

Public bodies compliance to PAI and SDI Act: An enabler for geospatial information freedom

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Keywords: Access to information, spatial data infrastructure, custodianship, data governance, information management

Abstract:

This paper discusses the policy environments of two acts in South Africa, the South African Spatial Data Infrastructure Act (Act 54 of 2003) (SDI Act) and the Promotion of Access to Information Act, 2000 (Act 2 of 2000), which promote accessibility, transparency, and collaboration for accessing public information. These policies are important for ensuring accountability and good governance. The Constitution of the Republic of South Africa (section 32) and PAIA provide the legal framework for every citizen to exercise their constitutional right to access any information held by a public entity. This legislation is in line with the international move towards open data and freedom of information (FOI) (Nkwe & Ngoepe, 2021; Coetzee et al., 2020). The SDI Act enables access to geospatial data created by public bodies, promoting the sharing of geospatial data across different sectors and levels of government in South Africa. However, despite the benefits of these policies, implementation constraints are present, such as limited institutional capacity, lack of political will, and insufficient resources. A cohesive policy environment is essential to enable public organisations to address these constraints. Governance frameworks and institutional capacity are crucial to support the implementation and oversight of these policies. To this end, the United Nations Committee of Experts on Global Geospatial Information Management (UNGGIM) has created the Integrated Geospatial Information Framework (IGIF), which aims to align existing policies with SDI development and encourage contribution to national geospatial information ecosystems. The UNGGIM-IGIF includes a legal and policy strategic pathway that focuses on implementation and accountability (IGIF, 2020).

The PAIA requires organisations to compile a manual outlining the records that can be accessed and the procedures for doing so. However, compliance with this provision outlined in section 14 has been low, with investigations in 2010 indicating that only 5% of public bodies had PAIA manuals. More recent assessments in 2016/2017 reported that 70% of national departments, 45% of provincial departments, and 89% of municipalities were found to be non-compliant (Nkwe et al., 2021). The Information Regulator (IR), the oversight body for PAIA, reported in November 2022 that all metropolitan municipalities were non-compliant with the act's provisions. The IR has indicated that they will take strong enforcement action by issuing Enforcement Notices against non-compliant Municipal Managers. Moreover, suppose these managers are found guilty of an offence. In that case, they may face legal consequences, including fines or imprisonment for a period not exceeding three years, or both. The implementation of punitive actions, as outlined in the provisions of PAIA, underscores the importance of compliance with the PAIA for Municipal Managers and highlights the IR's commitment to ensuring that public institutions uphold their obligations under the Act (South African Information Regulator, 2021). The key implementation constraints for the PAIA include limited institutional capacity, lack of political will, and poor record management practices. Table 1 summarises the key elements supporting data records provision (South African Information Regulator, 2022) and geospatial data (SDI Act, 2003) in the two pieces of legislation.

Indicators	PAIA	SDI Act
Data reference	The functions and index of records held by the public body	Spatial data and information
Application	Public Body or Organ of State (as defined in section 239 of the Constitution) Private Body	Organs of state which hold spatial information and users of spatial information.
Accountability	Information Officer or Deputy Information Officer	Accounting officer Base dataset custodian

Indicators	PAIA	SDI Act
Content requirement	Chapter 2, section 14 of the PAIA Act outlines the content for an organisation's PAIA Manual in respect of the functions and index of records held by the public body.	Section 12 (2)(b) of the SDI Act instructs custodians to ensure that metadata is available to users by including it in their manual on functions outlined in section 14 of PAIA.
Implementation Date	Came into effect on 9 March 2001	Section 12 came into effect on 23 May 2015
Punitive action	An information officer who fails to compile a section 14 manual is liable, upon conviction, to a fine or two/three years' imprisonment.	Non

Table 1. Key elements comparison of the SDI Act and PAIA

The SDI Act, enacted in 2003, aligns with the global movement towards open data and freedom of information. It provides mechanisms to enable access to geospatial data created by public bodies. It promotes the sharing of geospatial data across different sectors and levels of government in South Africa. The SDI Act also provides the legal framework for developing the South African spatial data infrastructure (SASDI). The National Spatial Information Framework (NSIF) within the Department of Agriculture, Land Reform and Rural Development (DALRRD) is responsible for implementing and monitoring the SDI Act. In 2022, the NSIF conducted several studies to build SDI capabilities in South Africa. One of these studies focused on assessing the compliance of geospatial data custodians at a national level with the requirements of sections 12 and 14 of the SDI Act. These sections of the Act relate to capturing and publishing metadata and including these metadata records in the organisation's PAIA manual to facilitate access to data and promote transparency.

The study's findings will provide insights into the level of compliance among data custodians with the SDI Act, which is crucial for the effective implementation of SDI in South Africa.

The implementation of the SDI Act faces similar challenges to the PAIA, including limited institutional capacity, lack of political will, and insufficient resources. These issues are common in countries developing their SDI capabilities. A cohesive policy environment is essential to address the implementation constraints of these policies. Drawing on the strengths of the different policy environments, such as implementing punitive actions and identifying the constraints, can lead to collaboration opportunities without additional legislation. Governance frameworks and institutional capacity are crucial to support the implementation and oversight of these policies. The NSIF and other government agencies, such as the IR can work together to address the constraints and promote the effective implementation of the SDI Act and the PAIA.

In conclusion, the SDI Act and the PAIA are crucial policies for promoting accessibility, transparency, and collaboration in accessing public information in South Africa. However, implementation constraints such as limited institutional capacity, lack of political will, and insufficient resources have hindered their effective implementation. A cohesive policy environment and governance frameworks are essential to address these constraints. Collaborative efforts between government agencies can promote the effective implementation of these policies, ensuring accountability and good governance in South Africa.

Acknowledgements

Acknowledgement is given to Ms M. Chauke, Director NSIF within the DALRRD, for permission to list the DALRRD project in 2022 – Metadata Compliance Assessment at the national government level in this abstract.

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