

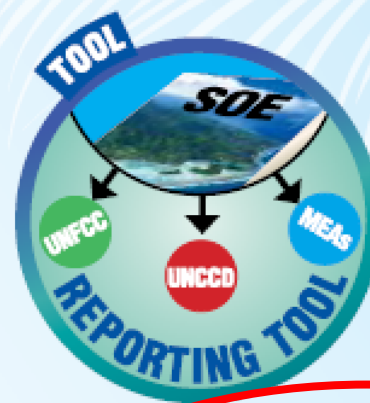
# Session 21

## Legal outputs

# Inform has 4 products



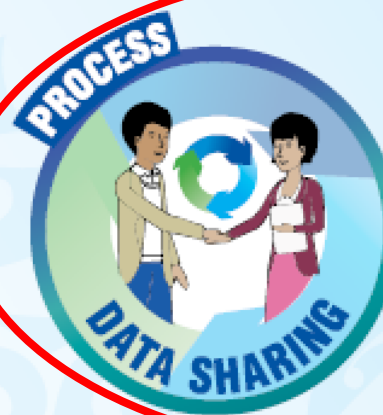
**DATA PORTALS:**  
create a network of national and regional data repositories to store and share environmental data, to monitor the state of the Pacific's environment.



**REPORTING TOOL:**  
assist Pacific islands with meeting multiple national and international reporting requirements, by reusing indicator based reporting.



**DATA ANALYSIS:**  
facilitate the use and analysis of environmental data for national planning and sustainable development.



**DATA SHARING:**  
support a change in practices to enhance the sharing of environmental data. Support legal, policy and planning frameworks.

# Outputs

- License agreements summary table and user guide
- License agreements
  1. Private
  2. Shared
  3. Public
- Ministry policy on data sharing
- Data sharing MoU – Ministry to Ministry
- Data sharing MoU – SPREP to Country
- FOI legislation discussion paper

# License agreements

- Formal basis for determining access to data on the portal
- Written in clear language with reduced 'legalese'
- Clear understanding for users on what they can do with data
- License linked to existing levels of access control in the data portal

# License agreements

## License Options and Access Control \*

- Select a value -

- ~~Public domain~~ Dataset resources will be freely available for download and use ~~without restriction.~~
- **Public** Dataset resources will be freely available. Usage must give attribution and share the dataset under the same license.
- **Shared** Metadata will be publicly available but actual dataset resources will only be available for download to authenticated users.
- **Private** Metadata will be publicly available but actual dataset resources will only be available for download to users within the same group.

# License agreements – summary table

Use and access	License type		
	Private	Shared	Public (Creative Commons)
When is this Agreement used?	For access to high level, sensitive data not in the public domain (e.g. commercially sensitive).	For access and use of data not in the public domain.	For data which is publicly accessible.
How is the data accessed?	Only for authorized staff in the data portal group.	Online within and between groups on the data portal.	Online through the data portal.
Can the data be disclosed to third parties?	No, disclosure to anyone may be in breach of policies and regulations in the jurisdiction of the disclosing party and in the jurisdiction of any third party to whom the data is disclosed.	No, disclosure outside of the agency may be in breach of policies and regulations in the jurisdiction of the disclosing party and in the jurisdiction of any third party to whom the data is disclosed.	Yes, as the data is already public.
Can the data be modified?	No, it is only for access.	Yes, in the exercise of the functions and responsibilities of the office.	Yes, if acknowledged and not used for commercial gain.
Do I need to give credit or attribution?	Not applicable, access only.	Yes, for internal use in the exercise of the functions and responsibilities of the office.	Yes, attribution or acknowledgement needs to be given.

# License agreements – user guide

## DATA LICENSES - USER GUIDE

This User Guide provides information, explanatory notes and assumptions for three types of data licenses. These licenses are as follows:

- Closed
- Inter-Agency
- Public License with Attribution (Creative Commons)

These licenses are separately attached as **Annexures 1-3**.

A summary table of license types and key issues is separately attached as **Annexure 4**.

### 1) Closed

This type of license is used where high level, sensitive data is shared. This license is attached as **Annexure 1**.

The license granted under this agreement is a non-exclusive, non-transferable,

# License agreements

## ANNEXURE 1

### ACCESS LICENSE AGREEMENT (CLOSED)

Between

## ANNEXURE 2

### USE AND ACCESS LICENSE AGREEMENT (INTER-AGENCY)

For high level

## ANNEXURE 3

### Background

You wish  
agrees to  
set out in

For access to

### Background

You wish to ac  
make such dat  
this Data Licen

It is hereby agreed t

### PUBLIC LICENSE WITH ATTRIBUTION (SHARED<sup>1</sup>)

#### Full Text

By exercising the Licensed Rights (defined below), You accept and agree to be bound by the terms and conditions of this Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International Public License ("Public License").

To the extent this Public License may be interpreted as a contract, You are granted the Licensed Rights in consideration of Your acceptance of these terms and conditions, and the Licensor grants You such rights in consideration of benefits the Licensor receives from making the Licensed Material available under these terms and conditions.

#### Section 1 – Definitions

- a. **Adapted Material** means material subject to Copyright and Similar Rights that is derived from or based upon the Licensed Material and in which the Licensed Material is translated, altered, arranged, transformed, or otherwise modified in a manner requiring permission under the



# Ministry policy on data sharing

- Ready-made policy to be adopted or adapted by PICs
- Encourage data sharing between government agencies and with the public
- Ensure that sensitive information is protected
- Covers uploading data and dealing with requests

# Ministry policy on data sharing

Ministry Policy on Data Sharing			
Policy number		Version	
Drafted by		Approved by Minister	
Responsible person		Review date	

## Introduction

The data held by *[insert name of Ministry]* can be a valuable resource that helps to grow the economy, protect the environment, improve services and produce better policy outcomes.

The *[insert name of Ministry]* recognises the key role of properly managing data for the benefit of *[insert name of country]*.

## Purpose

The purpose of this policy is to:

- encourage the free exchange of data within the *[insert name of Ministry]*, with

# Data sharing MoU– Ministry to ministry

- Formal agreement to facilitate inter-agency sharing
- Read-made MoU to be adopted or adapted by PICs

# Data sharing MoU– Ministry to ministry

## MEMORANDUM OF UNDERSTANDING

**Between**

*[Insert Party A]*

**and**

*[Insert Party B]*

**For the exchange of data, related information and other services**



This MOU does not replace the requirements on agencies  
to comply with other applicable laws and policies

**Memorandum  
between**

*[Insert Party A] of [Insert Party A address]*

Contact Person: *[Insert Party A name]*

Phone : \_\_\_\_\_

Fax: \_\_\_\_\_ Email: \_\_\_\_\_

# Data sharing MoU– Ministry to SPREP

- Formalise agreement to facilitate data sharing with SPREP
- Read-made MoU to be adopted by PICs

# Data sharing MoU– Ministry to SPREP

## MEMORANDUM OF UNDERSTANDING

Between



**SPREP**

Secretariat of the Pacific Regional  
Environment Programme

and

*[insert name of Country]*

*("the Parties")*

**to facilitate the access to, and security of, all data entered into the *[insert name of Country]* database**

This MOU does not replace the requirements on SPREP  
or *[insert name of Country]* to comply with other applicable laws and policies

# Freedom of Information legislation – discussion paper

- Promote discussion and debate on FOI acts
- Provide examples within the PICs
- A practical roadmap for introduction

# Freedom of Information legislation – part 1 review

- Traces developments in FOI across the Pacific
- Basis of FOI in international law – International Covenant on Civil and Political Rights
- FOI in constitution, law and policy



# Freedom of Information legislation – part 1 review

## *Open Government Act 2014 (Palau)*

“...that the actions of the government be conducted openly...and that all public government documents be open for public inspection.”

### **Open Government Act, RPPL No. 9-32 2014**

**PALAU**

**AN ACT**

To create a more open and transparent government so that the people of the Republic may hold their elected government representatives accountable, and for other related purposes.

**THE PEOPLE OF PALAU REPRESENTED IN THE OLBIL ERA KELULAU DO ENACT AS FOLLOWS:**

Section 1. Short Title.

This Act shall be known as and may be cited as "The Open Government Act."

Section 2. Presidential Statement of Introduction.

Pursuant to Article VIII, Section 12: "The President may introduce measures in the Olbil Era Kelulau." The President finds and declares that all government entities, whether quasi or whole, exist to serve the people in the conduct of the people's business. It is the intent of this Act: that the actions of the government be conducted openly, that all deliberations be transparent, and that all public government documents be open for public inspection. Indeed, this Act is intended to provide a legal framework for the rights that are already guaranteed to the people of the Republic in Article V, Section 12 of the Constitution of the Republic, which states that: "A citizen has the right to examine any government document and to observe the official deliberations of any agency of government."

# Freedom of Information legislation – part 1 review

## *Official Information Act (Cook Islands)*

“An Act to make official information more freely available”

### **Official Information Act 2008**

COOK ISLANDS

OFFICIAL INFORMATION ACT 2008

No.2 of 2008

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Examined and certified by: .....

Clerk of Parliament

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In the name and on behalf of Her Majesty Queen Elizabeth the Second I hereby assent to this Act this 18<sup>th</sup> day of February 2008

Sir F. Goodwin, KBE  
Queen's Representation

### **ANALYSIS**

Title

1. Short Title and commencement
2. Interpretation
3. Act to bind the Crown

# Freedom of Information legislation – part 1 review

## *Right to Information Act (Vanuatu)*

“An Act to provide for the guarantee of right to information of all persons and to establish practical effective mechanisms supportive of the right...”

### **Right to Information Act 2016**

REPUBLIC OF VANUATU

RIGHT TO INFORMATION  
ACT NO. 13 OF 2016

#### **Arrangement of Sections**

REPUBLIC OF VANUATU

Assent: 20/12/2016  
Commencement: 06/02/2017

RIGHT TO INFORMATION  
ACT NO. 13 OF 2016

An Act to provide for the guarantee of the right to information of all persons and to establish practical effective mechanisms supportive of that right and for related matters.

Be it enacted by the President and Parliament as follows-

#### **PART 1 PRELIMINARY MATTERS**

##### **1. Purpose of the Act**

The purpose of this Act is:

# Freedom of Information legislation – part 2 principles

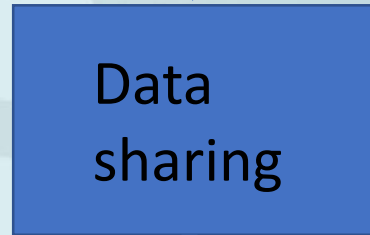
1. **Maximum disclosure** – presumption that government information is subject to disclosure
2. **Openness** – promote and inform community on right to information; assumption that public body meetings are open to the community
3. **Limited exemptions** – exemptions are clearly and narrowly drawn
4. **Access** – info requests are processed quickly and at reasonable cost
5. **Fairness and equity** – community right see reasons behind data being withheld and have right to appeal; whistle-blowers protected

# Freedom of Information legislation – part 3 key elements

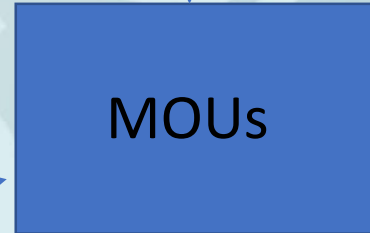
1. objects or purposes
2. definitions
3. information to be published
4. meetings to be open and public
5. obtaining the information
6. exemptions (conclusive)
7. exemptions (conditional)
8. duty to assist
9. need to give reasons
10. time limits to avoid delays
11. reasonable costs
12. right of review
13. review of workings of legislation



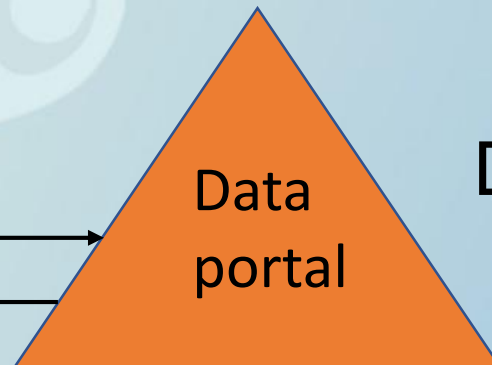
Legislation



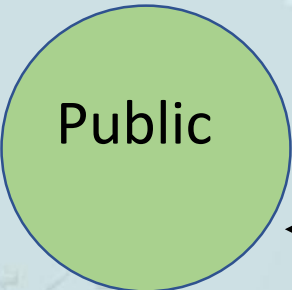
Policy



Agreements



Delivery tools



# Questions?