

Access to Information in Jamaica

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Jamaica passed an Access to Information Act (ATIA) in 2002 and began implementing the provisions of the Act in 2004. By July 2005, all government ministries and agencies were brought under the Act and were expected to comply with the provisions of the Act. Jamaica's performance with ATI has been similar to, and in some instances, better than the performance of other countries in the first two years of the introduction of, what is really a massive paradigm shift of governance, a regime where citizen's have the right to information held on their behalf by their governments. On September 28 this year the world celebrated International Freedom of Information Day and this seems a good place to start looking at what Jamaica has done with the ATIA to this point. We will highlight the successes as well as indicate areas that need work to allow the paradigm shift to provide maximum benefit to governmental transparency and improved citizen confidence in accountability.

FIRST THE GOOD NEWS Overall, roughly over 50% of the requests made to the various government ministries and agencies were granted either full or partial access to the requested documents. This is better than the international experience of the first two years of implementation of an Access to Information regime even comparing ourselves with richer countries such as South Africa and the United Kingdom.

EXAMPLE OF BEST PRACTICE The Child Development Agency (CDA) is a relatively new agency, established in 2004, it replaced the old agencies, which had responsibility for the welfare of the nation's vulnerable children. The CDA came under the ATIA in July 2005 and requests for information under the Act came fast and furiously as there are a number of agencies, NGO's and groups, outside of government who had an interest in seeing how the CDA was carrying out its mandate to protect children from abuse.

To the everlasting credit of the CDA it was one of only 15 agencies to satisfy 100% of requests made to it under the ATIA in the period July 2005 to February 2006 and it had the most requests made to it, 20, of any of the best performing agencies. The information that the CDA made available on request was not only voluminous but 'sensitive' and included; monthly monitoring reports from field officers; criteria for referral of critical incidents; records of training sessions for staff of children's homes; amounts spent on refurbishing and so on.

The information made available on request did not always provide a rosy picture and was devoid of spin, it was simply an accurate copy of what was happening in the agency. In addition, it included what monitoring officers struggled with on a daily basis, what the agency had to try to fix in a context of limited resources of both money and personnel and struggling with a culture which in many respects didn't see the need for some of what the agency was trying to do. In fact, the information released by the CDA under the ATIA allowed all those interested to get a true picture of what needs to be done to improve the situation for the Nation's children exactly what the ATIA is designed to do.

While it must have been uncomfortable for the officers of the CDA to put information on its failures, as well as its successes, into the public eye, they did so nonetheless and the result was offers of assistance from the wider civil society and a commitment to work together to push for improvements to the welfare of the nation's vulnerable children. The CDA continues to maintain an excellent record of ready provision of information under the ATIA and they remain a shining example of courtesy, helpfulness, and responsiveness to the public for other Government agencies and ministries.

EXAMPLE OF WORST PRACTICE Jamaica's trade and investment facilitation agency, JAMPRO, has a mandate to initiate and coordinate the development of plans, programmes and

policies for the economic and financial development of Jamaica. The mandate requires the facilitation of activities to increase investment, export, employment and foreign exchange earnings. The Jamaica Film Commission forms part of JAMPRO, it is mandated to promote Jamaica's Film industry. JAMPRO, like the CDA, was brought under the Access to Information Act on July 5, 2005. Yet the experiences of attempting to access information from JAMPRO are completely unlike the experience of accessing information from the CDA. One Request An access to information request was made to JAMPRO for "documents relating to any request by Disney to film the movie "Pirates of the Caribbean in Jamaica and the negotiations undertaken by the Jamaican Government".

This request arose out of an attempt to disprove a rumour that the movie Pirates of the Caribbean was to have been filmed in Jamaica but was eventually filmed in St Vincent (where untold millions of US\$ were spent) because 'the Jamaican government bargained too hard and Disney rejected their offer'. The request was faxed by letter on July 25, 2006 to the fax number indicated on JAMPRO's website.

On August 3, the requestor visited the offices of JAMPRO to check what had happened to the request. The security guard at the front desk knew nothing about Access to Information nor did he know who was the responsible officer. Eventually the requestor was directed to the officers in JAMPRO's documentation centre. These officers indicated that they were not the designated Access to Information officers and that they had not received any request and that they did not handle access to information requests as the legal officer deals with ATI requests because of the sensitivity of the documents held by JAMPRO. They noted that you have to fill out a special form to make an Access to Information Request (which of course is incorrect since under the Act a request may be made by e-mail, letter, or telephone). The request was re-faxed to the legal officer of JAMPRO that same day.

A telephone call on August 22 elicited the response that the legal officer was not the person who dealt with ATI requests nor had she received any fax. On enquiry if the persons who dealt with faxes knew who to send ATI's requests to at JAMPRO her response was 'no' that they had just recently designated a person as the Access to Information officer. The legal officer then asked that the request be re-sent to the new Access to Information officer. This was done and the requestor then received a phone call from one of the very same officers in the documentation centre who had originally said that she was not the Access to Information Officer. She indicated that she was recently designated as such (more than a year after JAMPRO was brought under the Act). JAMPRO has now requested an extension of time to process the request for "documents relating to any request by Disney to film the movie Pirates of the Caribbean in Jamaica and the negotiations undertaken by the Jamaican Government".

ANOTHER JAMPRO REQUEST In 2005 it was reported in the Press that "Life of Jamaica president Richard Byles [was appointed] chairman of Harmonisation Limited, the company set up to oversee the development of Harmony Cove, a high-end resort colony in Trelawny". Mr Byles' appointment was announced by then Prime Minister PJ Patterson. Harmonisation Limited is jointly owned by the Development Bank of Jamaica and the National Housing Trust (NHT), and had acquired 1,500 acres of prime beachfront property for the \$72-billion development. A request to JAMPRO under the ATIA for 'all official documents relating to the development at Harmony Cove, Trelawny including copies of all correspondence, the minutes of meetings, reports and the Memorandum of Understanding between Harmonisation Limited and Tavistock limited' was refused in the following terms. "The only files which we possess in relation to the subject matter are the personal files of Mrs Patricia Francis which contain the Board Documents of Harmonisation Limited." The response further says "the documents in question are exempt from disclosure and we are therefore not in a position to grant your request". A further request to JAMPRO to transfer the request to the appropriate government agency as the ATIA says they must do if they don't have the requested documents got the following response from the acting president of JAMPRO. "[Such transfers only apply if the public authority in receipt of the request has knowledge that another public authority is in possession of the requested documents. We do

not have said knowledge". In essence, JAMPRO, the government agency responsible for the facilitation of foreign investment into Jamaica, has said to the public that;

a) They have no documents relating to an investment project of \$72 Billion other than private files of their former president, and

b) They don't have any knowledge that other public authorities have information relating to this \$72 Billion investment in Jamaica. This despite the fact that the development and initial investment outlay was done by agencies of government including the Development Bank of Jamaica and the National Housing Trust and heavily reported on in the press. On this evidence, the people of Jamaica should perhaps not bother to fund JAMPRO.

It is clear that a year after the Act has been in operation at JAMPRO they have not begun the process of making the required paradigm shift and are still operating on the basis that the information they hold is their own. They believe, they have no duty to put it out for the public (despite the Act giving the public a RIGHT of Access to Information), and in fact they have no intention of acting either in the spirit nor the letter of the Act. This is not good enough.

WAY FORWARD Paradigm shifts are never easy, for governments or for people, yet the responses to requests for information by two government agencies outlined above show that they are possible. The CDA has made the paradigm shift to openness and they have benefited from it, and stand to continue benefiting from the support and understanding of the society for their challenges and difficulties.

JAMPRO has not made the shift and will continue to suffer from the distrust of the public and from the Jamaican rumour mill, which has, them portrayed as an agency incompetent enough to have lost Jamaica the opportunity to have a multi million-dollar film shot here. And incompetent enough to know nothing about one of the biggest investment opportunities in Jamaica's history.

We hope to continue highlighting successful, and unsuccessful, paradigm shifts in operations of various government agencies wrought by the Access to Information Act. We hope the public of Jamaica will play its part in ensuring paradigm shifts by using the Access to Information Act to get the information that is their RIGHT to have as we move deeper into an open and accountable twenty first century style of government. Access to Information Advisory Stakeholders Committee c/o. The views expressed in this column are not necessarily the views of the Farquharson Institute. For questions, comments and membership information you may contact us at 5 Lyncourt, Kingston 6

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