the planning stage (Torres and Esquivel 2011).

However, in other countries, the role of training public officials is bestowed upon the oversight agency or the nodal agency. For example, in Mexico and Chile the ATI law mandates the oversight agencies to provide training. On the other hand, in India, the responsibility for training lies with the nodal agency. That is the Department of Personnel and Training (DoPT) (Torres and Esquivel 2011).

For the purposes of this study, the Kenya ATI Act 2016 only makes provision for awareness programmes targeting the public. Specifically, the Act requires public entities to facilitate public education on the right to access information. Further, the Act mandates the Ombudsman to coordinate ATI public awareness programmes (Kenya ATI Act 2016). Indeed, the only provision in the Act that implicitly relates to the need to train public officials is the requirement by the Act that the Commission should promote ATI in public entities (Kenya ATI Act 2016). Indeed, the findings in Chapter Five of this study revealed that the Commission has conducted several ATI trainings with the aim of creating awareness on the Act.

Indeed, different countries adopted varied time approaches to conducting ATI training. In some countries, training of public officials on the implementation of the ATI legislation was conducted prior to the enactment of the ATI law hence demonstrating government's preparedness and commitment to openness. This was the case in Trinidad and Tobago where even before the law came into force in 2001 sensitisation sessions were held for the cabinet, permanent secretaries, heads of divisions of Ministries and the media (Rodrigues 2008).

Similarly, in Jamaica, the government created an access to information unit prior to enactment of the ATI Act. The unit's training agenda included; sensitizing officials on change management, sensitizing officials on the provisions of the law and management of information. In 2003, the unit trained about 400 officials on procedures of handling ATI requests (Rodrigues 2008).

However, the United Kingdom (UK) adopted a phased approach to training. That is training was conducted in phases. Firstly, the pre-adoption period where the Civil Service College conducted regular courses on the Open Government code. Secondly, the period between adoption of the FOI Act and its enforcement where the Department of Constitutional Affairs (DCA) was preparing public authorities for the enforcement of the Act in January 2005 and thirdly, the period after the implementation of the Act particularly in 2007 when the Ministry of Justice developed ATI training programmes (Torres and Esquivel 2011).

Other best practices of comprehensive ATI training campaigns include India and Mexico. In India, the Maharashtra administrative training institute, Yashwantrao Chavan Academy of Development Administration (YASHADA), trained all public information officers and other officials within the state. The exercise resulted in training of over 4000 officials in three years and also in the development of a national training curriculum for the RTI Act (Rodrigues 2008). On the other hand, in Mexico, by September 2010, the Federal Institute for Access to Information (IFIA) had trained over 30,000 public officials. This was achieved in partnership with training departments within public agencies (Torres and Esquivel 2011).

Notably, according to Martini and Transparency International (2014)¹ some countries have based their training and awareness programmes on the findings of ATI preparedness studies such as the present study. For example, in Brazil, the office of the Comptroller General conducted a survey prior to the enactment of the ATI law to investigate public officials' views on ATI. Based on the results of the survey, guidelines and trainings were developed to support the implementation of the law. The office is also responsible for supporting local level officials in implementing the law and a series of trainings targeted to these officials are being conducted. The results of this has been positive, for instance, in Brazil, in the first six months of its implementation (the law came into force in 2012), over 460 thousand requests were made to federal bodies, with 85 percent being responded to positively – this is assessed as very encouraging both in terms of citizen's participation and officials' responses (FOIANet 2013). The aforementioned example is consistent with the significance of this study, which is, to provide baseline results from which an implementation roadmap can be developed. Indeed,

¹ Yashwantrao Chavan Academy of Development Administration (YASHADA) – Refers to the administrative training institute of the Government of Maharashtra (Indian state). It provided ATI training to public officials in the State of Maharashtra

results from this study can be used to formulate implementation guidelines and training manuals to support implementation of the ATI legislation in Kenya.

Another aspect of ATI training and awareness that is worth mentioning is the delivery method. Indeed, the method through which training is delivered may have an influence on the effectiveness of the training as well as the level of awareness of public officials on their ATI obligations. Notably, the ATI training delivery method adopted is determined by the country's context which in this case entails language diversity, size of the public service, adequacy of resources and existing ICT infrastructure among other factors. Indeed, different countries have adopted varying delivery methods to ATI training to suit their specific settings. For example, in Mexico, the Federal Institute for Access to Information (IFIA) uses e-learning through its e-FIA platform. This mode of delivery is appropriate for Mexico owing to the large size of the Mexican public service and inadequate resources. Indeed, in 2009, the Federal Institute for Access to Information (IFIA) training department in Mexico had only three people. Therefore, the e-FIA platform allowed the IFIA to reach more officials compared to the limited reach of face to face training (Torres and Esquivel 2011).

On the other hand, Chile, United Kingdom and India rely on face to face training (Torres and Esquivel 2011). In terms of the merits and demerits of a particular ATI training delivery mode, e-learning is standardized thus meaning that every trainee will receive the same training. It is also advantageous in that it is highly replicable and far-reaching. However, infrastructure barriers can undermine its effectiveness particularly where internet penetration is low. Conversely, face to face training requires less infrastructure. However, it's limited in terms of outreach potential, standardization is difficult to achieve and may require more resources to scale up particularly for larger bureaucracy (Torres and Esquivel 2011). In Kenya, the findings in Chapter Five of this study revealed that ATI training in government ministries was delivered mainly through group briefings and seminars. This enabled the trainees to interact with the trainer thus enabling them to seek clarifications on issues that were not clear. This improved the level of awareness of the public officers on their ATI duties and by extension the state of readiness of public entities for ATI implementation.

However, in some countries capacity building of public officials on the ATI legislation has not been prioritized. Indeed, Dokeniya (2013) noted that in many countries, public official's unawareness of ATI is still a reality several years after the enactment of the law. For example, in India, a survey conducted in the rural areas revealed that more than 30 percent of public

information officers were unaware of the ATI law (Dokeniya 2013). Similarly, in Bangladesh, the majority of public officials are still not aware of the law and as a result, many of them refuse to accept ATI requests from citizens (Institute of Informatics and Development 2012). The situation is particularly worse in countries where the degree of awareness of public officials on the requirements of the ATI legislation remains low, years after the enactment of the legislation. For example, in Romania, many public entities, such as public schools and hospitals, were unaware of their proactive disclosure obligations as stipulated in the law, ten years after its enactment. Similarly, in Mexico, a study conducted seven years after the enactment of the ATI law revealed that 60 per cent of public servants believe that the information in their custody belongs to them (Dokeniya, 2013). This state of affairs is also replicated in Africa and in particular, Uganda where most information officers are unaware of Uganda's Access to information Act 2005 (ATIA) and their roles under the Act (Ngabirano 2013). This findings in Chapter Five of this study revealed that 50 per cent of the Public Communication Officers in government ministries were fully aware of their duties and responsibilities as specified in the ATI Act 2016.

Indeed, in Africa, ATI training and awareness programmes have been undermined by lack of adequate resources. For example, in South Africa, the South African Human Rights Commission (SAHRC) that is mandated to train public officials on the South Africa's Promotion of Access to Information Act (PAIA) 2000, conducted ATI training in nine provinces in 2001 (Roberts 2006). Unfortunately, the Commission's awareness campaigns have recently been handicapped by inadequate funds.

In sum, where the ATI awareness levels among public officials are low, there is a lot of resistance to openness. This resistance to openness is manifested in actions such as public officials rejecting ATI requests on flimsy grounds. Worse still, where the culture of secrecy is deeply entrenched, officials even go to the extent of plucking folios from files, altering information, and obliteration of records. In Canada, for instance, the state has imposed tough penalties for officers caught altering and destroying records (Rodrigues 2008).

3.7 Systems and procedures for accessing information

The third objective of this study sought to establish the preparedness of public bodies for the implementation of the ATI Act 2016 by determining the systems and procedures for accessing information that are in place in public bodies in Kenya. Specifically, the study sought to

establish firstly, the existence of access to information guidelines or regulations. Secondly, the existing systems and procedures for receiving and responding to ATI requests, monitoring the handling of requests as well as dealing with complex requests. Thirdly, establish the existence of a dedicated team to handle the requests and fourthly, the existence of publication schemes detailing the information in the custody of a public entity.

Indeed, the need to have systems and procedures for accessing information was underscored as one of the actions that states should undertake during the African regional plan of action meeting on ATI in Accra 2010. Specifically, African states were required to establish policy framework and enabling regulatory mechanisms for disseminating information (Carter Center 2010b). Similarly, the Inter-American Court of Human Rights (IACHR) in its ruling on the *Claude Reyes and others versus Chile* case echoed the need for public bodies to have administrative procedures that facilitate access to information. Specifically, the court noted that:

Chile must adopt the necessary measures to guarantee the protection of the right of access to State-held information, and these should include a guarantee of the effectiveness of an appropriate administrative procedure for processing and deciding requests for information, which establishes time limits for taking a decision and providing information, and which is managed by duly trained officials (Inter-American Court of Human Rights [IACHR] 2006:60, 61).

In addition, the need to have processes for facilitating access to information is also emphasized as one of the requirements of an effective RTI legislation under the principle of process to facilitate access that is championed by Article 19. Specifically, the principle states that requests for information should be processed rapidly and fairly and independent review of any refusals should be provided for (Article 19 2016).

According to Rodrigues (2008), putting in effective systems and processes for ATI implementation is necessary to ensure uniformity across the public sector. In addition, proper systems, tools and processes ensure that implementation of the law is easy and reduce the time and effort needed to attend to information requests. This reduces bureaucratic resistance and promotes better compliance with the law (Rodrigues 2008). The first systems to have in place to ensure effective implementation of an ATI law are regulations. Indeed, rules provide a framework for institutionalization of RTI practices (Lemieux and Trapnell 2016). Further,

timely formulation of ATI regulations is important in sustaining the momentum and ensuring the early implementation of the law. Indeed, delays in developing regulations to operationalize the law can result in having a toothless legislation (Martini and Transparency International 2014). The need to have ATI regulations cannot be gainsaid. Indeed, according to Rodrigues (2008) regulations act as reference guides for public officials responding to ATI requests. Similarly, Dokeniya (2013) noted that ATI regulations provide clarity on the procedures and processes for access (Dokeniya 2013). Likewise, Lemieux and Trapnell (2016) noted that formalized practices are particularly necessary for the three main ATI functions that is; receiving and responding to ATI requests, records management and proactive disclosure since these functions are the cornerstone of an RTI system.

An analysis of extant literature on ATI implementation reveals that different countries have varied approaches to formulation and implementation of ATI regulations. In the UK, Screene (2005)'s study on readiness of public entities for the implementation of the UK FOI Act 2000 revealed that most of the case study organizations had adequate procedures into place. Indeed, the regulations for implementation of the UK Freedom of Information Act 2000 were developed prior to the implementation of the Act. In fact, the UK Information Commissioner developed numerous resource materials for officials. These materials included guidance notes on each of the exemptions under the Act including practical examples of applying them. (Rodrigues 2008). Further, the information Commissioner produced on guidelines on ATI requests that require to be transferred to third party entities as well as procedure of dealing with appeals. The UK Information Commissioner further demonstrated preparedness for the implementation of the Act by producing codes of practice for publication schemes and records management prior to the implementation of the Act. Similarly, in Jamaica, the ATI unit produced a manual outlining the ATI responsibilities of public officers across the public sector. The manual provided guidance on how to process application and appeals, calculate time limits within which to respond to requests, dealing with third parties, charging of fees and applying exemptions (Rodrigues 2008).

In Kenya, the ATI Act 2016 mandates the cabinet secretary to draft regulations for facilitating access to information. Indeed, the Act even goes further to highlight the areas that the regulations should address. According to the Kenya ATI Act 2016, the regulations should address the following;

- The procedure for making requests;

- Form in which requests will be responded to;
- Actions that public entities need to take to facilitate access;
- Measures to ensure public entities keep proper records;
- Procedures for making an application by a complainant regarding access to information from a public entity;
- Procedures to be followed when liaising with a third party before providing access to information that relates to the third party;
- Measure to be undertaken to ensure the accuracy of personal information;
- Details relating to compensation of individuals for damages arising out of inaccurate information relating to that person held by a public entity; and
- Records to be kept by public entities (Kenya ATI Act 2016).

The findings in Chapter Five of this study revealed that the Ministry of Information and Communication Technology was yet to formulate ATI regulations to operationalize the ATI Act 2016. This has undermined the implementation of the Act.

However, in some countries, there have been delays in formulating regulations even after enactment of the ATI legislation. This undermines the implementation of the ATI law as some public officers using it to justify denial of requests. For example, in Uganda, the access to information regulations 2010 were passed only five years after the enactment of Uganda Access to Information Act (Uganda [ATIA] 2005). This delay affected citizens' efforts to access information in two ways. Firstly, most citizens thought they could access information only with the regulations in place and therefore did not demand for information from public bodies. Secondly, in many instances, citizens were unable to access certain information for which fees were required to be paid since there was no guidance in the law as to the fees payable (Ngabirano 2013). On the other hand, in Albania and Moldova, although the regulations were formulated they were not adopted, and public bodies were not obliged to adhere to them. Instead, individual agencies were left to adopt them at their own pace. This resulted in few agencies adopting the regulations hence undermining implementation of the law (Dokeniya 2013).

Another set of organization structure required for ATI legislation implementation relates to designation of public officials to handle access to information requests. Indeed, Calland and Neuman (2007) noted that there is need to designate specific managers to attend to ATI matters.

The appointment and training of such officials is an indicator of the strength of the implementation of the ATI legislation (Calland and Neuman 2007). In some countries, the ATI law provides for the creation of a cadre for information officers or similar positions. For example, the Mexican, Peruvian and draft Bolivian and Nicaraguan Access to Information Acts recommend the setting up of designated ATI units in each public body manned by ATI officers. (Calland and Neuman 2007). In Kenya, the findings in Chapter Five of this study revealed that the Public Communication Officers cadre existed even before the enactment of the ATI Act 2016. Indeed, each of the 35 state departments has been allocated one Public Communication Officer. Further, the study established that the existing staff establishment of Public Communication Officers was inadequate to handle information requests across the public sector.

Although, there exists a cadre of Information Officers, they are mainly deployed in the Department of information to gather and compile information for the Kenya News Agency. As such, the most appropriate officers to handle ATI requests in ministries and departments were Public Communication Officers.

However, in some countries, the designation of public officers to handle information requests has not been prioritized. For example, in Uganda, a survey by the Directorate of information and guidance in 2009 revealed that very few ministries had designated information officers for ATI requests (Dokeniya 2013).

Still on the issue of systems and structure for facilitating access to information, there is the question of placement of the ATI function within the organization structure. Indeed, Shepherd and Ennion (2007) noted that the placement of the ATI function within the organization structure is important as it determines whether implementation of the ATI is prioritized and accorded the necessary senior management support. For example, Ennion (2005)'s study on the preparedness of public bodies in the UK in the first six months of the FOI Act revealed that some organizations placed FOI within a generic customer services department. For instance, this was the case at Public Access office at the Metropolitan Police. On the other hand, the study indicated that other organizations had allocated FOI responsibility to information specialists. An example was the University College London. Overall, Ennion (2005)'s study argued that there is need for the department handling FOI to have a high profile within the organization to be in a position to champion ATI implementation effectively.

However, in some countries, the demand for information from the public and the availability of resources influences the organization and structure of the ATI function. For example, in the UK, smaller public entities have tended to relegate the RTI function to their legal and corporate services divisions. On the contrary, large public entities with a high volume of ATI requests may even set up a dedicated unit for handling requests (Dokeniya 2013). Similarly, in India, Dokeniya (2013) noted that the Public Works department, which received many ATI requests, fulfilled its ATI obligations by setting up formalized systems for attending to requests, having a higher number of information officers as well as dedicated and well-staffed RTI cells. In Kenya, the ATI function in ministries is domiciled in the administration department headed by the Director of Administration. For purposes of this study, the researcher interviewed the Director of Administration in each ministry to establish the following: whether access to information has been integrated in the Ministry's strategic plan; whether the ministry has a policy on access to information and how the Director of Administration has been involved as the head of department; the measures that the ministry has put into place to facilitate adherence to the ATI Act among other issues. The findings to these questions are outlined in Chapter Five of this study.

The other aspect of preparedness for ATI implementation is the availability of systems for receiving and responding to requests. A system for managing requests is essential as it ensures that requests are received, processed and responded to in a fast and efficient manner. Indeed, Dokeniya (2013) noted that a good system should accept requests in a variety of formats including oral, written, electronic as well as physical request for information. A good system whether manual or electronic should enable the collection of information request statistics that can be used to generate a detailed report on compliance (Dokeniya 2013). Indeed, most ATI legislations have provisions that require public entities to submit ATI compliance reports to the oversight agency. In Kenya, the ATI Act 2016 requires public entities to submit an annual report to the Ombudsman detailing the following:

- a) The number of ATI requests received and processed;
- b) the number of determinations made by the authority not to comply with the requests for information under section 8, and the main grounds for such determinations;
- c) the average number of days taken by the entity to process different types of requests;
- d) the total amount of fees collected by the public entity after processing requests; and

- e) the number of full-time staff that a public entity has devoted to processing requests for information and the total amount expended by the entity for processing such requests (Kenya ATI Act 2016).

The findings in Chapter Five of this study revealed that government ministries had put in place a register for recording ATI requests. However, in the absence of ATI regulations, the register did not capture all the aspects mentioned above thus could not generate a comprehensive report. In terms of assessing the preparedness for ATI implementation based on the systems in place, Ennion (2005)'s study revealed that most of the case study organizations in the UK were well prepared in the first six months and were and had appropriate systems to handle requests.

An analysis of extant literature indicates that different countries have adopted varied systems for managing requests (Rodrigues 2008; Calland and Neuman 2007 and Dokeniya 2013). However, generally, the systems for managing information requests adopted was informed by the level of literacy of the population, the amount of resources available for ATI implementation and the existing information communication technology (ICT) infrastructure and in particular access to the internet. For developing countries where the literacy levels are low, resources for ATI implementation are inadequate and the ICT infrastructure is poor, a manual system for managing information requests would be most appropriate as it will ensure that all citizens have access to information. For example, in South Africa, an assessment by South African History Archives (SAHA) revealed that the Department of Defence was adequately prepared to respond to requests. This was demonstrated by the fact that the department had put into place a manual system for registering all requests (Calland and Neuman 2007).

On the other hand, in a developed country where majority of the population is urban, has access to the internet and is literate, an electronic request system would be ideal. For example, in Mexico, the Federal Institute for ATI (IFIA) developed an electronic information request and response platform that enabled requests to be made anonymously online, responses to be fulfilled and monitored electronically, and appeals to be processed online (Calland and Neuman 2007). The system is linked to a search engine called 'zoom' that enables users to search for information requests decisions by topic, agency or date. The system also allows users to request through writing or by mail. Physical requests made in writing are transmitted into the e-platform by a staff member and registered into the system (Dokeniya 2013). Overall, the electronic system in Mexico has eased the information request process. It is, however,

important to note that there are other factors contributing to the success of the IFIA in Mexico. Indeed, the IFIA is a legal body authorized by statute and which enjoys a budget sufficient to meet its tasks and objectives (Calland and Neuman 2007).

In addition, the adopted system could also be used as a monitoring tool that collects data and uses it to assess compliance to the ATI law. Indeed, Dokeniya (2013) noted that systems that have features for monitoring RTI performance facilitate assessments of the effectiveness of the RT system thus providing an accountability mechanism. For example, in the UK, a monitoring Microsoft access database was used to develop a monitoring system. The system enabled officials to capture data on every information request received and appeals handled. The database captures information on the requestor, records the time limits within which the request is handled and uses check-list of questions to assist in applying exemptions (Rodrigues 2008). Similarly, in Mexico, the Federal Institute for Access to Information (IFAI) had a system was able to track statistics on requests and response by federal agencies. Further, the system was able to compare data from RTI system against data from other technology platforms as well as monitor the outcomes of its appellate decisions. The monitoring system is proving useful, as publication of the system findings has forced many federal agencies to comply with the Act (Dokeniya 2013).

For the purposes of this study, preparedness for the implementation of ATI Act was also assessed based on organizations' ability to monitor requests for information. In particular, Shepherd and Ennion (2007) noted that in the four case study organizations the issue of ATI monitoring was varied. For instance, Ennion (2005)'s study revealed that Soham Village College lacked a monitoring system and hence did not record requests while the Metropolitan Police developed a completely new IT system. In Kenya, the findings in Chapter Five of this study revealed that to some extent the register captured details that could be used to monitor the performance of the ATI system. However, government ministries had not prioritized monitoring of the ATI system.

Notably, according to Rodrigues (2008), many ATI legislations apportion the responsibility of developing a monitoring system to the oversight agency mandated to implement the Act. The nodal agency is therefore entrusted with the responsibility of ensuring that the collection of ATI data is uniform across the public sector, issue direction on collection and management of data to ATI officers and set out guidance for collection and collation of statistics. After receiving statistics from every public entity, the nodal agency is expected to compile them into

a report that should be published to inform the public on the effectiveness of implementation of the Act (Rodrigues 2008). In Kenya, the Performance Management guidelines require public entities to submit an annual report to the Ombudsman outlining the number of requests received among other issues. The Ombudsman uses this report to assess the public entity's level of compliance to the ATI Act 2016.

Other systems that demonstrate that a public entity is prepared for effective ATI implementation are systems for proactive disclosure of information. Lemieux and Trapnell (2016) define proactive disclosure of information in RTI laws as the availing of information to the public without an initial request. Indeed, Rodrigues (2008) noted that many ATI laws compel public agencies to regularly publicize specific documents to promote accountability. In essence, proactive disclosure enables public entities have an inventory of the information in their custody, assess if it is being managed appropriately and ways of facilitating its access by the public (Rodrigues 2008). However, public entities need to be guided on how to gather and compile information that should be publicized under the law (Rodrigues 2008).

This responsibility lies with the nodal agency that is entrusted with implementing the law. Specifically, the nodal agency should develop a general publication scheme that acts as a guideline to other public entities on how to undertake proactive disclosure. This approach is useful in two ways. First, it minimises cases of duplication where all departments developing agency-specific disclosure guidelines. Secondly, it ensures that all bodies across the public sector adopt a consistent approach to proactive disclosure (Rodrigues 2008). For example, in the UK, the Information Commissioner developed a generic scheme to guide public entities in developing agency specific disclosure schemes. Further, the Information Commissioner developed the criteria to be used in approving schemes developed by public bodies (United Kingdom [UK] Information Commissioner Office [ICO] 2001).

As far as the availability of publication schemes was concerned and in the context of preparedness for implementation of UK FOI Act 2000, Shepherd and Ennion (2007)'s study revealed that all the four case study organizations had appropriate publication schemes. For instance, the Metropolitan Police had publicized about 950 by July 2005 (Shepherd and Ennion 2007). Although, the number of documents disclosed is important, Shepherd and Ennion (2007) were quick to point out that the effectiveness of publication schemes is determined by the ability of people to use them. In this regard, most organizations availed their publication schemes on their websites (Ennion 2005). Similarly, Screene (2005)'s study revealed that two

of the organizations studied had publication scheme in place prior to the January 2005 commencement date. However, Screene (2005)'s study noted that the publications schemes for the Local Authority and the National Museum needed to be reviewed. For instance, The Local Authority's scheme difficult to navigate while that of the National Museum was very shallow (Screene 2005).

In Kenya, section 5(7) of the ATI Act 2016 compels public entities to publish publication schemes outlining the categories of information in their custody and the subject to which that information relates to. The findings in Chapter Five of this study revealed that government ministries had uploaded their publication schemes on their websites. However, the content of the uploaded information was not uniform across all ministries thus underlining the need for proactive disclosure guidelines.

However, it is worth mentioning that notwithstanding, the ATI disclosure requirements; Kenya has undertaken other measures aimed at promoting proactive disclosure of government information. For example, in 2011, Kenya launched the Kenya Open Data Initiative (KODI), a portal where over 300 data sets are availed freely to the public. The goal of running the open data portal is to avail statistics on development, demographic, expenditure data in electronic format for use by policy makers' researchers. A similar commitment towards proactive disclosure was also made in June 2017 during the launch of the ruling party's (Jubilee) manifesto. Specifically, the government promised to publish annual details of all procurement contracts for major government projects (Jubilee Party 2017).

A review of extant literature on ATI implementation reveals that some countries with access laws have enforced a vibrant disclosure regime. In India, for example, the government engaged a consultant to develop a proactive disclosure template. The template assisted officials in identifying several aspects such as the specific information needs to be collected and the mode of disclosure to be adopted. The template acted as a guide to other public entities and was circulated throughout the country (Rodrigues 2008). Similarly, in the United Kingdom (UK), Dokeniya (2013) noted that following pressure from civil society organizations, information that was previously deemed secret is now publicised.

However, Dokeniya (2013) noted that in most countries, proactive disclosed information is beset by two main challenges; sustainability and incompleteness. For example, in India, while several departments uploaded their information online as specified by the RTI Act, the websites

were poorly maintained and as a result information became outdated fairly quickly. Similarly, in Romania, Dokeniya (2013) noted that although information was uploaded online in government websites, the websites lacked interactivity and the quality of information was not user-friendly. Likewise, in Kenya, the Kenya Open Data initiative (KODI) has been weighed down by failure by government bodies to provide updated data. This has left the portal with obsolete data sets (Daily Nation 2012).

From the foregoing analysis, it is clear that in terms of having systems and procedures for ATI, most of the case study organizations in the ATI implementation preparedness studies in the United Kingdom (UK) had only met the basic requirements for answering requests but lacked far-reaching preparations necessary for full implementation of the Act (Screenie 2005). Therefore, public entities endeavouring to implement access laws should establish elaborate systems and processes from the outset as it ensures a consistent, organized and efficient approach towards ATI implementation.

3.8 Records management practices in the public sector and their impact on access to information

The fourth objective of the study sought to establish the records management practices in government ministries in Kenya and whether they facilitate or undermine access to information. Specifically, the study sought to establish whether there is a code of practice on the management of records under the Kenya ATI Act 2016; whether the national records management policy takes into account the Kenya ATI Act; the current records management systems and procedures in government ministries and their impact on access to information as well as the existing records management infrastructure and whether it supports implementation of the ATI legislation.

3.8.1 Relationship between access to information legislation and records management

There exists an inextricable link between access to information legislation and sound records management (Mutula and Wamukoya 2009). Indeed, for an access regime to function effectively, there must be a proper recordkeeping system in place that facilitates collection, classification, storage and disposal of information (Banisar 2006:29; Crockett 2009:209; Snell and Sebina 2007:41; Shepherd and Ennion 2007:34.) Furthermore, ATI laws compel governments to avail to the public quality information that is reliable, accurate, trustworthy, and timely. This information is only attainable in an environment where there is sound records

management regime (Mase 2015). The success of an access law therefore, rests firmly on the ability of governments to create and maintain records, and citizens to seek out and obtain reliable, trustworthy and accurate government records (Millar 2003:1).

Indeed, the role of records in achieving the objectives of ATI is underscored in the draft records management code of practice under section 46 of the United Kingdom (UK) Freedom of Information Act 2000. Specifically, the code states that the effectiveness of a freedom of information legislation is directly proportional to the quality of records to which it provides access (United Kingdom (UK) Department for Constitutional Affairs [DCA] 2002b). The code further points out that for records to meet the objectives of the ATI legislation, they must be accurate, complete, timely appropriate for retention, relevant, adequate, credible, engaging, readily accessible and likely to be needed in future (United Kingdom [UK] Department for Constitutional Affairs [DCA] 2002b). Indeed, the records management code complements Section 45 of the Freedom of Information Act 2000 which provides rules and procedures for handling information requests (United Kingdom [UK] Department for Constitutional Affairs [DCA] 2002a).

On the flipside, absence of sound records keeping systems undermines access to information in far reaching ways as indicated by an annual report of the Information Commission of Canada:

If records about particular subjects are not created, or if they cannot be readily located and produced, the right of access is meaningless. The right of access is not all that is at risk. So, too, is our ability as a nation to preserve, celebrate and learn from our history. So, too, is our governments' ability to deliver good governance to the citizenry (Government of Canada, Annual Report, Information Commissioner 1999-2000:20).

Indeed, the nexus between effective records management and access to information legislation is two sided. One side, which is the subject of this study, involves establishing the role played by records management in facilitating or undermining access to information. On the other hand, the other side may seek to establish the impact that the implementation of the ATI legislation has on records and archives management services. However, some studies have focused on both aspects. For instance, Ennion (2005)'s study covered both the preparedness towards ATI implementation as well as the impact of FOI on archives and records management services. Overall, few studies have focused on the first aspect on the influence of records management

practices on access to information thus the research gap that this study seeks to fill. Indeed, in the UK, Screene (2005)'s study sought to establish the readiness of public bodies towards implementation of the FOI Act 2000. Screene (2005)'s study was based on the UK's Department of Constitutional Affairs (DCA) Model Action plan (MAP) (2003) for preparing for FOI. The study assessed the existing records management practices in the four case study organizations and their impact on the preparedness towards implementation of the UK freedom of information Act 2000.

The study revealed that most public entities in the UK had only made short-term arrangements to be ready by the January 2005 implementation deadline (Screene 2005:41). Indeed, in most organizations, the short-term targets relating to management of records had been realized. However, far-reaching improvements essential for meeting FOI targets such as policy framework and widespread records management systems were not ready by January 2005 (Screene 2005). Screene (2005) noted that, that sort of approach undermined the level of preparedness.

In Africa, a study by Sebina (2006) on access to information in Botswana sought to bring out the relationships between records management and ATI legislation. Sebina (2006) further sought to establish Botswana's readiness to ATI legislation by assessing management of public records and the country's ATI regime. The findings were then related to those of other countries that had either implemented ATI or had constitutional guarantees on access to information. These were; South Africa, Malawi, Ireland and the United Kingdom thus providing learning lessons for Botswana. The study revealed that Botswana was ready for the enactment of FOI legislation. However, Sebina (2006) emphasized on the need for Botswana to assess the efficiency of its public records as it worked towards adoption of the legislation.

On the other hand, several studies have explored the impact of access to information on records and archives services. For example, Shepherd and Ennion (2007) conducted a study that sought to establish the impact of implementation of the UK Freedom of Information Act 2000 on records and archives management services six months after its implementation. The study revealed that although FOI had an impact on management of records and archives, there were other factors at play that had a greater influence. Indeed, Shepherd and Ennion (2007)'s findings were consistent with Snell (1993)'s research in Tasmania that challenged the commonly held perception that FOI legislation impacts positively on records management. Instead, Snell (1993) argues that other factors such as technology have a bigger impact.

Similarly, Ennion (2005) conducted a study that sought to establish the level of preparedness of public sector bodies in the first six months of the UK FOI Act 2000 and the impact of FOI implementation on archives and records management services. The study revealed that in case study organizations with adequate pre-existing records management systems, FOI had little impact since only minimal resources were provided to improve records management compliance. Further, Ennion (2005) observed that implementation of FOI did not improve in e-records management as might have been expected. However, in the case study organizations with little formal experience of records management, FOI led to improvements both in senior management awareness and in the provision of resources to implement records management programmes (Ennion 2005).

There is also the question of the impact of FOI legislation on current and semi-current records within the organization. Indeed, Shepherd (2007) noted that experience from Canada revealed that following the enactment and implementation of the Access to information Act in 1982, there was reluctance to create records and where they were created they were less complete. Similarly, in the United States of America (USA), the ATI Act had a negative impact as third party contractors demanded destruction of files to minimise disclosure. However, In the UK, the FOI Act seemed to have had a positive impact on the creation of current records. Indeed, Ennion (2005) study revealed that some of the case study organizations guided their staff on the creation of corporate records. For instance, one organization issued guidance on committee minutes, emphasizing on the need to record factual information such as decisions as opposed to views and debate.

3.8.2 Global perspective of records management practices in the public sector

World over, sound records management has gained international recognition as the basis for transparency, accountability and good governance. Indeed, Mazikana (1996) attributed the global awakening on the importance of records to the collapse and demise of authoritarian regimes which occasioned widespread democratic governance and respect for human rights and freedoms. As a result, citizens were more aware of their rights and began to demand the right to access government-held information.

Kalusopa (2011) noted that in most countries in the Eastern and Southern African Regional Branch of the International Council on Archives (ESARBICA) most of the standards and practices adopted in the management of records have had considerable influence from Europe, UK, Australia, USA and Canada. For example, Reed (1997a) observed that the record keeping

in most commonwealth states was influenced by the registry systems of the British colonial legacy of the 18th and 19th century. Indeed, Kenya falls in this category as it is a former British colony and an active member of ESARBICA. Therefore, while this study acknowledges that there have been public records management initiatives in other parts of the world, the discussion on global public records management shall be limited to initiatives in the above-mentioned countries.

Kemoni (2007) noted that Australia leads Europe and North America in the development of public sector records management programmes. David (1994) outlined a number of factors that contributed to Australia's success in public records management. These include:

- A large and sophisticated economic system;
- A government and legal system conducive to the development of records management;
- A long tradition of administrative support for records keeping systems;
- A fairly advanced and broad-based national records management infrastructure including a large community of vendors of e-records management products and services; and
- The evolvement of records management from the archive's profession into a stand-alone discipline (David 1994).

Similarly, in terms of electronic records management Reed (1997b) notes that Australia is regarded as the world class records management software vendor. Reed (1997b) attributes Australia's success in e-records management to two key measures. Firstly, the move by the Australian Federal Government to reinvent records management programmes by automating registry controls. Secondly, the ability of the records management community in Australia to compel software developers to develop records management software based on record keeping processes necessary for sound management of records.

In addition, Australia has also undertaken electronic records management projects aimed at developing a framework for enduring preservation of electronic records. These projects include;

- Victoria Electronic Records Strategy (VERS) that was initiated in 1995 to assist agencies in establishing systems for managing electronic records, archiving systems and policies that fit their existing business processes and records management structures (Public Records Office, Victoria. 2003). The overall aim of the project was

to ensure the capture of accurate, reliable, and authentic electronic records to support good governance and preservation of digital heritage (Public Records Office, Victoria. 2003);

- Strategic Partnerships with industry Research and Training (SPIRT) project which was undertaken between 1998 and 1999 and led to the development of Australian Recordkeeping Metadata Schema (RKMS). The schema is a framework for creating metadata sets for use in domain specific record keeping systems and it is based on the records continuum model and the Australian series system (Kalusopa 2011); and
- Clever Recordkeeping Metadata Project (CRKM) which was undertaken between 2003 and 2006 by a joint research team involving the Records Continuum Research Group at Monash University, the National Archives of Australia (NAA), the State Records Authority of New South Wales (NSW) and the Australian Society of Archivists Committee on Descriptive Standards (ASA CDS) (Evans, Reed and Mckemmish 2008). The project was initiated to counter the challenges associated with implementation of metadata standards. In essence, the project was intended to provide an implementation model for use of metadata in quality recordkeeping systems. Proper use of metadata would enable the records keeping systems to generate records that are reliable, authentic, accessible and usable. Such records can be used as evidence to support government decisions and activities (Evans, Reed and Mckemmish 2008).

In Canada, Moloi (2006) noted that public records management is guided by a comprehensive records management legislation. In addition, public records are no longer secret but are subject to ATI and privacy laws that encourage their sharing. Further, Moloi (2006) noted that the government has also developed platforms that support e-records such as Government online. Further, the government has formulated a national standard for electronic records management and for managing e-records as documentary evidence. The standard provides guidelines for organizations to adhere to in creating e-records in text, database, image and audio formats. The standard ensures that records generated by organizations are authentic and the system that creates the records has integrity (Roberts 1994; Government of Canada, National Standard of Canada 2005).

Canada is also a leader in e-records management particularly through the University of British Columbia (UBC), School of Library, Archival and information studies project and the International Research on Permanent Authentic Records in Electronic Systems (InterPARES)

project. Specifically, the UBC project was undertaken between 1994 and 1997 and sought to identify best practices and develop guidelines for creation, maintenance and preservation of reliable and authentic electronic records during their current and semi-current phase (University of British Columbia [UBC] n.d). The project was useful in that it provided answers on what constitutes complete, reliable and authentic records in an electronic environment and recognized that procedural and administrative context of electronic creation were important in assessing the nature of records (Kalusopa 2011). On the other hand, Canada is also one of the multi-national teams involved in the InterPARES project. The project begun in 1999 and is a collaboration between scholars in archival studies and computer engineering, national archival institutions and the private sector. The project seeks to formulate international policies, strategies and standards for long-term preservation of authentic records created in electronic systems (Duranti 1996).

In the United States, David (1994) noted that records management sprung during and after the World War II. The records management function was invented and spearheaded by the US Federal Government (Robek, Brown and Stephens 1996). In addition, Moloi (2006) noted that the first general records disposal Act was passed by the US congress in 1889 and provided the first legal authorization of destruction of records. Later, in 1912, the US Bureau of Efficiency was tasked with studying government record-keeping practices. The Bureau advocated the use of modern equipment for records storage (Moloi 2006). Despite the above-mentioned efforts, Cox (2000) lamented the poor archives and records management system in the USA which he attributed to the inability of the National Archives and Records Administration (NARA) to provide professional leadership in improving the records management situation in the country. Indeed, NARA did not dispute these claims but attributed the poor state of record keeping to its outdated records management programme that did not capture electronic records (Kemoni 2007). To address the situation, NARA formulated a strategic plan which outlined a redesigned records management programme. Some of the measures outlined in the strategic plan included; focusing resources on electronic records management initiative, providing guidance and training to federal agencies based on the ISO 15489 standard and conducting inspections of records management practices among federal agencies among others (NARA 2005a; NARA 2005b).

In terms of electronic records management, USA has made great strides in promoting e-records management. NARA (2002) noted that the US government has provided guidance on e-records

management to enable agencies to transfer e-records to NARA in a variety of data types and formats for long-term preservation. In addition, the US government has directed public computer systems to conform to open system functionality to enhance compatibility and connectivity (Moloi 2006). This move will facilitate efficient information transfer and use as well as ensure creation of authentic and reliable electronic records (United Nations 1992). Further, the USA through the University of Pittsburgh, School of Information Science project also pioneered in the development of the framework for the management of electronic records. The project started in 1993 and was aimed at developing specific methods and functional requirements for evidence in recordkeeping (Kalusopa 2011). The project succeeded in establishing generic guidelines in four areas: compliance with best practice, accountable record keeping systems and the capturing of complete records, their maintenance and usability (Bearman and Sochats 1996).

In the United Kingdom (UK), as mentioned earlier, the UK National Archives developed a code of practice in 2000 that provided guidelines to public entities on management of public records. Further, in May 2003, a records management advisory service was launched, and its main focus was to provide digital records management training, advice and information to archives staff across the public sector. In addition, Kalusopa (2011) noted that The National Archives (TNA) has been spearheading efforts in the formulation of strategies for electronic records management through two projects namely; the Electronic Records in Office Systems (EROS) and the National Digital Archives of Data Sets (NDADS). Specifically, EROS was started as a specialized programme to ensure that electronic records of long-term value created across government were available for future access (Irvine and Baron 2000; United Kingdom [UK] The National Archive [TNA] 2002). Overall, the TNA project has successfully developed the general functional requirements for electronic records management: the Moreq (Model Requirements for the management of electronic records) and the requirements for Electronic Records Management Systems. The TNA's toolkits give guidance on practical implementation of the functional requirements to help match the agencies particular needs (United Kingdom [UK] The National Archives [TNA] 2002).

From the discussion above, it is apparent that developed countries have made great strides in the management of public records particularly in the electronic environment. These developments in electronic records management provide great lessons for Kenya and other

African countries particularly in relation to formulation of guidelines and standards for e-records management.

3.8.3 Review of related empirical studies on public sector records management practices in Africa

According to IRMT (2005), management of official records in developing countries has been poor over the last few decades. Indeed, Kemoni (2007:69) attributed the poor state of public sector records management programmes in Africa to the failure by national archival institutions to play their roles effectively. The poor state of public sector records management in Africa has undermined effective and efficient service delivery, accountability, respect for human rights, poverty reduction strategies and the rule of law (IRMT 2005).

Indeed, in efforts to find answers to the poor state of records management in the public sector in Africa, several studies on management of records in the public sector across the continent have been undertaken (Ngulube and Tafor 2006; Kemoni 2007; Ndenje-Sichwale 2010; Mase 2015). Although these studies have not specifically focused on the impact of records management on implementation of access to information legislation, they provide useful contextual framework for this study. Below is an overview of some of the empirical studies on management of records in the public sector in Africa and their relationship to the present study.

Ndenje-Sichwale (2010) conducted a study that sought to establish the degree to which records management practices promoted accountability in the Public Service Reform Programme (PSRP) in Government ministries in Tanzania. The study established that the records keeping practices in Government ministries in Tanzania were weak and thus fostering accountability was difficult. Ndenje-Sichwale (2010)'s study is similar to this study in several respects. Firstly, both studies investigated records management practices in the public sector. Secondly, both studies adopted mixed methods research approach where the quantitative strand was the dominant and qualitative subordinate. Thirdly, both studies recognized records management as an enabler to access to information. However, this study differs from Ndenje-Sichwale (2010)'s study in that whereas Ndenje-Sichwale (2010)'s study sought to establish the extent to which records management practices in Government ministries in Tanzania fostered accountability, the present study sought to establish the impact of records management practices in Government Ministries in Kenya on access to information.

Kemoni (2007) conducted a study that sought to establish the records keeping practices in Government ministries in Kenya and their impact on public service delivery. The study established that records keeping practices in Government ministries were not efficient and effective hence affecting public service delivery. Kemoni (2007)'s study is similar to this study in several respects. Firstly, both studies investigated records keeping practices in government ministries in Kenya and in particular the effectiveness of the procedures and systems used in managing records in government ministries throughout their continuum. Secondly, both studies focused on the executive arm of the government leaving out the legislature and the Judiciary. Thirdly, both studies used the same data collection instruments that is; questionnaire, interviews and observation checklist. However, Kemoni (2007)'s study differs from the present study in one respect. Whereas, Kemoni investigated record keeping practices in government ministries and their impact on public service delivery, the present study seeks to investigate records keeping practices in government ministries and their impact on access to information. Indeed, the present study sought to establish whether records management practices in government Ministries in Kenya had improved 10 years after Kemoni (2007)'s findings. It is important to note that significant public sector reforms aimed at streamlining management of records have taken place after 2007 thus the need to establish the existing records management practices in the public sector in Kenya. These reforms are discussed in the next section.

In the same vein, Ambira (2016) conducted a study seeking to establish the extent to which e-records management supports e-government in Kenya with a view to developing a best-practice model for e-records management in support of e-government. Specifically, the study sought to firstly, ascertain the prevailing status of management of e-records in government ministries in Kenya; secondly, determine the existing level of e-government application; thirdly, establish the efficiency of the existing practices of e-records management in supporting e-government; fourthly, identify the challenges that ministries encountered in e-records management that impacted on e-government and lastly propose recommendations to improve e-records management in ministries in support of e-government and develop a model for e-records management in support of e-government. The study revealed that; first, general e-records management in government ministries was not well placed to support e-government. Secondly, adoption of e-government services in Kenya has grown significantly. Thirdly, although there were efforts to improve e-records management, more needed to be done to improve the existing

e-records management practices to ensure they sufficiently supported e-government. Ambira (2016)'s study concluded that the existing e-records management practices in support of e-government implementation were insufficient. Ambira (2016)'s study is pertinent to the present study in that it provides background information on the existing state of e-records management practices in government ministries in Kenya. Indeed, Ambira (2016)'s findings will be compared with the present study findings on the existing records management practices to establish the emerging trends and commonalities particularly in relation to the impact of e-records management practices on access to information.

Ngulube and Tafor (2006) conducted a study between 2004 and 2005 to establish how national archival institutions within the East and Southern Africa Regional Branch of the International Council on Archives (ESARBICA) region managed public records and archives. The study revealed that national archival institutions within ESARBICA were ill-funded for records management function. Secondly, absence of standards to guide records management processes. Thirdly, poor skills and competencies among records management staffs. Fourthly, information in electronic format could be owing to benign neglect. Fifthly, absence of a comprehensive legal and regulatory framework for records management. Ngulube and Tafor (2006)'s study is particularly pertinent to the present study in that Kenya is one of the members of ESARBICA thus the findings of the study on management public records and archives by the national archival institutions are applicable to Kenya. The findings of the present study revealed that the state of records management in the public sector in Kenya had considerably improved a decade after Ngulube and Tafor (2006)'s findings.

Chaterera (2016) conducted a study that sought to establish the state management of records in the public sector in Zimbabwe. Specifically, the study assessed the effectiveness of the records management practices towards attainment of an improved public service delivery, good governance, accountability and transparency. The study revealed that service delivery in the public sector in Zimbabwe was at risk owing to ineffectual records management practices. Chaterera (2016)'s study is similar to the present study in that both studies seek to assess the records management practices in the public sector. However, whereas Chaterera (2016)'s study focused on the implication of records management practices on public service delivery, good governance, accountability and transparency in Zimbabwe, the present study focused on the impact of records management practices on access to information.

Ramokate and Moatlhodi (2010) conducted a study that sought to establish the challenges faced by the Botswana National Archives and Records Services (BNARS) in eliminating the records backlog. The study revealed that initially BNARS struggled in eliminating the backlog. However, after adopting new initiatives and committing sufficient resources to the exercise significant progress was made. Ramokate and Moatlhodi (2010)'s study is similar and relevant to the present study in that both studies assess appraisal of records as a records management practice and its impact on access to information. Ramokate and Moatlhodi (2010)'s study differs from the present study in that it whereas it focuses on appraisal of records by BNARS which an oversight agency in charge of public records management is, the present study focuses on appraisal of records within specific government ministries.

Tshotlo and Mnjama (2010) audited the records management practices at the Gaborone County Council (GCC). Specifically, the audit focused on a number of issues. Firstly, the creation, use, maintenance and disposal of records at GCC. Secondly, establish the extent of ICT usage in the creation, use, maintenance and disposition of records. Thirdly, establish the existence of a policy framework for records management at GCC. The study revealed that GCC lacked a policy framework for management of records. Tshotlo and Mnjama (2010)'s study differs from the present study in terms of scope. Whilst it focused on a narrower scope of one case study organization, the present study focuses on a broader scope of the whole public sector. However, Tshotlo and Mnjama (2010)'s study is similar to the present study in that Gaborone County Council is a public entity hence the records management practices findings mirror the existing situation in other public entities in Botswana.

Another study that is pertinent to the present study was conducted by Mase (2015). The study sought to investigate records management practices in the Kenyan judiciary in support of open government and for effective and efficient delivery of justice. The study revealed that although records management in the Kenyan judiciary had improved, it was not strong enough to facilitate successful judiciary transformation, openness and delivery of justice. Mase (2015)'s study is similar to the present study in two ways. Firstly, both studies are investigating records management practices in the public sector. Secondly, both studies adopted mixed methods approach where data is collected using both quantitative and qualitative designs. However, Mase (2015)'s study differs from the present study in two ways. Firstly, whereas, it focused on records management practices in the Kenyan judiciary, the present study sought to establish records management practices in the executive arm of the Kenyan government. Secondly,

while Mase (2015)'s study sought to establish records management practices in the judiciary and how they influenced openness and delivery of justice, the present study sought to establish records management practices and their impact on access to information. However, it is worth noting that access to information and openness are intertwined. Indeed, Wamukoya (2013) points out that open government has its origin in the proclamation of the freedom of information legislations which were the first to recognize the citizen's right to access information held by a public agency. Similarly, Thurston (2012) demonstrates the nexus between freedom of information and openness by pointing out that open government consists of two forms of disclosures, that is, proactive disclosure which is open data and reactive disclosure which is right to information. Indeed, given that open government is predicated on access to information, it is clear that the two studies have more commonalities than differences.

Other studies that are partly related to the present study include studies by Nengomasha (2009) and Moloi (2006) on e-records management in Namibia and Botswana respectively. For instance, Nengomasha (2009)'s study sought to establish the capacity of the Namibian public service to create, manage, share and use electronic records to support e-government. The study revealed that the state of records management in the Namibian public service was very poor. Specifically, the study revealed that public officers were unaware of the need for sound records management; the legal and regulatory framework for managing records was inadequate, procedures and standards for records management were absent, a disaster management plan and digital preservation strategy were lacking, and the records management function was ill-funded and the staff lacked skills to manage records. The study concluded that e-government initiatives in Namibia were anchored on a strong records management programme. Nengomasha (2009)'s study is similar and relevant to the current study in that both studies assessed management of records in the public sector.

On the other hand, Moloi (2006)'s study sought to assess the management of e-records in the public sector in Botswana with a view to developing a framework for effective and efficient e-records management. The study revealed that Botswana lacked a legal and policy framework for e-records management. The study made several recommendations. Firstly, that Botswana should use developed countries as a benchmark for systematic management of e-records. Secondly, the need to engage e-records management experts in developing e-records management programmes. Thirdly, the need to involve Botswana National Records Management Service (BNARS) at the initial stage of automation of government services to

offer advice on e-records management matters. Moloi (2006)'s study is similar and pertinent to the current study in that both studies assessed management of records in the public sector.

Kalusopa and Ngulube (2012) conducted a study that sought to establish records management practices in labour organizations in Botswana. The study revealed that labour organizations in Botswana had an ambiguous records management function. Consequently, the management of both paper and e-records was unsatisfactory and fell short of records management best practices. Kalusopa and Ngulube (2012)'s study is similar and relevant to the present study in several ways. Firstly, they both investigated the various records management activities that take place in a continuum of care. Secondly, both studies adopted a survey research strategy, a largely quantitative approach and methodological triangulation of quantitative and qualitative data collection methods. However, Kalusopa and Ngulube (2012)'s study differs from the present study in terms of area of focus. Whereas Kalusopa and Ngulube (2012)'s study focused on labour organizations which are not public entities, the present study focused on records management practices in the public sector.

In Uganda, Luyombya (2010) conducted a study that sought to develop a framework for effective management of digital records in the Ugandan Public Service. Specifically, the study sought to examine several aspects. Firstly, the existing state of digital records management in the Ugandan Public Service (UPS) and the factors that impeded sound e-records management. Secondly, how best practices in digital records management in use in other jurisdictions could be adopted to suit the UPS environment. Thirdly, the study recommended strategies that could improve digital records management services in the UPS. The study revealed that the challenges in the management of digital records management were attributed to several factors. Firstly, lack of ICT facilities in the records keeping functionality. Secondly, lack of a records management policy framework and an implementation gap in the Ugandan records and archives legislation. Thirdly, inadequate financial and human resources as well as unreliable power supply. Luyombya (2010)'s study is similar and relevant to the present study in two ways. Firstly, both studies focused on the public sector and specifically the ministries. In this case, Luyombya (2010)'s study was conducted in the 23 ministries that made up the Ugandan Public Service. Secondly, both studies used the mixed methods approach to collect data on the state of records management. However, Luyombya (2010)'s study differs from the present study in that whereas it was specific to digital records management in the UPS, the present study focused on general management of records in the public sector.

3.8.4 An overview of management of public sector records in Kenya

According to Thurston (1996), the statutory responsibility for management of public records in Africa lies with the national archival institutions. Indeed, Kenya is no exception. The management of public records in the country is governed by Public Archives and Documentation Service Act, Cap 19 of the Laws of Kenya. The Act defines public records as records created by any ministry, government department, local authority, commission or any other body established by or under an Act of Parliament (Kenya PADS Act 1991). Therefore, all the records created in the Kenyan public service are regarded as public records.

Previous studies on the state of management of records in the public sector in Kenya revealed that management of records faced numerous challenges for many years (Maclean 1978; Sareen 1981; Musembi 1983; Musembi 1984; Droguet 1986; Hall 1990; Githaka 1996; Kemoni 1998; Wamukoya 1999; Mnjama 2003 and Kemoni 2007). These challenges include: cumbersome retrieval procedures, cases of misfiling or lost files, inadequate storage facilities and failure to dispose valueless records among others. The situation was further compounded by low morale of the registry personnel and the manual nature in which records were maintained.

To address these challenges, the government has over the years, issued several circulars to provide guidelines on sound records management. These circulars include:

- Government of the Republic of Kenya, Office of the President (OP). 1985. Chief Secretary circular letter No. OP/1/48A/66 dated 28 November 1985 and circular Letter No. OP/1/48A/11/10 dated 7 July 1989 on the procedures to be followed on destruction of non-current government records;
- Government of the Republic of Kenya, Office of the President (OP).1991. Personnel General letter No.7. Permanent Secretary, Directorate of Personnel Management (DPM) PPM/PA/1/20/112 regarding destruction of personnel records. The circular stipulated the specific periods that various categories of personnel records should be retained before destruction;
- Government of the Republic of Kenya, Office of the President (OP). 1999a. Permanent Secretary to the Cabinet and Head of the Public Service circular letter reference no. OP.30/2A dated 14 April 1999, which addressed the prevalent incidences of missing/lost files and documents. This had adversely affected performance in the public service and obviously undermined the integrity of public servants (GORK strategy on records management 2011);

- Government of the Republic of Kenya, Office of the President (OP).1999b. Permanent Secretary to the Cabinet and Head of the Public Service circular letter reference no. OP.39/2A dated 14 November 1999, which encouraged the public including public servants to submit formal complaints, in writing, to the Director, National Archives, whenever the service they required was unduly delayed, on grounds that files or documents were ‘missing’. The Director, National Archives was required to compile and submit quarterly reports of such cases for further action. It required officers in government to place greater emphasis on good record keeping; and
- Government of the Republic of Kenya, Office of the President (OP). 2003b. Directorate of Personnel Management (DPM) circular letter Ref. No. DPM.4/10A (9) of 27 October 2003 that focused on streamlining the performance of registries in government ministries, departments, local authorities, provinces and districts.

Despite the issuance of the above-mentioned circulars, the state of recordkeeping in public entities remained poor. Indeed, in 2001, a policy document on public sector reforms prepared by the Directorate of Personnel Management (DPM) summarized the general situation in public service registries as follows:

The state of registries in many offices in the Public Service is appalling. Failures in the system lead to delays, poor service delivery and frustration on the part of the public and create opportunity for corruption (Government of the Republic of Kenya, Directorate of Personnel management [DPM]. Terms of reference for a task force to improve the performance of registries in government ministries/departments 2003c).

In 2003, following the coming into power of a new political dispensation, the new government was keen at improving performance and service delivery. This led to the recognition of the records management function in the public service as an integral component of the Public Service Reform Programme (PSRP). This prioritization of the records management function led to a number of reforms. Firstly, Government of the Republic of Kenya, office of the President (OP) 2003a. Permanent Secretary, Secretary to the Cabinet and Head of the Public Service issued a circular letter Ref. No. 40/1A dated 6th June,2003 that sought to improve records management for good governance. The circular warned that despite the records management instructions issued in the past, the state of records management in public offices continued to be unsatisfactory (Kemoni 2007). Secondly, in 2003, the government constituted a task force to review registry operations in Ministries/Departments and Local Authorities and

recommend an action plan. The findings of this study provided information, which formed the basis upon which subsequent reforms in records management were anchored.

These reforms included:

- Undertaking of Kaizen Institute Project that entailed waste free (muda) activities to improve the physical state of registries in the public service in 2005;
- Development and implementation of a scheme of service for records management officers in 2006;
- Creation and operationalization of records management units with appropriate structures in 2010;
- Development of an integrated Records Management System (IRMS) to computerize records in the public service in 2007; and
- Development and implementation of a records management procedures manual for the Public Service in 2010.

To sustain and ensure effective implementation of the above-mentioned reforms, the government developed a framework for records management advancement in the public service in 2011. The strategy provided a roadmap and uniform approach for adoption by public entities in reforming the management of public records (Government of Kenya [GORK] Ministry of State for Public Service [MSPS], a strategy for improvement of records management in the Public Service 2011). Specifically, the strategy focuses on the following records management areas; electronic records management, ISO standards in information management, management of manual records, review of existing legislations on records management, capacity building, performance management and management of records during mergers and separations of public service organizations (Government of Kenya [GORK] Ministry of State for Public Service [MSPS], a strategy for improvement of records management in the Public Service 2011).

Undoubtedly, the strategy is comprehensive and progressive in terms of improving records management in the public service. However, its implementation has been hindered by several factors. Firstly, the reduced role of the department of records management in successive governments since its mandate is not anchored in law. Secondly, inadequate resource allocation

for records management activities in ministries and departments. Thirdly, poor monitoring of its implementation by the relevant oversight agencies such as the National Archives. Indeed, the timelines within which most of the activities outlined in the strategy were to be undertaken have long elapsed.

3.8.5 Records management practices and their impact on access to information

This section will look at records management practices by reviewing the findings of ATI implementation preparedness studies in the UK as well as previous records management practices studies conducted in the public sector in Kenya. Although, Kemoni (2007)'s study established the records management practices in the public sector in Kenya, the government of Kenya has undertaken numerous reforms in the records management arena thereafter (as pointed out earlier in this chapter) thus the need to establish the existing state of records management practices in government ministries. This study therefore sought to shed light on whether records management reforms that were undertaken after Kemoni (2007)'s study have improved the state of records management in the public sector. Additionally, the study sought to establish the impact of the current records management practices on implementation of access to information legislation.

The need to investigate the impact of records management practices on implementation of the access to information legislation was underscored by Rodrigues (2008) who noted in the absence of an effective system for managing records throughout their lifecycle, implementation of an ATI law would be ineffective. Specifically, it will be hard to respond to ATI requests within the time limits stipulated by the law, if the information requested cannot be easily located. Further, the access law will also be undermined if the records are poorly stored in that access and copying will be difficult (Rodrigues 2008). Similarly, the Information Commission of Canada in its 1999-2000 annual report noted that:

The whole scheme of the access to information legislation depends on records being created, properly indexed and filed, readily retrievable, appropriately archived and carefully assessed before destruction to ensure that valuable information is not lost. If records about particular subjects are not created, or if they cannot be readily located and produced, the right of access is meaningless (Government of Canada, Annual Report, Information Commissioner 1999-2000:20).

In addition, an effective records management system is also identified as one of the requirements for an effective RTI legislation under the principle of promotion of open government that is championed by Article 19. Specifically, the principle calls on governments to ensure that good records management systems are put in place (Article 19 2016).

Despite the obvious benefits of sound records management in facilitating access to information, some countries that have enacted progressive ATI legislations are still grappling with poor records management practices. For example, in South Africa, Kisoona (2010) noted that poor records are poorly managed across the multiple levels of government. Indeed, the absence of a policy framework for records management and poor records practices has undermined the ability of registry staff to locate and provide records. Kisoona (2010) further observed that the inefficiencies in records management had been worsened by the inheritance of the apartheid regime's records, and the mergers and changes within existing public bodies following elections.

3.9 Records Management systems and procedures

Internationally, management of records is guided by an international standard on management of records commonly referred to as ISO 15489-01 (ISO 2001). The standard was developed by the International organization on Standardization (ISO) following an agreement amongst ISO member countries to standardize international best practices on management of records (Kalusopa and Ngulube 2012). This standard relates to all records regardless of their format or media, generated or received by public or private organizations in the course of their business transactions.

The principles of sound management of records identified in the ISO 15489-01 standard are collectively referred to as records management systems and procedures. They include; legislative and regulatory framework, records creation and capture, mail management programme, records classification systems, records tracking tools, appraisal and disposal of records, retention and disposal schedule, management of vital records and disaster management and storage and preservation of records.

Indeed, the relevance of records management systems and procedures in public entities was emphasized by Rodrigues (2008) who noted that international best practice demand that records are generated and managed based on elaborate procedures developed by a public entity as a component of an effective records management programme. Similarly, Roberts (2006)

noted that unless there is an effective and efficient record-keeping system in place, there will be delays in tracing records leading to higher fees for requestors.

The following discussion on records management practices in government ministries is thematically organized based on the tenets of best records management identified in the ISO 15489-01 standard.

3.9.1 Legislation and policies for records management

The first step towards sound records management is having a legal and regulatory framework in place. Indeed, ISO 15498-1 (2001) points out that records management best practice demands that organizations provide evidence of their compliance with the regulatory requirements by keeping a record of their actions. These are usually Acts, mandatory standard practices, codes of conduct and ethics. The legislation, rules and code of practice are important in that they provide guidelines on how various records management activities should be undertaken. Effective preparedness towards ATI legislation implementation demands that the records and archives legislation and regulations take into account the aspect of access to information. Indeed, Millar (2003) noted that along with the ATI legislation, governments must craft a comprehensive records and archives legislation. Such legislation should clearly articulate the record-keeping process and ensure that public records are managed effectively. An updated records and archives legislation is key to ensuring effective management of records. A comprehensive records and archives legislation provide a framework for the creation and implementation of records and archive management system (Millar 2003).

However, in some countries the archival laws do not address modern record-keeping requirements particularly management of electronic records. Indeed, Millar (2003) noted that although many governments have been implementing ATI laws, few have updated their records legislation to address the new demands. As such, in many countries, the records legislation – mainly referred to as the *Public Records Act* or the *Public Archives Act* – is often outdated. Indeed, such a legislation does not appreciate the need for managing records throughout the life cycle and is silent on the management of electronic records (Millar 2003). Worse still, some archival laws contradict access to information legislation (Calland and Neuman 2007). For example, in Jamaica, whereas the archivist has the freedom to release records, this decision is not guided by public interest or principles of transparency.

Similarly, Rodrigues (2008) noted that archival laws in many countries lack provisions that can facilitate sound records management. In most cases, archivists prioritise preservation of historical documents at the expense of systematic management of records from creation to disposition. To address this anomaly, Rodrigues (2008) recommend the need for legislative provisions either in the ATI law or in a separate Act compelling the use of standard procedures and systems to manage records in all formats to ensure that public information is fulfilled (Rodrigues 2008).

The need to harmonize the provisions of the archival laws, records management policies with the ATI legislation was also emphasized by Dokeniya (2013) who noted that harmonizing the regulations and clearly defining roles and responsibilities should be prioritized. The link between the ATI and the archival law is normally ambiguous in many countries, or the archives specifically omitted from the provisions of the ATI law. This approach creates two parallel and incoherent regimes for ATI with the public officers unsure which to apply. These inconsistencies have to be harmonized to facilitate access to information (Dokeniya 2013).

On the question of policy, ISO 15489 standard on records management recommends that countries should develop a comprehensive records management policy which will facilitate the creation and management of trustworthy, reliable and usable records capable of supporting business transactions for as long as they are required (ISO 15489 2001). However, for purposes of this study, it is noteworthy that international best practices demand that for effective implementation of ATI law, the national records management policy should take into account issues of access to information and be harmonized with the ATI law. In terms of preparedness for implementation of the ATI legislation, in the United Kingdom (UK), Screene (2005)'s study revealed that most of the case study organizations had undertaken short term priorities with regards to management of records. However, the complex measures such as having a policy statement to facilitate sound management of records would not be realized in time for full implementation of the UK FOI Act 2000 (Screene 2005). Screene (2005)'s study noted that, this sort of approach undermined the level of preparedness of public bodies for ATI implementation. Further, Screene (2005)'s study revealed that the museum was more prepared for ATI implementation in that they had identified their weaknesses and addressed them by introducing standardised systems in the form of guidelines and a solid policy statement (Screene 2005).

In Kenya, the government developed a draft national records management policy in 2009. This study revealed that the draft national records management policy takes into account though not elaborately the aspect of access to information. In addition, the findings in Chapter Five of this study revealed that most government ministries lacked records management policies. Worse still, the records management policies that were formulated after the enactment of the ATI Act 2016 did not clearly articulate the aspect of access to information.

However, some countries have managed to harmonize the records management policies with the ATI law hence building their information access regimes based on clear lines of responsibilities and coordination mechanisms. For example, in Mexico and the United Kingdom, government agencies dealing with records management and access to information are well coordinated. For instance, in Mexico, the National Archives, in collaboration with Federal Institute for Access to Information (IFAI), provide guidelines for cataloguing, classification and preservation of documents. Similarly, the two institutions issue common guidelines for management of archives in all federal government agencies. Likewise, in the United Kingdom, Section 46 of the FOI Act 2000 demands that the government develops a code of practice for management for records. Indeed, the UK National Archives and the Information Commissioner cooperated in developing the code (Dokeniya 2013).

In Kenya, a report by the International Records Management Trust (IRMT) (2011) focusing on effective management of records in support ICT/e-government and freedom of information revealed that the Public Archives and Documentation Service Act does not address the aspect of ATI. In fact, the report noted that the Act contradicts Article 35 of the constitution as it provides that records can only be accessed 30 years after their closure. Further, the report notes that the Act is in conflict with the Kenya Communications Act particularly on the management of records. For instance, the duties of the Director General of the Communications Authority of Kenya overlap with those of the National Archives resulting in duplication of records management functions that are already being carried out by the Director National Archives under the Public Archives and Documentation Service Act. The report recommended that it would be important for the National Archives, the Ministry of Information and Communication Technology and the Communication Authority of Kenya to cooperate to ensure that their roles in records management are well defined and closely coordinated (IRMT 2011).

Kemoni and Ngulube (2007)'s study also highlighted the inadequacies of the archival law in Kenya (Public Archives and Documentation Service Act). The study entailed a SWOT analysis

(strengths, weaknesses, opportunities and threats) of the Public Archives and Documentation Service Act in terms of facilitating records management in the public sector. The study revealed that the Act did not effectively facilitate sound records management and required some revision. The study recommended the revision of Cap 19 to ensure there is collective responsibility between government agencies and the National Archives in terms of record keeping (Kemoni and Ngulube 2007). Indeed, the Act undermines the preparedness towards ATI implementation in that it only allows KNADS to manage records at the end of the records lifecycle thus going against international records management best practices that dictate that records should be managed from creation to disposition.

In terms of management of electronic records, the Public Archives and Documentation Service Act does not define electronic records nor provide for their management. Both Kemoni and Ngulube (2007)'s study and the IRMT report (2011) recommended the review of the Public Archives and Documentation Service Act to realign it with international best practice that require the records management function to be handled by a single authority from creation to disposition. Further, the review should comprehensively address electronic records management as well as the relationship between the Act and the ATI Act 2016 and the Kenya Communications Act. The current study established that the Public Archives and Documentation Service Act still does not address itself to the aspect of access to information. However, the study established that the process of reviewing the Act is underway.

In addition, the issue of demarcation of records management responsibilities in the public sector in Kenya has further been aggravated by the establishment of the department of records management in government (IRMT 2011). Indeed, the department has been duplicating the roles of the National Archives by undertaking various records management responsibilities in spite of the fact that it lacks the legal mandate to do so. According to the IRMT report (2011), officials of the department that were interviewed during the survey pointed out that the department believed has the mandate to manage current and semi-current records while the National Archives concentrates on management of archives. The IRMT report (2011) concluded that this approach undermined both the establishment of sound records management systems and access to information. In particular, the report noted that separating the records and archives function resulted in ambiguity on policy and procedures. This is particularly true in the electronic environment that advocates for continuous, integrated management of records. The current study revealed that no deliberate efforts have been made to harmonize the

responsibilities of the department of records management and the national archives to facilitate the implementation of the ATI Act 2016.

3.9.2 Standards /manuals/code of practice for records management

Another measure of ensuring that records are managed effectively during the implementation of ATI legislation is coming up with a manual or code of practice for management of records. The manual provides a step by step actions that public entities should undertake to improve their records management systems. For example, in the UK, section 46 of the freedom of information Act 2000 provides for a records management code. The UK National Archives later came up with an evaluation workbook to assess public bodies' compliance to the records management code of practice. Indeed, Shepherd (2007) notes that publication of an international standard ISO 15489 in 2001 also promoted sound records management in the UK. Although implementation of both the code and the standard was voluntary, it signalled UK's government commitment to preparedness towards FOI implementation by ensuring sound records management.

As far as preparedness for ATI implementation by specific organizations was concerned, Screene (2005)'s study revealed that all the organizations studied had put in place records management procedures. Still, in some organizations the procedures were being reviewed. However, the study revealed that one of the organizations could not comply with the records management code of practice by January 2005 (Shepherd 2007). Further, Screene (2005)'s study revealed that the National Museum was more prepared for ATI implementation and had introduced standardised systems (Screene 2005).

In Kenya, Kemoni (2007)'s study sought to assess if registries in government ministries had registry procedures manual. The study revealed that majority of the registries in government ministries did not have registry manuals. Notably, in 2010, the Government of the Republic Kenya (GORK) developed a records management procedures manual to guide public offices on management of records. Although the manual stated clearly that public offices should use it to streamline their records management systems, it is unclear if public offices have implemented the provisions of the manual since its use was not mandatory. Worse still, there was no mechanism put in place to assess public offices compliance with the manual. The findings of this study in Chapter Five revealed that most government ministries in Kenya are using the government records management manual to streamline their records management systems. This has standardised records management across the public sector and enhanced ATI.

However, in the UK, in terms of preparedness for ATI implementation, Ennion (2005)'s study revealed that organizations faced challenges in terms of complying with the records management code of practice. For instance, although, three of the study's case study organizations operated a centralized records management system, the programme did cover all branches and departments. Further, the study revealed weaknesses in e-records management. This was despite the fact that the code had provided clear guidelines on management of e-records (Ennion 2005).

An analysis of extant literature revealed that in some countries the access legislation contains provisions specifying how records should be managed. For example, both the Indian and Pakistan ATI legislation emphasize the need for records to be managed in a manner that facilitates access. Indeed, the Acts, also compel public agencies to computerize and network their records (Rodrigues 2008). In Kenya, section 17 of the ATI Act 2016 requires public entities to keep and maintain records that are accurate, authentic, have integrity and are useable. Further, public entities are required to manage records in a manner that facilitates the right to access to information (Kenya ATI Act 2016). Accordingly, the findings of this study revealed that the Ombudsman had liaised with the Kenya National Archives and Documentation Service to undertake measures to streamline records management in government ministries to ensure that adhered to the provisions of the Kenya ATI Act 2016. However, these efforts have been derailed by inadequate funding.

3.9.3 Records creation and capture

According to Shepherd and Yeo (2003), organizations should create and capture records for every transaction and identify and document processes that create records. Indeed, ISO 15489-1 (2001) points out that there should be clear guidelines and procedures for records creation and capture to ensure that the records generated are authentic, reliable, complete and usable. In an electronic environment, IRMT (2003) points out that the information communication technology (ICT) systems must be able to generate or capture the 'metadata' that record the contents, contexts and structures of records within the business processes that produce them. The aspect of creation and capture of records is critical in relation to implementation of the access to information legislation in two ways. Firstly, it determines the availability of information given that only what has been created and captured can be accessed. Secondly, the authenticity/ trustworthiness and reliability of information depends on the veracity of the system that created and captured it. Indeed, the need to create and capture authentic records

that document an organization processes is underscored in the Kenya ATI Act 2016. Specifically, section 17 (3) of the Act requires public entities to create and preserve records that will adequately document its policies, decisions, transactions and other activities it undertakes pertinent to the implementation of its mandate (Kenya ATI Act 2016). In addition, the Act is also very specific on the nature of records that should be created and captured. Section 17 (2) requires public entities to keep and maintain records that are trustworthy, have integrity and are usable.

Notably, a study by Ramokate and Moatlhodi (2010) on public sector records management in Botswana revealed that records in state departments were created and captured haphazardly without being informed by analysis of business process or functions. This undermined access and retrieval of information. In Kenya, Kemoni (2007)'s study established that registries lacked policies for creation of records and had not listed the activities that informed creation of their records. Evidently, the issue of records creation is pertinent to the ability of a public entity to facilitate ATI. The findings in section 5.9.2 of Chapter Five of this study revealed that currently most government ministries have clear guidelines for creation of records thus facilitating sound records management and by extension access to information.

3.9.4. Management of mail

Another component of a sound records management system is a mail management programme. Indeed, Kemoni (2007) noted that a mail management programme comprises a set of procedures on various activities such as receiving, sorting, opening, recording, classifying, filing, folioing and delivering of mail. A mail management programme ensures that incoming and outgoing mails in an organisation are handled in a logical and uniform manner to provide evidence of received mail, attend to complaints of delay due to lack of action as well as minimise misplacement, loss and misfiling. Indeed, having a mail management programme in place facilitates access to information in two ways. Firstly, where the programme is adhered to, written requests for information are processed and acted upon fast. Secondly, tracing of records is eased by making reference to folio numbers. In Africa, Kalusopa and Ngulube (2012) noted that studies on records management in the public sector in ESARBICA region revealed that although there were challenges in management of mail, there were attempts by ESARBICA member countries to introduce programmes for management of mails. In Botswana, a study by Tshotlo and Mnjama (2010:26) revealed that there was a mail

management programme at the Gaborone County Council (GCC). Ironically, the study also revealed that circulation of mails was not efficient.

Notably, international best practices dictate that a mail management programme should not be restricted to the management of paper records but should equally provide guidelines for electronic records management. In the UK, in terms of preparedness for ATI implementation, the records management code of practice provided specific guidelines on the e-records management. Indeed, Ennion (2005)'s study revealed that Peterborough City Council was yet to adhere to the records management code of practice and as a result there was still a print to paper policy for all records irrespective of their importance. Likewise, the Metropolitan Police and the University College London were yet to comply with the records management code of practice. Indeed, at the University College London, vital records had to be printed to paper since there were no long-term preservation strategies for digital records. In fact, only the Soham Village College had complied with the code and was thus prepared for ATI implementation (Ennion 2005).

In Africa, several scholars have conducted studies focusing on the management of e-mails. For example, Keakopa (2008:80) confirmed that most organizational policies focused on regulating usage rather than managing the resulting records. Keakopa (2008:80)'s study revealed that there were no clear policies for creating, using, storing, retaining or disposal of email in Botswana. Similar studies in Botswana, by Moloi (2006), Tshotlo and Mnjama (2010), Nengomasha (2009) in Namibia and Sejane (2004) in Lesotho, all refer to the absence of clear policies for managing email.

In Kenya, as mentioned earlier, in terms of management of electronic records, IRMT (2011)'s study revealed that the Public Archives and Documentation Act does not define electronic records nor provide for their management. Similarly, Ambira (2016)'s study on management of electronic records in support of e-government in Kenya noted that the Public Archives and Documentation Service Act is vague on electronic records broadly refers to records in all formats which is the rider used by records managers to accommodate e-records in their work. The IRMT report (2011) recommended the review of the Public Archives and Documentation Service Act to comprehensively address electronic records management as well as the relationship of the Public Archives Act to the access to information legislation and the Kenya Communications Act.

In regard to mail management programme, Kemoni (2007)'s study sought to establish whether registries in government ministries had a mail management programme. The study revealed that all the registries had a mail management programme although the activities within the programme varied depending on the ministry. The findings in section 5.9.3 of Chapter Five of this study revealed that all government ministries had mail management programmes which facilitated easy access and retrieval of records thus facilitating access to information.

3.9.5 Organizing and classification of records

According to ISO 15489-1 (2001), timely and accurate retrieval of records is largely dependent on how well organized and classified the records are. Indeed, a record classification scheme is useful in facilitating access to information as it provides an inventory of all records in an organisation, categorises them according to their functions and assigns them unique reference numbers that assist in their retrieval. A classification scheme therefore acts as a pointer or roadmap for retrieving records. Indeed, Rodrigues (2008) recognized the importance of having classification schemes by pointing out that the process of organizing and identifying records entails the creation of "road maps" of the records that exist. This is significant for both the custodians of information and the potential requestors. Indeed, in the absence of a list of records that exist and their location, an ATI implementation regime will be frustrating to both holders and requestors (Rodrigues 2008).

An analysis of extant literature revealed that most modern ATI laws have included provisions that require public entities to develop classification schemes so as to ensure sound records management. Examples of ATI laws that have this provision include Mexican, South African, Jamaican and Trinidadian. Indeed, in some countries, the benefit of having such a provision is already being felt. For example, in Jamaica, six months after the ATI law came into effect, senior civil servants reported that it increased their knowledge of government and the records that various agencies held (Rodrigues 2008).

In terms of preparedness for ATI implementation and specifically having classification systems in place, Screene (2005)'s study revealed that in three of the case study organisations, development of classification schemes was yet to be done since it was a complex undertaking that could not have been achieved by the January 2005 commencement date. However, in the United Kingdom (UK) the National Museum was more prepared for ATI implementation in that they had identified introduced standardised systems in the form of guidance and classification schemes (Screene 2005).

In Africa, a study by Ramokate and Moatlhodi (2010) on public sector records management in Botswana revealed that records in state departments were chaotic, un-coordinated and poorly classified. This undermined access and retrieval of the records. In Kenya, Kemoni (2007)'s study sought to establish the existence of records classification schemes in registries in government ministries. The study revealed that majority of the registries in ministries had records classification systems. However, the study noted that most of the classification schemes were in a state of deterioration, that is, worn out and faded. The findings in Section 5.9.4 of this study revealed that records classification schemes existed in majority of the government ministries thus facilitating logical creation and retrieval of records and by extension access to information.

3.9.6 Access and retrieval of records

A sound records management system also allows for the tracking of the movement records within the organisation. Indeed, ISO 15489-1 (2001) stipulates that organizations document the movement of records to facilitate access to the records whenever they are needed. Further, ISO 15489-1 (2001) identifies two types of tracking. That is; action tracking and location tracking. Action tracking is used in a records management system in circumstances where actions have to be undertaken within a given timeline. In essence, action tracking outlines steps to be taken in response to decisions or transactions documented in a record; assigns responsibility for action to a designated person; and records the dates by which the predefined action is to be taken and dates when those actions occur. On the other hand, in location tracking, the tracking instrument records reference, the records title, the person or unit that holding the record and the time or date when it was borrowed. The system should track the issue, transfer of records within the organization and return of records to the registry, as well as their disposal or transfer to an archive for permanent preservation (ISO 15489 2001). File tracking therefore ensures that the location of a particular file is known and documented at any given time hence minimizing cases of missing files and thus facilitating access to information whenever it is requested. For purposes of this study, action tracking could be more appropriate since the Kenya ATI Act 2016 imposes a 21 days' timeline by which public entities are expected to respond to requests for information. Action tracking would therefore enable public entities to adhere to this timeline.

In the electronic environment, Shepherd and Yeo (2003) noted that records metadata should be provided at all levels. Similarly, ISO 15489-1 (2001) points out that electronic records

systems should have mechanisms to control e-records access to ensure that the integrity of records remains uncompromised. They should provide and maintain audit trails or other methods to show that they protect records effectively from unauthorized use, alteration or destruction (ISO 15489-1 2001: Section 8.3.6). The issue of access control and authenticity is particularly important for this study as it resonates with the provisions of Kenya ATI Act 2016 that require public bodies to keep and maintain records that are authentic and have integrity to facilitate access to information.

Kemoni (2007)'s study also assessed the existence of file tracking tools in registries in government ministries. The study revealed that all the registries in government ministries tracked their records and that the file tracking register was the most commonly used file-tracking tool. Likewise, the findings in Section 5.9.6 of Chapter Five of this study revealed that all government ministries used file movement registers to trace the location of files thus facilitating access to information.

3.9.7 Survey of records

Another records management practice that is key to sound records management is conducting an inventory of records. Essentially, a records inventory is a survey conducted in the records storage areas aimed at identifying the records series, determining the extent of records use, identifying the users' information needs and establishing the records format (Kemoni 2007). Indeed, a records inventory is important as far as ATI is concerned in that it leads to creation of a records inventory checklist which can inform the development of a publication scheme hence facilitating proactive disclosure. Indeed, a records inventory checklist provides the following information; volume of records stored, format in which information is recorded, creation and distribution paths of records as well as the legal retention periods of various records (Kemoni 2007). Indeed, several authors have demonstrated the relevance of records surveys in supporting sound records management in the public sector. For example, Chaterera, Ngulube and Rodrigues (2012) conducted a study that sought to demonstrate the relevance of records surveys in the management of public records in Zimbabwe. The study revealed that records surveys are a strong pillar supporting the framework of managing public records in Zimbabwe. In fact, the study argued that implementation of the findings of records surveys would lead to effective management of other records management practices such as records appraisal, development of vital records management programmes and creation of records retention and disposal schedules (Chaterera, Ngulube and Rodrigues 2012).

In Kenya, Kemoni (2007)'s study sought to establish if the ministries surveyed conducted a records inventory, the purpose of conducting the records inventory, the records covered in the inventory and the methods used in conducting the inventory. The study revealed that majority of the ministries surveyed did not conduct a records inventory and that in the few ministries that it was conducted it was aimed at developing retention schedules. Further, it revealed that the inventory mostly focused on semi-current and non-current records and was conducted mostly through physical checking. However, the findings in section 5.9.15 of Chapter Five of this study revealed that most registries in government ministries used a records inventory checklist to conduct record surveys. Further, the study revealed that the inventory checklist captured information on the format, series and volume of records thus informing the development of a publication scheme and facilitating proactive disclosure and by extension access to information.

3.9.8 Appraisal and retention of records

Sound records management also entails conducting records appraisal. Indeed, records appraisal is an evaluation of non-current records to determine their archival value by identifying records for preservation and records for destruction. Indeed, according to Shepherd and Yeo (2003) appraisal techniques should be used to inform decisions on retention. That is 'identify records to be destroyed at an early stage, and those for long-term preservation. Similarly, section 8.3 of ISO 15489-1 (2001) noted that records systems should be able to facilitate and implement decisions about retaining or disposing of records. Therefore, appraisal enhances records access and use, can be used as the basis for retention scheduling as well as ensuring compliance to records and archives legislative requirements.

Indeed, records appraisal facilitates access to information in three ways. Firstly, it ensures records are identified, sorted and categorised according to their values hence making it easier to locate records of a particular function. Secondly, it ensures better management and organization of records storage areas by drawing a clear distinction between valuable and valueless records hence easing location of records when they are required. Thirdly, it facilitates the generation of a retention and disposal schedule which provides information on the retention periods of the various categories of records and informs their disposal actions. In Botswana, a study by Ramokate and Moatlhodi (2010) sought to establish the challenges faced by the Botswana National Archives and Records Services (BNARS) in eliminating the appraisal backlog. The study revealed that initially BNARS was overwhelmed by the backlog. However,

this changed when it adopted new initiatives and committed more resources. Ramokate and Moatlhodi (2010)'s study is particularly important for this study in that it demonstrated how having a backlog of closed records that were yet to be appraised undermined access to information.

In Kenya, Kemoni (2007)'s study sought to establish whether ministries were conducting records appraisal, the purpose for undertaking the appraisal and the criteria used in conducting the appraisal. The study revealed that majority of the ministries surveyed conducted appraisal exercise to establish the records archival value. In addition, the study revealed that the appraisal exercise in most ministries was guided by the records values. Whereas Kemoni (2007)'s study sought to establish the impact of records appraisal on public service delivery, the present study sought to establish whether currently registries in government ministries are undertaking records appraisal exercise and, if so, the impact of the exercise on access to information. The findings in Section 5.9.17 of Chapter Five of this study revealed that majority of government ministries are conducting records appraisal thus decongesting records storage areas and by extension facilitating access to information.

Another records management system that ensures sound records management is a records retention and disposal schedule. Essentially, a records retention schedule contains a list of all records in an organization with pre-determined retention periods and disposal actions. It facilitates access to information by providing guidelines towards prompt disposal of closed records hence decongesting the records storage areas. This ensures that an organisation only keeps those records that are valuable and eases their retrieval whenever a request for information is made (Kalusopa and Ngulube 2012). In the UK, in terms of preparedness for ATI implementation and specifically having retention schedules in place, Screene (2005)'s study revealed the University College London had a retention and disposal schedule. However, mechanisms for ensuring adherence to the retention guidelines were lacking. In Africa, Ngulube and Tafor (2006)'s study on management of public records in the ESARBICA region revealed that Kenya, Namibia, South Africa, Tanzania and Zimbabwe lacked records retention and disposal policies. Similarly, in Botswana, Ramokate and Moatlhodi (2010:75) observed that policies for retention and disposal of public records were absent. In Kenya, Kemoni (2007)'s study on records management practices revealed that most ministries surveyed lacked records retention and disposal schedules, this led to backlog of non-current records thereby undermining effective records management and public service delivery.

The findings in Section 5.9.19 of Chapter Five of this study revealed that majority of government ministries had records retention and disposal schedules that facilitated prompt disposal of records thus easing access to information.

3.9.9 Disposal of records

A sound records management system should also have mechanisms for records disposal. Indeed, records disposal is the last records management practice in the records continuum. ISO 15489 (2001) identifies various forms of records disposition. That is, physical destruction of valueless records through burning, overwriting and deletion of records that are due for destruction; transfer of valuable records to an archival institution and their migration to another medium such as microfilm or digitization. Records disposition facilitates access to information in several ways. Firstly, physical destruction of valueless records ensures decongestion of records storage areas thereby making it easier to access and retrieve the remaining records. Secondly, transfer of valuable records to the archives ensures that information contained in valuable records is preserved hence assuring its availability whenever there is an information request. Thirdly, migration of records into other media such as microfilm and digital copies ensures that the original copy is safeguarded from wear and tear, but more importantly, it facilitates multiple access to records, which means several users can access the same document at the same time. In Botswana, Ramokate and Moatlhodi (2010)'s study on management of public records revealed that policies for retention and disposal of records were non-existence and where they existed, they were out dated. This resulted in delays in disposal of non-current records hence backlog of non-current records in records storage areas.

In Kenya, Kemoni (2007)'s study assessed the existence and nature of records disposition programme in government ministries. The study revealed that most of the ministries surveyed had a records disposition programme that consisted of both transfer of records to the archives and physical destruction of valueless records. Likewise, the findings in Section 5.9.22 of Chapter Five of the present revealed that majority of government ministries had a records disposition programme that entailed transferring valuable records to the archives; physical destruction of valueless records and conversion of records to a different medium. The study revealed that these activities facilitated the safeguarding of valuable records thus ensuring their continued availability thus facilitating access to information.

3.9.10 Storage and preservation of records

A sound records management system also comprises of adequate records storage space and equipment. According to ISO 15489-1 (2001), records storage conditions and handling processes should be mindful of their physical and chemical properties. In addition, adequate records storage space and equipment ensures that records are afforded proper physical care and safeguarded from agents of destruction. Indeed, Shepherd and Yeo (2003) noted that appropriate storage is essential as it ensures records are safeguarded, complete and accessible when required. On the other hand, The National Archives (TNA) records management code (2005) noted that records storage equipment should be clean and tidy, provide safety from unauthorised access, meet fire regulations, cater for records preservation requirements and allow maximum accessibility commensurate with frequent use. The appropriateness of records storage space and equipment impacts on access to information in several ways. Firstly, poor records storage media compromises the usability, reliability, authenticity and preservation of records hence undermining access to information contained in them. Secondly, where registries are congested due to inadequate records storage space, retrieval of information is slow, and the converse is true. Indeed, Wema (2003) noted that storing current and non-current records together undermines their access and retrieval. Thirdly, proper records storage equipment safeguards records from damage, loss as well as facilitate easy retrieval. Fourthly, proper environmental conditions in a records storage area safeguards records from environmental hazards hence ensuring the information in the records is intact and legible.

In the UK, Shepherd and Ennion (2007) noted that information held locally did not comply with the records management code as it was kept in poor storage conditions. This indicated some degree of unpreparedness for ATI legislation implementation by the organisations concerned. In Kenya, Kemoni (2007)'s study assessed the manner of storage of current, semi-current and non-current records as well as the environmental conditions in the registries. The study revealed that the records storage equipment in most ministries did not efficiently cater for records storage. Further, it revealed that the registry layout and records storage areas in most ministries surveyed was poor and insecure. The study concluded that this state of affairs undermined effective management of records and service delivery.

The findings in Section 5.9.9 of Chapter Five of the present study revealed that most government ministries had adequate space for storage of current records but had inadequate space semi-current and non-current records. Further, the study revealed that the design and

layout in majority of the registries is purposely built thus facilitating proper storage and access to the records. The findings in section 5.9.10 of Chapter Five of the current study also revealed that the records storage equipment used were appropriate and facilitated access to information. However, the findings in Section 5.9.14 of the current study revealed that majority of government ministries did not regulate the environmental conditions of the records storage areas thus predisposing the records to agents of destruction. This undermined sound records management and by extension access to information.

Another records management practice is the issue of records preservation. Indeed, preservation refers to measures taken to prolong the life of records. Indeed, IRMT (1999b) identifies two types of preservation. Firstly, preventive preservation, which strives to reduce the risk of damage and minimise the rate of deterioration. This form of preservation is achieved by providing appropriate storage environment and safe handling procedures. On the other hand, prescriptive preservation entails identifying and treating or copying damaged materials to restore useful access to the information (IRMT 1999b). As mentioned earlier, some preservation strategies such as digitisation facilitate access to information by ensuring the original copy of the record is protected from wear and tear and also allowing multiple access to records by different users simultaneously. In the UK, public bodies' preparedness for ATI implementation was assessed in terms of adherence to the records management code. In this regard, Shepherd and Ennion (2007)'s study noted that at the University College London, vital records were printed to paper due to lack of long-term preservation strategies for digital records.

Similarly, Screene (2005)'s study revealed that in most of the case study institutions, the short-term priorities with regards to records management had been achieved. However, long-term priorities necessary for meeting FOI targets would not be realized by January 2005 implementation deadline. This means that since preservation of records is a long-term records management activity most of the case study institutions were unprepared in terms of records preservation and in terms of FOI implementation. In Kenya, the importance of the aspect of preservation of records in relation to access to information is underscored by section 17 (3) of the ATI Act 2016 which requires public entities to create and preserve records that adequately document its policies, decisions, , transactions and other activities pertinent to its mandate (ATI Act 2016). The findings in Section 5.9.25 of Chapter Five of the present study revealed that majority of the government ministries printed their e-records to paper as a records preservation

strategy. Other records preservation strategies adopted in government ministries included restoration, transferring records to the archives and migration. The study revealed that printing e-records to paper resulted in duplication thus undermining sound records management and by extension impeding access to information.

3.9.11 Vital records and disaster management

Another records management practice that demonstrates a sound management of records is a vital records management programme. Vital records, in this case, refer to records which support critical activities that the organisation cannot do without in the event of a disaster. As such, vital records may include records relating to legal contracts, financial matters, protection of citizen's entitlement and loans agreements (IRMT 1999a). A vital records management programme therefore entails a set of activities that aim at identifying potential hazards to vital records, securing vital records and preserving vital records. The need to have a vital records management programme is underscored by ISO 15498-1 (2001) which pointed out that vital records and disasters management entails safeguarding of organization records to ensure business continuity. On the other hand, a disaster management plan refers to a set of activities that an organization intends to undertake to prevent a disaster from taking place and also to recover and safeguard records in the event of a disaster. Indeed, National Archives and Records Administration (NARA) (2011) noted that disaster and vital records management entails seeks to reduce the damage meted on records and salvage those that are damaged. NARA (2011) outlined some of the issues that a disaster management plan should address:

- Determine the most critical activities that organizations must perform in the event of a disaster;
- Identify vital records and the resumption of normal operations;
- Identify the records series or e-records systems that contain information that organizations need to protect their legal and financial rights, and the people that their actions affect directly, and preserving copies of these records; and
- Establish and implement a plan to recover records (regardless of the medium of recording) that are damaged in an emergency or disaster (NARA 2011).

In Botswana, Tshotlo and Mnjama (2010) study on records management practices at Gaborone County Council revealed that the Council lacked a disaster management plan hence there were no clear guidelines for dealing with a disaster. Tshotlo and Mnjama (2010)'s study is

particularly pertinent to this study as it demonstrates the dangers that records are exposed to in the absence of a disaster management plan which subsequently undermines access to information. In Kenya, the findings in Section 5.9.29 of Chapter Five of this study revealed that only half of government ministries had business continuity plan, this suggest that a sizeable volume of records are predisposed to damage in the event of a disaster such as fire. This undermines sound records management and by extension access to information.

Further, Kemoni (2007)'s study sought to establish the existence of a vital records management programme, the rationale for having the programme in government ministries and the criteria that informed the need for the programme. The study revealed that very few ministries had a vital records management programme, where the programme existed, it was informed by the need to identify potential hazards to vital records and the criteria used in identifying potential hazards was the sensitivity of the records. Like Kemoni (2007)'s study, the findings in Section 5.9.26 of Chapter Five of the present study revealed that half of the government ministries lacked vital records management programme thus predisposing the records to damage resulting in loss of information. Further, the study revealed that some of the methods of securing vital records included digitization, off-site storage, microfilming and duplication. It is important to note that some of the strategies for securing vital records such as digitization prolong the life of a record and also lead to production of multiple copies of records thus facilitating access to information.

3.9.12 Summary

This chapter has provided a descriptive and empirical review of literature on enactment and implementation of the access to information legislation. First, an overview of the ATI regime from a global perspective is provided and followed up by empirical studies on implementation of ATI laws in different countries. Literature reviewed revealed that most countries implemented the ATI law without assessing the readiness of their public institutions thus leading to implementation challenges. However, the present study has demonstrated that any ATI law implementation should be preceded by a preparedness study. In this regard, the study has provided a link between institutional capacity and successful ATI legislation implementation. Further, the various elements that contribute to institutional capacity for ATI implementation are discussed and the research gap that the study sought to fill highlighted. These include; leadership and policy, training and awareness, systems and procedures and

records management. In particular, records management is discussed in detail, given that it forms the backbone of any successful ATI legislation implementation campaign. In view of this, a global and African perspective of public sector records management is provided as well as extant literature on public sector records management in Kenya. The chapter concluded by discussing specific records management procedures and practices and their impact on implementation of the ATI legislation and in particular receiving, processing and responding to a request for information.

Literature reviewed was therefore useful to the study in the following ways. Firstly, it linked the study to the larger ongoing dialogue on ATI legislation enactment and implementation. Secondly, it revealed the strategies, procedures and methodologies adopted in other closely related studies hence ensuring that the present study benefited from another researchers' experience. Lastly, the literature reviewed partially addressed the research questions and particularly research question one (To what extent is there political will for implementation and institutionalization of the ATI regime in Kenya?). As for the other research questions, that is; research question two (What is the level of awareness of public officers of their ATI obligations as provided in the Act?); research question three (What structures, processes and systems are in place in public bodies in Kenya to facilitate access to information?); research question four (What are the current records management practices in government ministries and the extent to which they facilitate or undermine access to information?); and research question five (What recommendations for improvement can be made from the areas of strengths and weaknesses identified?) the literature review provided background information that was useful in subjecting the questions to empirical tests in chapter four of this study.

CHAPTER FOUR

RESEARCH METHODOLOGY

4.1 Introduction

This chapter discusses the research methodology used for the study. The term methodology has been defined in varying ways by different authors. Saunders, Lewis and Thornhill (2009) describe methodology as the theory of how research should be undertaken including the theoretical and philosophical assumptions upon which research is based and the implications of these for the method or methods adopted. On the other hand, Welman, Krugler and Mitchell (2005:2) describe methodology as the application of various methods, techniques and principles in order to create scientifically based knowledge by means of objective methods and procedures within a particular discipline. From the two definitions, it is clear that methodology addresses two issues. First, how the research will be undertaken and secondly, the tools and techniques used to undertake research. Indeed, research methodology assists in controlling the study and specifically by dictating the acquisition of data to address the research questions. Further, it assists in arranging data into logical relationships to enable analysis and draw conclusions that can contribute to the expansion of knowledge (Leedy 1997:9; Leedy and Omrod 2005:6; and Teddlie and Tashakkori 2009:21). Accordingly, research methodology acts as a bridge between research questions and execution of the research by outlining how a researcher conducted a study (Kalusopa 2011). Indeed, Creswell (2003) aptly observes that methodology is the plan of action that links the methods to the outcomes. In essence, research methods influence how studies are conceptualized measured and interpreted (Ngulube 2013).

The purpose of this study was to assess the extent to which public bodies in Kenya are capacitated to implement the ATI Act 2016 in order to provide an implementation roadmap. To achieve this purpose, empirical data relating to leadership and political will for ATI implementation; level of awareness of duty bearers on the provisions of the ATI Act; existing records management regime in government ministries and the systems, processes and procedures in place for facilitating access to information was collected.

This chapter therefore outlines the methodology adopted in collecting data to answer the above research questions. Specifically, the chapter addressed the following areas: research paradigm; research approach; research design; study population; sampling procedures; data collection

techniques; reliability and validity; data presentation and analysis; ethical considerations; and evaluation of the research methodology. Below is a detailed discussion of each of the above areas.

4.7 Research design

Several authors have expressed varied opinions on what exactly research design is. Indeed, Ngulube (2013) noted that although there is broad consensus that research action is guided by research design, there is no unanimity among methodologists as to what research design is. However, a common theme that emerges from most of the definitions of research design is that it is a plan for the collection, analysis, interpretation and reporting data with the central goal of solving the research problem and guiding the researcher in the various stages of the research process (Creswell and Plano Clark 2007:58; Kothari 2004:31; Creswell 2009:3). Indeed, Kumar (2005:84) noted that a research design serves two main purposes in a research study. First, it assists in the identification or development of procedures and logistical arrangements required to undertake the study. Secondly, it emphasizes the importance of quality in these procedures to ensure their validity, objectivity and accuracy (Kumar 2005:84).

Indeed, the choice of a particular research design is informed by purpose of the research, theoretical paradigm informing the research, the contextual framework within which the research is carried out and the research techniques applied to collect and analyse data (Durrheim 2006:37 and Kothari 2004:32). Creswell (2003) identified several research designs that are associated with different research approaches and paradigms. Creswell (2014:41) noted that strategies of inquiry associated with quantitative research were those that invoked post-positivist worldview such as true experiments, quasi-experiments, correlations and survey study designs. Indeed, Bryman (2012:35) noted that the main focus of quantitative research are measurement, causality, generalization and replication. On the other hand, strategies associated with qualitative research invoke interpretivist perspective and include case studies, ethnography, grounded theory, phenomenological and narrative research, archival research, action research among others (Creswell 2014:42). Further, strategies associated with mixed methods research include convergent, explanatory sequential, exploratory sequential, transformative and embedded designs (Creswell 2014:43). The present study adopted a descriptive and explanatory sequential survey design. Indeed, this design allowed the researcher to assess the state of preparedness of public bodies through two phases. First, a

quantitative survey that shed light on the causality among variables and secondly, a qualitative follow up that sought to further explain the first quantitative results.

4.7.1 Survey

The present study used the survey design to assess the preparedness of public bodies for the implementation of the ATI Act 2016. Indeed, Ngulube (2005) and Tanner (2000) as cited in Kalusopa (2011:130) observed that the purpose of the survey is to gather and analyse information by questioning a sample or the entire research population to determine the incidence, distribution and inter-relationships of certain variables within the population. Further, survey research involves acquiring information about characteristics, opinions, attitudes or people's experiences by asking them questions and tabulating their answers (Creswell 2003:151; Fink 2006:1; Leedy and Omrod 2005:183). In the current study, use of survey technique allowed the researcher to engage fairly large numbers of respondents in government ministries in Kenya to obtain accurate generalization of the findings (Neuman 2006:219).

Survey design was deemed appropriate for the present study for three reasons. Firstly, it allowed the researcher to collect a large amount of data from a sizeable population in a highly economical way. Indeed, Ngulube (2003) noted that survey research is preferred since it is economical and has rapid turnaround time in data collection. Secondly, it allowed the researcher to suggest possible reasons for particular relationships between variables and produce models of these relationships (Saunders, Lewis and Thornhill 2009). Thirdly, versatility of survey technique allowed collection of data using questionnaires, observation, documents review and interviews (Babbie and Mouton 2001:230-231; Burkell 2003:239). In this regard, the survey design suited the present study particularly in collecting data that provided a picture on the level of awareness of public officers on their ATI obligations as specified in the Act; the records management practices in government ministries and the existing systems and procedures for access to information.

Furthermore, many researchers who investigated existing records management practices used the survey method for data collection successfully (Chachage 2005; Chinyemba 2002; Kemoni 2007; Markhura 2001; Ndenje-Sichwale 2010). Additionally, Scriven (1991) noted that survey studies gather broad-surface data about a topic covering a state, regional or nation issues. Indeed, the present study sought to assess the state of readiness for ATI implementation across the public sector.

However, Babbie (2011) and Creswell (2009) contend that a key weakness of the survey design is the difficulty in ensuring validity. To address the issue of validity, the current study employed methodological triangulation within the survey method where the dominant strand was the quantitative phase while qualitative strand served as a secondary lens (Schulze 2003). Indeed, Jupp (2006) and Neuman (2014) describe triangulation as a way of comprehending a particular phenomenon from different perspectives. In this regard, use of methodological triangulation in the current study had the following advantages. Firstly, it enabled confirmation of the findings. Secondly, it enabled the researcher to obtain more comprehensive data on preparedness of public bodies for the implementation of the ATI legislation. Thirdly, it increased validity and enhanced understanding of the phenomenon being studied (Zauszniewski 2012:40). Accordingly, the current study employed both quantitative and qualitative methods thereby enhancing validity of the findings and providing a complete picture of the state of preparedness of public bodies for implementation of the ATI legislation. Specifically, questionnaires were administered to registry clerks, Public Communication Officers and heads of records. An observation checklist was used to note important aspects relating to records management practices and systems and procedures for access to information. Further, interview schedules were used to interview Director of Administration, Director of Public Communication, Director National Archives and the Ombudsman. Lastly, documents such as ATI reports, legislation related to ATI, books, journal articles among others were analysed.

Besides methodological triangulation, the other form of triangulation used in the current study was triangulation of theories. Indeed, as mentioned in chapter two, the researcher assessed the concept of access to information from different theoretical angles thus improving the understanding of the phenomenon.

According to Cohen, Manion and Morrison (2007:235), surveys can further be categorized into longitudinal, cross sectional and trend or predictive studies. Indeed, the three are sometimes referred to as development research since they describe the present relationships among variables in a given situation and account for changes occurring in those relationships over time. Longitudinal surveys entail collection of data over a long period of time to describe a certain development. On the other hand, cross-sectional surveys involve collection of data at a particular point in time to produce a snapshot of the population at that particular time (Cohen, Manion and Morrison 2007:213). Trend studies look at how concepts change over time. For purposes of this study, a cross-sectional survey was adopted since it allowed the researcher to

assess the current state of preparedness of public bodies for ATI implementation. In particular, the survey revealed the extent of leadership and political will for ATI implementation; the level of awareness of public officers of their ATI obligations; existing records management practices in government ministries as well as the systems, processes and structures in place for access to information.

4.7.2 Study population

In research, population of the study refers to the body of people or collection of items under consideration for research (Babbie 2004; Collis and Hussey 2003). A study population also refers to the universe of units from which a sample is to be selected. Notably, the term units should not be misconstrued to mean that only people can be sampled. As a matter of fact, a sample may include a universe of nations, regions, cities among other things (Bryman 2004:87). The population to be studied is determined by the size of the population and the purpose of the study. Whereas it may be desirable to study the whole population, this is not always possible due to costs and time constraints. However, where the population is small, it is advisable that the whole population is studied. Indeed, Israel (1992) asserts that where populations are less than 200, it's prudent to take total enumeration. Similarly, Gay (1996) as cited in Ngulube (2005:130) points out that there is no point of sampling populations that are less than one hundred. A study of the entire population is referred to as a census.

The population of the current study consisted of the 22 government ministries, the National Archives, the Commission on Administrative Justice and the Department of Public Communication. The list of ministries was obtained from the Government of Kenya, Executive order of 2016 that outlines the structure of government. The units of analysis included Director of Administration in every ministry/department, heads of records, registry clerks, Public Communication Officers, Director of Public Communication, Director National Archives and the Ombudsman.

In this regard, the researcher conducted a survey in the 22 Ministries that make up the public sector in Kenya. A census approach was adopted where all the units of analysis were studied. The target population was 193 purposively sampled respondents who were distributed as shown in the Figure below.

	Category of Respondent	Sample Size (n)	Note: Out of the 22 ministries in Kenya, there are 35 Departments, 7 ministries have no departments.	Source of Data
1.	Director of Administration (Senior Ministry official)	42	1 per department adds up to 35 1 per ministry adds up to totalling to 42	Interview schedule
2.	Head of Records	22	1 for each of the 22 ministries	Questionnaire
3.	Registry clerks	84	2 per department (35) 2 per ministry (7) totalling to 84	Questionnaire
4.	Public Communication Officers	42	1 per department adds to 35 1 per ministry adds up to 7 totalling to 42	Questionnaire
5.	Director, National Archives	1		Interview schedule
6.	Director of Public Communication	1		Interview schedule

7.	Information Commissioner/ Ombudsman	1		Interview schedule
8	Director of Information	1		Interview schedule
9	Ministry of Information and Communication Legal officer	1		Interview schedule
	Total	195		

Table 1 : Distribution of the study population

Source: Staff establishment data from Kenya, MSPS. 2015. Capacity Assessment and Rationalization of the Public Service Programme (CARPS) Report.

4.7.3 Sampling procedure

As indicated earlier, the study adopted a census approach where information was obtained from each member of the population. Indeed, lists of records managers and Public Communication Officers were obtained from the Department of Culture and heritage and Department of Public Communication respectively and used as sampling frames. In this regard, the only sampling that took place in the current study was the purposive identification of key informants (Director of Administration; Director of Public Communication; Director National Archives and the Ombudsman) who were considered information rich and also key in ensuring the objectives of the study were fulfilled.

The following is a detailed explanation of how the figures for the various respondents of the study were computed. Firstly, there are 35 departments within the 22 ministries. However,

seven ministries have no departments. Each of the 35 departments has a Director of Administration and the seven ministries without departments have one Director of administration thus meaning that in total there are forty-two Directors of Administration. Secondly, every ministry regardless of whether it has departments or not has one head of records thus there are twenty-two heads of records in total. Thirdly, each of the 35 departments has two registry clerks and equally the seven ministries without department have two registry clerks. This means the total number of registry clerks to be used for the study are 84. Fourthly, each of the 35 departments has a Public Communication Officer and equally the seven ministries without departments have one Public Communication Officer each. Therefore, the total number of Public Communication Officers is 42. The other key informants included were Director of Administration, Director of Public Communication, Director National Archives and the Ombudsman.

Below is a brief profile of each of the respondents outlining their relevance to the current study.

- **Director of Administration**

S/he is in charge of administrative functions within a ministry/department. S/he is relevant for the current study since the information and records management functions are domiciled in the administrative department. In this regard, s/he provided insight on the efforts that the ministry/department had made to facilitate access to information. This includes strategic policy direction; provision of physical, human and financial resources for records and information management activities and senior management level commitment through involvement in organizational planning of ATI and records management activities.

- **Head of records/Records Manager**

S/he is leads the records management function in the ministry/department. S/he is relevant to the current study since s/he oversees the operations of the various registries in the ministry/department. In this regard, the head of records will provide information on records management policy decisions that the ministry/ department has taken to improve management of records. This information may include whether the ministry/ department has a records management policy and records management manual and whether these documents have provisions that take into account access to information legislation.

- **Registry clerks**

They are responsible for day to day running of the registries. They perform records management activities such as mail management, file tracking, records survey and appraisal, scheduling and disposal of records. In this regard, they were relevant to the present study in that they provided information on the existing records management practices that establish intellectual control of records in government ministries.

- **Public Communication Officers**

S/he is deployed to a ministry/ department to perform information management functions such as receiving, processing and responding to information requests. As such, Public Communication Officers were relevant to the current study by providing information on structures, systems and processes in place for access to information in a particular ministry. Further, they also provided information on their level of awareness of their ATI responsibilities; access to information training and awareness programmes conducted in their respective ministries and internal systems that are in place in their respective ministries to track requests for information.

- **Director National Archives**

S/he is mandated by the Public Archives and Documentation Service Act to oversee management of records in the public service. In this regard, s/he was relevant to the current study by providing information on measures taken in liaison with the Ombudsman to ensure creation of accurate and authentic records as specified by the ATI Act 2016; efforts made to harmonize the Archives law with ATI law; whether the national records management policy takes into account access to information and elaborated on information provided by heads of records and registry clerks on records management practices in government ministries.

- **Director of Administration, Ministry of Information and Communication**

S/he is charge of information management function in the government. His/her responsibilities include; coordinating access to information activities in the executive. S/he was relevant to the current study by providing information on efforts made in liaison with the Ombudsman and the Ministry of information and Communication Technology in formulating access to information regulations to operationalize the ATI Act 2016;; efforts made to sensitize public officers on the provisions of the Act; whether the government had established an ATI implementation unit;

efforts made to embed ATI and culture of openness in the public service. Further, s/he would also demonstrate government's commitment towards implementation of the access law through pronouncements in national strategies and plans.

- **Ombudsman/ Information Commissioner**

S/he is mandated by the ATI Act 2016 to oversee the implementation of the Act across the public sector. S/he was relevant to the present study by providing information on efforts that the Commission had made to facilitate implementation of the Act including issuing guidelines to public entities on implementation of the Act; monitoring public entities compliance to the provisions of the Act and efforts made at creating public awareness of the ATI law.

- **Director of Public Communication**

S/he is in charge of information management function in the government. His/her responsibilities include administering the scheme of service of Public Communication Officers (PCOs); deploying PCOs to the various ministries and departments. S/he was pertinent to the current study by providing information on efforts made to sensitize of PCOs on the ATI Act 2016 in liaison with the Commission on Administrative Justice. S/he also provided insight on whether the current staff establishment of Public Communication Officers is adequate to facilitate implementation of the access law.

- **Ministry of Information and Communication, Legal Officer**

S/he is in charge of legal matters at the Ministry of Information and Communication. His/ her responsibilities including advising the Ministry on all legal matters. While the legal officer had not been initially included in this study, the researcher was directed to him by the Director of Administration at the Ministry. As such, the legal officer provided information on the progress towards formulation of the ATI policy as well as ATI regulations.

4.2 Research paradigm

Saunders, Lewis and Thornhill (2009) defined paradigm as a way of examining social phenomena from which particular understanding of these phenomena can be gained and explanation attempted. On the other hand, Creswell (2014:35) describes paradigm as a general philosophical orientation about the world and the nature of research that a researcher brings to a study. Creswell (2014:35) further contends that the choice of a particular worldview is

determined by three factors namely; discipline orientations, students/ mentors' inclinations and past research experiences. In essence, the types of beliefs held by a researcher based on the above-mentioned factors lead them to adopting either a qualitative, quantitative or mixed methods approach in their research (Creswell 2014:35).

At this juncture it is worth reflecting on why is it important for a researcher to adopt a particular worldview in a research. Burrell and Morgan (1982) identified three purposes of a paradigm in a research inquiry. Firstly, it helps researchers clarify their assumptions about their view of nature of science and society. Secondly, it offers a useful way of understanding other researchers' approach to their work and lastly, it assists researchers to chart their own route through their research particularly in understanding where it is possible to go and where they are going.

Creswell (2014) identified four main paradigms/worldviews that can be used in a research study. These are; post-positivist, constructivist/ interpretivist, transformative and pragmatic. The current study was underpinned by the pragmatic paradigm. To understand why pragmatic paradigm was appropriate for the current study, below is an overview of each of the worldviews that explains their philosophies.

Firstly, let us start by looking at the post positivist paradigm. According to Creswell (2014:36), this worldview holds a determinist philosophy in which causes (probably) determine effects or outcomes. In essence, post positivists seek to study problems by identifying and assessing the causes that influence outcomes as is the case in experiments. Further, Creswell (2014:36) noted that post positivism is reductionist in that it seeks to reduce the ideas into a small discreet set to test such as the variables that comprise the hypotheses and research questions. In addition, a post positivist perspective develops knowledge through observation and measurement of the objective reality that exists in the world (Creswell 2014:36). This means that for a post positivist, the numeric measures of observations and studying the behaviour of individuals are important. As such, post positivist assumptions hold true more for quantitative research than qualitative research. Further, post positivists appreciate the existence of laws and theories governing the world and the need to test and refine them to understand the world. Therefore, a post positivist approach to a research entails; identification of a theory, collection of data that supports or refutes the theory and then undertaking necessary revisions and conducting additional tests (Creswell 2014:36). Although the post positivist paradigm has characteristics that would make it appropriate for use in the current study, it was not adequate since it is not

problem-centred and did not provide for the plurality of approaches required in addressing the multi-faceted phenomenon of access to information.

As for the constructivist worldview, Creswell (2014:37) notes that this paradigm is associated with qualitative research and it holds the view that individuals strive to comprehend their surroundings. In essence, individuals develop subjective meanings of their experiences towards certain things or objects. Since these meanings are diverse, the researcher focuses on the intricacy of the views rather than narrowing meanings into a few categories or ideas (Creswell 2014:37). Therefore, constructivist researchers pay attention to the specific context in which people live and work. Based on this, they are able to understand the historical and cultural settings of the participants. As such, the researcher's intent is to make sense of (interpret) the meanings others have about the world. Thus, the process of qualitative research is largely inductive where the researcher generates or develops a theory or pattern of meaning based on data collected in the field (Creswell 2014:37). The constructivist paradigm was not appropriate for the current study since besides seeking to understand the meanings that participants attached to their surroundings, the present study also sought to describe the relationship between variables through numerical measures.

Thirdly, the transformative worldview: was conceptualized out of the feeling that the post positivist and the constructivist paradigms were not all inclusive (Creswell 2014:38). Specifically, the proponents of this worldview argued that post positivist assumptions imposed structural laws and theories that side-lined or marginalized individuals in the society. Further, that the existing paradigms did not take into account issues of power and social justice, discrimination and oppression that needed to be addressed. In the same vein, there was a feeling that the constructivist view did little in advocating for an action agenda to help marginalized groups (Creswell 2014:38). Proponents of the transformative paradigm such as Mertens (2010) argued that a research enquiry needs to be intertwined with politics and a political change agenda to confront social oppression at whatever levels it occurs. This means that the research should be reformist and contribute to the well-being of the participants, the institutions in which they work or live and the researcher's life (Creswell 2014:38). The transformative worldview therefore is applicable in a research that is dealing with feminists, racial and ethnic minorities, persons with disabilities, indigenous and post-colonial people and members of the lesbian, gay, bisexual, transsexual and queer communities. In terms of the research approach in this worldview, Creswell (2014:38) noted that the researcher begins with one of these issues as the

focal point of the study; the participants may help design questions, collect data and analyse information. As far as theory is concerned, this paradigm may be combined with philosophical assumptions that construct a picture of the issues being examined, the people being studied and the changes that are needed. These include; feminist theories, disability theory, critical theory, queer theory among others (Creswell 2014:38). This paradigm was not appropriate for the current study since the study does not address matters of social justice.

Fourthly, as for the pragmatic worldview, Creswell (2014:39) notes that this paradigm is not committed to any one system of philosophy or reality. Instead, it provides an opportunity for researchers to choose the methods, techniques and procedures of research that best meet their needs and purposes. Indeed, pragmatism is concerned with the use of whatever ‘works best’ in any research situation (Ngulube, Mokwatlo and Ndwandwe 2009). In essence, pragmatists don’t view the world as an absolute unity but use many approaches and specifically mixed methods (quantitative and qualitative) to collect and analyze data (Creswell 2014:39). The pragmatic paradigm was deemed appropriate for the current study because it allowed the researcher to focus on the problem and to use a plurality of approaches to understand the multifaceted concept of access to information. Below is a detailed explanation of the appropriateness of the pragmatic paradigm for the current study.

4.2.1 Justification of the research paradigm

As pointed out earlier in Chapter two, access to information is a multifaceted phenomenon. In this regard, the present study adopted pragmatic paradigm which allowed the researcher the freedom to use a plurality of approaches to understand the multifaceted phenomenon of access to information legislation implementation (Creswell 2014). Indeed, instead of focusing on the methods, the researcher focused on the research problem and used all approaches to understand the problem (Rossman and Wilson 1985). Further, pragmatic paradigm is regarded as the philosophic partner of mixed methods research (Johnson and Onwuegbuzie 2004:17-18). Therefore, the pragmatic paradigm was appropriate for the current study since it allowed the researcher to focus on the problem at hand and to use a variety of approaches to solve the problem.

The relevance of the pragmatic paradigm for the present study is further underscored by the fact the paradigm has been used in other similar studies. For example, Mase (2015)’s study on records management readiness for open government in the Kenyan judiciary also adopted the pragmatic paradigm. The study sought to establish the existing records management practices

in the Kenyan Judiciary and how this impacted on openness and administration of justice. Similarly, Garaba (2010)'s study on the management of the records and archives of former liberation movements in east and southern Africa held by national and private archival institutions also adopted the pragmatic paradigm.

4.3 Research approaches

Kumar (2014:14) identifies three approaches that are used in social research to find answers to research questions. These approaches are quantitative, qualitative and mixed methods

The choice of a research approach is determined by the underlying theoretical paradigm, the purpose of the research and the research questions (Sarantakos 2013; Ngulube, Mathipa and Gumbo 2015). From the foregoing criteria of adopting a particular research approach, the present study adopted the mixed methods approach where the researcher used both quantitative and qualitative approaches to understand the multifaceted phenomenon of access to information. Indeed, as mentioned earlier, the pragmatic paradigm allows for use of plurality of approaches in solving problems.

Further, the current study sought to report the state of preparedness of government ministries for the implementation of the ATI legislation and where necessary provide explanations. In this case, adoption of a mixed methods approach enabled the researcher to achieve this purpose. Firstly, this was done through a quantitative survey that addressed questions of (what and how many) and secondly through qualitative interviews and documents review that provided explanation of the first quantitative results. Indeed, Ngulube (2013) observed that mixed methods research provides the possibility for researchers to obtain a comprehensive picture of a phenomenon under investigation and achieve their research purpose effectively.

A brief discussion of the various research approaches is important as it outlines their characteristics thus justifying their appropriateness and adequacy for this study. Below is a detailed discussion of each of the approaches to understand their strengths and weaknesses. Indeed, gaining an understanding of the strengths and weaknesses of quantitative and qualitative research approaches put a researcher in a position to mix or combine strategies (Johnson and Onwuegbuzie 2004:18; Johnson and Christensen 2008: 51).

4.4 Quantitative approach

In this approach, theories are tested deductively by examining the relationship among variables. These variables can be measured, and the numbers generated analysed using statistical procedures (Creswell 2014). In essence, the quantitative approach is characterized by the following attributes:

- It is rooted in the philosophy of rationalism;
- Follows a rigid, structured and pre-determined set of procedures to explore;
- Aims to quantify the extent of variation in a phenomenon;
- Emphasizes the measurement of variables and the objectivity of the process;
- Believes in substantiation on the basis of large sample size;
- Gives importance to the validity and reliability of findings and
- Presents findings in an analytical and aggregate manner, drawing conclusions and inferences that can be generalized (Kumar 2014:14).

Indeed, Ngulube, Mokwatlo and Ndwandwe (2009) submit that quantitative research is objective, context free and with outcomes that can be determined reliably and validly. For purposes of this study, the quantitative approach using questionnaires was employed to collect large amounts of quantitative data from heads of records, registry personnel and Public Communication officers. Indeed, the quantitative approach was useful in engaging a fairly large numbers of respondents to obtain accurate generalization of the findings (Neuman 2006:219) on the level of awareness of duty bearers on their ATI duties and responsibilities as provided by the ATI Act 2016; records management practices in government ministries and systems and procedures in place for access to information. Further, use of quantitative approach in the present study enabled the researcher to leverage the various strengths of quantitative approach namely; answer questions of what and how many; allowed the researcher to make quantitative predictions and lastly allowed the researcher to obtain precise, quantitative and numerical data that had higher credibility (Johnson and Onwuegbuzie 2004:19). Indeed, the use of structured and standardized questions ensured the study benefited from highly reliable data associated with quantitative studies.

4.5 Qualitative approach

According to Kumar (2014:14), this strategy uses an inductive approach to generate theories. It is characterized by the following attributes:

- It is rooted in the philosophy of empiricism;
- Adopts an open, flexible and unstructured approach to enquiry;
- Aims to explore variation rather than to quantify;
- Emphasizes the explanation of feelings, views and experiences rather than their measurement; and
- Presents findings in a descriptive and narrative form rather than analytical manner placing no or less emphasis on generalizations (Kumar 2014:14).

Indeed, qualitative researchers view research as naturalistic, constructivist or interpretivist. They claim that reality is locally and socially constructed and context-sensitive, the knower and the known are inseparable and values of the researcher influence the outcome of the investigation (Lincoln and Guba 1985:37; Tashakkori and Teddlie 1998:10).

For purposes of this study, use of qualitative approach enabled the researcher to leverage the various strengths of the qualitative approach namely: answer the ‘why’ question by collecting data through interviews and provided an understanding and descriptions of the respondent’s personal experiences of the phenomena under study in greater depth (Creswell 2007:38 and Denscombe 2007:110). Indeed, the qualitative approach was useful in probing and clarifying significant aspects ATI preparedness as well as explaining the depth of the impact of current records management practices on access to information in public bodies. Indeed, according to Cohen, Manion and Morrison (2011:161), qualitative methods help engage fewer subjects and to collect specific, unique, exclusive cases, events or actions that can clarify and deepen understanding of the phenomenon under study. Thus, the study benefited from the higher validity associated with qualitative studies.

4.6 Mixed methods

This approach gained currency in the mid 1990’s as a third research approach to quantitative and qualitative approaches. Prior to that, the 1970’s and late 80’s were dominated by ‘paradigm wars’ or the great quantitative-qualitative debate between positivists and constructivists (Greene 2008; Sale, Lohfeld and Brazil 2002). Indeed, the entry of mixed methods into the research landscape was a reprieve to a new breed of researchers who were not prepared to perpetuate the antagonism between positivists and constructivists’ worldviews (Bergman 2008).

However, it is important to point out that the idea of combining research approaches had long existed before the emergence of mixed-methods but the emphasis was not on using both quantitative and qualitative paradigms across all the stages of the research process (Ngulube, Mokwatlo and Ndwandwe 2009:107). Instead, the combining of the two approaches was limited to two-phase and dominant and less dominant designs without attempting to integrate them fully into all the phases of the research cycle (Ngulube, Mokwatlo and Ndwandwe 2009:107).

Indeed, Teddlie and Tashakkori (2009) as cited in Ngulube (2013:13) noted that mixed methods encompasses all the phases of the research process including the philosophical assumptions and the research questions. Simply put, mixed methods can be described as blending or integration of aspects of quantitative and qualitative approaches in formulating the research question, identifying methods used in the research process and drawing conclusions or making inferences (Ngulube, 2013:11). Indeed, the approach is founded on the understanding that in certain circumstances qualitative techniques are better while in others quantitative are the best. Therefore, mixed methods seek to get the best outcome out of a research study by combining both quantitative and qualitative approaches (Kumar 2014:16). Indeed, the combination of the two approaches provides a more complete understanding of the research problem than either approach alone (Creswell 2014; Ngulube Mokwatlo and Ndwandwe 2009; Creswell and Plano Clark 2007; and Teddlie and Tashakkori 2003).

Greene, Caracelli and Graham (1989:259) outlined five broad reasons for combining quantitative and qualitative research approaches. An understanding of these reasons is necessary so as to establish those that were applicable to the present study.

- Triangulation: it seeks convergence, corroboration and correspondence of results from different methods to assess the same conceptual phenomenon;
- Complementarity: It seeks elaboration, enhancement, illustration and clarification of results from one method with the results from the other method;
- Development: It seeks to use the results from one method to help develop or inform the other method;
- Initiation: It seeks to establish contrast and differences by recasting of questions or results from one method with the result or questions from the other method; and

- Expansion: It seeks to extend the breadth and range of inquiry by using different methods for different inquiry components (Greene, Caracelli and Graham 1989:259).

In addition, Bryman (2006:105) identified several other reasons for combining quantitative and qualitative approaches. These include:

- Triangulation or greater validity;
- Offsetting of the weaknesses of each approach and drawing on the strengths of both;
- Achieving completeness by comprehensively addressing the research problem;
- The ability of each of the approaches to answer different research questions in a study;
- Explanation where one approach is used to explain findings of the other;
- Instrument development where qualitative research is used to develop questionnaire; and
- Credibility where use of both approaches enhances the integrity of the findings (Bryman 2006:105).

The reasons for combining quantitative and qualitative approaches in the present study are outlined below.

4.6.1 Justification for using mixed methods approach

As pointed out earlier, this study adopted the pragmatic paradigm that places emphasis on the research problem rather than the methods. In this regard, since the researcher wanted to understand the multi-faceted phenomenon of access to information through whatever method, mixed methods approach was the most appropriate to collect and analyze data pertaining to the research problem. Indeed, methodological pluralism provided better quality data than a single approach (Creswell and Garrett 2008). Further, the use of mixed methods ensured that the descriptive and explanatory research questions of the study were comprehensively addressed. Indeed, Ngulube (2013:10) observed that mixed methods research provides the possibility for researchers to obtain a comprehensive picture of a phenomenon under investigation and achieve their research purpose effectively.

Other reasons for adoption of mixed methods for the present study include: firstly, the use of mixed methods facilitated the offsetting of the weakness of both the qualitative and quantitative approaches while leveraging on their strengths. Secondly, for complementarity purpose where the results of the second qualitative phase were used to elaborate, clarify and enhance the results

of the first quantitative phase (Creswell et al 2003). Indeed, Polit and Beck (2004) noted that complementarity aims at amplification and enhancement of the results from one research approach with the results from another methodology. Thirdly, for development purpose where the results of the first quantitative phase were used to refine the questions for the qualitative phase as well as the data collection protocols. Indeed, Ngulube, Mokwatlo and Ndwandwe (2009:109) noted that development entailed using results from one stage of research in a sequential design to inform the development of the methods of the subsequent stage. Lastly, as pointed out earlier, used of mixed methods ensured that the research problem, purpose and research questions were comprehensively addressed.

Indeed, the relevance of the mixed methods research approach for the present study was also underscored by the fact that it has also been used in other similar studies. For instance, Ndenje-Sichwale (2010)'s study on the significance of records management to fostering accountability in the public service reform programme of Tanzania adopted a dominant- less dominant mixed methods approach. The study sought to investigate the records management practices in government ministries in Tanzania with a view to establishing the extent to which they foster accountability in the public service reform programme. Similarly, Mase's (2015) study on records management readiness for open government in the Kenyan judiciary used a dominant –less dominant mixed methods approach. The study sought to examine the records management practices in the Kenyan Judiciary in order to promote transformation and facilitation of open government for effective and efficient service delivery.

4.6.2 Key decisions in mixed methods approach

Creswell (2007:63) notes that adopting mixed methods research approach for a study necessitates the researcher to make several decisions. These decisions relate to; level of interaction of the two strands; priority to be given to the two strands to be blended; timing of the quantitative and qualitative strands as well as decision on how and where to mix the two strands. Below is a detailed discussion of each of these decisions with particular reference to the current study.

One of the decisions in mixed methods approach that a researcher needs to make is the question of the level of interaction of the two strands. Creswell (2007:64) describes interaction as the extent to which two strands are kept independent or interact with each other. Indeed, Greene (2007) identified two levels of interaction in mixed methods namely; independent and interactive.

An independent level of interaction occurs when the two strands are implemented individually. That is, the researcher keeps the quantitative and qualitative research questions, data collection and data analysis separate and only mixes the two strands when drawing conclusions during the final interpretation at the end of the study (Creswell 2007:64). On the other hand, interactive interaction occurs when there is a direct interaction of the quantitative and qualitative strands before the final interpretation. Creswell (2007:64) noted that this interaction may occur at different stages of the research process and in different ways. For example, this interaction may entail; designing and conducting one strand based on the results of the other, converting data from one strand to the other type as well as implementing one strand based on the other (Creswell 2007:65).

In the present study, interactive interaction was manifested where the qualitative follow up study was guided by the results of the first quantitative survey. Specifically, the researcher identified specific quantitative results that needed explanation and designed the qualitative follow up study based on the lessons learnt from the quantitative results. In essence, the researcher used the quantitative results to refine the qualitative and mixed methods questions and the qualitative data collection protocols to ensure that the research problem was comprehensively addressed.

Another decision relates to the priority to be given to the quantitative and qualitative strands. Creswell (2007:65) describes priority as the relative importance or weighting of the quantitative and qualitative methods for answering the study questions. Creswell (2007:65) outlined three possible weighting options for a mixed methods design. These are:

- Equal priority: where both quantitative and qualitative strands play an equally important role in addressing the research problem;
- Quantitative priority: where a study places greater emphasis on the quantitative strand with the qualitative strand playing a subordinate role; and
- Qualitative priority: where a study places greater emphasis on the qualitative strand with the quantitative strand playing a secondary role (Creswell 2007:65).

For the purpose of this study, the researcher adopted the quantitative priority where the quantitative strand was dominant with the qualitative strand playing a subordinate role. The reasons for adopting a largely quantitative approach in the first phase is that it helped the researcher engage fairly large numbers of respondents thus obtaining an accurate generalization

of the findings (Neuman 2006:219) on the level of awareness of duty bearers (Public Communication officers) on their duties as provided by the ATI Act; systems and procedures in place for ATI as well as the current records management practices in government ministries. However, the study also required a qualitative follow up that explained the initial quantitative survey results. The qualitative aspect was useful in probing and clarifying significant aspects on ATI preparedness as well as explaining the depth of the impact of current records management practices on access to information in public bodies. Indeed, according to Cohen, Manion and Morrison (2011:161), qualitative methods help engage fewer subjects and to collect specific, unique, exclusive cases, events or actions that can clarify and deepen understanding of the phenomenon under study.

In the same vein, the researcher had to make a decision regarding the timing of the two strands to be blended. Indeed, Creswell (2007:66) describes timing as the temporal relationship between the quantitative and qualitative strands within a study. In essence, it describes the order in which the researcher uses the result from the two strands within the study. Creswell (2007:66) outlines two main forms of timing within mixed methods: con-current and sequential timing. Specifically, con-current timing occurs when a researcher implements both the quantitative and qualitative strands during a single phase of the research study (Creswell 2007:66). On the other hand, sequential timing arises when the researcher implements the two strands in phases. That is; one after the other. In this case, the collection and analysis of quantitative data may be undertaken before the collection and analysis of qualitative data or vice versa.

For the purposes of this study, the researcher adopted sequential timing. As pointed out earlier, the current study was descriptive and explanatory. As such, a two-phase sequential approach allowed the researcher to use the findings of the second qualitative approach to explain and enhance the results of the first quantitative survey. Specifically, quantitative data relating to the level of awareness of public officers on their responsibilities as specified by the Act; records management practices in government ministries and systems and procedures for accessing information was collected by administering questionnaires to Public Communication Officers, head of records and registry clerks. This information was then analysed. Subsequently, qualitative data on the extent of political will for implementation of the Act, the records management practices in government ministries as well as the systems and procedures in place for access to information was collected by interviewing the Directors of Administration in

every ministry, the Director of Public Communication, the Director National Archives and the Ombudsman. By so doing, qualitative data obtained from the follow up interviews helped in explaining and clarifying outcomes obtained from the first quantitative survey.

The last decision that the researcher needs to make when using mixed methods relates to the approach for mixing the two strands. Creswell (2007:66) points out that the two key issues in understanding when and how mixing occurs, are; points of interface and mixing strategies. Morse and Niehaus (2009) describe the point of interface as the stage within the research process where the qualitative and quantitative strands are mixed. Indeed, Creswell (2007:66) identifies the four possible points of interface during a research study process as: interpretation, data analysis, data collection and design. In this regard, researchers use mixing strategies that relate to these points of interface. Creswell (2007:66) identifies the mixing strategies as:

- Merging of the two data sets;
- Connecting from the analysis of one set of data to the collection of the second set of data;
- Embedding one form of data within a larger design or procedure and
- Using a theoretical framework to bind the data sets together.

While a discussion of the various points of interfaces would be useful, it is clearly beyond the scope of this study. In this regard, this study will limit itself to discussing the point of interface that informed when and how mixing was undertaken during the present study.

Indeed, in this study, mixing occurred during data collection particularly when the researcher was collecting the second set of data. In this case, the researcher connected the two strands by using the results of the first quantitative strand to build to the collection of the qualitative data. In essence, the quantitative results shaped the collection of qualitative data by guiding the researcher in refining the qualitative data collection protocols and selecting participants that were best fit to clarify the unclear quantitative results (Creswell 2007:67).

4.8 Data collection procedure and instruments

Data collection refers to the process of gathering information from a specified study population in the field. The choice of techniques and instruments used for data collection is informed by the research approach adopted. As indicated earlier, the present study adopted a mixed methods approach. This means that both quantitative and qualitative instruments were used to collect

data. Indeed, Sandelowski (2000:250) noted that mixed methods data collection entails the combined use of data collection techniques in a single study that are associated with either quantitative or qualitative research. This study used sequential research design to collect both quantitative and qualitative data in a two-phase data collection. In this case, qualitative data was used to build on and elaborate the first quantitative data. The current study employed structured questions and observation as the quantitative data collection techniques while semi-structured interviews and document review were the qualitative data collection techniques.

Below is a detailed discussion of each of the data collection techniques and their appropriateness for the current study.

4.8.1 Questionnaire

Babbie (2004:253) describes a questionnaire as a document containing questions and other prompts designed to solicit information for analysis and one that is filled-in by the respondent. Similarly, Oates (2006) defined a questionnaire as a pre-defined set of questions or items arranged in a pre-determined order whereby respondents are asked to answer those questions thus providing the researcher with data that can be analysed and interpreted. Indeed, Kumar (2005:126) noted that in a questionnaire, the respondents read the questions, interpret what is expected and then write down the answers. Further, questionnaires are considered useful instruments for collecting survey information, providing structured often numerical data, can be responded to without the presence of the researcher and are comparatively straight forward to analyse (Blaxter, Hughes and Tight 2006:179).

In terms of structure, questionnaires can be categorized into two forms, namely, open-ended and closed-ended questionnaires. Closed-ended questionnaires provide the respondents with alternative answers from which they are expected to select one or more answers depending on the framing of the question (Onyango 2002). Indeed, Neuman (2014:333) noted that some of the advantages of using close-ended questions include:

- They can be responded to easily and quickly;
- It easy to compare the responses from different respondents;
- Answers are easier to code and statistically analyze; and
- Can easily be replicated.

On the flipside, Neuman (2014:333) identified several drawbacks of close-ended questions. These are:

- Multiple choice questions may suggest ideas that the respondents would not otherwise have;
- Respondents with no knowledge or opinion can answer anyway;
- Misinterpretation of a question can go unnoticed;
- They are prone to simple mistakes or marking the wrong response; and
- Where many response choices are offered, it can be confusing.

On the other hand, in open-ended questionnaire respondents are not provided with alternative answers but are allowed to give free responses and they are used in exploring new areas of knowledge. However, open-ended questions are laborious to answer and are difficult to code for data analysis (Bryman 2012; Neuman 2014; Powell and Connaway 2004).

The current study used a modified close-ended questionnaire that was adapted from the Carter Centre's implementation assessment tool. The modification of the questionnaire was guided by exploratory literature review on the principles and practices of questionnaire design; scanning literature of questionnaires used in similar studies and records management standard document such as ISO 15489 2001: Information and Documentation (Babbie 2004; Burns 2000; Kalusopa 2011). Notably, when modifying the questionnaire, the researcher adhered to Neuman's (2014:326) advice which points out that a good questionnaire should use simple language and be clear. Further, it should avoid emotional language, double-barrelled questions, leading questions, issues beyond the respondent's comprehension and unbalanced responses.

In the questionnaires used for the current study, respondents were expected to choose from a set of alternative answers provided by the researcher. The questionnaires were used to collect data from the heads of records, Public Communication Officers and registry clerks. The data that was collected was based on the objectives of the study as outlined in section 1.7 of Chapter one of this study. In particular, the questionnaire addressed research questions two (level of awareness of public officers of their ATI obligations); three (records management practices in government ministries); and four (structures, systems and processes in place for access to information). These questions were detailed in nature and required very specific responses thus the use of a closed-ended questionnaire. Indeed, Babbie (2011:294) noted that questionnaires allow use of large population samples to describing phenomena.

In terms of the nature of the questions, some questions required a yes or no answer while others were subjected to Likert scale. Specifically, research question two on the level of awareness of

Public Communication Officers of their ATI obligations had a continuous scale consisting of (fully aware, slightly aware, fully unaware and slightly unaware). Further, the researcher made the layout of the questionnaire as appealing as possible to the eyes of the respondents. Indeed, the researcher adhered to Williams (2003) as cited in Saurombe (2016:158) generic guidelines on boosting the appearance of questionnaires. These are:

- Avoiding too many questions on a page;
- Have an endearing design with reasonable number arrows and boxes; and
- Using a legible typeface.

Further, the questionnaire had clear instructions, was divided into sub-sections based on the themes of the study and the questions were well numbered. This made it easy for the respondents to navigate when answering the questions.

The questionnaire was considered appropriate for the current study for several reasons. First, it allowed the researcher to collect data from respondents (heads of records, registry clerks and Public Communication Officers) drawn from across the public service. Indeed, a questionnaire is inexpensive and allows a large number of respondents to be surveyed in a relatively short period even when they are dispersed over a wide geographical area (Cohen, Manion and Morrison 2000:129; Kumar 2005:130; Powell and Connaway 2004:125). Secondly, questionnaires allowed the researcher to describe the phenomenon under study in the first quantitative phase of the study. Indeed, Babbie (2011:294) noted that questionnaires allow use of large population samples to describe phenomena.

Additionally, there are other advantages of using questionnaires such as the fact that they permit a higher degree of anonymity (Kumar 2005:130; Powell and Connaway 2004:125). This encourages the respondents to be truthful and frank in their responses since they know they will be treated as anonymous. Indeed, respondents are more likely to be truthful in questionnaires than they would in a personal interview (Leedy and Omrod 2005:185; Powell and Connaway 2004:125). Further, questionnaires also allow the respondents to answer the questions at their own convenience thus meaning that the respondents can even consult or refer when not sure (Frankfort-Nachmias and Nachmias 1996:226; Sarantakos 1998:224).

Notably, use of questionnaires also has several drawbacks. First, majority of the questionnaires distributed are not returned thus resulting in low response rate (Kumar 2005:130; Leedy and Omrod 2005:185; Walliman 2006:88). Secondly, the fact that they are filled in the absence of

the researcher denies the respondents the opportunity to seek clarifications to questions that may not be clear (Kumar 2005:130; Powell and Connaway 2004:125). Thirdly, questionnaires offer the researcher only one chance to collect data since it is difficult to identify respondents or return to collect additional information. This is unlike in-depth and semi-structured interviews where researcher can prompt and explore issues further (Saunders, Lewis and Thornhill 2009:366).

In the current study, the advantages of using questionnaires far outweighed the disadvantages. Indeed, for a descriptive and explanatory study with pragmatic underpinnings, the questionnaire proved appropriate in describing the state of preparedness of public bodies for the implementation of the access to information legislation. The appropriateness of the questionnaire is further underscored by the fact it has been used successfully in other related studies such as Ndenje-Sichwale (2010) and Kemoni (2007).

- **Pre-testing the questionnaire**

Prior to the actual data collection, the researcher pre-tested the questionnaire. Indeed, the purpose of pre-testing was to establish the content validity of scores on the questionnaire so as to refine the questions. This ensured that the questions were clear to the respondents and eliminated problems in recording of data (Creswell 2014; Saunders, Lewis and Thornhill 2009:394). Further, Powell and Connaway (2004) observed that pre-testing enables the researcher to refine the questions. In the current study, the questionnaire was pre-tested by two purposively selected academics in the field of information and records management and one practitioner in archives and records management. Indeed, the use of convenient sample for pre-testing is also replicated in several studies on records and information management such as Kemoni (2007) and Ngulube (2003). Indeed, pre-testing establishes the validity and reliability of the instrument.

Notably, validity refers to the extent to which a research instrument is designed to measure what it is intended to. In addition validity is also concerned with data accuracy (William, Burstein and Mckemmish 2002). Accordingly, pre-testing of the questionnaire enabled the researcher to check the effectiveness of the instrument particularly in terms of the framing of the questions to eliminate ambiguity and ensure that the respondents understood the questions as intended by the researcher, thereby ensuring validity. On the other hand, reliability is concerned with the robustness of the questionnaire and in particular whether or not it will

produce consistent findings at different times and under different conditions such as with different samples (Saunders, Lewis and Thornhill 2009:373). In the present study, the internal consistency (reliability) of the scales in the questionnaires was checked through Cronbach Alpha statistic (Creswell 2014).

- **Administering the questionnaire**

The researcher distributed the questionnaires by hand in each of the 22 ministries. Subsequently, the respondents were given a period of four weeks to fill in the questionnaires after which the researcher made follow ups to collect the completed questionnaires. Indeed, the questionnaires were administered based on the Total Design Method which advocates the distribution of a carefully constructed, pre-tested instrument and a cover letter and multiple follow ups to encourage a higher response rate (Ngulube 2003:218). In this regard, the questionnaires were accompanied by a cover letter indicating the purpose of the research and how it was beneficial to the organization. For details on the questionnaire see Appendix 1.

4.8.2 Interviews

The current study also collected data using interviews. An interview refers to a purposeful discussion between two or more people (Kahn and Cannell 1957). Indeed, interviews are appropriate when the purpose of the research is to gain individual views, beliefs and feelings about a subject or when questions are too complex to be asked in a straight forward way and more depth is required from the answers (Pickard 2007:181). Further, interviews enable participants be they interviewers or interviewees to discuss their interpretations of the world in which they live, and to express how they regard situations from their own point of view (Cohen, Manion and Morrison 2007:349).

Saunders, Lewis and Thornhill (2009:318) identified several types of interviews that are applicable in a research study. These are; structured, semi-structured and unstructured or in-depth. However, the authors were also quick to point out that the type of interview selected for a particular research study should be consistent with the research questions and objectives, the purpose of the research and the research strategy that the study has adopted (Saunders, Lewis and Thornhill (2009:318). In view of this, below is a detailed discussion of the three types of interviews identified above. The discussion is useful in identifying the type of interview that was best suited for the present study.

- **Structured interviews**

This sort of interview is also referred to as interviewer administered questionnaires since they are based on a pre-determined and standardized or identical set of questions (Saunders, Lewis and Thornhill (2009:320). In this case, the interviewer reads out each question to the interviewee and then record the response in a standardized schedule, usually with pre-coded answers. To avoid bias; the interviewer is expected to read out the questions exactly as written and in the same tone. Since they collect quantifiable data, structured interviews are also referred to quantitative research interviews (Saunders, Lewis and Thornhill 2009:318). The present study was descriptive and explanatory in nature. In this regard, interviews were meant to serve a subordinate role of elaborating and enhancing the results of the first quantitative results. In this regard, structured interviews were not suitable for the current study since they are quantitative in nature.

- **Semi-structured interviews**

This refers to a form of interviews where the researcher prepares a list of themes and questions to be covered. In essence, the researcher uses an interview guide. Semi-structured interviews are considered neither rigid nor too open in that the researcher may omit some questions in particular interviews given the specific organizational context that is encountered in relation to the research topic (Saunders, Lewis and Thornhill (2009:320). Further, the researcher can also vary the order of questions depending on the flow of the conversation. Indeed, King (2004) noted that semi-structured interviews are non-standardized and are used to collect qualitative data hence referred to as qualitative research interviews. In the present study, the qualitative data protocols were to be refined based on the first quantitative results. This means that semi-structured interviews were best suited for the current study since they allowed the researcher the flexibility to omit and vary questions based on the first quantitative results. In this regard, semi-structured interviews were useful to the present study in the several ways:

- They played an explanatory role where they enhanced the understanding of the relationship between variables from the first quantitative phase of the study (Saunders, Lewis and Thornhill 2009:322).
- They were used to explore and explain themes that emerged from the use of the questionnaire (Tashakkori and Teddlie 1998).

- They were used as part of mixed methods approach to validate the findings of the first quantitative phase (Bryman 2006).
- They were used to understand the reasons for the head of records and registry clerks attitudes and opinions towards records management practices. Similarly, they were useful in understanding the Public Communication Officers' attitudes and opinions towards their level of awareness towards their ATI obligations as well as the systems, structures and processes for access to information existing in government ministries.

Indeed, semi-structured interviews provided the researcher with the opportunity to probe answers and allowed the interviewees a chance to explain, build on the responses of the first quantitative results (Saunders, Lewis and Thornhill 2009:324). Therefore, in the current study, the researcher developed four interview guides that guided face to face interviews with the Director of Administration, Director of Public Communication, Director National Archives and the Ombudsman. The interview guides were pre-tested by an expert in information and records management and modified accordingly. For a sample of the interview schedule see Appendix 3.

- **In-depth interviews**

These are informal interviews used by a researcher to explore in-detail his/her research area. In this form of interview, there is no pre-determined set of questions. However, the researcher needs to have a clear idea about the aspects they want to explore (Saunders, Lewis and Thornhill 2009:321). In this case, the interviewee is given the opportunity to talk freely about events, behaviours and beliefs on the area being studied. As such, these sort of interviews are referred to as non-directive since the interviewer has little role in directing the interview. Robson (2002:59) noted that in-depth interviews are suitable for exploratory studies where the researcher wants to find out what is happening and is seeking new insights. In this regard, since the current study was descriptive and explanatory and the researcher was particular on the issues they wanted to clarify based on the first quantitative results, in-depth interviews were thus not appropriate.

The appropriateness of using interviews in the current study is further underscored by the fact that they have been used in other similar studies. For instance, Garaba (2010) interviewed the Directors of National Archives to get their views on the management of records and archives of former liberation movements in ESARBICA region. Similarly, Ndenje-Sichwale (2010)

interviewed senior ministry officials, National Archives personnel and Tanzania Public Service College staff to describe the records management practices in government ministries in Tanzania and their impact on fostering accountability in the Public Service Reform Programme of Tanzania.

However, one drawback of using interviews in a research study is that they are expensive and time-consuming especially when the respondents are spread over a wide geographical area (Kumar 2005:131).

4.8.3 Observation

Another data collection tool used in the present study was observation. This refers to the systematic watching, recording, description, analysis and interpretation of people's behaviour (Saunders, Lewis and Thornhill 2009:288). Indeed, observations are carried out in order to provide evidence of the 'here and now' to discover how people interact and behave in particular situations (Pickard 2007:201). Further, observation enables researchers to see things which might otherwise be unconsciously missed and to discover things which respondents might not freely talk about in an interview (Cohen, Manion and Morrison 2000). Accordingly, observation does not rely on what people say they do, or what they think they do, but draws direct evidence of the eye to witness events first hand. In this regard, observation can be used for both basic and applied research and in quantitative and qualitative studies (Powell and Connaway 2004:157).

Powell and Connaway (2004) identified two types of observation. Structured and un-structured observation. Structured observation is a formal technique used to provide systematic descriptions or to test causal hypothesis (Powell and Connaway 2004:158). It involves observing behaviour in terms of a pre-determined set of categories or activities of phenomena planned to be studied (Sekaran 2003: 252-253). Further, in structured observation, the researcher adopts a detached stance and is more concerned with quantifying behaviour meaning its function is to tell the researcher how often things happen rather than why they happen (Saunders, Lewis and Thornhill 2009:300).

On the other hand, in unstructured observation, the aspects to be observed are not specified in advance. It's qualitative in nature and focuses on discovering the meanings that people attach to their actions (Saunders, Lewis and Thornhill 2009:288).

In the present study, the researcher used observation to collect data on; firstly, the systems and procedures for access to information. These include; procedures and systems for receiving, processing and responding to requests and publication schemes in government offices. Secondly, the existing records management storage conditions and equipment; systems and procedures for management records; classification schemes in use; access and file tracking tools in use in government offices; preservation and security measures in place. As such, the researcher had an observation checklist for every ministry to confirm the various aspects of records management practices and access to information systems and procedures. In view of this, structured observation was appropriate for the current study as the aspects to be observed were pre-determined and it allowed the researcher to provide systematic descriptions of aspects that were pertinent to the study. Further, data obtained from observation was used to verify data obtained from the questionnaires.

Some of the advantages of observation as a data collection method is that it requires less co-operation from the respondents since they are minimally involved. This is in contrast to the use of questionnaires and interviews where respondents involvement is significant (Kothari 2004:96). However, there are several limitations associated with observation as a data collection method. First, it is expensive, as the researcher has to visit all the research sites to observe. Second, there is the possibility of observer bias as the interpretation of what is observed may vary from one observer to the other (Kothari 2004:96). For a sample of the observation checklist see Appendix 8.

4.8.4 Document review/analysis

The present study also used documents review to supplement information obtained from questionnaires, interview schedules and observation checklists. Indeed, according to Bowen (2009:27), document analysis is a systematic procedure for reviewing and evaluating documents both paper and electronic material. It entails finding, selecting, appraising (making sense of) and synthesizing data contained in documents. Document analysis yields data-excerpts, quotations or entire passages that are then organized into major themes, categories and case examples specifically through content analysis (Labuschagne 2003). Merriam (1988:118) underscored the relevance of document review in a research study by pointing out that documents of all types can help the researcher uncover meaning, develop understanding and discover insights relevant to the research problem.

Bowen (2009:27) identified various types of documents that may be used for systematic evaluation as part of a research study. These include; manuals; background papers; minutes of meetings; books and brochures; diaries and journals; events programs; letters and memoranda; maps and charts; newspapers (clippings and articles); press releases; program proposals; organizational or institutional reports; survey data and various public records.

In the present study, the documents reviewed included government strategic plans and other policy documents; the Constitution of Kenya 2010 and other international and national legislation and regulations relating to access to information; Africa Union reports and proceedings relating to the right to information; research reports on previous studies on ATI; books and journal articles; ATI training work plans; newspaper articles; press releases among others.

In essence, in the current study, document review served the following purposes:

- Provided background information as well as historical insight on the concept of access to information (Bowen 2009:29);
- Suggested questions that needed to be asked and situations that needed to be observed as part of the research. For example, under the theme of training and awareness of public officials for ATI, review of literature revealed elements that had a bearing on level of awareness such as depth, scope and frequency of the training which were included in the research questions;
- Supplemented data obtained from interviews, questionnaires and observation thus adding to the knowledge base of the phenomenon of access to information; and
- Corroborated evidence from other sources thus enhancing the credibility of the research findings (Bowen 2009:30).

Indeed, the relevance of document review as a source of data for the current study is also underscored by the fact that it has been used in other similar studies. For example, Mase (2015) used document review as one the sources of data in a study on records management readiness for open government in the Kenyan judiciary. Similarly, Kemoni's (2007) study on records management practices in government ministries and their impact on public service delivery reviewed both published and unpublished documents as one of the data sources.

4.9 Validity and reliability of the instruments

According to Mugenda and Mugenda (2003:95), the quality of a research study depends on the accuracy of the data collection procedures. This means that the instruments and tools used to collect data must yield the type of data that the researcher can use to accurately answer his or her questions. As such, the quality of a research study is assured through validity and reliability (Bryman 2012). Notably, the reliability of an instrument is closely associated with its validity. Indeed, an instrument cannot be valid unless it is reliable. However, the reliability of an instrument does not depend on its validity (Tavakol and Dennick 2011).

Validity is concerned with whether research is believable, true and whether it is evaluating what it is supposed or purports to evaluate (Zohrabi 2013). In essence, validity is the degree to which results obtained from the analysis of the data actually represent the phenomena under study (Mugenda and Mugenda 2003). Indeed, Burns (1999:160) notes that validity is an essential criterion for evaluating the quality and acceptability of the research. Research scholars have identified several types of validity. These are; face validity; content validity; construct validity and criterion validity (Kothari 2004; Mugenda and Mugenda 2003; Sekaran 2003). Indeed, Neuman (2014) defined face validity as the attribute of an indicator that qualifies it to measure certain variables. In the current study, the researcher achieved face validity by ensuring that the questions in the questionnaires and interview guides were informed by the research objectives and research questions of the study.

Content validity refers to the extent to which the data collection instrument adequately covers the investigative questions (Saunders, Lewis and Thornhill 2009). In the present study, content validity was achieved in two ways. First, through detailed literature review in Chapter 2 that revealed all the research gaps which were incorporated in the research questions and secondly, pre-testing the instruments. As mentioned earlier, the instruments were reviewed by two academics and one practitioner in the field of information and records management. The reviewer's comments were then used to reword the unclear and obscure questions as well as reword the complex questions (Zohrabi 2013).

According to Saunders, Lewis and Thornhill (2009), construct validity refers to the extent to which the questions in the data collection instrument actually measure the constructs that the researcher intended them to measure. Indeed, Powell (1985) points out that a research design is considered to have construct validity if the variable being measured can be identified and labelled properly. As mentioned in chapter two, the current study was to a large extent

underpinned by the United Kingdom, Department of Constitutional Affairs, Model Action plan (2003). Further, the Carter Centre's Implementation Assessment Tool (IAT) provided a mechanism for undertaking the study. In view of this, the research objectives and questions that informed the data collection instruments were linked to these theoretical models. This ensured construct validity as all the constructs relevant to the study were measured.

Criterion validity refers to the extent to which an assessment relates to some external criterion (Neuman 2014). In the present study, the researcher also made reference to other related studies to ensure that the present study benefited from other researcher's experience in terms of research methods and procedures (Saurombe 2016). Indeed, studies by Ndenje-Sichwale (2010) and Kemoni (2007) that utilized survey design were referred to thus ensuring that criterion validity was achieved.

On the other hand, reliability refers to the extent to which results obtained in a given research are dependable, consistent and replicable (Nunan 1999:14). Indeed, a measuring device is said to be reliable if it yields consistent measurement when the phenomena are stable, regardless of who uses it, provided the basic conditions remain the same (Payne and Payne 2004:195). In essence, reliability is concerned with stability and consistency of measurement (Sekaran 2003:203; Cohen, Manion and Morrison 2007:146). Reliability varies in quantitative and qualitative approaches. Indeed, Zohrabi (2013) noted that reliability or obtaining similar results in quantitative research is straightforward since the data is in numerical form. However, in qualitative research, achieving similar results is difficult since the data is in narrative form and is subjective. Accordingly, Lincoln and Guba (1985:288) argued that instead of focusing on identical results, researchers should focus on the dependability and consistency of the data by refining the data collection processes.

Babbie (2004) identified three ways through which researchers can estimate reliability. These are; test-retest, parallel forms and split-half. In test-retest, estimates are obtained by correlating data collected with those from the same questionnaire collected under as near equivalent conditions as possible. The questionnaire therefore needs to be administered twice to respondents. However, there are several disadvantages of using this method. First, it is difficult to persuade respondents to answer the same questionnaire twice. Secondly, the longer the time interval by which the two questionnaires are administered, the lower the likelihood that the respondents will answer it the same way (Saunders, Lewis and Thornhill 2009). Thirdly, the

respondents may tend to remember their first responses during the second testing thus leading to a superficial high coefficient (Mugenda and Mugenda 2003).

On the other hand, parallel-forms refer to estimating the reliability within the questionnaire through comparing responses to alternative forms of the same question or group of questions (Saunders, Lewis and Thornhill 2012). Where questions are included for this purpose, usually in longer questionnaires, they are referred to as 'check questions'. However, this method has two drawbacks. First, it is difficult to ensure that questions are substantially equivalent. Secondly, respondents may suffer fatigue owing to the need to increase the length of the questionnaire. Relatedly, respondents may spot the similar question and just refer back to the previous answer thus the need to 'check questions' sparingly (Saunders, Lewis and Thornhill 2009).

Split –half estimates reliability by treating each of two or more parts of a measuring instrument as a separate scale (Frankfort-Nachmias and Nachmias 1996:172-173). In essence, the researcher splits the measuring instruments into two set of questions or items after it is administered (Mugenda and Mugenda 2003). The scores of the two halves are then correlated to provide an estimate of the extent to which they are equivalent (Mugenda and Mugenda 2003; Powell 1985).

In the current study, reliability was achieved through measuring internal consistency which entailed correlating the responses to each question in the questionnaire with those of other questions in the questionnaire (Saunders, Lewis and Thornhill 2009). Subsequently, the consistency of responses across either all questions or sub-group of questions in the questionnaire was measured. As mentioned earlier, Cronbach alpha statistic was used to measure internal consistency. Polit and Beck (2004) noted that the most widely used method of evaluating internal consistency is coefficient alpha (Cronbach alpha) whose normal range of values is between is .00 and + 1.00. Notably, higher values indicate high internal consistency. In the present study, the reliability of the questionnaire administered to Public Communication Officers was determined by calculating the coefficient alpha values of 18 items. It emerged that the 18 items included had a coefficient alpha value of 0.79 thus high internal consistency. Similarly, the coefficient alpha value of all the items in the questionnaire administered to registry clerks was established to be 0.80 thus indicating that the questionnaire had a high internal consistency.

Furthermore, the Carter Centre's, Access to Information, Implementation Assessment Tool (IAT) adapted for this study has undergone extensive validation through multiple periodic peer reviews before being released for use by the community of practice. Specifically, the tool has been piloted in more than ten countries across the world. The information obtained from the three phases of pilot studies was used to modify the methodologies and indicators thus assuring the tool's efficacy and value (Carter Centre, 2014a).

Overall, in the present study, validity and reliability of the research data and instruments were achieved through the following ways;

- Triangulating of data sources by collecting same data using questionnaires, interviews observations and document analysis. For example, questionnaire data obtained from heads of records and registry clerks was verified using observation checklists. Similarly, questionnaire data obtained from Public Communication Officers was validated through interview with the Director of Public Communication and Director of Administration. Indeed, triangulation reduces the inadequacies of individual methods and the threats to internal validity are addressed (Creswell 2003; Greene, Caracelli and Graham 1989). Similarly, Zohrabi (2013) noted that collecting information from a variety of sources and with a variety of techniques can confirm findings. Likewise, Polit and Beck (2004) noted that the purpose of using triangulation is to provide a basis for the convergence of the truth.
- Avoiding researcher's bias: Although the researcher has his own values, beliefs and worldviews particularly given that he is a practitioner in the field of information and records management, the researcher adhered to the ethical rules and principles and was impartial/non-judgmental throughout the research process (Zohrabi 2013).
- Documenting the research process: The researcher also described the research process in detail, particularly how data was collected and analyzed as well as how different themes were derived and results obtained. Indeed, Zohrabi (2013) observed that this detailed description of the research process is useful in facilitating replication of the research thus enhancing reliability of qualitative data. Similarly, Merriam (1988) contends that external validity can be achieved through provision of detailed descriptions so that anyone interested in transferability can have a framework for comparison.

- **Member checking:** In this case, the researcher prepared a summary of preliminary findings of the data collected during the interviews and participants were allowed to go through the findings to confirm if it was a true reflection of their views. This was done simultaneously as data was being collected. Indeed, Zohrabi (2013) noted that when member checks are conducted, the plausibility and truthfulness of the information can be recognized and supported. Similarly, Lincoln and Guba (1985) observed that member checking is an important technique particularly in establishing the credibility of qualitative data.

Additionally, the fact that a census approach was adopted to select the unit of analysis also minimized the sampling error (Bryman 2012). The appropriateness of the measures undertaken in the current study to achieve validity and reliability is further underscored by the fact the same measures have been used in other similar studies successfully. For example, Ndenje-Sichwale (2010)'s study on records management practices in the public service in Tanzania and the extent to which they fostered accountability achieved validity and reliability through pre-testing and triangulation. Similarly, Komen (2012)'s study on management of personnel records at the Ministry of Local Government headquarters' in Nairobi, Kenya also achieved validity and reliability through pre-testing and member checking.

4.10 Data analysis and presentation

Once collected, data has to be processed and analyzed to convert it into meaningful information that can answer the research questions. Indeed, data analysis entails a number of operations that summarize the collected data and organize it into meaningful information (Kothari 1990). Further, Polit and Beck (2004) noted that the purpose of quantitative and qualitative data analysis is to organize, provide structure to and elicit meaning from the research data.

In the present study, as mentioned earlier in this chapter, data was collected using both quantitative and qualitative approaches and analyzed separately. Babbie (2011) describes quantitative data analysis as the numerical illustration and manipulation of observations to describe and explain phenomena reflected in those observations. Indeed, according to Fowler (2014:127) quantitative data analysis entails the following steps:

- **Developing a code.** That is, coming up with a system through which the respondent's responses will be assigned values;

- Coding- categorizing responses and assigning them symbols that can be tabulated and counted;
- Data entry- capturing data into the computer; and
- Data cleaning- verifying data for accuracy, consistency and completeness.

Neuman (2014) noted that researchers use statistical packages to assist in the analysis and presentation of quantitative data. In the present study, quantitative data was analyzed using Statistical Package for Social Sciences (SPSS). SPSS was chosen because it's a computer based software that automatically analyses data, makes statistical calculations, examines relationships, generates trends and presents quality diagrams (Saunders, Lewis and Thornhill 2009:415). As such, SPSS enabled the generation of descriptive results.

On the other hand, qualitative data that was collected through interviews was analyzed thematically based on the research questions. The process entailed:

- Transcribing of audio recorded interviews. That is, reproducing recorded data as a written account using the actual words (Saunders, Lewis and Thornhill 2009);
- Organizing the data, reading through the text and identifying general ideas or topics (Creswell 2014);
- Compiling a list of the all the topics identified and assigning each topic a label;
- Coding the data by attaching labels to lines of text. In this case, coding entailed the researcher segmenting the sentences into categories and labeling the categories with a term (Creswell 2014);
- Identifying emergent themes based on the research objectives; and
- Grouping the related themes together, summarizing text relating to each theme and providing a description.

The researcher adopted a narrative passage to convey the findings of the analysis. Specifically, the themes were discussed and backed up with quotations from the respondents. Interpretation was then drawn by using the emergent themes to explain the results (tables and graphs) of the first quantitative phase as well as comparing the findings with information gleaned from the literature in Chapter three. Notably, the present study was descriptive and explanatory thus interpretation was based on how the qualitative findings provided more insight and depth to the first quantitative results (Creswell 2014).

4.11 Ethical considerations

As mentioned in section 1.14 of chapter one, there are certain set of principles that a researcher is expected to adhere to when conducting research. Indeed, Cooper and Schindler (2008:34) define ethics as the norms or standards of behaviour that guide moral choices about our behaviour and our relationship with others. In research context, ethics refers to the suitability of the researcher's behaviour in relation to the respondents and those that are affected by the study. Ethical issues in researcher entail several issues, namely; gaining access to the research site, confidentiality, anonymity, informed consent and privacy (Babbie and Mouton 2001:522; Bryman 2004:509). A discussion of each of these ethical issues and how each of them was addressed in the present study is useful.

Firstly, as far as accessing the research site is concerned, Pickard (2007) states that gaining access to a research site requires careful planning. As such, Pickard (2007) recommends that as soon as the research proposal is approved, the researcher should write a formal letter to the gatekeeper seeking permission to carry out the research. The letter should detail the nature and purpose of the research among other things. In the current study, the researcher obtained permission in form of an authorization letter as well as a research permit from the National Council for Science and Technology (NACOSTI). This authorization letter allowed the researcher to conduct research in all the 22 government ministries. As a matter of fact, each of the ministries to be visited was provided with a copy of the authorization letter thus informing them of the imminent visit by the researcher.

Secondly, on the issue of confidentiality, the researcher needs to be candid on how the information obtained from the participants will be used. Indeed, the researcher should not use data collected from participants for purposes that were not agreed upon at the start of the research process. This is particularly so when the information collected from participants is sensitive in nature. In the current study, confidentiality was observed by ensuring that the information collected was only used for academic purposes. Indeed, the cover letter that accompanied the questionnaires clearly stated the information collected would be used only for academic purposes.

Another ethical issue in research is anonymity. According to Johnson and Christensen (2008:119) anonymity means that the identity of the participant is not known to the researcher. Similarly, Pickard (2007) noted that anonymity means that the identity of the participant is not revealed during and after the research activity thus ensuring that the participant contributes to

the study without fear. In the current study, the researcher observed anonymity by ensuring that the data collection instruments particularly the questionnaires did not bear identification marks. This ensured that the filled questionnaires could not be traced to any participant.

There is also the principle of informed consent. This principle states that participants should be informed about the nature and purpose of the research that they are expected to be involved in so that they make an informed decision whether to participate or not (Johnson and Christensen 2008; Neuman 2007). In essence, this means that the participant signs a consent form agreeing to be involved in a particular research study. Notably, a participant is at liberty to withdraw from the study even after signing the consent form. Further, informed consent should meet three basic criteria. First, the participant must be competent to give consent. Second, adequate information must be provided to allow for informed decision making and lastly, the consent must not be forced or coerced (Schinke and Gilchrist 1993). In the current study, the researcher adhered to the principle of informed consent by having informed consent forms for both text and audio data collected. The informed consent forms clearly stated the nature and purpose of the research and also pointed out that the participant was at liberty not to participate or withdraw from participation.

Another ethical concern is the privacy of the participant. Indeed, Johnson and Christensen (2008:119) noted that researchers protect the privacy of the participants by collecting anonymous information or maintaining the confidentiality of the information collected. In the present study, privacy of the participants was safeguarded by ensuring that the data collection instruments did not have any identification features as well as coding and aggregation of the data collected to reflect categories of responses as opposed to individual responses.

Further, the researcher also adhered to ethical issues by complying with University of Kwa Zulu- Natal research ethics policy and code of conduct for research (UKZN 2007). Specifically, the researcher completed the ethic forms and was granted ethical clearance after fulfilling all the requirements. The researcher also ensured that the data collected was stored safely. Specifically, hardcopies of data collection instruments were safely stored while electronic data was stored and backed up in various electronic storage media such as hard disk, CD/DVD among others. Furthermore, all sources that were referred to particularly during documentary review were acknowledged to avoid plagiarism.

4.12 Evaluation of research methodology

An evaluation of the research methodology is conducted based on the understanding that all research designs are imperfect and that there is no one size (research design) that can fit all research purposes. Indeed, all research designs are different and used for different purposes (Ngulube 2005b:48). In essence, evaluation of research methodology provides the researcher with an opportunity to state the effectiveness of the methodology adopted for the study and identify way in which it can be improved to yield better results in future research (Abankwah 2008).

The current study adopted pragmatic paradigm based on mixed methods approach where the quantitative strand was dominant while the qualitative strand was subordinate. The rationale for using mixed methods approach in the current study was to achieve the study purpose and to offset the strengths and weaknesses of the quantitative and qualitative approaches. Firstly, whereas quantitative approach is more structured and easier to replicate thus ensuring reliability of the findings, the qualitative approach is unstructured thus making it difficult to replicate and compromising reliability of the findings. Therefore, adoption of quantitative approach in the first phase of the study enhanced the reliability of the findings. Secondly, the flexible and unstructured nature of qualitative approach makes it prone to researcher's bias (Kumar 2014:14). This is unlike the quantitative approach where it is easy for the researcher to control bias thus ensuring the findings are reliable. Therefore, adoption of the quantitative approach minimized the research's bias. Thirdly, the qualitative approach enabled the researcher to explore, explain and clarify the variation and diversity of the state of preparedness of public bodies for ATI implementation. On the other hand, the quantitative approach enabled the researcher to quantify the extent of the state of preparedness of public bodies for ATI implementation. As such, adoption of the two approaches ensured that the descriptive and explanatory purpose of the study was fulfilled.

In this regard, quantitative and qualitative data were gathered sequentially in a two phase data collection process. As such, questionnaires and observation checklist were used to collect quantitative data. Specifically, questionnaires were used to obtain data from the heads of records, registry clerks and Public Communication Officers. An observation checklist was used to verify specific aspects of records management practices and information access procedures obtained from questionnaires. On the other hand, interview schedules and documents review were used to collect qualitative data. Specifically, semi-structured interviews were conducted

with the Director of Administration in every ministry, Director of Public Communication, Director National Archives and the Ombudsman. The current study therefore triangulated data sources and data collection methods in an effort to enhance the reliability and validity of the findings (Saunders, Lewis and Thornhill 2009). Indeed, the study adhered to Kemoni (2007)'s recommendation that where questionnaires are used to collect data from government employees, they need to be supplemented with interviews and observation to enhance validity of the findings.

One challenge experienced during quantitative data collection was the realization during pre-testing of the instruments that majority of the staff working in the registry were ordinary clerks performing registry duties. This means that they could not objectively respond to technical aspects of records management. To address this concern, the researcher administered the questionnaire that required detailed response on technical aspects to the records managers while restricting the clerks to basic questions that didn't require technical knowhow. This enhanced the validity of the findings.

The availability of the Directors of Administration was also a challenge in collecting qualitative data through interviews. Even where the researcher had secured an appointment, this would be cancelled at the last minute with the administrator citing unforeseen engagements. To address this, where possible, the researcher interviewed other administrators within the ministries who had knowledge on the operations of the ministry. These included assistant secretaries and secretary of administration.

The triangulation of data sources also played a key role in enhancing the validity of the findings. In particular, there were many instances where the respondent's responses did not tally with the situation on the ground particularly with regards to availability of policies, procedures and guidelines. In such circumstances, the use of observation came in handy as it enabled the researcher to verify the claims thus enhancing validity.

4.13 Summary

This chapter described the research methodology adopted for the study. First, the relevance of pragmatic paradigm as the philosophical orientation for the study was provided. Additionally, the survey design was discussed and a justification for its appropriateness for the current study provided. Further, the characteristics of quantitative and qualitative research approaches were discussed and a justification for combining the two approaches in a mixed methods sequential

design provided. A detailed description of the data collection methods used in the study was provided pointing out why methodological triangulation was necessary. Further, the chapter outlined the measures undertaken to ensure validity and reliability of the findings. The chapter outlined the procedures followed in analysing data as well as the ethical issues adhered to during the research process. The chapter concluded with the evaluation of the research methodology. The empirical results of the study will be presented in the next chapter.

CHAPTER FIVE

DATA ANALYSIS AND PRESENTATION OF FINDINGS

5.1 Introduction

This chapter presents the empirical findings of the study derived from the questionnaires, interviews and observation checklist. The questionnaires were distributed to registry heads; registry clerks and information officers/public communication officers in government ministries and Departments. On the other hand, interviews were conducted with Directors of Administration in government Ministries and Departments as well as key informants namely: Director of Public Communication; Director of Information; Director National Archives and the Ombudsman. In addition, various policy documents such as manuals and reports were reviewed.

Data presentation was informed by the research questions of the study. Quantitative data was analysed using SPSS and the results presented in the form of figures, tables and text. On the other hand, qualitative data from interviews and document review was thematically organised and narrated. Indeed, in some cases the verbatim phrases used by the respondents are cited. Qualitative data was used to elaborate and complement data acquired from quantitative analysis.

Data from the questionnaires, interviews and observation checklist relating to a particular research theme and based on the study objectives are presented together. With this approach, the researcher was able to collate research findings from the questionnaire, interviews and observation checklist. As mentioned in Chapter four, respondents' anonymity was observed by ensuring that the data presented was not attributed to any specific respondent, Ministry or Department. Instead, a general picture of respondent's views was presented as they related to implementation of Access to Information Act as well as records keeping practices in the surveyed Government Ministries and Departments.

5.2 Response rate

Every researcher endeavours to have a 100% response rate. However, the reality particularly in survey research is that non-responses are common. Whereas there is no internationally acceptable response rate, Babbie and Mouton (2009:261) noted that in survey research, a

response rate of 50 % was considered adequate for analysis while 60% and 70% are considered good and very good respectively. Similarly, Moore (2000) opines that a response rate of 60% and above is acceptable. On the contrary, response rates below 50% are considered erroneous and should be treated with caution (Moore 2000). Likewise, Bryman (2012:235) cautions that a 50% response rate is barely acceptable and advised that a response rate of 60-69% was more acceptable. Indeed, Neuman (2014) attributes the low response rate to the unwillingness of people to respond to surveys due to survey fatigue. In the current study, the researcher attempted to address the issue of non-response by sending out reminders to the participants as advised by (Bryman 2012:236). Specifically, the researcher made follow up calls to participants who had not completed questionnaires. However, the follow ups did not yield any response.

A review of past research studies on archives and records management revealed that different researchers achieved varying response rates. For instance, in Ndenje-sichwale (2010)'s study on the significance for fostering accountability in the public service reform programme in Tanzania, out of 180 questionnaires administered to registry personnel, 120 of them were completed and returned thus achieving a 67% response rate. But more importantly, of particular interest is the response rate attained in Kemoni (2007)'s study since it focused on one of the objective that the current study also sought to investigate. This means that both studies targeted similar population and group of respondents. That is, records personnel and senior Ministry officials. Indeed, in Kemoni (2007)'s study, out of the 210 questionnaires administered to registry personnel, 157 were completed and returned thereby yielding a remarkable response rate of 75%. In the same study, 53% of the senior ministry officials targeted were interviewed. With regards to the use of the observation checklist, in Kemoni (2007)'s study, the observation checklist was applied in 12 (63%) of the 18 ministries surveyed.

From the foregoing, it is evident that different studies have varying response rates depending on the prevailing conditions. In the current study, the overall response rate was 73% as tabulated in the Table below

Target Group	Target number	Completed questionnaire	Interviewed Respondents	Percentage
Records Manager	22	16		72
Registry clerks	84	74		88
Information Officers	42	26		61
Senior Ministry Officials	42		22	52
Key informants	5		5	100
Targeted response rate	195	148	47	
Achieved response rate	142	116	27	
Average response rate				73%

Table 2: Questionnaires and interviews response rate

Specifically, in the current study, all the 22 ministries targeted (100%) were surveyed. Of the 106 questionnaires administered to registry personnel in government ministries and departments, 90 were completed and returned thus yielding an 84% response rate. Specifically, out of the 22 heads of registries targeted, 16 completed and returned the questionnaires. On the other hand, out of the 84 registry clerks that were targeted, 74 completed and returned the questionnaire. In contrast, out of the 42 questionnaires administered to information officers and public communication officers 26 were completed and returned thus yielding a response rate of 61%. However, the response rate for the interviews conducted with senior ministry officials was seemingly low, just as was the case in Kemoni (2007)'s study. (Details of the possible reasons for this trend are provided in the evaluation of the research methodology). Specifically, out of the 42 senior ministry officials that were targeted, 22 were interviewed resulting in a

52% response rate. This response rate was attributed to the fact that majority of the Directors of Administration pointed out that they had busy schedules since they handle all administrative matters in their departments and ministries. Indeed, in some cases even where the researcher had confirmation for an appointment for an interview, on the material day, an emergency meeting or other engagement would come up leading to postponement.

Remarkably, 100% response rate was achieved for the interviews conducted with the key respondents That is, Director National Archives; Director Public communication; Director of Information; Ministry of Information legal Officer and the Ombudsman. Lastly, the observation checklist was applied in 35 (83%) of the 41 departments surveyed.

5.3 The findings

The findings of the study are organised and presented according to the objectives of the study and the research questions as outlined in sections 1.7 and 1.8 respectively of Chapter one of this study. The research questions were as follows:

1. To what extent, if any, is there political will for implementation and institutionalization of the ATI regime in Kenya?
2. What is the level of awareness of public officers (duty bearers) of their responsibilities as outlined in the ATI Act 2016?
3. What structures, processes and systems are in place in public bodies in Kenya to facilitate handling of access to information requests?
4. What are the current records management practices in the public sector and to what extent do they facilitate or undermine access to information?
5. What recommendations for improvement can be made from the areas of strengths or weaknesses identified?

The researcher posed some few background questions seeking to establish the profile of the participants. These questions provided an overview of the participants. Specifically, the questions addressed the roles of the Public Communication Officers (PCOs), their professional qualifications, whether they had possessed any professional background in archives and records management. The findings revealed that Public Communications Officers described their roles as outlined in the scheme of service. Further, it also emerged that majority 15 (57.7%) were master's degree holders. The findings also revealed that only 7 (26.9%) of the

PCOs had professional background in archives and records management. This was mainly through attending seminars and workshops as reported by 4 (57.1%) of the respondents.

5.4 Political will for implementation and institutionalization of the ATI regime

The first research question sought to establish whether there was political will for implementation and institutionalization of the ATI Act 2016 in Kenya. To answer this research question, questionnaires were administered to public communication officers; interviews were conducted with the Director of Public Communication, Director of Information, the Ombudsman, Director of Administration in Ministries/Departments and an observation checklist was administered in the Ministries/Departments visited. The areas covered by this question include:

- Whether the Ministry's/Department strategic plan incorporates the aspect of ATI;
- Presence/ absence of ATI policy in government ministries/ departments;
- Presence/absence of ATI action plan in government ministries/ departments;
- Where an ATI action plan was available, establish when the action plan was developed in relation to the enactment of the ATI Act 2016;
- Whether policy makers in ministries/departments are involved in ATI matters;
- Frequency of involvement of policy makers on matters relating to ATI;
- Whether there is top management support in ATI implementation;
- Extent of top management support for ATI implementation and
- Availability of resources (physical, personnel and financial) to facilitate implementation of the ATI legislation.

Note: Findings on leadership and political will that were obtained from the literature are provided in Section 6.2 and 6.3 of Chapter six of this study.

5.4.1 Whether ATI is incorporated in Ministry/Department strategic plan

One indicator of political will for implementation of ATI Act is having the aspect of ATI pronounced in government policy documents and plans. In this regard, this study sought to establish if ATI had been incorporated in Ministries'/ departments strategic plans. 18 (69.2%) of the respondents indicated that indeed their Ministries/department strategic plans factored in the aspect of access to information. Conversely, 8 (30.8%) of the respondents indicated that Ministries/ department's strategic plan did not factor in ATI.

Table 3 below illustrates the extent to which ATI was factored in government ministries/department's strategic plans.

	Frequency	Percent
Yes	18	69.2
No	8	30.8
Total	26	100.0

Table 3: Ministry/ Department Strategic plan incorporate access to Information (ATI) (n=26)

From Table 3, it is evident that most ministries had the aspect of access to information captured in their strategic plans. This finding was corroborated through observation where the researcher confirmed by perusing through the strategic plans of various ministries. Notably, the inclusion was not coined in a standard way and there were variations in the various ministries.

This finding is also consistent with the views expressed by some of the senior ministry officials during the interview. For instance, one of the Directors of Administration had this to say when asked whether the ministry's strategic plan had incorporated the aspect of ATI:

Yes, our strategic plan recognises ATI since it is anchored on the new constitution which enshrines ATI in Article 35. We are in the process of reviewing our strategic plan to reflect the recent reorganisation of government.

He further noted, as the department in charge of devolution, we have assisted county governments to develop public participation guidelines. ATI is a key enabler of public participation.

5.4.2 Whether Government Ministries/Departments had formulated an ATI policy

An Access to Information (ATI) policy provides guidelines on the implementation of the Access to Information (ATI) Act. As such, an ATI policy facilitates the operationalization of the ATI Act. In view of this, this study sought to establish if government Ministries/ departments had formulated an ATI policy. 14 (53.8%) of the respondents answered in the affirmative while 12 (46.2%) indicated that their Ministries/ Departments had no ATI policy.

Table 4 below illustrates the prevalence of ATI policy in government Ministries and Departments.

	Frequency	Percent
Yes	14	53.8
No	12	46.2
Total	26	100.0

Table 4: Ministry/ Department with ATI Policy (n=26)

Table 4 above implies that most ministries had formulated ATI policies. However, on being challenged to produce copies of the ATI policies most respondents reported that it was not in written format thus implying that their views could not be relied on. Indeed, interviews with the Directors of administration revealed that in most ministries there was no written ATI policy but just a culture of providing information whenever it was requested based on the need to know principle.

However, the interview with the Ombudsman revealed that some public entities had attempted to develop ATI policies. Specifically, the ombudsman pointed out that one of the parastatals while seeking guidance from his office on developing an ATI policy had produced a draft ATI policy developed by its staff.

5.4.3 Whether Ministries/Department had an action plan for ATI implementation

Effective implementation of any policy is achieved by having an action plan that specifies the various activities to be undertaken; the actors as well as timelines for each activity. In this regard, this study sought to establish whether those respondents that indicated that their Ministries/Departments had an ATI policy had developed an action plan for ATI implementation. 12 (85.7%) of the respondents noted that indeed their Ministries/ Departments had developed an action plan for ATI implementation. On the other hand, 2 (14.3%) indicated that their Ministries/ Departments had no action plan for ATI implementation. Table 5 below illustrates the prevalence of ATI implementation action plan in government ministries/departments.

	Frequency	Percent
Yes	12	85.7
No	2	14.3
Total	14	100.0

Table 5: Ministries/departments with ATI policy and have developed an action plan for ATI act implementation (n=14)

Although Table 5 above indicates that most ministries had an action plan for the implementation of the ATI Act, when the respondents were asked to produce copies of the action plan they couldn't thus implying that their views could not be relied on. Indeed, interviews with the Directors of Administration confirmed that there was no action plan per se but International Standard Organisation (ISO) procedures (ISO 9001:2008) which specified how a request for information should be responded to. This assertion was further validated by a response from one of the respondents;

We have no written action-plan but we have been doing it as part of our duty.

5.4.4 When the action plan was formulated

One indicator of preparedness of a public body towards implementation of the Access to Information (ATI) Act is the timing of the formulation of an ATI implementation plan in relation to the enactment of the ATI Act 2016. In this regard, this study sought to establish whether those Ministries/ Departments that had an ATI implementation plan developed it before or after implementation of the ATI Act 2016. 8 (57.1%) of the respondents indicated that indeed their Ministries/Department had developed an action plan before the enactment of the ATI Act 2016. On the other hand, 4 (28.6%) of the respondents indicated that their ATI implementation action plan was formulated after the enactment of the ATI Act 2016. However, 2 (14.3%) of the respondents did not respond to this question. It can be deduced that the 2 respondents who did not respond were the ones who indicated that they didn't have an action plan.

Table 6 below illustrates the period when different Ministries/ Departments formulated their ATI implementation action plans.

	Frequency	Percent
No Response	2	14.3
After enactment of the ATI Act	4	28.6
Before enactment of the ATI Act	8	57.1
Total	14	100.0

Table 6: Those with action plan when it was developed (n=14)

Some of the other responses given in the “others, please specify category” included:

We formulated our action plan when setting the targets for the 2017/2018 financial year. This was done under the target ‘resolution of public complaints and Access to Information.’

As mentioned in section 5.4.3 respondents in ministries had no evidence of the existence of an action plan for ATI. As such, the responses to this question were not applicable.

5.4.5 Whether senior officers are involved in creation, adoption or review of ATI policy

Another indicator of leadership and political will for ATI implementation is the involvement of senior officials in Ministries/ Departments in the creation, adoption or review of ATI policy. In view of this, this study sought to establish whether senior officials in government ministries were involved in the creation, adoption or review of ATI policy. 12 (46.2 %) of the respondents answered in the affirmative while 14 (53.8%) of the respondents indicated that senior officials in their Ministries were not engaged in the creation, adoption or review of ATI policy.

Table 7 below illustrates the involvement of senior officers in the creation, adoption and review of ATI policy.

	Frequency	Percent
Yes	12	46.2
No	14	53.8
Total	26	100.0

Table 7: Ministry/ Department official with authority over policy actively participating in the creation, adoption or review of ATI policy (n=26)

Table 7 above shows that participation of senior officials in the creation and review of the ATI policy was almost even. Indeed, this finding was collaborated with interviews with the Directors of Administration with some indicating that they were involved in the creation and review while others said they were not.

5.4.6 The frequency of involvement of senior officers in the creation, adoption or review of the ATI policy.

The level of involvement of senior officers in the creation, adoption and review of the ATI policy is also a pointer to the presence or absence of leadership and political will towards implementation of the ATI Act 2016. In this regard, this study sought to establish the frequency

with which senior government officials participated in meetings with public officers responsible for ATI activities. 5 (41.7%) of the respondents indicated that senior officers in their Ministries/ Departments participated in meetings once a year. 1 (8.3%) respondent indicated that senior officers in his/her Ministry rarely or never participated in meetings with officers responsible for ATI activities. However, 2 (16.2%) of the respondents did not give any response to this question.

Table 8 below illustrates the level of participation in meetings by senior government officers.

	Frequency	Percent
Twice a year	5	41.7
Once a year	4	33.3
Rarely or never	1	8.3
No response	2	16.7
	12	100.0

Table 8: How often officers with authority participated in meetings with public officers responsible for ATI activities (n=12)

From Table 8 above, it is evident that most of the senior officers participated in meetings on ATI activities at least twice a year. Other responses given to this question were:

When the need arises

On a quarterly basis

5.4.7 Whether there is top management support for ATI implementation

Top management support plays a key role in effective implementation of the Access to information legislation. In this regard, this study sought to establish whether the senior management in the Ministries/Department surveyed were supporting the implementation of the ATI Act 2016. 16 (61.5%) of the respondents answered in the affirmative while 10 (38.5%) indicated that the senior management in their Ministries/Departments did not support ATI implementation.

Table 9 below illustrates the level of support by senior management towards ATI implementation.

	Frequency	Percent
Yes	16	61.5
No	10	38.5
Total	26	100.0

Table 9: Senior management support for ATI implementation in Ministry/ Department (n=26)

Table 9 above indicates that senior management supported ATI implementation in their respective ministries. Indeed, a statement by one of the Director of Administration corroborated this finding during the interview:

We have no problem with sharing information when a request for the same is made so long as it is not sensitive information that can compromise the operations of the ministry.

Another Director of Administration also confirmed that they were willing to provide information to the public by pointing out that:

In the current constitution, we are obliged to release information. In any case, the investigative nature of the media means that they are following up to find out what we are doing thus we have to provide information.

5.4.8 Nature of support given by top management

Further, the study sought to establish in Ministries/Departments where there was senior management support, what kind of support was offered. In this regard, respondents were asked to indicate from a list provided the kind of support offered by senior management. 11 (68.8%) of the respondents indicated that their senior management offered support relating to handling of difficult requests. On the other hand, 5 (31.2%) of the respondents indicated that senior management offered support relating to making decisions on exemptions.

Table 10 below illustrates the specific areas that received support from the senior management.

	Frequency	Percent
Handling difficult requests	11	68.8
Making decisions on exemptions	5	31.2
Total	16	100.0

Table 10: Specific areas for ATI implementation supported by senior management (n=16)

Table 10 above indicates that the majority (68.8%) of senior managers in the ministries supported ATI by giving advice on the handling of difficult requests as well as making decisions on exemptions. Indeed, this finding was corroborated by the interviews conducted with the Directors of Administration. One of the Directors explained:

When a request for information is sensitive we have to consult the Principal Secretary before releasing the information.

5.4.9 Availability of physical resources for ATI implementation

For ATI legislation to be implemented effectively, personnel, financial and physical resources have to be available to facilitate the undertaking of the various ATI activities. In this regard, this study sought to establish whether the officers responsible for ATI functions had regular access to the necessary equipment. 17 (65.4%) of the respondents indicated that they had regular access to equipment. 6 (23.1%) of the respondents indicated that they had access to necessary equipment though not on regular basis. However, 3 (11.5%) of the respondents indicated that they had no access to equipment that would enable them to undertake their ATI duties. below illustrates the level of accessibility to equipment by ATI officers in government ministries.

	Frequency	Percent
Has regular access	17	65.4
Has access but not regular	6	23.1
Has no access	3	11.5
Total	26	100.0

Table 11: Public officers responsible for ATI functions and duties with regular access to necessary equipment (n=26)

Table 11 above indicates that majority (65.4%) of the officers undertaking ATI duties had access to the necessary equipment. Indeed, this finding was attested to by the researcher through observation in the ministries surveyed.

Further, the study sought to establish the specific physical resources that were available to public officers undertaking ATI duties. As such, respondents were asked to indicate from a multiple list provided the specific physical resources that were available to them.

Figure 2 below illustrates the physical resources available for ATI functions.

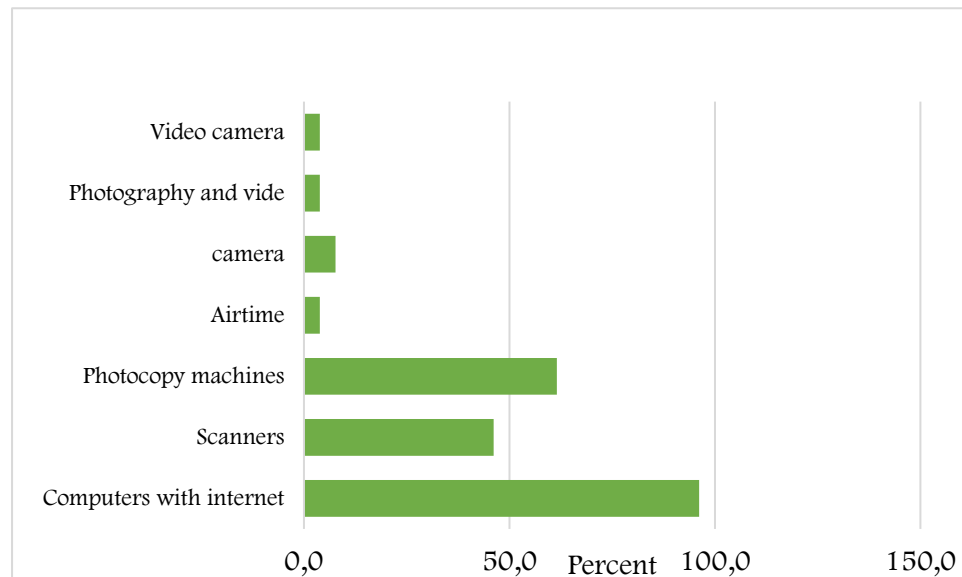


Figure 2: Physical resources available for ATI functions (n=26)

From the information in Figure 2 above, it is clear that the equipment that was mostly available for officers undertaking ATI duties was the computer (96.2%); photocopying machines (61.5%) and scanners at (46.2%). During the visits to the various ministries, the researcher confirmed through observation the existence of computers, photocopying machines and scanners in the various ATI offices that were visited.

5.4.10 Availability of physical and virtual space

Still on availability of physical resources, the study sought to establish whether Ministries/ Departments had designated physical or virtual space for receiving and responding to ATI requests. Physical space in this case refers to a designated area for receiving and responding to access to information requests. Virtual space on the other hand refers to a website or an electronic platform for receiving and responding to ATI requests.

On this question, 15 (57.7%) of the respondents answered in the affirmative while 11 (42.3%) of the respondents cited lack of physical and virtual space for receiving and responding to ATI requests.

Table 12 below illustrates the availability of physical and virtual space for receiving and responding to ATI requests in government ministries and departments.

	Frequency	Percent
Yes	15	57.7
No	11	42.3
Total	26	100.0

Table 12: Availability of designated space for receiving and responding to requests (n=26)

5.4.11 Adequacy of the designated space

Further, from the respondents that gave an affirmative answer, the researcher sought to establish whether the physical and virtual space available was adequate. In response to this question, 13 (86.7%) of the respondents indicated that the space was adequate while 2 (13.3%) of the respondents indicated that the space was inadequate.

Table 13 below illustrates the adequacy of space for receiving and responding to requests

	Frequency	Percent
Yes	13	86.7
No	2	13.3
Total	15	100.0

Table 13: Adequacy of designated space (n=15)

From Table 13, it is evident that majority of the respondents (86.7%) felt that the available space in ministries /departments was adequate for handling ATI requests.

5.4.12 Availability of space for proactive disclosure

Another aspect of ATI implementation that requires physical space is proactive disclosure. In view of this, this study sought to establish whether Ministries/ Departments had set aside space for public viewing of proactively disclosed information. In response to this question, 11(42.3%) of the respondents answered in the affirmative while 15 (57.7%) of the respondents noted that their Ministries/ department had no designated space for public viewing of proactively disclosed information.

Table 14 below illustrates the availability of physical space for viewing of proactively disclosed information.

	Frequency	Percent
Yes	11	42.3
No	15	57.7
Total	26	100.0

Table 14: Ministry/ Department established space for public viewing of proactively disclosed information (n=26)

From Table 14 above, 42.3% of the respondents reported that their ministries had adequate space for proactive disclosure. This finding was corroborated during the visits to the various ministries where the researcher observed that few ministries had designated space for proactive disclosure. As will be noted in the next chapter, the government has concentrated its proactive disclosure programmes to interaction through social media as well as advertisement through print and electronic media.

5.4.13 Adequacy of designated space for proactive disclosure

Further, in Ministries/ Departments that had designated space for viewing of proactively disclosed information, the study sought to establish if the space was adequate. In response, 10 (90.9%) of the respondents answered in the affirmative while 1 (9.1%) respondents indicated that the space was inadequate.

Table 15 below illustrates the adequacy of space for viewing of proactively disclosed information.

	Frequency	Percent
Yes	10	90.9
No	1	9.1
Total	11	100.0

Table 15: Adequacy of designated space for proactive disclosure (n=11)

Table 15 above illustrates that majority of the respondents (90.9%) reported that the space set aside for proactive disclosure in their ministries was adequate.

5.4.14 Whether Ministries/Departments had deployed specific staff to handle ATI requests

With regard to personnel resources, the study sought to establish whether ministries/ departments had deployed specific staff to handle access to information requests. It emerged that 18 (69.2%) of the respondents answered in the affirmative while 8 (30.8%) of the respondents indicated that their Ministries/ departments had not deployed staff to undertake ATI duties.

Table 16 below illustrates the deployment of staff to handle ATI duties in government ministries/departments.

	Frequency	Percent
Yes	18	69.2
No	8	30.8
Total	26	100.0

Table 16: Ministry/ Department deployed specific staff to handle ATI requests (n=26)

Table 16 above indicates that most of the ministries (69%) had deployed specific staff to handle ATI requests. Indeed, this finding validates the observation made by the researcher during the visits to the various ministries. Specifically, the researcher observed that several Public Communication Officers had been deployed to the various ministries and departments. In most cases, the senior most was the Principal Public communication Officer who was deputised by a Chief Public Communications Officer; a Senior Public Communications Officer and a Public Communication Officer 1.

5.4.15 Total number of full-time (dedicated) staffs deployed to handle ATI requests

Further, from the respondents that answered in the affirmative, this study sought to know the total number of full-time staffs devoted to handling ATI requests and whether the number was sufficient. Respondents gave varying responses on the number of staffs undertaking ATI duties as illustrated in Figure 3 below.

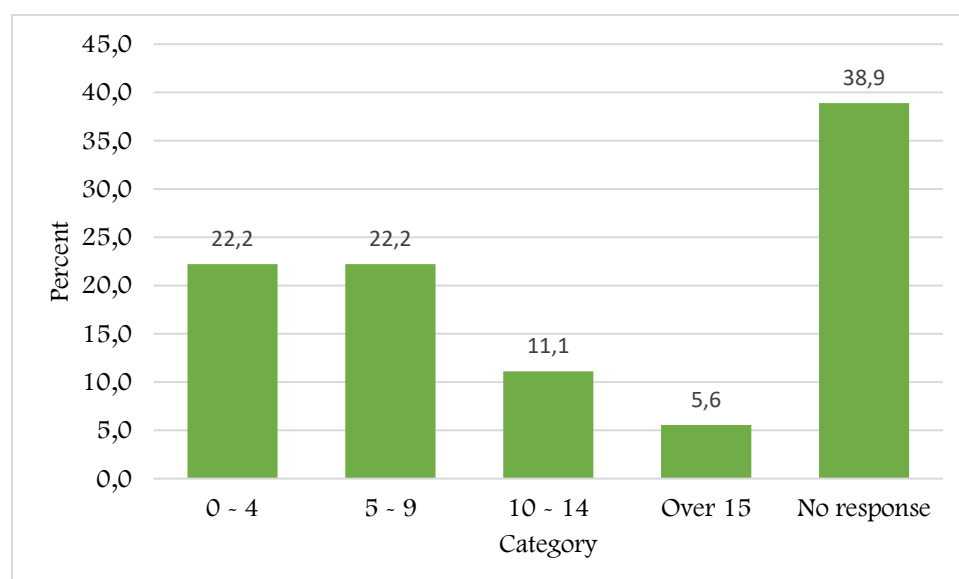


Figure 3: Full time staff deployed to hand ATI requests in government ministries /departments (n=18)

Figure 3 above indicates that the number of officers deployed to handle ATI requests ranged from 1 to 9 per ministry. Indeed, this finding is consistent with an earlier observation made by the researcher that noted that each ministry had a Principal Public Communication Officer as the head assisted by a Chief Public Communications Officer; a Senior Public Communications Officer and a Public Communication Officer 1. Other responses given to this question included:

The 12 members of the resolution of public complaints committee are the ones that handle ATI requests. (

NB. (The Public Complaints Committee is composed of representatives from various departments within the Ministry appointed by the Principal Secretary).

5.4.16 Adequacy of the deployed staff

On the question of whether the staff deployed to handle ATI requests were sufficient, 4 (22.2%) of the respondents answered in the affirmative while 14 (77.8%) of the respondents indicated that the staff deployed to handle ATI requests were insufficient.

Table 17 below illustrates the adequacy of staff deployed to handle ATI requests in government ministries/ departments.

	Frequency	Percent
Yes	4	22.2
No	14	77.8
Total	18	100.0

Table 17: Adequacy of deployed staff (n=18)

Table 17 above indicates that majority of the respondents (77.8%) reported that the staff deployed to handle ATI requests were inadequate. Indeed, this finding is consistent with the views expressed by the Director of Public Communication during the interview. Specifically, the Director noted that the staff available for implementation of the ATI legislation were inadequate owing to natural attrition and failure to replace the departed staff due to government freeze on employment.

5.4.17 Appointment of officer to undertake proactive disclosure

With regard to proactive disclosure, this study sought to establish whether any public official had been formally tasked/appointed to undertake proactive disclosure duties. Respondents gave varying answers to this question as illustrated in Figure 4.

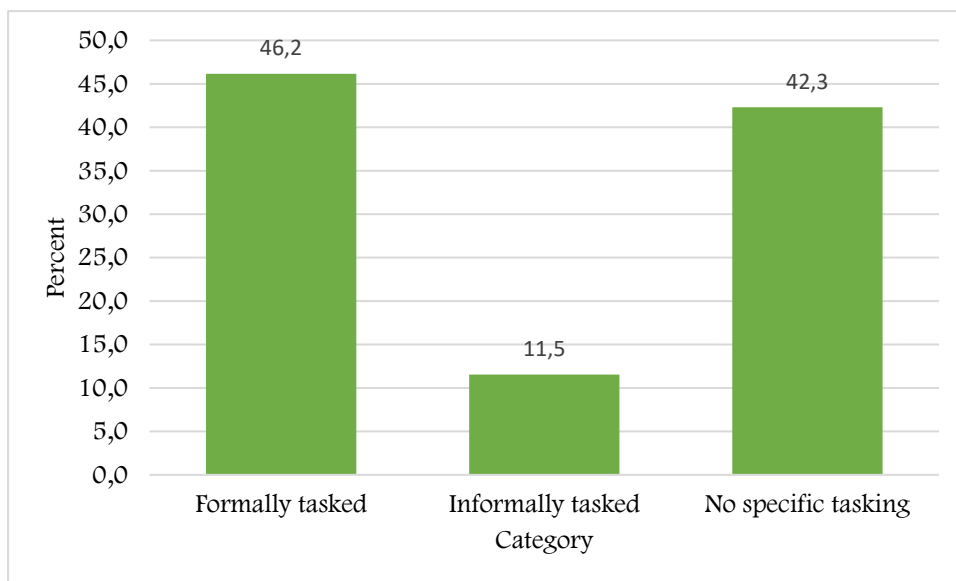


Figure 4: One or more public official tasked/ appointed responsible for proactive disclosure functions and duties (n=26)

Figure 4 above indicates that in some ministries a public official had been formally tasked with the duty of proactive disclosure. Indeed, this finding was attested to during the interviews with the senior ministry officials who noted that publicity issues in the ministry were mainly handled by the public communications department. On the other hand, a sizeable number of respondents (42.3%) were also of the view that no specific official had been tasked with proactive disclosure. This finding is also true particularly after July 2015 when the government consolidated the advertising and publicity budgets of public entities under the Government Advertising Agency (GAA). This means that the GAA undertakes publicity activities on behalf of the ministries. As a matter of fact, the My GOv pull-out in the newspaper that proactively discloses information on the achievements in the various public entities on a weekly basis is an initiative of the GAA.

5.4.18 Whether Ministry/Departments have set aside funds for undertaking ATI activities

With regard to financial resources, this study sought to establish whether Ministries/Departments had specifically allocated finances necessary for fulfilling ATI functions. In response, 14 (53.8%) of the respondents answered in the affirmative while 12 (46.2%) cited lack of financial allocation for ATI activities.

Table 18 below illustrates the level of allocation of finances for ATI activities in government ministries/ departments.

	Frequency	Percent
Yes	14	53.8
No	12	46.2
Total	26	100.0

Table 18: Ministry/ Department specifically allocated financial resources necessary for fulfilling its ATI functions and duties (n=26)

Table 18 above indicates that most ministries (53.8%) were allocated finances to handle ATI activities. However, when asked to produce a copy of the budget estimates to prove their assertion, most respondents were unable to do so. This means that the information provided was not true. Indeed, this is consistent with the earlier assertion that money meant for publicity activities in public entities is channelled through the Government Advertising Agency. The Ombudsman also weighed in on the issue of funding of ATI activities by pointing out that:

Most public entities have no resources for ATI as they consider it burdensome and have relegated it to the periphery.

5.4.19 Estimated funds allocated for ATI Activities

From the respondents who answered in the affirmative, the researcher sought to get an estimate of the allocated resources whether the finances were sufficient. Based on the finding above, this question was not applicable as no ministry had funds allocated to them. Indeed, one of the respondents captured this assertion by saying:

There are no allocation specifically for ATI activities.

5.5 Level of awareness of duty bearers of their responsibilities as stipulated in the Act.

The second research question sought to establish the level of awareness among public officers of their ATI duties as specified in the ATI Act 2016. The researcher sought to answer this question by administering questionnaires to information officers and public communication officers in government ministries/departments. The aspects covered by this question were elements that were viewed to have had an impact on the level of awareness of public officers of their ATI duties. These include:

- Presence or absence of an ATI training plan;
- Nature of courses in the ATI training plan;
- Whether ministries had conducted any ATI training;
- Period when the training was conducted in relation to the enactment of the ATI Act 2016;
- Categories of staff targeted by the ATI training;
- Mode of delivery of the ATI training;
- Duration of the ATI training;
- Caliber of the trainers;
- Areas covered by the training and
- Whether the training met the staff ATI needs.

Awareness among public officers of their ATI duties and functions plays a key role towards effective implementation of the ATI legislation. In this regard, this study sought to establish the level of awareness among ATI officers in government ministries of their ATI duties as provided in the ATI Act 2016. 13 (50%) of the respondents indicated that they were fully aware of the ATI duties as stipulated in the ATI Act 2016. Another 11 (42.3%) of the respondents indicated that they were slightly aware of their ATI duties as stipulated in the ATI Act 2016. However, 2 (7.7%) of the respondents indicated that they were completely unaware of their ATI duties as specified in the ATI Act 2016.

Table 19 illustrates the level of awareness among public officers of their ATI duties as stipulated in the ATI Act 2016.

	Frequency	Percent
Fully aware	13	50.0
Slightly aware	11	42.3
Fully unaware	2	7.7
Total	26	100.0

Table 19: level of awareness of roles and responsibilities in providing information as provided by ATI Act 2016 (n=26)

From Table 19 above, it is evident that half of the respondents were not fully aware (50%) of their responsibilities as provided in the Act. This finding corroborates with the views expressed by the Ombudsman that the Commission was yet to sensitize public officers and in particular Public Communications Officers on their roles as provided in the Act. The Ombudsman attributed the delay in sensitizing public officers to inadequate funding.

5.5.1 Availability of ATI training plan in Ministries/ Departments

The presence or absence of an ATI training plan in an institution is a key indicator of the level of preparedness towards implementation of the ATI legislation. In view of this, this study sought to establish whether government ministries/departments had formulated ATI training plans. In response, 11 (42.3%) of the respondents answered in the affirmative while 15 (57.7%) cited that their ministries had no ATI training plans.

Table 20 below illustrates the availability of ATI training plans in government ministries/departments in Kenya

	Frequency	Percent
With	11	42.3
Without	15	57.7
Total	26	100.0

Table 20: Ministry/ Department with ATI implementation training plan (n=26)

Table 20 above indicates that most of the ministries (57.7%) did not have an ATI training plan thus had no framework for training public officers on ATI. This finding offers an explanation to the earlier finding that indicated that 50% of public officers were not fully aware of their ATI duties.

5.5.2 Form of training captured in the training plan

Further, from the respondents that indicated that their Ministries/Departments had ATI training plans, the study sought to establish the form of training that the plan provided for. In this regard, respondents were asked to indicate from a list provided the form of training that was provided for in their ATI training plan. Respondents gave varying answers to this question as illustrated in Figure 5.

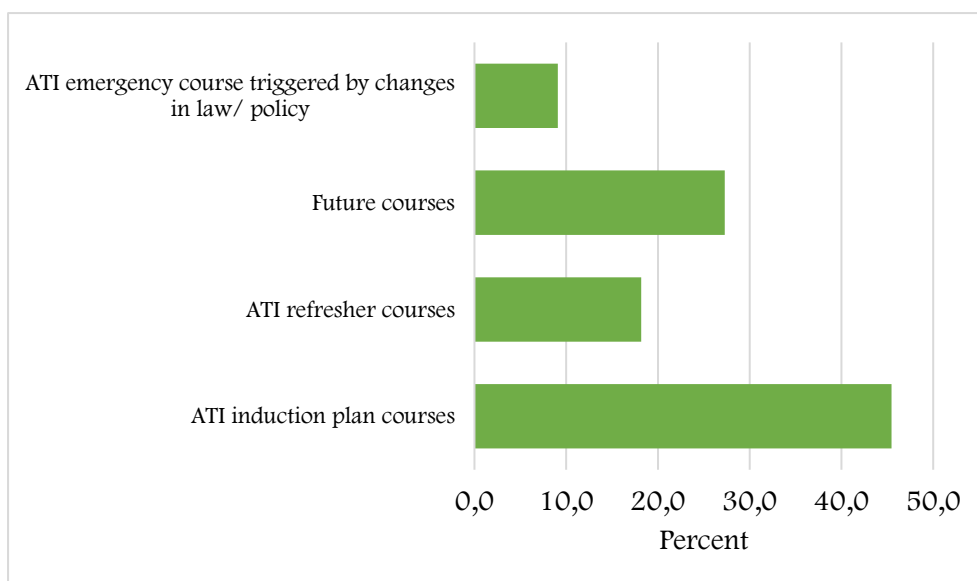


Figure 5: Form of ATI courses in the ATI training plan (n=11)

Figure 5 above shows that most (45.5%) of the training plans had provision for ATI induction courses where new staff joining the ministries were sensitized on matters ATI. Only (27.7%) of the respondents felt that there was provision for future ATI courses in the ATI training plans.

5.5.3 Whether Ministries/ Departments had conducted ATI training

This study also sought to establish whether Ministries/Departments had conducted any ATI training and awareness. 7 (26.9%) of the respondents answered in the affirmative while 19 (73.1%) of the respondents indicated that their ministries/departments had not conducted ATI training and awareness.

Table 21 below illustrates the extent to which ATI training and awareness has been conducted in government ministries/departments.

	Frequency	Percent
Conducted	7	26.9
Not conducted	19	73.1
Total	26	100.0

Table 21: Ministry/ Department conducted ATI training/ awareness

From the information in Table 21 above, it is evident that most (73.1%) ministries had not conducted any sensitization on ATI. This finding is consistent with the previous finding that

indicated that most ministries had no ATI training plan. Indeed, this finding also offers an explanation on why 50% of public officers were not fully aware of their ATI responsibilities. Further, this finding corroborates the views expressed by the Ombudsman that his commission had only conducted sensitization of public officers in few ministries. Similarly, the Director of Public Communication noted that his office was not aware of any ATI sensitization programme targeting Public Communication Officers.

5.5.4 Period when the ATI training was conducted

From the respondents that indicated that their ministries/ departments had conducted ATI training and awareness, this study sought to establish whether the training was conducted before or after enactment of the ATI Act 2016. Only 1 (14.3%) respondent indicated that the training was conducted before enactment of the ATI Act 2016. The other 6 (85.7%) respondents indicated that the ATI training and awareness was conducted after the enactment of the ATI Act 2016.

Figure 6 below illustrates the period when ATI training and awareness was conducted in government ministries.

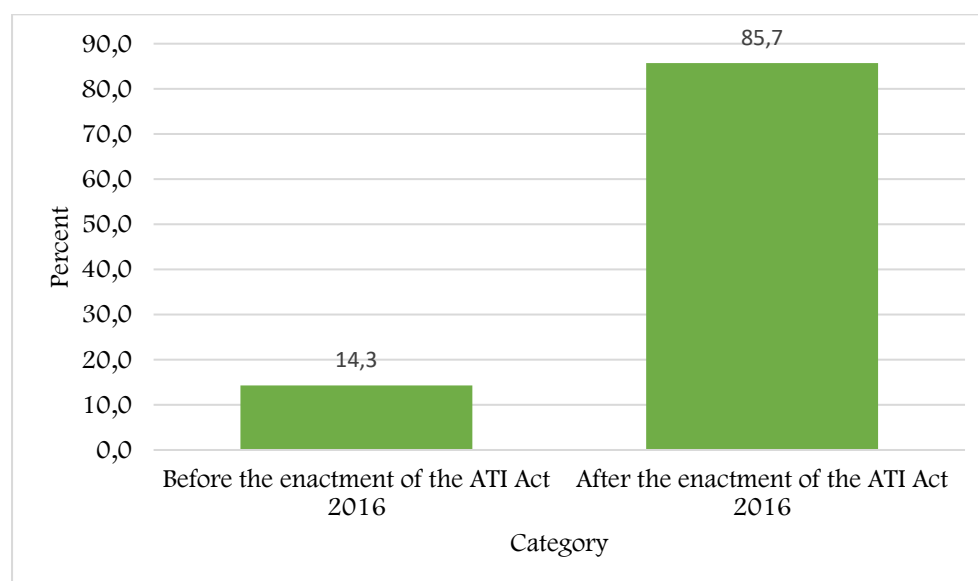


Figure 6: When ATI training was conducted (n=7)

Figure 6 above shows that in most (85.7%) ministries sensitization on ATI was conducted after the enactment of the ATI Act 2016. Indeed, this finding was attested to by copies of ATI training programmes that the researcher obtained from the ministries that had conducted ATI training. Similarly, the Ombudsman also confirmed that his office had conducted ATI training

in some public entities after the enactment of the ATI Act 2016. A copy of the training programme that attests to this is provided as Appendix 19 of this thesis.

5.5.5 Categories of staff targeted by the ATI training

This study also sought to establish the category of staff that were targeted by the ATI training. In this regard, respondents were asked to indicate from a multiple list provided the categories of staff that were targeted by the ATI training. Respondents gave varying responses to this question as illustrated in Figure 7.

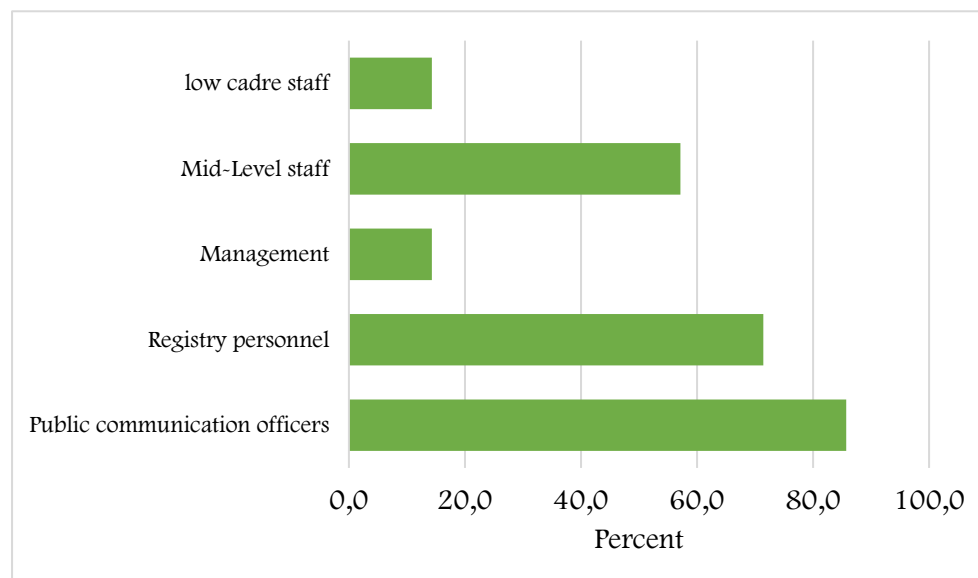


Figure 7: Categories of staff targeted by ATI training (n=7)

From the information in Figure 7 above, it is clear that the ATI training in ministries mainly targeted the Public Communication Officers (85.7%); registry personnel (71.4%) and middle level staff (57.1%). This finding is consistent with the observation made by the researcher during a visit to the ministries surveyed. Specifically, the researcher observed that ATI requests were handled by the Public Communication Officers. Other responses given to this question were:

The training targeted members of the resolution of public complaints committee who are charged with implementing ATI performance indicator.

5.5.6 Mode of delivery of the ATI training

Effectiveness of the ATI training is also determined by the mode of delivery. In this regard, the study sought to establish the methods that were used to deliver ATI training. As such, respondents were asked to indicate from a list provided the mode through which ATI training were delivered in their Ministry/Department. In response, 5 (71.4%) of the respondents indicated that the main mode of delivering ATI training was through group briefings/ seminars. Other respondents gave varying responses to this question as illustrated in Figure 8 below.

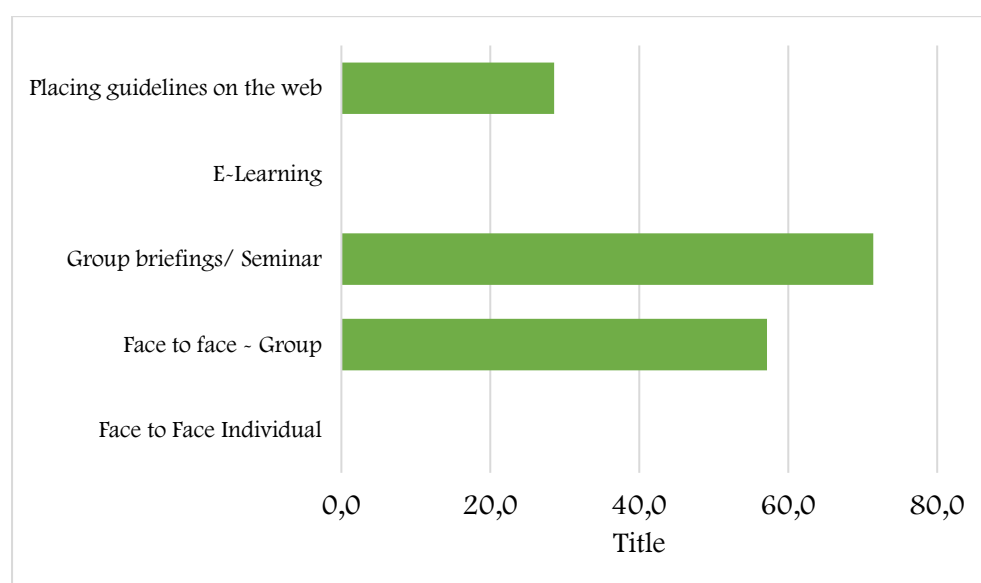


Figure 8: Methods used to deliver the training (n=7)

Figure 8 above indicate that the most (71.4%) used method of delivering ATI training was group briefings/seminars followed by face to face group interactions (57.1%). This finding is consistent with the views expressed by the Ombudsman where he stated that the Commission normally organises group seminars to sensitize public officials on ATI. Further, another 28.6% of the respondents reported that the mode of delivery used was through placing guidelines on the website. This finding is consistent with the views expressed by the Ombudsman that the Commission had communicated the ATI Performance Management guidelines to public entities by uploading them on its website. In the “others, please specify” category, one respondent mentioned “workshops.”

On the question of whether the ATI training delivery method was effective, some of the responses given include:

In the circumstances it was effective, it had to be conducted that way due to lack of funds occasioned by budget slashes.

5.5.7 Duration of the Training

The efficacy of an ATI training is also dependant on the duration of the training. In this regard, respondents were asked to indicate from a multiple list provided the duration of the ATI training conducted in their Ministries/departments. Respondents gave varying responses to this question as indicated in Figure 9 below

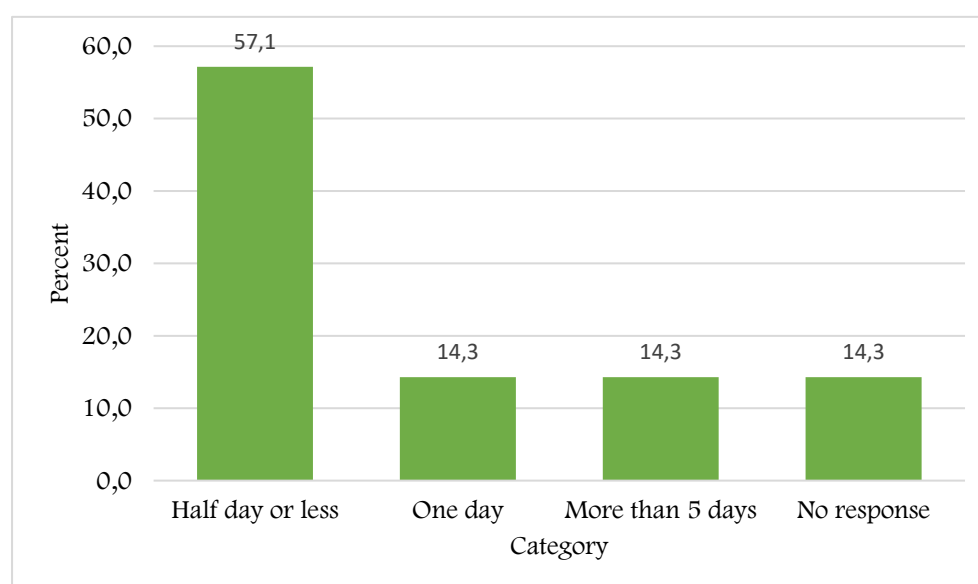


Figure 9: Duration of training

From the information in Figure 9 above, it is evident that most (57.1%) of the ATI training lasted for half a day or less. Indeed, this finding is attested to from the copies of ATI training programmes that the researcher obtained from the ministries that had conducted ATI training. As a matter of fact, in one of the training programme the aspect of ATI had been slotted for only one hour under the title “*Promoting Access to Information Act 2016 and its obligations on public institutions*”. A copy of this training programme is provided as Appendix 19 of this thesis.

However, there were also few cases where the ATI training lasted for a day as was reported by 14.3% of the respondents. This finding is corroborated by copies of ATI sensitization programmes that the researcher obtained from the Ombudsman and which lasted for at least

two days. In the first instance, the Ombudsman organised an ATI sensitization programme targeting county government officers which lasted for two days. In the second instance, the Ombudsman organised another ATI sensitization programme targeting its staff which also lasted for two days. Copies of these training programmes are provided as Appendix 28 and 20 of this thesis respectively.

5.5.8 Calibre of the trainers

Further, this study sought to establish the calibre of the ATI trainers. Specifically, respondents were asked to indicate from a list provided the calibre of the trainers that conducted ATI training. In response, 5 (71.4%) of the respondents indicated that the training was provided by trainers from within the ministry. Only 1 (14.3%) respondent indicated that the training was conducted by external consultants while 1 respondent did not respond to this question. Although, most respondents indicated that the trainers of ATI were from within the ministry, this finding was found to be incorrect. As a matter of fact, most of the respondents could not provide copies of ATI training programmes to back up their claims. In one of the ministries where the researcher obtained a copy of the ATI training programme the training was to be conducted by an official from the Ombudsman office and not a staff from within the ministry. The use of external consultants to train on ATI is exemplified in the training organised by the Ombudsman office for its own staff. A copy of this training programme is provided as Appendix 20 of this thesis.

Some of the responses given in the “others, please specify category” included:

A tailored training is conducted by the Ombudsman from there trained officers can train others within the ministry.

5.5.9 Areas covered in the training

ATI implementation International best practices demand that an effective ATI training should cover certain specific aspects. In this regard, this study sought to establish whether the ATI training mounted in government ministries/departments met these standards. As such, respondents were asked to indicate from a list provided the areas covered by their ATI training programme.

As indicated in Figure 10 below the ATI training provided in government ministries covered varied areas.

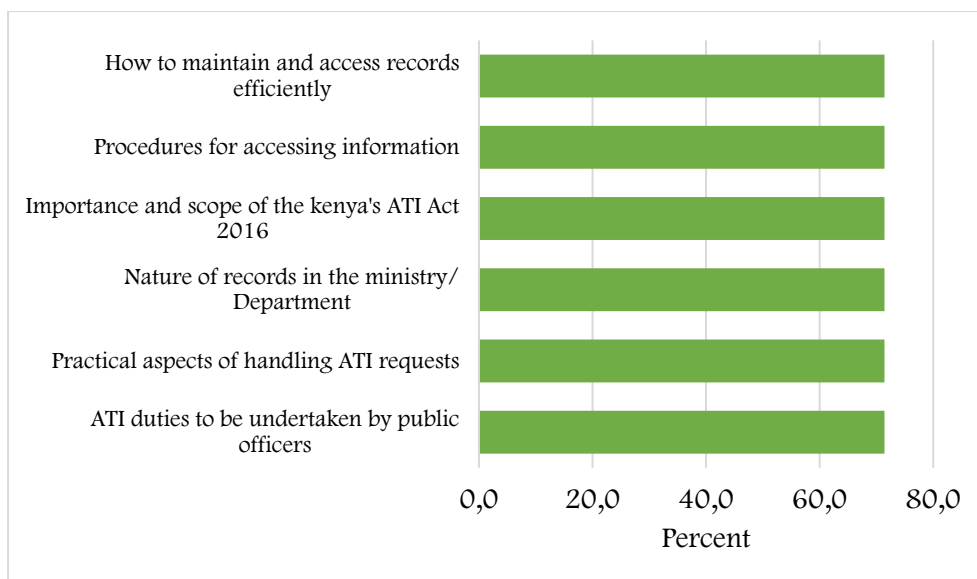


Figure 10: Areas covered in the training

Figure 10 above indicates that the ATI training conducted in the ministries covered all the topics that are deemed necessary for an effective ATI training. However, the researcher was unable to verify this finding since most of the respondents did not avail copies of their ATI training programmes. In the one ministry where the researcher was able to obtain a training programme, ATI was only allocated only one hour thus only the aspect of “*ATI Act obligation on public institutions*” was covered. However, it is also important to note that during the interview the Ombudsman indicated that his office was yet to develop an ATI training curriculum that would guide the training of public officers on ATI. As a consequence, the ATI training programmes developed by the Ombudsman were not comprehensive. Indeed, a scan through the two training programmes that the ombudsman organised for the county government officers and for its staff revealed that the topics covered were not exhaustive. For instance, the two programmes did not cover any aspect on records management, data protection as well as practical aspects of handling ATI requests.

5.5.10 Whether the ATI training met the staff training needs

The study also sought to establish whether the ATI training provided in government ministries met the staff ATI training needs. In response, 5 (71.4%) of the respondents answered in the affirmative while 1 (14.3%) respondent indicated that training did not meet his/her ATI training needs. However, 1 respondent did not respond to this question. An ATI training would only be deemed to have met the staff training needs if it covered all the topics that are required.

Although this finding indicated that the ATI training offered fulfilled the staff ATI training needs, the researcher was unable to verify these claims since most ministries did not avail copies of their ATI training programmes.

Respondents were also asked to suggest topics that should be included in the ATI training. Some of the topics suggested include:

Using ICT to access information; resolution of public complaints and ATI as a service to citizens.

5.5.11 whether officers have been trained on proactive disclosure

With regard to training on proactive disclosure, this study sought to establish whether the officers responsible for proactive disclosure had been trained to comply with their duties. Majority 4 (57.1%) of the respondents indicated that officers in charge of proactive disclosure had received specialized training. Other respondents gave varying answers to this question as illustrated in Figure 11 below.

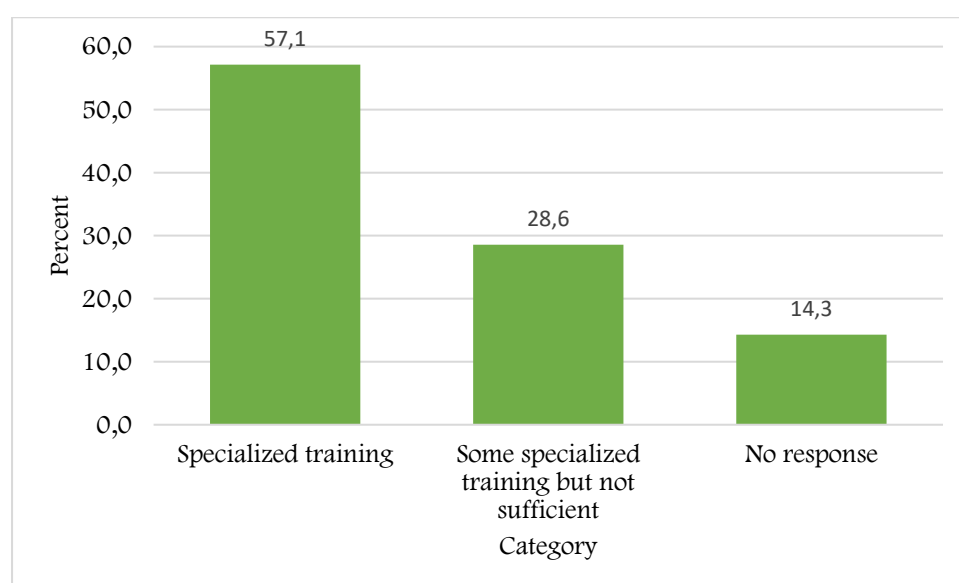


Figure 11: Public officer responsible for proactive disclosure trained to comply with their duties

From Figure 11 above, it is evident that in most (57.1%) of the ministries the officers in charge of proactive disclosure had received specialized training. However, 28.6% also felt that officers responsible for proactive disclosure had received specialized training but not enough.

Further, respondents were also asked to suggest measures that could be undertaken to improve staff awareness on ATI. Some of the suggestions given include:

Creating different channels through which information can be disseminated.

Intensive sensitization on ATI.

5.6 Systems, procedures and structures in place in public bodies in Kenya to facilitate access to information.

The third research question sought to investigate the systems, procedures and structures in place for handling Access to Information (ATI) requests in public bodies in Kenya. This study sought to answer this question by administering questionnaires to public communication officers; interviewing Director of Administration in Ministries/Departments and administering an observation checklist in the ministries/departments visited. Specifically, systems and processes refer to rules and procedures in place to facilitate handling of ATI requests.

The following areas are covered in this research question

- Availability of guidelines for handling ATI requests;
- Systems used to handle ATI requests;
- Features of systems that handle ATI requests;
- Existence of publication schemes;
- Structures for auditing ATI functions; and
- Performance review of ATI function.

5.6.1 Availability of guidelines for handling ATI requests

Rules provide guidelines for undertaking various ATI activities and thus are very critical to effective implementation of ATI legislation. In view of this, this study sought to establish whether government ministries/ departments had created or adopted specific guidelines on ATI. In response to this question, 12 (46.2%) of the respondents answered in the affirmative while 10 (38.5%) indicated that their Ministries/departments had no rules to guide ATI activities. However, 4 (15.4%) of the respondents did not respond to this question.

The extent to which government ministries/departments have created or adopted rules to guide their ATI activities is illustrated in Table 22 below.

	Frequency	Percent
Adopted	12	46.2
Not Adopted	10	38.5
No response	4	15.4
	26	100.0

Table 22: Ministry/ Department created or adopted specific guidelines on ATI

Although the Table 22 above indicates that most (46.2%) had created and adopted specific guidelines for ATI, when respondents were asked to produce copies of those guidelines they failed to do so. Instead they made reference to International Standard Organisation (ISO) (ISO 9000: 2008) procedures and the service charter which they argued provided guidelines on customer care. This means that respondents may have misinterpreted this question hence resulting in a misleading finding.

5.6.2 Frequency of reviewing the ATI guidelines

Based on the finding above that Ministries/departments had no evidence of guidelines, the question of frequency of review of the guidelines is not applicable.

5.6.3 Specific areas that are covered by the guidelines

Similarly, the question on the specific areas covered by the guidelines is not applicable since Ministries/ departments didn't have ATI guidelines. However, it is important to point out that ministries have customer service charters that specified the time it would take to obtain information relating to the technical operations of the ministry. Similarly, the International Standard Organisation (ISO) procedures on customer service detailed the procedures to be followed when releasing information to the public.

5.6.4 Systems in place for handling ATI requests

Effective implementation of an ATI legislation demands that public entities put in place certain systems to handle access to information requests. In view of this, this study sought to establish the systems and structures for handling access to information requests that were in place in government ministries. Respondents were asked to indicate from a list provided the system that their ministry/department used to receive ATI requests. Respondents gave varying responses as indicated in Figure 12 below.

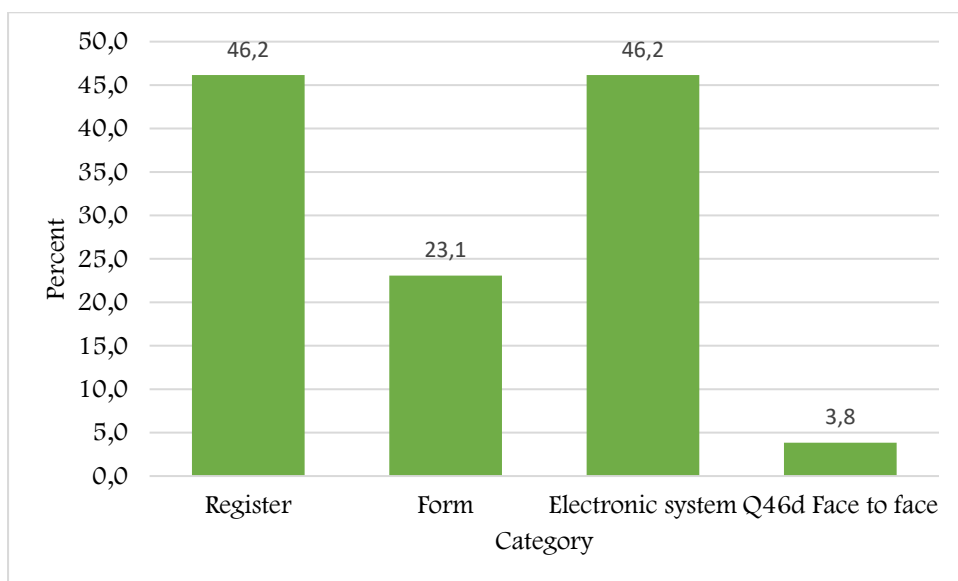


Figure 12: Systems used to retrieve ATI request (n=26)

From Figure 12 above, it is clear that most 12 (46.2%) of the respondents indicated that ATI requests were received and recorded in a register. This finding was corroborated through observation where the researcher had a chance of perusing physical copies of the register that were used to record ATI requests. Although, the electronic system was also cited as another system for recording ATI requests, none of the ministries surveyed were able to demonstrate the electronic system they used to record ATI requests. This meant that this particular information may not be true. Another 6 (23.1 %) of the respondents reported that ATI requests were made by filling in a form while 1 (3.8%) observed that ATI requests were dealt with face to face. The use of form and register is particularly important since in the Access to Information Performance Management guidelines issued by the Ombudsman, public entities are expected to maintain a register detailing all the ATI requests received as well as have a form that is to be filled by citizens requesting information in the public entity. A template of the “Application of Access to Information Form” and the ‘Access to Information register” are provided as appendices to this thesis. See Appendix 22 and Appendix 24 respectively.

On the question of whether the preferred ATI system was sufficient, some of the responses given included:

Yes, it is sufficient, as no request has gone unattended.

5.6.5 Format in which ATI requests are received

Further, the study sought to establish the format in which ATI systems in government ministries allowed requests to be made. Majority of the respondents 15 (57.7%) indicated that their ATI systems allowed requests to be made in written format. The other respondents gave varying responses as illustrated in Figure 13 below.

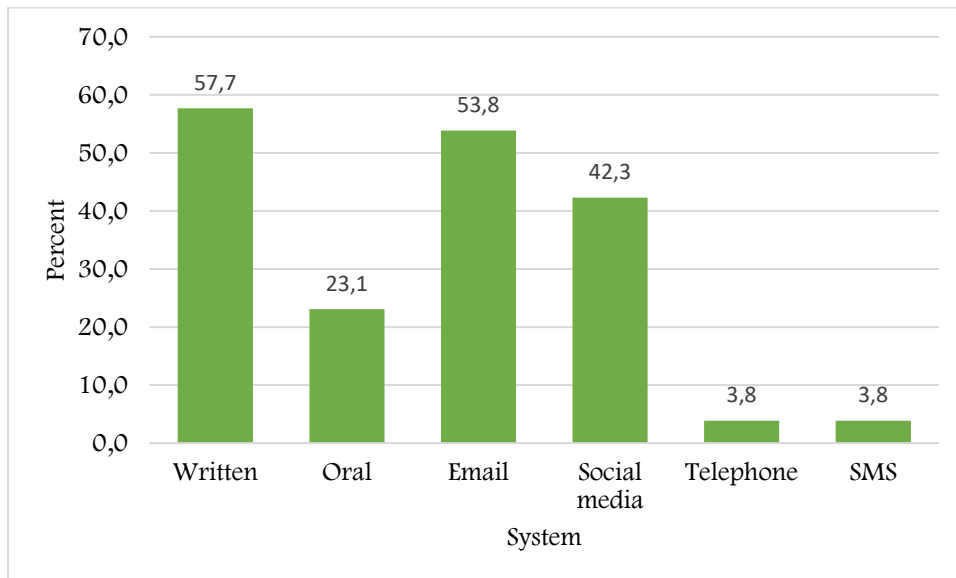


Figure 13: Format which systems allows request to be made (n=26)

From Figure 13 above, it is evident that majority (57.7%) of the ATI requests were received in written form. Indeed, the researcher was able to attest this finding by being shown samples of ATI requests in form of letters addressed to the Principal Secretary. Similarly, this researcher's request to collect data from the ministries/departments was treated as an information request and he was advised to write an official letter to the Principal Secretary detailing the specific information he requires and for what purpose.

In the same vein, 53.8% of the respondents also cited e-mail as another platform through which ATI requests are received. However, the researcher was unable to verify this finding since no government official was willing to share information received in form of emails. The other platforms mentioned were social media 42.3%; telephone 3.8% and short message service at 3.8%. As for social media, it is important to note that all ministries have a social media page and handle that is managed by the public communication department. However, there is no government-wide social media policy thus making it difficult to respond to requests made on social media. In most cases citizens requesting information through social media will be asked to write a formal letter addressed to the Principal Secretary. Likewise, citizens making ATI

requests through telephone and short message service (SMS) are required to write official letters. However, on the issue of request made through social media and email, one of the respondents noted that:

Email requests and request raised on social media platforms are received and the information provided through email.

5.6.6 ATI activities that can be performed by the system

The study also sought to establish the specific ATI activities that can be performed by the ATI systems created or adopted by government ministries. In view of this, respondents were asked to indicate from a list provided the activities that their ATI systems are able to perform. Respondents gave varying responses to this question as illustrated in Table 23 below.

	Yes	No	No response
Logging and tracking requests and responses	38.5	15.4	46.2
Processing requests	42.3	7.7	50.0
Transferring requests	38.5	3.8	57.7
Issuing and serving responses	50.0	0.0	50.0
Proactively disclose documents	38.5	3.8	57.7
Capture of ATI requests statistics	34.6	7.7	57.7

Table 23: Functions performed by the system (n=26)

Although respondents gave varying responses on the various functions that can be carried out by the systems used for handling ATI requests in government ministries, our analysis of this question will be based on the findings in section 5.6.4. As pointed out in that section, the only system that the researcher was able to verify its use was the register. Some of the ATI activities that a register allows the user to perform include capturing and tracking requests as indicated by 38.5% of the respondents as well as capturing statistics of the requests as observed by 34.6% of the respondents. Notably, the ATI Performance Management guidelines requires public entities to provide statistics of number of ATI requests received and processed.

5.6.7 Whether ATI activities in Ministries/Departments were audited

This study also sought to establish whether ATI activities in government ministries/departments were audited. In response to this question, (61.5%) of the respondents answered in the affirmative while 4 (15.4%) of the respondents indicated that ATI activities were not internally audited. However, 6 (23.1%) of the respondents did not respond to this question.

Table 24 below illustrates the extent to which ATI activities are internally audited in government ministries/ departments.

	Frequency	Percent
Yes	16	61.5
No	4	15.4
No Response	6	23.1
	26	100.0

Table 24: Ministry/ Department internal oversight body/ auditing mechanism take into account ATI functions and duties

Although 61.5% of the respondents indicated that their ATI activities were audited, they did not provide the criteria that was used to assess their ATI duties. As such, this finding may not be true. However, it is important to note that following the mainstreaming of ATI in the public service through inclusion in Performance Management as from July 2017, public entities will be assessed of their compliance to the performance contracting requirements. The capturing of ATI as a performance target may prompt ministries and departments to have it audited by their internal auditors for compliance purposes.

5.6.8 Whether Ministries/Departments included ATI in their performance review

This study also sought to establish whether ministries/ departments included ATI in their performance review. Respondents gave varying responses to this question as illustrated in Table 25 below.

	Frequency	Percent
Take into account ATI for all officers who handle and manage information	9	34.6
Take into account for officers tasked with specific ATI functions and duties	9	34.6
Does not take into account ATI	3	11.5
No Response	5	19.2
	26	100.0

Table 25: Ministry/ Department performance review take into account ATI

Table 25 above indicates that 34.6% of the respondents reported that their ministries\department's performance review takes into account ATI for all officers who handle and manage information as well as officers tasked with specific ATI functions and duties. However, this finding is not true since as mentioned in section 5.6.7 performance contracting in ATI was only introduced by government in July 2017. Although Public Communication Officers have been setting targets on public relations activities in their ministries, these targets did not incorporate the aspect of ATI particularly before enactment of the ATI Act 2016.

5.7 The current records management strategies in government ministries and the extent to which they facilitate or undermine implementation of the Access to Information Act (ATI) 2016.

The fourth research question sought to investigate the existing records management practices in Government ministries/Departments and the extent to which they facilitate or undermine the implementation of the Access to Information (ATI) Act 2016. To answer this question, the researcher administered questionnaires to registry heads and registry clerks; interviewed Senior Ministry officials and the Director National Archives and filled in observation checklists in the ministries/departments surveyed. The following broad areas were addressed under this research question:

- Leadership and policy in management of records;
- Registry procedural manuals and budget;
- Records creation and use;
- Mail management;

- Records classification system;
- Records retrieval and access;
- Records storage;
- Records inventory;
- Records appraisal and scheduling;
- Records disposition;
- Disaster management and security control;
- Electronic records management; and
- Access to information and public records.

5.8 Leadership and policy in records management

5.8.1 Existence of a records management policy

Sound records management is anchored on top management support as well as existence of a records management policy framework. To establish the existence of policy framework for records management, records managers were asked whether their ministries had formulated a records management policy. In response to this question, 6 (37.5%) of the respondents indicated that their ministries had a written records management policy while 10 (62.5%) of the respondents indicated that their ministries had no policy for management of records.

Respondent's responses to the existence of policy is illustrated in Figure 14 below:

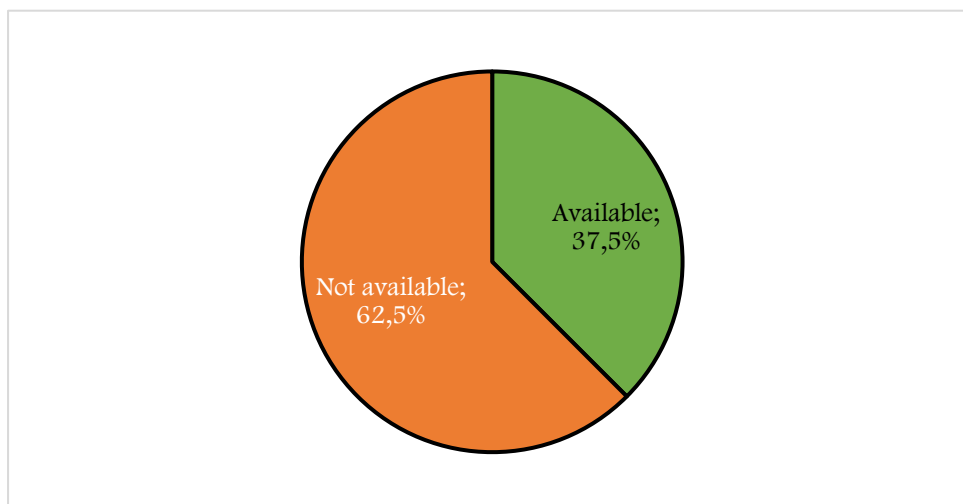


Figure 14: Ministries with written records management policy for managing paper and electronic records (n=16)

From the Figure 14 above, it is apparent that majority 10 (62.5%) of the ministries did not have a written records management policy. The absence of records management policy undermines implementation of the ATI Act as it means there are no documented guidelines of ensuring records are managed efficiently.

5.8.2 Aspects covered by the records management policy

Further, respondents who indicated that their ministries had formulated a records management policy were asked to indicate the aspects covered by their records management policy from a multiple list provided. Five of the respondents (83.3%) indicated that their records management policy made reference to the provisions of the Public Archives and Documentation Service Act. On the other hand, 4 (66.7%) of the respondents indicated that their Ministries' records management policy made reference to the Access to Information Act 2016; records management best practices; provided guidelines on accessing public records and stipulated the responsibilities of records management staff. Some of the responses given in the "others, please specify" category included:

Our policy covers electronic records guidelines; disaster preparedness and responsibility for other officers.

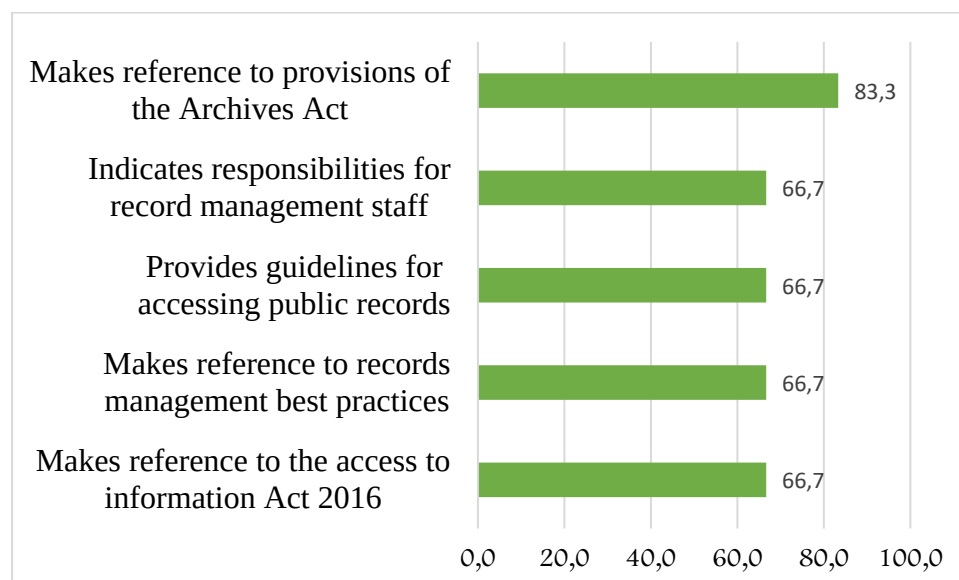


Figure 15: Aspects covered in the records management policy (n=6)

Figure 15 above shows that in ministries that had records management policies, these policies adequately addressed all the aspects relating to the management of records with some even making reference to the Access to Information Act. Majority (83.3%) of the policies made

reference to the Archives legislation. This finding is consistent with the views expressed by the Director National Archives who noted that:

My department has been assisting ministries to formulate records management policies. These policies borrow heavily from the provisions of the Public Archives and Documentation Service Act.

However, it is important to note that since most of these policies were formulated before the enactment of the ATI Act 2016, their reference to the aspect of access to information is not elaborate. Indeed, a scan through some of the policies revealed that reference to ATI was only implied through a broad statement like:

Access to records and information will not be limited and shall be provided within the existing regulatory framework based on the need to know principle.

Conversely, the few records management policies that were developed after the enactment of the ATI Act 2016 had a more elaborate reference to the ATI Act 2016. For example, one of the policies had the following statement:

The process of accessing information shall be flexible enough to respect the access to information requirements provided that the guidelines in the government security manual are not contravened.

The upshot is that a records management policy that clearly articulates the aspect of ATI facilitates implementation of the Act.

5.8.3 Whether Ministry's official with authority over policy actively participates in the creation, adoption and review of the records management policy

To establish the extent of top management support for records management, respondents were asked whether the Ministry's official with authority over policy actively participated in the creation, adoption or review of the records management policy. Five (83.3%) of the respondents indicated that the Ministry's official with authority over policy actively participated in the creation, adoption and review of the records management policy. On the other hand, one respondent (16.7%) indicated that the Ministry's official with authority over policy did not actively participate in the creation, adoption and review of the records management policy. Respondent's responses are illustrated in Figure 16 below:

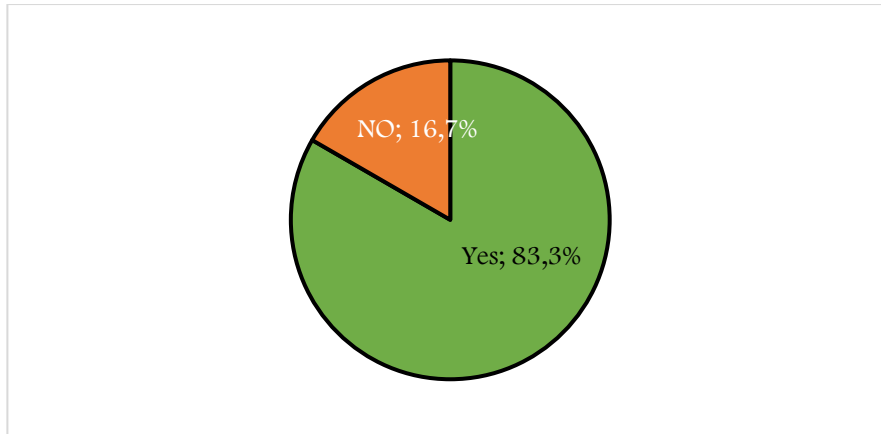


Figure 16: Participation of senior official in the creation, adoption and review of the records management policy (n=6)

Figure 16 above shows that majority (83.3%) of the respondents indicated that senior officers participated in the creation, adoption and review of the records management policies. This finding is consistent with the views expressed by the Directors of Administration who pointed out that they were always willing to assist in coming up with policies that can streamline management of records. Ironically, although this finding indicates that many senior officers support formulation of records management policy, section 5.7.1 indicated that few ministries had formulated records management policies.

5.8.4 Frequency of involvement of senior officials in the creation adoption and review of records management policy

Further, respondents who indicated that the Ministry's official with authority over policy was actively involved in the creation, adoption and review of the records management policy were asked to indicate the frequency of the involvement. Two (40%) respondents indicated that the Ministry official with authority over policy was involved in the creation, adoption and review of the records management policy once a year. Similarly, two (40%) respondents indicated that the Ministry's official with authority over policy was not involved in the creation, adoption and review of the records management policy. Lastly, one (20%) respondent indicated that the Ministry official with authority over policy was involved in the creation, adoption and review of the records management policy twice a year. The frequency of involvement is illustrated in Figure 17 below:

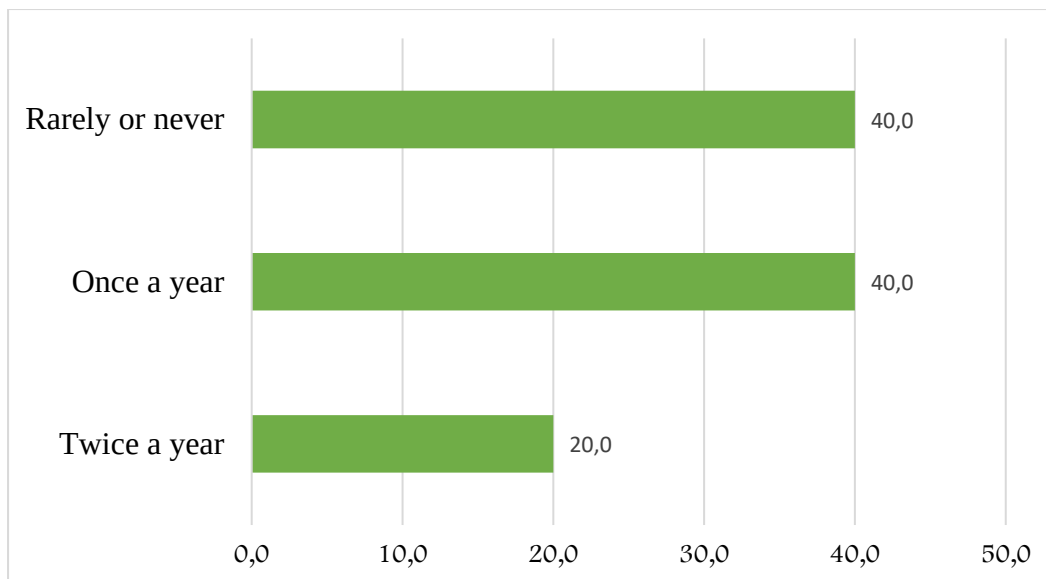


Figure 17: How often does the Ministry's official participate in the creation, adoption and review of the policy (n=5)

Figure 17 above shows that majority 2 (40%) of the respondents reported that senior ministry officials were involved in creation and review of records management policies at least once a year. This finding suggests that although senior ministry officials are involved in the creation and review of the records policy their frequency of involvement is minimal perhaps due to other engagements.

5.8.5 Existence of records management procedures

For a records management policy to be effective and operational, it has to be supplemented by records management procedures manual that will ensure that records management activities are standardised across government ministries. To establish the existence of records management procedures manual, records managers were asked whether their ministries had a written records management procedure manual. Majority 14 (87.5%) records managers indicated that their Ministries had a records procedural manual. On the other hand, 2 (12.5%) heads of registries indicated that their ministries lacked a records management procedural manual. The existence of records management procedural manual in government ministries is illustrated in Figure 18 below:

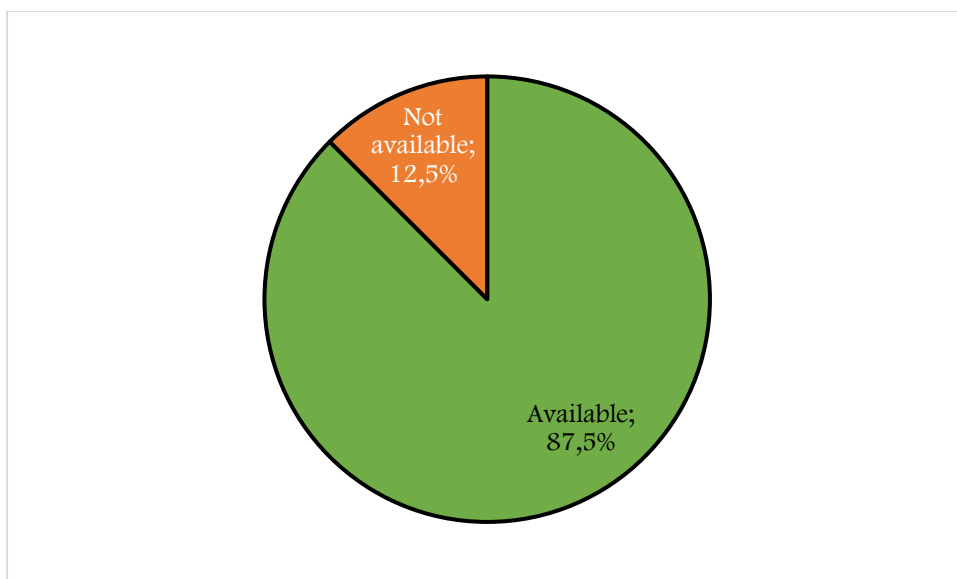


Figure 18: Existence of a records management procedural manual in government ministries (n=16)

Figure 18 above shows that majority 14 (87.5%) of the ministries had records management manuals. This finding is consistent with the views expressed by the Directors of Administration who pointed out that there were procedures in place to guide registry officers in their work. Similarly, the Director National Archives also noted that:

The government developed a records procedures manual in 2010 which though not mandatory can be regarded as a code of practice for records management in the public service. The manual has eased the work of registry officers and ministries use it in developing agency-specific records manuals that address their needs.

5.8.6 Aspects covered in the records procedure manual

In addition, the respondents who indicated that their Ministries had a written records management procedures manual were asked to indicate the aspects covered by the manual from a list provided. Fourteen (100%) heads of registries indicated that their records management procedures manual covered the following areas: procedures for ensuring records security; procedures for accessing records; procedures for ensuring records retrieval efficiency and procedures for preservation of records with long term value.

On the other hand, 13 (92.9%) heads of registries indicated that their records management procedural manual outlined procedures for records management from creation to disposition. In the same vein, 11 (78.6) heads of registries indicated that their records management procedural manual outlined procedures for handling an access to information request. The areas

covered in the various records management procedural manual are illustrated in Figure 19 below:

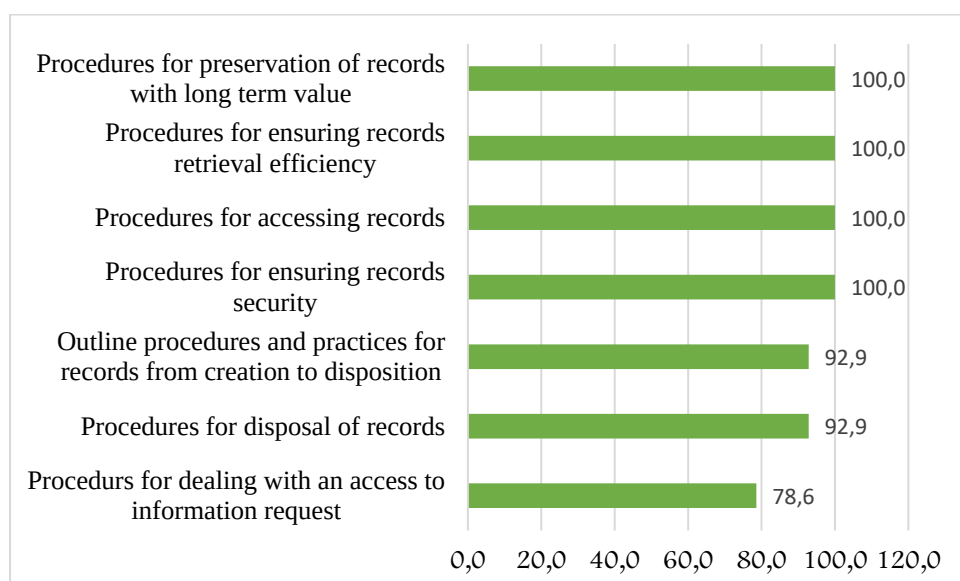


Figure 19: Aspects covered in the records procedure manual (n= 14).

Figure 19 above indicates that most records management manuals in government ministries addressed pertinent issues relating to the sound management of records thus facilitating implementation of ATI. This finding was corroborated through observation where the researcher perused through copies of the manuals and confirmed that indeed they addressed all these areas.

However, since these manuals were developed before the enactment of the ATI Act 2016 many of them did not have an elaborate procedure for dealing with an access to information request. Indeed, in most of the ministries the Directors of Administration noted that there were plans to review these manuals to align them with the provisions of the ATI Act 2016.

5.8.7 Reference points for records management decisions

Records managers were also asked to indicate their reference point when making decisions on management of records. Five (31.3%) records managers indicated that they made reference to colleagues and past decisions (precedent). On the other hand, 7 (43.8%) records managers indicated that they relied on their own intuition in making decision on management of records. Further, 8 (50%) records managers indicated that they consult their supervisor in making decisions on management of records. Lastly, 11 (68.8%) records managers indicated that they make reference to the Government of Kenya records management procedural manual when

making decisions on management of records. Figure 20 below illustrates the various points of reference that records managers make use of in making decisions pertaining to management of records.

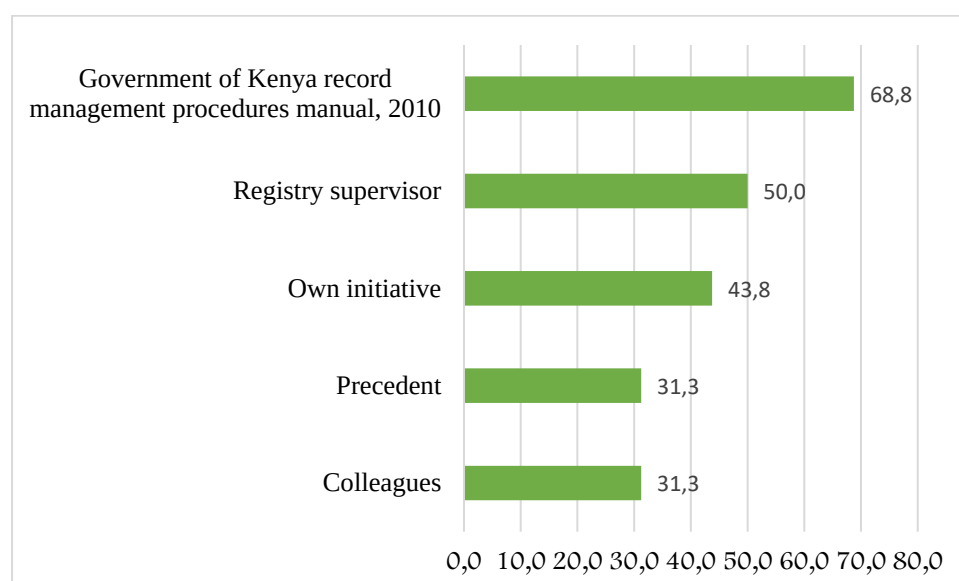


Figure 20: Reference points for records management decisions (n=16)

From Figure 20 above, the government’s records management procedure manual is the most (68.8%) consulted document in making records management decisions in government ministries. Indeed, this researcher had a chance to peruse the government records manual and confirmed that indeed it comprehensively addressed all the pertinent issues relating to sound records management. The presence of a government-wide records manual has facilitated the streamlining of records management in government ministries and standardised the management of records across the public service. For purposes of this study, the use of the government records manual has facilitated the implementation of the ATI Act 2016. Another reference point mentioned was the “National Archives manual on records management.” Which is different from the Government records management manual 2010.

5.8.8 Budgetary allocation for records management activities

Streamlining management of records in government ministries entails undertaking various records management activities such as sensitization of staff; records survey; records appraisal; acquisition of records management storage space and equipment among others. All these activities have a cost implication and thus require to be budgeted for. In this regard, records managers were asked whether their ministries had allocated a budget for records management

activities. Seven (43.8%) of the respondents indicated that their ministries had a budgetary allocation for records management. Conversely, 9 (56.3%) of the respondents indicated that their Ministry had not allocated any budget for records management. Figure 21 below illustrates the extent of budget allocation for records management in government ministries.

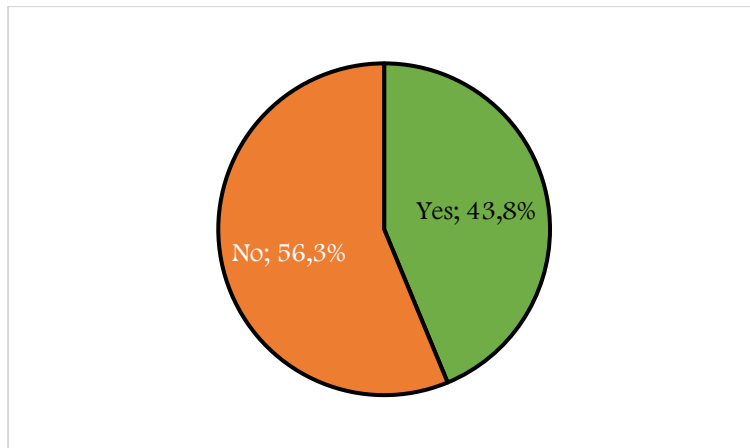


Figure 21: Budgetary allocation for records management activities in the department (n=16)

Figure 21 above shows that most 9(56.3%) of the ministries did not have a budgetary allocation for records management activities. This finding was corroborated by the views expressed by the Directors of Administration in ministries who noted that:

There is no dedicated vote for records management activities. What we have is an administration vote from which all administrative activities draw their funds.

The researcher was also able to confirm these assertions through observation particularly by perusing through budget estimates statements of some ministries. The issue of inadequate budgetary allocation was also highlighted by the Director National Archives. He noted that:

The biggest challenge facing the Department is inadequate funding. While our mandate is very broad, we have no funds to execute it.

He went on to give an example:

For instance, the Public Archives and Documentation Service Act requires us to publish finding aids to publicise our collection. However, in this financial year 2018/2019, we were only allocated \$2.5 to publicize our collection. That is how dire the situation is in terms of funding.

However, in some ministries 7 (43.8%) records management activities were well funded. This was particularly true in ministries where records management activities were supported by the top management.

5.8.9 State of registry for those with budgetary allocation

Additionally, respondents that indicated that their Ministries had a budgetary allocation for records management were asked to indicate the state of registry funding in their Ministry from a list provided. Two (28.6%) of the respondents indicated that the registry funding in their Ministries' was adequate. Likewise, 2 (28.6%) other respondents indicated that the registry funding in their Ministries had increased over the last five years. On the contrary, 1 (14.3%) respondent indicated that the registry funding in his/her Ministry had decreased over the last five years. Another 1 (14.3%) registry head indicated that the state of registry funding remained the same while 1 (14.3%) did not respond to this particular question. The state of registry funding in government ministries is illustrated in Figure 22 below:

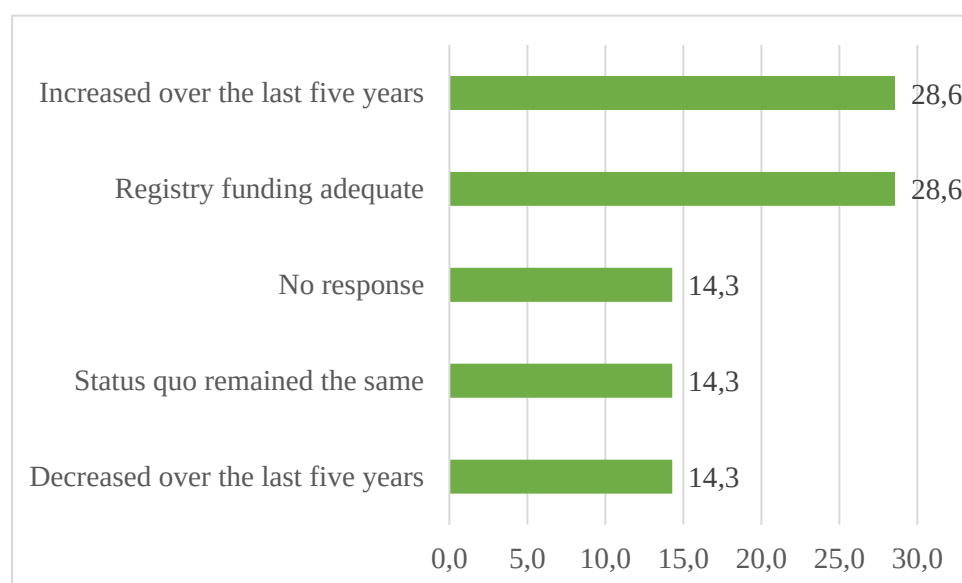


Figure 22: State of registry for those with budgetary allocation (n=7)

Figure 22 above shows that (28.6%) of the respondents reported that the registry funding was adequate and had increased over the last five years. This finding is consistent with the views expressed by the Directors of Administration who noted that:

In the last few years we have come to appreciate that records are key to our operations as a ministry. In this regard, we have been supporting the registry even financially to ensure that our records are managed effectively.

On the contrary, there is the (14.3%) of the respondents who reported that the state of their registry funding remained the same or decreased over the last five years. This finding is consistent with the views expressed by one of the Directors of Administration:

You are aware that our economy has been on a downturn in the last few years owing to unmet revenue collection targets as well as a prolonged electioneering period. In such circumstances, we have had to prioritise and unfortunately the registry and other areas have been affected.

5.8.10 Experience challenges due to current state of registry funding

Records managers in government ministries were also asked to state if they experienced problems owing to the current state of registry funding. Eleven (68.8%) of the respondents indicated that indeed they experienced problems due to the current state of registry funding. On the contrary 2 (12.5%) of the respondents indicated that they didn't experience any problem due to the current state of registry funding. The other 3 (18.8%) respondents did not respond to this particular question. Figure 23 below illustrates the impact of the current state of registry funding on the Ministries.

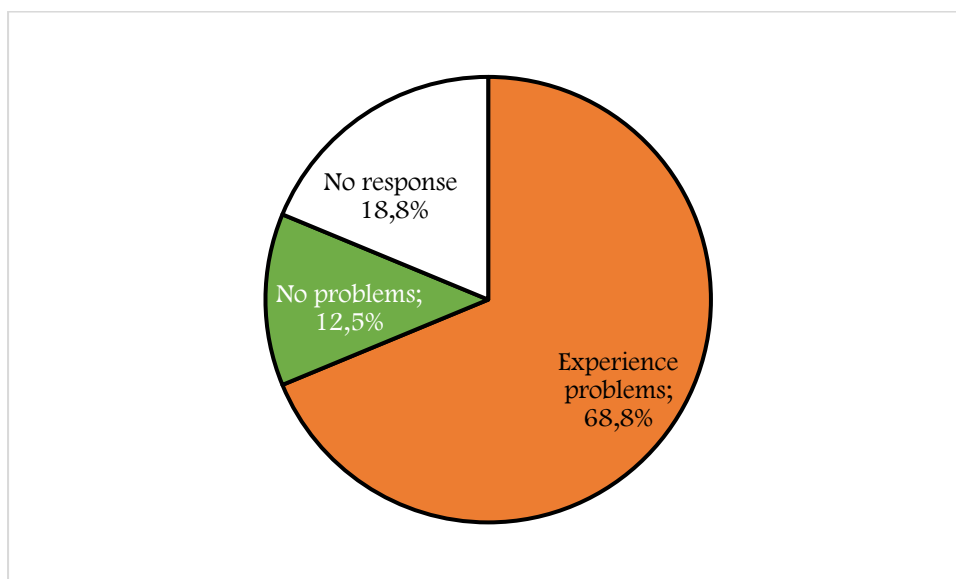


Figure 23: Experience challenges due to current state of registry funding (n=16)

Figure 23 above shows that majority (68.8%) of the ministries experienced challenges due to poor funding of the registry. This finding is consistent with the views expressed by the Director National Archives who noted that:

Records management activities are ill funded in most ministries thereby undermining sound records management.

This means that poor funding of registries undermined records management operations in government ministries and by extension implementation of the ATI Act 2016.

5.8.11 Specific challenges encountered due to the current state of registry funding

Additionally, respondents that indicated that their Ministries experienced challenges owing to the current state of registry funding were asked to point out the specific challenges that afflicted their Ministries. Eight (72.7%) records managers indicated that the current state of registry funding undermined their ability to educate and sensitize staff on records management.

Further, 8 (72.7%) records managers stated that the current state of registry funding undermined their ability to provide adequate registry services. Another 10 (90.9%) records managers stated that the current state of registry funding undermined their ability to purchase appropriate records storage equipment. Similarly, another 10 (90.9%) records managers noted that the current state of registry funding undermined their ability to purchase sufficient registry supplies.

Figure 24 below illustrates the specific challenges attributed to the current state of registry funding.

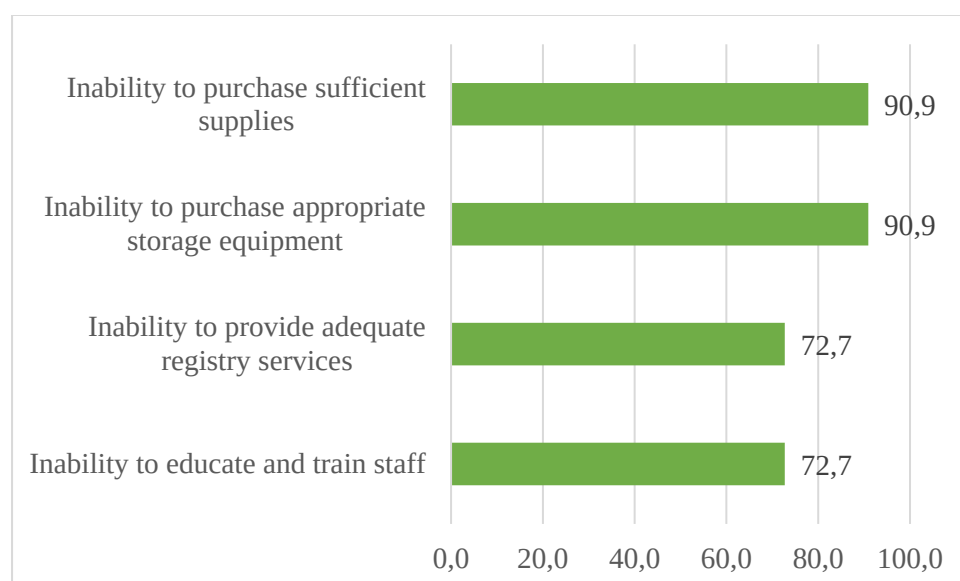


Figure 24: Challenges encountered due to the state of registry funding (n=11)

Figure 24 above indicates that majority 10 (90.9%) of the respondents cited inability to purchase sufficient supplies and appropriate equipment as the challenges arising out of poor funding. Indeed, this finding was confirmed by the researcher during the visits to the various ministries. During the informal interviews with the registry clerks they pointed out that lack of funds meant that they lacked basic tools to carry out their work. One of the registry clerk retorted:

We have been asking the management to provide additional mobile shelves but every time we are told there are no funds.

Another 8 (72.7%) of the respondents also cited inability to provide adequate registry services and inability to train staff as the challenges resulting from poor funding. Some of the responses given in the “others, please specify category” included:

Inability to preserve, conserve and restore information materials adequately and inability to automate/ digitize records.

5.8.12 Skills, competencies and capacity building for records management

For records to be managed effectively, the staff undertaking records management duties have to possess the requisite skills and competencies. In this regard, this study sought to establish if records managers in government ministries had been trained on records management. The findings revealed that majority 11 (68.8%) of the respondents had attended a records management sensitization course in the last five years. On the contrary, 5 (31.3%) of the respondents reported that they had not attended a records management course in the last five years. Figure 25 below illustrates the percentage of records managers who have attended records management course.

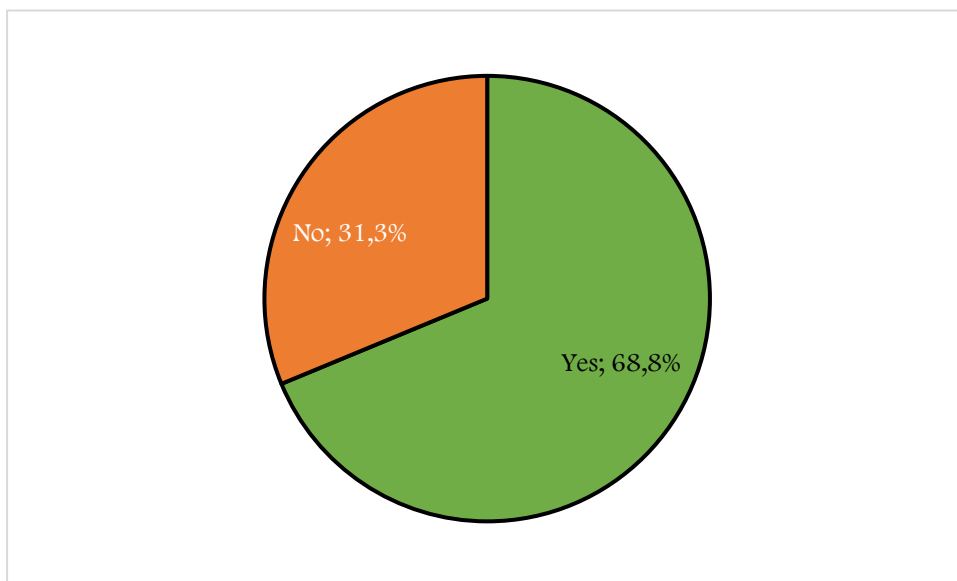


Figure 25: Attended records management course in the last five years (n=16)

5.9 Records systems and procedures

Sound records management is predicated on having records management systems and procedures in place. These system and procedures include; system for records creation; mail management programme; records classification system; records access and retrieval systems; records storage programme as well as a records disposition programme. The next section seeks to establish the existence of records systems and procedures.

5.9.1 Records creation

Regarding records creation, records managers were asked if their Ministries had created or adopted a system for creating and capturing records. Ten (62.5%) of the records managers indicated that their ministries had a system for creating and capturing records. On the other hand, 4 (25%) of the records managers indicated that their Ministries had no system for creating and capturing records. However, 2 (12.5%) registry heads did not respond to this particular question.

Table 26 below illustrates the presence or absence of systems for creating and capturing records in government ministries.

	Frequency	Percent
Yes	10	62.5
No	4	25.0
No response	2	12.5
Total	16	100.0

Table 26: Ministry created or adopted a system for creating and capturing records (n=16)

Table 26 above shows that majority 10 (62.5%) of the respondents indicated that their ministries had a system for creating and capturing records. This means that files were opened in a logical and procedural manner thus meaning that retrieval of records was easy. This finding was confirmed by the researcher through observation during the visits to the various ministries where he observed that some registry personnel had actually pinned some rules on opening of files on the registry walls. Similarly, by looking at the filing index, the researcher was able to identify newly opened files that had been added to the index thus implying that there existed a system where every new file had to be captured in the index.

5.9.2 Criteria used in creating files

Additionally, respondents that stated that their Ministries had a system for creating and capturing records were asked if they had a list of activities that constituted the basis for records creation. All the records managers indicated that indeed their Ministries had a list of activities that informed the creation of records. The records managers were further asked to indicate from a list provided the criteria they use to create files. In response, 12 (75%) registry heads indicated that they are guided by the Government of Kenya procedures manual when making a decision on creation of records. Ten (62.5%) registry heads indicated that they are guided by the instructions from their supervisor in making decisions on creation of records. Another 8 (50%) registry heads indicated that they are guided by the existing procedures when making decisions on records creation. The other 4 (25%) indicated that they rely on personal knowledge (own initiative) while 2 (12.5%) registry heads indicated that they rely on colleagues advise when making decisions on records creation.

Figure 26 below illustrates the criteria used in creating files in government ministries.

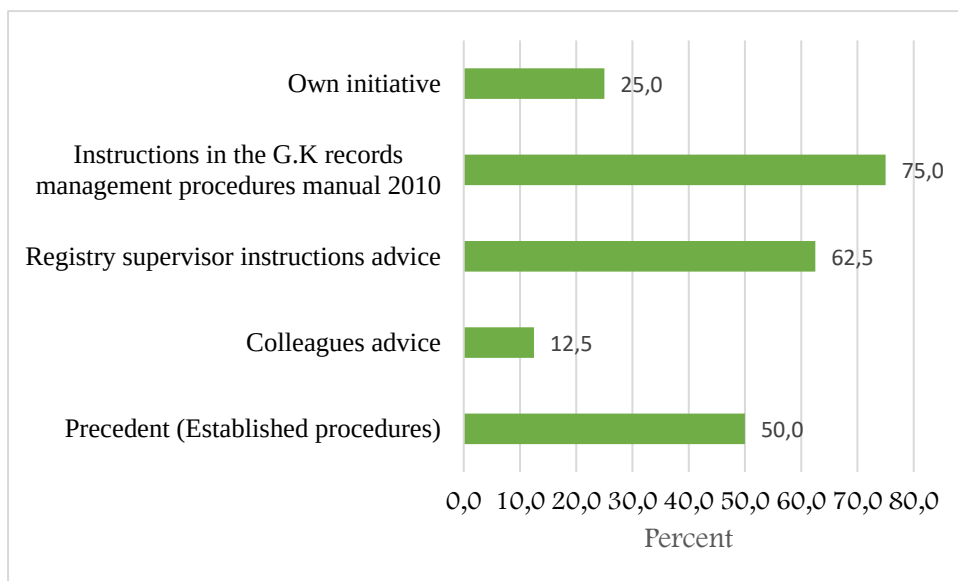


Figure 26: Criteria used to create files

Majority 12 (75%) of the ministries were guided by the government records manual in making decisions on the creation of files. This finding is consistent with the earlier observation in section 5.8.7 that indicated that majority of the records managers make reference to government records manual when making decisions relating to the management of records. Notably, a sizeable number of respondents 10 (62.5%) also reported that they sought advice from their supervisor when making decisions on the creation of files. While it is good practise to seek advice from one's supervisor, it is important to note that in the case of records managers their supervisors are the Directors of Administration who are not experts in records management matters. Therefore, the guidelines provided in the manual should supersede the supervisor's advice. As for the 8 (50%) of the respondents who cited that are guided by established procedures, the current norm in ministries is that the government manual is the go to reference point in case of doubt.

5.9.3 Mail management

Mail management programme refers to the various processes that mail created or received in an organisation goes through to ensure that it can be easily retrieved when required for future reference. A mail management programme therefore ensures that information is readily accessible when it is needed. This question was posed to registry clerks given that mail management activities are predominantly undertaken by registry clerks with the records manager held accountable for its overall functionality. In this regard, registry clerks were asked

to indicate from a list provided the various elements of a mail management programme that were present in their ministries/departments. All 74 (100%) of the respondents indicated that they had an incoming mail register; carried out folio numbering and cross referencing. On the other hand, 73 (98.6%) of the respondent indicated that they had an outgoing mail register. Figure 27 below illustrates mail management aspects present in government ministries.

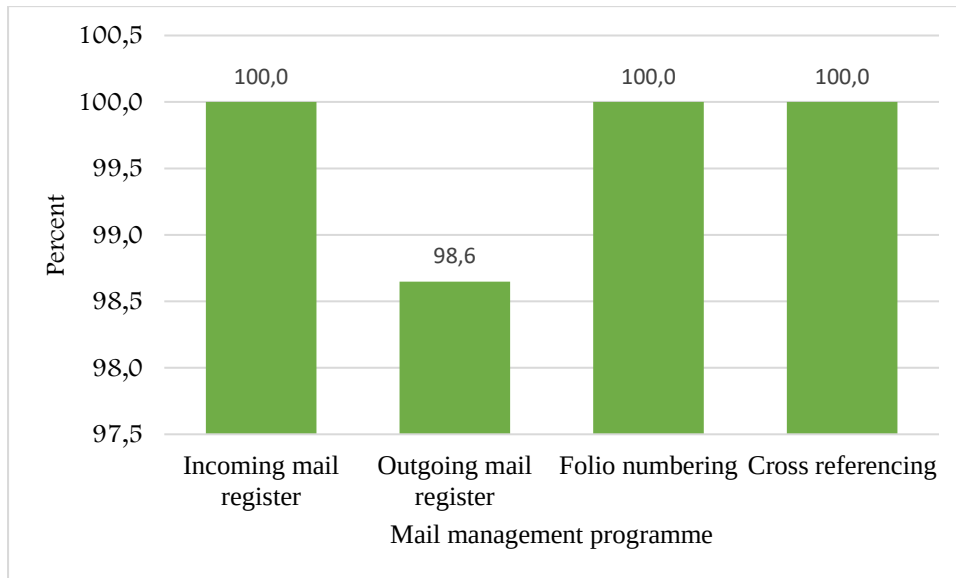


Figure 27: Existence of mail management programme

Figure 27 above shows that all (100%) the respondents reported that their ministries had the main aspects of a mail management programme. This finding was verified by the researcher through observation during his visit to the various ministries. Specifically, the researcher was shown the incoming and outgoing mail registers as well as perused through files to see folio numbers and cross-referencing. The presence of a mail management programme eases the tracing of mails and by extension facilitates access to information.

5.9.4 File classification

Registry clerks were asked to state if their Ministry/Department had created or adopted a system for classifying documents and if the physical arrangement of files was based on that system. Majority 72 (97.3%) of the registry clerks indicated that they had a file classification scheme. Only 2 (2.7%) of the respondents indicated that their ministries lacked a file index. Further, all the respondents indicated that their files were arranged based on the file classification system.

Figure 28 below illustrates the presence of filing index in government ministries and the physical arrangement of files based on the file index.

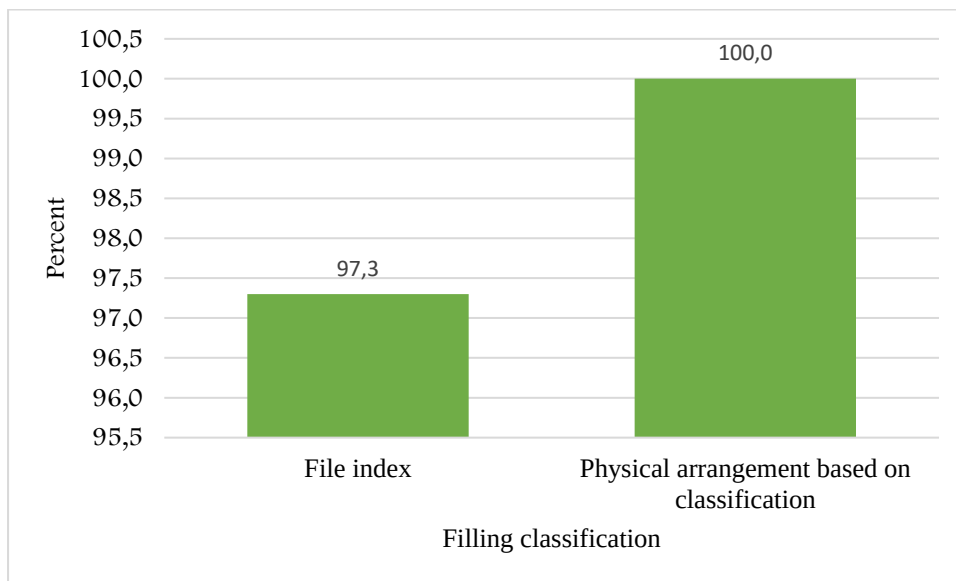


Figure 28: Existence of a file index (n=74)

Figure 28 above indicates that majority 72 (97.3%) of the respondents reported that their ministries had file indexes. Further all (100%) the respondents indicated that their files were arranged based on the file classification scheme. This finding was corroborated through observation where the respondents were asked to produce their file indexes. Similarly, the researcher also confirmed that indeed the arrangement of files in all the ministries was guided by the file classification scheme.

5.9.5 State of file classification scheme

Further, the registry clerks were asked to indicate the state of their records classification scheme. All 74 (100%) the registry clerks indicated that their file classification systems were updated. On the other hand, 67 (90.5%) of the registry clerks indicated that their file classification scheme was automated. Only, 3 (4.1%) of the respondents indicated that their registries had a torn file classification scheme. Figure 29 below illustrates the state of file classification scheme in government ministries/department.

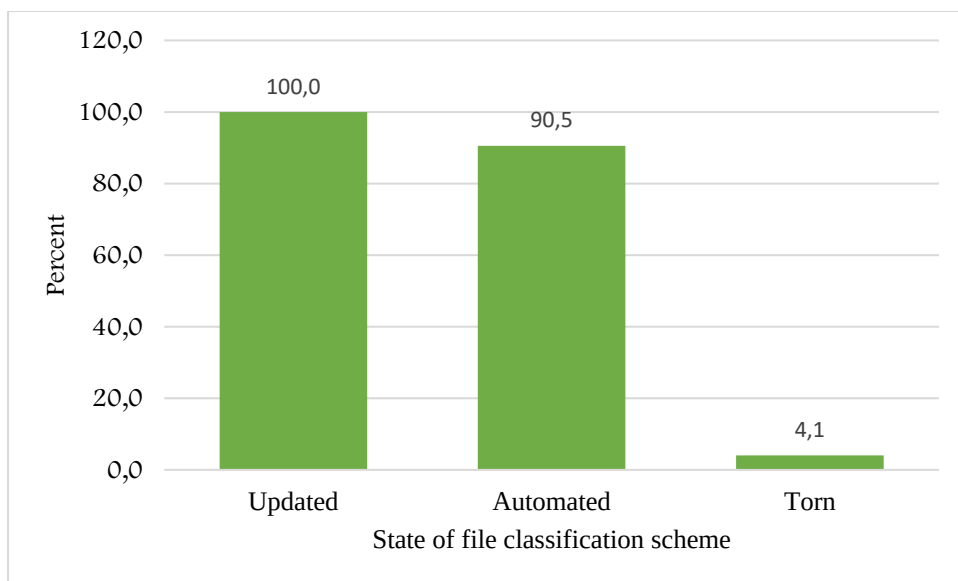


Figure 29: State of file classification scheme

From Figure 29 above, all (100%) of the respondents indicated that their file indexes were updated while another (90.5%) indicated that their file indexes were automated. This finding was validated by the researcher through observation. Similarly, the researcher was also able to observe and verify the file indexes that were torn as was indicated by 12 (4.1%) of the respondents.

5.9.6 Records access and retrieval

Easy access and retrieval of public records is the cornerstone to effective implementation of the Access to Information (ATI) Act 2016 particularly the handling of access to information requests. One way of ensuring easy access and retrieval of records is having file tracking tools in the registry. In this regard, registry clerks were asked to indicate from a list provided the file tracking tools that were in use in their ministries/ departments. All 74 (100%) registry clerks indicated that they used the file movement register to track the movement of files. The use of the other file tracking tools varied as illustrated in Figure 30 below.

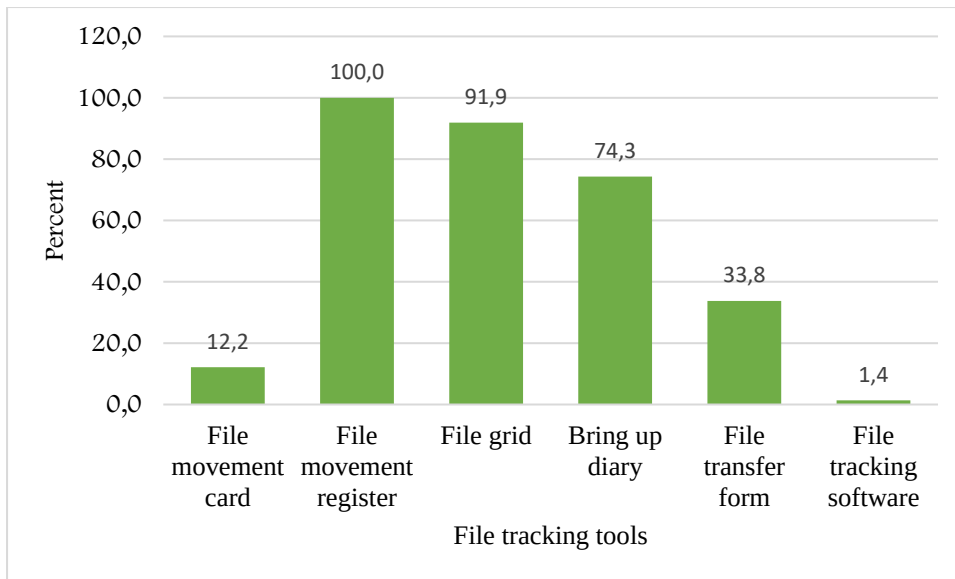


Figure 30: File tracking tools

Figure 30 above shows that the most commonly used file tracking tool is the file movement register as indicated by all (100%) the respondents. Further, 68 (91.9%) of the respondents also reported using the file grid as a file tracking tool while 55 (74.3%) of the respondents cited using a bring up diary. Another 25 (33.8%) cited the use of a file transfer form while 9 (12.2%) indicated that they used a file movement card to track the movement of files. Only 1 (1.4%) indicated that they had a file tracking software. This finding was validated through observation where the researcher requested to see the file movement register; the bring-up diary; file transfer form and the file movement card. Similarly, by looking at the cover of the file, the researcher was able to establish whether a file grid was in use or not. In ministries where the integrated records management software was in use, 1(1.4%) of the respondents reported using the software to track files.

5.9.7 Access to e-records

Besides access and retrieval of paper records, this study is also alive to the fact that increasingly many government offices are creating records in electronic format. In this regard, the researcher also posed a question on access and retrieval of e-records to heads of registries. Specifically, respondents were asked if their Ministries had adopted a system for accessing and retrieving electronic records. Two (12.5%) of the respondents indicated that indeed their Ministries had put in place a system for accessing and retrieving electronic records. On the other hand, 14 (87.5%) of the respondents stated that their Ministries had no systems for access and retrieval of e-records.

Figure 31 below illustrates the presence of systems for access and retrieval of e-records in government ministries.

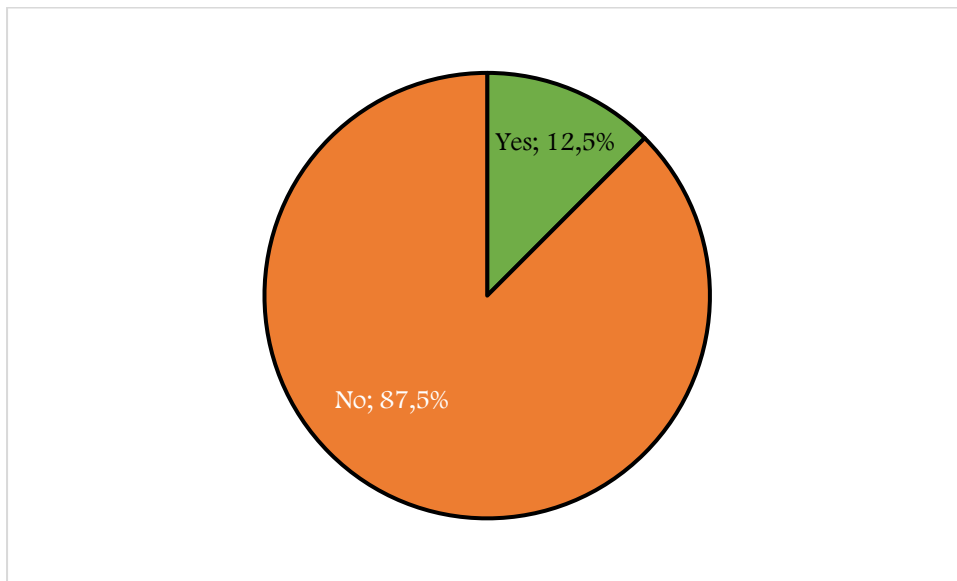


Figure 31: Created or adopted a system to retrieve and access electronic records (n=16)

Figure 31 above shows only 2 (12.5%) of the respondents reported that their ministries had a system for accessing and retrieving e-records. This finding was validated through observation where the researcher observed that most of the ministries had manual systems for managing records.

5.9.8 Aspects of access and retrieval of e-records

In addition, respondents that answered in the affirmative were asked to indicate from a list provided the aspects of access and retrieval of e-records that were included in their system. All (100%) the respondents indicated that their system for access and retrieval of e-records had a component on classification of e-records. 1 (50%) respondent indicated that his/her Ministry's system for access and retrieval of e-records had a component on naming conventions for records in shared drives. Another 2 (100%) respondents indicated that their Ministry's system for access and retrieval of e-records allowed them to locate systems holding e-records.

Figure 32 below illustrates the various retrieval and access features that are present in e-records systems in government ministries.

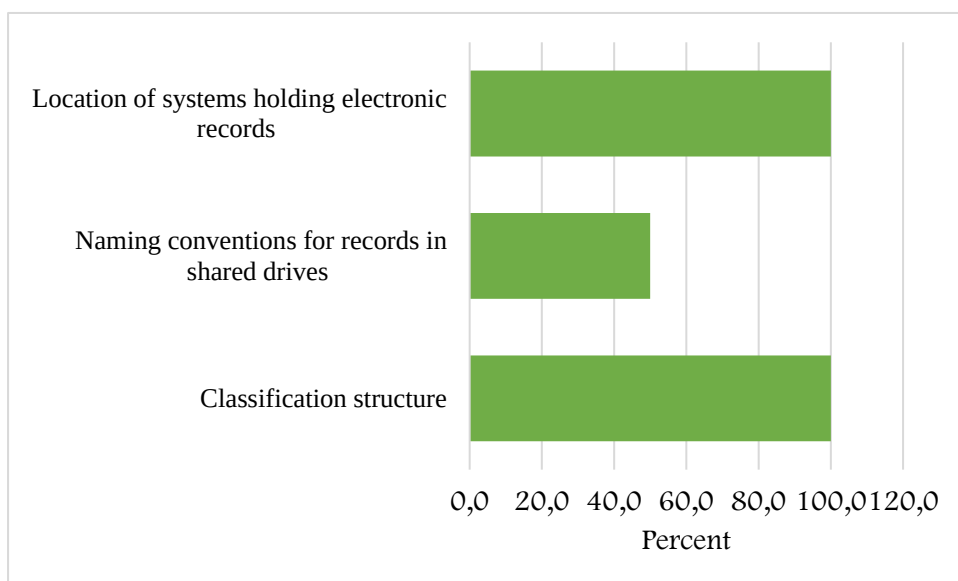


Figure 32: Aspects of retrieval and access of electronic records included in the system (n=2)

Although respondents indicated that their e-records systems had features that enabled them to classify e-records; locate e-records and naming conventions, the researcher was unable to validate this finding as request to have a look at the systems was unsuccessful.

5.9.9 Records storage space

The manner in which records are stored determines their state as well as the ability to access and retrieve them when needed. Indeed, records management best practices dictate that institutions should afford records adequate storage space as well as appropriate records storage equipment. In this regard, registry clerks were asked to indicate if their ministries/departments had set aside adequate space for storage of current, semi-current and non-current records. Respondents gave varying responses on the adequacy of records storage space as illustrated in Table 27 below.

	Adequate	Inadequate	No space
Current records	68.9	25.7	5.4
Semi Current records	33.8	59.5	6.8
Non-Current records	24.3	56.8	18.9

Table 27: Records storage space

Table 27 above indicates that majority 51 (68.9%) of the respondents reported that the space allocated for storage of current records is adequate. This finding was confirmed by the researcher through observation during the visits to the various ministries. As a matter of fact, most ministries had adequate space for storage of current records. For semi-current records, only 25 (33.8%) of the respondents reported that there was adequate space for their storage. Indeed, this finding was confirmed by the researcher where he observed that very few ministries had set aside space for semi-current records. Unlike current records which are referred to on a daily basis, semi-current records are only referred to occasionally perhaps the reason why ministries did not prioritise their storage. On the other hand, majority of the respondents 44 (59.5%) and 42 (56.8%) indicated that their ministries had inadequate space semi-current and non-current records respectively. This finding was corroborated through observation where the researcher came across congested records storage rooms where semi-current and non-current records were stored. In some ministries, the situation was so dire that there was no storage space for non-current records. This was aptly reported by 14 (18.9%) of the respondents. In such cases, non-current records had been abandoned on the corridors together with unserviceable equipment.

5.9.10 Records storage equipment

On the question of the storage equipment used for the storage of records in government ministries and departments, majority of the respondents indicated that they used file cabinets and mobile shelves. Specifically, 68 (91.9%) indicated that they use mobile shelves while another 70 (94.6%) indicated that they used file cabinets. Other records storage equipment that are in use in government ministries are shown in Figure 33 below.

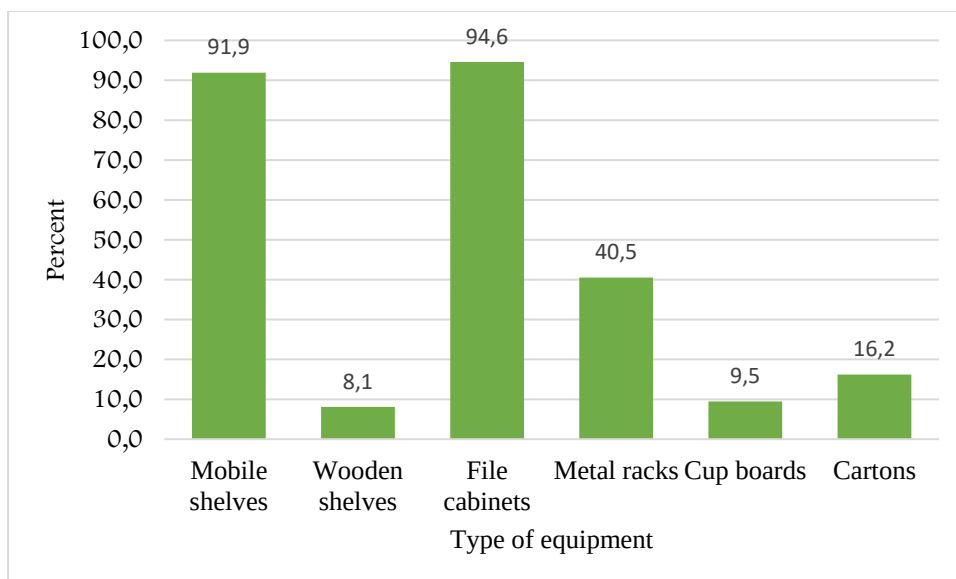


Figure 33: Records storage equipment

Figure 33 above indicates that the most commonly used records storage equipment were the file cabinets and mobile shelves as indicated by 70 (94.6%) and 68 (91.9%) of the respondents respectively. Indeed, this finding was confirmed by the researcher through observation during the visits to the various ministries. Thirty (40.5%) of the respondents also reported using metal racks for storage of records. This finding was verified by the researcher through observation. In particular, ministries that had set up records stores used metal racks since the racks allowed the storage of records using archival boxes. Although 12 (16.2%) of the respondents alluded to using cartons for storage of records. The researcher's observation was that records were kept in carton in ministries that had no records storage space.

5.9.11 Exposure of records to hazards

Another issue that relates to the storage of records is the existence of pests and other hazards that can damage records. In this regard, this study sought to establish whether records in government ministries and departments were exposed to hazards. In this regard, registry clerks were asked to indicate from a multiple list provided the specific pests/ hazards that their records were exposed to in the records storage areas. Respondents gave varying responses as indicated in Figure 34 below.

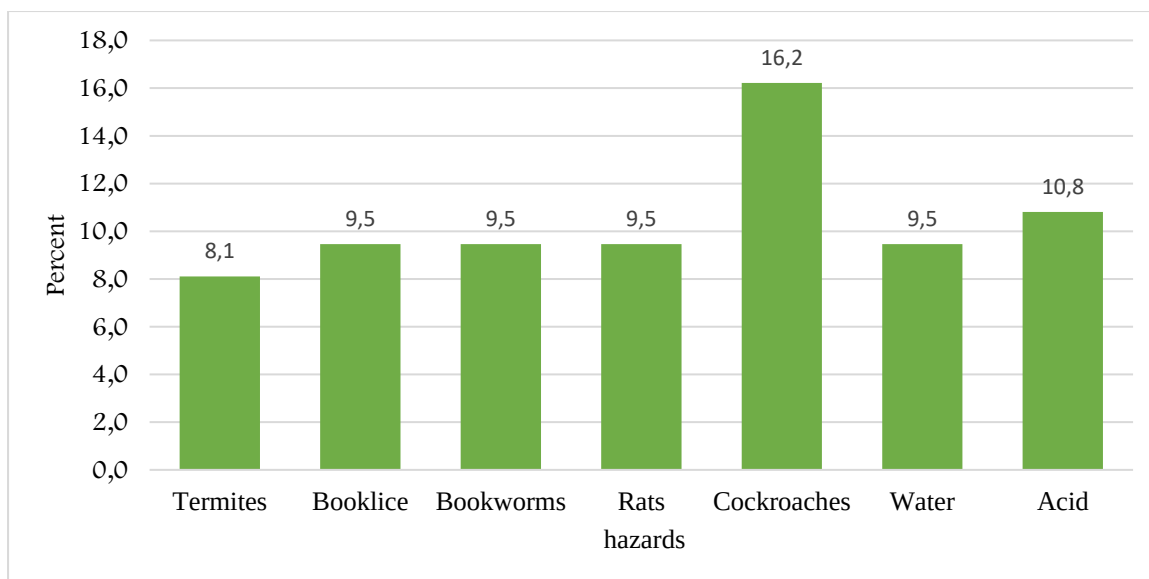


Figure 34: Files damaged by hazards

Figure 34 above indicates that the main pest that records are exposed to in the records storage areas are cockroaches as reported by 12 (16.2%) of the respondents. Seven (9.5%) of the respondents also reported that records were slightly exposed to booklice; bookworms; rats and water. Another 8 (10.8%) respondents indicated that records were exposed to acid while 6 (8.1%) cited exposure to termites. Indeed, the researcher was able to verify these findings through observation.

5.9.12 Registry design and layout

The design and layout of the registry also has an impact on the ability to access and retrieve records. In this regard, this study sought to establish if the ministries/ departments surveyed had a purposely built registry. Through observation, the researcher established that majority of the registries 35 (85.4%) had a purposely built layout and design. On the other hand, 6 (14.6%) registries were not purposely built.

5.9.13 Physical condition of the records storage area

The physical condition of the records storage area also influences access and retrieval of records. In view of this, this study sought to establish the physical condition of the records storage rooms in government ministries and departments. Specifically, registry clerks were asked to indicate from a list provided certain aspects that related to the physical condition of

their records storage areas. Respondents gave varying responses as illustrated in Figure 35 below. The researcher through observation also verified the information provided.

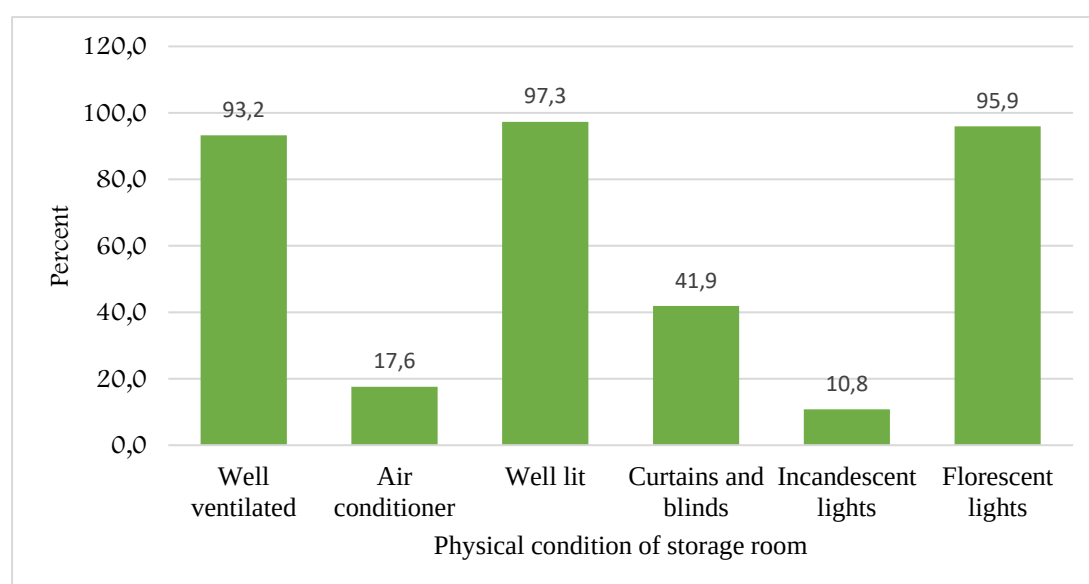


Figure 35: Physical condition of records storage room

Figure 35 above indicates that 72 (97.3%); 71(95.9%) and 69 (93.2%) of the respondents indicated that their records storage areas were well lit; had florescent lights and were well ventilated respectively. Another 31 (41.9%) of the respondents indicated that their registries had curtain blinds while 13 (17.6%) of the respondents indicated that their records storage areas had air conditioners. Generally, the physical condition of the records storage rooms was conducive except for 8 (10.8%) of the respondents who reported that their records storage areas had incandescent lights which were harmful to the records.

5.9.14 Control of the environmental condition

One way of preventing damage of records by environmental hazards is regulating the environmental conditions in the records storage areas. In this regard, this study sought to establish whether government ministries/departments had made any efforts to regulate the environmental conditions of the records storage rooms. Specifically, registry clerks were asked to indicate from a list provided the various aspects of environmental regulation that were in place in their records storage areas. Very few ministries/departments regulated the environment of their records storage areas. Indeed, only 10 (13.5%) of the respondents indicated that their ministries/departments regulated humidity. All 74 (100%) the respondents reported that they

did not regulate the temperature of their records storage rooms. Figure 36 below illustrates the extent to which government ministries and departments regulated the environmental condition of their records storage areas.

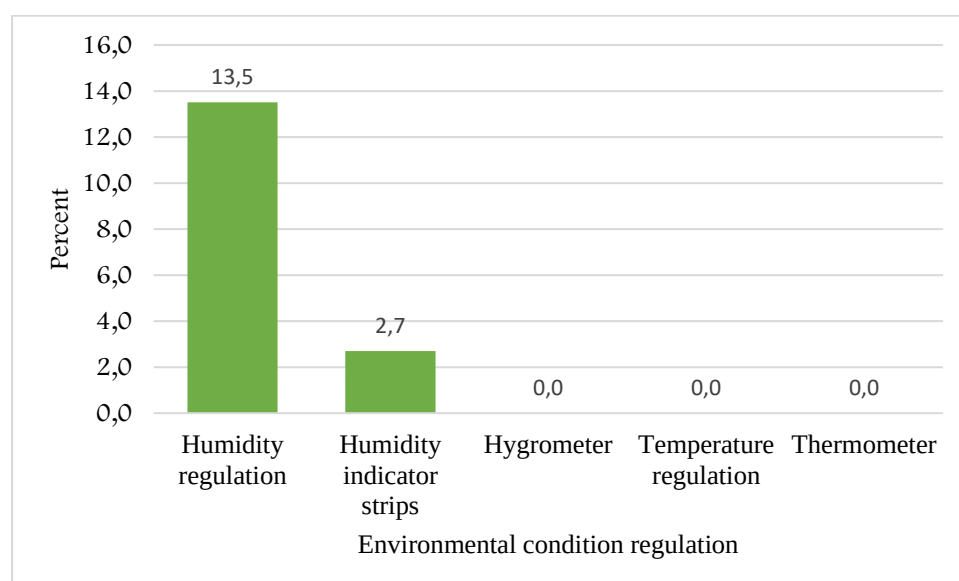


Figure 36: Environmental condition regulation

5.9.15 Records Survey and use of a records inventory checklist

All the respondents indicated that their ministries conducted records survey. Further, as mentioned in section 3.9.7 of Chapter three of this study, a records inventory is important as far as access to information is concerned given that it leads to generation of a records inventory checklist which can inform the development of a publication scheme hence facilitating proactive disclosure. In this regard, registry clerks were asked if they used a records inventory checklist to conduct records survey. Majority 61 (82.4%) of the respondents answered in the affirmative while 13 (17.6%) indicated that their ministries did not have a records inventory checklist for records survey.

Table 28 below illustrates government ministries/ departments that used a records inventory checklist for records survey.

	Frequency	Percent
Yes	61	82.4
No	13	17.6
Total	74	100.0

Table 28: Records inventory checklist (n=74)

The researcher validated this finding by requesting for copies of the records inventory checklist.

5.9.16 Information captured in the inventory checklist

Additionally, respondents that indicated that their ministries/ departments conducted an inventory of its records using a records inventory checklist were further asked to indicate from a list provided the nature of information they included in the records inventory checklist. Majority 69 (93.2%) of the respondents indicated that their inventory checklist entailed information on the format in which records were recorded. Another 69 (93.2 %) respondents also stated that their inventory checklist contained information on the series while 68 (91.9%) respondents indicated that their inventory checklist contained information on the volume of records.

Figure 37 below illustrates the nature of information that is included on records inventory checklists in government ministries.

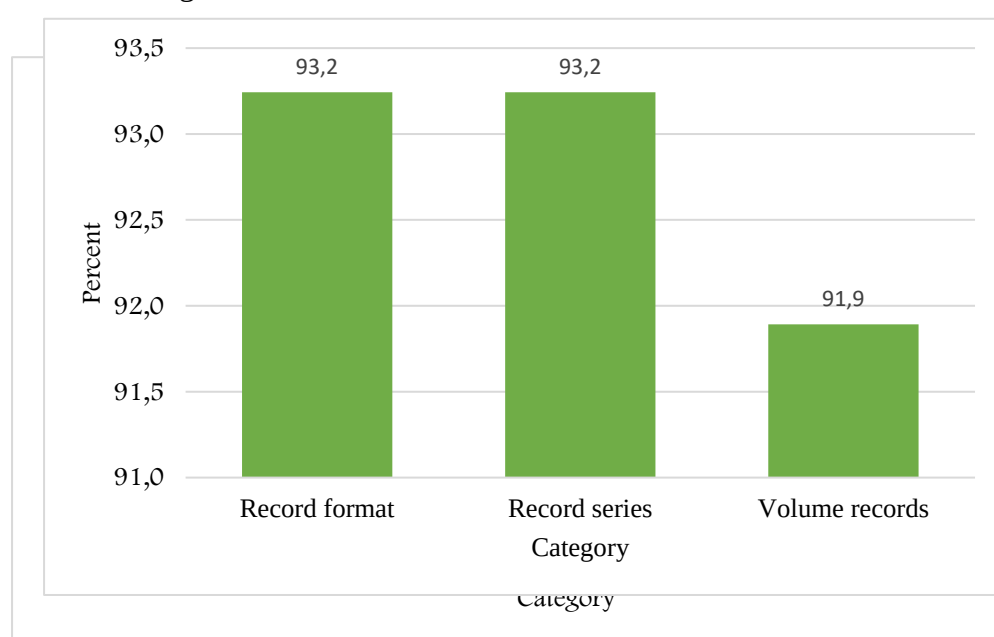


Figure 37: Contents of the records inventory checklist

5.8.17 Records appraisal

As mentioned in section 3.9.8 of Chapter three of this study, records appraisal and retention scheduling are key to the implementation of the Access to Information Act (ATI) 2016. In particular, records appraisal results in better organisation of registries thus easing access and use of records when they are required. On the other hand, retention scheduling facilitates disposal of records thereby decongesting the records storage area thus easing access and

retrieval of records. In view of the above, this study sought to find out from the records managers whether government ministries conducted records appraisal. Majority of the respondents 14 (87.5%) answered in the affirmative. Indeed, only 2 (12.5%) respondents indicated that their ministries did not conduct records appraisal. Table 29 below illustrates the extent to which records appraisal exercise was conducted in government ministries.

	Frequency	Percent
Yes	14	87.5
No	2	12.5
Total	16	100.0

Table 29: Conduct records appraisal (n=16)

Table 29 above indicates that majority of the ministries conducted records appraisal as cited by 14 (87.5%) of the respondents. This finding was corroborated through observation where the researcher requested for lists of records marked for preservation as well as list of records marked for destruction and lists of records transferred to the National Archives as proof that appraisal had been conducted.

5.9.18 Reasons for undertaking records appraisal

Further, the respondents that had stated that their ministries conduct records appraisal were asked to state from a multiple list provided their reasons for undertaking records appraisal exercise. All (100%) the respondents stated that they undertook records appraisal as a basis for retention scheduling. Another 13 (92.9%) of the respondents stated that they carried out records appraisal for the following reasons; establish records of archival value; meet the records and archives legislation requirements; enhance records access and use; enhance records preservation and remove the backlog of inactive records to ease access to information.

Table 30 below summarises the various reasons for conducting records appraisal in government ministries.

	Frequency	Percent
Basis for retention scheduling	14	100.0
Establish records archival value	13	92.9
Meet records and archives legislation requirements	13	92.9
Enhance records access and use	13	92.9
Enhance records preservation	13	92.9
Remove inactive records backlog to ease access to information	13	92.9

Table 30: Reasons for undertaking records appraisal (n=14)

Table 30 above shows that majority (100%) of the ministries conducted records appraisal as the basis for retention scheduling. Indeed, this finding is consistent with the finding in section 5.9.19 which indicated that majority of the ministries had developed retention and disposal schedules.

5.9.19 Existence of a retention and disposal schedule

The study also sought to know which ministries had a records retention and disposal schedule. Ten (62.5%) respondents answered in the affirmative while 6 (37.5%) respondents stated that their Ministries lacked a records retention and disposal schedule.

Table 31 below illustrates the percentage of government ministries that have a records retention and disposal schedule.

	Frequency	Percent
Yes	10	62.5
No	6	37.5
Total	16	100.0

Table 31: Have a records retention and disposal schedule (n=16)

Table 31 above indicates that majority 10 (62.5%) of the ministries had a records retention and disposal schedule to guide in the disposal of records. This finding was validated by the researcher through observation where he requested to be provided with copies of the retention and disposal schedule.

5.9.20 Implementation of the retention schedule

Respondents that stated that their ministries had a records retention and disposal schedule were further asked whether they undertook monitoring to ensure the schedules were implemented. Majority 9 (56.3%) of the respondents answered in the affirmative while 5 (31.3%) of the respondents indicated that they didn't monitor the implementation of the retention schedules. However, 2 (12.5%) respondents did not respond to this question.

	Frequency	Percent
Yes	9	56.3
No	5	31.3
No response	2	12.5
Total	16	100.0

Table 32: Monitor to ensure the developed schedules are implemented (n=16)

Table 32 above indicates that majority of the ministries monitored the implementation of the retention and disposal schedule thus ensuring prompt disposal of records.

5.9.21 Reasons for ensuring implementation of the retention schedule

Respondents that indicated that they monitor implementation of the retention schedules were further asked to indicate from a list provided the reasons for monitoring and ensuring implementation of the retention schedules. All 9 (100%) the respondents indicated that they monitor the implementation of the retention schedule to confirm that the retention periods are realistic; to ensure removal of valueless records and to decongest the records storage areas. Other reasons cited by respondents are as illustrated in Table 33 below.

	Frequency	Percent
To confirm that the retention periods are realistic	9	100.0
Ensure removal of valueless records	9	100.0
Add new records to the schedule	7	77.8
To decongest records storage areas	9	100.0

Table 33: Reasons to monitor and ensure the implementation of retention schedules once developed (n=9)

5.9.22 Existence of a records disposition programme

International records management best practices (ISO 15489 Standard) dictate that a sound records management system should have a records disposition programme that outlines mechanisms for records disposal. Disposal of records is key to the implementation of the Access to Information (ATI) Act 2016 in several ways. Firstly, physical destruction of valueless records ensures decongestion of records storage areas thereby making it easier to access and retrieve the remaining records. Secondly, transfer of valuable records to the archives ensures that information contained in valuable records is preserved hence assuring its availability whenever there is an information request. In this regard, this study sought to find out if the Ministries surveyed had a records disposition programme. Majority 11 (68.8%) of the respondents answered in the affirmative while 4 (25%) of the respondents stated that their Ministries lacked a records disposition programme. 1 (6.3%) respondent did not respond to this particular question.

Table 34 below illustrates the existence of records disposition programme in government ministries.

	Frequency	Percent
Yes	11	68.8
No	4	25.0
No response	1	6.3
Total	16	100.0

Table 34: Have a records disposition programme (n=16)

Table 34 above indicates that majority of the ministries had a records disposition program as cited by 11 (68.8%) of the respondents.

5.9.23 Nature of the records disposition programme

Additionally, respondents that stated that their Ministries had a records disposition programme were asked to indicate from a list provided the nature of their records disposition programme. Majority 10 (90.9%) respondents stated that their programme provided for transfer of valuable records to Archives. Another 8 (72.7%) respondents stated that their programme provided for

the physical destruction of valueless records. Only 5 (45.5%) respondents indicated that their records disposal programme provided for conversion of valuable records to another medium.

Some of the responses given in the “others, please specify” category included:

Our records disposition programme entails appraisal before archiving.

Ours is a list of old files that are kept in the in-house archives for preservation.

Figure 38 below illustrates the nature of records disposition programme in government ministries.

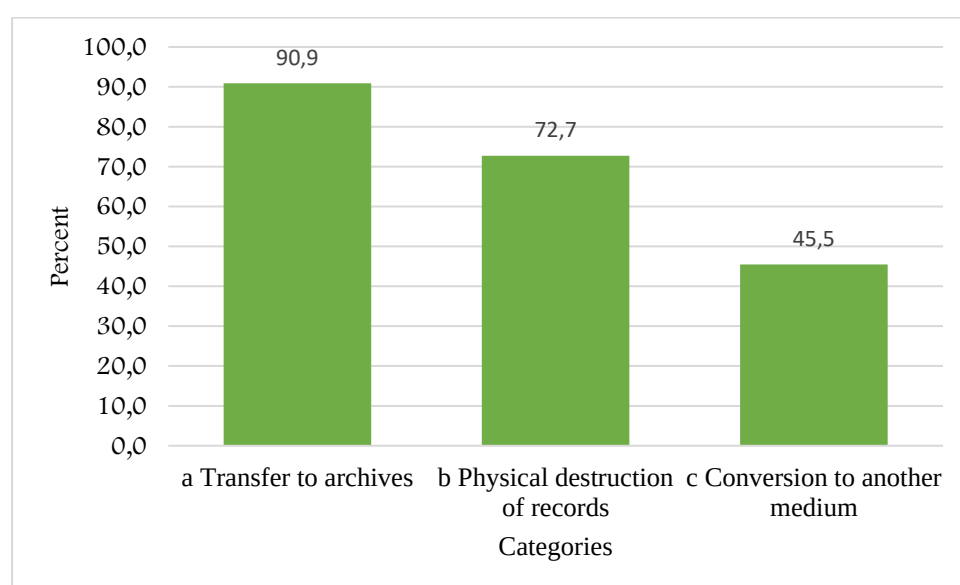


Figure 38: Nature of the records disposition programme (n=11)

Figure 38 above indicates that majority 10 (90.9%) of the ministries disposed their records by transferring them to the National Archives. Indeed, the researcher validated this finding by requesting for copies of records transfer lists from the respondents. Further, 8 (72.7%) of the respondents also indicated that they destroyed non-valuable records. The researcher confirmed this finding by requesting for copies of lists of records destroyed as well as the destruction certificate. Although, 5 (45.5%) of the respondents indicated that they disposed their records by converting them to another medium, when requested to show copies of reformatted records they failed to do so. This means that this finding could not be verified and may be misleading.

5.9.24 Reasons for undertaking records disposal

Further, the researcher sought to know the various reasons for disposal of records in government ministries. Majority 13 (81.3%) respondents stated that their ministries carried out records disposal to preserve records of enduring value; to create room for active records and to ease the backlog of closed records in the records storage areas. Another 4 (25%) respondents indicated that they dispose records to facilitate multiple access to information through migration to different medium.

Table 35 below illustrates the various reasons for disposal of records in government ministries

	Frequency	Percent
To preserve records of enduring value	13	81.3
To create room for active records	13	81.3
To ease the backlog of closed records in the records storage areas	13	81.3
Facilitate multiple access to information through migration to different medium	4	25.0

Table 35: Purpose of disposing records (n=16)

Table 35 above shows that majority 13 (81.3%) of the respondents cited creation of room for active records; ease the backlog of closed records and preserving records of enduring value as the reasons for disposing records. All these actions implicitly facilitate access to information. Notably, 4 (25%) of the respondents reported that they dispose records by converting them to a different medium to facilitate access to information.

5.9.25 Records preservation

Records preservation seeks to prolong the life of records. As such, preservation of records is key to the implementation of the Access to Information (ATI) Act 2016 in several ways. Firstly, preservation ensures that valuable information is safeguarded thus ensuring its availability when needed. Secondly, as mentioned in section 3.9.10 of Chapter three of this study, some preservation strategies such as digitisation facilitate access to information by ensuring the original copy of the record is protected from wear and tear and also allowing multiple access to records by different users simultaneously.

In view of the above, this study sought to establish the records preservation strategies adopted by government ministries. As such, registry clerks were asked to indicate from a list provided the specific records preservation strategies adopted by their ministry/department. Majority 58 (78.4%) of the respondents indicated that their ministries/ departments preserved e-records by having them printed and filed. Another 19 (25.7%) respondents indicated that their ministries/ departments preserved records by transferring them to the archives. The other respondents gave varying responses as illustrated in Figure 39 below.

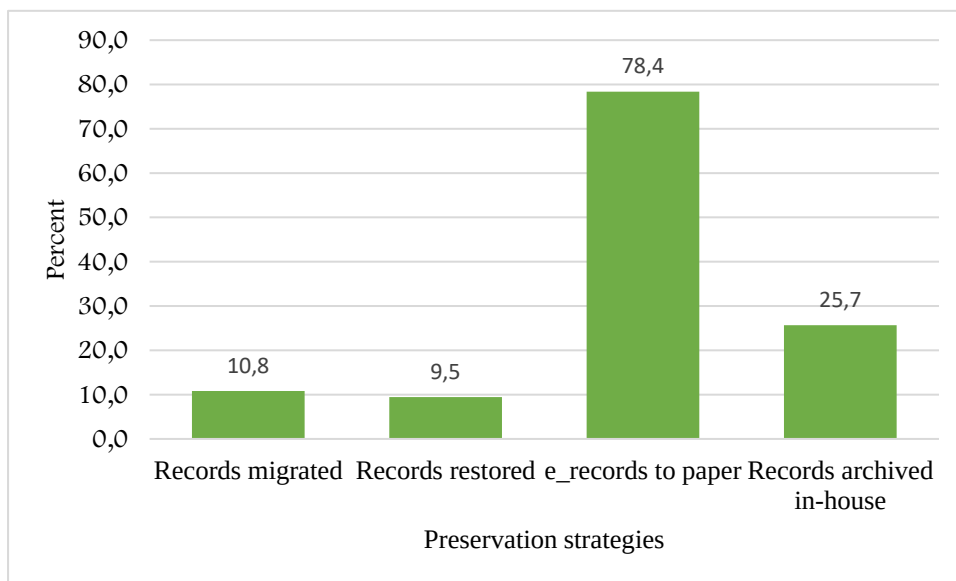


Figure 39: Preservation strategies

Figure 39 above indicates that the most commonly used preservation strategy in government ministries was printing e-records to paper and filing them. On the other hand, 19 (25.7%) of the respondents cited in-house archiving as a preservation strategy while 8 (10.8%) and 7 (9.5%) cited migration to a different medium and restoration of records respectively. This finding was validated through observation where the researcher was shown copies of emails that had been printed and filed. The finding on preserving records through storage in the in-house archives is consistent with the finding in section 5.9.23 on the nature of the records disposition programme which indicated that majority of the ministries disposed records by preserving them in the in-house archives.

5.9.26 Vital records management programme

Sound records management also entails having a vital records management programme in place. This programme identifies vital records and outlines the measures to be taken to safeguard them in the event of a disaster. A vital records management programme facilitates implementation of the Access to Information (ATI) Act 2016 by ensuring that vital records are accessible and readily available when needed. In this regard, this researcher sought to establish if government ministries had a vital records management programme in place. Seven (43.8%) of the respondents answered in the affirmative while 8 (50%) of the respondents indicated that their ministries lacked a vital records management programme. However, 1 (6.3%) respondent did not respond to this particular question.

Figure 40 below illustrates the existence of a vital records management programme in government ministries.

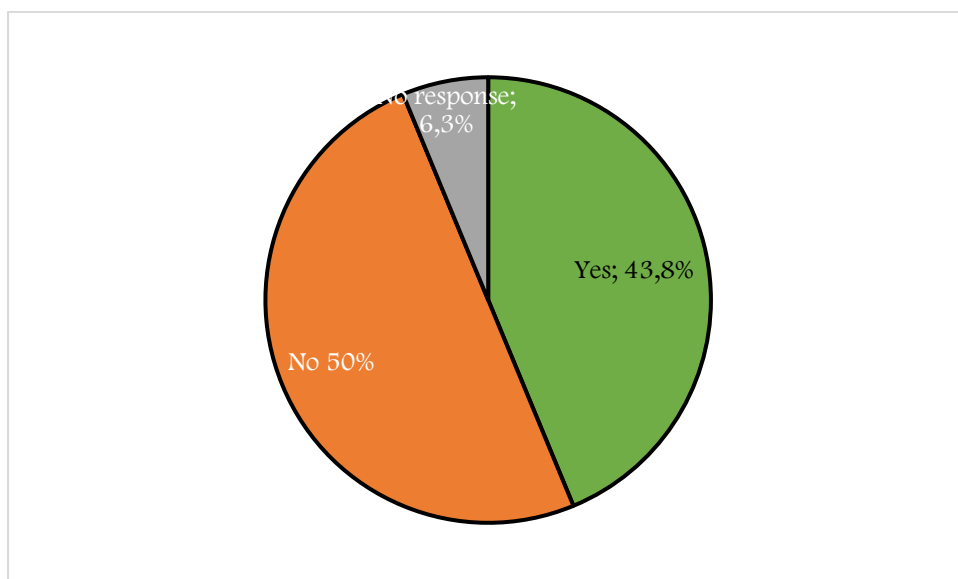


Figure 40: Existence of a vital records management programme (n=16)

Figure 40 above indicates that majority of the ministries did not have a vital records management programme as reported by 8 (50%) of the respondents. This finding means that the information contained in these vital records is compromised thus undermining access to information.

5.9.27 Purpose of a vital records management programme

Additionally, the respondents that indicated that their ministries had a vital records management programme were asked to indicate from a list provided the purpose of having the

programme in place. All the respondents stated that the reasons for having a vital records management programme was to identify vital records; develop protection measures; develop appropriate vital records storage facilities and prevent loss of vital information. On the other hand, 6 (85.7%) stated that the vital records programme enables them to identify potential hazards while 5 (71.4%) respondents stated that the programme enables them to audit and test procedures.

Figure 41 below summarises the various reasons for having vital records management programmes in government ministries.

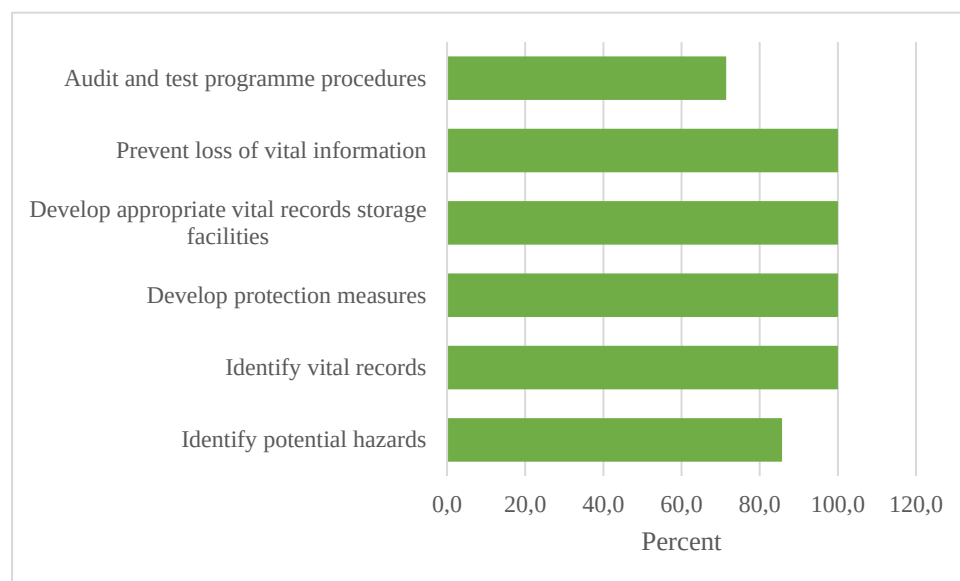


Figure 41: Reasons for vital records programme (n=7)

5.9.28 Methods of protecting vital records

This researcher also sought to establish the various methods used to protect vital records. Majority 7 (43.8%) respondents stated that they protect their vital records by duplicating them. 5 (31.3%) respondents stated that they protect their vital records by backing them up in an offsite location. Another 4 (25%) respondents stated that they protect their vital records by digitizing them. Only 1 (6.3%) respondent stated that his/her ministry protects its vital records through microfilming. Some of the responses given in the “others, please specify” category included:

We protect vital records by filing them in relevant files and minimising their access to avoid loss or damage.

Figure 42 below illustrates the various methods that government ministries use to protect vital records

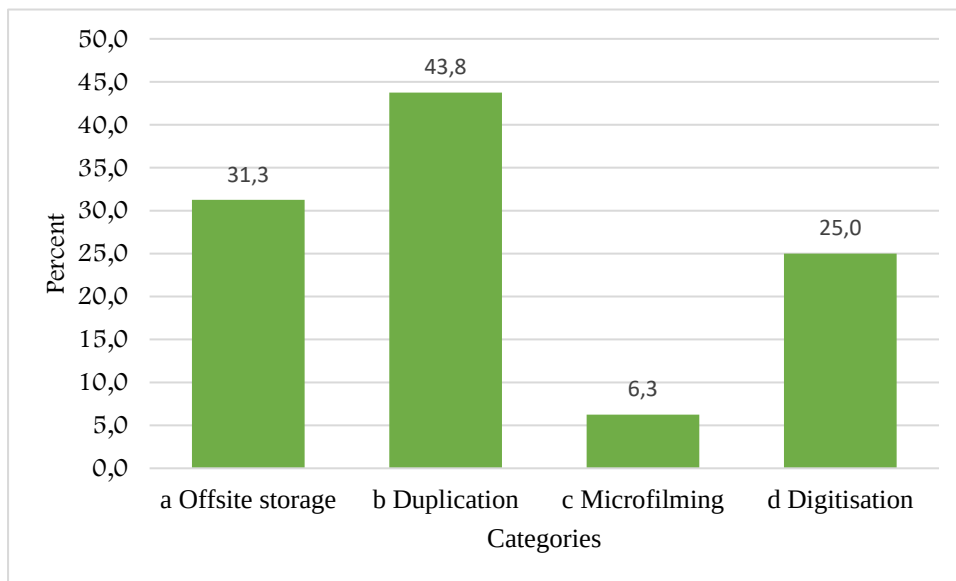


Figure 42: Methods used for vital records protection (n=16)

Figure 42 above indicates that most 7 (43.8%) of the ministries protect their vital records through duplication. Although duplication is a common method of protecting vital records it may lead to generation of many records which can compromise sound management of records. Although 1 of the (6.3%) respondents stated that they protect their vital records through microfilming, they could not produce copies of microfilmed records thus meaning that this finding was inaccurate.

5.9.29 Existence of a Business Continuity Plan (BCP)

This study also sought to establish whether government ministries had a business continuity plan. Majority 8 (50%) of the respondents answered in the affirmative while 7 (43.8%) stated that their ministries lacked business continuity a plan. However, 1 (6.3%) respondent did not respond to this particular question.

Figure 43 below illustrates the existence of a business continuity plan in government ministries

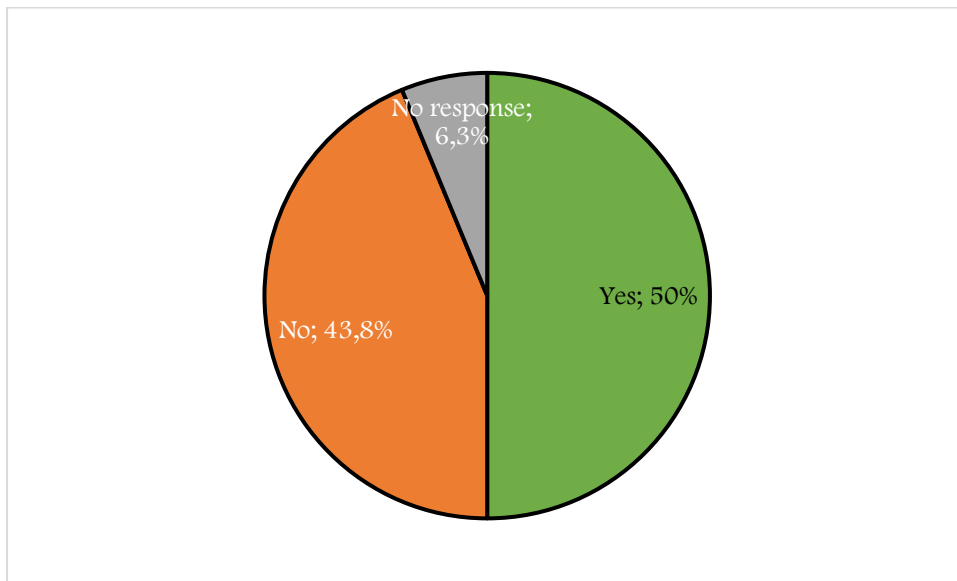


Figure 43: Existence of a business continuity plan (n=16)

Figure 43 above indicates that majority of the ministries had a business continuity plan. This finding was validated through observation where the researcher requested respondents to provide copies of the business continuity plan.

5.9.30 Purpose of a business continuity plan

Respondents who stated that their Ministries had a business continuity plan were further asked to indicate from a list provided the purpose of their business continuity plan. Four (50%) of the respondents stated that their business continuity plan enabled them to minimize disruption of normal business; prevent escalation of the disruption; salvage records and minimize economic impact of the disaster. Another 5 (62.5%) respondents stated that their Ministry's business continuity plan enabled them to train personnel on emergency procedures.

Figure 44 below illustrates the various uses of business continuity plans in government ministries

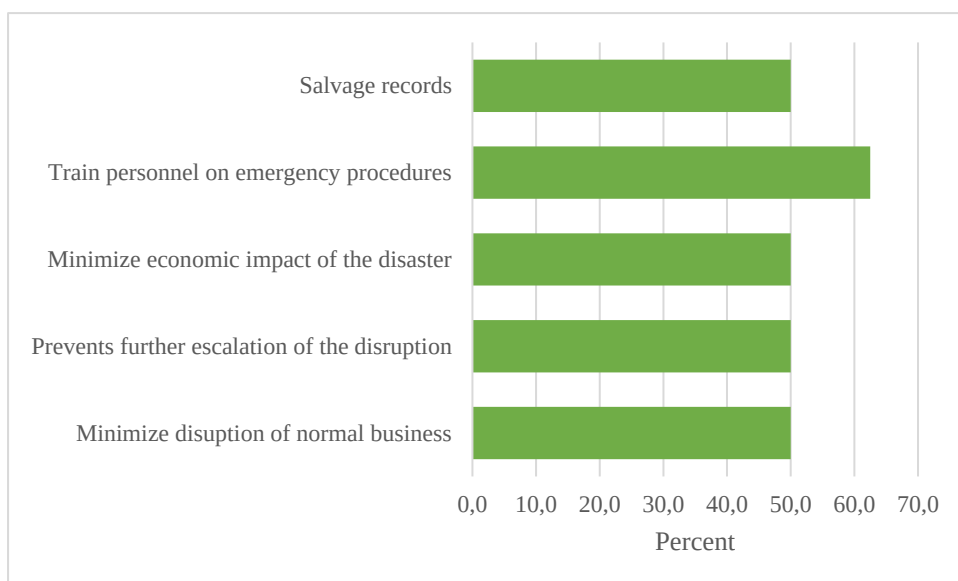


Figure 44: The purpose of business continuity plan (n=8)

Figure 44 above shows that the most cited purpose of having a business continuity plan was to train personnel on emergency procedures. Some of the responses given in the “others, please specify” category include:

A disaster management plan assists the ministry in preparedness and awareness.

5.9.31 Existence of a fire protection system

One of the most common disaster that affects records storage areas is fire. In this regard, this study sought to find out whether government ministries had a fire protection system and whether registry staff had been trained on fire-fighting. Majority 13 (81.3%) of the respondents stated that their ministries had a fire protection system. However, the other 3 (18.7%) respondents did not respond to this particular question.

Figure 45 below illustrates the extent of the existence of fire protection system in government ministries.

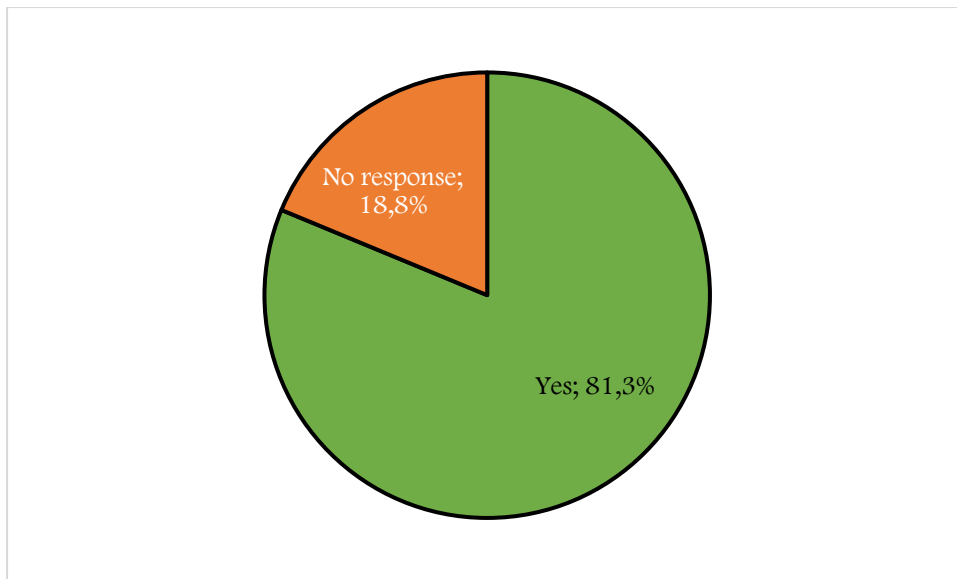


Figure 45: fire protection system (n=16)

Indeed, the researcher was able to validate this finding through observation. Most ministries had fire extinguishers placed on the corridor with instructions on what is to be done in the event of a fire.

5.9.32 Training on fire fighting

Regarding the training on fire-fighting techniques, 14 (87.5%) of the respondents stated that they had received training on fire-fighting. Only 1 (6.3%) respondent stated that they had not been trained on fire-fighting while the other 1 (6.3%) respondent did not give any response.

Figure 46 below illustrates fire-fighting techniques training in government ministries.

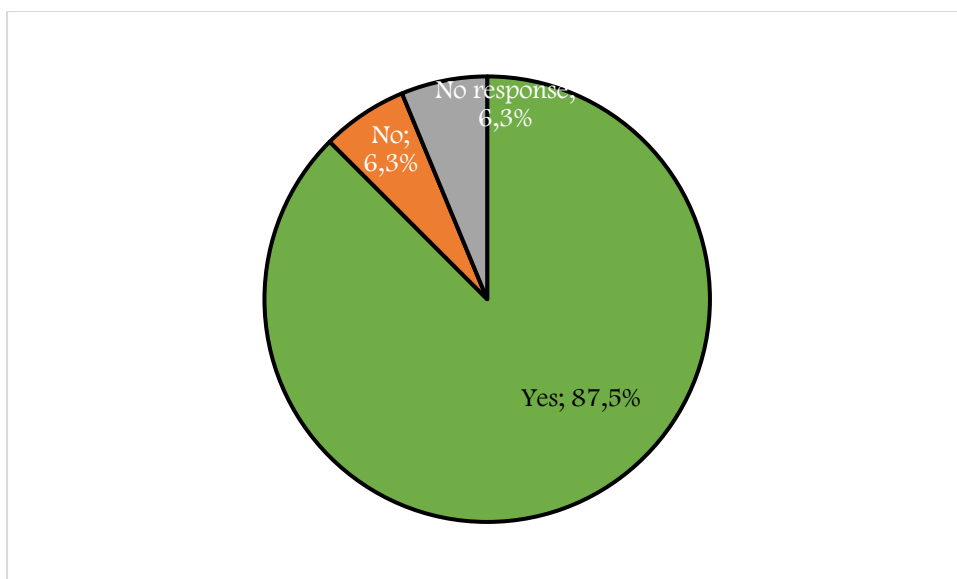


Figure 46: Received training on fire-fighting techniques (n=16)

5.9.33 Storage of e-records

The storage device used to store electronic records may also determine the ease of access and retrieval of electronic records. In addition, electronic records that are backed up are more likely to be accessible when required for future reference. In this regard, this study sought to establish the storage devices used by government ministries and departments to store e-records. Further, the study also sought to establish if ministries/ department had in place back up facilities for their e-records. In view of this, registry clerks were asked to indicate from a list provided the storage devices that they used for storage of e-records. Majority 72 (97.3%) of the respondents indicated that they stored their electronic information in flash disks. Another 68 (91.9%) respondents indicated that they stored their electronic records in hard disks. Other storage devices used to store e-records are illustrated in Figure 47 below.

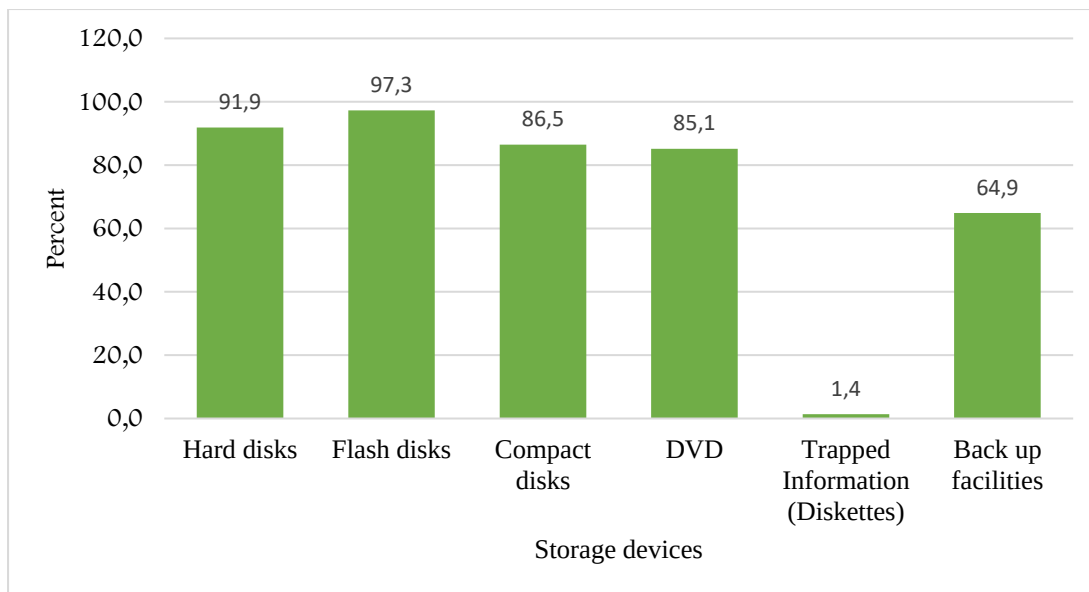


Figure 47: Storage devices and back -up facilities

Figure 47 above indicates that the most commonly used storage device for e-records in government ministries is the flash disk as cited by 72 (97.3%) of the respondents. However, it is evident that even the other storage devices are regularly used. This finding is important in that it provides information on where one is likely to find e-records generated in government ministries. In addition, this information guides ICT managers and records managers on the measures they need to take to secure e-records generated in government ministries.

5.9.34 Back-up facilities for e-records

On the question of having back up facilities for e-records, 48 (64.9%) of the respondents indicated that they had backed up their electronic information. Conversely, 26 (35.1%) of the respondents reported that their ministries/departments had no back up facilities for e-records. Figure 47 above illustrates the availability of back up facilities for e-records in government ministries.

Figure 47 above shows that majority of the ministries had back up facilities for their e-records. This finding is important as it means that electronic information generated in government ministries is safely guarded and can be accessed and referred to when required.

5.9.35 System for managing e-records

The study also sought to find out if Ministries had created or adopted a system for managing e-records. A partly 3 (18.8%) of the respondents answered in the affirmative while 12 (75%)

indicated that their Ministries lacked a system for managing e-records. However, one respondent did not respond to this particular question.

Figure 48 below illustrates the presence or absence of e-records management system in government ministries.

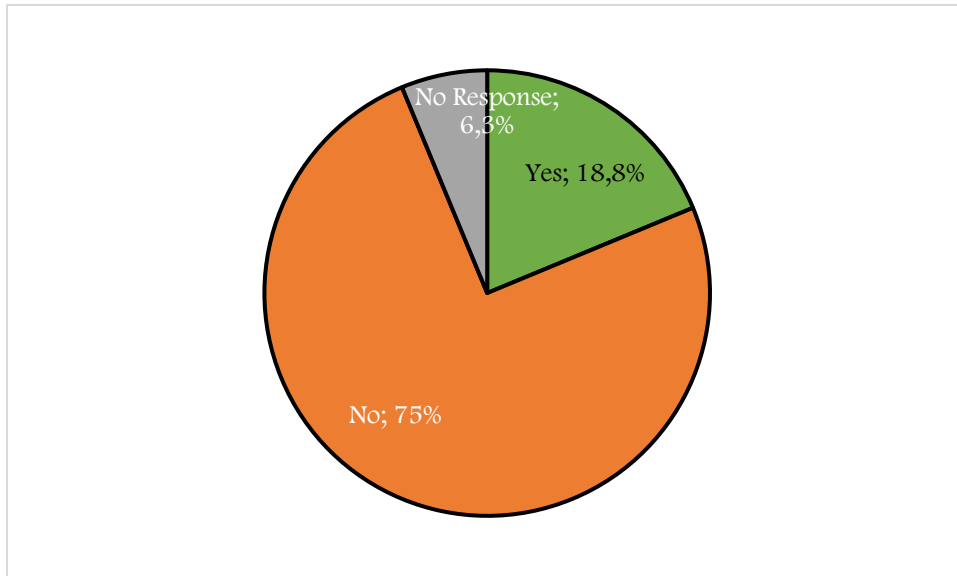


Figure 48: Has created or adopted a system for managing electronic records (N=16)

Figure 48 above indicates that most 12 (75%) of government ministries had no system for managing e-records. This finding is consistent with an earlier finding in section 5.9.7 that had sought to establish whether government ministries had adopted a system for accessing and retrieving electronic records. In both cases, it is clear that government ministries lack systems for management of e-records.

5.9.36 Aspects of e-records management covered by the system

Further, the 3 (18.8%) respondents that indicated that their Ministries had created or adopted a system for managing e-records were asked to indicate from a multiple list provided the aspects of e-records management that were covered by the system. All the respondents 100% indicated that their system had features on security rights and access permission. On the other hand 2 (66.7%) of the respondents indicated that their system had features that allowed creation of records; survey and inventory; organization as well as retention and disposal.

Figure 49 below illustrates the various features of e-records management systems in government ministries.

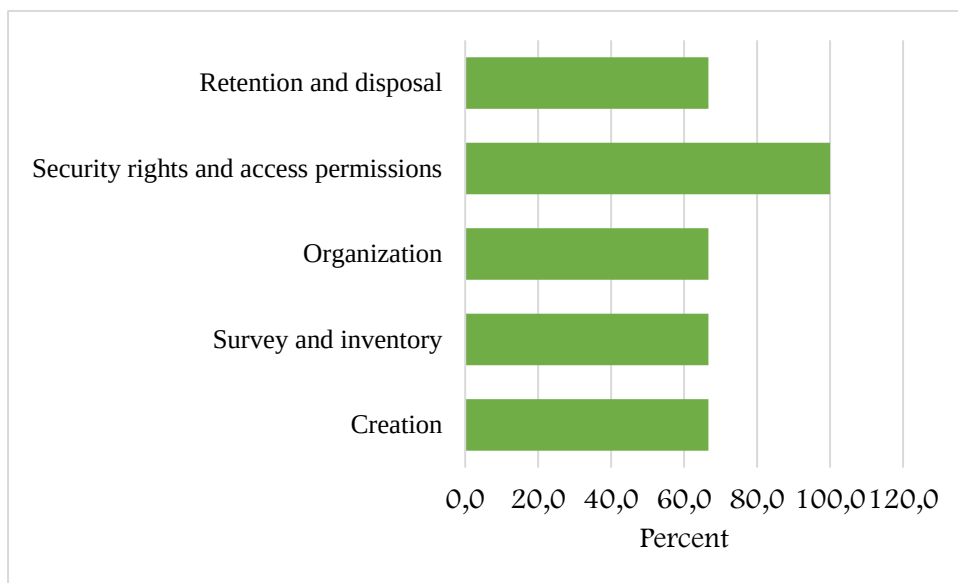


Figure 49: Aspects of electronic records management covered by the system (n=3)

5.9.37 Information captured by the system during records creation

Further, the researcher wanted to establish the information captured in the e-records system during the creation of e-records. Six (37.5%) of the respondents indicated that both the content and context of records were captured during records creation. Another 5 (31.3%) of the respondents indicated that the e-records management system only captured the structure of the records.

Figure 50 below illustrates the aspects captured during the creation of e-records.

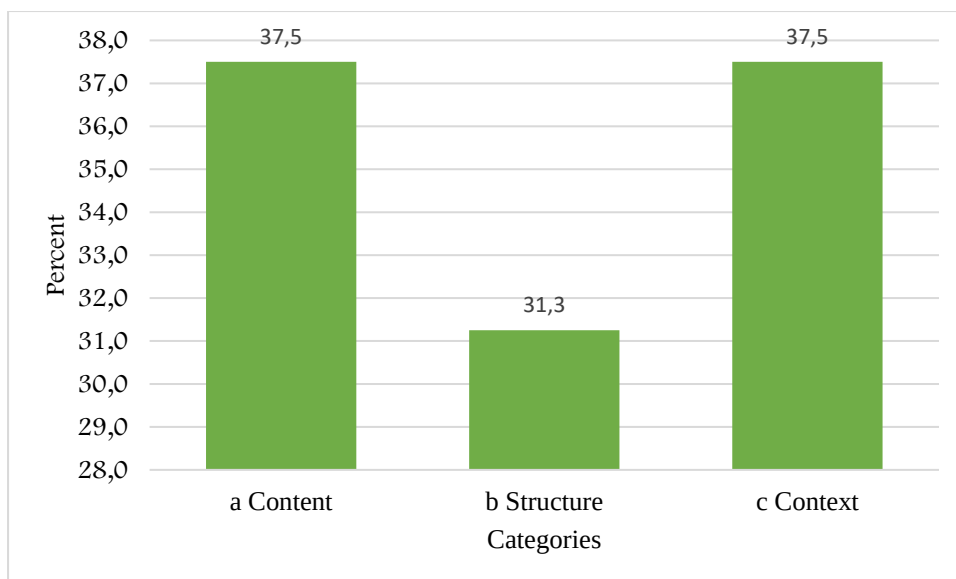


Figure 50: Information captured when creating electronic records (n=16)

From Figure 50 above, it is evident that the systems used for managing e-records in government ministries mainly captured the content and context of the records during their creation. This finding is important because it implies that by capturing the content, the system has captured the information contained in a particular e-record. Similarly, by capturing the context, the system has captured metadata of that particular e-record. Metadata in this case may refer to the author of the record; date of creation; title of document among other details. This is particularly important as it aids in searching and retrieval of the document whenever it is required. Notably, 5 (31.3%) of the respondents also indicated that their system for managing e-records also captured the structure of the e-record. This finding is equally important in that information on the structure of the record enables the user to make a logical relationship of the record with other records.

5.9.38 Access to information and public records

Records managers were also asked specific questions on access to information and public records in their ministries. Firstly, the study sought to establish whether they faced any challenges in providing access to public records. Majority 10 (62.5%) of the respondents indicated that indeed they faced challenges in providing access to records. Conversely, 4 (25%) of the respondents indicated that they didn't face any challenges in providing access to information. However, 2 (12.5%) respondents did not respond to this question.

Figure 51 below illustrates the prevalence of challenges in providing access to public records in government ministries.

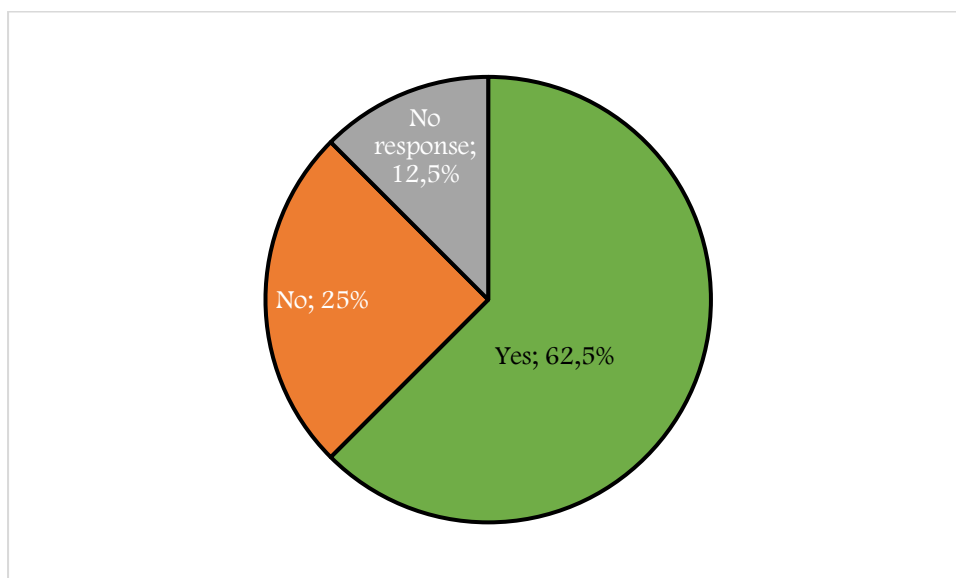


Figure 51: Faced challenges in providing access to public records (n=16)

Figure 51 above shows that majority 10 (62.5%) of the respondents faced challenges in providing access to public records.

5.9.39 Specific challenges faced in providing access to public records

Further, the respondents that indicated that they faced challenges in providing access to information were asked to indicate from a multiple list provided the specific challenges that they faced. The respondents gave varying responses as indicated in the Table 36 below.

	Frequency	Percent
Registry staff not understanding user needs	8	80,0
Limited knowledge of registry operations	6	60,0
Registry staff lacking training	6	60,0
Action officers retaining files	9	90,0
Bulky files	5	50,0
Torn and dusty files	5	50,0
Poor registry layout	6	60,0
Mix-up of active and inactive files	5	50,0

Table 36: specific challenges faced in providing access to public records (n=10)

Table 36 above shows that most 9 (90%) of the respondents indicated that the main challenge they faced with regards to providing access to public records was the issue of action officers retaining files in their offices. This finding may be explained by an earlier finding in section 5.8.1 which indicated that majority of the ministries lacked a records management policy. Indeed, in the absence of a policy, which would specify how long an action officer should stay with a file, the problem of retaining files persists. Another 8 (80%) of the respondents also cited the inability of registry staff to understand user needs as a challenge in providing access to public records. This means that the registry staff are not able to provide information since they have little knowledge of the user's information needs. Other challenges mentioned included:

Lack of finding aids and inadequate space.

5.10 Summary

This chapter analysed and presented the findings of the study. The analysis and presentation of the findings was guided by the research questions of the study. The findings revealed that the state had demonstrated some degree of leadership and political will to implement the ATI Act 2016. Further, the findings revealed that 50% of the duty bearers were fully aware of their responsibilities as stipulated in the Act. Additionally, the findings indicated that ministries did not have guidelines for receiving; processing and responding to ATI requests. On the state of records management, the findings indicated that despite being poorly funded, management of records in government ministries has improved considerably. The next chapter seeks to interpret these findings in relation to the main research problem and the objectives of the study.

CHAPTER SIX

6.3 Extent of political will for implementation of the ATI Act 2016

The interpretation and discussion of findings on the extent of political will for implementation of the ATI Act 2016 is discussed under the following sub-themes:

- Efforts made by the state to introduce legal and regulatory reforms to facilitate institutionalization of an ATI regime;
- Efforts by the state to initiate or actively support ATI legislation implementation; and
- Efforts made by the state to create platforms and administrative mechanisms that facilitate citizen access to government information.

6.3.1 Efforts made by the state to introduce legal and regulatory reforms to facilitate institutionalization of an ATI regime

According to the concept of meaningful engagement, for there to be meaningful dialogue between the state and the citizenry, there has to be a conducive environment and in particular a supportive legal and regulatory framework. This view was echoed during the African regional Plan of Action meeting on ATI in Accra, 2010. Specifically, African states were required to demonstrate political will by repealing, amending or reforming all laws and administrative measures inconsistent with the right of access to information (Carter Centre 2010b).

The findings of the current study revealed that the government was yet to fully create a conducive legal and regulatory framework to facilitate implementation of the ATI Act 2016. This is demonstrated by the absence of regulations to operationalize the ATI Act 2016 and the presence of laws that perpetuate secrecy in Kenya's statutes. Some of the laws that undermine access to information include; the Official Secrets Act, the Preservation of Public Security Act, the National Assembly Powers and Privileges Act among others. The continued existence of these laws in the statutes undermines efforts towards openness.

It emerged that the government had not made any deliberate efforts to repeal archaic laws that inhibited access to information. Likewise, no efforts had been made to review public service rules that perpetuated secrecy in the public sector. Rodrigues (2008) advises that such rules should be repealed to be in tandem with the ATI regime.

However, the executive has undertaken some positive steps particularly towards proactive disclosure. For instance, in June 2018, the president issued an executive order directing all

government institutions to begin publishing full details of tenders and awards on the 15th of every month beginning July 2018. Specifically, public entities are required to publish information on the items or services purchased, contract prices, and the particulars of the suppliers including owners, directors and beneficial ownership of the companies (Government of the Republic of Kenya, Executive Order No.2, 2018).

Notably, the Ombudsman intends to issue instructions to public entities on the implementation of the ATI Act 2016. The circular requires public entities to among other things:

- Proactively disclose information in their custody;
- Publish the name or names of its Information Access officers and
- Process the applications for access to information held by them within the set timelines at a reasonable.

Further, the Ombudsman has developed several guidelines aimed at facilitating implementation of the ATI Act 2016. These include; a hand book to guide public entities on the implementation of the ATI law, a guideline on proactive disclosure for public entities as well as a simplified version of the ATI Act 2016 to ease citizens understanding of the Act.

On the question of the measures taken to advance the right to protection of personal data, the study revealed that the Ministry of Information and Communication Technology had published a draft data protection bill which was set to be debated in parliament. The bill seeks to create safeguards for personal data by specifying how data should be stored and shared. Further, the Ombudsman intends to issue instructions to public entities regarding protection of personal data. Specifically, public entities are expected to correct outdated, inaccurate or incomplete personal information within reasonable time upon application. A copy of the instructions on the amendment of personal data is provided as Appendix 23 of this thesis.

The absence of a comprehensive legal and regulatory framework for ATI implementation demonstrates lack of political will towards ensuring citizens access information.

6.3.2 Efforts by the state to initiate or actively support ATI legislation implementation

The ‘concept of meaningful engagement’ submits that the state should undertake measures that promote sharing of information with the citizenry. This view is underscored by Miriyoga (2011) who noted that access to information allows citizens to enter into conversation with the state on contentious issues of service delivery and realization of social-economic rights.

The study revealed there were no elaborate efforts by the state to actively support implementation of the ATI Act 2016. This is demonstrated by:

- Absence of ATI implementation units in public entities.

International access to information best practices (Article 19 RTI legislation requirements) dictates that nations that wish to effectively implement the ATI laws should establish ATI implementation units in each public entity. These ATI units assist in the coordination of ATI activities in the specific agency. The findings of the present study revealed that the government was yet to establish ATI implementation units in ministries. As such, ATI activities at ministry level were uncoordinated.

- Absence of a government-wide ATI policy 2 years after the enactment of the ATI Act 2016.

The absence of a national policy on access to information means that there are no guidelines on how public entities should manage and disseminate information. This has created a chaotic, inconsistent information regime where each public entity manages public information based on agency-specific rules. This has undermined efforts towards an openness regime.

The study also revealed that the government was half-heartedly committed to international and regional instruments that protect the right to information. Specifically, by 2015, Kenya was yet to submit one report to the African Charter on Human and People's Rights (ACHPR). Further, Kenya has only ratified four out of the six African treaties that recognize the right to information. Specifically, Kenya is yet to ratify the African Union Convention on Preventing and Combating Corruption as well as the African Charter on Democracy Elections and Governance (AFIC 2017).

6.3.3 Efforts made by the state to create platforms and administrative mechanisms that facilitate citizen access to government information

The 'concept of meaningful engagement' advocates on the need for dialogue between the state and the citizenry on management of public affairs. As such, the state is expected to create a platform that will facilitate dialogue with the public.

The findings of the present study revealed that the government had undertaken several administrative measures that enhanced citizen access to information. Key among them is the establishment of platforms where government information is shared. These platforms include:

- MyGOv weekly newspaper pull-out that disseminates information on government achievements, job opportunities in the public sector and available tenders in the public sector. The paper is available on the government portal www.mygov.go.ke
- Social media platforms such as *#gokdelivers* and *#gokinteracts*. These platforms disseminate information on government achievements and also allow interaction between the state and the citizenry.
- E-citizen portal that allows citizens to access a range of services such as; application for identity card and passport, renewal of driving license, filing of tax returns among other services.
- Public participation forums where citizens give views relating to any legislation that is before parliament. This is done based on the dictates of Article 1 (1-4) of the constitution of Kenya 2010.
- Launching of the public-private partnership project disclosure web portal in June 2018. The portal provides information relating to every phase of the project. These phases include project identification and preparation; procurement; contract signing as well as construction and operation. In essence, the portal educates the public on expected level of services; key commercial terms in all the signed contracts and obligations by both government and the private investor. The portal is available on [www.pppunit.go.ke/disclosure portal](http://www.pppunit.go.ke/disclosureportal).
- Uploading of government documents in the ministry's websites.

INTERPRETATION AND DISCUSSION OF FINDINGS

6.1 Introduction

This chapter interprets and discusses the results presented in Chapter Five. In essence, interpretation aims at establishing the broader meaning of the research findings and their implications (Kothari 2004:344; Polit and Beck 2004: 52). Specifically, interpretation entails relating the findings of the study to the original research problem and the specific research questions as well as to pre-existing literature, concepts, theories and research studies (Leedy and Omrod 2005: 276). Further, interpretation allows the researcher to add his own meaning to the collected and analysed data. This provides a platform for intellectual adventure and stimulates quest for new knowledge (Kothari 2004). Notably, data interpretation should be

approached cautiously. Indeed, Kothari (2004) points out that the precautions observed during data analysis should also be observed while interpreting the findings. These precautions relate to reliability of data, computational checks, validation and comparison of results.

6.2 Interpretation and discussion

In the current study, interpretation and discussion of the findings made reference to the detailed literature review presented in Chapter Three and the empirical data presented in Chapter Five. Further, the interpretation and discussion of findings is based on the objectives of the study namely:

- The extent of leadership and political will for implementation of the implementation of the ATI Act 2016;
- The level of awareness among public officers of their duties as stipulated in the ATI Act;
- The systems, processes and structures in place for facilitating access to information; and
- The records management practices in government ministries and the extent to which they facilitate or undermine access to information.

The next section presents a detailed discussion of the findings based on the above objectives.

6.4 Extent of leadership for implementation of the ATI Act 2016

The interpretation and discussion of findings on the extent of leadership and political will for implementation of the ATI Act 2016 is discussed under the following sub-themes:

- Whether the Ministry's/Department strategic plan incorporates the aspect of ATI;
- Presence/ absence of ATI policy in government ministries/ departments;
- Presence/absence of ATI action plan in government ministries/ departments;
- Where an ATI action plan was available, establish when the action plan was developed in relation to the enactment of the ATI Act 2016;
- Whether policy makers in ministries/departments are involved in ATI matters;
- Frequency of involvement of policy makers on matters relating to ATI;
- Whether there is top management support for ATI implementation;
- Nature of top management support for ATI implementation and

- Availability of resources (physical, personnel and financial) to facilitate implementation of the ATI legislation.

6.4.1 Whether the Ministry's/Department strategic plan incorporates the aspect of ATI

The Carter Centre's Implementation Assessment Tool (IAT) that provided the mechanism for undertaking this study submits that one-way public entities can demonstrate commitment to implement ATI is through pronouncements in support openness in government policy documents and plans as well as statements by political leaders in support of the ATI legislation. This assertion is supported by Rodrigues (2008) who noted that there is need for the leadership to make clear statements and to consistently pledge their unequivocal support for the new openness regime.

In the current study, most 18 (69.2%) of the ministries had incorporated the aspect of ATI in their strategic plans. These findings concur with those of Carter Centre's (2014) IAT pilot study in Mexico. The findings revealed that the strategic plans in all the six ministries assessed envisioned transparency and access to information as part of their activities (Carter Centre, IAT Mexico 2014). Inclusion of ATI in a public entity strategic plan demonstrates the public entity's intention to institutionalise ATI.

However, the findings of the current study contradict those of Carter Centre (2014) IAT pilot study that revealed that out of the six agencies assessed in Bangladesh, only one agency had set strategic goal on information disclosure. The study noted that this undermined the agencies ability to implement ATI (Carter Centre, IAT Bangladesh 2014).

The findings of the current study can be attributed to the aspirations by ministries and departments to align their strategic plans with the Constitution as well as government economic blueprint. In this case, since the Constitution of Kenya 2010 provides for access to information in Article 35, then ministries are obliged to align their strategic plans to this provision. Further, as alluded in Chapter Three of this thesis, Kenya's economic blueprint Vision 2030 articulates the importance of information access and provision for the realization of the vision.

For purposes of this study, the inclusion of ATI in the strategic plan of government ministries demonstrates willingness and preparedness to implement the ATI Act 2016.

6.4.2 Existence of ATI policy in government ministries/departments

The Carter Centre's Implementation Assessment Tool (IAT) and the UK DCA, MAP 2003 recommend that public entities intending to implement ATI Act should have an ATI policy. This policy should provide for establishment of an access to information implementation unit; appointment of a project team to spearhead ATI implementation; formulation of an ATI implementation plan and mechanisms for review and evaluation of the ATI implementation plan.

The current study revealed that ministries/ departments lacked written ATI policies. Consequently, ministries/departments lacked ATI implementation units and ATI project teams. The findings of the current study concur with those of Carter Centre's (2014) IAT pilot study in Bangladesh, the study revealed that all the six agencies assessed lacked ATI policy. This was attributed to the fact that the Ministry of Information which has the authority to issue the policy was yet to do so. The study concluded that lack of an ATI policy inhibited the agencies capacity to fulfil their ATI mandate (Carter Centre, IAT Bangladesh 2014).

In Kenya, the lack of an ATI policy can be attributed to the fact that the Ministry of Information Communication and Technology which is charged with issuing a government-wide ATI policy is yet to do so. Indeed, an interview with the Director of Administration in the Ministry indicated that the ministry was working on the policy.

The lack of a policy framework for ATI implementation implies public entities were yet to make far-reaching preparations towards implementing the ATI Act 2016.

6.4.3 Existence of an ATI action plan in government ministries/ departments

The UK, DCA, MAP 2003 recommends that public entities should formulate ATI plans that identify important milestones towards effective preparation for ATI implementation and set out the dates by which they will be achieved. This recommendation is supported by Rodrigues (2008) who noted that that an immediate way of signalling the government's commitment to implementing a new access law is by developing and publishing a detailed plan of action identifying key implementation tasks, the agency or agencies responsible for executing them and strict timelines for completion.

Although the current study revealed that all ministries/ departments lacked action plans for ATI implementation, it is important to point out that at national level, the Ombudsman had developed an action plan for implementation of the ATI Act 2016. Indeed, it is expected that

ministries/departments will use this action plan as a guide to develop agency-specific action plans. The formulation of a national action plan for ATI implementation demonstrates commitment by the Ombudsman to oversee implementation of the ATI Act 2016.

Formulation of an ATI national action plan in Kenya replicates a similar move in the UK where the Department of Constitutional Affairs that was charged with overseeing the implementation of the Freedom of Information (FOI) Act 2000 developed the Model Action Plan (MAP) 2003 to guide public entities in implementation of the FOI Act 2000.

Notably, under the performance contracting reporting framework on ATI implementation 2017/2018, public entities are expected to submit an approved annual implementation plan detailing the initiatives they are taking towards implementing ATI Act 2016 (CAJ, Reporting Framework on Resolution of Public Complaints Indicator and Access to Information, 2017). In view of this, it is expected that public entities will prepare ATI action plans in adherence to this requirement.

Importantly, the Commission on Administrative Justice (CAJ) is making efforts towards fulfilling its mandate of overseeing and enforcing the ATI Act 2016. Specifically, the Ombudsman has developed an annual work plan that details the ATI activities it is intending to undertake in the 2017/2018 financial year.

6.4.4 Establish when the action plan was developed in relation to the enactment of the ATI Act 2016.

The time when the ATI action plan was developed is also an indicator of public entities preparedness for ATI implementation. As mentioned earlier, the absence of ATI policies in government ministries meant that ministries did not also have agency-specific ATI action plans. Our analysis on this sub-theme will therefore focus on the existence of an ATI policy at the national level.

In the UK, the Model Action Plan (MAP) 2003 was developed two years before the January 2005 deadline for public entities to implement the Freedom of Information Act 2000. In contrast, in Kenya, the current study revealed that the national ATI plan was developed after the implementation of the ATI Act 2016. Indeed, Kenya's ATI plan was presented at an ATI stakeholder's forum in April 2018. At this forum, ATI stakeholders were expected to give their views regarding the national ATI plan. Whereas the formulation of the national ATI plan was a great step, the timing of its formulation two years after the enactment of the ATI Act 2016

suggests that the country was ill prepared for the implementation of the ATI Act 2016. The delay in formulation of the national ATI plan is attributed to lack of funds. Indeed, the Commission on Administrative Justice (CAJ) only engaged a consultant to formulate the action plan after receiving funding from external donors. A copy of the proposed ATI action plan is provided as Appendix 26 of this thesis.

But the delay in formulation of an ATI action plan is not unique to Kenya. Indeed, a previous study by Screene (2005) reported that there was no ATI action plan at the National Museum due to frequent changes to the management of the ATI project. Screene (2005) noted that:

A complete ATI plan from the outset would have enabled the National Museum to organise and timetable all the preparations to ensure success.

6.4.5 Whether policy makers in ministries/departments are involved in creation, adoption and review of ATI policy

The general practice in government ministries is that policy matters are handled by senior officials. In the same vein, the Carter Centre's Implementation Assessment Tool (IAT) that provided the mechanism for undertaking this study recommends that senior officials in the organization should be involved in the creation, adoption and review of ATI policies. This recommendation is consistent with an observation by UK's, Lord Falconer, Secretary of State for Constitutional Affairs and Lord Chancellor 2004 who observed that:

It is important for leaders of public bodies to support the FOI process from preparation to implementation and thereafter. Senior managers have to provide the leadership and the resources to enable the administrators to adequately prepare for January 2005.

Although at national level an information commissioner had been appointed to spearhead implementation of the ATI Act 2016, at the ministry/ department level this was not the case. Indeed, the current study revealed that only 46.2% of the ministries surveyed had senior officers who were involved in the creation, adoption and review of the ATI policy. Indeed, in most ministries (53.8%), senior officials were not involved in the creation, adoption and review of the ATI policy. These findings are similar to those of Carter Centre's (2014) IAT pilot study in Guatemala. The study revealed that high level officials were not involved in creation and review of the ATI policies. The study concluded that this undermined the agencies capacity to fulfil their ATI mandates.

In contrast, in the UK, the Lord Chancellor was involved in formulation of the policy framework for implementation of the FOI Act 2000. Specifically, the Lord Chancellor chaired the ministerial sub-committee on freedom of information whose role was to oversee government strategy on FOI and its preparations for the implementation of the FOI Act 2000 (United Kingdom (UK) House of Commons, Constitutional Affairs Committee first report 2004/05).

In Kenya, the lack of involvement in ATI matters by policy makers can be attributed to lack of a government-wide ATI policy that stipulates specific duties that should be carried out by senior officials. For purposes of this study, the lack of involvement of senior officers in ATI policy matters may suggest lack of leadership and support and thus ill preparedness for ATI implementation.

6.4.6 Frequency of involvement of policy makers in creation adoption and review of ATI policy.

As mentioned earlier, involvement of senior officials in policy matters relating to ATI is key to effective implementation of the ATI legislation. As such, the Carter Centre's Implementation Assessment Tool (IAT) that provided the mechanism for undertaking this study recommends the need to assess the level of engagement of a public entity official with authority in the creation adoption and review of policy. Undeniably, this recommendation is consistent with the views expressed by UK's, Lord Falconer, Secretary of State for Constitutional Affairs and Lord Chancellor 2004 that leaders of public bodies should support the entire FOI process from preparation to implementation and thereafter. The current study revealed that most 5 (41.7%) of the senior officials participated in ATI matters twice a year. It is expected that once there is a government-wide policy on ATI, the level of engagement of senior officers on ATI matters will increase.

The findings of the current study echo those of Screene (2005)'s study on the preparedness of public bodies for the implementation of the UK FOI Act 2000. Specifically, Screene (2005) observed that at the University College London there was limited leadership on FOI matters resulting in inadequate resources. Indeed, Screene (2005) noted that at the University College London senior management only offered advice in dire situations and were not proactive. Screene (2005) concluded that this undermined preparedness for the UK FOI Act 2000.

Similarly, the findings of this study mirror those of a study conducted in Bangladesh where the IAT tool was piloted in 2014. The study revealed that out of the six ministries assessed, only one ministry had a meeting on information disclosure between the high level officials and the ATI officers. In the other ministries it was reported that high- level officials rarely sat with ATI officials unless under special circumstances. The study concluded that this inhibited the agencies capacity to undertake their ATI mandates (Carter Centre, IAT Bangladesh 2014).

For purposes of the current study, the limited involvement by policy makers in ATI matters signals lack of leadership and support and suggests that public entities may be ill prepared for ATI implementation.

6.4.7 Whether there is top management (Principal Secretary level) support in ATI implementation

The administrative set up in the public sector is hierarchical in nature. As such, support for the ATI function has to start from the top and be cascaded to the lowest cadre. Indeed, UK, DCA MAP 2003 recommends that public entities should appoint a senior official to spearhead all matters related to access to information. This recommendation is consistent with the views expressed by UK's, Lord Falconer, Secretary of State for Constitutional Affairs and Lord Chancellor (2004) who noted that it was important for leaders of public bodies to support the FOI process from preparation to implementation and thereafter.

The current study revealed that in most 16 (61.5%) of the ministries surveyed there was top management (at the level of Principal Secretary) support for ATI implementation. Seemingly, top management felt obliged to support ATI since it was clearly pronounced in government's economic blueprint Vision 2030 as well as in the constitution of Kenya 2010.

The findings of this study are similar to those of Screene (2005)'s study that revealed that at the Museum and the Police there was support for FOI at the highest level. In contrast, Screene (2005)'s study revealed that, at the local authority, the leader had other responsibilities that compromised the quality of leadership (Screene 2005). The study concluded that this undermined preparation towards implementation of the UK FOI Act 2000.

The presence of top management support suggests willingness and preparedness to implement the ATI law.

6.4.8 Nature of top management support for ATI

Regarding the nature of support given by top management, the current study revealed that handling of difficult requests was the most 11 (68.8%) common form of top management support. This means that top management only offered support when it was very necessary. It would appear that senior officers are consulted to give direction when there is a request for information that is deemed sensitive. International best practices on ATI implementation demand that top management should support the whole process of ATI implementation.

Notably, these findings are consistent with those of Screene (2005)'s study on preparedness of public bodies for the implementation of the UK, FOI Act 2000. The study revealed that at the University College London, senior managers only offered advice during emergency cases.

This finding contradicts the recommendations of the main model that underpins this study which is the UK, DCA, MAP 2003. The model emphasizes that senior officers should support the FOI process from preparation to implementation and thereafter. This may suggest that there is need to create awareness among senior officers on the importance of the ATI legislation.

6.4.9 Availability of physical infrastructure to facilitate implementation of the ATI legislation

The Carter Centre's Implementation Assessment Tool (IAT) that provided the mechanism for undertaking this study recommends that public entities should have resources (physical, human and financial) for receiving and responding to ATI requests as well as for proactive disclosure.

On the availability of physical resources, Calland and Neuman (2007) noted that equipment for processing requests should be availed by being included in the start-up cost for a new ATI regime. The current study revealed that 17 (65.4%) of the ministries had regular access to necessary equipment for ATI implementation. Further, the study revealed that computers, photocopying machines and scanners respectively were the most readily available equipment for ATI implementation in government ministries.

The findings of the current study are similar to those of a pilot study conducted by the Carter Centre in Bangladesh using the Implementation Assessment Tool (IAT). The study revealed that the six agencies assessed had ensured availability of infrastructure such as websites, computers with internet capacity, scanners and photocopiers for use in information disclosure. The study concluded that this enhanced the agencies capacity to undertake their ATI mandate. (Carter Centre, Bangladesh 2014).

However, the findings of the current study contradict those of an IAT pilot study conducted in Liberia. The study revealed that the six agencies assessed lacked resources and equipment to do their work. The study concluded that this undermined the agencies capacity to handle ATI requests (Carter Centre, IAT Liberia 2016).

In Kenya, the availability of ATI equipment can be attributed to the fact that the government of Kenya has increasingly embraced e-government to improve service delivery. Indeed, Ambira (2016) noted that use of e-government in Kenya had increased and more ministries were adopting e-government services. Notably, one of the aspects that public entities are expected to report on in the ATI performance contract guidelines is the establishment of ATI infrastructure. Specifically, public entities are expected to submit a report to the Ombudsman that contains details of the institutional website as well as ATI links and portals. A copy of the template for reporting on establishment of ATI infrastructure is provided as appendix 29 of this thesis.

The availability of physical resources for ATI implementation suggests that access to information requests are attended to thus demonstrating preparedness for implementation of the ATI Act 2016.

6.4.10 Availability of physical and virtual space

The Carter Centre's Implementation Assessment Tool (IAT) that provided the mechanism for undertaking this study recommends that public entities should have physical and virtual space for receiving and responding to ATI requests. This recommendation is supported by Calland and Neuman (2007) who noted that the start-up costs for implementation of a new ATI regime should include expenses related to hiring and setting up a new coordinating unit for information.

The findings of the current study revealed that in most 15(57.7%) of the ministries, physical and virtual space for receiving and responding to requests was available. It is important to note that none of the ministries had clearly marked and designated offices for ATI. Instead, ATI requests were received at the customer care desk where all visitors are received and attended to. This customer care desk therefore acts as the first point of contact for receiving ATI requests. The requests are then directed to the Public Communication Officers who have designated offices. Notably, all ministries have accessible libraries which act as information

centres where publications and policy documents relating to the operations of the ministry can be accessed.

The findings of the current study are similar to those of a study conducted in Uganda where the IAT tool was piloted in five ministries by the Carter Centre. The study revealed that all the ministries had freely accessible resource centres where the public can access proactively disclosed information. The study concluded that this enhanced the ministries capacity to fulfil their ATI mandates (Carter Centre, Uganda 2016).

With regards to virtual space, the findings of the current study revealed that all ministries have websites where information relating to the operations of the ministry is uploaded. Indeed, the Information and Communication Technology Authority (ICTA) requires all ministries to have websites. Additionally, the ICTA has developed standards that are to be adhered to by ministries in developing their websites. As such, all the ministries websites had the search function that allowed citizens to search for information.

The findings on the availability of virtual space conform to the findings of a similar study conducted in Bangladesh. Specifically, in all the six ministries where the IAT tool was piloted, the findings revealed that the ministries proactively disclose their documents in the websites (Carter Centre, Bangladesh 2014).

However, the findings of the current study contradict those of a study conducted in Nigeria where the IAT tool was piloted in seven federal government agencies in 2016. The study revealed that although the agencies had websites, the websites were largely obsolete and did not contain relevant information. The study concluded that the poor state of the websites undermined the agencies capacity to proactively disclose information (Carter Centre, Nigeria 2014).

In Kenya, the availability of physical and virtual space for receiving and responding to ATI requests suggests preparedness for implementation of the ATI Act 2016.

6.4.11 Adequacy of designated space

One of the recommendations of the Carter Centre Implementation Assessment Tool (IAT) is that there should be adequate physical and virtual space for receiving and processing ATI requests. In view of this, the findings of the current study revealed that most 13 (86.7%) of the respondents felt that the available physical and virtual space was adequate.

Seemingly, respondents who indicated that the space was adequate were alluding to the availability of customer care desk in ministries where citizens make enquiries. Indeed, one of the International Standardization Organization (ISO 9000:2015) requirements is that ministries should provide a platform where citizens' requests and concerns are attended. Since all ministries endeavour to be fully compliant to the ISO requirements, it follows that they have to make adequate provision for space to handle ATI requests.

The adequacy of the virtual space can be attributed to the standardization of the framework for developing government websites that has compelled all government ministries' websites to have certain standard features. The search function is one of the standard features in all government websites.

For purpose of this study, adequate physical and virtual space is indicative of preparedness towards implementation of the ATI Act 2016.

6.4.12 Availability of space for proactive disclosure

The Carter Centre's Implementation Assessment Tool (IAT) that provided the mechanism for undertaking this study recommends that public entities should have space for proactive disclosure. The current study revealed that in most 15 (57.7%) there was no space for proactive disclosure. These findings contradict those of an IAT pilot study conducted by the Carter Centre in Liberia. The study revealed that all the six agencies assessed had a dedicated space for proactive disclosure. The study concluded that this enhanced the agencies capacity to disclose information (Carter Centre, IAT Liberia 2016).

In Kenya, the lack of physical space for proactive disclosure may be attributed to the fact that the government has concentrated its proactive disclosure efforts in print and electronic media. Indeed, in the print media, MyGov, a weekly newspaper pullout details all information regarding the operations of the various government ministries and departments. In addition, the publicity departments in government ministries and departments also develop brochures and flyers detailing the information available in specific ministries/departments.

One notable proactive disclosure platform that are available in all ministries are roll-up banners and notice boards of the service charter. Specifically, the service charter details the services (including responding to information requests) offered in the ministry and the time it would take to deliver the services. Indeed, one of the International Organization Standardization (ISO 9000:2015) requirements is that all government entities should have a service charter visibly

displayed detailing the services offered and the timelines within which any requests are responded to.

Further, with the advent of social media, the government has launched several social media platforms through which information relating to government operations is proactively disclosed. These platforms include: *#gokdelivers*; *#gokinteracts*. Through these platforms the government is able to publicize its achievements as well as interact with citizens and respond to any requests for information. Notably, although there is no government-wide social media policy, all ministries have social media pages that are managed by the Public Communication Officers.

Importantly, all ministries also have libraries/ information centers where publications relating to the operations of the ministry are stored. Whereas the library displays the publications in hard copy, the same are also disclosed by being uploaded in the official government website www.mygov.go.ke and also in specific Ministry's websites. This finding mirrors the findings of a similar study in Uganda where the IAT tool was piloted in five ministries by the Carter Centre. The study revealed that all the ministries had freely accessible resource centres where the public can access proactively disclosed information. The study concluded that this enhanced the ministries capacity to fulfil their ATI mandates (Carter Centre, Uganda 2016).

Seemingly, although this finding implies that there is limited physical space for proactive disclosure, there are numerous proactive disclosure initiatives on other platforms. As such, in terms of proactive disclosure, the government preparedness towards implementation of the ATI Act 2016 is commendable.

6.4.13 Adequacy of designated space for proactive disclosure

To conform to the requirements of the Carter Centre ATI, Implementation Assessment Tool (IAT), the study sought to assess the adequacy of space for proactive disclosure. The study revealed that most 10 (90.9%) of the respondents felt that there was adequate space for proactive disclosure. Seemingly, this finding could be making reference to the libraries and the notice boards in government ministries/ departments. These findings concur with those of Carter Centre IAT pilot study in Uganda. The study revealed that all the seven ministries where the IAT tool was piloted, had freely accessible resource centres where citizens could request information. The study concluded that this enhanced citizen's access to information.

6.4.14 Whether Ministries/Departments had deployed specific staff to handle ATI requests

The UK, DCA, MAP 2003 and the Carter Centre's Implementation Assessment Tool (IAT) recommend that public entities should deploy expert staff to handle ATI requests. This assertion is supported by Calland and Neuman (2007) who noted that just like other laws, appropriate staffing is fundamental in ensuring effective implementation of the ATI law. The current study revealed that most 18 (69.2%) of the ministries had deployed staff to handle ATI requests.

Although the ATI Act 2016 designates the Chief executive Officer or the Principal Secretary (PS) in the ministry as the Access to Information Officer, in most cases, Principal Secretaries are overwhelmed by administrative duties and therefore delegate the ATI responsibility to other officers. For purposes of this study, in the ministries, the ATI responsibility is informally delegated to the Public Communication Officer. This arrangement means that ATI requests are directed to the Public Communication Officer. However, the ATI requests that relate to sensitive information are still referred to the Principal Secretary as the designated officer under the law. The finding that most ministries had deployed staff to handle ATI requests is therefore alluding to Public Communication Officers. As mentioned in Chapter five Section 5.4.14, most ministries have at least three Public Communication Officers.

These findings mirror those of a similar study in Uganda where the IAT tool was piloted in seven ministries. The study revealed that all ministries had a specific officer whose role was to receive and provide information to citizens. Further, in most cases this official was also in charge of proactive disclosure. Just like in Kenya, the ATI law in Uganda designates the Permanent Secretary as the Access to Information Officer. However, due to work exigencies the Permanent Secretary delegates this responsibility to another officer. In Uganda, the titles of these officers varies and include; Communication Scientists, Communication Officers and Information Officers. Notably, the delegation is partial and informal thus making it difficult to hold the officers accountable for failure to undertake their ATI duties. Overall, this undermines the implementation of the ATI law (Carter Center, IAT Uganda 2016).

Similarly, the findings of the current study mirror those of an IAT pilot study conducted in Jordan. The study revealed that in all the five ministries assessed, there was no designated officer to handle ATI functions. Instead, ATI duties were added to the main work of the ATI

officers. The study concluded that this inhibited the agencies capacity to fulfil their ATI mandate (Carter Centre, IAT Jordan 2016).

Notably, in Kenya, under the performance management reporting framework on ATI, public entities are expected to report on whether they have appointed a designated officer to handle ATI requests. Specifically, public entities are expected to submit a report to the Ombudsman with details of the name and contacts of the ATI officer as well as a notification letter of the ATI officer. It is expected that in adherence to this requirement, public entities will formally designate specific officers to handle ATI duties.

For purposes of this study, the absence of dedicated staff to handle ATI duties suggest that public entities have not undertaken long-term measures to prepare for the implementation of the ATI Act 2016.

6.4.15 Total number of fulltime staff deployed to handle ATI requests

The Carter Center IAT tool emphasizes on the need to have specific staff dedicated to handling ATI requests. This requirement is supported by Calland and Neuman (2007) who noted that appropriate staffing is important in ensuring effective implementation of the ATI law. The current study revealed that the number of staff involved in handling ATI requests ranged from 1 to 9. This finding is consistent with the observation in Chapter five Section 5.4.15 that indicated that most ministries had at least three Public Communication Officers (PCOs). In most cases, the senior was the Principal Public communication Officer who was deputised by a Chief Public Communications Officer; a Senior Public Communications Officer and a Public Communication Officer 1. Lemieux and Trapnell (2016) support this form of arrangement by pointing out that effective ATI systems operate with a Principal Information Officer in at least each agency who is responsible for overall RTI implementation within that public body

However, it is important to note that since the cadre of PCOs existed even before the enactment of the ATI Act 2016, they were not specifically employed to handle ATI. Instead, ATI duties were added to their existing responsibilities. Tellingly, the fact that PCOs have other duties besides ATI suggests unpreparedness and indicates that ATI may not be receiving full attention thereby undermining its effective implementation.

These findings concur with Screene (2005)'s study that revealed that in the University College London there was no extra money to employ new staff. As a result, FOI duties were added to the tasks of existing staff. Similarly, at the Local Authority, Screene (2005) established that the

leader of the FOI project had other responsibilities thereby compromising the quality of his leadership on ATI matters.

In yet another study in Bangladesh where the ATI tool was piloted in six ministries, the study revealed that ATI duties were added to the regular duties of civil servants. The study concluded that this undermined the capacity of the ministries to undertake their ATI mandates (Carter Centre, Bangladesh 2014).

6.4.16 Adequacy of the deployed staff

The Carter Center IAT tool also seeks to establish the adequacy of staff deployed to handle ATI requests. The current study revealed that 14 (77.8%) of the respondents felt that the staff deployed to handle ATI requests were inadequate. With the enactment of the ATI Act 2016, one would have expected hiring of staff to support the implementation of the Act. However, this has not happened. Instead, ATI duties were added to the duties of existing staff. Indeed, the staff establishment of Public Communication Officers has remained the same even after enactment of the ATI Act 2016. This explains the finding that the staff deployed to handle ATI requests were inadequate. This finding is reinforced by the sentiments expressed by the Director of Public Communication who bemoaned the inadequacy of staff to undertake ATI duties and attributed it to failure to replace departed staff owing to government freeze on employment.

While assigning ATI duties to PCOs may seem convenient, it is only a short-term solution. It is expected that as citizens' awareness of the ATI Act grows, the demand for information will increase. Accordingly, PCOs will be under pressure to deliver on their main mandate as well as to undertake ATI duties. This may compromise effective implementation of the ATI Act.

6.4.17 Appointment of officer to undertake proactive disclosure

The Carter Center, IAT tool also seeks to establish whether public entities had appointed specific officers to undertake proactive disclosure. The current study revealed that 46.2% of the respondents reported that their institutions had specific officers tasked with proactive disclosure. Seemingly, this finding is referring to staff working in publicity departments.

On the other hand, 11.5% of the respondents reported that staff undertaking proactive disclosure were informally tasked. This finding contradicts the requirements of the Carter Center's IAT tool that staff undertaking proactive disclosure duties should be formally appointed. It would appear that this finding is alluding to staff undertaking proactive disclosure

in the course of their regular duties. For example, Information Communication Technology (ICT) officers update government websites and in so doing they provide updated information though they are not formally tasked to do so. This finding concurs with a previous study in Uganda where the IAT tool was piloted in six ministries. The study revealed that although the Permanent Secretary was the designated Access to Information Officer under the ATI law, he had informally delegated the responsibility to junior officers (Carter Centre, IAT Uganda 2016).

6.4.18 Whether Ministry/Departments have set aside funds for undertaking ATI activities

The UK, DCA, MAP 2003 and the Carter Centre IAT tool recommend that effective preparation for ATI implementation requires public entities to set aside funds for ATI activities. This requirement is supported by Calland and Neuman (2007) who noted that adequate resources are fundamental in ensuring effective implementation of the ATI law. The current study revealed that most of the ministries did not have a dedicated budget for ATI activities. Indeed, there was no provision for ATI activities in the ministries' budget. The only budget component that could accommodate ATI was the publicity component. However, as mentioned in section 5.4.18 of Chapter five of this study, the publicity budget is now administered by the Government Advertising Agency (GAA). The absence of a dedicated budget for ATI means ATI activities may not be prioritized thus undermining implementation of the ATI law.

The findings of the current study concur with Screene (2005)'s study findings which revealed that many public bodies in the UK did not receive additional financial support in order to prepare for FOI. The study concluded that this undermined preparedness towards the implementation of the UK, FOI Act 2000.

Similarly, a survey conducted by the Centre for research in Information Management also revealed that 80% of the participating organisations had not set aside a dedicated budget for ATI activities (Screene 2005). At the University College London, Screene (2005)'s study revealed that preparation for implementation of the FOI Act 2000 was hampered by provision of inadequate resources. In yet another study in Uganda where the IAT tool was piloted in five ministries, it was established that none of the agencies had a specific budget on ATI activities. The study concluded that lack of funds undermined the capacity of the agencies to implement ATI activities (Carter Centre, IAT Uganda 2016).

In contrast, in Bangladesh where Carter Centre's ATI tool was piloted in six agencies, the study revealed that although the agencies had not included ATI expenditures in their budgets, the general budget for the ministry was used to fund ATI personnel, infrastructure and equipment. The study concluded that this arrangement though not perfect enhanced the capacity of the agencies to fulfil their ATI mandate (Carter Centre Bangladesh 2014).

In Kenya, in terms of finances for overseeing and enforcing ATI implementation, the Ombudsman indicated that part of the challenge in implementing the ATI Act 2016 can be attributed to government's budget cycles. Specifically, the fact that the Act came into force in the first quarter of the financial year long after the government budget had been prepared. This meant that the commission had to wait for 2017/2018 financial year to present a budget for ATI implementation. Currently, the Commission is engaging the National Treasury and the Parliamentary Budget Committee to have its 2018/2019 budget approved. In the absence of funding from the exchequer, the Commission has been engaging donors to support ATI activities. Some of the ATI activities that the Commission has accomplished with assistance from development partners include: Development of a handbook for implementation of the ATI Act in public entities; development of proactive disclosure guidelines for public entities; development of a simplified version of the Act for citizens; sensitization of CAJ staff on the Act and convening of an ATI stakeholders conference.

In sum, the lack of adequate financial resources in public entities as well as at the CAJ has undermined the preparedness towards implementation of the ATI Act 2016.

6.5 The level of awareness among public officers of their duties as stipulated in the ATI Act 2016.

This section will interpret and discuss the findings of the second research question on the level of awareness among public officers on their duties as stipulated in the ATI Act 2016. Specifically, the interpretation and discussion will be organised based on the following sub-themes:

- Presence or absence of an ATI training plan;
- Nature of courses in the ATI training plan;
- Whether ministries had conducted any ATI training;

- Period when the training was conducted in relation to the enactment of the ATI Act 2016;
- Categories of staff targeted by the ATI training;
- Mode of delivery of the ATI training;
- Duration of the ATI training;
- Caliber of the trainers;
- Areas covered by the training and
- Whether the training met the staff ATI needs.

6.5.1 Presence or absence of an ATI training plan

The UK, DCA, MAP 2003 recommends that having an ATI training plan indicates preparedness towards implementation of the ATI legislation. The current study revealed that majority (57.7%) of the ministries did not have an ATI training plan. The lack of a government wide ATI policy means that ATI was yet to be mainstreamed in government ministries and departments. As a consequence, ATI had not been prioritized in government's human resource development departments thus the lack of ATI training plans.

These findings are similar to Screene (2005)'s finding that revealed that the National Museum was yet to develop an ATI training plan. On the contrary, at the University College London and the Metropolitan Police, Screene (2005)'s study revealed that there was an ATI training plan. Specifically, Screene (2005) noted that the Metropolitan police had invested in a comprehensive ATI training programme. The study concluded that police was prepared for the implementation of the UK FOI Act 2000.

The absence of ATI training plans in government ministries can be attributed to the fact that the Ombudsman was yet to develop a national ATI training framework. Undeniably, an ATI training framework would guide public entities in developing agency specific training plans. It is important for the Commission to urgently develop an ATI training framework that can guide other public entities. This assertion is supported by Screene (2005) who noted that when organisations delay in developing a training plan it undermines effective implementation of the ATI law.

In sum, the absence of ATI training plans in government ministries undermines the level of ATI awareness among public officers. This indicates unpreparedness towards implementation of the ATI Act.

6.5.2 Nature of courses in the ATI training plan

The type of courses in the ATI training plan also impact on the level of awareness of public officers. This assertion is supported by Rodrigues (2008) who noted that ATI training should be conducted within the following intervals; firstly, to new staff whereby an openness training is included in their induction curriculum. Secondly, to mid-career officials whereby mid-career training programs on the content of the right to information legislation are conducted when need arises and lastly, regular refresher training to address emerging questions that officials may have about implementation over time (Rodrigues 2008).

The findings of the current study indicate that most (45.5%) of the training plans had provision for ATI induction courses where new staff joining the ministries were sensitized on ATI matters. This finding indicates that the few ministries that had ATI training plans only conducted ATI training as an induction course. Seemingly, this is because ATI is still a new area in government ministries. As such, the focus for most ministries currently is to offer introductory courses on ATI.

These findings are similar to those of Shepherd and Ennion (2007)'s study that established that at the Peterborough City Council and the Metropolitan Police, FOI was included in the staff induction programme. The study concluded that this was important as it ensured new staff were aware of the UK, FOI Act 2000.

The current study also revealed that few (27.7%) of the respondents indicated that their ATI training plans had provision for future ATI courses. This finding concurs with Shepherd and Ennion (2007)'s findings that established that the University College London had a future plan that entailed conducting three- or four-day ATI sessions each year for new staff.

Seemingly, from the findings, very few ATI training plans had made provision for future courses. This indicates a gap and raises concern on public entities commitment towards openness. Similarly, Shepherd (2007)'s study expressed concern that most organisations lacked the provision for future training of staffs in their training plans. The study sought to establish how well-prepared public-sector bodies actually were in the first six months of the UK, FOI Act 2000 and how implementation affected archives and records management services.

The findings of the current study also revealed that 9.5% of the respondents reported that their ATI training plans captured ATI emergency courses occasioned by changes in law or policy. This finding is supported by Dokeniya (2013) who noted that sometimes the ATI training could

be triggered by amendments to the law or to internal policies and procedures as well as modifications to implementation plans.

For purposes of the current study, it can be argued that the fact that ATI training programmes in most public entities focused on ATI introductory courses shows that ministries had only taken short-term measures towards preparing for implementation of the ATI Act 2016. On the other hand, the fact that few ATI training programmes had provision for future courses signifies that ministries were yet to make long-term preparations towards implementation of the ATI Act 2016.

6.5.3 Whether ministries had conducted any ATI training

The UK, DCA, MAP 2003 recommends that public entities should create awareness on the provisions of the ATI legislation by sensitizing public officers on the same. This recommendation is supported by Martini and Transparency International (2014) who noted that ATI awareness raising, training and capacity building are instrumental in enabling officials to understand the law and to improve their information management and dissemination skills.

The findings of the current study revealed that most (73.1%) of the ministries had not conducted ATI training. This finding indicates that there is a gap in terms of capacity building for ATI implementation. It also explains the finding in section 6.5.12 of this Chapter that indicated that 50% of the PCOs officers were fully unaware of their ATI duties. The current study findings are similar to those of Carter Centre (2016)'s study in Uganda. In the five ministries where the IAT tool was piloted, the study revealed that not much had been achieved in terms of capacity building owing to inadequate resources. The study concluded that as a result, ATI officers in Uganda were largely unaware of their ATI duties thus undermining implementation of the ATI law.

Where ATI training is conducted, information officers are equipped with technical knowledge on handling ATI requests and disclosing information. A case in point is Bangladesh where an IAT pilot study conducted by the Carter Centre revealed that one of the ministry had conducted ATI sensitization. The study concluded that this enhanced the capacity of the ministry to undertake its ATI mandate.

A contrast is drawn from the findings of this study with those of Screene (2005) which established that the University College London and the Local authority were intending to conduct basic training on the UK, FOI Act 2000. Similarly, Screene (2005)'s study revealed

that the National Museum had also been raising awareness on ATI although it lacked an ATI training plan. Screene (2005) concluded that in most of the case study organisations in the UK, training and awareness raising programmes were undermined by inadequate resources.

Seemingly, Screene (2005)'s findings seem to mirror the situation in many African countries as far as ATI capacity building is concerned. Indeed, in Africa, ATI training and awareness programmes have been undermined by lack of adequate resources. A case in point is South Africa where the South African Human Rights Commission's (SAHRC) awareness campaigns have been handicapped by lack of adequate funds. Indeed, this position was echoed by Kenya's Ombudsman who noted that lack of funds had delayed plans by the Commission to sensitize public officers on the ATI Act 2016.

The lack of ATI training and awareness in government programmes may suggest unpreparedness towards implementation of the ATI Act 2016. However, the situation is expected to change following the inclusion of ATI as a performance target for all public entities. As a matter of fact, under the performance management reporting framework, public entities are expected to report on the initiatives they have undertaken to create ATI awareness. It is expected that public entities will embed ATI training in their training programs to promote ATI awareness.

6.5.4 Period when the training was conducted in relation to the enactment of the ATI Act 2016

The UK, DCA, MAP 2003 recommends that ATI training should be conducted at an appropriate time in relation to the enactment of the ATI legislation. This recommendation is supported by Shepherd (2007) who argued that as far as the timing of the ATI training is concerned, it is a delicate balance for institutions implementing ATI legislations since when it is conducted, too much; too early the staffs tend to forget. On the other hand, when it is conducted too late, staff will not be adequately prepared to handle access to information requests. The findings of the current study revealed that most (85.7%) of the respondents indicated that ATI training was conducted after the enactment of the ATI Act 2016. Delaying ATI training until after the enactment of the ATI law denies public officers an opportunity to familiarize themselves with the ATI legislation thus undermining the overall awareness.

The findings of the current study are similar to those of Screene (2005)'s four case study organisations, that is, the University London College; Metropolitan Police; National Museum

and the Local Authority. The study revealed that in some of the cases study organisations in the UK, ATI training was conducted after the January 2005 deadline for implementation of the UK, FOI Act 2000. A case in point is the Metropolitan Police which had a well organised and varied training plan that was designed to be conducted in 2005.

However, there are also the few (14.3%) respondents who indicated that training was conducted prior to the enactment of the ATI Act 2016. Ideally, this should be the practice as it would provide public officers with sufficient time to understand the Act. However, owing to limited resources for capacity building, this is not always possible. In the UK, Screene (2005)'s study revealed that many organisations were hoping to carry out training in the autumn and winter of 2004 to keep it current and fresh. For example, the University College London, the Local Authority and the National Museum intended to conduct basic training just before the January 2005 deadline.

In Kenya, annexure 4 of this thesis indicates that the ATI training was conducted long after the enactment of the ATI Act 2016. This suggests that in terms of ATI training ministries were unpreparedness for implementation of ATI Act.

6.5.5 Categories of staff targeted by the ATI training

The UK DCA MAP 2003 recommends that all staff should be sensitized on the provisions of the ATI law. This recommendation is supported by Sarah Tyacke, the Chief Executive Officer of the UK National Archives, who noted that, everyone from the frontline to those higher up need to know what the Act is about so that that they can answer requests for information efficiently (United Kingdom [UK] The National Archives [TNA] 2004/05). Similarly, Dokeniya (2013) argues that ATI implementation should be seen as a systemic change management exercise, requiring awareness-raising for all officials, not only specifically-designated information officers.

The current study revealed that ATI training in government ministries targeted Public Communication Officers; registry personnel; mid-level staff; management and lower cadre staff in a descending order. Seemingly, PCOs are most targeted since they undertake ATI duties in the ministries. However, for PCOs to be effective in their ATI duties they need support from the management. As such, the first category of staff to be targeted should be the top management who will then mobilise other staff into supporting the implementation of the ATI law. Certainly, this assertion is supported by the Commission of Administrative Justice (CAJ

2017) performance contracting requirements that compels public entities to report on the efforts they have made in building the capacity of top management on ATI.

The current study findings contradict those of Screene (2005)'s study that established that in the Local Authority, ATI formal training targeted top managers. However, Screene (2005) noted that too much focus on managers was unwise. However, at the University College London, Screene (2005)'s study established that the ATI training targeted all members of staff thus supporting the assertion by Rodrigues (2008) who noted that capacity building should be provided to public officials in all departments and at all levels.

However, public entities could also decide to have two separate forms of training based on the target audience. This was exemplified at the Metropolitan Police which had a comprehensive training programme with different intensities of training for different group of staff depending on their FOI responsibilities (Shepherd 2007).

For purpose of this study, although ATI training has only been conducted in few public entities, it has targeted varied category of staffs. For instance, annexure 4 targeted all ministry staff while annexure 5 targeted Commission of Administrative Justice (CAJ) staff. Still, some respondents indicated that the ATI training targeted resolution of Public Complaints committee members. It can be argued that the fact that ATI training targeted diverse categories of staff improved the level of ATI awareness among public officers in Kenya. This demonstrates preparedness towards implementation of the ATI Act 2016.

6.5.6 Mode of delivery of the ATI training

The UK, DCA, MAP 2003 submits that for ATI training to be effective, it has to be delivered through appropriate means. The findings of the current study revealed that the most common (71.4%) mode of delivering ATI training was through group briefings/ seminars followed by face to face group and uploading training material on the website.

The current study findings concur with those of Shepherd and Ennion (2007)'s study which established that at the University College London, the FOI training entailed the FOI officer giving talks and presentations to all members of staff. Shepherd and Ennion (2007)'s study noted that this mode of delivery was cheap and flexible. Likewise, in Bangladesh, Carter Centre (2014)'s pilot study on ATI Implementation Assessment Tool (IAT) revealed that one of the ministries organised ATI sensitization workshops for its secretariat and field level officers.

Shepherd and Ennion (2007) noted that joint training sessions ensured that there is consistency in handling ATI requests.

The current findings revealed also that 28.6% of the respondents reported that ATI training is delivered through uploading training material on the website. These findings concur with those of Screene (2005)'s study that established that at the Local Authority ATI training was delivered through web-based information leaflets. Similarly, Shepherd and Ennion (2007)'s study established that all the four case study organisations, that is; Metropolitan Police, Peterborough County Council, Soham Village College and the University College London, provided information to staff mainly through the intranet and in particular the organisation's website.

For the purposes of the current study, in the few public entities where ATI training was conducted, the mode of delivery was group briefings/ seminars. This mode of delivery is advantageous as it allows the audience to interact with the trainer and seek clarifications where necessary. As such, it can be argued that the use of group briefings/ seminars enhanced the level of ATI awareness among public officers in Kenya. This signifies preparedness towards implementation of the ATI Act 2016.

6.5.7 Depth of the training

The depth of the training also impacts on the level of awareness of public officers. The findings of the current study revealed that most (57.1%) of the ministries conducted basic training that lasted for half a day or less. These findings are similar to those of Screene (2005)'s study that established that the University College London and the Local Authority intended to conduct basic training. Similarly, the Metropolitan Police conducted basic training that lasted for half a day and was targeted at other staff excluding information managers. Screene (2005)'s study concluded that conducting basic training signified that public agencies had only taken short term measures towards implementation of the UK, FOI Act 2000.

Likewise, in Africa, a pilot study on IAT in Uganda conducted by the Carter Centre in 2015 revealed that most agency officials in charge of ATI had only received basic training and have not had any specialized training to properly discharge their responsibilities. The study concluded that basic training was insufficient for effective implementation of ATI legislation (Carter Centre, Uganda 2016).

The findings of the current study also indicated that in 14.3% of the ministries the ATI training conducted lasted for at least a day. These findings concur with those of Screene (2005)'s study that indicated that the Metropolitan Police conducted four days ATI training targeting the information managers. The study concluded that longer training hours allowed more detailed coverage of ATI issues.

The findings of the current study also established that 14.3% of the ministries conducted extensive ATI training that lasted more than 5 days. These findings are similar to those of Screene (2005)'s study that indicated that the University College London planned to conduct formal training after the January 2005 FOI 2000 implementation deadline. Similarly, the Local Authority provided formal training to managers that undertook explicit FOI responsibilities. In yet another study by Shepherd and Ennion (2007), it was reported that the Metropolitan Police had implemented an extensive ATI training programme. The study concluded that this put the police in a good position in terms of preparing for implementation of the UK, FOI Act 2000.

From the foregoing discussion, it is emerging that as far as ATI matters were concerned, public entities in Kenya preferred to conduct basic training. A contrast is drawn between the basic training conducted in public entities in Kenya and that which was conducted by public bodies in the UK as reported by Screene (2005). Whereas UK public entities conducted basic ATI training before the January 2005 UK FOI 2000 implementation deadline, Kenyan public entities conducted basic ATI training long after the enactment of the ATI Act 2016.

For the purposes of this study, basic training conducted in ministries, though useful in the short term was insufficient and may undermine the level of ATI awareness among public officers. This suggests short-term preparedness towards implementation of the ATI Act 2016. As a matter of fact, effective ATI implementation calls for comprehensive training.

6.5.8 Calibre of the trainers

Effectiveness of ATI training is also determined by the calibre of trainers. Review of ATI training programmes revealed that in most ministries, ATI training was conducted by external trainers. These findings were similar to those of Shepherd and Ennion (2007)'s study that revealed that the Metropolitan Police engaged external consultants to conduct the ATI training. Shepherd and Ennion (2007) noted that external trainers brought in a variety of training techniques including best practices from other organisations. In addition, external trainers have extensive experience. However, the authors cautioned that external trainers are expensive and

should only be used to train large number of staff within a short space of time. In Kenya, external trainers were preferred since ministry staff were incapacitated to conduct the training.

In contrast, some respondents indicated that internal staff conducted ATI training in their ministries. However, this finding was considered erroneous, as the respondents could not provide copies of the training programmes to verify the same. In the UK, Shepherd and Ennion (2007)'s study established that at the University College London, ATI training was carried out internally by the FOI officer. Similarly, at Peterborough City Council, ATI training was conducted through external materials but done by internal members of staff. Shepherd and Ennion (2007) noted that using internal staff to conduct ATI training had two advantages; it was cheap and flexible; the trainer has prior knowledge of the organisation. However, internal trainers lack experience and therefore would not bring best practices from other organisations.

For purposes of this study, in the few public entities where ATI training has been conducted, it was carried out by external consultants. This means the audience benefitted from expert input and best practices from other organisations and jurisdictions. Indeed, in the ATI training programme for CAJ staff and ATI stakeholders' one of the topic discussed was *Case studies of successful ATI implementation*. As such, it can be argued that use of external consultants for ATI training improved the level of ATI awareness among public officers. This suggests preparedness towards implementation of the ATI Act 2016.

6.5.9 Areas covered by the training

For an ATI training programme to be deemed comprehensive, it has to cover certain subject areas. This assertion is supported by Rodrigues (2008) who noted that ATI training offered to public officials should, at least, address the following areas; access to information duties to be undertaken by public officials, the role of public servants in implementing openness as a core value of public service as well as what records management systems the institution holds and how the information is to be provided. Similarly, Article 19 (2016) RTI legislation requirements propose that RTI training should cover the following areas: the importance and scope of the right to information, procedural mechanism for accessing information, how to maintain and access records efficiently, the scope of the whistle blowers protection and the sort of information a body is required to publish (Article 19 2016).

In the current study, the researcher obtained training programmes that were used to sensitize ministry staff, county government officers as well as ATI stakeholders. The topics covered in

these training programmes will form the basis of analysing and interpreting this particular sub-theme. The training programme for the ministry covered only one topic namely “*Promoting the ATI Act 2016 and its obligation on public institutions*”. As such, this particular training programme was not comprehensive as it did not cover aspects on records management and the information held by the organisation.

These findings are similar to those of an IAT pilot study conducted in Mexico. The study revealed that the topics in the training programme were not comprehensive. Indeed, the trainees complained that the content of the training sessions was too basic and that the training materials were not continuously updated. The study concluded that this undermined the capacity of agencies to fulfil their ATI mandate (Carter Centre, IAT Mexico 2014).

This finding contradicts those of Shepherd and Ennion (2007)’s study that established that the ATI training programmes for University College London and Peterborough County Council were comprehensive and covered aspects on Freedom of Information, data protection and records management. The study concluded that this ensured that the officers trained were well prepared to handle ATI requests.

Annexure 5 of this thesis represents the training programme targeting Commission of Administrative Justice (CAJ) staff. This programme covered the following areas:

- Right to information and its applicability;
- Legal framework on right to information;
- Salient features of the ATI Act 2016;
- Processes to facilitate access in the ATI Act 2016;
- Case studies of successful implementation;
- Limitation on the right of access to information;
- Mandate of the Ombudsman under the Act;
- Emerging Jurisprudence on ATI and
- Tips on sensitization and presentation on ATI (Engagement with county governments).

While the above topics extensively addressed general issues related to freedom of information and the ATI Act 2016, it did not cover any aspect on records management and how public entities can manage information in their custody effectively to facilitate access. Importantly, the programme had an aspect on *Tips on sensitization and presentation on ATI*. Inclusion of this topic is commendable as CAJ staff are expected to sensitize other public officers on ATI.

As such, sensitizing them on how to train other public officers indicates that CAJ is prepared to facilitate implementation of the ATI Act 2016.

For purposes of this study, it can be argued that, in the few public entities where ATI training has been conducted, the topic covered emphasised on the ATI Act as well as general issues on freedom of information. Whereas these areas are relevant, it is important to include aspects on records management and how public entities can manage information in their custody effectively to facilitate access. An extensive coverage of the ATI Act may suggest enhanced ATI awareness among public officers. Although the scope of the areas covered is not comprehensive, there is some level preparedness towards implementation of the ATI Act 2016.

It is expected that once the Ombudsman formulates an ATI training framework, public entities will have standardised ATI training programmes covering all the required areas.

6.5.10 Whether the ATI training met the staff ATI needs

For an ATI training to be considered effective, it has to achieve two objectives. First, improve the information management and dissemination skills and secondly, to enfeeble the bureaucratic resistance to openness that is prevalent in the public sector (Calland and Neuman 2007). ATI training would only be deemed to have met the staff training needs if it covered all the topics that are required. From the foregoing discussion, it is evident that the ATI training programmes did not cover all the relevant topics. As such, it can be argued that the ATI training conducted in public entities in Kenya did not sufficiently meet staff ATI needs. Consequently, the level of ATI awareness among public officers is undermined. This indicates some level of unpreparedness towards implementation of the ATI Act 2016.

6.5.11 whether officers have been trained on proactive disclosure

Carter Centre's access to information implementation assessment tool (IAT) recommends that public officers undertaking ATI duties should be trained. This recommendation is supported by Carter Centre (2014b) report that noted that designated information officers need to be familiarized with information disclosure techniques and procedures. The findings of the current study revealed that in most (57.1%) ministries the officers in charge of proactive disclosure had received specialized training. As mentioned in Chapter five of this study, section 5.5.11, these findings could not be verified since the researcher was unable to obtain copies of ATI training programmes from the respondents.

For purposes of this study, the proactive disclosure responsibilities in government ministries in Kenya are undertaken by Public Communication Officers. Whereas Public Communication Officers may not have been specifically trained to proactively disclose information under the ATI Act 2016, they are trained on general dissemination of information and public relations as part of their job description.

Relatedly, an access to information, implementation assessment tool (IAT) pilot study conducted in Bangladesh by the Carter Centre (2014) revealed that of the six ministries where the IAT tool was piloted, only one ministry had trained its officers on proactive disclosure. The other ministries assessed had not undertaken any initiatives aimed at changing their officials mind-set regarding information disclosures. The study concluded that this undermined the capacity of the ministries to fulfil their ATI mandates (Carter Centre, Bangladesh 2014).

The fact that no officers have been specially trained to undertake proactive disclosure suggests unpreparedness for ATI implementation.

6.5.12 Level of awareness among public officers of their ATI duties as provided in the ATI Act 2016

The foregoing discussion focused on some of the aspects that were deemed to have a bearing on the level of preparedness in terms of awareness of public officials towards the implementation of the ATI legislation. However, this study also posed a direct question to respondents seeking to establish their level of awareness of their ATI duties as stipulated in the ATI Act 2016.

The UK, DCA, MAP 2003 emphasizes the need for public officers undertaking ATI duties to understand their responsibilities as stipulated in the ATI legislation. This assertion is supported by Roberts (2006) who argued that successful implementation of ATI in government institutions depends on public official's ability to perform their ATI duties.

The findings of the current study indicated that 50% of the respondents were fully aware of their ATI responsibilities as stipulated in the ATI Act 2016. These findings were similar to those of Screene (2005)'s study that indicated at the National Museum staff were aware of the UK Freedom of Information Act 2000. The study concluded that this enabled the staff to effectively undertake their ATI duties.

The findings also revealed that 7.7% of the respondents were fully unaware of their ATI responsibilities. These findings are similar to those of Carter Centre (2016) IAT pilot study in Uganda. The study established that in the seven ministries that were assessed, the majority of the agency officials were largely unaware of their mandate under the ATI law. The study concluded that this undermined the capacity of the officials to effectively undertake their ATI duties. According to the findings, 42.3% of the respondents also indicated that they were slightly unaware of their duties as provided in the ATI Act 2016. This finding concurs with the views expressed by the Ombudsman that the Commission was yet to sensitize public officers and in particular Public Communications Officers on their roles as provided in the Act. The Ombudsman attributed the delay in sensitizing public officers to inadequate funding. The fact that 50% of the respondents indicate that they were fully aware of their ATI duties suggests some degree of preparedness for ATI implementation. Notably, it is possible that officers could be aware of the roles they are expected to perform towards implementation of ATI but could be incapacitated by lack of formal or other training.

6.6 Systems, procedures and structures in place for facilitating access to information in public bodies in Kenya

This section will interpret and discuss the findings of the third research question on the systems, procedures and structures in place for facilitating access to information in public bodies in Kenya. Specifically, the interpretation and discussion will be organised based on the following sub-themes:

- Availability of guidelines for handling ATI requests;
- Systems used to handle ATI requests;
- Features of systems that handle ATI requests;
- Format in which ATI requests were received;
- Availability of publication schemes;
- Structures for auditing ATI functions; and
- Performance review of ATI function.

6.6.1 Availability of regulations to operationalize the ATI Act

The UK, DCA, MAP 2003 and the Carter Centre's ATI Implementation Assessment Tool (IAT) recommend that there is need to develop access to information regulations and procedures to guide the release of information to requestors. The regulations should address

issues such as the fees to be paid, internal complaints and the duty to assist. This recommendation is supported by Dokeniya (2013) who noted that ATI regulations are important as they provide further details and create clarity in the procedures and processes for access.

The findings of the current study revealed that the government was yet to develop regulations to operationalize the ATI Act 2016. The absence of regulations undermines the implementation of the ATI Act 2016. Specifically, it means that public entities lack guidance on the amount of fees to charge when responding to ATI requests; procedure for making a request; form in which request will be responded in; records that public entities are supposed to keep among other guidelines. This undermines the effective implementation of the ATI Act 2016.

In contrast, in jurisdictions where the ATI law is complemented by regulations, implementation of the Act is effective. A case in point is the UK where the regulations for implementation of the UK Freedom of Information Act 2000 were developed prior to the implementation of the Act in January 2005. The presence of regulations enabled public entities in the UK to effectively undertake their ATI duties.

The findings of the current study also contradict those of Carter Centre (2014) IAT pilot study in Bangladesh which revealed that the Information Commission promulgated regulations that specified the mandates and procedures of information disclosures. As such, all agencies in Bangladesh were expected to adopt these rules. The study concluded that this enhanced the capacity of the agencies to fulfil their ATI mandate (Carter Centre, Bangladesh 2014).

In Kenya, the delay in formulation of the regulations to operationalize the ATI Act 2016 can be attributed to lack of political will. This researcher's interview with the Director of Administration and the legal officer at the Ministry of Information and Communication Technology (ICT) revealed that the Ministry was working towards formulating a government policy on access to information after which they will come up with regulations. However, there was also the feeling within the Ministry of ICT that they were not consulted in the formulation of the ATI Act 2016 and the fact that it was civil society driven and thus presented to parliament as a private members bill. As a matter of fact, the Ministry's legal officer confirmed that prior to the enactment of the ATI Act 2016, the Ministry also had its own version of an ATI Act

which never saw light of day. Notably, one of the provisions in the draft ATI bill proposed by the Ministry of ICT was the establishment of a department within the Ministry to oversee and enforce implementation of the ATI Act. This was in contravention of international best practices (Article 19 (2016) RTI legislation requirements) which dictate that for effective implementation of an ATI law, the body charged with oversight should be independent.

The current ATI Act 2016 provides for an independent Commission (Commission on Administrative Justice (CAJ) to oversee and enforce the Act. As such, it can be argued that the Ministry of ICT misgivings with the ATI Act 2016 have led to the delays in formulation of the ATI regulations.

This researcher also sought the views of the Ombudsman regarding the delay in formulation of the ATI regulations. The Ombudsman acknowledged that the absence of regulations had undermined the implementation of the ATI Act 2016. The Ombudsman pointed out that in an attempt to fast track the formulation of the regulations, his office had engaged the Ministry of ICT, the Attorney General's Office and the Justice and Legal Affairs Committee in Parliament.

The delay by the Ministry of ICT in formulation of the ATI regulations means that there are no clear procedures for receiving, processing and responding to ATI requests in government ministries. Notably, the ATI Act 2016 provides that ministries can only adopt government-wide regulations and not develop their own.

In the absence of regulations to operationalize the ATI Act 2016, Kenya finds itself in the same predicament that Uganda was, just after enactment of its ATIA Act in 2005. Dokeniya (2012) noted that lack of ATI regulations in Uganda led to lack of clarity on the procedures and functioning of the ATIA law. Further, government officers used the lack of regulations as an excuse not to implement the law in practice

For purposes of this study, the delay in developing of the regulations has undermined the preparedness towards implementation of the ATI Act 2016.

6.6.2 Availability of guidelines for handling ATI requests

The UK DCA MAP 2003 recommends that organizations should put in place procedures and adapt systems that facilitate easy retrieval of information. Likewise, the Carter Centre's Access to Information, Implementation Assessment Tool (IAT) (2014) recommends the need for public entities to have guidelines specifying how public officials will handle their access to

information functions. The guidelines may consist of mandatory instructions or proposed actions aimed at facilitating implementation of the ATI law. This recommendation is supported by Rodrigues (2008) who argued that having proper systems, tools and processes ensure that implementation of the law is easy and reduce the time and effort needed to attend to information requests. This reduces bureaucratic resistance and promotes better compliance with the law.

The findings of the current study revealed that government ministries were yet to adopt specific guidelines on ATI. Instead, the findings revealed that government ministries are guided by International Standard Organization (ISO 9000:2015) quality management systems standards and the service charter. Although ISO standards and the service charter represent good practice in service delivery, they are insufficient in steering the implementation of an ATI law.

The findings of the current study contradict those of Carter Centre's IAT (2014) pilot study in Bangladesh that revealed that all the six agencies assessed had adopted general rules for receiving, processing and responding to requests. The study concluded that this enhanced the capacity of the agencies to fulfil their ATI mandate (Carter Centre, Bangladesh 2014).

Similarly, in the UK, Screene (2005)'s study on preparedness of public bodies for the implementation of the UK, FOI Act 2000 revealed that most of the case study organizations had succeeded in putting adequate procedures into place. The study concluded that this enabled the public entities to effectively implement the UK, FOI Act 2000.

The findings of the current study also revealed that the Ombudsman was intending to issue instructions to public entities on the implementation of the ATI Act 2016. The circular requires public entities to among other things:

- Proactively disclose information in their custody;
- Publish the name or names of its Information Access officers;
- Process the applications for access to information held by them within the set timelines at a reasonable cost;
- Keep and maintain accurate, authentic and credible records;
- Computerize their records and information management system within three years since the commencement of the Act on or before 21st September 2019 and

- Submit a report to the Commission on implementation of the Act by 30th June every year or at any time required by the Commission. (Commission of Administrative Justice, Circular 2018). A copy of this circular is provided as annexure 21 of this thesis.

The instructions to be issued by the Ombudsman are similar to those issued in the UK to facilitate implementation of the UK Freedom of Information Act 2000. Specifically, the UK Information Commissioner invested heavily in producing resource materials for officials. These materials included information commissioner guidance series where the Commissioner produced individual guidance notes explaining each of the exemptions under the Act including examples of how to apply exemptions in real life situations (Rodrigues 2008). Further, guidance notes were also produced on tricky procedural issues such as transferring applications and dealing with appeals (Rodrigues 2008).

For purposes of this study, the issuance of guidelines for implementation of the ATI Act 2016 by the Ombudsman facilitates public entities to prepare towards implementation of the ATI Act 2016.

6.6.3 Systems in place for handling ATI requests

The UK, DCA, MAP 2003 requires public entities to adapt systems that facilitate easy retrieval of information. Systems will be required for receiving and responding to requests, processing requests as well as monitoring the handling of requests to ensure compliance with the duties and obligations imposed and implied by the ATI Act (UK, DCA, MAP 2003). Similarly, the Carter Centre's Access to Information, Implementation Assessment Tool (IAT) (2014) requires public entities to put in place processes for receiving and responding to requests, managing records as well as proactively disclosing information. The need to have a system for handling ATI requests is supported by Dokeniya (2013) who noted that a good system whether manual or electronic should enable the collection of information request statistics that can be used to generate a detailed report on compliance.

The findings of the current study revealed that the most (46.2%) common system for receiving and recording requests in government ministries in Kenya was the register. These findings seem to agree with the instructions given to public entities by the Ombudsman directing them on how to handle ATI requests. Specifically, the Ombudsman directs that public entities should maintain a register that documents the following: name of the requester; requisition channel; date the request was received; type of information requested; fees charged and the

decision/action taken. A copy of the template of ATI register is provided as Appendix 24 of this thesis.

Another 6 (23.1 %) of the respondents reported that ATI requests were made by filling in a form while 1 (3.8%) observed that ATI requests were dealt with face to face. Although, 46.2% of the respondents also reported using an electronic system, this finding was ignored since it could not be verified.

The findings of the current study concur with those of Carter Centre's (2014) IAT pilot study on the capacity of public entities in Bangladesh to implement the RTI legislation. The study revealed that public entities recorded FOI related activities in files which were managed by the RTI unit. The study concluded that this enhanced the agencies capacity to implement the ATI law (Carter Centre, IAT Bangladesh 2014). Similarly, Ennion (2005)'s study revealed that most of the case study organizations in the UK coped well in the first six months and were confident that their systems were appropriate to the level of requests.

Although the findings of the present study revealed that only 46.2% and 3.8% of the ministries were using the register and form respectively to record ATI requests, it is expected that all ministries will have ATI registers and 'form' as per the requirements of the ATI performance management reporting framework. A copy of the template of the ATI request 'form' is provided as Appendix 22 of this thesis.

In terms of preparedness for the implementation of the ATI law 2016, the absence of systems for handling ATI requests undermines a public entity's capacity to implement the ATI law. A case in point is a Carter Centre (2016)'s IAT pilot study that sought to assess the capacity of public bodies to implement the ATI law in Liberia. The study revealed that all the six agencies assessed had no systems in place for receipt, processing and release of information. The study concluded that the agencies lacked the capacity to fulfil their ATI mandates. Liberia's IAT study pilot findings contradict the findings of the present study.

In the current study, the use of electronic systems to handle ATI requests could not be verified. However, extant literature indicates that in some jurisdictions electronic systems have been used successfully to handle ATI requests. For example, in Mexico, the Federal Institute for Access to Information (IFIA) developed an electronic information request and response platform that enabled requests to be made anonymously online, responses to be fulfilled and monitored electronically, and appeals to be processed online (Calland and Neuman 2007).

For purposes of this study, the use of the ‘register’ and ‘form’ to record ATI requests indicates preparedness by public entities towards implementation of the ATI Act 2016.

6.6.4 Format in which ATI requests are received

The UK, DCA, MAP 2003 requires public entities to adapt systems that facilitate easy retrieval of information. Indeed, the system adopted by a public entity should allow ATI requests to be received in a range of formats. This assertion is supported by Dokeniya (2013) who noted that a good system should accept requests in a range of formats including oral requests, written requests, electronic requests and physical request for information.

The findings of the current study revealed that most (57.7%) ATI requests were in written format. Other formats in which ATI requests were received included; email (53.8%), social media (42.3%), oral (23.1%) and telephone and short message service (3.8%). The findings that most ATI requests are in hardcopy and email respectively concurs with those of Carter Centre’s (2014) IAT pilot study on the capacity of public agencies to implement the RTI Act in Bangladesh. The study revealed that in the six public agencies assessed, the ATI requests were received by the designated information officers who then collected the required information and delivered it either in hardcopy or through email. The study concluded that the agencies were to some extent able to fulfil their ATI mandate.

The fact that most (57.7%) ATI requests were in written format reinforces the observation made by the researcher that most of the records in government ministries were in paper format and were managed through manual records management systems.

The fact that email (53.8%), social media (42.3%) and short message service (SMS) (3.8%) appear to be common platforms for making ATI requests indicate that Kenyans are increasingly embracing modern technology to undertake their day to day activities. This view is supported by Communications Authority of Kenya (CAK) ICT sector quarterly statistics report for the financial year 2017/2018 on mobile phone penetration and internet connectivity. Specifically, the report revealed that mobile penetration grew by 4.3 per cent points from 90.4% during the previous quarter to 94.3% during the under review. Likewise, the number of mobile/ data internet subscriptions rose by 8% to 33.0 million from 30.6 million posted during the preceding quarter. (Communications Authority of Kenya (CAK), Second Quarter, ICT Sector Statistics Report 2017/2018).

Notwithstanding what is happening in the government ministries, the Ombudsman has developed a template of the 'Access to information request form' that public entities are expected to give to citizens requesting for information. The 'form' requires the citizen to indicate the format in which they want information requested for. The options given include; inspect the document; listen to the document; view the document or get a hard copy of the document. Further, for electronic records, the requester is also expected to select the storage media that they want their information to be stored in. The options given are; Compact disk or USB mass drive. On the other hand, for paper records, the options given are photocopy or transcript. A copy of these instructions is provided as Appendix 21a of this thesis. In essence, the citizen has the liberty to get information in any format that is convenient to him/her. Provision of information in all formats eases citizens' access to information and facilitates the implementation of the ATI Act 2016. It is expected that public entities will have their records ready and available in various formats in compliance with the requirements of providing access to information.

For purposes of this study, the findings that the ATI requests are received in a range of formats suggests that the systems adopted for receiving and responding to ATI requests are flexible and allow citizens to use varied communication channels. This indicates that public entities are prepared for implementation of the ATI Act 2016.

6.6.5 Features of systems that handle ATI requests

The UK, DCA, MAP 2003 and the Carter Centre's access to information, Implementation Assessment Tool (IAT) recommend that the systems adapted by public entities for handling ATI requests should perform certain functions. These functions include among others: logging and tracking requests, capturing statistics of ATI requests received and transferring requests. This recommendation is supported by Dokeniya (2013) who noted that a good system whether manual or electronic should enable the collection of information request statistics that can be used to generate a detailed report on compliance (Dokeniya 2013).

The findings of the current study revealed that the ATI requests handling systems used in 50% of the ministries were able to issue and serve ATI responses. Further, ATI requests handling systems used in 38.5% of the ministries were able to log and track ATI requests and responses; transfer requests and proactively disclose documents. In the other 42.3% and 34.6% ministries the ATI requests handling systems used were able to process requests and capture ATI request statistics.

Lemieux and Trapnell (2016) noted that ability of the system to track requests is particularly important as it generates information that may assist public entities in annual end of the year evaluations and reporting, budget and resource allocation as well as acquisition of technology to improve the functioning of the ATI system. The authors observed that an internal tracking system should capture content such as details about the requester, the departments involved in responding to the request as well as specific dates when the request was made.

Where possible an online ATI tracking system is more appropriate since it automatically records, tracks requests and can generate reports that indicate the patterns and trends in information flows. This information can then be used for performance monitoring to improve the ATI system. However, Lemieux and Trapnell (2016) noted that such a system would require a lot of investment in design and maintenance for it to be sustainable. In Kenya, currently, no ministry has implemented an online tracking system for ATI.

Tracking of requests also enables a public entity to identify information that is highly requested. This information can then be used to inform proactive disclosure and also ensuring that the publication scheme is updated accordingly.

Seemingly, the ATI systems in government ministries had features that enabled them to perform most of the functions relating to handling of ATI requests. The findings of the current study concur with those of Carter Centre's (2014) IAT pilot study on assessing the capacity of public agencies in Bangladesh to implement the RTI law. The findings revealed that all the six agencies assessed had sufficient systems in place for organizing and tracking requests. The study concluded that the availability of systems ensured that the ATI law was implemented effectively (Carter Centre, IAT Bangladesh 2014).

However, in some cases, the features of the ATI system are dictated by the ATI law. A case in point is Bangladesh where the ATI system could not transfer requests since the Bangladesh RTI law does not allow transfer of requests (Carter Centre, IAT Bangladesh 2014). This contradicts the findings of the current study which indicated that ATI requests handling systems used in 38.5% of the ministries were able to transfer requests.

For ATI systems that cannot capture statistics, it is difficult to assess a public entity's compliance towards implementing the ATI law. For instance, in Uganda, a Carter Centre's (2016) IAT pilot study that sought to assess the capacity of public agencies to implement the ATI law revealed that in the five ministries that were assessed none were fully capturing

statistics related to receiving and responding to requests and proactive disclosure. The study concluded that the absence of statistics made it difficult for citizens to audit public agencies efforts towards ATI implementation (Carter Centre, IAT Uganda 2016).

According to the findings of the current study, the ATI requests handling systems in 34.6% of the ministries were able to capture statistics. This means that these systems can be used as a monitoring tool that collects data and uses it to assess compliance to the ATI law. This assertion is supported by Dokeniya (2013) who noted that adequate systems for monitoring RTI performance enable assessments of how well RTI is being implemented and offer an accountability mechanism for compliance.

Although statistics on the number of requests received, processed and responded to, is beyond the scope of this study, this information is useful in assessing public entities compliance with the requirements of the ATI Act 2016. Indeed, review of extant literature reveals that in other jurisdictions ATI statistics are used to improve accountability. For example, in Mexico, the Federal Institute for Access to Information (IFAI) set up a system to systematically track statistics on requests and responsiveness from federal agencies, cross-check data from RTI monitoring platforms against data on other technology platforms, and monitor the outcomes of its appellate decisions. The monitoring system is proving useful, as publication of the system findings has forced many federal agencies to comply with the Act (Dokeniya 2013).

In terms of preparedness for implementation of the ATI law, the findings of the present study contradict those of Ennion (2005)'s study that revealed that Soham Village College lacked a monitoring system and hence did not record requests. The study concluded that this made assessment difficult thus undermining preparedness towards implementation of the UK, FOI Act 2000.

For purposes of the current study, the presence of systems for handling ATI requests indicates preparedness towards implementation of the ATI Act 2016.

6.6.6 Availability of publication scheme for proactive disclosure

The UK,DCA,MAP 2003 recommends that public entities preparing for implementation of a ATI law should maintain a publication scheme that details the range of documents in their custody and the subject to which the information relates to. This assertion was supported by Screene (2005) who noted that establishing a comprehensive publication scheme is an excellent way of preparing for FOI. A good scheme represents a fundamental access point for

information for citizens. It benefits the organisation by answering requests for information and demonstrating commitment to openness (Screene 2005).

The findings of the current study revealed that all (100%) the ministries had publicised the documents in their custody on their websites. The researcher obtained this information by accessing the websites of all the ministries and assessing the documents uploaded on the website. The findings also revealed that some ministries had also uploaded their documents on other proactive disclosure platforms such as Kenya Open Data initiative (KODI) portal and the e-citizen portal. This was particularly true for information that was most frequently requested. Some of the information that a citizen may find on the e-citizen portal includes among others:

- Details on application for a Kenyan passport;
- Details on obtaining /renewal of a driving license;
- Details on filing tax returns;
- Details on obtaining a marriage certificate;
- Details on obtaining a land clearance certificate;
- Details on obtaining a Kenyan Visa and
- Details on obtaining a Kenyan birth certificate (e-citizen portal).

In terms of preparedness for implementation of the ATI Act 2016, the findings of the current study are similar to those of Ennion (2005)'s study that revealed that most organizations availed their publication schemes on their websites (Ennion 2005). Similarly, Screene (2005)'s study revealed that half of the case study organizations had an adequate publication scheme in place well before the January 2005 commencement date. The two studies concluded that the case study organisations were prepared to implement the UK, FOI Act 2000.

The findings of the current study also concur with those of the Carter Centre's (2014) IAT pilot study on assessing the capacity of public agencies in Bangladesh to implement the RTI law. The findings revealed that all the six agencies assessed place their documents and decisions in the public domain through their websites, newspaper notifications and issue-based publications. The study concluded that proactive disclosure had improved in most of the assessed agencies.

Although, the current study findings indicate that all ministries have uploaded their publication schemes on their websites, there is the concern on whether the websites are updated and user friendly and whether the publication schemes are comprehensive and standardised across all

ministries. Dokeniya (2013) shared this concern by noting that in most countries, information disclosed under proactive disclosure provisions is beset by two main challenges; sustainability and incompleteness. An IAT pilot study that sought to assess the capacity of public agencies to implement the ATI law in Bangladesh revealed that the websites of most of agencies assessed were updated and sufficiently proactively disclosed information. However, in Uganda a Carter Centre (2016)'s study that sought to establish the capacity of public bodies to implement the ATI law revealed that although all the six ministries assessed had fully functional websites most of the documents that were disclosed online were rather general and did not provide the wide range of documents considered in the law or necessary to the citizen. The study concluded that this undermined effective implementation of the ATI law.

In Kenya, the findings of the current study revealed that the websites were updated but the content of the publication schemes varied in different ministries. It is expected that the formulation of proactive disclosure guidelines will ensure publication schemes are uniform. As mentioned in section 3.7 of Chapter Three of this thesis, although Kenya has a centralized portal (Kenya Open Data Initiative) where public entities are expected to proactively disclose their data, the portal has been weighed down by low supply of data and obsolete data. As such, government ministries in Kenya must enforce measures to ensure that their websites are up to date. In terms of the updating of the information, Lemieux and Trapnell (2016) suggest that a good practice model of having an updated website/portal is having specific timelines for mandatory updating based on the type of information being released. The authors observed that a public entity can have two types of proactively disclosed information. That is, periodic and ad hoc. In this case, periodic will cover regularly produced information such as budgets and annual plans while ad hoc may include procurement plans and project documents (Lemieux and Trapnell 2016).

A publication scheme that is difficult to navigate and narrow in scope undermines the implementation of the ATI law. A case in point is in the UK where Screene (2005)'s study on assessing the preparedness of public bodies for the implementation of the UK FOI Act 2000 revealed that the publication scheme for the Local authority was not user friendly while the one for the National Museum was narrow in terms of scope. The study noted that this indicated that the institutions were not fully prepared.

Fortunately, in Kenya, on the question of navigation and interactivity of the ministries websites, the ICT Authority has standardised the architecture of all government websites thus ensuring

that all government websites have certain standard features. To address the issue of the varying contents in the publication schemes, in April 2018, the Ombudsman developed a proactive disclosure guideline for public entities specifying the range of information that public entities are expected to proactively disclose. It is expected that this guideline will standardise the proactive disclosure landscape across the public sector. Lemieux and Trapnell (2016) suggested that one way of identifying information that is most relevant to the public is by tracking downloads or hard copy requests. Once identified, this information can then be proactively disclosed in detail thus fulfilling the needs of the public.

Furthermore, the executive has also issued guidelines on proactive disclosure of specific category of documents. For example, in June 2018, the president issued an executive order directing all government institutions to begin publishing full details of tenders and awards from July 2018. Specifically, public entities are required to publish information on the items or services purchased, contract prices, and the particulars of the suppliers including owners, directors and beneficial ownership of the companies (Government of the Republic of Kenya, executive order No.2 2018).

For purposes of this study, the presence of publication schemes in government ministries websites demonstrates preparedness towards implementation of the ATI Act 2016.

6.1.4.7 Whether ATI activities in Ministries/Departments were audited

The Carter Centre's, access to information, Implementation Assessment Tool (IAT) identifies monitoring of a public entity's ATI functions as an important aspect of successful implementation of the ATI law. In this regard, the tool recommends that public entities should have internal mechanisms for auditing ATI activities to identify areas of successes and weaknesses and make the necessary changes. Similarly, the UK, DCA, MAP (2003) also recognizes the need to review and evaluate the ATI implementation project plan. Indeed, the model emphasizes the need to assess whether the aims of the project particularly in reference to time, quality and resource specifications have been achieved.

The findings of the current study revealed that government ministries did not audit ATI activities. In the absence of an audit, it is difficult to identify the areas of weaknesses in terms of implementation of the ATI law. Indeed, lack of an audit undermines implementation of the ATI law by denying public entities opportunity to make changes that would have improved the implementation of the ATI law. Further, the failure to conduct an audit contradicts the ideals

of the Carter Centre Implementation Assessment Tool that prescribes that public entities should have internal mechanisms for auditing ATI activities.

The findings of the present study concur with those of Carter Centre's (2016) IAT pilot study on assessing the capacity of public agencies in Uganda to implement the ATI law. The findings revealed that in all the five ministries assessed auditing of ATI activities was not prioritized. The study concluded that this denied citizens an opportunity to hold the government accountable (Carter Centre, IAT Uganda 2016).

In contrast to the current study findings, an IAT pilot study by the Carter Centre's (2014) that sought to assess the capacity of public agencies in Bangladesh to implement the RTI law revealed that all the six agencies assessed audited their ATI activities by conducting periodic inspections to scrutinize performance. The inspections were conducted by the supervisors of the various sections who compiled reports of the findings and recommendations for better performance. (Carter Centre, IAT Bangladesh 2014).

As mentioned in section 5.6.8 of Chapter five of the current study, following the inclusion of ATI as a performance target for public entities, it is expected that ministries and departments will start auditing ATI activities to comply with the performance management framework requirements. Notably, the ATI Act 2016 also has a compliance mechanism. Specifically, the Act requires public entities to submit an annual report to the Ombudsman specifying how they have implemented the Act. The report should provide details of the ATI requests received; information disclosed through proactive disclosure; entity's ATI infrastructure; fees collected; timelines for processing every requests; number of fulltime staff devoted to processing requests as well as measures and progress made in computerising their information system. A copy of the instructions is provided as Appendix 21a of this thesis.

For purposes of this study, the failure by government ministries to audit ATI activities indicates that they were yet to undertake far-reaching measures towards implementation of the ATI Act 2016.

6.6.7 Whether Ministries/Departments included ATI in their performance review

Jones (2003) describes performance management as an assessment of the efficiency and effectiveness of a given set of resources against a stated or expected outcome. Performance management within access to information seeks to establish whether ATI activities are contributing to effective implementation of the ATI Act 2016.

The Carter Centre's, access to information, Implementation Assessment Tool (IAT) identifies monitoring of a public entity's ATI functions as an important aspect of successful implementation of the ATI law. In this regard, the tool recommends that public entities should include the ATI function in their performance review. The need to assess ATI implementation performance is supported by Dokeniya (2013) who noted that adequate systems for monitoring RTI performance enable assessments of how well RTI is being implemented and offer an accountability mechanism for compliance.

The findings of the current study revealed that the performance reviews of government ministries neither took into account ATI for all officers who handle and manage information nor for officers tasked with specific ATI functions and duties. These findings indicate that currently it would be difficult to identify the weaknesses in the implementation of the ATI Act 2016 since there are no performance monitoring mechanisms in place.

These findings of the current study concur with those of Carter Centre's (2016) IAT pilot study on assessing the capacity of public agencies in Uganda to implement the ATI law. The findings revealed that all the five ministries assessed rarely included their access to information duties in internal oversight mechanisms (Carter Centre, IAT Uganda 2016). The study concluded that the absence of oversight mechanisms limited the ministries ability to perfect on their implementation of the ATI law. In yet another IAT pilot study in Guatemala, it emerged that in the seven agencies assessed, performance reviews of relevant officers did not take into account ATI responsibilities during assessment. The study concluded that this undermined the capacity of the agencies to perfect their ATI systems (Carter Centre, IAT Guatemala 2014).

However, in circumstances where ATI implementation is embedded in performance management, the weakness of the ATI system can be detected and necessary changes made to ensure effective implementation. For example, in Bangladesh, a Carter Centre's (2014)'s IAT pilot study that sought to assess the capacity of public agencies in Bangladesh to implement the ATI law revealed that all the six agencies assessed included ATI duties in the annual evaluation of civil servants and compiled an annual confidential report. The study concluded that this move enabled the agencies to assess their performance in terms of implementing the ATI law and make the necessary adjustments. (Carter Centre, IAT Bangladesh 2014).

An analysis of extant literature revealed that monitoring and oversight of proactive disclosure is not very common in many countries. However, Lemieux and Trapnell (2016) reported that

in Bangladesh, the performance agreements signed by line ministries have a component on proactive disclosure. The authors observed that including proactive disclosure in performance plans of public entities is an effective way of ensuring compliance. In Kenya, the ATI performance management framework expects public entities to report on certain aspects regarding proactive disclosure. These are: type of information proactively disclosed; date of disclosure/ update of information and medium/manner of disclosure. A copy of the template on reporting on proactive disclosure is provided as Appendix 25 of this thesis.

As far as management of records is concerned, the Ombudsman requires public entities to report on computerisation of their records as well as provide information on the status of their information management system. Notably, the Kenya National Archives, as the oversight body in charge of management of records in the public sector has been conducting periodic evaluation of records management in public agencies. However, these monitoring efforts have not yielded much because the Kenya National Archives lacks the power to compel agencies to enforce the recommendations arising out of its monitoring report. Worse still, records management function is yet to be included as a performance management target for public entities.

In Kenya, it is expected that following the mainstreaming of ATI in the public service through inclusion in performance management framework as from July 2017, public entities will include ATI function in their performance review in compliance with the reporting framework for performance management.

For purposes of this study, the failure by government ministries to include ATI activities in their performance review indicates that they were yet to undertake far-reaching measures towards implementation of the ATI Act 2016.

6.7 The current records management strategies and the extent to which they impact on the implementation of the ATI Act 2016.

This section will interpret and discuss the findings of the fourth research question on the current records management practices in government ministries and the extent to which they facilitate or undermine the implementation of the ATI Act 2016. Specifically, the interpretation and discussion will be organised based on the following sub-themes:

- Leadership and policy in management of records;

- Registry procedural manuals and budget;
- Records creation and use;
- Mail management;
- Records classification system;
- Records retrieval and access;
- Records storage;
- Records inventory;
- Records appraisal and scheduling;
- Records disposition;
- Disaster management and security control;
- Electronic records management; and
- Access to information and public records.

6.8 Leadership and policy in records management

6.8.1 The Archives legislation and access to information

The UK,DCA,MAP 2003 and the Carter Centre, Access to Information, Implementation Assessment Tool (IAT) advocate the need for ATI implementation to be supported by an effective records and archives management legal and regulatory framework. This view is supported by Millar (2003) who noted that along with access legislation, governments must develop effective and comprehensive records and archives legislation. Such legislation must define the record-keeping process and ensure that government manages public information in an accountable, transparent, and effective fashion.

While it is clear that the management of records in Kenya is guided by the Public Archives and Documentation Service Act Chapter 19 of the Laws of Kenya, Section 3.9.1 of Chapter Three of this thesis pointed out that the Archives legislation does not factor in the aspect of access to information. In view of this, this study sought to establish the efforts made towards reviewing the Archives legislation in the wake of the enactment of the ATI Act 2016. An interview with the Director National Archives revealed that the National Archives had written a memorandum to the Parliamentary committee on Justice and Legal Affairs seeking to have amendments to the Public Archives and Documentation Service Act. The Director noted that the issue of access to information was one aspect that the Department wanted captured in the amended Act. As per parliamentary procedures, in April 2018, parliament gazetted the Public Archives Act for

amendment and invited public views as required by the constitution. A copy of the notice of the Public Archives and Documentation Service Act for amendment is provided as Appendix 27 of this thesis.

Therefore, this study revealed that the review of the Public Archives and Documentation Service Act was in the process. Reviewing of the Act to incorporate access to information will give impetus to the implementation of the ATI Act 2016.

International best practice (ISO 15489 on records management) prescribe that the records management function should be handled by a single authority from creation to disposition. However, in Kenya, as mentioned in section 3.9.1 of Chapter Three of this thesis, management of public records is coordinated by two government departments. That is, the National Archives whose mandate is derived from the Public Archives and Documentation Service Act and the Department of records management whose mandate is anchored in the Office of the President, Executive Order No. 2 of 2013.

On the question of the efforts made to harmonize the responsibilities of the department of records management with those of the National Archives, the Director, National Archives revealed that nothing much had been achieved towards that end. In fact, the Department of records management had gone ahead to launch (without consulting the National Archives) an electronic records and document management system dubbed ‘Integrated Public Records Management System (IPRMS)’. The Department is in the process of rolling out the software in ministries. As mentioned in Section 3.9.1 of Chapter 3 of this thesis, this approach of splitting the records and archives function undermines both the establishment of sound records management systems and implementation of the ATI Act 2016.

6.8.2 Existence of a records management policy

The UK, DCA, MAP 2003 and the Carter Centre, access to information, Implementation Assessment Tool (IAT) (2014) advocate that public entities should develop a records management policy. This assertion is supported by the international records management standard ISO 15489 (2001) which recommends that countries should define and document a policy for records management whose objective is the creation and management of authentic, reliable and usable records capable of supporting business functions and activities for as long as they are required (ISO-15489 (2001)).

The findings of the current study revealed that only 37.5% of the ministries had a written records management policy. The absence of records management policy in 62.5% of the ministries undermines sound records management. Specifically, in the absence of a policy there are no guidelines in place specifying how records should be managed. Similarly, records management responsibilities are undefined thus making it difficult to assign records management tasks to public officers. This view is supported by Mnjama and Wamukoya (2007)'s study that pointed out that one of the challenges to the management of both paper and electronic records in the East and Southern Africa Branch of the International Council on Archives (ESARBICA) region was the absence of organisation policies and procedures to guide management of records. The study concluded that if records are to retain their evidential value, their management should be supported by clear policies and procedures.

The findings of the current study are also similar to those of Kemoni (2007)'s study that indicated that only 22.3% of the survey ministries had a records management policy. The study concluded that this impacted negatively on public service delivery. It would appear that, a decade after Kemoni (2007)'s study, the state of records management has slightly improved, in terms of existence of records management policies.

A records management policy provides a framework for the development of a records management programme. As such, in the absence of a policy, it is difficult to articulate the records management activities to be undertaken, the resources required to undertake the activities as well as define the duties and responsibilities of the personnel required. Mnjama and Wamukoya (2007) underscored the need for a records management policy by pointing out that the level of organizational commitment to managing records can be gauged by the existence or non-existence of records management policies, plans and guidelines.

In terms of preparedness for the implementation of the ATI Act 2016, the absence of records management policies suggests that most ministries had only undertaken short-term measures aimed at streamlining records management and ignored the complex policy measures. Indeed, this approach is similar to the one adopted in the United Kingdom (UK). Specifically, Screene (2005)'s study revealed that case study organisations focused on short term records management priorities and delayed the long-term policy measures until after the January 2005 UK, Freedom of Information (FOI) Act 2000 implementation deadline. However, Screene (2005) noted that this sort of approach undermined the level of preparedness of public bodies for ATI implementation.

In contrast, the current study findings contradict those of Carter Centre's (2014) IAT pilot study that sought to establish the capacity of public bodies to implement the ATI law in Bangladesh. The study revealed that all the six agencies assessed had records management policies. The study concluded that this improved their records management and enhanced their capacity to implement their ATI mandates. Similarly, Screene (2005)'s study on the preparedness of public bodies in the UK for the implementation of the FOI Act 2000 revealed that the National Museum and the Metropolitan Police had well prepared records management policies.

The low number of ministries with records management policies could be attributed to the fact that, at national level, Kenya only has a draft records management policy. As such, there is no national policy framework to guide individual public entities in developing agency-specific records management policies. This state of affairs was replicated in Botswana where Keorapetsea and Keakopa (2012)'s study on records management as a means of fighting corruption revealed that the Botswana National Archives and Records Service which is mandated by law to provide guidelines to government bodies with regard to records management was yet to develop a national records management policy from which government bodies could derive their own specific policies. The study concluded that lack of a national policy had inhibited the development of total records management programmes in the public sector.

Seemingly, the problem of lack of policies for management of records in the public sector is rampant in many developing countries. Previous studies by Iwhiwhu (2005) in Nigeria; Kargbo (2009) in Sierra Leone and Ndenje-Sichwale (2010) in Tanzania attest to this. It would appear that many African countries are yet to fully appreciate that sound records management is anchored on the existence of a policy framework.

The absence of records management policy in public entities contradicts the provisions of the UK, DCA, MAP 2003 records management code of practice which requires public entities to develop and communicate an approved records management policy to all staff. Accordingly, this undermines sound records management and by extension implementation of the ATI Act 2016.

6.8.3 Aspects covered by the records management policy

The UK, DCA, MAP (2003) notes that for public entities to have sound records management systems that facilitates access to information, the institution's records management policy has

to have provisions that support access to information. The findings of the current study revealed that the records management policies in majority (83.3%) of the ministries made reference to the provisions of the Public Archives and Documentation Service Act. It would appear that records management policies were formulated based on the provisions of the Public Archives Act which does not capture the aspect of ATI. Indeed, this finding offers an explanation as to why only 66.7% of the records management policies captured the aspect of access to information. As such, it can be argued that the failure to update the Public Archives Act has impacted negatively on the records management policies and undermined implementation of the ATI Act 2016.

The finding that 66.7% of the ministries had records management policies that factored in the aspect of access to information contradicts those of Screene (2005)'s study on the preparedness of public bodies in the UK for the implementation of the FOI Act 2000. The study revealed that the policy statement at the University College London needed to be updated to factor in the aspect of access to information. The study concluded that this undermined implementation of the UK, FOI Act 2000.

Article 19 (2016) RTI legislation requirements demand that for effective implementation of ATI law, the national records management policy should take into account issues of access to information and be harmonized with the ATI law. In Kenya, the study revealed that indeed the national records management policy alluded to the aspect of access to information albeit not explicitly. The policy provided that:

Access to records and information shall be provided within the existing regulatory framework. The process of accessing information shall be flexible enough to respect freedom of information requirements provided that the guidelines in the government security manual are not contravened (Kenya, 2009).

The inclusion of the aspect of access to information in the draft national records management policy would ensure that the issue of access to public records is clearly articulated thus promoting the implementation of the ATI Act 2016. Although the process of reviewing the current draft records management policy was yet to begin, the Director National Archives noted that the revised national records management policy would be more elaborate on the aspect of ATI.

6.8.4 Whether the Ministry's official with authority over policy actively participates in the creation, adoption and review of the records management policy

The Carter Centre, access to Information, Implementation Assessment Tool (IAT) (2014) recommends that policy makers in public entities should be actively involved in the creation, adoption and review of the records management policy. The findings of the current study revealed that in the majority (83.3%) of the ministries, policy makers were actively involved in the creation adoption and review of the records management policy.

Cook (1993) notes that records management policies enable organisations to among other things: allocate resources for records management activities and establish control over records management activities. Evidently, these duties fall in the realm of senior officers and can only be effectively undertaken where senior officers have been actively involved in the creation, adoption and review of records management policy. Further, the guidance of senior officials enables records managers to fulfil their records management duties effectively.

In terms of preparedness for the implementation of the ATI Act 2016, the findings of the current study are similar to those of Carter Centre (2014)'s IAT pilot study that sought to establish the capacity of public entities to implement the ATI law in Bangladesh. The study revealed that in all the six agencies that were assessed, policy level officials had undertaken steps to adopt records management policies in their respective agencies. The study concluded that this move enhanced the capacity of the agencies to fulfil their ATI mandate (Carter Centre, IAT, Bangladesh 2014).

As mentioned in Chapter Five section 5.8.3 of this thesis, although this finding indicates that many senior officers are involved in the creation adoption and review of records management policy, Figure 14 indicated that few ministries had formulated records management policies. In this regard, there seems to be disconnect between the two findings, thus the need for further research to unravel this gap.

For purpose of this study, the active participation of policy level officers in creation, adoption and review of the records management policies indicates that records management is appreciated and prioritized at the higher echelons of the organization. This recognition facilitates articulation and support for records management programmes and activities. This enhances sound records management and indicates preparedness for ATI implementation.

6.8.5 Level of engagement of senior officials in the creation adoption and review of records management policy

The Carter Centre, access to Information, Implementation Assessment Tool (IAT) (2014) notes that the level of engagement of senior officials in the creation, adoption and review of the ATI policy is also a determinant of sound records management and by extension commitment towards implementation of the ATI legislation. In organisations where senior officials are actively engaged in the creation, adoption and review of the policy, records management is prioritized and afforded the necessary resources. In terms of level of engagement of policy level officials in records management issues, best practices dictates that there should be a periodic calendar for meeting between the policy level official and records managers.

The findings of the current study revealed that 40% of the respondents indicated that their policy level officials were rarely involved or were involved only once in the year in the creation, adoption and review of the records management policy. These findings suggests that the frequency of involvement of the senior officers in policy formulation is minimal. This can be attributed to the fact that the administrative department in which the records management function is domiciled is quite extensive. As such, the administrators are pre-occupied with other pressing administrative matters and thus delegate records management issues to records managers.

The findings by 20% of the respondents that senior officials were involved at least twice a year in the creation, adoption and review of the records management policy concurs with Carter Centre (2014)'s IAT pilot study that sought to establish the capacity of public bodies to implement the ATI law in Bangladesh. The study revealed that in the six agencies assessed, senior officials were actively involved through inter-ministerial consultations in the development of new policies as well as review of old policies. The study concluded that this facilitated record managers to effectively undertake their duties thus enhancing sound records management.

For purposes of this study, the limited involvement of policy level officials in records management matters undermines sound records management and derails preparedness towards implementation of the ATI Act 2016.

6.8.6 Existence of records management procedure manual

The UK, DCA, MAP 2003 recommends that the agency in charge of ATI implementation in liaison with the national archival institution should develop records management guidelines that public entities should adhere to. This recommendation is supported by the international records management standard ISO 15489-1 (2001) which points out that rules and code of practice are important in that they provide guidelines on how various records management activities should be undertaken.

The current study revealed that majority (87.5%) of the ministries had a records management procedure manual. This means that there were clear guidelines specifying the procedure for undertaking records management activities. These findings are in tandem with the views expressed by Robek, Brown and Stephens (1995) who noted that a records management procedure manual instructs staff on the proper methods to use throughout the records management programme. As such, the presence of records management procedures in government ministries enhances sound records management and by extension facilitates implementation of the ATI Act 2016.

These findings of the present study are similar to those of Screene (2005)'s study that sought to establish the preparedness of public bodies in the UK for the implementation of the FOI Act 2000. The study revealed that all the case study organizations had established records management procedures. The study concluded that this indicated that the organisations were prepared to implement the UK, FOI Act 2000.

The findings of the present study are also similar to those of Ndenje-Sichwale (2010)'s study that sought to establish the significance of records management to fostering accountability in the public service reform programme of Tanzania. The study revealed that all the ministries surveyed had a records management procedures manual. The study concluded that this enhanced sound records management and by extension fostered accountability in the public sector.

However, where records management procedures are lacking, there is no clarity as to how records management activities should be undertaken. A case in point is a Carter Centre (2016)'s IAT pilot study that sought to establish the capacity of public bodies to implement the ATI law in Uganda. The study revealed that the five agencies assessed lacked agency-specific records

procedure manuals. The study concluded that to some extent this undermined the capacity of the agencies to manage their records effectively and to fulfil their ATI mandates.

The findings of the current study contradict those of Kemoni (2007)'s study on records management practices and public service delivery in Kenya. The study revealed that 79% of the ministries did not have a records management manual. As such, the findings of this study indicate that the state of records management in Kenya has improved considerably.

Notably, as noted in section 3.9.2 of Chapter Three of this thesis, the government of Kenya developed a records management procedure manual for the public service in 2010. This general manual has informed the development of agency-specific records management manual in most ministries as attested to by the Director, National Archives.

For purposes of this study, the presence of records management manual in government ministries enhances sound records management and facilitates implementation of the ATI Act 2016.

6.8.7 Reference point for records management decisions

The UK, DCA, MAP 2003 recommends that the agency in charge of ATI implementation in liaison with the national archival institution should develop records management guidelines that public entities should adhere to. Although the Government of Kenya records management procedures manual was developed before the enactment of the ATI Act 2016, this study sought to establish if records managers in government ministries made reference to the manual in making their records management decisions. Notably, in the UK, Shepherd (2007) noted that parliament established the Lord Chancellor's code of practice on management of records under the FOI Act 2000. This code (section 46) outlined good practice in records management which all public bodies were expected to adhere to in managing their records.

The findings of the current study revealed that majority (68.8%) of the records managers made reference to the Government of Kenya records management procedure manual when making their records management decisions. As such, it can be argued that the Government of Kenya records management procedure manual is the code of practice for management of records management in the public sector.

In terms of capacity to implement the ATI Act 2016, the findings of the current study concur with those Carter Centre (2016)'s IAT plot study that sought to establish the capacity of public entities to implement the ATI law in Uganda. The study revealed that all the five agencies

assessed relied on the general records management manual in undertaking their records management activities. The study concluded that this to some extent enhanced the capacity of the agencies to undertake their ATI mandate (Carter Centre, IAT Uganda 2016).

Although the Government of Kenya records management manual is not mandatory, it would appear that majority of the records managers regarded it as the reference point in making records management decisions. This has standardised the management of records in government ministries and facilitated implementation of the ATI Act 2016.

6.8.8 Budgetary allocation and state of registry funding for records management activities

The UK, DCA, MAP 2003 and the Carter Centre IAT (2014) tool recommend that effective preparation for ATI implementation requires public entities to set aside funds for records management activities. The findings of the current study revealed that majority (56.3%) of the ministries did not have a budgetary allocation for records management activities. The absence of a dedicated budget for records management suggests that the registry is not prioritized and derails the implementation of records management programmes thus undermining sound records management.

The findings of the current study mirror those of Kemoni (2007)'s study which established that 91.7% of the registries had no budgetary allocation. The study concluded that lack of funding for registries had negative implication for service delivery. Seemingly, the state of registry funding in government ministries has remained the same a decade after Kemoni (2007)'s study findings.

The absence of a dedicated budget for records management can partly be attributed to the budgeting structure in government ministries where the registry is embedded with other administrative functions that are commonly under-funded. Specifically, registry activities are funded from the general 'administration vote'. This was attested to by the Directors of Administration during the interviews. This view is supported by Mase (2015)'s study on records management readiness for open government in the Kenyan judiciary. The study revealed that there was no dedicated budget for records management; instead records management activities were funded from the general allocation of a court station. The study concluded that this arrangement undermined effective records management.

Notably, it also emerged during the interviews that the National Archives records management oversight responsibilities have been undermined owing to inadequate funding. In particular, the Director, National Archives noted that the Department was not able to provide effective records management advisory services due to insufficient funds. These findings concur with those of Ngulube and Tafor (2006)'s study that sought to determine the extent to which archival institutions within the East and Southern Africa Regional Branch of the International Council on Archives (ESARBICA) region managed public records and archives. The study revealed that national archives within ESARBICA had limited resources for records management functions. Similarly, Wamukoya (2000:26) noted that inadequate financial resources impeded the ability of archival institutions to guide the management of current and semi-current records held in government ministries and departments.

Indeed, the absence of a dedicated budget for records management activities undermines the provisions of the UK, DCA, MAP 2003 records management code of practice which requires public entities to ensure the availability of adequate resources to support the records management function. Accordingly, this inhibits the implementation of the ATI Act 2016.

In contrast, the findings of the current study also revealed that 28.6% of the respondents indicated that state of registry funding had increased over the last five years. This can be attributed to the recognition of the records management function in the public service as an integral component of the Public Service Reform Programme (PSRP). Indeed, this prioritization of records management function was attested to by the views of one of the Directors of Administration who pointed out that his ministry has been supporting the registry even financially to ensure records are managed effectively. As mentioned in Section 3.8.4 of Chapter Three of this thesis, other actions that attest to the prioritization of the records management function in the last decade include: the launching of the records management procedures manual for the public service in 2010; development and implementation of a scheme of service for records management officers in 2006; creation and operationalization of records management units with appropriate structures in 2010 among others.

At the same time, the findings of the current study also revealed that 14.3% of the respondents felt that the state of registry funding had decreased over the last five years. This can be attributed to the economic hardships that has afflicted the government. This view is reinforced by the views of the Directors of Administration who noted that in the last few years the government had missed its revenue targets. Similarly, this view is supported by a report on the

global right to information update that noted that due to economic hardships, many countries in Sub-Saharan Africa have prioritized economic issues at the expense of human right agendas and right to information (Freedom of information Advocacy network [FOIANet] 2013). As such, governments' focus on economic austerity demands at the expense of other agenda may undermine sound records management and implementation of the ATI law.

Seemingly, poor registry funding is not unique to Kenya. This view is reinforced by Mazikana (2009: 38) who noted that records and archives management in East and Southern Africa have not been able to attract substantive funding. Likewise, Burns, Ferris and Liatsopoulou (2009:15) pointed out that nearly all the problems facing records management in Africa have their root in lack of funding. Mnjama and Wamukoya (2004) noted that inadequate funding undermined the implementation of the records management agenda. Perhaps one way registries in Africa can shore up their funding is by linking records management to national development goals as advised by Mazikana (2009).

6.8.9 Whether ministries experience challenges due to current state of registry funding and the specific challenges experienced

The findings of the current study revealed that majority (68.8%) of the ministries experienced challenges due to the current state of registry funding. Further, majority (90.9%) of the respondents cited inability to purchase sufficient supplies and storage equipment as the most common challenges experienced due to inadequate funding. These findings were similar to those of Kemoni (2007)'s study which revealed that the most common challenges that registries faced due to inadequate funding were inability to purchase sufficient supplies (61.8%) and inability to purchase storage equipment (77.1%). Seemingly, lack of adequate registry funding undermined sound records management by denying registry officers the necessary tools required to undertake their records management activities.

However, the findings of the current study contradicted those of Ndenje-Sichwale (2010)'s study that sought to establish the significance of records management to fostering accountability in the public service reform programme of Tanzania. The study revealed that inability to provide registry services and inability to purchase storage equipment were the least cited problems faced by registry officers due to inadequate registry funding. The study concluded that this undermined accountability in the public sector in Tanzania.

The current study also revealed that 72.7% of the respondents reported that inadequate registry funding undermined the ability of their ministries to educate and train staff. Indeed, the absence of funds to train staff undermines the provisions of the UK, DCA, MAP 2003 records management code of practice which requires public entities to develop a programme of continuing professional development for records staff. In essence, this undermines sound records management and implementation of the ATI Act 2016.

6.8.10 Skills, competencies and capacity building in records management

The UK, DCA, MAP 2003 records management code of practice recommends that public entities preparing to implement an ATI legislation should ensure that staff are trained on records management. Similarly, the Carter Centre's, access to information, Implementation Assessment Tool (IAT) (2014) recognises trained records personnel as one of the key resources required for effective implementation of the ATI law. This assertion is reinforced by Wamukoya and Mutula (2005) who noted that skills and competencies in records management are necessary for organisations to demonstrate accountability and transparency.

The findings of the present study revealed that records managers in government ministries possessed qualifications that ranged from diploma, higher diploma, degree and masters in records management. Further, the study revealed that majority (68.8%) of the respondents reported that they had attended records management sensitization organized by the ministry in the last five years. These findings indicate that ministries have been sensitising their records staff on records management. As such, it can be argued that ministries have conformed to the requirements of the UK, DCA, MAP 2003 records management code of ethics. The code prescribes that public entities preparing to implement ATI legislation should ensure that records management is incorporated in all induction programmes. Indeed, the Director National Archives confirmed that his department sensitizes public officers in ministries on records management upon request.

The findings of the present study also revealed that 31.2% of the respondents indicated that they had not attended any records management sensitization in the last five years. These findings call for continuous sensitization of registry personnel on records management. Indeed, the UK, DCA, MAP 2003 records management code of ethics recommends that public entities should develop a programme of continuing professional development for records staff. Similarly, Ndenje-Sichwale (2010)'s study emphasized the need to continuously train registry

personnel to impart the right knowledge and attitude in methods and procedures of managing records.

In terms of preparedness towards implementation of the ATI Act 2016, the findings of the present study concur with those of Carter Centre's (2014) IAT study on the capacity of public bodies to implement the ATI law in Bangladesh. The study revealed that all the six piloted agencies had received training on records management from public training institutes. The study concluded that this awareness on records management enhanced the agencies' ability to implement the ATI law. On the contrary, the findings of the current study contradict those of Carter Centre (2016)'s IAT pilot study on the capacity of public bodies to implement the ATI law in Liberia. The study revealed that in all the six agencies assessed there were no mechanisms in place to sensitise public officers on records management processes. The study concluded that this undermined sound records management and by extension the capacity of the agencies to fulfil their ATI mandates.

The findings of the present study also revealed that most (75%) respondents cited e-records management as the area that they felt they needed to be trained on. Indeed, this finding is consistent with the finding in section 5.9.35 that indicated that most ministries were yet to create and adopt e-records management systems. It would appear that in the absence of e-records management systems, government ministries were yet to train their staff on management of e-records. This assertion agrees with the views expressed by Wamukoya and Mutula (2005)'s study on capacity building requirements for e-records management in East and Southern Africa. The authors observed that within East and Southern Africa Branch of the International Council of Archives (ESARBICA) (where Kenya belongs) staff competencies, skills and tools needed to manage e-records were not adequately developed in many public sector organizations.

The findings of the present study also revealed that respondents cited management of paper records (62.5%), handling information requests (25%) and user needs analysis (37.5%) as other areas that they required to be trained on. These findings indicate that a sizeable number of records managers wished to be sensitized on management of paper records. This finding is explained by the views expressed by the Director National Archives where he noted that majority of the records managers in government ministries were formerly executive assistants who re-designated to the records management cadre following the formulation of the records management scheme of service in 2006. Accordingly, these officers lack basic training in

records management thus their request to be trained on management of paper records. As earlier mentioned, records management sensitization should be a continuous exercise.

Ironically, although ministries were yet to be trained on handling information requests (see section 6.5.3 of this Chapter), only 25% of the respondents indicated that they wanted to be trained on handling information requests. These findings suggest that records managers are yet to appreciate the requirements of the ATI Act 2016 regarding their role in providing information to citizens. Indeed, sensitizing records managers on ATI would enable them to effectively manage and disseminate the records in their custody. This view is supported by Martini and Transparency International (2014) who noted that ATI awareness raising, training and capacity building are instrumental in enabling officials to understand the law and to improve their information management and dissemination skills.

The findings of the present study also revealed that 37.5% of the respondents cited that they required training on user needs analysis. These findings are consistent with the findings in Figure 51 in Chapter Five of this thesis which indicated that 80% of the respondents reported that the registry staff faced a challenge in providing access to information due to inability to understand user needs. These findings suggest that user needs analysis may need to be prioritized.

6.9 Records systems and procedures

The UK, DCA, MAP 2003 records management code of practice recommends that public entities preparing to implement ATI law should put in place a records management system that meets the operational needs of the organization and complies with the regulatory requirements. This recommendation is reinforced by Rodrigues (2008) who noted that international best practice requires that records are created and managed in accordance with clear and well understood filing, classification and retrieval methods established by a public office as part of an efficient records management programme. This study sought to establish whether public entities in Kenya had put in place requisite records systems and procedures. These system and procedures include; system for records creation; mail management programme; records classification system; records access and retrieval systems; records storage programme as well as a records disposition programme. The next section provides a detailed discussion and interpretation of the findings of this study on the above-mentioned issues.

6.9.1 Records creation

The records continuum model which forms the theoretical framework for this particular objective identifies four dimensions that represent the different perspectives on the management of records. Dimension (1) recommends that organisations should identify accountable acts and create reliable evidence of such acts by capturing records supporting the transactions. This assertion is supported by Shepherd and Yeo (2003), who noted that organizations should create and capture records for every activity that involves more than one party and they should identify and record every process that generates records.

In view of the above, the current study sought to establish whether ministries had a system for creating and capturing records. The findings of the study revealed that majority (62.5%) of the ministries had a system for creation and capturing of records. These findings were contrary to those of Kemoni (2007)'s study which revealed that most of the records management units lacked policies for creation of records. Consequently, it can be argued that the state of records management in terms of creation and capture has improved 10 years after Kemoni (2007)'s study.

The presence of a system for creation and capture of records means that ministries are able to capture the evidence of all the day to day transactions. This facilitates implementation of the ATI Act 2016 by fulfilling the requirements of the records continuum model and adhering to the provisions of section 17 (3) of the ATI Act 2016 that requires public entities to create and preserve records that adequately document its policies, decisions, procedures and transactions.

Dimension (2) of the records continuum theory prescribes that records created or received by a public entity should be tagged with metadata indicating how they are linked to other records. This view is supported by Spiteri (2012) who noted that capturing of metadata means that records now attest to evidence of action, can be distributed, accessed and understood by others involved in the business activities. The fact that majority (62.5%) of the ministries indicated that they had a system for capturing records means that they have captured the metadata thus adhering to the requirements of the records management continuum model. Further, the presence of a system that captures record's metadata facilitates implementation of the ATI Act 2016 by adhering to the provisions of Section 17 (2) of the ATI Act 2016 that requires public entities to keep and maintain records that are authentic, have integrity and are usable. Indeed, records whose metadata is captured are authentic since they act as evidence of actions. Equally, they are usable in that the capturing of their metadata allows them to be located and distributed.

The international records management standard ISO 15489-1 (2001) points out that there should be clear policies and procedures for creating and capturing records to ensure that the records created are authentic, reliable, complete and usable. The findings of the current study revealed that all (100%) ministries had a list of activities that constituted the basis for creating files. Rightfully, it can be argued that government ministries had adhered to the provisions of ISO 15489 (2001) and by extension to the provisions of Section 17 (2) of the ATI Act 2016 that requires public entities to keep and maintain records that are authentic, have integrity and are usable. These findings were similar to those of Ndenje-Sichwale (2010)'s study on the significance of records management to fostering accountability in the public service reform programme of Tanzania. The study revealed that 96.7% of the respondents indicated that their ministries had a list of activities that constituted the basis for records creation. The study concluded that this improved records management and by extension fostered accountability.

However, the findings of the current study were contrary to those of Kemoni (2007)'s study which revealed that 68.2% of the respondents stated that their ministries did not have a list of activities that constituted the basis for creating files. Kemoni (2007) concluded that this impeded service delivery. Indeed, this finding shows that there has been considerable improvement in terms of records management a decade after Kemoni (2007)'s study.

On the specific criteria used to create files, majority (75%) of the respondents said they were guided by the instructions in the Government of Kenya records procedure manual, 62.5% were guided by instructions from the supervisor while 50% were guided by existing procedures. These findings were also contrary to those of Kemoni (2007)'s study which revealed that 60.9% of the respondents indicated that their registries had no written policy for creating files. Kemoni (2007) concluded that this undermined sound records management and by extension service delivery. As such, the use of the Government of Kenya records procedure manual as a go to guide when creating files has standardized records management in the public service thus facilitating access to information.

With regards to records creation in an electronic environment, the present study sought to establish in the ministries that had an electronic records management system, what information was captured during records creation. Indeed, IRMT (2003) points out that the Information Communication Technology (ICT) systems must be able to generate or capture the 'metadata' that record the content, context and structure of records within the business processes that produce them.

The findings of the present study revealed that 37.5% of the respondents indicated that the e-records management systems in their ministries captured both the content and the context of the records during creation. Dimension (1) of the RC model provides that a record keeping system should identify accountable acts and create reliable evidence of such acts by capturing records supporting the transaction. Accordingly, the ability of the e-records management system in government ministries to capture the content of e-records during their creation means that the system conforms to the provision of the RC model particularly ensuring that the evidence relating to transactions is captured.

In the same vein, Dimension (2) of the RC model provides that tagging records with their metadata ensures that they provide evidence of action and also enables them to be distributed, accessed and understood by others involved in the business activities. Accordingly, the ability of the e-records management system to capture the context (metadata) of e-records as reported by 37.5% of the respondent's means that it conforms to the provisions of the RC model.

The findings of the present study also revealed that 31.3% of the respondents indicated that their e-records management system captured the structure of the e-record. The structure of the record enables the user to make a logical relationship of the record with other records. Dimension (2) of the RC model recommends that a records keeping system should capture metadata that enables a record to be linked to other records. As such, it can be argued that the e-records management system in government ministries indeed conforms to the provisions of the RC model particularly by enabling the logical linkage of one record to the other. Similarly, by providing a logical relationship between e-records, the e-records management system also conforms to the provisions of Dimension (3) of the RC model that requires records to be organised based on functions and activities. Indeed, classification of records entails providing a logical relationship between records.

From the foregoing discussion, it is evident that the e-records management system in government ministries facilitates access to information. Firstly, it capture the content and context of e-records thereby ensuring that information relating to a particular record is available whenever there is an ATI request. Secondly, it capture the context (metadata) of the records thereby making it easier for a record to be searched when there is an ATI request. In this case a records can be searched either by author, date or any other metadata captured. Thirdly, it capture the structure of e-records thereby enabling the records to be linked logically to other records.

Notably, the authenticity and reliability of information depends on the veracity of the system that created and captured it. In this regard, by capturing the content, context and structure of e-records, the e-records management system in government ministries ensures that the records derived from it are authentic, have integrity and are reliable. Accordingly, it is right to argue that the e-records management system in government ministries conforms to the provisions of section 17 of the ATI Act 2016 which requires public entities to keep and maintain records that are accurate, authentic, have integrity and are useable.

6. 9.2 Existence of mail management programme

Dimension (1) of the records continuum model recommends that organisations should identify accountable acts and create reliable evidence of such acts by capturing records supporting the transactions. In the same vein, a mail management programme ensures that incoming and outgoing mails in an organisation are handled in a logical and uniform manner to provide evidence of received mail, attend to complaints of delay due to lack of action as well as minimise misplacement, loss and misfiling of mails. Consequently, the presence of a mail management programme ensures the capturing of evidence thus fulfilling the requirements of the RC model particularly by ensuring that there is evidence of received mail.

The findings of the present study revealed that all (100%) ministries had the main aspects of a mail management programme. Specifically, the mail management programme entailed activities such as recording of incoming and outgoing mails; folio numbering and cross referencing. These mail management activities ensure that request for information are processed fast and that information can easily be traced. Consequently, the presence of a mail management programme enhances sound records management and by extension facilitates implementation of the ATI Act 2016.

The findings of the present study concur with those of Kemoni (2007)'s study which revealed that all the ministries had a mail management programme. Kemoni concluded that this had implications for service delivery. Similarly, the present study findings concurred with those of Ndenje-Sichwale (2010)'s study. The study revealed that all the respondents had mail management programmes. The study concluded that this fostered accountability in the public sector in Tanzania.

6.9.3 Existence of a file index

Dimension (3) of the records continuum model recommends that records should be classified according to the functions and activities of the organization. The model argues that classification ensures that records form the organization corporate memory, are identifiable, retrievable and available over time. This recommendation is supported by Rodrigues (2008) who noted that classification schemes act as roadmaps of the documents that exist to enable holders and requestors of information to know where records exist and where they can be located. Likewise, Ngulube (2003) noted that indexes facilitate intellectual access to records.

The present study findings revealed that majority (97.3%) of the respondents indicated that their ministries had a file classification scheme. In addition, all (100%) the respondents indicated that their files were physically arranged based on the classification scheme. The presence of a file classification scheme means that records are logically organized thus easing their retrieval and by extension availability in case of an information request. Ngulube (2003) supported this view by noting that efficient access to the information which users require can only be secured when the records are appropriately arranged and described.

However, the reverse is also true. Absence of a classification scheme undermines intellectual and physical control of records. This impedes access and retrieval of records and by extension implementation of the ATI Act 2016. For example, a study by Ramokate and Moatlhodi (2010) on public sector records management in Botswana revealed that records in state departments were chaotic, un-coordinated and poorly classified. The study concluded that this undermined sound records management. The findings of the current study agree with those of Kemoni (2007)'s study which revealed that majority of the registries in government ministries had records classification systems.

In terms of preparedness for the implementation of the ATI Act 2016, the current study findings concur with those of Carter Centre (2014)'s IAT pilot study that sought to establish the capacity of public entities to implement the ATI law in Bangladesh. The study revealed that all the six agencies that were assessed had established systems for classifying documents. The study noted that this eased access to information and enhanced the agencies capacity to implement the ATI law (Carter Centre, IAT Bangladesh 2014).

However, the findings of the current study are contrary to those of Screene (2005)'s study that sought to establish the preparedness of public bodies for the implementation of the UK FOI

Act 2000. The study revealed that in three of the case study organisations, development of classification schemes was yet to be done since it was a complex undertaking that could not have been achieved by the January 2005 commencement date. Screene (2005) noted that this approach undermined preparedness towards implementation of the UK FOI Act 2000. On the contrary, Screene (2005) noted that the United Kingdom (UK) museum was more prepared for ATI implementation by introducing standardised systems in the form of guidance, classification schemes and a solid policy statement (Screene 2005).

On the question of the state of the classification scheme, the present study revealed that all (100%) the respondents indicated that their classification schemes were updated while 90.5% of the respondents reported that their classification schemes were automated. These findings contradict those of Kemoni (2007)'s study that revealed that the classification schemes were in a state of deterioration and in particular were worn out and faded. As such, it can be argued that the state of file classification schemes in government ministries has improved a decade after Kemoni (2007)'s findings. An updated and automated file classification scheme facilitates intellectual control of records by capturing the current activities and allowing files to be searched online. This indicates sound records management and by extension facilitates implementation of the ATI Act 2016.

6.9.4 Records access and retrieval

Dimensions 2, 3 and 4 of the records continuum model recommend that organisations should take actions that facilitates the retrieval and access to records. This view is supported by the international records management standard ISO-15489-1 (2001) which requires that organizations record the movement of records to ensure that users can locate the records whenever they need them. One way of ensuring easy access and retrieval of records is having file tracking tools in the registry. This view is supported by international records management standard ISO 15489-1 (2001) which asserts that tracking facilitates retrieval of records, prevents loss of records and ensures there is an audit trail of record transactions.

The present study revealed that the most commonly used file tracking tool in government ministries is the file movement register which was used by all (100%) ministries. Other tracking instruments in use were file grid (91.9%), bring up diary (74.3%) and file transfer form (33.3%). The least used file tracking tools were the file tracking software (1.4%) and file movement card (12.2%). A file movement register indicates the location of a file thus

facilitating access to files and minimizing cases of missing files. This practice complies with the requirements of the RC model and facilitates implementation of the ATI Act 2016.

The findings of the current study concur with those of Kemoni (2007)'s study which revealed that all the registries in government ministries tracked their records and that the file tracking register was the most commonly used file-tracking tool. The availability of file tracking tools is in tandem with the recommendations of Chachage and Ngulube (2006) that all organisations need to put in place mechanisms for records tracking.

The use of file tracking tools to trace records in government ministries means that records are readily available whenever there is an access to information request. This is consistent with the ideals of the integrated records keeping framework as advocated by the RC model. The framework recommends that records should be availed promptly to those who have a right and requirement to see them (Spiteri 2012).

6.9.4.1 Access to electronic records

One of the principles of the records continuum model is that records should be viewed as logical rather than physical entities regardless of whether they are in paper or electronic form. In essence, this principle supports the management of electronic records by recognizing that the essential qualities of a record (content, structure and context) are not necessarily all physically present in an electronic record but may be available to the user logically or virtually (International Records Management Trust [IRMT] 2009).

Dimension 2 of the RC model notes that capturing of the records metadata attest to evidence of action and enables records to be distributed, accessed and understood by others involved in the business activities. This view is supported by Shepherd and Yeo (2003) who noted that in an electronic environment, records metadata should be provided at all levels. In, essence, the RC model underpins access and retrieval of e-records. In view of this, the present study sought to establish whether ministries had systems for retrieval and access of e-records.

The findings of the present study revealed that (87.5%) of the respondents stated that their Ministries had no systems for access and retrieval of e-records. This finding implies that ministries were unable to access and retrieve e-records effectively. This finding goes against the ideals of the RC model and impedes the availability of e-records thus undermining implementation of the ATI Act 2016.

In terms of preparedness for the implementation of the ATI Act 2016, the findings of the present study are similar to those of Carter Centre (2014)'s IAT pilot study that sought to establish the capacity public bodies to implement the ATI law in Bangladesh. The study revealed that all the six agencies that were assessed lacked an electronic records retrieval system. The study concluded that the agencies lacked the capacity to fulfil their ATI mandates.

From the 12.5% respondents who indicated that their ministries had a system for access and retrieval of e-records, this study sought to establish the access and retrieval features that were incorporated in the system. The findings revealed that all the respondents indicated that their system had a component on classification of e-records as well as allowed them to locate systems holding e-records. The ability of the system to classify e-records means that it adhered to the ideals of the RC model particularly Dimension 2 on organisation and classification of records. For purposes of this study, classification of e-records enhanced their intellectual control by allowing them to be identified, retrieved and availed over time thus facilitating implementation of the ATI Act 2016.

Equally, the ability of the system to locate systems holding e-records means that the system is able to track the location of e-records. As such, the system is able to maintain an audit trail of e-records thereby protecting the records from un-authorized use, alteration or destruction. This feature means that the system complies with the provisions of Section 17 (2) of the ATI Act 2016 that requires public entities to keep and maintain records that are authentic, have integrity and are usable.

The findings of the present study also indicated that the access and retrieval system had a component on naming conventions. This means that the system had specific rules on how files were to be named. Specifically, this means that the system had standard rules on the metadata that should be captured. The requirement to capture specific metadata ensures that the content, context and structure of an electronic record cannot be altered. This facilitates adherence to the provisions of Section 17 (2) of the ATI Act 2016 that requires public entities to keep and maintain records that are authentic, have integrity and are usable.

6.9.5 Records storage space

The records continuum concept identifies physical control as one of the actions that recurs throughout the life of a record (Roper and Millar 1999). As such, it recommends a unified approach to record keeping regardless of their retention periods. Physical control of records

entails affording them adequate storage space. The need for proper records storage is underscored by the international records management standard ISO 15489-1 (2001) which noted that records require storage conditions and handling processes that take into account their physical and chemical properties.

On the question of whether ministries had set aside adequate storage space for current, semi-current and non-current records, the findings revealed that majority (68.9%) of the respondents reported that the space allocated for storage of current records is adequate. On the other hand, majority of the respondents (59.5%) and (56.8%) indicated that their ministries had inadequate space semi-current and non-current records respectively.

The findings of the current study agree to some extent with those of Kemoni (2007)'s study which revealed that the registry layout and records storage areas in most ministries surveyed was poor and insecure. The study concluded that this state of affairs undermined effective records management and public service delivery. From the findings of the current study, it can be argued that storage of current records in government ministries in Kenya has improved as attested to by the findings on the adequacy of storage space.

The findings that majority (68.9%) of the ministries had adequate storage space for current records seem to conform to the views of Shepherd and Yeo (2003) who noted that adequate storage space ensures that records are secure, intact and accessible for as long as users need them. Indeed, affording records adequate space facilitates their access and retrieval.

The findings on the inadequate space for storage of semi-current and non-current records concur with those of Nengomasha (2009)'s study on managing public sector records in Namibia. The study revealed that there was a lack of storage space for paper records in the selected ministries resulting in congestion and inappropriate storage of semi-current and non-current records that affected service delivery in the ministries.

Regrettably, 18.9% of the respondents indicated that their ministries had no space for storage of non-current records. Worse still, records were stored on the corridors together with unserviceable equipment. Access to these records was a challenge since they were not arranged in a logical manner. In such circumstances, retrieval of information is impeded and as a consequence implementation of the ATI Act is undermined. These findings were similar to those of Tsabedze, Mutula and Jacobs (2012)'s study on records management in the government of Swaziland. The study revealed that records stored in the store room competed

for space with non-records materials such as chairs, old computers thus making it difficult to retrieve the records.

For the purposes of this study, it can be argued that availability of adequate space for current records facilitates access to current information whereas inadequate storage space for semi-current and non-current records undermines retrieval of information and by extension implementation of the ATI Act 2016.

In regards to records storage equipment, the present study findings revealed that the most commonly used records storage equipment were file cabinets 94.6% and mobile shelves (91.9%). These findings contradicted those of Kemoni (2007)'s study which revealed that the records storage equipment for current, semi-current and non-current records in most ministries did not efficiently cater for records storage. Accordingly, it can be argued that availability of records storage equipment in government ministries in Kenya has improved a decade after Kemoni (2007)'s findings.

The use of file cabinets and mobile shelves is in tandem with the requirements of the UK, DCA MAP records management code of ethics which is the theoretical foundation of this study. Specifically, the code recommends that records storage equipment should be clean and tidy, provide safety from unauthorised access, meet fire regulations, cater for records preservation requirements and allow maximum accessibility commensurate with frequent use. Moreover, file cabinets and mobile shelves are lockable, this means that the records and by extension the information stored in them are safeguarded against dust and unauthorised use. As such, the use of mobile shelves and file cabinets in government ministries conforms to the ideals of the international records management standard ISO 15489-1 (2001). Specifically, the standard recommends that the storage equipment for records should be able to protect the records from eminent destruction by disasters.

However, there were also 40.5% of the respondents who reported that the most commonly used records storage equipment in their ministry were metal racks. While file cabinets and mobile shelves are appropriate for storage of current records, metal racks are appropriate for storage of non-current records particularly those stored in archival boxes. This view was confirmed by the researcher during the visit to the various registries that were assessed. Specifically, the researcher observed that metal racks were mostly used in the records storage rooms for non-current records. Metal racks allow for safe and secure storage of records in archival boxes;

these archival boxes are then arranged, labelled and described making access to the records easy. This view is supported by Ngulube (2003) who noted that archives and records can be easily identified, managed, located and interpreted as a result of arrangement and description. Accordingly, it can be argued that use of metal racks facilitates access to information particularly ATI requests for historical records.

The study also revealed that 8.1%; 16.2% and 9.5% of the respondents reported that their ministries used wooden shelves, cartons and cupboards respectively as the records storage equipment. These three records storage equipment are not ideal for storage of records because records stored in them are predisposed to destruction by fire. This was exemplified in a study by Motsaathebe and Mnjama (2009) that revealed that in Kerugoya, Nakuru, Nyahururu and Sotik court records that had been stored in wooden shelves were destroyed by fire. This reportedly led to loss of files that would have been used by convicts to appeal their conviction. As such, it can be argued that use of wooden shelves, cartons and cupboards would undermine sound records management and by extension implementation of the ATI Act 2016.

Regarding the design and layout of the registry, the study revealed that the design and layout in most (85.4%) of the registries was appropriate. Notably, a purposely designed registry has a records processing area where mails are opened and sorted as well as a counter where requesters of information are served from thereby safeguarding records from un-authorised use. In essence, a purposely built registry is designed in a manner that it secures records and provides room for all registry activities and equipment. This facilitates effective records management and by extension aids implementation of the ATI Act 2016.

On the contrary, a poorly designed registry compromises the security of the records and may lead to loss or leakage of information. This was illustrated in Kemoni (2007)'s study which revealed that the registry layout and records storage areas in most ministries surveyed were poor and insecure. The study concluded that this impeded service delivery.

Regarding the storage of electronic records, the RC model provides for a consistent and coherent regime of management processes for records in all formats from the time of the creation of records through to the preservation and use of records as archives (Standards Australia (SA) 1996). In this regard, this study sought to establish the storage devices used by government ministries and departments to store e-records. Further, the study also sought to establish if ministries/ department had in place back up facilities for e-records. The findings of

the present study revealed that the most commonly (97.3%) used e-records storage device was the flash disk. Although flash disks are convenient and portable e-records storage devices, IRMT (1999) advises that they are not appropriate for long-term storage of permanent records. Storage of information in flash disks exposes it to several risks. First, corruption by virus since flash disks can easily be used from one computer to another. Secondly, exposure of the disks to strong electrical and magnetic waves may lead to loss of information. As such, the use of flash disks as the most common e-records storage device means that while it may be convenient in the short term, in the long-term it exposes government records to risks such corruption or loss. This undermines future access to information.

The findings also revealed that 91.9% of the respondents indicated that their ministries used hard disk to store their e-records. IRMT (1999) advises that hard disks used for long-term storage of e-records should be kept off-site. Notably, hard disks, like other disks, when mishandled and exposed to strong electric and magnetic waves get corrupted resulting in loss of information. Other e-records storage devices cited by the respondents were compact disk (86.5%) and digital optical disk (DVD) (85.1%). IRMT (1999) advises that information in CDs and DVDs can be secured by keeping them dust free, storing them in a vertical position in a container and ensuring that the recording surfaces of the disks are not touched.

On the question of back-up facilities, the findings of the present study revealed that majority (64.9%) of the respondents indicated that their ministries had back-up facilities for e-records. This finding is important particularly for this study as it means that the records are secured and are available in case of an information request. The backing up of data facilitates availability of information and by extension implementation of the ATI Act 2016.

6.9.5.1 Physical condition of records storage area

The international records management standard ISO 15489-1 (2001) advises that records require suitable storage conditions and handling so as to protect them from un-authorised access, loss, destruction and imminent disasters. This view is supported by Agere, Lemieux and Mazikana (1999:74) who observed that the biggest barrier and obstacle to accessing information contained in records and archives was the poor state in which many records were kept. This study sought to establish if government ministries in Kenya adhered to this requirement with regard to physical condition of the records storage room.

The present study revealed that 97.3%; 95.9% and 93.2% of the respondents indicated that their records storage areas were well lit; had florescent lights and were well ventilated respectively.

These conditions are appropriate for storage of records as they allow free circulation of air and accessibility to records due to adequate visibility.

Although, florescent lights generate less heat, they emit ultra violet rays that could be harmful to records. It also emerged that ministries did not record light level readings thus making it difficult to monitor and control the light condition in the records storage areas. These findings concur with (Ngulube 2003:294)'s study that revealed that archival institutions in South Africa lacked reliable ways of ensuring that records were stored in areas with appropriate ultra violet waves because they did not take light level readings.

Further, the findings of the present study revealed that 41.9% of the respondents indicated that their registries had curtain blinds while 17.6% of the respondents indicated that their records storage areas had air conditioners. The presence of curtain blinds is particularly important as it ensures that files are not exposed to direct sunlight. Exposure of paper to direct sunlight may lead to fading and consequently loss of information. This view is supported by Ngulube (2007b:162) who noted that light accelerates the deterioration of records and archival materials by acting as a catalyst in their oxidation.

From the findings above, it can be argued that the physical condition of the records storage areas in government ministries though not perfect promoted sound records management and by extension facilitated implementation of the ATI Act 2016. These findings contradict those of Shepherd and Ennion (2007)'s study on how the implementation of the UK, FOI, Act 2000 had affected archives and records management services. The study revealed that information held locally did not comply with the records management code as it was kept in poor storage conditions. The study concluded that there was some degree of unpreparedness for the UK, FOI Act 2000 implementation by the organisations concerned.

6. 9.5.2 Exposure of records to hazards

Sound records management is also compromised when records are exposed to physical and environmental hazards. In view of this, this study sought to establish if records in government ministries were exposed to hazards. The findings revealed that the main pest that records were exposed to were cockroaches as reported by 16.2% of the respondents. The presence of cockroaches can be attributed to the presence of food in the records storage areas. Indeed, this view was confirmed by one of the registry clerks who noted that in the absence of a designated kitchen they prepared tea in the registry.

The findings also indicated that records were also exposed to acids in the records storage areas as reported by 10.8% of the respondents. Ngulube (2003) pointed out that paper is made up of acidic components namely lignin and alum/rosin. These components react when paper is exposed to light and humidity leading to corrosion resulting in loss of information.

Other hazards that affected files were exposed to in the records storage areas were bookworms, booklice, rats and water as reported by 9.5% of the respondents. The presence of bookworms and book lice can be attributed to storage of records in damp records storage areas. This causes paper to be damp and develop moulds. Ngulube (2003) noted that booklice feed on microscopic moulds that grow on paper products when they are stored in damp conditions. The paper discolours and the information contained in it becomes illegible. Rats on the other hand are brought about by the presence of food in the records storage areas. Ngulube (2003) noted that rats destroy paper by tearing for nesting purposes as well as urinating and defecating on materials. Further, Ngulube (2003) notes that rats can also gnaw the insulation of electrical wiring exposing archival holdings to electrical fire hazards. These findings indicated that some ministries were yet to adhere to the requirements of the international records management standard ISO 15489 (2001). The standard advises that an appropriate storage environment, media, physical protective materials, handling procedures and storage systems should be considered when designing the records system in order to ensure their long-term preservation.

6.9.5.3. Control of the environmental condition

Section 17, subsection three (b) of the ATI Act 2016 requires public entities to ensure that records in their custody including those held in electronic form are maintained in good order and condition. In line with this requirement, this study sought to establish if government ministries had made any efforts to control the environmental condition of their records storage areas. The findings revealed that all (100%) of the respondents did not regulate temperature in the records storage areas and only 13.5% of the respondents indicated that their ministries/departments regulated humidity. This means that majority of the government ministries in Kenya did not heed to Ngulube (2007b:46) advice on the control of environmental condition in the records storage areas. Specifically, Ngulube (2007b:46) argued that the maintenance of proper temperature and relative humidity in archives and records storage areas was very important in the long-term preservation of documentary materials because inappropriate temperature and relative humidity contributed significantly to the deterioration

of materials. Deterioration of records would mean that they are unavailable in case of an information request.

These findings offer an explanation as to why records were exposed to booklice and book worms as indicated by Figure 34 in Section 5.9.11 of Chapter five of this thesis. High humidity acts as a breeding ground for mould particularly when there is inadequate air circulation. Similarly, Dean (2002) noted that high temperature accelerates chemical reactions leading to destruction of records. Dean (2002) recommends that the temperature in a records storage area for paper records should be within the range of 20 to 21 degrees while the relative humidity should be within the range of 35% to 40%. The failure to regulate temperature and humidity could be attributed to lack of the necessary equipment. Indeed, Figure 24 in section 5.8.11 of Chapter five of this study indicated that most registries were ill-funded and thus unable to purchase necessary registry supplies.

For purposes of this study, the failure by government ministries to adequately control the environmental condition of their records storage areas predisposes the records to environmental and biological hazards. This undermines sound records management and by extension implementation of the ATI Act 2016.

6.9.6 Use of a records inventory checklist

As mentioned in section 3.9.7 of Chapter three of this study, a records inventory checklist can be used as a building block of a publication scheme thus facilitating proactive disclosure. In this regard, this study sought to establish if government ministries used an inventory checklist while conducting records survey. The findings revealed that majority (82.4%) of the respondents used an inventory checklist. The use of a records inventory checklist means that the registry officers are able to capture details relating to information that is in their custody. These details may range from records format, series and volume. These details enables one to locate the records thus facilitating access to information.

The findings of the present study concur with those of Sichwale-Ndenje (2010)'s study on the significance of records management to fostering accountability in the public service reform programme of Tanzania. The study revealed that majority 62.4% of the respondents used a records inventory checklist when conducting a records inventory. On the contrary, Kemoni (2007)'s study on the state of records management and public service delivery in Kenya revealed that most ministries conducted their records inventories through physical checking.

Regarding the information captured in the records inventory checklist, the findings revealed that majority (93.2%) of the respondents reported that their inventory checklist contained details on the records series and records format while 91.9% of the respondents cited that their inventory checklist had details on the volume of records generated. Details on the records format and series are useful as they can assist in accessioning the records thus easing their access and retrieval. Equally, details on the records format promote sound records management by informing decisions on the appropriate records storage equipment as well as the preservation measures to adopt. For purposes of this study, the use of records inventory checklist facilitates the development of a publication scheme thus enhancing proactive disclosure. This facilitates implementation of the ATI Act 2016.

6.9.7 Records appraisal

As mentioned in section 3.9.8 of Chapter three of this study, records appraisal and retention scheduling are key to the implementation of the Access to Information Act (ATI) 2016. Further, the RC model recommends that organisations should have appraisal and disposition programmes to ensure consistency and systematic approaches to the appraisal and disposition exercise. In this regard, this study sought to establish if government ministers conducted records appraisal.

The findings of the present study revealed that majority (87.5%) of the respondents indicated that their ministries conducted records appraisal. This means that majority of the ministries had determined the (legal, administrative, fiscal) value of the records thus paving way for preservation of valuable records and destruction of valueless records. Appraised records are logically organised easing their access and retrieval.

The findings of the present study concur with those of Kemoni (2007)'s study which revealed that majority of the ministries surveyed conducted appraisal exercise to establish the records archival value. The study concluded that this had implication for service delivery. Similarly, Ndenje-Sichwale (2010)'s study indicated that majority (73.3%) of the ministries conducted records appraisal. The study concluded that this resulted in better managed registries thus easing access and retrieval and fostering accountability in the public sector in Tanzania.

Although the international records management standard ISO 15489-1 (2001) recommends that appraisal and disposition of records should be done on a systematic and routine basis in the course of normal business activity, this is not the case in Kenya. Informal discussions with the

records managers revealed that appraisal of records in most ministries was mainly spearheaded by the National Archives. In essence, a ministry makes a request to the Director, National Archives seeking assistance to undertake records appraisal, the National Archives then deploys officers in the ministry to team up with the records staff in the ministry in conducting records appraisal. As such, records appraisal is carried out when need arises.

The random nature of conducting records appraisal in government ministries in Kenya echoes the findings of Ngulube and Tafor (2006)'s study on the management of public records and archives in the member countries of ESARBICA. The study revealed that appraisal and disposition was done as the need arose because majority of the countries assessed did not have an effective records appraisal and disposition programme. The absence of a systematic records appraisal and disposition programme leads to backlog of non-current records in the records storage area. This undermines the organization of records storage areas and by extension access and retrieval of information.

In view of the inadequate records storage space for non-current records as illustrated by Table 27 of Chapter Five of this study, government ministries in Kenya are predisposed to have backlog of closed records in their records storage areas. In this regard, there is need to adopt systematic and routine approach towards records appraisal to avoid backlogs of closed records. In Botswana, a study by Ramokate and Moatlhodi (2010) addressed the challenges faced by the Botswana National Archives and Records Services (BNARS) in eliminating the appraisal backlog. The study revealed that initially BNARS struggled to make an impact on the backlog. However, with the adoption of new initiatives and commitment of more resources significant progress has been made.

With regards to the purpose for conducting records appraisal, the findings of the present study revealed that all (100%) of the ministries conducted records appraisal as the basis for retention scheduling. Another 92.9% of the respondents stated that they carried out records appraisal for the following reasons; establish records of archival value; meet the records and archives legislation requirements; enhance records access and use; enhance records preservation and remove the backlog of inactive records to ease access to information. It is evident from the findings that records appraisal exercise in government ministries enhances sound records management and facilitates implementation of the ATI Act 2016.

The findings of the present study concur with those of Ndenje-Sichwale (2010)'s study on the significance of records management to fostering accountability in the public service reform programme of Tanzania. The study revealed that majority of the ministries assessed conducted records appraisal as the basis for retention scheduling. The study concluded that appraisal of records led to better organisation of registries thus fostering accountability.

6.9.8 Existence of a retention and disposal schedule

The RC model recommends that organisations should have appraisal and disposition programmes to ensure consistency and systematic approaches to the appraisal and disposition exercise. One way of ensuring consistency in disposal of records is having a retention and disposal schedule in place. The findings of the present study revealed that majority (62.5%) of the respondents indicated that their ministries had a records retention and disposal schedule. The presence of retention schedule facilitates access to information by providing guidelines towards prompt disposal of closed records hence decongesting the records storage areas. This view is supported by Kalusopa and Ngulube (2012) who noted that prompt disposal of records ensures that an organisation only keeps those records that are valuable and eases their retrieval whenever a request for information is made.

A contrast is drawn between the findings of the present study and those of Kemoni (2007)'s study which revealed that that most ministries surveyed lacked records retention and disposal schedules; this led to backlog of non-current records thereby undermining effective records management and public service delivery. As such, it can be argued that in terms of scheduling of records in government ministries, the situation has improved a decade after Kemoni (2007)'s findings.

Absence of a retention and disposal schedule undermines implementation of ATI law. A case in point is Carter Centre (2014)'s IAT pilot study on the capacity of public bodies to implement the ATI law in Guatemala. The study revealed that the seven agencies assessed lacked the capacity to protect, retain and dispose records. The study concluded that this undermined their capacity to implement the ATI law.

With regards to the implementation of the retention schedule, the findings of the present study revealed that majority (56.3%) of the respondents indicated that their ministries had implemented their retention and disposal schedule. While having a retention schedule is one thing, ensuring that it is implemented holds the key to prompt disposal of records and

decongestion of records storage areas. Indeed, the RC model recommends that disposition should be systematic and routine. In the UK, in terms of preparedness for ATI implementation and specifically having retention schedules in place, Screene (2005)'s study revealed that the University College London had a retention and disposal schedule. However, there were no mechanisms for ensuring that the retention guidelines were followed. The study concluded that this undermined preparedness towards implementation of the UK, FOI Act 2000. One way of ensuring the implementation of retention schedules is having a monitoring mechanism.

Regarding the purpose for implementing retention schedules, the findings of the present study revealed that all (100%) the respondents indicated that their ministries implemented their retention schedules to decongest the records storage areas, ensure removal of valueless records and to confirm that the retention periods were realistic. Evidently, the reasons that motivated ministries to implement their retention schedules eased access and retrieval of records.

6.9.9 Existence of a records disposition programme

The RC model identifies disposal of records as the last stage in the records continuum and advises that the disposal exercise should be systematic and consistent. The findings of the present study revealed that majority (68.8%) of the respondents indicated that their ministries had a records disposition programme. Further, the findings revealed that the records disposition programmes in ministries entailed transfer of valuable records to the archives (90.9%), physical destruction of valueless records (72.7%) and conversion of records to a different medium (45.5%). As such, government ministries in Kenya had a records disposition programme that entailed the three forms of records disposition as outlined in the international records management standard ISO-15489 (2001). The finding of the present study concur with those of Kemoni (2010)'s study which revealed that most of the ministries surveyed had a records disposition programme that consisted of both transfer of records to the archives and physical destruction of valueless records.

In terms of facilitating access to information, all the three form of records disposition enhance access to information and by extension implementation of the ATI Act 2016 as outlined in section 3.9.9 of Chapter Three of this study. In contrast, where a records disposition programme is lacking as indicted by 25% of the respondents, there is delay in disposal of non-current records resulting in congestion of the records storage areas and by extension delay in retrieval and access to records. Likewise, a study on records management in the public sector in Botswana by Ramokate and Moahtlodi (2010) revealed that policies for retention and

disposal of records were non-existence and where they existed, they were out dated. This resulted in delays in disposal of non-current records and backlog of non-current records in records storage areas. The study concluded that this undermined sound records management.

The international records management standard ISO 15489 (2001) recommends that once disposition has been done then a record should be kept documenting the action taken. In disregard of this requirement, Chinyemba and Ngulube (2005)'s study established that 61.1% of the respondents indicated that they had destroyed records but they did not have proof of evidence. The study warned of dire consequences if such records were required for litigation. In contrast, Kenya, has an elaborate procedure for disposal of records. This entails the respective public entity writing to the Director, National Archives; appraisal is then conducted; listing of valuable records for preservation and valueless records destruction; written authority for disposal is then granted and a destruction certificate issued once the destruction is conducted and witnessed by a staff from the National Archives. This procedure facilitates access to information in that it ensures that records are subjected to thorough scrutiny before they are condemned for destruction. This ensures that no valuable records are destroyed. Notably, following the enactment of the ATI Act 2016, the Director National Archives has to liaise with the Ombudsman when granting public entities authority to destroy valueless records. This move introduces extra checks and balances thus ensuring that records that may be required by for future reference are safeguarded.

Respondents cited varying reasons for disposing records. These included: to create room for active records; to ease backlog in the records storage areas and to preserve records of enduring value. Evidently, all the three actions facilitate sound records management and by extension access to information.

However, there are also 25% of the respondents that cited that the purpose for disposing records was to convert them into a different medium. As mentioned in section 3.9.9 of Chapter Three of this study, this too facilitates access to information by allowing multiple access. It would appear that not many ministries are able to reformat their records perhaps due to cost implications.

6. 9.10 Records preservation

Section 17 (3) of the ATI Act 2016 requires public entities to create and preserve such records as are necessary to document adequately its policies, decisions, procedure, transactions and

other activities it undertakes pertinent to the implementation of its mandate (ATI Act, 2016). In view of this, this study sought to establish the records preservation strategies adopted by government ministries.

The findings of the present study revealed that majority (78.4%) of the respondents indicated that the most common records preservation strategy adopted by their ministry was printing of e-records to paper. While printing e-records to paper ensures that records can be accessed physically, in the long-term, it results in duplication of records thus undermining sound records management. By adopting a short-term records preservation measure, these ministries demonstrated that they were yet to put in place long-term measures to facilitate access to information.

In terms of preparedness for implementation of the ATI Act 2016, the findings of the present study concur with those of Shepherd and Ennion (2007)'s study on how the implementation of the UK FOI Act 2000 affected archives and records services. The study revealed that at the University College London, all vital records had to be printed to paper since there were no long-term preservation strategies for digital records. The study concluded that the University was not fully prepared and had only taken short-term measures to improve records management while delaying long-term measures required for implementation of the UK, FOI Act 2000.

The RC model submits that if records are to remain useful to the creator and to the society, then they need to be protected from creation until they are used as archives. Section 6.9.5.3 of this Chapter indicated that ministries had not made any efforts to control the environmental condition of their records storage areas. As such, it can be argued that government ministries lacked the necessary facilities required to preserve records. Indeed, this is attested to by the fact that only 25.7% of the respondents indicated they preserved their records in an in-house archives. It would appear that in absence of records preservation facilities many ministries lacked an in-house archives.

Importantly, international records management best practices demand that valuable records meant for long-term preservation in the archives have to be accessioned, arranged and described. Ngulube (2003) noted that arrangement and description of archives and records facilitates access to information as it enables records to be easily identified, managed, located and interpreted. Further, preservation activities such as accessioning, arrangement and

description of records facilitates the development of a publication scheme that can be used for proactive disclosure of information.

The findings of the present study also indicated that 10.8% of the respondents cited migration to a different medium while 9.5% of the respondents cited restoration of records as the records preservation strategies adopted by their ministries. The reduced number of ministries preserving their records through migration and restoration can be attributed to the fact that migrating records from one software platform to another is costly and requires specialized facilities which are not available in most ministries. Notably, when migration of records is not done appropriately, records lose their authenticity since some aspects of their metadata may not be captured. This undermines sound records management and by extension implementation of the ATI Act 2016.

Whilst this study focus is on the implication of records preservation on access to information and in particular implementation of the ATI Act 2016, Ngulube (2003) noted that ATI laws occasion an increase in demand for records by the public, this results in regular use of the records which hastens their deterioration. Ngulube (2003) suggested that ATI laws should have provisions to address preservation issues emanating from regular access to records. Having said that, this is an issue that is beyond the scope of this study. As such, future researchers should explore the implication of the ATI law on records management and in particular records preservation.

6.9.11 Existence of a Business Continuity Plan (BCP)

The international records management standard ISO 15498-1 (2001) submits that for organizations to maintain business continuity in the event of a disaster, they have to protect their vital records. This view is supported by the recommendations of a Pan-African Conference on the Preservation and Conservation of Library and Archival materials. The conference endorsed the need for libraries and archival institutions to develop and implement business continuity plans (Musembi 1995).

The findings of the present study revealed that majority (50%) of the respondents indicated that their ministries had a business continuity plan. Further, (50%) of the respondents stated that their business continuity plan enabled them to minimize disruption of normal business; prevent escalation of the disruption; salvage records and minimize economic impact of the disaster. The existence of a business continuity plan that has a provision for salvaging records means

that majority of the government ministries have a plan for protecting records in the event of a disaster. This safeguards the records and ensures their availability in case of an ATI request.

In contrast, 43.8% of the respondents indicated that their ministries lacked a business continuity plan. This means that there are no guidelines to safeguard and salvage records in the event of a disaster. In essence, the information in these ministries was predisposed to loss in the event of a disaster. The findings of the present study concur with those of Ngoepe and Van der Walt (2009)'s study that revealed that the South African public sector departments were ill prepared to handle disasters with 77.8% of the respondents indicating they did not have business continuity plans. Similarly, (Mase 2015) revealed that the Kenyan Judiciary lacked a business continuity plan despite report of fire in some of the court stations. Mase (2015) concluded that records in the Kenyan judiciary were at risk in the event of a disaster. As far as archival institutions are concerned, Ngulube (2005a)'s study noted that many archival institutions in ESARBICA had neither a disaster preparedness policy nor security plans. An analysis of previous related studies in Africa indicates absence of disaster management plans in government registries (Ndenje-Sichwale (2010) in Tanzania; Akussa (2002) in Ghana; Ngoepe and Van De Walt in South Africa). This suggests that public institutions have not prioritized disaster preparedness in archives and records management.

Relatedly, on the question of the existence of a vital records management programme, the findings of the present study revealed that half (50%) of the respondents indicated that their ministries lacked a vital records management programme.

The US Department of Energy (2011) pointed out that vital records are required to support an organisation's role and responsibilities during and following an event that disrupts normal operations such as a national security emergency or natural disaster. In the absence of a vital records management programme, ministries are unable to identify records that are needed to perform critical functions; there is no clear procedure of salvaging records in the event of a disaster and there is no policy of safeguarding vital records. Accordingly, the absence of a vital records management programme undermines sound records management and by extension access to information.

The findings of the present study are similar to Kemoni (2007)'s study which revealed that few ministries had a vital records management programme. Seemingly, in terms of securing of vital

records in government ministries, the status quo has remained a decade after Kemoni (2007)'s study.

With regards to the purpose for having a vital records management programme, the findings of the present study revealed that all (100%) the respondents stated that the reasons for having a vital records management programme was to identify vital records; develop protection measures; develop appropriate vital records storage facilities and prevent loss of vital information. These findings show that in the ministries that reported to have a vital records management programme, vital records were safeguarded thus assuring their availability in case of an ATI request.

For the 85.7% of the respondents who indicated that a vital records programme assists in identifying potential hazards. This finding is useful in that information on the possible hazards in the records storage areas can inform strategies for safeguarding vital records.

On the question of the strategies that ministries use to protect vital records, the findings of the present study revealed that most (43.8%) most ministries safeguard their vital records through duplication. These findings are consistent with those of Figure 39 in section 5.9.25 of Chapter Five of this thesis. Specifically, Figure 39 indicates that the most common records preservation strategy in government ministries is printing e-records to paper. As mentioned earlier in this Chapter, adopting duplication as method of protecting vital records is counter-productive as it leads generation of more records against diminishing records storage space. As such, it can be argued that most (43.8%) ministries had only adopted short-term measures of protecting vital records thus not adequately prepared for implementation of the ATI Act 2016.

As for the 31.3% and 25% of the respondents who indicated that their ministries protected their vital records through offsite storage and digitization respectively, these two methods facilitate future access to vital records by safeguarding them from harm in the event of a disaster.

One of the most common disasters in records storage areas is fire. In view of this, the present study sought to establish if ministries had a fire protection system. The findings of the present study revealed that majority (81.3%) of the respondents indicated that their ministries had a fire protection system. An assessment through observation revealed that the most common fire protection system in government ministries is a fire extinguisher. The presence of fire extinguishers indicates some degree of preparedness in the event of a fire and safeguards records from harm.

With regards to training on fire-fighting, Adinku (2005:78-79) recommended that all staff should be trained and shown how to operate basic fire-fighting facilities. The findings of the present study revealed that majority (87.5%) of the respondents had received training on fire-fighting giving them the necessary skills to respond to a fire outbreak. For purposes of this study, fire-fighting skills equips registry clerks with the necessary techniques to protect records in the event of a fire. The findings of the present study contradict with those of Kemoni (2007)'s study that revealed that majority of the registry staff had not received training on firefighting. The study concluded that lack of training in fire-fighting techniques was likely to impede public service delivery.

6.9.12 E-records Management

The records continuum model that is one of the theoretical foundation of this study provides for continuum of care of both paper and electronic records. Similarly, the Carter Centre's, access to information, Implementation Assessment Tool (IAT) (2014) recommends that public entities intending to implement the ATI law should have a system for managing e-records. Moreover, as pointed out in Chapter two of this study, an access to information request can be for both paper and electronic records. In this regard, this study sought to establish whether government ministries had created or adopted systems for managing e-records. The findings of the present study revealed that majority (75%) of the respondents indicated that their ministries had neither created nor adopted a system for managing e-records. Although, Ambira (2016)'s study on management of electronic records in support of e-government in Kenya noted that utilization of e-government in Kenya had grown significantly and more ministries were adopting e-government services, public records management systems in Kenya are largely manual. This means that while the electronic systems adopted by the government are able to undertake other work-flow procedures, they lack e-records management functionality.

However, an interview with the Director National Archives revealed that there have been attempts to introduce a government wide e-records management system. Specifically, in 2010, the Department of records management under the then Ministry of Public Service engaged local consultants to develop an electronic records management system. The consultants developed a system dubbed 'Integrated Records Management System' (IRMS) which had features that allowed it to capture, file, classify and track records. The system was piloted in various government ministries and records officers were trained on its use. However, the

system failed to get the necessary top management support and its implementation across government ministries failed.

The findings of the current study concur with those of Mase (2015)'s study on records management readiness for open government in the Kenyan Judiciary. The study revealed that majority (87%) of the respondents indicated that their registries did not have an e-records management system. The study concluded that this undermined effective service delivery and transparency in the Judiciary.

In terms of preparedness for implementation of the ATI law, the findings of the present study concur with those of Carter Centre (2014)'s IAT pilot study on the capacity of public bodies to implement the ATI law in Bangladesh. The study revealed that the records management system in all the six agencies that were assessed was primarily paper based and that little progress had been made towards establishment of an electronic records management system. The study concluded that the agencies lacked the capacity to fulfil their RTI mandates.

Section 17, subsection 3 (c) of the ATI Act 2016 requires public entities to computerize their records and information management systems not later than three years after the enactment of the ATI Act 2016. Although, there is still time left before the September 2019 deadline, it is unlikely that government ministries will have digitized their records systems by then considering the reduced budgetary allocation as cited by the Directors of Administration interviewed. Moreover, transitioning from a manual records system to e-records management system is a complex process that can only be done gradually. This view is echoed by Mnjama and Wamukoya (2004) who noted that the change process from paper to e-systems is more complex than is realized. The authors observed that before an organization can automate its system, it has to streamline its manual system (public entities in Kenya are yet to achieve this). As such, the absence of e-records management systems undermines sound records management and preparedness towards implementation of the ATI Act 2016.

These findings when looked at from a broad perspective of related studies in Africa show that challenges abound in e-records management in Africa. A study on e-records readiness among national archival institutions in ESARBICA region by Wato in 2006 revealed that national archival institutions lacked the capacity to preserve e-records. This was attributed to inadequate skills and lack of e-records policies among other issues. Similarly, Keakopa (2006)'s study on management of e-records in Botswana, Namibia and South Africa revealed that there were no

clear policies for creating, using, storing, retaining or disposal of email in Botswana. Similar studies in Namibia and Lesotho by Nengomasha (2009) and Sejane (2004) respectively all allude to the absence of clear policies for managing e-mails.

6.9.13 Features of the e-records management system

The authenticity and reliability of e-records is predicated on the veracity of the system that created and captured them. In this regard, an e-records management system will only be able to generate authentic and reliable records if it has features that protect the content and structure of the records from being altered. This study sought to establish the features of the e-records management systems in government ministries to ascertain their veracity. The findings of the present study revealed that all (100%) of the respondents indicated that their e-records management systems had a features on security and access rights.

The presence of a security and access rights component in the e-records management systems means that the systems can control the extent to which the content and structure of e-records can be altered. This view is supported by Keakopa (2008) who noted that the authenticity and reliability of e-records becomes questionable when their content and structure is altered. Instructively, the International Council on Archives [ICA] (2005) committee on current records in an electronic environment, advises that one way through which organisations can safeguard the authenticity of e-records is by ensuring they are protected against unauthorised addition, deletion, alteration and use. Accordingly, the security and access rights component of the e-records management system ensures that it generates authentic and reliable records thus conforming to the provisions of section 17 of the ATI Act 2016 that requires public entities to keep and maintain records that are accurate, authentic, have integrity and are useable. As such, the e-records management system in government ministries facilitates implementation of the ATI Act 2016.

The findings of the current study also revealed that 66.7% of the respondents indicated that their e-records management system had features that allowed the creation of records; survey and inventory; classification of records and retention and disposal. The presence of these features indicates that the e-records management systems were designed to conform to the provisions of the RC model that advocate for a consistent and coherent regime of management processes for records in all formats from the time of the design of the records system through to the creation of records, preservation and use of records as archives (Standards Australia (SA) 1996). Moreover, the ability of the e-records management systems to create and classify e-

records meant that they conformed to Dimension (1) and (4) of the RC model. Specifically, the design of the system allows it to create and capture records that act as evidence of actions as well as logically link records through classification. Classification and capturing of e-records metadata allows them to be located, distributed and used thus facilitating access to information.

6.9.14 Challenges in providing access to information

The present study revealed that majority (62.5%) of the respondents indicated that their ministries faced challenges in providing access to records. Further, the study revealed that the most respondents (90%) cited the practice of action officers holding onto files marked to them as the main challenge in providing access to records. The tendency of action officers to hold onto files in their offices can be attributed to the absence of records management policy that specifies the timeframe that action officers should take to release files marked to them for action. Public entities can ensure action officers do not hold files in their offices through action tracking. The international records management standard ISO 15489-1 (2001) point out that action tracking is implemented in a records system for processes where time limits for action are imposed by or on the organization. In essence, action tracking allocates steps to be taken in response to decisions or transactions documented in a record; assigns responsibility for action to a designated person; and records the dates by which the predefined action is to be taken and dates when those actions occur.

The findings of the present study also revealed that 60% of the respondents cited limited knowledge of registry operations; lack of training among registry staff and poor registry layout as the challenges impeding their ability to provide information. Solutions to these challenges will be addressed in the next Chapter of this study.

Further, 80% of the respondents also reported that the main challenge that impeded their ability to provide information was the inability of registry staff to understand user needs. These findings suggest that registry staff were yet to be trained on user needs analysis. Indeed, this is alluded to in section 6.8.10 of this Chapter where registry staff indicated user needs analysis as one of their training needs.

6.10 Summary

This chapter interpreted and discussed the findings of the study taking into account the research questions and guided by the UK, DCA MAP 2003; the concept of meaningful engagement; the Carter Centre, access to Information, implementation Assessment Tool and the records

continuum model. The chapter therefore explained the findings and their implications to the research problem.

The study established that the state had demonstrated some level of political will and leadership for implementation of the ATI Act 2016. This was demonstrated by: inclusion of ATI in the strategic plans of most ministries; formulation of a national ATI implementation plan and availability of ATI infrastructure in government ministries. Further, the study established that at least half of the public communication officers were aware of their ATI duties; there were systems in place for receiving and recording ATI requests; the state had created platforms for proactive disclosure and management of records in government ministries had significantly improved. As such, the study established that ministries had to some extent adhered to the ideals of the UK, DCA, MAP 2003 and the Carter Centre Implementation assessment Tool and the records continuum model.

On the other hand, the study also identified areas that indicated that the state was ill-prepared to implement the ATI Act 2016. These actions included: absence of ATI regulations; lack of ATI policies; lack of agency-specific ATI implementation plans; lack of dedicated budget for ATI and records management; lack of ATI training plans and absence of e-records management systems. The study indicated that these areas contravened the requirements of the models and concept underpinning the study. Further, the study concluded that these issues undermined the capacity of the public entities to fulfil their ATI mandate.

The next chapter will give a more detailed summary of the findings and answer question five of this study. Specifically, Chapter 7 will provide recommendations as to how the identified strengths in the findings can be sustained and the weaknesses improved. The chapter will also give concluding remarks on the main problem under study.

CHAPTER SEVEN

SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

7.1 Introduction

Based on the data presented and interpreted in the two previous chapters, this Chapter seeks to integrate the various issues that emerged in form of a summary, provide a general conclusion and suggest the way forward in terms of addressing the problem. According to Mutula and Majinge (2017), the concluding chapter of a thesis should seek to:

- Link the summary of the key issues that emerged in the study to the research questions;
- Provide a conclusion that accounts for all the research questions;
- Present recommendations emanating from best practices elsewhere and
- Provide feasible recommendations with action plans, responsibilities and the actors.

In view of this, this chapter addresses the issues highlighted above.

The purpose of this study was to assess the extent to which public bodies in Kenya are capacitated to implement ATI Act 2016 with a view to providing an implementation roadmap. The study was motivated by the fact that Kenya has recently enacted an access to information legislation whose effective implementation will largely depend on institutional capacity. The study addressed the following research questions:

1. To what extent, if any, is there political will for implementation and institutionalization of the ATI regime?
2. What is the level of awareness of public officers on the provisions of the ATI Act 2016?
3. What structures, processes and systems are in place in public bodies in Kenya to facilitate access to information?

4. What are the current records management practices in government ministries and to what extent do they facilitate or undermine access to information?
5. What recommendations for improvement can be made from the areas of strengths or weaknesses identified?

The study was underpinned by a complement of models and concept. That is, the United Kingdom (UK), Department of Constitutional Affairs, Model Action for plan for preparing towards implementation of the UK, Freedom of Information Act 2000; the Carter Centre, access to information, Implementation Assessment Tool (IAT); the concept of meaningful engagement and the records continuum model. The study adopted a pragmatic paradigm using a mixed methods approach where the quantitative and qualitative strands were dominant and less dominant respectively. The study adopted survey research design where data was collected through questionnaires, interviews, observation and document review. Quantitative data was analysed using SPSS and presented using descriptive statistics while qualitative data was analysed thematically and presented in a narrative description.

In light of Mutula and Majinge (2017) advice, this chapter is structured to cover the following: a summary of the findings; conclusions based on the objectives of the study; recommendations and implications of the study for policy and practice; originality of the study and suggestions for further research.

7.2 Summary of the findings

The summary of the findings covers aspects relating to: the extent of leadership and political will for implementation of the ATI Act 2016; the level of awareness of ATI officers on their duties and responsibilities; systems, procedures and structures in place in public entities for ATI implementation and records management practices in public entities in Kenya.

7.2.1 Leadership and political will for implementation and institutionalization of the ATI regime

This section summarizes the findings of the first research question which sought to establish the extent of leadership and political will for implementation of the ATI Act 2016. This research question was answered through review of literature as well as empirically through answers provided in the questionnaires, interviews and observation.

7.2.2 Existence of a formal institutional architecture for ATI

The study established that Kenya has a Commission on Administrative Justice (CAJ), an independent body charged with overseeing and enforcing implementation of the ATI Act 2016. CAJ is autonomous meaning that it reports to parliament as opposed to the executive. This enables the Commission to independently undertake its mandate particularly assessing public entities compliance with the provisions of the ATI Act 2016.

However, the study established that government ministries were yet to establish ATI implementation units to coordinate the implementation of the Act at ministry level. Further, the study revealed that ministries were yet to set up ATI project implementation teams. This signifies weak leadership that is yet to demonstrate commitment to the ATI agenda. Accordingly, implementation of ATI at ministry level is uncoordinated and ineffective. This goes against the ideals of the UK, DCA, MAP 2003 that recommends that public entities should establish ATI implementation units and constitute an ATI project team (United Kingdom (UK), Department of Constitution Affairs, Model Action Plan 2003).

7.2.3 Existence of a supportive legal and regulatory framework for ATI implementation

The study established that the ATI legal and regulatory landscape in Kenya is multi-layered. That is, on one hand, there are legal instruments that facilitate the implementation of the ATI Act 2016. On the other hand, Kenya's statutes are still replete with archaic laws that are inimical to the openness agenda. The delay in review of secrecy laws that inhibits openness suggests lack of political will for effective ATI implementation.

Further, the study revealed that the Ministry of Information and Communication Technology was yet to formulate regulations to operationalize the ATI Act 2016. This means that there are no elaborate guidelines on the handling of ATI requests. This suggests weak leadership and lack of political will thus undermining effective implementation of the Act.

The study also revealed that Kenya was yet to fully comply with international instruments and obligations relating to the right of access to information. The delay in ratifying the African Union Convention on Preventing and Combating Corruption as well as the African Charter on Democracy Elections and Governance suggests that the political class is unwilling to commit itself to providing information that will facilitate the fight against corruption as well as transparency in conducting of elections. This finding suggests lack of political will to undertake measures that will ensure accountability and transparency.

It also emerged that Kenya was late in submitting one report to the African Charter on Human and People's Rights (ACHPR). This cast doubts on Kenya's commitment to the ideals of the ACHPR particularly ensuring that citizens have access to public information. This indicates lack of political will and undermines effective implementation of the ATI Act 2016.

On a positive note, the study established that the government had issued instructions to public entities on proactive disclosure of information. This suggests that the government was willing to facilitate citizen access to information. Further, the study revealed that the Ombudsman had formulated guidelines for proactive disclosure of information; developed a simplified version of the Act and developed a handbook to guide public entities to implement the ATI Act 2016. This ensures that public entities adopt a coordinated and standardised approach to the implementation of the ATI Act 2016. This suggests sound leadership from the Ombudsman in overseeing and enforcing the implementation of the ATI law.

7.2.4 Existence of an ATI policy

The study revealed that government ministries lacked ATI policies to guide the implementation of the Act. The absence of policies meant that ministries were unaware of their ATI responsibilities. The absence of a policy framework at national level has created a chaotic, inconsistent information regime where public entities disseminate public information haphazardly. The delay in formulation of the ATI policy, two years after the enactment of the ATI Act 2016, signifies lack of leadership and commitment towards openness.

Further, the study revealed that senior officers in ministries were not involved in the creation, review and adoption of ATI policy. Worse still, in the ministries where senior officials were involved in the creation, review and adoption of ATI policy, the study revealed that the level of engagement was minimal. This suggests that senior officials were unaware of their ATI responsibilities as they were yet to be stipulated. Seemingly, there was no sound leadership to articulate and drive ATI agenda in ministries.

Remarkably, the study established that more than half of the ministries had incorporated ATI in their strategic plans. This suggests that ministries were willing to embed ATI into their operations.

7.2.5 Existence of ATI Action plan

The study revealed that at national level the Ombudsman had developed an ATI implementation action plan. The plan outlines among other things the activities to be

undertaken to promote the implementation of the ATI Act 2016; the timelines within which these activities will be undertaken and the agencies involved. The plan will ensure that all matters relating to the implementation of the ATI Act 2016 are addressed within a specific timeframe. This demonstrates solid leadership by the Ombudsman in steering effective implementation of the Act. The study also noted that the ATI action plan was developed two years after the implementation of the ATI Act 2016 thus suggesting unpreparedness.

However, the study revealed that ministries lacked ATI action plans. The absence of ATI action plan means ATI activities in ministries were uncoordinated and devoid of sound leadership. It would appear that in the absence of an ATI policy, ministries were unaware of their ATI responsibilities as well as the activities associated with ATI implementation. The absence of ATI action plan signifies that policy makers in ministries were not taking the lead in driving the ATI agenda. It is expected that ministries will use the national ATI action plan as a guide to develop agency-specific action plans.

7.2.6 Top management support for ATI implementation

The study revealed that in more than half of the ministries there was top management support for ATI implementation. Further, it emerged that top management were only involved in ATI matters during emergency cases such as handling difficult requests. The minimal support offered by senior managers suggests weak leadership for ATI and undermines effective ATI implementation. Indeed, global standards on ATI implementation demand that top management should support the whole process of ATI implementation.

7.2.7 Availability of infrastructure for ATI implementation

The study indicated that ministries had regular access to necessary equipment for ATI implementation. Further, the study revealed that computers with internet capacity, photocopying machines and scanners respectively were the most readily available equipment for ATI implementation in government ministries. The availability of physical equipment for ATI implementation suggests that the leadership in the ministries is committed to citizen access to information.

Further, the study revealed that although ministries had space for ATI implementation, this space was not entirely dedicated for handling ATI requests. This may undermine effective handling of ATI requests. Further, it signifies a weak leadership that is yet to make far-reaching preparations towards implementation of ATI. Additionally, the study revealed that all

ministries websites have a search and enquiry feature that allows citizens to make an ATI enquiry and search for information. Accordingly, it can be argued that the government has taken the lead in enabling citizen's access to information online. However, it emerged that more than half of the respondents indicated that their ministries lacked physical space for proactive disclosure. This is attributed to the fact that the government has concentrated its proactive disclosure efforts in print and electronic media. The failure by the leadership to avail physical space for proactive disclosure means that citizens with no access to the internet are disadvantaged in terms of accessing information.

7.2.8 Deployment of specific staff to handle ATI requests

The study revealed that ministries were yet to deploy specific staff to handle ATI requests. Instead, ATI duties were added to the existing responsibilities of Public Communication officers (PCOs). The reliance on PCOs to undertake ATI duties alongside their normal responsibilities means that they are pursuing multiple objectives. This may result in lack of focus and uncoordinated leadership thus compromising effective implementation of the ATI Act. Further, the study revealed that PCOs deployed to handle ATI requests were inadequate owing to natural attrition and failure to replace departed staff due to a government moratorium on fresh recruitment. The failure to commit sufficient staff to undertake ATI activities signifies weak leadership that has only taken short-term measures towards ATI implementation.

It also emerged that slightly less than half of the respondents indicated that there was no specific tasking for officers undertaking proactive disclosure in their ministries. The absence of formal tasking of staff undertaking proactive disclosure means staff may not take their proactive disclosure duties seriously since there are no means to hold them accountable. Failure to formally task staff is indicative of poor leadership and uncoordinated approach towards proactive disclosure. This undermines effective implementation of ATI.

7.2.9 Allocation of funds for ATI activities

The study revealed that ministries did not have a dedicated budget for ATI activities. Indeed, there was no provision for ATI activities in ministries' budget. Seemingly, although the government had made pronouncements in support of ATI in its policy documents, these pronouncements were not backed by availing the funds required to actualize ATI action plans. This indicates lack of political will towards implementation of ATI. Further, it emerged that the Ombudsman lacked adequate funds for overseeing and enforcing the implementation of the ATI Act 2016. This has forced the Commission to engage development partners to finance its

ATI programs. The absence of adequate funds jeopardizes the ability of the Commission to provide solid leadership on the ATI agenda.

7.2.10 Overall extent of leadership and political will for ATI implementation

The study revealed that the level of leadership and political will for ATI implementation in government ministries was not at its optimum. The respondents voiced the need for shortcomings such as laws that perpetuate secrecy; absence of ATI policy and attendant regulations; absence of dedicated staff for ATI and lack of dedicated budget for ATI to be addressed.

7.3 Level of awareness of public officers on their ATI duties as provided in the ATI Act 2016

This section summarizes the findings of the second research question which sought to establish the level of awareness of the duty bearers of their responsibilities as stipulated in the ATI Act 2016. This research question was answered through review of literature as well as empirically through answers provided in the questionnaires, interviews and observation.

7.3.1 Existence of ATI training plan

The study revealed that slightly more than half of the respondents indicated that their ministries lacked an ATI training plan. This means that the ATI training needs of the staff were yet to be identified thus making it difficult to improve their level of awareness of the ATI Act 2016. The absence of an ATI training plan also suggests that human resource departments in government ministries were yet to appreciate and prioritize the need for building capacity for ATI.

Relatedly, the study also revealed that the Ombudsman was yet to develop a national ATI training framework. This suggests that the ATI training landscape in Kenya was incoherent and uncoordinated with training programmes that did not adequately address the demands of the ATI discourse. Seemingly, the absence of ATI training framework had stifled the ability of ministries to develop agency-specific ATI training plans thus undermining the level of awareness of Public Communication Officers (PCOs) of their ATI duties.

Further, the study revealed that slightly less than half of the respondents indicated that their ministries offered ATI introductory courses. This suggests that the ATI training offered only covered the basic issues relating to ATI. This limits the level of awareness of the staff to rudimentary aspects of the Act. In addition, it also emerged that ATI training plans had no

provision for future ATI training courses. This suggests that public entities were yet to make long-term plans to continuously sensitize staff on ATI matters. This goes against the provisions of the UK, DCA, MAP 2003 that recommends ATI training should be conducted continuously. In the absence of regular training staff were likely to forget thus lowering their level of awareness.

7.3.2 Whether Ministries had conducted ATI training

The study revealed that more than half of the respondents indicated that their ministries were yet to conduct ATI training. This suggests a major gap in terms public officers awareness of ATI matters. This also suggests that public officers lack ATI skills thus undermining effective implementation of the ATI Act 2016.

Relatedly, it also emerged that in the ministries where ATI training had been conducted, it was done long after the enactment of the ATI Act 2016. This suggests that public officers were not able to prepare in advance for a mental shift from a culture of secrecy to openness.

7.3.3 Categories of staff targeted by the ATI training / mode of delivery of ATI training

The study revealed that majority of the respondents indicated that the ATI training conducted in their ministries mainly targeted Public Communication Officers. Although PCOs are the officers undertaking ATI duties, embedding a culture of openness requires the awareness and support of the top managers. As such, the failure to prioritize the training of senior officers undermines the level of awareness of ATI.

The findings also revealed that ATI training targeted different categories of staff. This focus on diverse cadre of staff ensures that all public officers are sensitized on ATI. This improves the level of awareness across all staff.

Relatedly, the study revealed that the most common mode of delivering ATI training were group briefings and seminars. This mode of delivery allowed a large number of staff to be trained at the same time while also providing an opportunity for interaction between the trainer and the trainees. In particular, interaction between the trainer and the trainees allowed the trainees to seek clarifications where necessary thus improving their level of understanding and awareness of the ATI Act 2016.

7.3.4 Depth of the training and calibre of trainers

The study revealed that slightly more than half of the respondents indicated that their ministries offered basic training that lasted half a day or less. This suggests that the training covered

rudimentary aspects of the Act and very few hours were dedicated for the same. The focus on basic aspects as well as the limiting of the time means that the trainees lacked the opportunity to explore broad ATI aspects thus lowering their level of awareness.

Relatedly, it also emerged that external consultants conducted ATI training in most ministries. The use of external trainers improved the level of awareness of ATI staff since they possess expertise and shared ATI best practices from other institutions and jurisdictions.

7.3.5 Areas covered by the ATI training

The study revealed that the ATI training programmes used for conducting ATI training focused extensively on general issues relating to freedom of information while overlooking related aspects such as records management and data protection. This suggests ATI officer's awareness is limited to general issues relating to the ATI Act thus lowering a broad awareness of the ATI agenda.

In light of the above, it emerged that the ATI training offered in government ministries did not meet the ATI training needs of ATI officers thus lowering their level of awareness of their ATI responsibilities.

7.3.6 Overall level of awareness among public officers of their ATI duties as provided in the ATI Act 2016

The study revealed that the level of awareness of ATI officers on their duties was not at its optimum. Although there was a general awareness among PCOs of their ATI responsibilities, it also emerged that less than ten percent and slightly less than half of the respondents were fully unaware and slightly unaware of their ATI responsibilities respectively. Seemingly, the absence of ATI training plans in ministries and focus on basic ATI training may have negatively influenced the level of awareness of the PCOs.

7.4 Systems, structures and procedures are in place in public bodies in Kenya to facilitate access to information

This section summarizes the findings of the third research question that sought to establish the systems, structures and procedures in place for handling ATI requests. This research question was answered through review of literature as well as empirically through answers provided in the questionnaires, interviews and observation.

7.4.1 Availability of regulations to operationalize the ATI Act 2016

The findings of the current study revealed that the government was yet to develop regulations to operationalize the ATI Act 2016. This means that public entities lack guidance on the amount of fees to charge when responding to ATI requests; procedure for making a request; form in which request will be responded in; records that public entities are supposed to keep among other guidelines. This suggested unpreparedness for ATI implementation.

7.4.2 Systems in place for handling ATI requests

The findings revealed that slightly less than fifty percent of the respondents indicated that the most common system for receiving and recording requests was the register. Further, slightly over twenty percent of the respondents indicated that they received and recorded ATI requests in a 'form'. This suggests that government ministries had made short-term, informal arrangements for handling ATI requests.

7.4.3 Format in which ATI requests are received

The findings revealed that slightly more than half of the respondents indicated that ATI requests were received in written format and in form of e-mails. Further, slightly more than forty percent and slightly more than twenty percent of the respondents stated that they received ATI requests through social media and orally respectively. An estimated four percent reported receiving ATI requests through short message service. This suggests that ATI requests were received through diverse formats.

7.4.4 Feature of systems that handle ATI requests

The findings revealed that half of the respondents indicated that the ATI systems in their ministries were able to receive and respond to ATI requests. Other features that were present in ATI systems were ability to log and track requests; ability to process and capture statistics. Seemingly, the ATI systems in government ministries had features that enabled them to perform most of the functions relating to handling of ATI requests thus suggesting some degree of preparedness for ATI implementation.

7.4.5 Availability of publication schemes for proactive disclosure

The findings of the current study revealed that all (100%) the ministries had publicised the documents in their custody in their websites. It also emerged that the ombudsman has formulated a proactive disclosure guideline to guide public entities on the information to disclose. This suggested preparedness for ATI implementation.

7.4.6 Whether ATI activities in Ministries/Departments were audited

The findings of the current study revealed that government ministries did not audit ATI activities. This suggests that it is difficult to identify the strengths and weaknesses of the ATI system thus undermining effective ATI implementation.

7.4.7 Whether Ministries/Departments included ATI in their performance review

The findings indicated that the performance reviews of government ministries neither took into account ATI for all officers who handle and manage information nor for officers tasked with specific ATI functions and duties. This means that it is difficult to perfect the performance of the ATI system since there are no performance monitoring mechanisms. This suggests that ministries were ill prepared for ATI implementation.

7.4.8 Overall systems, procedures and structures in place for handling ATI requests

Overall, the study indicated that government ministries had put in place informal systems that enabled them to handle ATI requests in the short-term. However, more needs to be done to put in place formal processes that facilitate effective implementation of the ATI Act 2016.

7.5 The current records management practices in the public sector and the extent do they facilitate or undermine access to information

This section summarizes the findings of the fourth research question that sought to establish the current records management practices in government ministries and the extent to which they facilitated or undermined access to information. This research question was answered through review of literature as well as empirically through answers provided in the questionnaires, interviews and observation. Sub-themes 7.5.1 to 7.5.5 address the broad aspect of leadership and policy for records management.

7.5.1 The Archives legislation and access to information

The study revealed that the Public Archives and Documentation Service Act in Kenya does not address the aspect of access to information. It emerged that the process of reviewing the Act was underway. Further, the study revealed that the split in the departments guiding the management of records was yet to be harmonized thus undermining sound records management.

7.5.2 Existence of a records management policy

The study revealed that at national level, Kenya had a draft national records management policy. Further, it emerged that most ministries lacked records management policies. The absence of a policy framework undermined records management programmes in the ministries. It also emerged that senior officers in most ministries were involved in the creation, adoption and review of records management policies. However, their level of engagement was minimal. The involvement of senior officers facilitates articulation and support for records management programmes and activities in ministries.

7.5.3 Existence of records management procedure manual

The study revealed the existence of government-wide manual that guided the management of records across the public sector. It also emerged that majority of the ministries had agency-specific records management manuals. The presence of a manual has standardized the management of records across the public service thus ensuring a coordinated and coherent approach to access to information.

7.5.4 Budgetary allocation and state of registry funding for records management activities

The study revealed that ministries lacked dedicated budgets to fund records management programmes. This has undermined effective management of records.

7.5.5 Skills, competencies and capacity building in records management

The findings revealed that records managers in government ministries possessed qualifications that ranged from diploma, higher diploma, degree and masters in records management. It also emerged that records managers in most ministries had been sensitized thus equipping them with skills to manage records in their custody. However, the study revealed records managers lacked skills in management of e-records.

7.5.6 Overall state of leadership and policy for records management

Overall, the study revealed that the government had demonstrated sound leadership for records management. However, there were areas that still required improvement such as allocation of sufficient funding for records management as well as anchoring records management on an elaborate legal and regulatory framework.

7.5.7 Records systems and procedures

This section summarises the findings of the specific records management practices in government ministries in Kenya.

7.5.7.1 Records creation

The findings revealed that most ministries had systems for creation and capture of records. As such, ministries adhered to the provisions of the RC model on capturing evidence as well as conformed to the requirements of the ATI Act 2016 on creation and preservation of records that adequately document policies, decisions, procedures and transactions of the organisation.

Further, the study revealed that all (100%) ministries had a list of activities that constituted the basis for creating files. This ensured that records were created in a logical and procedural manner thus facilitating their access.

It also emerged that the e-records management system in government ministries captured the content; context and structure of e-records thus ensuring that the records derived from it were authentic, have integrity and are reliable as stipulated by the ATI Act 2016.

7.5.7.2 Existence of mail management programme

The study revealed that all the ministries had the main components of a mail management programme thus ensuring fast processing and tracing of information. Incoming mail registers also recorded evidence of mail received thus minimising loss and misplacement.

7.5.7.3 Existence of a file index

The study revealed that majority of the ministries had file classification schemes. This enhanced physical and intellectual control of records thus easing their retrieval and by extension availability in case of an information request.

7.5.7.4 Records access and retrieval

The study revealed that government ministries had various file tracking instruments that facilitated access and retrieval of records. The most commonly used file tracking tools was the file movement register. The use of file tracking tools to trace records in government ministries means that records are readily available whenever there is an access to information request.

However, the study revealed that most government ministries lacked systems for access and retrieval of e-records. This finding goes against the ideals of the RC model and impedes the availability of e-records thus undermining implementation of the ATI Act 2016.

7.5.7.5 Records storage space

The study revealed that majority of ministries had adequate space for current records thus facilitating access and retrieval of current records. However, it emerged that most ministries lacked adequate space for storage of semi-current and non-current records thus inhibiting access to these records.

Further, the study revealed that the commonly used records storage equipment were file cabinets and mobile shelves. These equipment were appropriate as they were safe, lockable, dust free thus safeguarding the information.

It also emerged that e-records were stored in flash disks and compact disks which are fragile and short-term measures for preservation of e-records. This compromised the security of information in electronic format. On a positive note, majority of the respondents reported that their ministries had back up facilities for e-records.

The study also revealed that the physical condition of the records storage area was well lit and ventilated thus appropriate for storage of records. However, it also emerged that government ministries were not controlling the environmental conditions of their records storage areas. This predisposed the records to infestation by booklice and bookworms thus undermining sound records management.

7.5.7.6 Records appraisal

The study revealed that majority of the ministries conducted records appraisal thus ensuring that non-current records were logically organized thus easing their access and retrieval.

7.5.7.7 Records disposition

The study revealed that majority of the ministries had records retention schedules as well as records disposition programmes. This means that ministries had an elaborate program for decongesting the records storage areas thus facilitating access to information.

7.5.7.8 Records preservation

The study revealed that government ministries had adopted varying methods of preserving records. These included; printing e-records to paper; migration and restoration. The study indicated that the most commonly used method was printing e-records to paper. Although, this

method facilitates access to records in the short-term, in the long-term it results in duplication thus undermining sound records management.

7.5.7.9 Existence of a Business Continuity Plan (BCP)

The study revealed that majority of the government ministries had business continuity plans that outlined measures to be undertaken to salvage records in the event of a disaster. This means records were safeguarded thus ensuring their availability in case of an information request.

7.5.7.10 E-records Management

The findings revealed that most government ministries had not created or adopted systems for managing e-records. As such, records management systems in government ministries were largely paper based. This undermined access and retrieval of records stored in electronic format and by extension access to information.

7.5.7.11 Overall state of records management practices and its impact on access to information

The study revealed that management of records in government ministries has improved considerably relative to Kemoni (2007)'s study findings. Specifically, the availability of government-wide records manual has ensured a coherent and standardised approach to records management across the public service thus facilitating access to information. However, the study also highlighted few areas that require improvement such as crafting of an elaborate policy framework; adoption of standardized e-records management systems and capacity building on e-records management.

7.6 Conclusions

This study sought out to establish the extent to which public entities were capacitated to implement the ATI Act 2016 with a view to providing an implementation roadmap. The study has identified ATI implementation institutional strengths and weaknesses in government ministries. As such, the study will fulfil its purpose of providing a roadmap for effective ATI implementation based on credible research findings.

The next section provides conclusions for each of the research questions based on the key findings of the study.

7.6.1 Conclusion on the extent of leadership and political will for implementation of the ATI Act 2016

The overall findings revealed that leadership and political will for ATI implementation in Kenya was not at its optimum. This was because of lack of ATI policy and attendant regulations; lack of dedicated budget for ATI programs; lack of dedicated staff to undertake ATI activities and continued existence of laws that perpetuate secrecy in Kenyan statutes.

The conclusion that can be drawn from this finding is that although the state has made great strides towards enforcing and overseeing the implementation of the ATI Act 2016, much more needs to be done to demonstrate leadership and political will for ATI in the public sector in Kenya.

7.6.2 Conclusion on level of awareness of public officers of their ATI duties as stipulated in the ATI Act 2016

The overall findings of the study revealed that the level of awareness of Public Communications Officers of their ATI responsibilities was even. Whereas one-half of the PCOs were generally aware of their responsibilities the other half were unaware of their ATI duties. The absence of an ATI training framework and the low prioritization of ATI training in the public sector were to blame for the low level of awareness.

The conclusion that can be drawn from these findings is that long-term measures need to be undertaken to embed ethos of openness among public officers.

7.6.3 Conclusion on the systems, procedures and structures in place for handling ATI requests in public entities in Kenya

The overall findings of the study revealed that government ministries lacked formal processes and structures for handling ATI requests. In particular, the absence of ATI regulations inhibited the capacity of public entities to effectively respond to ATI requests. Whereas the Ombudsman has made efforts to introduce ATI 'register' and 'form' to record ATI requests, the two are not anchored on a legal framework thus prone to litigation.

In sum, the structures and processes in place for handling ATI requests in government ministries are inadequate for effective implementation of the ATI Act 2016.

7.6.4 Conclusion on the records management practices and their impact on access to information

The overall findings of the study is that the current records management regime to a large extent facilitates implementation of the ATI Act 2016. In particular, the government has made great strides towards streamlining manual records systems. However, there is need to address some of the weaknesses highlighted in the study. These include; providing sufficient funds for records management programmes; controlling the environmental conditions of the records storage areas; providing adequate space for storage of semi-current and non-current records and developing standards for management of e-records.

7.6.5 Overall conclusion of the research problem

The purpose of the study was to establish the extent to which government ministries in Kenya were capacitated to implement the ATI Act 2016 with a view to providing an implementation roadmap. The assessment on the capacity to implement the ATI Act 2016 was based on four key areas. That is: leadership and political will; training and awareness; records management and systems, procedures and structures in place for ATI implementation.

On leadership and political will, the study established that although the Kenya's leadership had taken certain actions that demonstrated preparedness and willingness to implement the ATI Act 2016, more needed to be done to spearhead the ATI agenda. In particular, the crafting of a legislative framework that supports openness; committing funds to actualize ATI programmes; formulating an ATI policy framework and deployment of trained personnel to handle ATI requests.

On training and awareness, the study established that government ministries had only undertaken short-term preparations to create awareness to public officers on their ATI responsibilities as stipulated in the Act. However, long-term measures that would entrench a culture of openness among public officers were yet to be undertaken. These include: formulation of an ATI training framework; prioritizing ATI capacity building across the public service and rallying senior officers to spearhead the openness agenda.

In relation to the systems, procedures and structures in place for ATI implementation, the study revealed that government ministries had put in place informal mechanisms to facilitate handling of ATI requests. In particular, although the Ombudsman had issued instructions to

public entities on handling of ATI requests, these instructions were not anchored on elaborate legal framework thus not legally binding.

In terms of the current records management regime and its impact on implementation of the ATI Act 2016, the study revealed that the existing records management regime to a large extent simplified the implementation of the ATI Act 2016. However, the study noted that more needed to be done to harmonize the ATI legislation and the Public Archives Act; provide adequate and appropriate records storage space; develop systems and standards for e-records management and build capacity for e-records management.

In view of the foregoing, the study made specific recommendations outlining measures to be undertaken to improve the ATI implementation institutional strengths and weaknesses identified. In this regard, the next section answers question five of this study which sought to make recommendations for improvement from the strengths and weaknesses identified.

7.7 Recommendations

In order to enhance the capacity of government ministries to implement the ATI Act 2016, the following recommendations are suggested.

7.7.1 Recommendations: leadership and political will for ATI implementation

The study established that certain actions impacted negatively on the leadership and political will for ATI Implementation. The actions undermined the capacity of government ministries to implement the ATI Act 2016.

Recommendation 1: Review of laws that perpetuate secrecy-The study recommends that the Ministry of Information and Communication Technology should petition the Office of the Attorney General; the National Assembly and the Kenya Law Reform Commission to come up with an action plan for reviewing all laws that are inimical to ATI and the openness agenda. These laws include; the Official Secrets Act; the Preservation of Public Security Act and the National Assembly Powers and Privileges Act. Indeed, Stones (2004) posits that for the freedom of information law to operate effectively ‘all the legal controls operational against it must be removed’. Amending these laws will bring hygiene to the ATI implementation process.

Recommendation 2: Formulating ATI policy and attendant regulations- The study recommends that the Ministry of Information and Communication Technology should move with speed and come up with an ATI policy. The policy should among other things provide for

the establishment of ATI implementation units and outline the responsibilities of all public officers in relation to implementation of the ATI Act 2016. Further, the ministry should liaise with other ATI stakeholders in develop regulations to operationalize the ATI Act 2016.

Recommendation 3: Cascading the national ATI action plan to specific ministries, departments and agencies –The study recommends that the Ombudsman should cascade the national ATI action plan to other public agencies. This will enable the agencies to own the action plan and work towards its fulfilment. Further the national ATI action plan will guide public agencies in developing agency-specific ATI action plans. Indeed, Rodrigues (2008) notes that in countries where ATI implementation has been guided by a plan of action, the implementation process is coherent, structured and consistent across the public sector. One way of cascading the ATI action plan is publicising it through sensitizing public officers.

Recommendation 4: Allocation of funds for ATI activities- The study recommends that the Ombudsman includes a clause in the ATI performance management framework that compels public entities to demonstrate how they leveraged ATI to achieve their mandate. This will ensure that ATI is included in public entities’ strategic decision making thus ensuring sustainable funding. Indeed, Lemieux and Trapnell (2016) noted that the solution to the issue of lack of resources for ATI should be rooted in a strategy that assigns greater priority for ATI funding within the existing budget. Further, the authors propose the crafting of an incentive system that encourages public entities to include ATI in their strategic commitments.

Recommendation 5: Deployment of staff to undertake ATI activities-The study recommends that the Ministry of Information and Communication Technology (ICT) should ensure that the ATI policy clears the ambiguity surrounding the role of the Access to Information Officer and also clarifies on the delegation of these responsibilities. Further, the study recommends that the Ministry of ICT liaises with the Public Service Commission and the Department of Public Communication in outlining the role of the Public Communication Officers in relation to the ATI Act 2016.

Recommendation 6: Harmonizing ATI Act with other related laws and manuals – The study recommends that the Ministry of ICT liaises with the Public Service Commission in reviewing the public service manuals to align them with the ATI Act 2016. Indeed, Rodrigues (2008) noted that with the enactment of an openness law public service manuals that restrict public officers from sharing information should be revised to align them with the ATI Act. Further,

the Ministry of ICT should ensure that the imminent Data Protection Act 2018 is in line with the ATI Act 2016. Indeed, Rodrigues (2008) observed that failure to harmonize data protection; privacy and access regimes may create an opportunity for resistant or confused bureaucrats to unjustifiably refuse information requests. Calland and Neuman (2007) noted that one way of harmonizing the ATI legal framework is by including in the ATI law a clause stating its primacy over other laws dealing with information. This approach was adopted in Jamaica and in the state of Sinaloa in Mexico.

7.7.2 Recommendation: Training and awareness

The study established that Public Communication Officers awareness of their ATI responsibilities was undermined by several challenges. These challenges include absence of an ATI training framework; ATI training that prioritized PCOs at the expense of senior officers and ATI training plans that only focused on basic training.

Recommendation 7: Formulating an ATI training framework- The study recommends that the Ombudsman develops an ATI training framework that will among other things outline the ATI courses that should be covered in an ATI training programme. Further, the Ombudsman should cascade the ATI training framework to other public entities to guide them in developing agency specific comprehensive ATI training plans. The ATI training plans should provide for both introductory and future ATI courses.

Recommendation 8: Sensitization of public officers on ATI – The study recommends that the Ombudsman liaises with the Department of Public Communication to sensitize all Public Communication Officers across the public sector on the Act. Calland and Neuman (2007) noted that the appointment and training of ATI officials is an indicator of the strength of the implementation of the ATI legislation. However, priority should also be given to creating awareness among senior officers in public entities so that they can influence other staff to support the ATI agenda.

7.7.3 Recommendation: systems, processes and structures in place for ATI

The study established that the systems, processes and structures in place in government ministries were informal and inadequate for effective ATI implementation. In view of this, the study recommends the following:

Recommendation 9: Formulate ATI regulations- The study recommends that the Ministry of ICT liaises with the Ombudsman and other ATI stakeholders in formulating regulations. The

regulations will specify the administrative procedure for receiving, processing and responding to requests. Indeed, Dokeniya (2013) noted that ATI regulations are important as they create clarity on the procedures and processes for access. ATI regulations will also provide legal backing to other ATI handling instruments such as the ‘form’ and the ‘register’.

Recommendation 10: public entities to develop publication schemes- The study recommends that the Ombudsman liaises with the Ministry of ICT in directing government ministries to create manual publication schemes as a back up to information disclosed in their websites. The publication scheme will outline the categories of information in their custody and the subject to which that information relates.

Recommendation 11: Oversight body to make use of monitoring data from third party monitoring mechanisms – The study recommends that the Ombudsman should also consider using monitoring data obtained from third parties such as Non-governmental organisations (NGOs) to improve the performance of the ATI system in public entities. Although the performance management framework introduced by the Ombudsman has a monitoring mechanism, this assessment alone may not be enough. As such, the study recommends that the Ombudsman compares this data with data from third party monitoring mechanisms so as to get a true picture of the performance of the ATI system. Indeed, Lemieux and Trapnell (2016) noted that Civil Society Organizations (CSOs) conduct compliance testing on the rates and quality of response from government entities. The authors noted that this kind of data can be compared to self-reported data from administrative systems to provide a more accurate understanding of agency ATI performance.

7.7.4 Recommendation: Records management regime and its impact on access to information

The study revealed that records management in government ministries had improved considerably relative to the findings of previous studies. However, there were still challenges that needed to be addressed. These include: the records management policy framework; absence of dedicated budget for records management; inadequate storage space; environmental control of the records storage areas and e-records management.

Recommendation 12: Review policy framework for records management – The study strongly recommends that the Kenya National Archives and Documentation Service (KNADS) liaises with other stakeholders in reviewing the existing draft records management policy. The policy

will provide guidance on records management as well as address areas such as electronic records management and access to information. Indeed, ISO 15489 international standard on records management recommends that countries should define and document a policy for records management whose objective is the creation and management of authentic, reliable and usable records capable of supporting business functions and activities for as long as they are required (ISO 15489 2001). Similarly, Ambira (2016) recommended that the Kenya National Archives and Documentation Service takes the lead in developing comprehensive policy framework for management of e-records across the public sector. A revised policy will ensure coherent and consistent approach to records management thus facilitating access to information.

Recommendations 13: Status of records management in the organization structure- The study established that the records management function in government ministries is embedded with other administrative functions that face common resource failures. To address this, the study recommends that the Public Service Commission liaises with relevant government agencies in elevating the stature records management function in government ministries to directorate level. The directorate will coordinate all records management activities in the ministry and should be allocated an independent budget thus addressing the challenge of resource constraints. Indeed, Mase (2015) noted that elevating the status of the records management function in the judiciary would ensure it gets due recognition in budget planning and other aspects.

Recommendations 14: Records storage – The study recommends that government ministries should consider providing appropriate storage space for semi-current and non-current records. In view of the fact that no space is infinite, the Kenya National Archives and Documentation Service should undertake regular and routine appraisal of records in ministries to decongest the records storage areas thus creating room for storage of semi-current and closed valuable records.

Further, the Kenya National Archives should guide ministries in setting up in-house archives where closed records of enduring value are stored. The in-house archives should be equipped with facilities that enables regulation and monitoring of environmental conditions. This will safeguard records and ensure continued access.

Recommendation 15: e-records management – The study recommends that the Information Communication and Technology Authority (ICTA) liaises with Kenya National Archives and Documentation Service in developing e-records management standards. The standards should guide ministries in digitizing their records in compliance with Section 17, subsection 3 (c) of the ATI Act 2016. Likewise, Ambira (2016) recommended that the KNADS in collaboration with ICTA should develop specifications and functional requirements for electronic records management systems in Kenya. The standards will ensure a coherent and uniform approach to e-records management across the public sector.

Further, the ICTA should liaise with KNADS and other stakeholders in creation or adoption of a government-wide e-records management system based on the electronic records management standards. The system will provide a standard platform for management of e-records across the public sector. This will ensure e-records are managed efficiently and ease transfer of valuable e-records to KNADS for long-term preservation thus safeguarding and ensuring continued access to the digital heritage. Likewise, Ambira (2016) recommended that the ICTA and KNADS should champion adoption of standardized Electronic Document and Records Management Systems (EDRMS) across the public sector that are interoperable with e-government systems.

Recommendation 16: Capacity building in e-records management – The study recommends that the KNADS and the Public Service Commission liaises with Kenya School of Government and other educational institutions in developing a practical curriculum for e-records management. The e-records management practical course should then be made mandatory for all records managers across the public sector. Likewise, Ambira (2016) recommended that the Public Service Commission in conjunction with the Directorate of Personnel Management develops minimum training requirements (that includes e-records management) for all officers in records management roles across the public sector.

7.7.5 Roadmap to effective implementation of ATI Act 2016

The purpose of this study was to establish the extent to which government ministries in Kenya are capacitated to implement the ATI Act 2016 with a view to providing an implementation roadmap.

Based on the findings of the study in Chapter 5, their interpretation and discussion in Chapter 6 and the recommendations in this Chapter, the following roadmap for implementation of ATI Act 2016 is recommended.

Table 37: Roadmap to effective implementation of the ATI Act 2016

	Objective	Actions
1.	Leadership and Policy	• Formulate an ATI Policy • Cascade the national action plan to all public entities. • Establish ATI implementation units in all public entities • ATI implementation units to implement ATI action plan at the agency.
2.	Training and awareness	• Develop ATI training framework • Develop ATI training plans in all public entities • Sensitize public officers on ATI based on a comprehensive training plan
3.	Systems, procedures and structures	• Develop ATI regulations • Implement ATI systems and structures such as ATI request form and register in all public entities. • Include ATI in ministry's performance review • Audit compliance to ATI Act 2016
4.	Records management	• Review national records management policy

		• Develop agency-specific records management policies • Streamline the manual records management system • Develop e-records management standards • Digitize records across the public sector • Adoption of a standard EDRMS across the public sector • Sensitize records managers on the EDRMS • Gradually transit from manual system to EDRMS

NB. Relevant designated officers to work out the time frame for the implementation of the roadmap.

7.8 Implication of the study for theory, practice and policy

There is broad consensus among scholars that the significance of a study is assessed based on its contribution to academic research and literature in the field (theory); how it advances practice and how it affects policy (Mitchell 2012; Pajares 2007; Davies 2005; Creswell 2003).

The present study enriches theory by using the concept of meaningful engagement to bring out the relationship between the aspect of political will and access to information. Empirical findings have been provided to demonstrate the degree of leadership and political will for implementation of the ATI Act 2016. These findings together with other debates in the literature advance the continuing dialogue on the need for leadership and political will in ATI implementation.

The current study broke new ground by focusing on the impact of records management practices on access to information. Previous studies (Kemoni 2007) on records management

practices in Kenya focused on service delivery. Indeed, the study has enriched literature by confirming that the public sector reforms initiated by the Government of Kenya over the last decade and that were aimed at improving records management in the public sector have indeed been fruitful.

The study's implication for policy and practice is evident from the implementation roadmap proposed in Section 7.7.5. The Ombudsman; the Ministry of Information and Communication Technology; the Kenya National Archives and Documentation Service and other ATI stakeholders can adopt the roadmap for effective implementation of ATI Act 2016. The proposed ATI implementation roadmap can also be compared with the ATI implementation plan developed by the Ombudsman to identify areas of convergence and divergence. Further, baseline results from this study can be used to develop ATI training manuals and guidelines.

7.9 Originality of the study

Previous studies on ATI implementation have predominantly focused on implementation efforts in various countries. However, this study went a step further to establish the institutional arrangements in public entities in Kenya and their impact on implementation of the ATI Act 2016.

Whereas previous studies used a single model to assess the readiness of public entities for implementation of the ATI legislation, the current study used a complement of models and concept to assess the capacity of public entities in Kenya to implement the ATI Act 2016. This triangulation of theories improved the understanding of the concept of access to information.

Furthermore, few empirical studies on access to information have been conducted in Africa and particularly in Kenya. As such, the current study has enriched scholarly research and literature on access to information in the context of developing countries like Kenya.

7.10 Suggestions for further research

The present study assessed preparedness on the supply side (the government) of ATI law implementation leaving out the demand side that involves non-state actors such as the citizenry, the media, private sector and the civil society. However, it is important to point out that successful implementation of an ATI law is a collective responsibility by both demand and supply sides. Indeed, Calland and Neuman (2007) noted that without an adequately developed

demand side, an ATI law is likely to wither on the vine. The current study therefore recommends a further study to assess the extent to which the public is aware of their right to demand information as provided in the ATI Act 2016.

The present study focused on assessing the capacity of public bodies to implement the ATI Act 2016. However, the ATI Act also applies to private bodies. Specifically, Part 1 of the Act defines a private body as any non-state actor that receives public resources and benefits; utilizes public funds; engages in public functions; provides public services and has exclusive contracts to exploit natural resources (ATI Act 2016). The current study therefore recommends an assessment of the capacity of private entities to provide information as stipulated in the ATI Act 2016.

The current study assessed the current records management regime and its impact on access to information. However, extant literature revealed that implementation of ATI also influences records management. The study therefore recommends an assessment of the impact of ATI Act 2016 on records and archives management. As mentioned in section 6.8.10 of Chapter six of this study, such a study would shed light on the impact of implementation of ATI Act on the preservation of information materials.

The current study focused on the institutional arrangements necessary to facilitate access to information. However, extant literature revealed that demographic variables could impact on access to information. This study therefore recommends further study on the relationship between ATI systems and different social and ethnic groups. Such a study will provide insight on the influence of age, gender, race, socio-economic status, geographical location on the ability to access information.

7.11 References

Abankwah, A. 2008. The management of audio visual materials in the member states of East and Southern Africa Branch of the International Council of Archives (ESARBICA). PhD Thesis. Pietermaritzburg: University of Kwa-Zulu Natal.

Abuya, E. 2013. Realizing the right of access to information in Kenya: what should stakeholders be on the lookout for? In: Calland, R. and Diallo, F. (eds). *Access to information in Africa: law, culture and practice. (Afrika-Studiecentrum Series)*. Leiden: Brill. pp.215-244.

Adeleke, F. 2013. Constitutional domestication of the right of access to information in Africa: retrospect and prospects. In: Calland, R. and Diallo, F. (eds). *Access to information in Africa: law, culture and practice. (Afrika-Studiecentrum Series)*. Leiden: Brill. pp.83-105.

Adinku, S. 2005. Towards disaster preparedness and recovery planning procedures for libraries: a survey of staff and users of the Balme Library, University of Ghana. *African Journal of Library, Archives and Information Science* 15(1): 75-79.

Africa Freedom of Information Centre. (AFIC). 2014. State of right to information in Africa report. Available at:

http://www.africanplatform.org/uploads/media/State_RTI_Africa_2014_AFIC.pdf Accessed on 18 June 2017.

Africa Freedom of Information Centre. (AFIC). 2015. Report of state of right to information in Africa: citizens' access to information: a tool to build trust and address corruption.

Available at: <http://www.africafoicentre.org/index.php/resources/reports-publications/173-state-of-rti-in-africa-report-2015/file>

Accessed 16 June 2017.

Africa Freedom of Information Center (AFIC). 2017. Pan-African conference on freedom of expression and access to information. Kampala, Uganda. 25-26 Mar. Available at:

<http://www.africafoicentre.org/index.php/reports-publications/227-final-foe-conference-report-final-04042017/file> Accessed 29 September 2017.

African Platform on Access to Information. (APAI). 2011. Declaration on APAI. Available at:

http://www.africanplatform.org/fileadmin/user_upload/pdf/APAI-Declaration/APAI-Declaration-English.pdf

Accessed 15 June 2017.

African Union. (AU). 1986. Decision 115 (XVI) of the Assembly of Heads of State and Government at its sixteenth ordinary session held in Monrovia, Liberia, from 17 to 20 July 1979 on the preparation of a »preliminary draft on an African Charter on Human and Peoples' Rights. Available at:

http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf

Accessed 15 June 2017.

African Union. (AU). 2002. Ordinary session of the African Commission on Human and Peoples' Rights (Banjul, the Gambia, 2002). Declaration of principles on freedom of expression in Africa. Available at:

http://www.achpr.org/files/sessions/32nd/resolutions/62/achpr32_freedom_of_expression_eng.pdf

Accessed on 15 May 2017

African Union. (AU). 2003. African Union convention on preventing and combating corruption, adopted by the second ordinary session of the Assembly of the Union, Maputo.

Available at:

https://au.int/sites/default/files/treaties/7786-file-african_union_convention_preventing_combating_corruption.pdf

.Accessed on 18 May 2017

African Union. (AU). 2007. Decision on the African Charter on Democracy, Elections and Governance- Doc. EX.CL/301 (X) 115 Assembly/AU/Dec.148 (VIII). Available at:

https://au.int/sites/default/files/treaties/7790-file-african_charter_on_democracy_elections_and_governance.pdf

Accessed 25 May 2017.

African Union. (AU). 2011. Decision on the African Charter on the Values and Principles of Public Service and Administration – Doc. EX.CL/645(XVIII). Available at:

https://au.int/sites/default/files/decisions/9645-assembly_en_30_31_january_2011_auc_assembly_africa.pdf

Accessed 8 June 2017.

African Union. (AU). 2013. Model law on access to information for Africa. Available at:
www.achpr.org/files/news/2013/04/d84/model_law.pdf

Accessed 15 May 2017.

Agere, S. Lemieux, V. and Mazikana, P. 1999. *Best information practices: improving records and information management in the public service*. London: Commonwealth Secretariat.

Akussah, H. 2002. Records management and preservation in government ministries and departments in Ghana. *African Journal of Library, Archives and Information Science* 12(2):155-165.

Alianza Regional. 2009. “Capacitaciones a usuarios y proveedores de información. Documento preparado por la Alianza Regional por la Libertad de Expresión e Información para el debate del grupo de expertos de la OEA sobre la ley modelo de acceso a la información (unpublished). Available at: <http://www.alianzaregional.net/> Accessed 29 September 2017.

Ambira, C. 2016. A framework for management of electronic records in support of e-government in Kenya. PhD Thesis. Pretoria: University of South Africa.

American Convention on Human Rights. (ACHR). 1969. Available at:
http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.pdf

Accessed 15 August 2017.

Amos, J. and Holsen, S. 2004. *A practical guide to the UK freedom of information Act 2000*. London: The constitutional unit, University College London.

Amos, J. and S. Holsen. 2005. *The Freedom of Information Act 2000. Survey of FOI officers one month after implementation: a pilot study*. Constitution Unit. London: University College London.

Amos, J. and S. Holsen 2005. *Freedom of Information Act 2000: the first six months. The experience of local authorities in England*. Constitution Unit. London: University College London.

Amos, J. and S. Holsen 2007. *FOIA 2000 and local government in 2006: the experience of authorities in England, Northern Ireland and Wales*. Constitution Unit. London: University College London.

Amos, J., Holsen, S. and Rahman, M. 2006. *Freedom of Information Act 2000: the first year. The experience of local authorities in England*. Constitution Unit. London: University College London.

Anfara, V.A. and Mertz, N.T. 2006. Introduction. In: Anfara, V.A. and Mertz, N.T. (eds.). 2006. *Theoretical frameworks in qualitative research*. Thousand Oaks, CA: Sage.

Arko-Cobbar, A. and Olivier, C.D. 2016. South Africa's access to information legislation and socio-economic rights: civil society and meaningful engagement as drivers. *Mousaion* 34(1):149-172.

Article 19-Eastern Africa. 2014. Kenya: realising the right to information. Available at: <https://www.article19.org/data/files/medialibrary/38388/Kenya-RTI-for-web.pdf>
Accessed 10 June 2017.

Article 19-Eastern Africa. 2015. Shadow report on access to information and freedom of expression in Kenya. Available at:

<http://www.jfjustice.net/wp-content/uploads/2015/10/Africa-Commission-on-Human-and-Peoples-Rights-Shadow-Report.pdf> Accessed 8 June 2017.

Article 19. 2016. *The public's right to know: principles on right to information legislation*. London: Article 19.

Atherton, J. 1985. From life cycle to continuum: some thoughts on records management – archives relationship. *Archivaria* 1(21):43-51.

Australian Law Reform Commission. 1994. *Freedom of information*. Sydney: Australia Law Reform Commission.

Babbie, E. 2004. *The practice of social research*. 10th ed. Belmont, CA: Wadsworth.

Babbie, E. 2011. *The basics of social research*. 6th ed. Belmont, CA: Wadsworth

Babbie, E. and Mouton, J. 2001. *The practice of social research*. Cape Town: Oxford University Press Southern Africa.

Banisar, D. 2004. Freedom of information and access to government record laws around the world. Available at: https://www.ndi.org/sites/default/files/freeinfo_010504.pdf

Accessed 15 April 2016.

Banisar, D. 2006. Freedom of information around the world 2006: a global survey of access to government information laws. Available at:
http://www.freedominfo.org/documents/global_survey2006.pdf

Accessed 27 January 2016.

Bearman, D and Sochats, K. 1996. Metadata requirements for evidence. In: Lysakowski, R and Schmidt, S. (eds). *Automating 21st century science*. Amsterdam: Team Science Publishing.

Bergman, M.M. 2008. *Mixed methods research*. Thousand Oaks, CA: Sage.

Bergman, M. M. 2011. The politics, fashions, and conventions of research methods. *Journal of Mixed Methods Research* 5(2):99-102.

Blaxter, L., Hughes, C. and Tight, M. 2006. *How to research*. 3rd ed. Berkshire: Open University Press.

Botha, ME. 1989. Theory development in perspective: the role of conceptual frameworks and models in theory development. *Journal of Advanced Nursing* 14(1):49–55.

Bourke, G., Worthy, B., and Amos, J. 2008. *FOIA 2000 and local government in 2007: the experience of local authorities in England*. Constitution Unit. London: University College London.

Bowen, G.A. 2009. Document analysis as a qualitative research method. *Qualitative Research Journal* 9(2):27-40.

Brinkerhoff, D.W. 2000. Assessing political will for anti-corruption efforts: an analytical framework. *Public Administration and Development* 20 (3):239–253.

Bryman, A. 2004. *Social research methods*. 2nd ed. New York: Oxford University Press.

Bryman, A. 2006. Integrating quantitative and qualitative research: how is it done? *Qualitative Research* 6(1):97-113.

Bryman, A. 2012. *Social Research Methods*. 4th edition. Oxford: Oxford University Press.

Burgman, C., Daruwala, M. and Nayak, V. (eds). 2007. *Our rights, our information: empowering people to demand rights through knowledge*. New Delhi: CHRI.

Burkell, J. 2003. The dilemma of survey non-response. *Library and Information Science Research* 25 (3):239-263.

Burns, A. 1999. *Collaborative action research for English language teachers*. Cambridge: Cambridge University Press.

Burns, S., Ferris, J. and Liatsopoulos, D. 2009. The problems and barriers of records and information management in Africa. Paper presented at Education for a diverse world: addressing equity and human rights. Program for the 8th Annual EGSS Conference. McGill University, Canada. March 13-14 2009.

Burns, RB. 2000. *Introduction to research methods*. 4th edition. London: Sage.

Burrell, G. and Morgan, G. 1982. *Sociological paradigms and organisational analysis*. London: Heinemann.

Calland, R. 2013. The right of access to information: the state of the art and the emerging theory of change. In: Calland, R. and Diallo, F. (eds) *Access to information in Africa: law, culture and practice*. (Afrika-Studiecentrum Series). Leiden: Brill. pp.13-26.

Calland, R. and Neuman, L. 2007. Making the law work: the challenges of implementation, In: Florini, A. ed. *The right to know: transparency for an open world*. New York: Columbia University Press. pp.179-213.

Calland, R. and Bentley, K. 2013. The impact and effectiveness of transparency and accountability initiatives: freedom of Information. *Development Policy Review* (3):69-87.

Calland, R and Jonason, P. 2011. New horizons, urgent imperatives: transparency and climate. Paper presented at the First Global Conference on Transparency Research, Rutgers University, Newark, 19-20 May. Available at:

https://spaa.newark.rutgers.edu/sites/default/files/files/Transparency_Research_Conference/Papers/Jonason_Patricia.pdf

Accessed 10 May 2017

Carter Centre. 2010a. African regional conference on the right of access to information. Available at: <https://www.cartercenter.org/peace/ati/conferences/2010/index.html> Accessed 27 August 2017.

Carter Centre. 2010b. African regional findings and plan of action for the advancement of the right of access to Information Available at:

<https://www.cartercenter.org/resources/pdfs/peace/americas/conference2010/ati-africaplan-full.pdf> Accessed 20 May 2017.

Carter Center. 2014a. Implementation Assessment Tool methodology manual. Available at: <https://www.cartercenter.org/resources/pdfs/peace/americas/iat/iat-methodology-manual-pp3.pdf> Accessed 24 August 2017.

Carter Centre. 2014b. The access to information legislation Implementation Assessment Tool (IAT). Available at:

<https://www.cartercenter.org/resources/pdfs/peace/americas/iat/iat-poster1.pdf>

Accessed 25 August 2016

Carter Centre, Access to information legislation, Implementation Assessment Tool. 2014. Pilot findings from select agencies: Bangladesh. Available at:

www.cartercenter.org/resources/pdfs/peace/ati/bangladesh-iat-pilot-phase-country-report.pdf

Accessed 10 July 2018.

Carter Centre, Access to information legislation, Implementation Assessment Tool. 2016. Pilot findings from select agencies: Guatemala. Available at:

www.cartercenter.org/resources/pdfs/peace/ati/guatemala-iat-pilot-phase-country-report.pdf

Accessed 10 July 2018.

Carter Centre, Access to information legislation, Implementation Assessment Tool. 2016. Pilot findings from select agencies: Jordan. Available at:

www.cartercenter.org/resources/pdfs/peace/ati/iat-country-report-jordan.pdf

Accessed 10 July 2018.

Carter Centre, Access to information legislation, Implementation Assessment Tool. 2016. Pilot findings from select agencies: Liberia. Available at: www.cartercenter.org/resources/pdfs/peace/ati/liberia-iat-country-report.pdf Accessed 10 July 2018.

Carter Centre, Access to information legislation, Implementation Assessment Tool. 2016. Pilot findings from select agencies: Mexico. Available at: www.cartercenter.org/resources/pdfs/peace/ati/mexico-iat-pilot-phase-country-report.pdf Accessed 10 July 2018.

Carter Centre, Access to information legislation, Implementation Assessment Tool. 2016. Pilot findings from select agencies: Uganda. Available at: www.cartercenter.org/resources/pdfs/peace/ati/uganda-iat-country-report.pdf Accessed 10 July 2018.

Carter Centre, Access to information legislation, Implementation Assessment Tool. 2016. Pilot findings from select agencies: Nigeria. Available at: <https://www.cartercenter.org/resources/pdfs/peace/ati/nigeria-iat-country-report.pdf> Accessed 10 July 2018.

Chachage, B. L. 2005. Developing a model for a corporate records management system with special reference to sustainability reporting in Iringa region, Tanzania. PhD Thesis. Pietermaritzburg: University of KwaZulu-Natal.

Chachage, B. L. and Ngulube, P. 2006. Management of business records in Tanzania: an exploratory case study of selected companies. *South African Journal of Information Management* 8 (3).

Chaterera, F. 2016. Managing public records in Zimbabwe: the road to good governance, accountability, transparency and effective service delivery. *Journal of the South Africa Society of Archivists* 49:116-136.

Chaterera, F., Ngulube, P. and Rodrigues, A. 2014. Records surveys in support of a framework for managing public records in Zimbabwe. *Information Development* 30(4):366-377.

Chinyemba, A. 2002. Management of university records: a case of the University of Natal. MIS Thesis. Pietermaritzburg: University of Natal.

Chinyemba, A. and Ngulube, P. 2005. Managing Records at Higher Education Institutions: A Case Study of the University of KwaZulu-Natal, Pietermaritzburg Campus. *South African Journal of Information Management* 7(1).

Cohen, L., Manion, L. and Morrison, K. 2000. *Research methods in education*. 5th ed. London: Routledge Falmer.

Cohen, L., Manion, L. and Morrison, K. 2007. *Research methods in education*. 6th ed. London: Routledge Falmer.

Cohen, L., Manion, L., and Morrison, K. 2011. *Research methods in education* (7th ed.). London: Routledge Falmer.

Commission on Administrative Justice. 2017. Reporting framework on the resolution of public complaints indicator and Access to information. 8th ed. financial year 2018/2019 Available at: <http://www.ombudsman.go.ke/index.php/resource-center/performance-contracting-guidelines>

Accessed 20 July 2018.

Commission on Administrative Justice.2018. Implementation of the Access to Information Act 2016. Unpublished circular.

Communications Authority of Kenya. 2018. Second quarter sector statistics report for the financial year 2017/2018. 1st October to 31st December 2017. Available at:

<http://www.ca.go.ke/images/downloads/STATISTICS/Sector%20Statistics%20Report%20Q2%20%202017-18.pdf> Accessed 5 July 2018.

Collis, J and Hussey, R. 2003. *Business research: a practical guide for undergraduate and postgraduate students*. 2nd ed. New York: Palgrave Macmillan.

Cook, M. 1993. *Information management and archival data*. London: Library Association Publishing.

Cooper, D. R. and Schindler, P.S. 2008. *Business research methods*. 10th ed. Boston, MA: McGraw-Hill.

Creswell, J.W. 1994. *Research design: qualitative and quantitative approaches*. Thousand Oaks, CA: Sage Publications.

Creswell, J. W. 2003. *Research design: qualitative, quantitative and mixed methods approaches*. 2nd ed. Thousand Oaks, CA: Sage.

Creswell, J. W. 2007. *Qualitative inquiry research design: choosing among five approaches*. Thousand Oaks, CA: Sage.

Creswell, J.W. 2009. *Research design: qualitative, quantitative and mixed methods approaches*. (3rd ed). Thousand Oaks, CA: Sage.

Creswell, J. W. 2014. *Research design: qualitative, quantitative and mixed methods approaches*. (4th ed). Thousand Oaks, CA: Sage.

Creswell, J.W. and Garrett, A.L. 2008. The movement of mixed methods research and the role of educators. *South African Journal of Education* 28:321-333

Creswell, J. W. and Plano Clark, V. L. 2007. *Designing and conducting mixed methods research*. Thousand Oaks, CA: Sage.

Creswell, J. W., Plano Clark, V. L., Gutmann, M. L. and Hanson, W. E. 2003. Advanced mixed methods research designs. In: Tashakkori, A. and Teddlie, C. (eds). *Handbook of mixed methods in social and behavioural research*. Thousand Oaks, CA: Sage. pp. 209-240.

Crockett, M. 2009. A practitioner's guide to freedom of information Act 2000. *Journal of the Society of Archivists* 30(2):191-225.

Cohen, L., Manion, L. and Morrison, K. 2007. *Research methods in education*. (6th ed.) London: Routledge Falmer.

Commission for the implementation of the constitution. (CIC). 2011. Stakeholders forum on issues arising from the freedom of information bill, 2008 and data protection bill, 2009. Available at:

http://www.icj-kenya.org/jdownloads/Reports/FOI_Data_Protection_Bill_Report.pdf

Accessed 10 June 2017.

Cooper, D.R. and Schindler, P.S. 2008. *Business Research Methods*. 10thed. Boston, MA and Burr Ridge, IL: McGraw-Hill.

Cornford, F.M. 1991. *From religion to philosophy: a study in the origins of western speculation*. Princeton: Princeton University Press

Cox, R. J. 2000. *Closing an era: historical perspectives on modern archives and records management*. London: Greenwood Press.

Daily Nation. 2012. Open data project hits snag as law 'incomplete,' Nov 20. Available at:

<http://www.nation.co.ke/business/Open-data-project-hits-snag/996-1625336-8433ssz/index.htm>

Accessed 15 August 2017.

Daily Nation. 2015. Access to information is a fundamental right, so we need laws to make it possible, 29 Sept. Available at: <http://www.nation.co.ke>

Accessed 22 August 2017.

Darch, C. 2013. The problem of access to information in African jurisdictions: constitutionalism, citizenship and human rights discourse. In: Calland, R. and Diallo, F. (eds). *Access to information in Africa: law, culture and practice. (Afrika-Studiecentrum Series)*. Leiden: Brill. pp.27-54.

Darch, C. and Underwood, P. 2010. *Freedom of information and the developing world: the citizen, the state and models of openness*. Oxford: Chandos Publishing.

David, S. 1994. Records management in Australia. Available at: Available at:
<http://www.findarticles.com/find?q=records+management+in+Australia&pid=770249087964909860&ssq=1&noadc=1&qq=records+management+in+Australia&vi=sb>

Accessed 25 October 2017.

Dean, J. F. 2002. Environment and passive climate control chiefly in tropical climates. Paper presented at the 68th IFLA Council and General Conference, Glasgow, August 18–24, 2002. Available at <http://ifla.queenslibrary.org/TV/ifla68/papers/120-158e.pdf> Accessed 16 July 2018.

Denscombe, M. 2007. *The good research guide for small-scale social research projects*. 3rd ed. Berkshire: Open University Press.

Denzin, N.K. 1978. *The research act: a theoretical orientation to sociological methods*. (2nded). New York: McGraw-Hill.

Dimba, M. 2008. The right to information in the South Africa Development Community: a brief overview of the multilateral instruments. Paper presented to the regional conference on the right to information organised by the African Network of Constitutional lawyers held at University of Capetown, South Africa, 17-18 June 1998. Available:
<https://www.pambazuka.org/security-icts/right-information-africa> Accessed 26 June 2017.

Dimba, M. 2009. The power of information: implementing the right to information laws. Institute for Security Studies. *South Africa Crime Quarterly* 30: 21-26.

Dokeniya, A. 2013. *Implementing right to Information: lessons from experience*. Washington: World Bank Group.

Droguet, A. 1988. *Kenya pilot project on a national archival networking*. Paris: UNESCO.

Duranti, L. 1996. The preservation of the integrity of electronic records. In: Commission of European Communities. (eds). *Proceedings of the DLM Forum on electronic records*, Brussels, 18-20 December. Luxembourg: Office for Official Publications of European Commission. pp.60-65.

Durrheim, K. 2006. Research design. In: Terre Blanche, M., Durrheim, K. and Painter, D. (eds). *Research in practice: applied methods for the social sciences*. Cape Town: University of Cape Town Press. pp. 33-59.

E-citizen portal. Available at: <https://www.ecitizen.go.ke/ecitizen-services.html>

Accessed 25 July 2018.

Ennion, E. 2005. How has the implementation of the Freedom of Information Act 2000 affected archives and records management services in public bodies in the UK? MA Thesis. London: University College London.

Evans, J., Reed, B and McKemmish, S. 2008. Interoperable data: sustainable frameworks for creating and managing recordkeeping metadata. *Records Management Journal* 18 (2):115-129.

Fink, A. 2006. *Conducting research literature review: from the internet to paper*. Thousand Oaks, CA: Sage.

FOIANet. 2013. Global right to information update: an analysis by region. Available at: http://www.foiadvocates.net/wp-content/uploads/Global_RTI_Update_A4.pdf Accessed 28 September 2016

Flynn, S. J. A. 2001. The records continuum model in context and its implications for good government. *African Journal of Library, Archives and Information Science* 10(2):153-165.

Fowler, J. F. 2014. *Survey research methods*. 5th ed. Los Angeles: Sage.

Frankfort-Nachmias, C. and Nachmias. D. 1996. *Research methods in the social sciences*. 5th ed. London: St. Martin's Press, Inc.

Garaba, F. 2010. An investigation into the management of the records and archives of former liberation movements in east and southern Africa held by national and private archival institutions. PhD Thesis. Information Studies Programme. Pietermaritzburg: University of KwaZulu-Natal.

Gay, L. 1996. *Educational research: competencies for analysis and application*. 5th ed. Columbus, Ohio: Charles E. Merrill.

Gill, P. and Burnard, P. 2012. Time to end the vagaries of PhD examining? *Nurse Education Today* 32: 477-478.

Githaka, B. 1996. Constraints on the development of records management in Kenyan public offices. *ESARBICA Journal* 10:7-16.

Government of Canada. 2000. *Annual Report, Information Commissioner, 1999-2000*. Ottawa: Minister of Public Works and Government Services.

Government of Canada, National Standard of Canada. 2005. *Electronic records as documentary evidence*. Quebec: Canadian General Standards Board.

Government of the Republic of Kenya, Ministry of State for Public Service (MSPS). 2011. *A strategy for improvement of records management in the public service*. Nairobi: Government Printer.

Government of the Republic of Kenya, Ministry of State for Public Service (MSPS). 2015. *Capacity Assessment and Rationalization of the Public Service Programme (CARPS) Report*. Nairobi: Government Printer.

Government of the Republic of Kenya, office of the President. 1985. *Chief Secretary circular OP.1/48A/66 on destruction of non-current government records*. Nairobi: Office of the President.

Government of the Republic of Kenya, office of the President. 1991. *Personnel General Letter No.7. Permanent Secretary, Directorate of Personnel Management circular PPM/PA/1/20/112 of 29 August 1991 on destruction of personnel records*. Nairobi: Office of the President.

Government of the Republic of Kenya, office of the President. 1999a. *Permanent Secretary to the Cabinet and Head of Public Service circular OP.39/2A on cases of missing and lost files and documents in the public service*. Nairobi: Office of the President.

Government of the Republic of Kenya, office of the President. 1999b. *Permanent Secretary, Secretary to the Cabinet and Head of the Public Service Circular OP.39/2A on cases of missing and lost files and documents in the public service*. Nairobi: Office of the President.

Government of the Republic of Kenya, Directorate of Personnel Management (DPM) 2001. *A strategy for performance improvement in the public service*. Nairobi: Government Printer.

Government of the Republic of Kenya, office of the President. 2003a. *Permanent Secretary, Secretary to the Cabinet and Head of the Civil Service Circular OP.40/1/1A on improvement of records management for good governance*. Nairobi: Office of the President.

Government of the Republic of Kenya, office of the President. 2003b. *Directorate of Personnel Management Circular DPM.4/10A (9) on streamlining the performance of registries in government ministries, departments, local authorities, provinces and districts*. Nairobi: Office of the President.

Government of the Republic of Kenya, office of the President. 2003c. *Directorate of Personnel Management-Terms of reference for a task force to improve the performance of registries in government ministries/departments*. Nairobi: Office of the President.

Government of the Republic of Kenya. 2007. Revised scheme of service for information and public communication officers. Available at: <http://www.health.go.ke/wp-content/uploads/2015/09/INFORMATION%20AND%20COMMUNICATION%20OFFICE%20RS.pdf> Accessed 21 August 2017.

Government of the Republic of Kenya. 2007. *Vision 2030*. Nairobi: Government Printer.

Government of the Republic of Kenya. 2008. Report of the commission of inquiry into post-election violence (CIPEV). Available at: <http://www.nation.co.ke/blob/view/-/482958/data/46262/-/attnbm/-/CIPEV+Report.pdf>

Accessed 12 June 2017

Government of the Republic of Kenya. 2014. Combined 8-11th periodic report on the African Charter on Human and People's Rights (ACPHR). Available at: http://www.achpr.org/files/sessions/57th/state-reports/8th-11th-2008-2014/kenya_state_report_eng.pdf

Accessed 10 June 2017.

Government of Kenya. 2013. *Organization of Government, executive Order, No. 2* Nairobi: Government Printer.

Government of the Republic of Kenya. 2016. *Organisation of Government, executive order, No.1* Nairobi: Government Printer.

Government of Kenya. 2018. *Procurement of public goods works and services, executive Order No.2*. Nairobi: Government Printer.

Government of Kenya. 2018. *Draft Data Protection Bill*. Available at: <http://www.ombudsman.go.ke/index.php/access-to-information-centre/category/74-privacy-and-data-protection-bill-2018-policy-document> Accessed 17 August 2018.

Greene, J. C. 2007. *Mixed methods in social inquiry*. San Francisco, CA: Jossey-Bass.

Greene, J. C. 2008. Is mixed methods social inquiry a distinctive methodology? *Journal of Mixed Methods Research* 2(1):7-22.

Greene, J. C., Caracelli, V. J. and Graham, W. F. 1989. Toward a conceptual framework for mixed-method evaluation designs. *Educational Evaluation and Policy Analysis* 11(3):255-274.

Hall, K. 1990. *Pilot project on a national archival networking –an evaluation* (FMR/IPS/UIS/108) Paris: UNESCO.

Hohfeld, W.N. 1919. *Fundamental legal conceptions as applied in judicial reasoning*. New Haven: Yale University Press.

Holmes, B. 2011. Citizen engagement in policymaking and the design of public services Research paper no.1 parliament of Australia Available at:

http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1112/12rp01

Accessed 5 March 2017.

Institute of Informatics and Development. 2012. *Challenges of right to information in South Asia policy brief*. Dhaka: Institute of Informatics and Development.

Inter-American Court of Human Rights (IACHR). 2006. *Order of the Inter-American Court of Human Rights, Case of Claude Reyes et al. v. Chile. Judgment of Sept 19*. Washington DC: Inter-American Commission of Human Rights.

International Council on Archives (ICA): Committee on current records in an electronic environment. 2005.

Electronic records: a workbook for archivists, Study 16, April. Paris: ICA.

Available at <http://www.ica.org/biblio/Study16ENG_5_2.pdf>. Accessed 23 July 2018.

International Organization for Standardization (ISO). 2001. *ISO 15489-1 Information and documentation-records management-part 1 general*. Geneva: International Organization for Standardization.

International Records Management Trust (IRMT).1999. Managing public sector records: Case studies Volume 2. Available at:

http://www.irmt.org/documents/educ_training/educ_resource/IRMT_ed_case_study_v2.pdf

Accessed 10 July 2018.

International Records Management Trust (IRMT). 1999a. The management of public sector records: principles and context. Available at:

http://www.irmt.org/documents/educ_training/public_sector_rec/IRMT_principles.pdf

Accessed 20 October 2017.

International Records Management Trust (IRMT). 1999b. Preserving records. Available at:

http://www.irmt.org/documents/educ_training/public_sector_rec/IRMT_preserve_recs.pdf

Accessed 28 September 2017.

International Records Management Trust (IRMT). 2003. Evidence-based governance in the electronic age: case summaries. Available at:

http://www.irmt.org/documents/research_reports/project_reports/Final%20DGF%20Report%20Revised.pdf

Accessed 20 July 2017

International Records Management Trust (IRMT). 2005. Information for Good governance. Available at: <http://www.irmt.org/> Accessed 28 September 2017.

International Records Management Trust (IRMT).2009. Planning and Managing an Electronic Records Management Programme. Available at: http://www.irmt.org/documents/educ_training/term%20modules/IRMT%20TERM%20Module%202.pdf Accessed 15 July 2018.

International Records Management Trust (IRMT). 2009. Understanding the context of electronic records management. Available at: http://www.irmt.org/documents/educ_training/term%20modules/IRMT%20TERM%20Module%201.pdf Accessed 31 August 2017.

International Records Management Trust. (IRMT). 2011. Managing records as reliable evidence for ICT/e-government and freedom of information- Kenya county report. Available at: www.irmt.org/wp2/wp-content/uploads/2011/09/Kenya-Country-Report.doc Accessed 21 August 2017.

Irvine, A. A. M and Baron, I. L. 2000. Government policy on archives: forward. *Journal of the Society of Archivists* 21(1):11-13.

Israel, G. D. 1992. Determining sample size. Fact sheet PEOD-6, November, 1–5. Available at: <http://www.sut.ac.th/im/data/read6.pdf> Accessed 25 March 2017.

Iwhiwhu, E. B. 2005. Management of records in Nigerian Universities: problems and Prospects. *The Electronic Library* 23(3): 345-355.

Johnson, B. and Christensen, L. 2008. *Educational research: quantitative, qualitative and mixed approaches*. 3rd ed. Thousand Oaks, CA: Sage.

Johnson, R.B. and Onwuegbuzie, A.J. 2004. Mixed methods research: a research paradigm whose time has come. *Educational Researcher* 33(7):14-26.

Jones, P. 2003. *Effective records management*. Part 3: performance management for BS ISO 15489-1. London: British Standards Institution.

Jubilee Party. 2017. Continuing Kenya's transformation together: jubilee manifesto. Available at: <http://uhuruto2017.co.ke/jp-manifesto-compressed-web-version-12782.pdf>

Accessed 29 September 2017.

Jupp, V.2006. Triangulation. In: Jupp, V. (ed). 2006. *The Sage Dictionary of social research methods*. Thousand Oaks, CA: Sage. pp.179-180.

Kahn, R. and Cannell, C. 1957. *The dynamics of interviewing*. New York and Chichester: Wiley.

Kalusopa, T. 2011. Developing an e-records readiness framework for labour organizations in Botswana. PhD Thesis. Pretoria: University of South Africa.

Kalusopa, T. and Ngulube, P. 2012. Records management practices in labour organizations in Botswana. *SA Journal of Information Management* 14(1):15.

Kargbo, J. A. 2009. The Connection between good governance and recordkeeping: The Sierra Leone experience. *Journal of the Society of Archivists* 30(2):249-260.

Keakopa, S M. 2006. Management of electronic records in Botswana, Namibia and South Africa: opportunities and challenges. PhD Thesis. London: University College London.

Keakopa, S.M. 2008. Management of electronic mail: a challenge for archivist and records managers in Botswana, Namibia and South Africa. *ESARBICA Journal* (27):72–83.

Kemoni, H. 1998. The Impact of record centres on the management of public sector records in Kenya. *Records Management Journal* 5(1): 55-65.

Kemoni, H. and Ngulube, P. 2007. Records and archives legislation in Kenya and management of public sector records: a SWOT analysis approach. *African Journal of Library and Information Science* 17(2):89-102.

Kemoni, H. 2007. Records management practices and public service delivery in Kenya. PhD thesis. Information Studies Programme. Pietermaritzburg: University of Kwa Zulu Natal.

Kemoni, H. N. 2008. Theoretical framework and literature review in graduate records management research. *African Journal of Library, Archives and Information Science* 18(2):103-117

Kenya. 1991. *Public Archives and Documentation Service Act (PADS)*. Nairobi: Government Printer.

Kenya. 2006. *Statistics Act*. Nairobi: Government Printer.

Kenya. 2009. Draft national records management policy. Available at:
http://www.archives.go.ke/wp-content/uploads/2016/10/NATIONAL-RECORDS-MANAGEMENT-POLICY-10_04_2009.pdf Accessed on 15 July 2018.

Kenya. 2009. *Public Officers Ethics Act (POE)*. Nairobi: Government Printer.

Kenya. 2010. *Constitution of Kenya (COK)*. Nairobi: Government Printer.

Kenya. 2011. *Urban Areas and Cities Act*. Nairobi: Government Printer.

Kenya. 2012. *County Government (CG) Act*. Nairobi: Government Printer.

Kenya. 2012. *Ethics and Anti-corruption Commission (EACC) Act*. Nairobi: Government Printer.

Kenya. 2012. *Film and Stage Plays (FSP) Act*. Nairobi: Government Printer.

Kenya. 2012. *Leadership and Integrity (L&I) Act*. Nairobi: Government Printer.

Kenya. 2012. *National Assembly (Powers and Privileges) Act*. Nairobi: Government Printer.

Kenya. 2012. *Public Finance Management (PFM) Act*. Nairobi: Government Printer.

Kenya. 2012. *Preservation of Public Security (PPS) Act*. Nairobi: Government Printer.

Kenya. 2013. *Kenya Information and Communication (KIC) Act*. Nairobi: Government Printer

Kenya. 2014. *Evidence Act revised Act*. Nairobi: Government Printer.

Kenya. 2015. *Official Secrets (OS) Act*. Nairobi: Government Printer.

Kenya. 2015. *Public Procurement and Disposal (PPD) Act*. Nairobi: Government Printer.

Kenya. 2015. *Public Service Commission (values and principles) Act*. Nairobi: Government Printer.

Kenya. 2015. *Records Disposal Act*. Nairobi: Government Printer.

Kenya. 2016. *Access to Information (ATI) Act*. Nairobi: Government Printer.

Kenya. 2016. *National Lands Commission (NLC) Act*. Nairobi: Government Printer.

Kerlinger, F. N. 1979. *Behavioral research: a conceptual approach*. New York: Holt, Rinehart and Winston.

King, N. 2004. Using interviews in qualitative research. In: Cassell, C. and Symon, G. (eds). *Essential guide to qualitative methods in organizational research*. London: Sage. pp.11-22.

King, G., Keohane, R.O. and Verba, S. 1994. *Designing social inquiry: scientific inference in qualitative research*. Princeton: Princeton University Press.

Kisoon, C. 2010. Ten years of access to information in South Africa: some challenges to the effective implementation of PAIA. Commissioned paper by ODAC for the Open Democracy Charter Process. Available at:

<http://www.opendemocracy.org/za/index.php/component/content/article/11-what-we-do/access-to-information/59-open-democracy-charter> Accessed 4 September 2017.

Komen, B. C. 2012. Management of personnel records in support of good governance at the Ministry of local government headquarters Nairobi. Masters Thesis. Eldoret: Moi University.

Kothari, C. R. 1990. *Research methodology: methods and techniques*. New Delhi: Willey Eastern Limited.

Kothari, C. R. 2004. *Research methodology: methods and techniques*. 2nd ed. New Delhi: Willey Eastern Limited.

Kumar, R. 2005. *Research methodology: a step by step guide for beginners*. 2nd ed. Thousand Oaks, CA: Sage.

Kumar, R. 2014. *Research methodology: a step by step guide for beginners*. 4th ed. Thousand Oaks, CA: Sage.

Kyalo, V. and Singo'ei, K. 2016. The benefits of 'open government' and why Kenyans should own it. *Daily Nation*, 13 Jul. Available at:

<http://www.nation.co.ke/oped/Opinion/benefits-of-open-government-and-why-kenyans-should-own-it/440808-3293490-9h5b5v/index.html> Accessed 27 September 2017.

Labuschagne, A. 2003. Quantitative research: airy, fairy or fundamental? *The qualitative report* (8):1. Available at:

<http://nsuworks.nova.edu/cgi/viewcontent.cgi?article=1901&context=tqr> Accessed 25 October 2017.

Leedy, P. D. 1997. *Practical research: planning and design*. 6th ed. New Jersey: Merrill/Prentice Hall.

Leedy, P. D. and Ormrod, J. E. 2005. *Practical research: planning and design*. 8th ed. New Jersey: Pearson Education.

Lemieux, V. and Trapnell, S. 2016. *Public access to information for development: a guide to the effective implementation of right to information laws*. Washington: World Bank.

Lincoln, Y. S. and Guba, E. G. 1985. *Naturalistic inquiry*. Beverly Hills, CA: Sage.

Iivari, J., Hirschheim, R. and Klein, H. K. 2004. Towards a distinctive body of knowledge for information systems experts: coding ISD process knowledge in two IS journals. *Information Systems Journal* 14(4):313-342.

Luyombya, D. 2010. Framework for effective public digital records management in Uganda. PhD Thesis. London: University College London.

Koutsoyiannis, A. 1979. *Modern microeconomics*. New York: MacMillan Press Limited.

Maclean, I. 1978. *Development of information infrastructure. Records management*. Paris: UNESCO.

Makhura, M. M. 2001. The role of electronic records management in a service organization. MA Thesis. Johannesburg: Rand Afrikaans University.

Malena, C. 2009. Building political will for participatory governance: an introduction. In: Malena, C. (ed). *From political won't to political will: building support for participatory governance*. Virginia: Kumarian Press. pp. 3-30.

Marczyk, G., DeMatteo, D. and Festinger, D. 2005. *Essentials of research design and methodology*. New Jersey: John Wiley and Sons, Inc.

Martini, M. and Transparency International. 2014. *Right to information: impact and implementation*. Anti-Corruption helpdesk answer, Berlin: Transparency International.

Mase, E. 2015. Records management readiness for an open Government in the Kenyan judiciary. PhD Thesis. Information Studies Programme. Pietermaritzburg: University of Kwa Zulu Natal.

Mazikana, P. 1996. The costs of the failure of African nations to manage records effectively. Paper read at the International workshop on making the transition to the electronic age: Information as a strategic resource for good governance, Nairobi, Kenya, 11-13 March.

Mazikana, P. 2009. A missed opportunity: archival institutions and public sector reforms. *ESARBICA Journal* 28:36-51.

Memeza, M. 2005. Baseline report on the state of access to information in the Southern African Development Community (SADC) region. Report commissioned by the Freedom of Expression Institute. Available at: http://archive.kubatana.net/docs/media/fxi_report_access_to_info_060130.pdf
Accessed 28 September 2017.

Mendel, T. and UNESCO. 2008. *Freedom of information: a comparative legal survey*. Paris: UNESCO.

Merriam, S. B. 1988. *Case study research in education: a qualitative approach*. San Francisco: Jossey-Bass.

Mertens, D.M. 2010. *Research and evaluation in education and psychology: integrating diversity with quantitative, qualitative, and mixed methods*. 3rd ed. Thousand Oaks, CA: Sage.

Millar, L. 2003. *The right to information-the right to records: the relationship between mixed approaches*. (3rd ed.) Thousand Oaks, CA: Sage.

Miriyoga, L. 2011. Information without power? Challenges and opportunities in the usage of the Promotion of Access to Information Act no.50 [sic] of 2000 (PAIA). MPhil dissertation. Department of Public Law. Cape Town: University of Cape Town.

Mnjama, N. 2003. Archives and records management in Kenya: problems and prospects. *Records Management Journal* 13(2): 91–101.

Mnjama, N. and Wamukoya, J. 2004. E-governance: the need for an e-records readiness assessment tool. Report on proceedings of the SADC regional consultation on national e-government readiness, Gaborone, Botswana. 14-16 April 2004.

Mnjama, N. and Wamukoya, J. 2007. E-government and Records Management: an Assessment Tool for E-records Readiness in Government. *The Electronic Library* 25(3): 274-284.

Moloi, J. 2006. An investigation of e-records management in government: case study of Botswana. Unpublished MA Thesis. Gaborone: University of Botswana.

Moore, N. 2000. *How to do research: The complete guide to designing and managing research projects*. 3rd ed. London: Library Association Publishing.

Morse, J. M. and Niehaus, L. 2009. *Mixed method design: principles and procedures*. California: Left Coast Press.

Motsaathebe, L. and Mnjama, N. 2009. Managing court records: a survey of record keeping practices in selected countries. *Mousaion* 28 (2): 132-153.

Mugenda, O. M. and Mugenda, A. G. 2003. *Research methods: qualitative and quantitative approaches*. Nairobi: African Centre for Technology Studies.

Musembi, M. 1983. Poor management: a critical cause of archival under-development in the Third world. *ESARBICA Journal* (6):39-43

Musembi, M. 1984. *Archives management: the Kenyan experience*. Nairobi: Africa Book Services.

Musembi, M. 1995. Introduction. In: Arnoult, J., Kremp, V and Musembi, M. (eds). *Proceedings of the Pan-African Conference on the Preservation and Conservation of Library and Archival Materials, held in Nairobi on June 21-25, 1993*. The Hague: IFLA. pp. 11-12.

Mutula, S.M. 2006. Freedom of information in the SADC region: implication for development and human rights. *Library Review* 55(7): 440-449.

Mutula, S.M. and Wamukoya, J.M. 2009. Public sector information management in east and southern Africa: implications for FOI, democracy and integrity in Government. *International Journal of Information Management* 29:333-341.

National Archives and Records Administration (NARA). 2002. Electronic Records Management Initiative. Available from: <http://www.archives.gov/records-mgmt/initiatives/erm-overview.html>

Accessed 23 July 2017

National Archives and Records Administration (NARA). 2005a. National Archives and Records Administration proposal for a redesign of federal records management. Available at:

<https://www.archives.gov/about/regulations/regulations.html>

Accessed 23 July 2017

National Archives and Records Administration (NARA). 2005b. Preliminary planning for electronic recordkeeping: Checklist for IT staff. Available at:

<https://www.archives.gov/files/records-mgmt/toolkit/pdf/all-tools.pdf> Accessed 20 October 2017.

National Archives and Records Administration (NARA). 2011. Vital records and records disaster mitigation and recovery: an instructions guide. Available at:

<https://www.archives.gov/records-mgmt/vital-records>

Accessed 23 July 2017

Ndenje-Sichalwe, E. 2010. The significance of records management to fostering accountability in the public service reform programme in Tanzania. PhD thesis. Information Studies Programme. Pietermaritzburg: University of Kwa Zulu Natal.

Nengomasha, C. 2009. A study of electronic records management in the Namibian public service in the context of e-government. PhD thesis. Namibia: University of Namibia.

Neuman, W. L. 2006. *Social research methods: qualitative and quantitative approaches*. (6th ed). Boston: Pearson Education, Inc.

Neuman, W. L. 2007. *Basics of social research: qualitative and quantitative approaches*. 2nd ed. Boston: Pearson Education Inc.

Neuman, W.L. 2014. *Social research methods: qualitative and quantitative approaches*. 7th ed. Harlow: Pearson.

Ngabirano, D. 2013. The Uganda freedom of information campaign: stuck in the mud? In: Calland, R. and Diallo, F. (eds) *Access to information in Africa: law, culture and practice*. (Afrika-Studiecentrum Series). Leiden: Brill. pp.191-214

Ngoepe, M. and Keakopa, M. 2009. An assessment of the state of national archival and records systems in the ESARBICA region: A South Africa- Botswana comparison. *Records Management Journal* 21(2) 145-160.

Ngoepe, M. and Van der Walt, T. 2009. An exploration of records management trends in the South African Public Sector. *Mousaion* 27(1):116-136.

Ngulube, P. 2003. Preservation and access to public records and archives in South Africa. PhD Thesis. Information Studies Programme. Pietermaritzburg: University of KwaZulu-Natal.

Ngulube, P. 2005. Research procedures used by master of information studies students at the University of Natal in the Period 1982 – 2002 with special reference to their sampling techniques and survey response rates: a methodological discourse. *The International Information and Library Review* 37(2):127-143.

Ngulube, P. 2005a. Disaster and security management in public archival institutions in ESARBICA region. *African Journal of Library, Archives, and Information Science* 15(1):15-23.

Ngulube, P. 2005b. Improving the quality of research outputs in higher education through knowledge sharing and collaboration: A case study. *Mousaion* 23(1):39-61.

Ngulube, P. 2007b. Preserving South Africa's paper trail and making public records available for present and future generations. *ESARBICA Journal* 26:45-69.

Ngulube, P. 2013. Blending qualitative and quantitative research methods in Library and Information Science in sub-Saharan Africa. *ESARBICA Journal* 32:3-16.

Ngulube, P., Mathipa, E. R. and Gumbo, M. T. 2015. Theoretical and conceptual framework in the social sciences. In: Mathipa, E. R. and Gumbo, M. T. (eds). *Addressing research challenges: making headway in developing researchers*. Noordwyk: Mosala-MASEDI Publishers & Booksellers cc. pp. 43-66.

Ngulube, P., Mokwatlo, K. and Ndwandwe, S. 2009. Utilisation and prevalence of mixed methods research in Library and Information Science research in South Africa 2002-2008. *South African Journal of Libraries and Information Science* 75(2): 105-116.

Ngulube, P. and Tafor, V.F. 2006. The management of public records and archives in the member countries of ESARBICA. *Journal of the Society of Archivists* 27(1):57-83.

Nunan, D. 1999. *Research methods in language learning*. 8th ed. Cambridge: Cambridge University Press.

Oates, B. J. 2006. *Researching information systems and computing*. London: Sage.

Ocholla, D.N. and Le Roux, J. 2011. Conceptions and misconceptions of theoretical frameworks in Library and Information Science research: a case study of selected theses and dissertations from eastern and southern African universities. *Mousaion* 29(2):61-74.

Odote, C. 2015. *Access to information law in Kenya: rationale and policy framework*. Nairobi: International Commission of Jurists-Kenya section.

Onyango, R.S.O. 2002. Data collection instruments in information sciences In: Aina, L.O. (ed). *Research in information science: an African perspective*. Ibadan: Stirling-Holden Publishers.pp. 63-109.

Open Democracy Advice Centre (ODAC). 2011. Right to access information: training manual. Available at: <http://www.r2k.org.za/wp-content/uploads/2012/12/rti-training-manual-dec-2012.pdf> Accessed February 5, 2017.

Orago, N. W.2013. Poverty, inequality and socio-economic rights: a theoretical framework for the realization of socio-economic rights in the 2010 Kenyan Constitution. PhD thesis. Faculty of Law. Bellville: University of the Western Cape.

Payne, G. and Payne, J. 2004. *Key concepts in social research*. London: Sage.

Pickard, A. J. 2007. *Research methods in information*. London: Facet Publishing.

Pederson, A and John Curtin Prime Ministerial Library. 2001. *Understanding society through its records: an educational web resource from the John Curtin prime ministerial library*. Perth, W.A: John Curtin Prime Ministerial Library.

Peled, R and Rabin, Y. 2011. The constitutional right to information, *Columbia Human Rights Law Review* 42(2): 357-401.

Phillips, E. M. and Pugh, D. S. 2005. *How to get a PhD: a handbook for students and their supervisors*. 4th ed. Berkshire: Open University Press.

PREMnotes. 2004. Legislation on freedom of information: trends and standards. Available at: <http://www1.worldbank.org/prem/PREMNotes/premnote93.pdf> Accessed 5 July 2016.

Polit, D, F. and Beck, C. T. 2004. *Nursing Research: principles and Methods*. (7thed.) Philadelphia: Lippincott.

Powell, R.R. 1985. *Basic research methods for librarians*. New Jersey: Abely Publishing Corporation.

Powell, R. R. and Connaway, L. S. 2004. *Basic research methods for librarians*. 4th ed. Westport: Libraries Unlimited.

Ramokate, K. and Moatlhodi, T. 2010. Battling the appraisal backlog: a challenging professional obligation for Botswana National Archives and Records Services *ESARBICA Journal* 29:67-86.

Reed, B. 1997a. Appraisal and disposal. In: Ellis, J. (ed.) *Keeping Archives*. DW Thorpe, Victoria: The Australian Society of Archivists. pp. 157-206.

Reed, B. 1997b. Electronic records management in Australia. *Records Management Journal* 7(3): 1–13.

Ridley, D. 2008. *The literature review: a step-by-step guide for students*. Thousand Oaks, CA: Sage.

Robek, F., Brown, F. and Stephens, D. 1996. *Information and records management: document-base information systems*. New York: McGraw Hill.

Roberts, D. 1994. Defining electronic records, documents and data. *Archives and Manuscripts* 22(1):14–26.

Roberts, A. 2002. New strategies for enforcement of the Access to Information Act. *Queens Law Journal* 27(2):647-682.

Roberts, B. 2006. Prerequisites for the successful implementation of the Promotion of Access to information Act 2 of 2000. *Journal of Public Administration* 41(2.1):231-240.

Robson, C. 2002. *Real world research*. 2nd ed. Oxford: Blackwell.

Rodrigues, C. 2008. *Implementing access to information: a practical guide for operationalizing access to information laws*. New Delhi: Commonwealth Human Rights Initiative.

Roper, M. and Millar, L. (eds.). 1999. *Managing Public Sector Records*. London: IRMT.

Rossmann, G. B. and Wilson, B. L. 1985. Numbers and words: combining quantitative and qualitative methods in a single large-scale evaluation study. *Evaluation Review* 9 (5): 627–643.

Sandelowski, M. 2000. Focus on research methods: combining qualitative and quantitative sampling, data collection and analysis techniques in mixed-method studies. *Research in Nursing and Health* 23:246-255.

Sarantakos, S. 1998. *Social research*. 2nd ed. London: The Macmillan Press Ltd.

Sarantakos, S. 2013. *Social research*. 4th ed. Hampshire: Palgrave Macmillan.

Sareen, T. 1981. *Progress report on records management. Commonwealth fund for technical cooperation assignment to the Kenya National Archives*. London: Commonwealth Secretariat.

Saunders, M., Lewis, P. and Thornhill, A. 2009. *Research methods for business students*. 5th ed. Harlow: Pearson Education Limited.

Saunders, M., Lewis, P. and Thornhill, A. 2012. *Research methods for business students*. 6th ed. London: Prentice Hall.

Saurombe, N.P. 2016. Public programming of public archives in the East and Southern Africa Branch of the International Council of Archives (ESARBICA): towards an inclusive and integrated framework. PhD Thesis. Pretoria: University of South Africa.

Scotland Information Commissioner Office (ICO). 2004. *2nd wave survey of Scottish public authorities on preparation for freedom of information (Scotland) Act 2002: a report by Craigforth Consultancy and Research*. London: The Stationery office Limited.

Screene, L. 2005. How prepared are public bodies for the implementation of the UK freedom of information Act in January 2005. *Records Management Journal* 15(1):34-42.

Schinke, S. P. and Gilchrist, L. 1993. Ethics in research. In: Grinnell, R. M. (ed.) *Social work, research and evaluation*. 4th ed. Illinois: Peacock. pp. 80-92.

Schulze, S. 2003. Views on the combination of quantitative and qualitative research approaches. *Progressio* 25(2):8-20.

Scriven, M. S. 1991. *Evaluation thesaurus*. 4th ed. Thousand Oaks, CA: Sage.

Sebina, P. 2006. Freedom of information and records management: a learning curve for Botswana. PhD thesis. London: University College London.

Sejane, L. 2004. An investigation into the management of electronic records in the public sector in Lesotho. MIS Thesis. Pietermaritzburg: University of KwaZulu-Natal

Sekaran, U. 2003. *Research methods for business: a skill building approach*. 4th ed. New York: John Wiley and Sons, Inc.

Shado, F. 2004. The torn veil: access to information as a tool for combating corruption with reference to Uganda. LLM thesis. Centre for Human Rights. Pretoria: University of Pretoria.

Shepherd, E. 2007. Freedom of information and records management in the UK: what has been the impact? *Journal of the Society of Archivists* 28(2):125-138.

Shepherd, E. and Ennion, E. 2007. How has the implementation of the UK freedom of information Act 2000 affected archives and records management services? *Records Management Journal* 17(1):32-51.

Shepherd, E. and Yeo, G. 2003. *Managing records: a handbook of principles and practice*. London: Facet Publication.

Silverman, D. 2000. *Doing qualitative research: a practical handbook*. London: Sage.

Snell, R. 1993. The effect of freedom: is FOI a benefit or threat to record management practices? Paper presented at the 10th National Convention Records Management Association of Australia, Hobart, 5-8 Sept.

Snell, R. and Sebina, P. 2007. Information flows: the real art of information management and freedom of information. *Archives and Manuscripts* 35(1):55-80.

South Africa. 2000. *Promotion on Access to Information Act (PAIA)*. Pretoria: Government Printer.

Spiteri, L. 2012. Records continuum model of records life cycle. Paper presented at the 37th Annual conference of the Canadian Association Council of Nova Scotia Archives held in Halifax NS, 10-11 May. Available at: <https://www.slideshare.net/cleese6/records-continuum-model> Accessed 20 September 2017.

Standards Australia (SA). 1996. *Records management: Australian Standard AS4390-1996/ Standards Australia*. Homebush, N.S.W: Standards Australia.

Stephens, D. 1994. Records management in Australia (the world of records management) *Records management quarterly*.

Stiglitz, J. 2002. Transparency in Government. In: Islam, R. ed. *The right to tell: the role of the mass media in economic development*. Washington DC: World Bank. pp27-44.

Stones 2004. *Textbook on civil liberties and human rights*. Oxford: Oxford University Press.

Tanner, K. 2000. Survey research. In: Williamson, K. (ed). *Research methods for students and professionals: information management and systems*. Wagga Wagga, New South Wales: Charles Stuart University. pp. 71-91.

Tashakkori, A. and Teddlie, C. 1998. *Mixed methodology: combining qualitative and quantitative approaches*. Thousand Oaks, CA: Sage.

Tavakol, M. and Dennick, R. 2011. Making sense of Cronbach alphas. *International Journal of Medical Education* (2):53-55.

Teddlie, C. and Tashakkori, A. 2003. Major issues and controversies in the use of mixed methods in social and behavioural sciences. In: Tashakkori, A. and Teddlie, C. (eds). *Handbook of mixed methods in social and behavioural research*. Thousand Oaks, CA: Sage. pp. 3-5.

Teddlie, C. and Tashakkori, A. 2009. *Foundations of mixed methods research: integrating quantitative and qualitative approaches in social and behavioural research*. Thousand Oaks, CA: Sage.

Thurston, A. 1996. Records management in Africa: old problems, dynamic new solutions. *Records Management Journal* 6(3):187-199.

Thurston, A. 2012. Trustworthy records and open data. *The Journal of Community Informatics*. Available at: <http://ci-journal.net/index.php/ciej/article/view/951/952> Accessed 29 September 2017.

Torres, N. and Esquivel, L. 2011. Access to information training approaches for government officials. Paper commissioned by the Access to information program at the World Bank Institute (WBI). Available at: <http://www.palermo.edu/cele/pdf/noticias/AI-training-final.pdf> Accessed 30 September 2017.

Trochim, W. M. K. 2001. *Research methods knowledge base*. 2nd ed. Cincinnati: Atomic Dog Publishing.

Tsabedze, V., Mutula, S.M. and Jacobs, D. 2012. Records Management in the Government of Swaziland. *ESARBICA Journal* 31: 47-61.

Tshotlo, K. and Mnjama, N. 2010. Records management audit: the case of Gaborone City Council *ESARBICA Journal* 29:5–35.

Transparency International-Kenya. 2015. Comprehensive legislation on whistle blower protection in Kenya. Policy brief 1. Available at: <http://tikenya.org/wp-content/uploads/2017/06/policy-brief-no-1-2015-comprehensive-legislation-on-whistleblower-protection-in-kenya-1.pdf> Accessed 10 June 2017.

Udo-Akang, D. 2012. Theoretical constructs, concepts and applications. *American International Journal of Contemporary Research* 2(9):89-97.

Uganda. 2005. *Access to Information Act (ATIA)*. Kampala: Government Printer.

United Kingdom. (UK). 2003. Department of Constitutional Affairs, Model Action plan for preparing for the implementation of the freedom of information Act 2000. Available at: <http://www.dca.gov.uk/foi/map/modactplan.htm> Accessed 26 August 2016.

United Kingdom (UK). 2000. *Freedom of information Act*. London. The stationery office limited.

United Kingdom (UK). Department for Constitutional Affairs (DCA). 2002a. Section 45: lord Chancellor's code of practice on the discharge of public authorities' functions under part I of the freedom of information Act 2000, available at: <https://www.legislation.gov.uk/ukpga/2000/36/section/45> Accessed 13 June 2017.

United Kingdom (UK). Department for Constitutional Affairs (DCA). 2002b. Lord Chancellor's code of practice on the management of records under Section 46 of the freedom of information Act 2000, available at: <https://www.legislation.gov.uk/ukpga/2000/36/section/46> Accessed 25 April 2017.

United Kingdom (UK), Department of Constitutional Affairs (DCA), Model Action plan (MAP). 2003. Model Action plan for preparing for the implementation of the freedom of information Act 2000. Available at: <http://webarchive.nationalarchives.gov.uk/20061209034558/http://www.dca.gov.uk/foi/map/modactplan.htm> Accessed 26 August 2016.

United Kingdom (UK). Information Commissioner. 2005a. Freedom of information: the beginning of a new chapter in openness. Speech presented at the inaugural DCA/Constitution Unit lecture on Freedom of Information held in London, CBI conference center, 25 Jan.

Available at:

<http://webarchive.nationalarchives.gov.uk/20081105173614/http://www.dca.gov.uk/speeches/2005/lc250105.htm> Accessed 25 April 2017.

United Kingdom (UK). Information Commissioner Office (ICO). 2001. Model publication scheme. Available at:

<https://ico.org.uk/media/for-organisations/documents/1153/model-publication-scheme.pdf>

Accessed 10 September 2017.

United Kingdom (UK). The National Archives (TNA). 2002. *Requirements for electronic records management systems, metadata standard* London: The Stationery Office Limited.

United Kingdom (UK). The National Archives (TNA). 2003. *Records management Model action plan (MAP) for higher and further education organizations*. London: The stationery office limited.

United Kingdom (UK). The National Archives (TNA). 2004/05. *The second annual report and resource account of the work of the National Archives and the second report of the advisory council on National Records and Archives 2004-2005*. London: The Stationery Office Limited.

United Kingdom (UK). The National Archives (TNA). 2005. *Complying with the records management code: evaluation workbook and methodology, consultation draft*. London: The Stationery Office Limited.

United Kingdom (UK). House of Commons Constitutional Affairs Committee first report .2004/05. *Freedom of information Act 2000-progress towards implementation first report of session 2004-05*. Vol. 2. London: The Stationery Office Limited.

United States (US) Department of Energy. 2011. Identifying and protecting your vital records.

Available at

[http://energy.gov/sites/prod/files/IDENTIFY%20AND%20PROTECT%20YOUR%20VITAL%20RECORDS%20\(2\).pdf](http://energy.gov/sites/prod/files/IDENTIFY%20AND%20PROTECT%20YOUR%20VITAL%20RECORDS%20(2).pdf)- Accessed 16th July 2018.

University of British Columbia (UBC). n.d. The preservation of the integrity of electronic records. Available at: <http://www.interpares.org/UBCProject/intro.htm>

Accessed 25 September 2017.

University of Kwa Zulu Natal. (UKZN). 2007. Research Policy V: research ethics. Available: <https://policymanagementsystem.ukzn.ac.za/SearchforDocUser.aspx>

Accessed 25 February 2017.

United Nations (UN). 1992. *Strategic issues for electronic records management: towards open system interconnection*. New York: ACCIS.

United Nations General Assembly. (UNGA). 1946. Resolutions adopted by the General Assembly during its first session. Available at:
<http://www.worldlii.org/int/other/UNGA/1946/87.pdf> Accessed on 5 September 2016.

United Nations General Assembly. (UNGA). 1948. 183rd plenary meeting. International Bill of Human Rights: a Universal Declaration of Human Rights. Resolution 217 (III) (10 December 1948). Geneva: United Nations, 1948. 71–9. Available at:
<http://www.un-documents.net/a3r217.htm>
Accessed 12 June 2016.

United Nations. (UN). 1966. International Convention on Civil and Political Rights (ICCPR). Available at:
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>
Accessed 25 May 2017.

United Nations. (UN). 1998. Report of the special rapporteur on the right to seek and receive information, the media in countries of transition and in elections, and the impact of new information technologies, national security, and women and freedom of expression. Available at:
<http://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/Annual.aspx> Accessed 26 May 2017

United Nations. (UN). 1998. Marking fiftieth anniversary of the universal declaration of human rights, assembly notes need to overcome obstacles to their full enjoyment [Press release] 10 December 1998. Available at:
<http://www.un.org/press/en/1998/19981210.ga9533.html> Accessed on 2 September 2016.

United Nations Convention against Corruption. (UNCAC). 2003. General Assembly resolution 58/4, United Nations Convention against Corruption. Available at: <http://www.un-documents.net/a58r4.htm> Accessed on 17 August 2017.

United Nations. (UN). 2000. Report of the special rapporteur on access to information, criminal libel and defamation, the police and the criminal justice system, and new technologies. Available at:

https://digitallibrary.un.org/record/407209/files/E_CN.4_2000_63_Add.2-EN.pdf?version=1

Accessed 25 May 2017.

Upward, F. 2000. Modeling the continuum as a paradigm shift in recordkeeping and archiving process and beyond: a personal reflection. *Records Management Journal* 10(3):115-139.

Victoria Public Records Office, 2003. *Introduction to the Victorian electronic records strategy (VERS)*. Melbourne: Victoria Public Records office.

Vleugels, R. 2008. Overview of all 86 FOIA countries. Available at: <http://www.statewatch.org/news/2006/feb/foia-feb-2006.pdf> Accessed 25 May 2017.

Wacker, J. 1998. A definition of theory: research guidelines for different theory-building research methods in operations management. *Journal of Operations Management* 16(4):361–385.

Walliman, N. 2006. *Social research methods*. Thousand Oaks, CA: Sage.

Wamotsa, D. 2014. Implementation of the constitutional right of access to environmental information in Kenya. MA Thesis. Centre for Advanced Studies in Environmental Law and Policy. Nairobi: University of Nairobi.

Wamukoya, J. 1999. Improvement of public sector records in Ghana, the Gambia and Tanzania: lessons for Kenyan archivists. Paper Presented During the KNADS Biennial Seminar, Nairobi, 25-29 Oct.

Wamukoya, J. 2000. Records and archives as a basis for good government: implications and challenges for records managers and archivists in Africa. *Records Management Journal* 10(1):23-33.

Wamukoya, J. and Mutula, S. M. 2005. Capacity-building requirements for e-records management: the case in East and Southern Africa. *Records Management Journal* 15(2): 71-79.

Wamukoya, J. M. 2013. The role of records keeping and open government data Initiatives in fostering a critical development of open government policies and public services in Sub-Saharan Africa. *Mousaion* 30(2):117-127.

Wato, R. 2006. E-records readiness in the ESARBICA: challenges and the way forward. *ESARBICA Journal* 26: 125-134.

Welman, C., Kruger, F. and Mitchell, B. 2005. *Research methodology*. 3rd ed. Pretoria: Southern Book Publishers.

Wema, E. 2003. Problems of managing semi-active records in institutions of higher learning: the case of University of Dares salaam. *University of Dares salaam Library Journal* 5(11):46-56.

William, K., Burstein, F and McKemmish, S. 2000. The two major traditions of research. In: Williamson, K. (ed). *Research methods for students and professionals: information management and systems*. Wagga Wagga, New South Wales: Charles Stuart University. pp. 25-47.

Williams, M. 2003. Questionnaire design. In: M. Williams. (ed). *Making sense of social research*. London: Sage. pp. 104-124.

Zauszniewski, B.A. 2012. Methodological triangulation: an approach to understanding data. *Nurse Researcher* 20(2): 40-43.

Zohrabi, M. 2013. Mixed methods research: instruments validity, reliability and reporting findings. *Theory and Practice in Language Studies* 3(2): 254-262.

APPENDICES

Appendix 1: Questionnaire for Public Communication officers in government ministries

Dear Sir/Madam,

I am a PhD candidate in the Department of Information Studies programme, at the University of Kwa Zulu-Natal, South Africa. I am seeking your assistance in my research project.

As part of the degree requirement, I am conducting a study entitled “**Preparedness of public bodies for the implementation of the Access to information (ATI) Act (2016) in Kenya**”.

The study seeks to examine the state of readiness of government ministries for implementation of the Access to information (ATI) Act 2016. Specifically, the study is designed to collect data on the existence of ATI policies and action plans in government ministries; existence of resources (financial, human and physical) to facilitate access to information and the level of awareness of public officers of their ATI duties and responsibilities as provided in the Access to information (ATI) Act 2016.

Further, the study seeks to establish the systems and procedures in place in government ministries for receiving, processing and responding to ATI requests; systems and procedures for proactive disclosure as well as systems and procedures in place for monitoring ATI requests. The findings of the study will be shared with policy makers, information officers, senior officers in government in charge of access to information and the Ombudsman. It is hoped that the recommendations of the study will be used to guide the implementation of Access to information (ATI) Act 2016.

You have been identified as one of the study respondents. The purpose of writing is to request you to spare some time and fill the attached questionnaire. Please be assured that all the information provided will be kept confidential and will be used only for this study.

Please follow the instructions when filling it. I should be grateful if you would complete and return it by 31 January 2018. Should you have any queries about the study, please do not hesitate

to contact me at the Kenya National Archives and Documentation Service. E-mail:

██████████ Thank you in advance for your time and cooperation.

Yours Sincerely

Victor Kabata

Instructions for filling in the questionnaire

- a. Please tick appropriate answer(s) from the choices provided for each question.
- b. Use spaces provided to write your answers to the questions.
- c. Please do not leave blank spaces. If the question does not apply please indicate “N/A”
- d. In case of detailed answers, use a separate piece of paper and indicate the question number you are referring to.

Appendix 2: Interview Schedule for the Chairperson of the Commission on Administrative Justice (Ombudsman).

Dear respondent,

I am a PhD student at the University of KwaZulu-Natal, in the Information Studies Programme. I am carrying out a research as part of the requirements for the award of a doctorate degree (Information Studies). The title of my research topic is “Preparedness of public bodies for the implementation of the Access to Information ATI Act (2016) in Kenya”.

The purpose of the study is to investigate the capacity of public bodies in Kenya to implement the ATI Act 2016 with a view to providing an implementation roadmap. The study will gather data on leadership and political will for ATI implementation; training and awareness on ATI; systems, procedures and processes in place for ATI implementation and the current records management regime in public bodies.

I wish to kindly request you to set aside some time for an interview which will enable me obtain data that will address the research questions. The information you will provide will be kept in confidence and used only for the current study.

Should you have questions about the research please contact me on 217052682@ukzn.ac.za of my supervisor on garaba@ukzn.ac.za

Thank you in advance for your time and cooperation.

Yours Faithfully

Victor Kabata

Adapted from the Implementation Assessment Tool (IAT) Carter Centre, 2014.

Background Information

Date of Interview

Place of Interview.....

Leadership and Policy

1. In your view, does the Commission have the necessary resources to carry out its mandate as stipulated in the ATI Act 2016?

establish the following;

(Whether the commission has enough personnel, adequate budget).

2. Section 21 of the ATI Act mandates the Commission to undertake certain functions that relate to protection of personal data. What efforts has the Commission made in this regard?
3. What programme/plan of action is in place to facilitate implementation of the ATI Act 2016?
(Request for copies of ATI implementation plans, if any; Are there ATI project teams and are they evaluated).

Training and Awareness

4. The Act mandates Commission to create awareness of the Act. What programmes has the commission put into place to promote awareness on the provisions of the Act in public entities?

(Request for copies of training plan, video clips, and brochures)

Systems, processes and structures for ATI

5. What mechanisms has the commission put into place to ensure that public bodies adhere to the provisions of the ATI Act 2016? (Monitoring adherence to proactive disclosure).

Establish the following;

(Available systems for monitoring implementation, copies of evaluation reports on the use of the Act)

6. Has the Commission liaised with other stakeholders involved in the implementation of the ATI Act 2016?

Current records management regime

7. Section 21 of the ATI Act 2016 requires public bodies to keep records that are authentic, have integrity, reliable and usable. What efforts has the Commission made towards ensuring that public entities adhere to this requirement?

Appendix 3: Interview schedule for the Director of Administration, Ministry of Information and Communication Technology

Dear respondent,

I am a PhD student at the University of KwaZulu-Natal, in the Information Studies Programme. I am carrying out a research as part of the requirements for the award of a doctorate degree (Information Studies). The title of my research topic is “Preparedness of public bodies for the implementation of the Access to Information ATI Act (2016) in Kenya”.

The purpose of the study is to investigate the capacity of public bodies in Kenya to implement the ATI Act 2016 with a view to providing an implementation roadmap. The study will gather data on leadership and political will for ATI implementation; training and awareness on ATI; systems, procedures and processes in place for ATI implementation and the current records management regime in public bodies.

I wish to kindly request you to set aside some time for an interview which will enable me obtain data that will address the research questions. The information you will provide will be kept in confidence and used only for the current study.

Should you have questions about the research please contact me on 217052682@ukzn.ac.za of my supervisor on garaba@ukzn.ac.za

Thank you in advance for your time and cooperation.

Yours Faithfully

Background Information

Date of Interview

Place of Interview.....

Leadership and Policy

1. Is there a national information policy that takes into account ATI Act and that guides government-wide management of information?
(copies of the ATI policy).

(Request for copies of the policy)
2. What formal Institutional structures are in place for ATI implementation in Government ministries?
(Establish whether an ATI implementation unit has been set up).
3. What resources has the Government set aside for ATI implementation?
(Human and financial resources; establish whether there are information champions in public entities; evidence of funds set aside for implementation of ATI)
4. Have there been any ATI awareness raising campaigns targeting public officers on the provisions of the Act?

Establish whether ATI information guides are easily accessible for reference by public official.

(Request for copies of training plans or programmes)

5. What efforts have been put in place to create a conducive legal framework for implementation of the ATI Act?

(Progress towards formulation of ATI regulations, amendment of supplementary laws related to ATI; amendment of clauses laws and in public service manuals that restrict openness; does the data protection bill have provisions that are consistent with ATI).

Appendix 4: Interview schedule for the Director of Public Communication

Background Information

Dear respondent,

I am a PhD student at the University of KwaZulu-Natal, in the Information Studies Programme. I am carrying out a research as part of the requirements for the award of a doctorate degree (Information Studies). The title of my research topic is “Preparedness of public bodies for the implementation of the Access to Information ATI Act (2016) in Kenya”.

The purpose of the study is to investigate the capacity of public bodies in Kenya to implement the ATI Act 2016 with a view to providing an implementation roadmap. The study will gather data on leadership and political will for ATI implementation; training and awareness on ATI; systems, procedures and processes in place for ATI implementation and the current records management regime in public bodies.

I wish to kindly request you to set aside some time for an interview, which will enable me, obtain data that will address the research questions. The information you will provide will be kept in confidence and used only for the current study.

Should you have questions about the research please contact me on 217052682@ukzn.ac.za of my supervisor on garaba@ukzn.ac.za

Thank you in advance for your time and cooperation.

Yours Faithfully

Victor Kabata

Background Information

Date of Interview

Place of Interview.....

Leadership and policy

1. Is the current number of Public Communication Officers in ministries/ departments adequate to handle information requests in the wake of the passing of the ATI law?

(Request for copies of the current staff establishment of information officers government wide).

Training and awareness

2. Have Public Communication Officers been sensitized on their duties as stipulated in the ATI Act 2016?
3. Has your office liaised with the Ombudsman concerning ATI duties being undertaken by Public Communication Officers?

Appendix 5: Interview schedule for the Director, Kenya National Archives and Documentation Service

Dear respondent,

I am a PhD student at the University of KwaZulu-Natal, in the Information Studies Programme. I am carrying out a research as part of the requirements for the award of a doctorate degree (Information Studies). The title of my research topic is “Preparedness of public bodies for the implementation of the Access to Information ATI Act (2016) in Kenya”.

The purpose of the study is to investigate the capacity of public bodies in Kenya to implement the ATI Act 2016 with a view to providing an implementation roadmap. The study will gather data on leadership and political will for ATI implementation; training and awareness on ATI; systems, procedures and processes in place for ATI implementation and the current records management regime in public bodies.

I wish to kindly request you to set aside some time for an interview, which will enable me, obtain data that will address the research questions. The information you will provide will be kept in confidence and used only for the current study.

Should you have questions about the research please contact me on 217052682@ukzn.ac.za of my supervisor on garaba@ukzn.ac.za

Thank you in advance for your time and cooperation.

Yours Faithfully

Victor Kabata

(Adapted from the Implementation Assessment Tool (IAT) Carter Centre, 2014).

Background Information

Date of Interview

Place of Interview.....

Leadership and Policy

1. What efforts are in place to harmonize the functions of the Department of records management with those of the National Archives to facilitate implementation of the ATI Act 2016?
2. What efforts have been made to review the records management policy framework in Kenya?
3. As the agency that is responsible for government-wide records management functions and duties. Do you have the resources needed to fulfill your mandate?
4. What efforts have been made to review the Public Archives and Documentation Service Act to facilitate implementation of the access to information legislation?

(Provision on management of e-records; ATI).

Training and awareness

5. What measures has the Department taken to create awareness of basic records management procedures among public officials?

Systems and procedures for ATI

6. Has the National Archives developed a code of practice for public agencies on management of records under the ATI Act 2016?

(Request for copies of the code of practice if any)

Current records management regime

7. What other measures has the National Archives put into place to ensure that public entities keep records that facilitate right of access to information as provided by Section 21 of the ATI Act?

8. Have there been any consultations between the National Archives and the Ombudsman on the implementation of the Act?

**Appendix 6: Interview schedule for the Director of Administration in a
Ministry/Department**

Dear respondent,

I am a PhD student at the University of KwaZulu-Natal, in the Information Studies Programme. I am carrying out a research as part of the requirements for the award of a doctorate degree (Information Studies). The title of my research topic is “Preparedness of public bodies for the implementation of the Access to Information ATI Act (2016) in Kenya”.

The purpose of the study is to investigate the capacity of public bodies in Kenya to implement the ATI Act 2016 with a view to providing an implementation roadmap. The study will gather data on leadership and political will for ATI implementation; training and awareness on ATI; systems, procedures and processes in place for ATI implementation and the current records management regime in public bodies.

I wish to kindly request you to set aside some time for an interview which will enable me obtain data that will address the research questions. The information you will provide will be kept in confidence and used only for the current study.

Should you have questions about the research please contact me on 217052682@ukzn.ac.za of my supervisor on garaba@ukzn.ac.za

Thank you in advance for your time and cooperation.

Yours Faithfully

Victor Kabata

(Adapted from the Implementation Assessment Tool (IAT) Carter Centre, 2014).

Background Information

Date of Interview

Place of Interview.....

Leadership and Policy

1. What efforts has this ministry/department taken to prioritize the aspect of access to information?
(Request for copy of the strategic plan).
2. What policy framework is in place to facilitate sound records management and access to information in this Ministry?

(Request for copy of the policy).

3. As a leader in this Ministry/ Department, have you been involved in the creation, adoption or review of ATI and records management policy?

(establish the extent of involvement).

Training and awareness

4. Have all public officials in this ministry/Department been made aware of basic records management procedures?

Systems processes and structures

5. What administrative mechanisms has this ministry/department put into place to facilitate adherence to the ATI Act?

(Establish available space, personnel and inclusion of records management and ATI expenditure in the ministry budget).

Appendix 7: Questionnaire for Public Communication officers in government ministries

Dear Sir/Madam,

I am a PhD candidate in the Department of Information Studies programme, at the University of Kwa Zulu-Natal, South Africa. I am seeking your assistance in my research project.

As part of the degree requirement, I am conducting a study entitled “**Preparedness of public bodies for the implementation of the Access to information (ATI) Act (2016) in Kenya**”.

The study seeks to examine the state of readiness of government ministries for implementation of the Access to information (ATI) Act 2016. Specifically, the study is designed to collect data on the existence of ATI policies and action plans in government ministries; existence of resources (financial, human and physical) to facilitate access to information and the level of awareness of public officers of their ATI duties and responsibilities as provided in the Access to information (ATI) Act 2016.

Further, the study seeks to establish the systems and procedures in place in government ministries for receiving, processing and responding to ATI requests; systems and procedures for proactive disclosure as well as systems and procedures in place for monitoring ATI requests. The findings of the study will be shared with policy makers, information officers, senior officers in government in charge of access to information and the Ombudsman. It is hoped that the recommendations of the study will be used to guide the implementation of Access to information (ATI) Act 2016.

You have been identified as one of the study respondents. The purpose of writing is to request you to spare some time and fill the attached questionnaire. Please be assured that all the information provided will be kept confidential and will be used only for this study.

Please follow the instructions when filling it. I should be grateful if you would complete and return it as soon as possible. Should you have any queries about the study, please do not hesitate to contact me at the Kenya National Archives and Documentation Service. Cell phone:

██████████. E-mail: ██████████

Thank you in advance for your time and cooperation.

Yours Sincerely

Victor Kabata

Instructions for filling in the questionnaire

- a. Please tick appropriate answer(s) from the choices provided for each question.
- b. Use spaces provided to write your answers to the questions.
- c. Please do not leave blank spaces. If the question does not apply please indicate “N/A”
 - c. In case of detailed answers, use a separate piece of paper and indicate the question number you are referring to.

Adapted from the Access to Information Implementation Assessment Tool (Carter Centre 2014)

Background Information

Date

Place

1. What are your roles as a Public Communications officer?

.....
.....
.....

2. What are your professional qualifications?

- a. Masters []
- b. Degree []
- c. Diploma []
- d. Certificate []
- e. Others, please specify []

3 Have you specifically been employed to work on Access to information?

- a. Yes []
- b. No refer to question 4 []

4. What ATI responsibilities have been added to your existing duties?

.....
.....
.....
.....
.....
.....

5. Do you possess any archives or records management professional background?

- a. Yes [] b. No []

6. If yes, please specify

- a. Degree []
b. Diploma []
c. Certificate []
d. Seminar/ workshop certificate []

Section 1: Leadership and Policy

7. Does the Ministry/Department strategic plan incorporate Access to information (ATI) including principles of access to information in its goals, objectives, and/or outcomes?

- a. Yes [] b. No []

8. Does your Ministry/Department have an ATI policy?

- a. Yes [] b. No []

9. If yes, has the Ministry/Department developed an action plan for ATI Act implementation?

- a. Yes [] b. No []

10. If yes, when was the action plan developed?

- a. Before to enactment of the ATI Act []
b. After enactment of the ATI Act []
c. Others, please specify

.....
.....

.....
.....
11. Does the Ministry/Department official with authority over policy actively participate in the creation, adoption, or review of ATI policy?

- a. Yes ☐ b. No ☐

12. If yes, how often does agency official with authority over policy participate in meetings with public officers responsible for ATI activities?

- a. Twice a year ☐
b. Once a year ☐
c. Rarely or never ☐
d. others, please specify

.....
.....
.....
.....
13. Has there been senior management support for ATI implementation in your Ministry/Department?

- a. Yes ☐ b. No ☐

14. If yes, in what specific areas

- a. Handling difficult requests ☐
b. Making decisions on exemptions ☐
c. Others, please specify

.....
.....
.....
.....

.....
.....

Section 2: Resources

15. Does the public officer(s) responsible for ATI functions and duties have regular access to necessary equipment?

- a. Yes ☐ b. Has access but not regular ☐ c. Has no access ☐

16. Which of the following physical resources are available for ATI functions?

- a. computers with internet ☐
b. scanners ☐
c. photocopy machines ☐
d. others, please specify

.....
.....
.....
.....

17. Has your Ministry/Department specifically allocated financial resources necessary for fulfilling its ATI functions and duties?

- a. Yes ☐ b. No ☐

18. If yes, state if the funds are adequate and give an estimate of funds allocated for ATI activities in a given financial year

.....
.....
.....

19. Is there a designated space (physical or virtual) for receiving and responding to requests?

a. Yes [] b. No []

20. If yes, is the space adequate?

a. Yes [] b. No []

21. Has your Ministry/Department established space (physical or virtual) for public viewing of proactively disclosed information?

a. Yes [] b. No []

b.

22. If yes, is the space adequate?

a. Yes [] b. No []

23. Has the Ministry/Department deployed specific staff to handle ATI requests?

a. Yes [] b. No []

24. If yes, what is the total number of full time staff devoted to handling requests and are they sufficient?

.....
.....
.....
.....

25. Has one or more public official been formally tasked/appointed responsible for proactive disclosure functions and duties?

- a. One or more public official has been formally tasked/appointed responsible for proactive disclosure functions and duties [☐]
- b. One or more public official has been informally tasked/appointed responsible for proactive disclosure functions and duties [☐]
- a. There is no specific tasking of proactive disclosure functions and duties [☐]

Section 3: Training and Awareness

26. As Public Communication officer in this Ministry/ Department, what is your level of awareness of your roles and responsibilities in providing information as provided by the ATI Act 2016?

Please tick one box that describes your level of awareness.

Fully aware	Slightly aware	Neither/nor	Slightly unaware	Fully unaware
☐	☐	☐	☐	☐

27. Does your Ministry/Department have an ATI implementation training plan?

- a. Yes [☐] b. No [☐]

28. If yes, what form of ATI training does the plan provide?

- a. ATI Induction courses [☐]
- b. ATI refresher courses [☐]
- c. Future courses [☐]
- d. ATI emergency course triggered by changes in law/policy [☐]

29. Has your Ministry/Department conducted ATI training /awareness?

- a. Yes [] b. No []

30. If yes, when was the training conducted?

- a. Before the enactment of the ATI Act 2016 []
b. After the enactment of the ATI Act 2016 []
c. Others, please specify

.....
.....
.....
.....

31. Which categories of staff were targeted by the ATI training?

- a. Public Communication officers []
b. Registry personnel []
c. Management []
d. Mid-level staff []
e. Low cadre staff []
f. Any other, please specify

.....
.....
.....
.....

32. What methods were used to deliver the training? (Tick all that apply)

- a. Face to face –individual []
b. Face to face-group []
c. Group briefings/ seminars []
d. E-learning []
e. Placing guidelines on the web []
f. Others, please specify

.....
.....
.....
.....

33. In your view, was the chosen ATI training delivery method was effective?

.....
.....
.....
.....
.....

34. What was the duration of the training? Tick one

- a. Half day or less ☐
- b. One day ☐
- c. 2-3 days ☐
- d. 4-5 days ☐
- e. More than 5 days ☐
- f. Don't know ☐

35. What was the caliber of the trainers?

- a. Trainers from within the Ministry ☐
- b. External consultants ☐
- c. Others, please specify

.....
.....
.....
.....

36. Did the ATI training meet the staff ATI training needs?

- a. Yes ☐ b. No refer to question 40 ☐

37. Which of the following areas were covered in the training?

- a) ATI duties to be undertaken by public officers []
- b) Practical aspects of handling ATI requests []
- c) Nature of records in the ministry/department []
- d) Importance and scope of the Kenya's ATI Act 2016 []
- e) Procedures for accessing information []
- f) How to maintain and access records efficiently []
- g) Category of information that can be proactively disclosed []
- h) Scope of the whistle blowers protection []
- i) Others, please specify

.....
.....
.....
.....
.....
.....
.....

39. In your view, what other topics do you think the training should have focused on?

.....
.....
.....
.....
.....
.....
.....

40. Is there anything else that you think could be done to improve staff awareness or knowledge of ATI?

.....
.....

.....
.....
.....
.....
41. Is the public officer (s) responsible for proactive disclosure trained to comply with their duties?

a. The public officer (s) responsible for proactive disclosure receives specialized training in order to effectively do their job []

b. The public officer (s) responsible for proactive disclosure receives some specialized training but not sufficient in order to effectively do their job []

c. The public officer (s) responsible for proactive disclosure does not receive specialized training []

Section 4: Rules

42. Has your Ministry/Department created or adopted specific guidelines on ATI?

a. Yes [] b. No []

43. How often are the ATI guidelines reviewed by the Ministry official with authority over policy?

a. ATI guidelines are reviewed at least every two years []

b. ATI guidelines are reviewed periodically []

c. ATI guidelines have not been reviewed []

d. Not applicable, the guidelines are less than two years old []

44. Which of the following guidelines have been created or adopted by your Ministry/ Department? (Tick all that apply).

a. Guidelines for receiving requests []

b. Guidelines for processing requests []

c. Guidelines for responding to requests []

- d. Guidelines for internal review of requests []
- e. Guidelines for proactive disclosure []

Section 4: Systems and procedures

45. What system does your Ministry/department use to receive ATI requests?

- a. Register []
- b. Form []
- c. Electronic system []

46. Has your preferred system proved sufficient?

Explain

.....

.....

.....

.....

.....

47. Indicate the format in which your system allows requests to be made?

- a. Written []
- b. Oral []
- c. E-mail []
- d. social media []

48. Which of the following statements indicates a function that can be performed by the system created or adopted by your Ministry/ Department?

- a. logging and tracking requests and responses a. Yes [] b. No []
- b. Processing requests a. Yes [] b. No []

c. Transferring requests	a. Yes	☐	b. No	☐
d. Issuing and serving responses	a. Yes	☐	b. No	☐
e. Proactively disclose documents	a. Yes	☐	b. No	☐
f. Capture statistics of ATI requests	a. Yes	☐	b. No	☐

49. Does the Ministry/Department internal oversight body/auditing mechanism take into account ATI functions and duties?

- a. Yes ☐ b. No ☐

50. Does the Ministry/Department performance review take into account ATI?

- a. The Ministry's performance review takes into account ATI for all officer(s) who handle and manage information ☐
- b. The Ministry's performance review takes into account ATI for officer(s) tasked with specific ATI functions and duties ☐
- c. The agency's performance review does not take into account ATI ☐

Thank you very much for your time.

Please return the completed questionnaire to your supervisor for collection or to

Mr. Victor Kabata

P.O. Box 22698-00100, Nairobi, Kenya

Telephone: XXXXXXXXXX, E-mail: XXXXXXXXXX

Appendix 8: Observation checklist for institutional capacity for ATI

1. Background Information

Name of Ministry/Department

Date of observation.....

2. Leadership and policy

ATI Policy Yes [] No []

ATI procedures Yes [] No []

ATI Implementation plans Yes [] No []

ATI Budget Yes [] No []

Strategic plan Yes [] No []

Resources

Physical space Yes [] No []

Equipment for processing requests Yes [] No []

Personnel resources

Scheme of service for information officers Yes [] No []

Staff establishment (list of Public Communication Officers

Financial resources (Ministry/Department

budget).....

3. Training and Awareness

ATI Training plan Yes [] No []

ATI Training programme Yes [] No []

4. Systems and procedures for ATI

System for receiving requests Yes [] No []

Register

Form

Electronic software Yes [] No []

Guidelines for receiving ATI requests Yes [] No []

.....

...

Systems for processing requests Yes [] No []...

.....

.....

Guidelines for responding to ATI Yes [] No []

requests.....

.....

Guidelines for internal review of ATI requests Yes [] No []

.....

.....

Guidelines for transfer of Yes [] No []

]requests.....

.....

.....

....

Systems for monitoring ATI requests Yes [] No []

.....

.....

Systems for proactive disclosure Yes [] No [].

.....
.....
....

Publication scheme Yes [] No []

.....
.....
.....

Guidelines for proactive disclosure Yes [] No []

.....
.....
.....
.....

Appendix 9: Questionnaire for records Managers in government ministries

Dear Sir/Madam,

I am a PhD candidate in the Department of Information Studies programme, at the University of Kwa Zulu-Natal, South Africa. I am seeking your assistance in my research project. As part of the degree requirement, I am conducting a study entitled “**Preparedness of public bodies for the implementation of the Access to information (ATI) Act (2016) in Kenya**”.

The study seeks to examine current recordkeeping practices in government ministries in Kenya in order to establish the extent to which they facilitate or undermine implementation of the Access to information (ATI) Act 2016. The study is designed to collect data on the strategies used to manage public records during their entire life-cycle.

In essence, the study seeks to establish the extent to which these strategies facilitate or undermine access to information. The findings of the study will be shared with policy makers, registry staff, senior officers in government ministries in charge of records management and Kenya National Archives and Documentation Service. It is hoped that the recommendations of the study will be used to improve recordkeeping practices in government ministries.

You have been identified as one of the study respondents. The purpose of writing is to request you to spare some time and fill the attached questionnaire. Please be assured that all the information provided will be kept confidential and will be used only for this study.

Please follow the instructions when filling it. I should be grateful if you would complete and return it by 31 January 2018. Should you have any queries about the study, please do not hesitate to contact me at the Kenya National Archives and Documentation Service,

Cell phone: [REDACTED]. E-mail: [REDACTED]

Thank you in advance for your time and cooperation.

Yours Sincerely,

Victor Kabata

Instructions for filling in the questionnaire

- a) Please tick appropriate answer(s) from the choices provided for each question
- b) Use spaces provided to write your answers to the questions.
- c) Please do not leave blank spaces. If the question does not apply, please indicate
“N/A”
- d) In case of detailed answers, use a separate piece of paper and indicate the specific question you are referring to using the number.

Adapted from the Carter Centre Access to Information, Implementation Assessment Tool (2014).

Section 1: Leadership and policy

1. Does this ministry have a written records management policy for managing paper and electronic records?

a. yes ☐ b. no, refer to question 5 ☐

2. If yes, which of the following aspects are covered in your records management policy?

(Please tick all the applicable options)

a. Makes reference to provisions of the Public Archives Act ☐

b. Makes reference to the Access to information Act 2016 ☐

c. makes reference to records management best practices ☐

d. Provides guidelines for accessing public records ☐

g. indicates responsibilities for records management staff ☐

I. other, please specify

.....

.....
.....
.....
.....

3. Does the Ministry/Department official with authority over policy actively participate in creation, adoption, or review of records management policy?

- a. Yes ☐ b. No ☐

4. If yes, how often do they participate?

- a. Twice a year ☐
b. Once a year ☐
c. Rarely or never ☐

5. Does this Ministry/Department have a written registry procedures manual?

- a. Yes ☐ b. No, refer to question 7 ☐

6. If yes, which of the following aspects are covered in your registry procedure manual? (Please tick all the applicable options)

- a. outline procedures and practices for records from creation to disposition ☐
b. procedures for ensuring records security ☐
c. procedures for accessing records ☐
d. procedures for ensuring records retrieval efficiency ☐
e. procedures for preservation of records with long term value ☐
f. procedures for disposal of records ☐
g. Procedures for dealing with an access to information request ☐
h. other, please specify

.....
.....
.....
.....
.....

7. Which of the following do you currently refer to in managing records (Please tick all the applicable options?)

- a. Government of Kenya records management procedures manual, 2010

b. Precedent ☐

c. Registry supervisor ☐

d. Own initiative ☐

e. Colleagues ☐

f. other, please specify

.....

.....

.....

.....

8. Is there a budgetary allocation for records management activities in this Ministry/Department?

a. Yes ☐ b. No, refer to question 10 ☐

9. If yes, which of the following statements indicate the state of registry funding in your Ministry/ Department?

a. registry funding adequate ☐

b. increased over the last five years ☐

c. decreased over the last five years ☐

d. status quo remained the same ☐

e. other, please specify

.....

.....

.....

.....

.....

...

10. Do you experience particular problems due to the current state of registry funding?

a. Yes ☐ b. No ☐

11. If yes, which of the following problems do you encounter due to the current state of registry funding? (Please tick all the applicable options)

a. inability to purchase appropriate storage equipment ☐

- b. inability to purchase sufficient supplies []
- c. inability to educate and train staff []
- d. inability to provide adequate registry services []
- e. other, please specify

.....

.....

.....

.....

.....

Section 2: Training and awareness

12. Which of the following indicates your highest level of professional education and training in records management? (Please tick all the applicable options)

- a. Masters []
- b. Degree []
- c. Higher diploma []
- d. Diploma []
- e. Certificate []

13. Have you attended any records management course run by your Ministry /Department in the last five years?

- a. Yes [] b. No []

14. If yes, please indicate the year, type of records management course and the institution that conducted the course

Year	Nature of records Management Course	Institution running the course
2017		
2016		
2015		
2014		
2013		

15. Which of the following best indicates your information management training needs?

- a. Managing paper records in a continuum of care []
- b. Managing electronic records in a continuum of care []
- c. Handling information requests []
- d. User needs analysis []
- e. Others, please specify

.....

.....

.....

.....

.....

Section 3: Systems and procedures

3.1 Records creation

16. Has this Ministry/ Department created or adopted a system for creating and capturing records?

- a. Yes [] b. No []

17. If yes, do you have a list of activities that constitute the basis for records creation?

- a. Yes [] b. No []

18. Which of the following explains the criteria you use to create files? (Please tick all the applicable options)

- a. Precedent (established procedures) []
- b. Colleagues advice []
- c. Registry supervisor instructions advice []
- d. Instructions in the Government of Kenya records management manual 2010 []
- e. Own initiative []
- f. Other, please specify

.....

.....

.....

3.2 Records Access and retrieval

19. Has your Ministry/ Department created or adopted a system to retrieve and access electronic records?

- a. Yes [] b. No []

20. If yes, what aspects of retrieval and access of electronic records are included in the system? (Please tick where appropriate).

- a. a classification structure []
b. Naming conventions for records in shared drives []
c. Location of systems holding electronic records []

3.4 Records appraisal and retention scheduling

21. Do you conduct records appraisal?

- a. Yes [] b. No []

22. If yes, which of the following statements explains why you undertake records appraisal?

- a. Basis for retention scheduling Yes [] No [] Uncertain []
b. Establish records archival value Yes [] No [] Uncertain []
c. Meet records and archives legislation requirements Yes [] No [] Uncertain []
d. Enhance records access and use Yes [] No [] Uncertain []
e. Enhance records preservation Yes [] No [] Uncertain []
f. Remove inactive records backlog to ease access to information Yes [] No [] Uncertain []
g. Other, please specify

.....
.....
.....

23. Does your Ministry/ Department have a records retention and disposal schedule?

- a. Yes [] b. No []

24. Do you monitor to ensure the developed schedules are implemented?

- a. Yes [] b. No []

25. If yes, which of the following statements explains why you monitor and ensure the implementation of retention schedules once developed? (Please tick all the applicable options)

- a. To confirm that the retention periods are realistic []
b. Ensure removal of valueless records []
c. Add new records to the schedule []
d. To decongest records storage areas []
e. Others, please specify

.....
.....
.....
.....

3.5 Records disposition

26. Does your Ministry /Department have a records disposition programme?

- a. Yes [] b. No []

27. If yes, which of the following statements indicates the nature of your records disposition programme? (Please tick all the applicable options)

- a. Transfer to archives []
b. Physical destruction of records []
c. Conversion to another medium []

d. Other, please specify

.....
.....
.....

28. Which of the following statements indicates the purpose of disposing records in your ministry? (Please tick all the applicable options)

- a. To preserve records of enduring value []
- b. To create room for active records []
- c. To ease the backlog of closed records in the records storage areas []
- d. Facilitate multiple access to information through migration to different medium []
- e. Others, please specify

.....
.....
.....
.....

3.6 Disaster and vital records management

29. Does your Ministry/Department have an in-house vital records management programme?

- a. Yes [] b. No []

30. If yes, which of the following statements explains why your Ministry/ Department has a vital records programme? (Please tick all the applicable options)

- a. Identify potential hazards []
- b. Identify vital records []
- c. Develop protection measures []
- d. Develop appropriate vital records storage facilities []
- e. Prevent loss of vital information []
- f. Audit and test programme procedures []
- g. Others, please specify

.....
.....

31. Which of the following methods do you use for vital records protection? (Please tick all the applicable options)

- a. Offsite storage []
- b. Duplication []
- c. Microfilming []
- d. Digitization []
- e. Others, please specify

.....
.....

32. Does your Ministry/ Department have a fire protection system?

- a. Yes [] b. No []

33. Have you received training on fire-fighting techniques?

- a. Yes [] b. No []

34. Does your Ministry/ Department have a written disaster preparedness plan?

- a. Yes [] b. No []

35. If yes, which of the following statements explains the purpose of your disaster management plan? (Please tick all the applicable options)

- a. Minimize disruption of normal business []
- b. Prevents further escalation of the disruption []
- c. Minimize economic impact of the disaster []
- d. Train personnel on emergency procedures []
- e. Salvage records []
- f. Others, please specify

.....
.....
.....

3.7 Management of e-records

36. Has your Ministry/Department created or adopted a system for managing electronic records?

- a. Yes [] b. No []

37. If yes, which aspects of electronic records management does the system cover?

- a. Creation []
b. survey and inventory []
c. organization []
d. security rights and access permissions []
e. retention and disposal []

38. Which of the following information is captured when creating electronic records?

- a. Content Yes [] No [] Uncertain []
b. Structure Yes [] No [] Uncertain []
c. Context Yes [] No [] Uncertain []

Section 4: Access to information and public records

39. Do you face any problems in providing access to public records?

- a. Yes [] b. No []

40. If yes, which of the following problems do you face in providing access to public records? (Please tick the applicable options)

- a. Registry staff not understanding user needs []
b. Limited knowledge of registry operations []
c. Registry staff lacking training []
d. Action officers retaining files []
e. Bulky files []

- f. Torn and dusty files []
- g. Poor registry layout []
- h. Mix-up of active and inactive files []
- i. Other, please specify

.....

.....

Thank you very much for your time.

Please return the completed questionnaire to your supervisor for collection or to

Mr. Victor Kabata

P.O. Box 22698-00100, Nairobi, Kenya

Telephone: [REDACTED], E-mail [REDACTED]

Appendix 10: Questionnaire for registry clerks in government ministries

Dear Sir/Madam,

I am a PhD candidate in the Department of Information Studies programme, at the University of Kwa Zulu-Natal, South Africa. I am seeking your assistance in my research project. As part of the degree requirement, I am conducting a study entitled “**Preparedness of public bodies for the implementation of the Access to information (ATI) Act (2016) in Kenya**”.

The study seeks to examine current recordkeeping practices in government ministries in Kenya in order to establish the extent to which they facilitate or undermine implementation of the Access to information (ATI) Act 2016. The study is designed to collect data on the strategies used to manage public records during their entire life-cycle.

In essence, the study seeks to establish the extent to which these strategies facilitate or undermine access to information. The findings of the study will be shared with policy makers, registry staff, senior officers in government ministries in charge of records management and Kenya National Archives and Documentation Service. It is hoped that the recommendations of the study will be used to improve recordkeeping practices in government ministries.

You have been identified as one of the study respondents. The purpose of writing is to request you to spare some time and fill the attached questionnaire. Please be assured that all the information provided will be kept confidential and will be used only for this study.

Please follow the instructions when filling it. I should be grateful if you would complete and return it by 31 January 2018. Should you have any queries about the study, please do not hesitate to contact me at the Kenya National Archives and Documentation Service,

Cell phone: [REDACTED]. E-mail: [REDACTED]

Thank you in advance for your time and cooperation.

Yours Sincerely,

Victor Kabata

Instructions for filling in the questionnaire

- a) Please tick appropriate answer(s) from the choices provided for each question
- c) Please do not leave blank spaces. If the question does not apply please indicate
“N/A”

Adapted from the Carter Centre Access to Information, Implementation Assessment Tool (2014).

Section 1

Mail Management and File Classification

1. Which of the following components of a mail management programme are available in your ministry/ department registry?
 - a) Incoming mail register Yes [] No []
 - b) Outgoing mail register Yes [] No []
 - c) Folio numbering Yes [] No []
 - d) Cross referencing Yes [] No []

2. Does your ministry/ department registry have a file classification scheme?
 - a) Yes [] b) No []

3. If, yes to question 2 above, is the physical arrangement of the files based on the classification scheme?
 - a) Yes [] b) No []

4. If, yes to question 2 above, what is the status of the file classification scheme?
 - a) Updated Yes [] No []
 - b) Automated Yes [] No []
 - c) Torn Yes [] No []

Records access and use

5. Which of the following file tracking tools are used in your ministry/department registry?
 - a) File movement card Yes [] No []
 - b) File movement register Yes [] No []
 - c) File grid Yes [] No []
 - d) Bring up diary Yes [] No []

- e) File transfer form Yes [] No []
- f) File tracking software Yes [] No []

Records storage and use

6. Which of the following represent the status of records storage space in your Ministry/ Department?

Current records

- a) Adequate [] inadequate [] No space []

Semi-current records

- b) Adequate [] inadequate [] No space []

Non-current records

- c) Adequate [] inadequate [] No space []

7. Which of the following records storage equipment is used for storage of records in your Ministry/ Department?

- a) Mobile shelves Yes [] No []
- b) Wooden shelves Yes [] No []
- c) File cabinets Yes [] No []
- d) Metal racks Yes [] No []
- e) Cup boards Yes [] No []
- f) Cartons Yes [] No []

8. Which of the following statements represents the state of files in your Ministry/ Department ?

- a) Well-arranged Yes [] No []

- b) Disorganized Yes [] No []

- c) Dusty Yes [] No []

d) Torn files Yes [] No []

e) Bulky files Yes [] No []

f) Missing folios Yes [] No []

9. Which of the following statements represents the physical condition of the records storage area in your Ministry/ Department

a) Well ventilated Yes [] No []

b) Air conditioner Yes [] No []

c) Well lit Yes [] No []

d) Curtains and blinds Yes [] No []

e) incandescent lights Yes [] No []

f) Florescent lights Yes [] No []

10. Which of the following hazards are records in your Ministry/Department exposed to?

a) Termites Yes [] No []

b) Booklice Yes [] No []

c) Bookworms Yes [] No []

d) Rats Yes [] No []

e) Cockroaches Yes [] No []

f) Water Yes [] No []

g) Acid Yes [] No []

11. Do you regulate and record the humidity levels in the of the records storage area?

- a) Humidity regulation Yes [] No []
- b) Use of humidity indicator strips Yes [] No []
- c) Use of hygrometer Yes [] No []

12. Do you regulate and record the temperature level in the records storage area?

- a) Temperature regulation Yes [] No []
- b) Use of Thermometer Yes [] No []

Records survey

13 .Do you conduct a records inventory?

- a. Yes [] b. No []

14. Which of the following information do you include in the records inventory checklist when conducting a records inventory?

- a) Records format Yes [] No []
- b) Records series Yes [] No []
- c) Volume of records Yes [] No []

Storage of e-records

Which of the following storage devices do you use to store electronic records?

- a) Hard disks Yes [] No []
- b) Flash disks Yes [] No []
- c) Compact disk Yes [] No []
- d) DVD Yes [] No []
- e) Diskettes Yes [] No []

Does your Ministry/ Department have back up facilities for e-records?

- a) Yes [] b) No []

Records preservation

Which of the following records preservation strategies is used to preserve records in your Ministry/ Department?

- a) Migration Yes [] No []
- b) Restoration Yes [] No []
- c) Printing e-records to paper Yes [] No []
- d) Transfer to an in-house archive Yes [] No []

Thank you very much for your time.

Please return the completed questionnaire to your supervisor for collection or to

Mr. Victor Kabata

P.O. Box 22698-00100, Nairobi, Kenya

Telephone: [REDACTED], E-mail: [v](#) [REDACTED]

Appendix 11: Observation checklist for current records management practices

1. Background information

Ministry/Department

Contact officer.....

Date of observation

2. Records management Policy Yes [] No []

.....

.....

3. Records management procedures Yes [] No []

.....

4. Funds allocated for records management Yes [] No []

.....

.....

5. Mail management programme

Incoming mail register Yes [] No []

.....

Outgoing mail register Yes [] No []

.....

Folio numbering Yes [] No []

.....

Cross referencing Yes [] No []

.....

6. File index

Physical arrangement based on classification

Yes [] No []

.....

7. Nature of file classification scheme

Updated Yes [] No []

.....

Automated Yes [] No []

.....

Torn Yes [] No []

.....

8. File tracking tools

File movement card Yes [] No []

.....

File movement register Yes [] No []

.....

File grid Yes [] No []

.....

Bring up diary Yes [] No []

.....

File transfer form Yes [] No []

.....

File tracking software Yes [] No []

.....

9. Records Storage

Adequate space for current records Yes [] No []

Adequate space for semi-current records Yes [] No []

Adequate space for Non-current records Yes [] No []

.....

.....

10. Records survey/ inventory

Conduct records appraisal Yes [] No []

11. Appraisal and Scheduling

Conduct records appraisal Yes [] No []

Retention and disposal schedule Yes [] No []

12. Electronic records

Create e-records Yes [] No []

13. Records Preservation

Preserve records Yes [] No []

14. Disaster Management

Disaster management plan Yes [] No []

Appendix 12: Letter of introduction



TO WHOM IT MAY CONCERN

RE: Introducing Mr. Victor Kabata – PhD Student at University of KwaZulu-Natal

This letter serves to introduce and confirm that Mr. Victor Kabata is a duly registered PhD (Information Studies) candidate at the University of KwaZulu-Natal.

The title of his PhD research is '*Preparedness of public bodies for the implementation of the Access to Information (ATI) Act 2016 in Kenya*'. The outcome from the study is expected to improve practice, inform policy and extant theory in this field of study. As part of the requirements for the award of a PhD degree he is expected to undertake original research in an environment and place of his choice. The UKZN ethical compliance regulations require him to provide proof that the relevant authority where the research is to be undertaken has given approval. His data collection is expected to commence from January 2017 and end April 2017.

We appreciate your support and understanding to grant Mr. Victor Kabata permission to carry out his research in your organization(s). Should you need any further clarification, do not hesitate to contact me.

Thank you in advance for your understanding



Dr. Francis Garaba

Supervisor

University of KwaZulu-Natal

Information Studies Programme

School of Social Sciences

Email: garaba@ukzn.ac.za

Appendix 13: Letter of informed consent to respondents

Informed Consent Document

Project Title: Preparedness of public bodies for the implementation of the Access to Information (ATI) Act 2016 in Kenya.

Aims:

- To assess the extent of political commitment towards implementation and institutionalization of the ATI regime in Kenya.
- To determine the level of awareness of public officers on their obligations and duties as provided by the Act.
- To assess the current records management practices in public institutions in Kenya and the extent to which they facilitate or undermine access to information.
- To assess the systems, structures and procedures for facilitating access to information that are in place in public bodies in Kenya.
- To identify areas of successes and weaknesses and make recommendations for improvement

Project Justification

Literature reviewed from countries that have implemented ATI legislations without conducting an assessment of the preparedness of their public bodies reveals that they have experienced challenges in implementation of the law partly due to lack of information on the state of preparedness of their public bodies (Mendel,2004, Banisar,2004). Therefore, any ATI law implementation should be preceded by a study on public bodies' preparedness to forestall

implementation challenges currently affecting many countries. This study seeks to provide information that will ensure Kenya does not follow a similar path and that implementation of the ATI law in the country is guided by credible research findings.

Requirements

The purpose of this study is to assess the extent to which public bodies in Kenya are capacitated to implement ATI Act with a view to providing an implementation roadmap.

The study will gather data on ATI implementation plans, formal Institutional structures in place for ATI implementation, ATI awareness raising campaigns and training plans, records access and retrieval tools in government ministries, records storage equipment as well as systems and procedures in place for facilitating ATI.

In this regard, I request you to spare a few minutes to comprehensively answer the questions in this questionnaire.

Kindly, I would like to assure you that your answers will be kept confidential and only used for the purpose of this research. Data obtained from this research will be presented only in cumulative form and no answers will be attributed to specific respondents or institutions.

Contact Details:

Victor Kabata
Information Studies
School of Sociology and Social studies
University of KwaZulu-Natal
Pietermaritzburg campus
Private Bag X01
Scottsville 3209
South Africa
Telephone: 033-2605007. Email: 217052682@ukzn.ac.za

Project Leaders Details:

Dr. Francis Garaba
Information Studies
School of Sociology and Social studies
University of KwaZulu-Natal
Pietermaritzburg campus
Private Bag X01
Scottsville 3209
South Africa
033-2605095; Fax: 033-2605092
Email: garaba@ukzn.ac.za

DECLARATION

I..... (full names of participant) hereby confirm that I understand the contents of this document and the nature of the research project, and I consent to participating in the research project.

I understand that participation in this project is voluntary and that I have the freedom to withdraw from the same at any time.

SIGNATURE OF PARTICIPANT

DATE

.....
.....

Appendix 14: List of Respondents (Directors of Administration; Public Communication Officers and Records Managers).

1. Ministry of Sports Development
Kencom House 3rd Floor

Director of Administration: Harun Komen

Public Communication Officer: Richard Obura

Records Manager: Mary Mwangi

2. Ministry of Transport, Infrastructure, Housing and Urban Development
Transcom House 7th Floor

Secretary of Administration: John Muya

Public Communication Officer: J. Mwanzia

Records Manager: Mary Musya

3. Ministry of Tourism
Teleposta Towers, Kenyatta Avenue

Director of Administration:

Public Communication Officer: Peter Mulei

Records Manager: Mary Goretti Kamau

4. Ministry of energy and Petroleum

Nyayo House

Public Communication Officer: Solomon Nyandika

5. Ministry of Mining

Transcom House

Administrator: Wilson N’ganga

Public Communications Officer: Grace Owiti

6. Ministry of Water, Maji House

Director of Administration: Mr. Ikua

Public Communication Officer: Monica Omoro

7. Ministry of Environment

NHIF Building

Assistant Secretary: J. Wahome

Public Communication Officer: Edwin Njeru

Records Manager: John Kariuki

8. Ministry of East African Community

Co-operative House

Director of Administration: B.N. Mugambi

Records Manager: Phillip Mutisya

Public Communications Officer: E. Okidi

9. Ministry of Labour and Social Protection

NSSF Building

Director of Administration: Joyce Mwale

Public Communication officer:

10. Ministry of Information and Communication Technology

Teleposta Towers

Director of Administration: Henry Munyasia

Public Communication Officer: David Korir

11. Ministry of Foreign Affairs

Old Treasury Building

Public Communication Officer: Peninah Mwangi

Records Manager: George Onyango

12. Department of Public Works

Transcom House

Director of administration: Naftaly Mungania

Public Communications Officer: John Kinuthia

Records Manager: Ben Mwanzia

13. Ministry of Trade Industry and Co-operatives

NSSF Building

Director of Administration: John Kinjo

Public Communications Officer: Joseph Ruthuku

Records Manager: Stephen Arogo

14. Ministry of Education

Records manager: Joseph Kimweli

15. Ministry of Agriculture and Fisheries

Kilimo House

Records Manager: Evans Nyanchiri

16. State Law Office and Department of Justice

Sheria House

Administrator: John Wambura

Public Communication Officer: Irene Maina

17. Ministry of Public Service, Youth and Gender Affairs

Teleposta Towers

Assistant Secretary: Ann Lampiri

Public Communications Officer: Mary- Ann Kisaju

18. Department of Devolution

Teleposta Towers

Assistant Secretary: Reuben Thuku

Public Communications Officer: Nancy Maosa

Records Manager: Joseph Maritim

19. Ministry of Interior and National Co-ordination

Nyayo House

Public Communication Officer: Eric Shiloli

20. Department of Wildlife

NSSF Building

Public Communication Officer: Martin Kinyanjui

Records Manager: Richard Mwangi

21. Department of Natural Resources

NSSF Building

Director of Administration: Christopher Musumbu

Public Communication Officer: James Nyambane

22. Department of Information

Uchumi House

Administrator: Naim Bilal

Public Communication Officer: Hannah Mugo

23. Department of Irrigation

Maji House

Director of Administration: J. Ikua

Public Communication Officer: John Madoka

Records Manager: Stephen Nyaga

24. Department of Livestock

Kilimo House

Assistant Secretary: Simon Mwangi

Public Communication Officer: James Maina

Records Manager: Beatrice Miruka

25. Ministry of Health

Afya House

Director of Administration: Ibrahim A Maalim

Public Communication Officer: Eunice Gathaka

26. Department of Planning

Treasury Building

Director of Administration: Dr. Muchiri

Records Manager: Jane Mwangi

27. National Treasury

Treasury Building

Public Communication Officer: Daniel Njau

Records Manager: Stephen Kavanga

28. Department of Housing

Ardhi House

Administrator: Damaris Orero

Public Communications Officer: Eva Ngetich

29. Department of Correctional services

Teleposta Towers

Administrator: Mary Mutenia

30. Department of Arts and Culture

Kencom House

Director of Administration: Wesley O'ngayo

Public Communication Officer: Duncan Omondi

Appendix 15: Research Permit

THIS IS TO CERTIFY THAT:

MR. VICTOR KANG'ANG'A KABATA
of UNIVERSITY OF KWA ZULU NATAL,
22698-100 nairobi, has been permitted
to conduct research in Nairobi County

**on the topic: PREPAREDNESS OF
PUBLIC BODIES FOR THE
IMPLEMENTATION OF THE ACCESS TO
INFORMATION ACT 2016 IN KENYA**

**for the period ending:
19th June, 2018**

[Redacted Signature]

**Applicant's
Signature**

Permit No : NACOSTI/P/17/27660/17841
Date Of Issue : 19th June, 2017
Fee Received :Ksh 2000

[Redacted Stamp]

**Director General
National Commission for Science,
Technology & Innovation**

[Redacted Stamp]

Appendix 16: Research Authorization letter



NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY AND INNOVATION

Telephone: 020 400 7000,
0713 788787, 0735 404245
Fax: +254-20-318245, 318249
Email: dg@nacosti.go.ke
Website: www.nacosti.go.ke
When replying please quote

NACOSTI, Upper Kabete
Off Waiyaki Way
P.O. Box 30623-00100
NAIROBI-KENYA

Ref: No. **NACOSTI/P/17/27660/17841**

Date: **21st September, 2017**

Victor Kang'ang'a Kabata
University of Kwa-Zulu Natal
SOUTH AFRICA.

RE: RESEARCH AUTHORIZATION

Following your application for authority to carry out research on *“Preparedness of public bodies for the implementation of the access to Information Act 2016 in Kenya,”* I am pleased to inform you that you have been authorized to undertake research in **Nairobi County** for the period ending **19th June, 2018.**

You are advised to report to **the Principal Secretaries of selected Ministries, the Chief Executive Officers of selected Government Agencies, the County Commissioner and the County Director of Education Nairobi County** before embarking on the research project.

Kindly note that, as an applicant who has been licensed under the Science, Technology and Innovation Act, 2013 to conduct research in Kenya, you shall deposit **a copy** of the final research report to the Commission within **one year** of completion. The soft copy of the same should be submitted through the Online Research Information System.


GODFREY P. KALERWA MSc., MBA, MKIM
FOR: DIRECTOR-GENERAL/CEO

Copy to:

The Principal Secretaries
Selected Ministries

The Chief Executive Officers
Selected Government Agencies.

Appendix 17: Ethical Clearance



5 October 2017

Mr Victor K Kabata 217052682
School of Social Sciences
Pietermaritzburg Campus

Dear Mr Kabata

Protocol reference number: HSS/1363/017D

Project title: Preparedness of public bodies for the implementation of the Access to Information (ATI) Act (2016) in Kenya

Full Approval – Expedited Application

In response to your application received 4 August 2017, the Humanities & Social Sciences Research Ethics Committee has considered the abovementioned application and the protocol has been granted **FULL APPROVAL**.

Any alteration/s to the approved research protocol i.e. Questionnaire/Interview Schedule, Informed Consent Form, Title of the Project, Location of the Study, Research Approach and Methods must be reviewed and approved through the amendment /modification prior to its implementation. In case you have further queries, please quote the above reference number.

PLEASE NOTE: Research data should be securely stored in the discipline/department for a period of 5 years.

The ethical clearance certificate is only valid for a period of 3 years from the date of issue. Thereafter Recertification must be applied for on an annual basis.

I take this opportunity of wishing you everything of the best with your study.

Yours faithfully

.....
Dr Shamila Naidoo (Deputy Chair)
Humanities & Social Sciences Research Ethics Committee

/pm

cc Supervisor: Dr Francis Garaba
cc Academic Leader Research: Professor Maheshvari Naidu
cc. School Administrator: Ms Nancy Mudau

Humanities & Social Sciences Research Ethics Committee

Dr Shenuka Singh (Chair)

Westville Campus, Govan Mbeki Building

Postal Address: Private Bag X54001, Durban 4000

Telephone: +27 (0) 31 260 3587/8350/4557 Facsimile: +27 (0) 31 260 4609 Email: ximbap@ukzn.ac.za / snymnm@ukzn.ac.za / mohunp@ukzn.ac.za

Website: www.ukzn.ac.za

1910 - 2010
100 YEARS OF ACADEMIC EXCELLENCE

Founding Campuses ■ Edgewood ■ Howard College ■ Medical School ■ Pietermaritzburg ■ Westville

Appendix 18: Gatekeeper's letter

REPUBLIC OF KENYA



MINISTRY OF SPORTS, CULTURE AND THE ARTS State Department for Arts and Culture

Telegrams: "HERITAGE", Kencom Hse, Nairobi
Tel: +254-020-2251164/005, 2250576
Fax: +254-020-316187
When replying please quote:

Kencom House
P.O. Box 49489 - 00100
Nairobi, Kenya

Ref. No:MSCA 6/3Vol.III/22

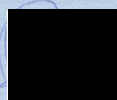
31st March, 2017

The Vice-Chancellor
University of Kwa Zulu-Natal
Glenwood, Durban 4041
SOUTH AFRICA

RE: PERMISSION TO USE MINISTRY AS RESEARCH SITE

We are in receipt of a letter from Mr. Victor K. Kabata who is pursuing a PhD Programme in Information Studies in your University requesting to conduct his research in our Ministry.

We are pleased to notify you that the Ministry has no objection being used as research site with respect to Mr. Kabata studies. Hence, Mr. Kabata has been granted permission to undertake his PhD programme research in the Ministry.



ROBERT TONUUI
FOR: PRINCIPAL SECRETARY

Copy to:
Director
Kenya National Archives and
Documentation Service
NAIROBI - (to note)

Appendix 18a: Gatekeeper's letter



REPUBLIC OF KENYA

**MINISTRY OF INFORMATION COMMUNICATIONS AND TECHNOLOGY
State Department of ICT and Innovation**

Telephone: Nairobi (020) 4920000
Telegrams: 'Telposta' Nairobi
When replying please quote

TELPOSTA TOWERS
P.O. Box 30025-00100
NAIROBI
KENYA

REF:MICT/G/3/52/VOL.XXI/(197)

13th February, 2018

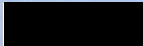
Victor Kabata
Research Student
University of Kwa-Zulu Natal
SOUTH AFRICA

REQUEST TO COLLECT RESEARCH DATA FROM OFFICERS IN THIS MINISTRY

This is to inform you that you have been granted authority to collect Research data to establish the capacity of Public bodies to implement the Access to Information Act 2016.

The research questionnaires and the interviews will be administered to the following officers.

1. Director of Administration
2. Director of Public Communications
3. Public Communication officers
4. Records Management Personnel


Henry Mung'asia
For: **PRINCIPAL SECRETARY**

Appendix 18b: Gatekeeper's letter



**MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING & URBAN
DEVELOPMENT
STATE DEPARTMENT OF TRANSPORT**

Telephone: +254 20 2729200
Fax: +254 20 2726362
Email: ps@transport.go.ke
Website: www.transport.go.ke

Transcom House
NGONG ROAD
P. O. Box 52692-00200
NAIROBI, KENYA

MOT&I/ADM/042 VOL.1/70

26th February, 2018

Victor Kabata
P.O BOX 22698-00100
NAIROBI

RE: RESEARCH AUTHORIZATION

Reference is made to your letter dated 19th February, 2018 requesting for authority to collect research data related to your research topic, and authorization of the same by the National Commission for Science, Technology and Innovation.

I wish to inform you that you have been authorized to collect the requested information on 8th March, 2018 between 9.00 a.m. to 11.00 a.m. as follows: Director of Administration at 9.00 a.m., Public Communication Office at 10.00 a.m. and Records Management office at 11.00 a.m.

We note that you will be required to deposit a copy of the final research report to the National Commission for Science, Technology and Innovation within one year of completion.

J [REDACTED]

FOR: PRINCIPAL SECRETARY

SEAMLESS
CONNECTIVITY
MINISTRY OF TRANSPORT
AND INFRASTRUCTURE

SEAMLESS
CONNECTIVITY
MINISTRY OF TRANSPORT
AND INFRASTRUCTURE

SEAMLESS
CONNECTIVITY
MINISTRY OF TRANSPORT
AND INFRASTRUCTURE

SEAMLESS
CONNECTIVITY
MINISTRY OF TRANSPORT
AND INFRASTRUCTURE

SEAMLESS
CONNECTIVITY
MINISTRY OF TRANSPORT
AND INFRASTRUCTURE

Appendix 19: ATI (I hour) Training Programme

TRAINING ON EFFECTIVE PUBLIC COMPLAINTS MANAGEMENT FOR STAFF OF THE MINISTRY OF ENERGY AND PETROLEUM

TENTATIVE PROGRAM

DATE	TIME		TOPIC	FACILITATOR
Day One	Arrival at Venue			
Day two	Theme: Laying the foundation on complaints management			
	08:15	09:00	❖ Registration, workshop opening, ❖ Briefing and leveling of expectations ❖ Objectives and theme of the workshop ❖ Remarks from the Ministry ❖ Remarks from the CAJ	The Ministry
	09:00	10:30	❖ The mandate and functions of the Ombudsman and its contributions to Justice, Governance and Public Service.	CAJ
	10:30	11:00	HEALTH & TEA BREAK	
	11:00	12:00	❖ Promoting Access to information Act, 2016 and its obligations on Public Institutions	CAJ
	12:00	13:00	❖ Overview of the Resolution of Public Complaints Management in the Ministry: introspection and sharing experiences ❖ Plenary ❖ Delivering as one: Group exercise	CAJ
	13:00	14:00	LUNCH BREAK	
	14:00	15:00	❖ Promoting positive organizational culture in complaints management	CAJ
	15:00	16:30	❖ Promoting ADR in complaints management	CAJ

Appendix 20: ATI (2 days) Training Programme for CAJ Staff



Training Program on Access to Information for CAJ staff

14th & 15th February 2018

Great Rift Valley Lodge, Naivasha

14th February 2018	
8:30 – 9:00 am	Welcome and Introduction of participants Opening Remarks - Commission on Administrative Justice (CAJ)
9:00 – 9:30 am	Workshop Expectations Setting Ground Rules
9:30 – 10:15 am	Right to Information & Its applicability <i>Importance of Right to Information</i> <i>Instrumentality of Right to Information</i>
10:15 – 10:30 am	Plenary Discussion
10:30 – 11:00 am	Tea Break
11:00 – 11:45 am	Legal Framework on Right to Information <i>International and Regional Legal Frameworks</i> <i>Kenyan Laws – The Constitution, the Access to Information Act, Other legislations</i>
11:45 – 12:00 am	Plenary Discussion
12:00 – 12:45 pm	Salient Features/ Highlights of the Access to Information Act 2016
12:45 – 1:00 pm	Plenary Discussion
1:00 – 2:00 pm	Lunch Break
2:00 – 3:00 pm	Processes to Facilitate Access in the ATI Act 2016 <i>Requests for Information</i> <i>Proactive Disclosure Obligations</i>

3:00 – 3: 15 pm	Plenary Discussion
3:15 – 4:00 pm	Case Studies of successful Implementation
4:00 – 4: 30 pm	Plenary Discussion
4: 30 pm	Tea Break and Close for the Day
15th February 2018	
9:00 am – 10 : 15 am	Limitations on the Right of Access to Information
10: 15 – 10; 45 am	Plenary Discussion
10: 45 – 11: 00 am	Tea Break
11: 00 – 11: 4 am	Mandate of the CAJ under the Act <i>Enforcement and Oversight Powers and Functions</i>
11: 45 – 12: 20 pm	Group work – SWOT analysis of CA in effective implementation
12: 20 – 12: 45 pm	Group Report Back and Presentation
12: 45 – 1: 00 pm	Plenary
1:00 – 2: 00 pm	Lunch Break
2: 00 – 2: 45 pm	Emerging Jurisprudence on ATI <i>Role of other Actors – Civil Society, Media, Parliament</i>
2:45 – 3:00 pm	Plenary
3:00 – 3: 30 pm	Tips on Presentation and Sensitization of ATI Engagement with the County Governments
3: 30 – 4:00 pm	Conclusion and War Forward
4:00 – 4: 30 pm	Closing Remarks – Commission on Administrative Justice (CAJ) Closure of Workshop

Appendix 21: Circular to public entities on implementation of the ATI Act 2016

Our Ref: CAJ/LEG/27

8th January 2018

**All Principal Secretaries/Accounting Officers
Clerk, National Assembly
Clerk, Senate
Chief Registrar of the Judiciary
All County Secretaries
All Clerks, County Assemblies
All Chief Executive Officers, State Corporations & Statutory Bodies
All Vice-Chancellors, Public Universities
All Secretaries, Constitutional Commissions
All Holders of Independent Offices**

IMPLEMENTATION OF THE ACCESS TO INFORMATION ACT, 2016

Following the enactment of the Access to Information Act in 2016, the Commission on Administrative Justice (Office of the Ombudsman) was granted powers to enforce and oversee the implementation of the Act. The Act requires public entities and private bodies to proactively disclose information, and also facilitate access to information held by them in accordance with Article 35 of the Constitution. To this end, each Accounting Officer/Chief Executive Officer is required to ensure implementation and compliance with the provisions of the Act.

The Commission wishes to bring the specific requirements under the Act to the attention of public entities. The requirements under the Act are listed hereunder:

- i) Ensure proactive disclosure of information held by them. The information to be disclosed includes, but not limited to:-
 - a) Particulars of its organisation, functions and accountability;
 - b) Powers and duties of its officers and employees;
 - c) Salary scales of officers by grade;
 - d) Procedure for decision making;
 - e) Guide of information held; and
 - f) Publish on its website or through any other suitable medium, the following particulars in respect of any contract entered into:
 - the public works, goods acquired or rented, and the contracted service, including any sketches, scope of service and terms of reference,

- the contract sum,
 - the name of the service provider, contractor or individual to whom the contract has been granted, and
 - the timeline of the contract.
- ii) Publish all relevant facts while formulating important policies or decisions that affect the public, and provide reasons to any affected person.
 - iii) Disseminate information to all persons, including persons with disabilities, local language e.t.c.
 - iv) Publish the name or names of its Information Access Officer(s)
 - v) Process applications for access to information held by them within the set timelines at reasonable cost, if any.
 - vi) Keep and maintain accurate, authentic and credible records.
 - vii) Correct outdated, inaccurate or incomplete personal information within reasonable time upon application.
 - viii) Computerise their records and information management system within three years from the date of commencement of the Act on or before 21st September 2019).
 - ix) Co-operate with the Commission in the implementation of the Act.
 - x) Submit a report to the Commission on implementation of the Act **by 30th June of every year or at any time required by the Commission.** The report should contain, *inter alia*,
 - The entity's access to information infrastructure
 - Measures taken to promote proactive disclosure
 - Number of requests received and processed
 - Number of determinations made to deny access and reasons thereof
 - Timelines for processing every request
 - Fees collected for processing requests
 - Number of full time staff devoted to processing requests & total expenditure for the same
 - Measures taken and progress made to computerize its system.

In light of the above, each public entity is required to submit the initial report to the Commission on or before 30th June 2018 and thereafter before 30th June of every year on the extent of implementation of the above requirements (with the exception of public institutions already reporting on quarterly basis under performance contracting system). The template for reporting can be accessed on the website of the Commission, www.ombudsman.go.ke.

Public entities are advised to open and maintain a register on all requests and the determinations made thereof. The template of the Register can be accessed on the website of the Commission. In addition, entities can access a template for applications or requests for access to information on the Commission's website.

The Commission will be available to provide technical support as may be required from time to time in implementing the requirements under the Act. For more information and/or clarifications on the implementation of these requirements, the Commission may be contacted through the following e-mail address certificationpc@ombudsman.go.ke or through telephone numbers 020-2270000 or 020-2303000.

Yours sincerely,

LEONARD NGALUMA, MBS
COMMISSION SECRETARY/CEO

Cc:

1. **Joseph K. Kinyua, EGH**
Chief of Staff & Head of the Public Service
Executive Office of the President
State House
P. O. Box 40530 - 00100
NAIROBI
2. **Ms. Jacqueline Mogeni**
Chief Executive Officer
Council of Governors
Delta Corner, 2nd Floor
Opp. PWC Chiromo Road, off Waiyaki Way
NAIROBI

Appendix 22: Access to Information Application Form

- Photocopy
- Compact disk
- USB mass drive
- Transcript
- Other (please specify)

e) Other (please specify)

If a copy is required, please specify the number required.....

If the document is to be posted to you, please specify the mode and the address of postage.....

.....
.....

(Please note that accessing information is free, but the production of copies of the record and transmission will attract a nominal fee)

Signature of the Requester..... Date:.....

5. For Official Use

Date Request received.....

Remarks.....

.....
.....

Name and title of the officer receiving the Request.....

Signature

Appendix 23: Amendment of personal data

FORM II: APPLICATION FOR AMENDMENT/ANNOTATION OF PERSONAL RECORD

1. Particulars of the Applicant/Requester

Name:..... Gender:.....
National Identity/Passport No..... Nationality.....
Telephone No..... E-mail:.....
Physical and Postal Address.....

2. Please state whether the request is being made on behalf of another person. If yes, please provide the particulars of that person.....

.....
.....

(Please provide the authority to apply on his behalf)

3. Name of the public entity or private body to which the request is being directed

.....
.....

4. Particulars of the document to be amended/annotated *(Please provide full particulars of the document you are seeking to be amended or annotated to assist in processing your request)*.

Name/type of document.....
Reference/File No. (if known).....
Any other details.....
Brief description of the document.....
.....

Provide specific reasons for seeking amendment/annotation.....

.....
.....

The information in the above document about me is *(identify one or more)*:

- Incomplete
- Incorrect

- Out of date
- Misleading

The amendment(s) or annotation(s) required is/are.....

Notes:

- (Provide the information that would make the document described above complete, correct, up to date or not misleading, and attach the statement, signed by you, to this application)*
- Please attach any documents or evidence in support of the amendment/annotation requested).*

Signature of the Applicant..... Date:.....

5. For Official Use

Date Request received.....

Remarks.....

Name and title of the officer receiving the Request.....

Signature

Appendix 24: Access to Information register

FORM III: ACCESS TO INFORMATION REGISTER

No.	Date Received	Requisition Channel (e.g. email)	Name of Applicant/ Requester	Type of Information Requested	Decision/ Action Taken	Date Communicating the Decision	Fees Charged (if any)

Appendix 25: Proactive Disclosure reporting form

FORM IV: ACCESS TO INFORMATION REPORTING TEMPLATE

Name of the Institution:.....

Reporting Period:.....

Name and Title of the Information Access Officer:.....

Part A: Proactive Disclosure

No.	Type of Information Proactively Disclosed	Date of Disclosure and/or Update of Information	Medium and Manner of Disclosure

Part B: Access to Information on Request

No.	Date Received	Requisition Channel	Name of Applicant	Type of Information Requested	Decision/ Action Taken	Date of Communicating the Decision	Fees Imposed (if any)	Remarks on the Decision

Appendix 26: Proposed Action Plan for implementation of the Access to Information Act, 2016 (Developed by a consultant commissioned by Commission on Administrative Justice)

		ACTIONS	PERIOD WITHIN	MEANS OF VERIFICATION	RISK FACTOR
	1.	Creating job description and designation for information access officers	3 Months	Appointment letters detailing the tasks of access to information officers	Lack of internal institutional buy in
	2.	Launching implementation of the proactive disclosure requirement	3 Months	Issuing circular, guidelines on proactive disclosure	Lack of internal institutional buy in
	3.	Developing Regulations	6 Months	Final Draft of Regulations	Lack of political leadership
	4.	Launching the implementation process through public awareness campaigns	6 Months	Number of public awareness campaigns	Resources
	5.	Appraisal of records in the Counties	6 Months	Reports on status of Counties in relation to records management	Resources – finance, capacity
	7.	Conducting training of public officers on the Act and how to process information requests	6 Months	Number of trainings	Resources & human capital

	8.	Training on record management practices (organizing, packaging and retrieval of information)	6 Months	Number of trainings	Resources and human capital
	10	Review of Action Plan	6 Months	Number of actions undertaken within schedule	-
Phase Two	9.	Establishing associations and networks of information access officers	1 Year	Institutionalised association of information access officers	-
	10.	Identifying information champions within public entities	1 Year	Database of information champions across the public and private sectors	Lack of institutional buy in
	12.	Identifying public information needs – type of information most requested, form in which it is requested, how it can be made easier for the public	1 Year	Analysis of institutional data on information requests	Resources
	13	Review Action Plan	1 Year	Number of actions undertaken within schedule	-
Phase	14.	Digitising records in public entities	3 Years	Digitized records	Resources

	15.	Inculcating a culture of information sharing within the public sector	5 Years	Public entities proactively disclose more information	Lack of political leadership/ entrenched culture of secrecy
	16.	Review Action Plan	3 Years	Number of actions undertaken	-

Appendix 27: Notice on the review of the Public Archives and Documentation Service Act.

Monday May 7, 2018 | DAILY NATION

22 |

REPUBLIC OF KENYA

NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – SECOND SESSION

In the matter of consideration by the National Assembly of the Statute Law [Miscellaneous Amendments] Bill, 2018 (National Assembly Bill No. 12 of 2018)

SUBMISSION OF MEMORANDA

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". Standing Order 127(3) provides that, "the Departmental Committee to which a Bill is committed shall facilitate public participation and shall take into account views and recommendations of the public when the Committee makes its report to the House".

The Statute Law [Miscellaneous Amendments] Bill, 2018 National Assembly Bill No. 12 of 2018 was published on 10th April, 2018 and read a First Time 18th April, 2018. The Bill is in keeping with the practice of making various amendments which do not merit the publication of separate Bills and consolidating them into one Bill. The Bill therefore proposes amendments to various Acts of Parliament. Pursuant to the provisions of Standing Order 127(1) of the National Assembly Standing Orders which provides that a Bill having been read a First Time shall stand committed to the relevant Departmental Committee, the proposed amendments to various Acts of Parliament stand committed to the following Departmental Committees of the National Assembly:-

NO.	ACT TO BE AMENDED	COMMITTEE
1.	The Judicature Act (Cap 8)	Justice and Legal Affairs
2.	Oaths and Statutory Declarations Act (Cap 15)	
3.	The Advocates Act (Cap 16)	
4.	The Civil Procedure Act (Cap 21)	
5.	The Law of Contract Act (Cap 38)	
6.	The Foreign (Reciprocal Enforcement) Act (Cap 43)	
7.	The Probation of Offenders Act (Cap 64)	
8.	The Criminal Procedure Code (Cap 75)	
9.	The Extradition (Contiguous & Foreign Countries) Act (Cap 76)	
10.	The National Council for Law Reporting Act 1994	
11.	The Witness Protection Act No. 16 of 2008	
12.	The Anti-Counterfeit Act No. 13 of 2008	
13.	The Proceeds of Crime & Anti-Money Laundering Act No. 9 of 2009	
14.	The Judicial Service Act No. 1 of 2011	
15.	The Office of the Director of Public Prosecutions Act No. 2 of 2012	
16.	The Kenya Law Reform Commission Act No. 19 of 2013	
17.	The Nairobi Centre for International Arbitration Act No. 26 of 2013	
18.	The Companies Act No. 17 of 2015	
19.	The Bribery Act No. 47 of 2016	
20.	The Law of Succession Act (Cap 160)	
21.	The Registration of Persons Act (Cap 107)	
22.	The Public Holidays Act (Cap 110)	
23.	The Community Service Order Act No. 10 of 1998	
24.	The Alcoholic Drinks Control Act No. 4 of 2010	
25.	The Independent Police Oversight Authority Act No. 35 of 2011	
26.	The National Authority for the Campaign Against Alcohol and Drug Abuse Act No. 14 of 2012	Transport, Public Works and Housing
27.	The Housing Act (Cap 117)	
28.	The Kenya Ports Authority Act (Cap 391)	
29.	The Kenya Airports Authority Act Cap. 395	
30.	The Traffic Act (Cap 403)	
31.	The Kenya Roads Board Act No. 7 of 1999	
32.	The National Construction Authority Act No. 41 of 2011	
33.	The Engineers Act No. 43 of 2011	
34.	The National Transport and Safety Authority No. 33 of 2012	
35.	The Higher Education Loans Board Act, 1995	
36.	The Kenya School of Law Act No. 26 of 2012	
37.	The Legal Education Act No. 27 of 2012	
38.	The Kenya Institute of Curriculum Development Act No. 4 of 2013	
39.	The Universities Act No. 42 of 2012	Trade, Industry and Cooperatives
40.	The Science, Technology and Innovation Act No. 28 of 2013	
41.	The Industrial Property Act No. 3 of 2001	
42.	The Export Processing Zones Act, 1990	
43.	The Privatization Act No. 2 of 2005	Labour and Social Welfare
44.	The Competition Act No. 12 of 2010	
45.	The Children Act No. 8 of 2001	
46.	The Employment Act No. 11 of 2007	
47.	The Labour Institutions Act No. 12 of 2007	Environment and Natural Resources
48.	The Labour Relations Act No. 14 of 2007	
49.	The National Youth Council Act No. 10 of 2009	
50.	The National Social Security Fund Act No. 45 of 2013	
51.	The Wildlife Conservation and Management Act No. 47 of 2013	Finance and National Planning
52.	The Forest Conservation and Management Act No. 34 of 2016	
53.	The National Drought Management Authority Act No. 4 of 2016	
54.	The Environmental Management and Coordination Act No. 8 of 1999	
55.	The Retirement Benefits (Deputy President and Designated State Officers) Act No. 8 of 2015	Lands
56.	The Kenya Post Office Savings Bank Act Cap 243	
57.	The Land Act No. 6 of 2012	
58.	The Land Registration Act No. 3 of 2012	
59.	The Tourism Act No. 28 of 2011	Sports, Culture and Tourism
60.	The National Youth Service Act Cap 208	
61.	The Protection of Traditional Knowledge and Cultural Expressions Act No. 33 of 2016	
62.	The Public Archives and Documentation Service Act (Cap 19)	
63.	The Kenya Defence Forces Act No. 25 of 2012	Defence and Foreign Relations
64.	The Treaty Making and Ratification Act No. 45 of 2012	
65.	The Kenya Agricultural and Livestock Research Act No. 17 of 2013	
66.	The Biosafety Act No. 2 of 2009	
67.	The Kenya Information and Communication Act No. 2 of 1998	Communication and Information Technology
68.	The Copyright Act No. 12 of 2001	

Pursuant to Article 118(1)(b) and Standing Order 127(3), the Clerk of the National Assembly invites members of the Public to submit any representations they may have on the Statute Law [Miscellaneous Amendments] Bill, 2018. The representations may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Monday, 14th May, 2018 at 5:00 pm. The Bill can be found on the Parliament website at <http://www.parliament.go.ke> or <http://www.kenyalaw.org>.

MICHAEL SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY

Appendix 28: ATI (2days) Training Programme for County Officers



THE COMMISSION ON ADMINISTRATIVE JUSTICE

"Office of the Ombudsman"

'Hata Mnyonge ana Haki'

COUNTY OFFICERS TRAINING ON ACCESS TO INFORMATION

PROGRAM

13TH TO 14TH MARCH 2018

PROGRAM

DAY 1

DATE	DAY	TIME		TOPIC	FACILITATOR
13 th March	Tuesday	08:30	09:00	❖ Registration ❖ Introductions ❖ workshop opening ❖ Training expectations ❖ Setting Ground Rules	
		09:00	9: 20	❖ Mandate & Functions of CAJ	
		9:20	10:30	❖ Right to Information & Its Applicability - Importance and instrumentality of Right to Information. ❖ Plenary	
		10:30	11:00	HEALTH & TEA BREAK	
		11:00	12:00	❖ Legal Framework on Right to Information - Kenyan Laws ❖ Plenary	
		12:00	13:00	❖ Case studies of successful Implementation	
		13:00	14:00	LUNCH BREAK	
		14:00	15:00	❖ Highlights of the ATI Act 2016 - Overview - Obligations on Public Entities ❖ Plenary	

14 th March	Wednesday	DAY TWO		
		08:30	09:00	❖ Recap
		09:00	10:30	❖ Process to facilitate Access in the ATI 2016 - Proactive Disclosure Obligation - Request for Information ❖ Plenary
		10:30	11:00	HEALTH & TEA BREAK
		12:00	1:00pm	❖ Limitation of the Right of Access to Information
		13:00	14:00	LUNCH BREAK
		14:00	15:00	❖ Way Forward : Action Plan ❖ Wrap up and Official closing

Appendix 29: Template on reporting on ATI infrastructure

Complaints Management and Access to Information Infrastructure

Name of Institution			
Financial Year			
NO	INDICATORS	DETAILS OF	MARKS
Part A. MANAGEMENT INFRASTRUCTURE			
A1	<u>Physical location:</u> Provide the postal address and physical location (building name, office/ room number and street)	Include details for all regional offices	5%
A2	I. Provide names, contact details (Official telephone & e-mail address) and position of at least three officers preferably at senior level who are in-charge of complaints. II. Provide names, contact details and position of the information access officer(s)	Include details for all regional offices	10%
A3	<u>Communication channels:</u> Provide: Complaint desk e-mail/s e.g.	Include details for all regional offices	5%
	Dedicated telephone line(s)	Include details for all regional offices	5%
	Official e-mail address(es) of the institution		5%
	Institution's website (Links/portals to access to information and Complaints		5%

	information)		
	Official e--mail address of the Accounting Officer		5%
	Sub-Total		40%