

# Implementation of legislative framework governing records management throughout the life cycle in the Limpopo provincial government of South Africa

Legislative  
framework

Ouma Malatji and Ngoako Solomon Marutha  
*Department of Information Science, College of Human Sciences,  
University of South Africa, Pretoria, South Africa*

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## Abstract

**Purpose** – This study aims to investigate a framework for implementation of legislative framework governing records management throughout the life cycle in the Limpopo provincial government of South Africa.

**Design/methodology/approach** – This quantitative multi-method study used a semi-structured questionnaire, document analysis and interviews to collect data. The dominant approach was quantitative, with some support from limited qualitative data, which served to clarify the statistical data. No sampling method was applied, as the study targeted the entire population of 135 records management participants from the provincial departments with the questionnaire, while nine participants from provincial archives participated in interviews.

**Findings** – The study revealed that the role of the provincial archives in enforcing compliance with legislative frameworks for the proper management of records was always disrupted by a lack of key resources such as staffing, for inspecting and training records-creating departments and working resources at the departmental levels.

**Research limitations/implications** – The findings will contribute to the field in respect of future studies into compliance with records management legislation, and the proposed framework may be applied as a theoretical basis for, or part of, a conceptual framework.

**Practical implications** – The study will serve as a resource or benchmark for archivists and records management professionals in the industry, as they count amongst the policymakers who find ways of monitoring, evaluating and enforcing compliance with the legislation governing proper records management.

**Social implications** – The proper implementation of recommendations from this study will lead to significant improvements in the management of records with enduring value, allowing them to finally be transferred to an archival repository to serve the public interest as heritage, national memory, or resources for researchers and authors, amongst others.

**Originality/value** – The study proposes a framework for implementation of legislation governing records management with greater ease in the Limpopo provincial government of South Africa.

**Keywords** Enforcing implementation, Governance, Legislative framework, Limpopo province, Public archival institution, Records life cycle, Records management, South Africa, Archives, Government

**Paper type** Research paper



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## Introduction and background

It is strategically important to implement the legislative frameworks governing records management throughout the life cycle of records, in any government departments resorting under a particular archival institution. The life cycle of a record is such that it can be compared to a living organism. The cycle of a record follows several stages:

- it is born;
- it actively lives;
- it becomes less active; and
- then it dies (University of South Africa (UNISA), 2016, p. 9; Marutha, 2016, p. 36).

As Gordon and Hoke (2011, pp. 31–32) clarify, the life cycle of a record starts when information is created, documented and used in an organisation. Yusof and Chell (2000, p. 141) note that a record's life cycle is essential for proper records management. Each cycle consists of stages or periods which indicate the prominence of records in detail, starting from when they are created, used and retained. For Bantin (1998, p. 3), the life cycle of a record describes what occurred to it during each phase and also indicates the person responsible for its management during every stage.

In the first stage of creation and receipt, those who created the record are mainly accountable for its management. Records managers and archivists are involved, in the sense of providing training on the allocation of reference numbers. During the maintenance and storage stages, the records manager plays an active role in storing and managing the records but does not work in isolation from the archives or archivists. Lastly, in the final stage of the life cycle, the role of managing the records resides with the archivists. During this stage, the archivists do what must be done to ensure the proper management and preservation of records, while providing access to them, upon request (Bantin, 1998, pp. 3–4; Marutha, 2016, pp. 48–49, 2021, p. 76). According to Kanzi (2010, p. 17), the life cycle of a record is at the heart of records management, as it provides guidelines on how to manage every record within an organisation.

In the second and third stages of the life cycle of a record, the archives continue to provide records management training, conduct records inspections to ensure that the records are managed properly and ensure compliance with policies and legislation. In the final stage, the archives appraise the records, grant disposal authority and facilitate the final destruction or transfer of records to an archival repository. The records management services which archives provide to departments begin with the national archives offering archival and records management services to provincial archives (Bantin, 1998, pp. 3–4; Marutha, 2016, pp. 48–49, 2021, p. 76).

The literature reveals that archivists are expected to ensure compliance with records management legislation by helping institutions to conform to best practices in this field. Hamooya *et al.* (2011, p. 116) define legislation as lawgiving rules that lay down guidelines and instructions on how to act, to ensure that the functions and activities of an organisation are properly performed. Laws lay down the rules of what can be done, to what extent it may be done and by whom. Furthermore, they also lay down the fundamentals of what cannot be done. Ngoepe and Saurombe (2016) and Tintswalo *et al.* (2021) admit that legislation has a marked effect on the management of records. As such, it becomes essential to put legislation in place to ensure unified records management. Legislation provides archives with authority when dealing with institutions and lays down requirements for institutions to ensure constant and consistent records management (Ngoepe and Saurombe, 2016). As the International Council on Archives (ICA) (2004) states, archives-related legislation provides

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records management directives by outlining how records should be managed and by detailing the kinds of records to be kept as part of the archives. Moreover, they set out the conditions under which preserved records could be made available and to whom. In the view of the ICA (2004, p. 5), archival legislation is closely associated with the management of current records and decisions about their creation, maintenance, access and disposal. This is especially true when dealing with electronic records, whose authenticity, reliability, usability and durability depend on proper systems planning for their management throughout their life cycle. The [Head of Information Governance \(HIG\) \(2017, p. 7\)](#) states that records management policies and procedures form part of an organisation's information life cycle management, together with other processes, such as records inventory, the securing of storage, record audits and many others.

### Literature review

A study by [Osebe \*et al.\* \(2018, p. 301\)](#) suggests that the enactment of, and compliance with, records management policies is a key strategy in managing records properly. Policies guide records management procedures; thus, their absence could mean that certain processes are being compromised, resulting in records being poorly managed throughout their life cycle. The application of legislations in archives and records management also brings about professionalism in the field ([Khumalo, 2021](#)). As [Marutha \(2018\)](#) notes, legislative prescripts need to be updated and improved on a regular basis. In similar vein, [Netshakhuma \(2019\)](#) states that amended legislation will empower archival institutions to carry out their mandate of managing records throughout their life cycle. Furthermore, up-to-date legislation will ensure that archives implement records management systems that guide the physical and intellectual control of records for retrieval, transfer and general management purposes. Although legislation relating to management is in place, as stated above, [Hamooya \*et al.\* \(2011, p. 117\)](#) maintain that some legislation has loopholes, with most laws not ensuring the management of records throughout their life cycle, or even offering directives on how to manage records on a continuum. Although the legislative framework for archives and records management at Eswatini is not up to date, it was intended to mandate public records management and preservation and provide advice on proper records management to the public entities ([Ngoepe \*et al.\*, 2020](#)). [Yee Goh \(2002, p. 1\)](#) notes that archival legislation in several Commonwealth countries, including the UK, Canada and Singapore, lacks consistency and, as such, is unable to assist archivists in ensuring the management and preservation of records throughout the full span of their life cycle. [Kalusopa \*et al.\* \(2021\)](#), [Mosweu \(2021\)](#) and [Mosweu and Bwalya \(2022\)](#) report that Botswana had legislative framework focusing on electronic records, but the shortfall was that legislation did not cover all records management matters pertaining to e-records management including the process of records capturing, interval for retention and preservation custody, as such legislations were produced or created with limitations.

Legislations should consider all issues and functions or activities pertaining to archives and records management to enable best practice and application of appropriate national and international standards ([Khumalo, 2021](#); [Tintswalo \*et al.\*, 2021](#)):

Legislation is the key factor and plays a major role in governing record-keeping in government entities and the employees under these entities. The national legal and policy framework measures are required to ensure record-keeping in the face of problems with handling records. ([Ngoepe \*et al.\*, 2020](#))

Furthermore, archivists are unable to impose restrictions and penalties on organisations which disregard the requirements, in respect of matters such as the unauthorised destruction of public records. In the USA, former president, Barack Obama, highlighted a lack of compliance

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with legislation: according to [Bae and Pastuch \(2013\)](#), on 28 November 2011, Obama issued a memorandum on the management of government records. In it, he lamented the lack of compliance with legislation and pointed to technology as a complicating factor in records management. Decades of technological advances have indeed transformed agency operations, creating both challenges and opportunities when it comes to their records management ([Bae and Pastuch, 2013](#)). Introduction of appropriate legislations ensures that archival institutions take obligatory lead regarding electronic records management too ([Khumalo, 2021](#); [Tintswalo et al., 2021](#)). The study by [Ngoepe et al. \(2020\)](#) discovered that Eswatini archives and records management operated without updated legislative frameworks and policies in addition to other challenges. In their recommendation for legislations and policies, they also proposed staff training on archives and records management ([Ngoepe et al., 2020](#)). Legislative frameworks need to be regularly get updated with trends in technology, and officials also need a regular training to get on with ease ([Tsabedze and Ngoepe, 2020](#); [Tintswalo et al., 2021](#)). Inappropriate “Legislation governing records management in most of the ESARBICA countries makes it difficult to adopt new technologies and implement management strategies pertaining to records” ([Ngoepe et al., 2020](#)). [Tsabedze \(2018\)](#) underscores that legislative framework at Eswatini did not cover issues pertaining to management of electronic records and that is a critical gap with the current trends in technology.

Greater reliance on electronic communication and systems has led to radical non-compliance with legislation ([Bae and Pastuch, 2013](#)). On the African continent, few countries in the Eastern and Southern Africa Regional Branch of the International Council of Archives (ESARBICA) region have any form of archival legislation statutes to regulate archival activities. Many pieces of legislation have, however, been in place for several years without undergoing revision, and where related legislation has been updated, service rendering has been found to take less time ([Wamukoya, 2000](#), p. 30). [Hamoooya et al. \(2011, p. 117\)](#) note that, in Zambia, legislation pertaining to archives is outdated, and this inhibits the National Archives of Zambia from playing a vital role in the management of public records.

#### *Legislative framework governing records management*

[International Council on Archives \(ICA\) \(2006, p. 5\)](#) underscore that archive “must comply with the law, protect the law and make laws understandable”. Legislation ensures proper creation, maintenance and preservation of records, and this must be led by the National Archives in the forefront through policies, plans and infrastructure development for all kinds of records including electronic records and systems. They need to put rules and best practices in place for a maximum control ([ICA, 2006, p. 16](#)):

The mandate of the National Archivist should include not only areas of acquisition, preservation, access and use of archival records but also the creation and maintenance of adequate, accurate and usable records in agencies covered by the legislation. ([ICA, 2006](#))

A study by [Van der Walt and Schellnack-Kelly \(2015\)](#) revealed that, in South Africa, many organisations seem lackadaisical about following guidelines and processes. This happens regardless of fines being imposed and/or the threat of imprisonment for those who fail to adhere to legislation. In accordance with section 16(1) of the National Archives and Records Service of South Africa Act 43 of 1996 ([Republic of South Africa \(RSA\), 1996b](#)) (hereafter National Archives Act):

[...] any person who wilfully damages any public or non-public record in the control of a governmental body, or otherwise than in accordance with this Act or any other law, removes, destroys or erases such record, is guilty of an offence and upon conviction is liable to a fine or imprisonment for a period not exceeding two years, or both such fine and imprisonment.

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Moreover, section 16(2) of the Act (RSA, 1996b) further states that any person who fails to comply with above legislative obligation is guilty of an offence, and liable to conviction with a fine not exceeding R5,000 in the case where such a person damages a record. In other cases, the fine may not exceed R10,000. Furthermore, any person convicted of a related offence may be denied access to an archival repository for a period as the national archivist may deem fit, or subject to an appeal to the Minister (RSA, 1996b). Besides having the National Archives Act as a guide on issues of records management, there are other acts and pieces of legislation that play an important role and must be implemented by archival institutions for the sake of compliance.

Included are the Constitution of the Republic of South Africa Act 108 of 1996 (Republic of South Africa (RSA), 1996a), the Limpopo Provincial Archives Act 5 of 2001 (RSA, 2001), the Promotion of Access to Information Act 2 of 2000 (PAIA) (RSA, 2000a) and the Promotion of Administrative Justice Act (PAJA) 3 of 2000 (RSA, 2000b), to list but a few. Section 195 of the constitution (Republic of South Africa (RSA), 1996a) provides for the effective, economical and efficient use of resources; and the provision of timely, accessible and accurate information; in addition to requiring that public administration officials and departments be held accountable. According to Marutha (2018), the Limpopo Provincial Archives Act (RSA, 2001) was introduced with the same purpose of governing the management of records and archives in that province. In terms of this act, the Limpopo provincial archivist is mandated to take full responsibility for ensuring that public records are properly managed when in the custody of government bodies.

The role of an archival institution is to ensure the implementation of legislation and ensure proper records management. Forde and Rhys-Lewis (2013) believe that all that is needed is responsible creators who think about the long-term implications for records created throughout their life cycle. This goes hand in hand with retention and review management practices which aim to ensure that any records retained are in the correct place and are reviewed at the correct time (Khumalo and Baloyi, 2019). A study by Motsi (2017) revealed that strategies for the archival support of records include ensuring that national and provincial archival policies and laws are adopted and implemented and that the management of archives is valued and carried out competently by all bodies that create and use records in the course of conducting their business. Moreover, the need for uniform records management policies, procedures and systems in all organisations must be emphasised, according to Khumalo and Baloyi (2019).

### **Problem statement**

The problem that led to the study on which this article is based was that archival institutions do not seem to be enforcing compliance with the legislative frameworks governing records management. This, in turn, negatively affects the proper management and transfer of records with enduring value to an archival repository (Marutha, 2016, 2011; Marutha and Ngulube, 2012, p. 39). Government departments and institutions are still struggling to ensure that records with archival value are managed in line with required procedures, throughout the life cycle of those records, until their final disposal in the provincial archival repository. The archives are supposed to take care of public records management, and to ensure compliance with legislation (on the part of government departments), by providing training to capacitate records officials and by monitoring compliance through inspection (RSA, 1996b, 2001). Instead, archival institutions appear to be insufficiently enforcing compliance with legislation, as part of governing records management and ensuring appropriate archiving (Abbot, 2007, p. 7; Asogwa, 2012; Ngoepe, 2014, p. 1). Eventually, improper records management practices might lead to the historical

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memory of a country dying. Citizens may no longer have access to the required archives or historically valuable records (McLeod *et al.*, 2007, p. 217). Historians may no longer have the necessary resources to capture events in history, and researchers may no longer have access to the necessary archival data for their studies in different subject areas. Thus, an archive may become useless to its community, if it cannot meet citizens' informational needs. Furthermore, the inability of archives to fulfil their functions of enforcing legislative compliance will lead to some departments using poor classification systems (file plans) and registry procedure manuals that have not been approved or endorsed by provincial archivists.

The use of an unapproved classification system represents a transgression of section 11(2) (b) of the Limpopo Province Archives Act (RSA, 2001), which states that the provincial archivist must regulate the classification system to be used by government bodies. The act further states that the provincial archivist must regulate how electronic records systems are to be managed (RSA, 2001). In principle, archivists are supposed to care about how public records are managed to support government departments with training to capacitate records officials and to undertake inspections to monitor compliance. Archivists may also offer support with appropriate working resources, where necessary, as a form of intervention (Ndenje-Sichalwe *et al.*, 2011, p. 268; Nengomasha, 2013, p. 5).

### **Purpose and objectives**

The purpose of the study was to investigate a framework for implementation of a legislative framework governing records management throughout their life cycle, using public archival institutions in Limpopo province, South Africa. The objective of the study was to propose a framework for implementation of legislative framework governing records management throughout the life cycle using public archival institution in Limpopo province, South Africa.

### **Methodology**

The quantitative multi-method study applied a semi-structured questionnaire, document analysis and interviews to collect data. The dominant approach applied was quantitative in nature, with limited qualitative data being reported to clarify the statistical data. Data for documents analysis were collected using different operational documents for records management including file plans, records management policies, registry procedure manuals and registers. The multi-methods approach was used, as, here, the quantitative research approach had more power than the qualitative research approach. Quantitative research enables a researcher to generalise the findings of his/her study to the entire population and helps to eliminate any prejudice(s) that may arise from the qualitative data (Marutha, 2020). In terms of the research design, a case study was used. No sampling method was applied, as the study covered the entire population due to its small size. The total population of the study was 86, and the study achieved 71% response rate for both questionnaires and interviews. Fincham (2008, p. 02) who requires the division of the number of returned and completed questionnaires and interviews conducted by the total number of the population guided the calculation of the response rate for the study. The response rate achieved is adequate to allow the researcher to draw conclusions from the limited amount of data and to allow generalisation of the results (Gogtay, 2010, p. 517). This is because the study's acceptable response rate was expected to be at least 60% should the response rate be below 100%. A response rate which is lower than 60% can raise questions around the eminence and legitimacy of the research results (Mellahi and Harris, 2016, p. 426). The standard response rate for the questionnaires is 68%. A total of 77 questionnaires were distributed;

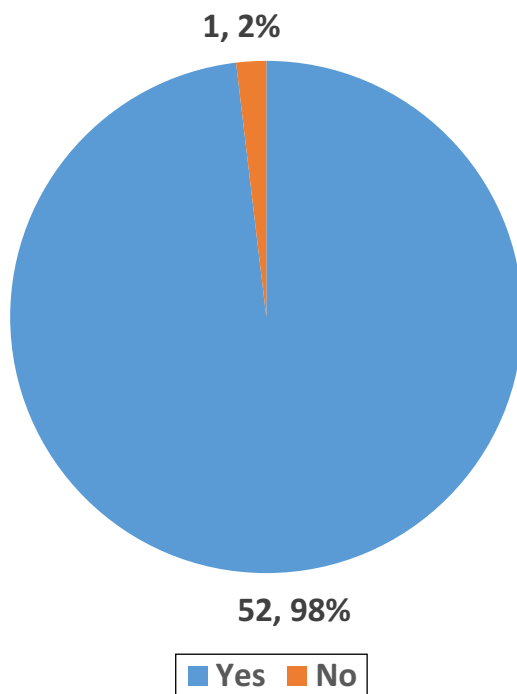


however, only 53 questionnaires were returned. On the other hand, the response rate for the interviews is 89%. Nine (9) interviews were arranged, and only eight interviews were conducted. Two methods of data analysis were used: one for the quantitative data, and another for the qualitative data – for the former, univariate analysis was used, and for the latter, the constant comparative method.

### Presentation of the findings

This section covers the findings on the legislation governing records management. The study respondents were asked to indicate their knowledge of the legislation governing records management, their department’s adherence to such legislation and the department’s level of adherence to legislation, on a scale of 1 to 5 (1 = very poor, 2 = poor, 3 = neutral, 4 = good and 5 = very good). The respondents were also asked to indicate whether the Limpopo Provincial Archives and Records Service (LPARS) ensure the implementation of records management legislation, and which actions LPARS took to achieve this (the same Likert scale was used for that purpose).

In addition, the respondents were asked to state what they thought the LPARS was not doing to ensure compliance with legislation in the department and to suggest strategies that might be used to ensure compliance in that regard. The questions were intended to determine whether departments were knowledgeable about records management legislation, whether they adhered to such legislation and what the provincial archives did to ensure compliance. The findings are presented in Figures 1–4 and Table 1.



Source: Authors (2023)

**Figure 1.**  
Knowledge of  
legislation governing  
records management  
(*N* = 53)

**Table 1.**  
Actions taken by Limpopo Provincial Archives to enforce the implementation of records management legislation ( $N = 53$ )

Actions	Disagree		Responses Neutral		Agree	
	No.	Percentages	No.	Percentages	No.	Percentages
Provincial Archives sensitise the departments about the consequences stipulated in the National Archives Act of the person who willfully damages any public or non-public record in the control of a governmental body, or otherwise than in accordance with this Act or any other law, removes, destroys or erases such record. That is, a fine or imprisonment for a period not exceeding two years, or both such fine and imprisonment to a person or a fine not exceeding R5,000	2	4	17	35	30	61
Provincial Archives take legal action against any person who fails to comply with a request	3	6	21	43	25	51
Provincial Archives enforce the implementation of legislation by educating governmental departments regarding legislation	4	8	16	33	29	59
Provincial Archives issue directives on a frequent basis, guiding departments on what is expected of them	3	6	17	35	29	59
Provincial Archives advise, in writing to the departments, when they are found to be disregarding legislation	4	8	15	31	30	61
Provincial Archives advise, through word of mouth, the departments when they are found to be disregarding legislation	29	14	14	29	28	57
Other: Not allowing unlisted records to be disposed of, informing the HoD and MEC of non-compliance and demanding action to be taken against officials who are found to be on the wrong side of the law	–	–	–	–	3	6

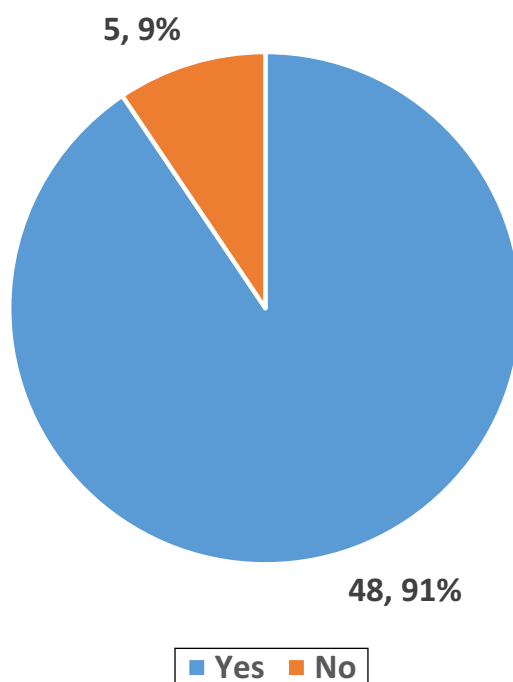
**Notes:** HoD = head of department; MEC = member of the executive council  
**Source:** Authors (2023)



The findings revealed that 98% (52) of the respondents were knowledgeable about legislation governing records management, while 2% (1 respondent) had no knowledge thereof (see Figure 1). The respondents indicated that they were aware of the policies and acts governing records management, including the National Archives and Records Service of South Africa Act (RSA, 1996b), the constitution (Republic of South Africa (RSA), 1996a), PAIA (RSA, 2000a), PAJA (RSA, 2000b) and the Limpopo Archives Act (RSA, 2001). In addition, as shown in Figure 2, the findings revealed that 91% (48) of the departments adhered to legislation governing records management, while 9% (5) did not.

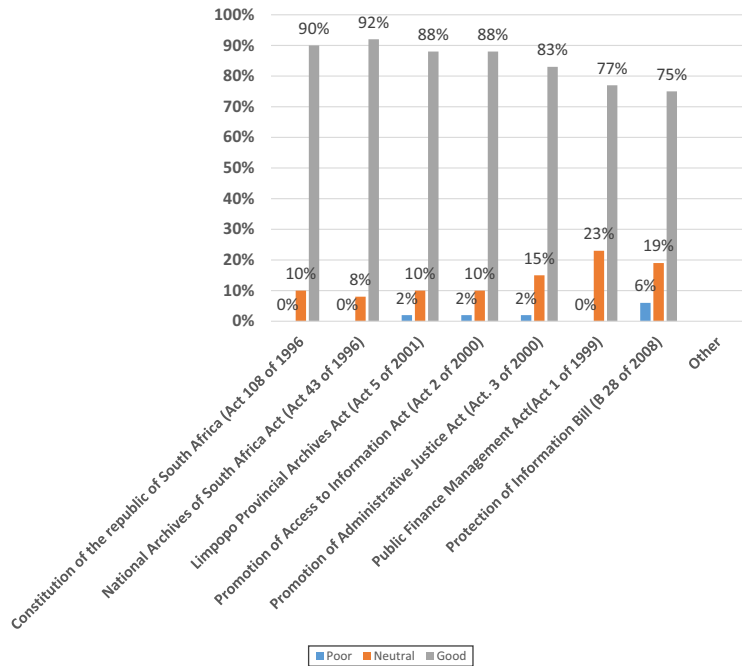
The findings depicted in Figure 3 show that 92% (44) of the respondents reported that their respective departments adhered to the National Archives Act (RSA, 1996b), while 8% (4) gave neutral answers. The findings also revealed that 90% (43) of the respondents from the various departments stated that they adhered to the constitution (Republic of South Africa (RSA), 1996a), while 10% (5) gave neutral answers.

Figure 3 shows that a total of 88% (42) of respondents reported adhering to the Limpopo Provincial Archives Act (RSA, 2001), 10% (5) of respondents from the various departments gave neutral answers and 2% (1) reported not adhering. The exact same figures were reported in respect of adherence to PAIA (RSA, 2000a). A total of 83% (40) of the respondents said their departments adhered to PAJA (RSA, 2000b), while 15% (7) gave neutral responses, and 2% (1) reported not adhering to PAJA. Seventy-seven per cent (37) of the respondents from the department indicated that they adhered to the Public Finance Management Act 1 of 1999 (RSA, 1999), while 23% (11) were neutral on this item. In total,



Source: Authors (2023)

**Figure 2.**  
Departments' adherence to legislation governing records management (N = 53)



**Figure 3.**  
Departments' level of adherence to legislation governing records management ( $N = 53$ )

**Source:** Authors (2023)

75% (36) of respondents reported adhering to the Protection of Information Bill 28 of 2008 (RSA, 2008), while 19% (9) were neutral and 6% (3) admitted to not adhering to the bill.

As Figure 4 shows, 89% (47) of respondents agreed that the LPARS enforced the implementation of records management legislation, while 11% (6) disagreed. The questionnaire respondents indicated the following regarding archives' enforcement of the implementation of records management legislation:

Respondent 1: "They always advise [the] department regarding records management".

Respondent 2: "Whenever you want to do many archival services, you need to be granted authority by the Provincial Archives Limpopo".

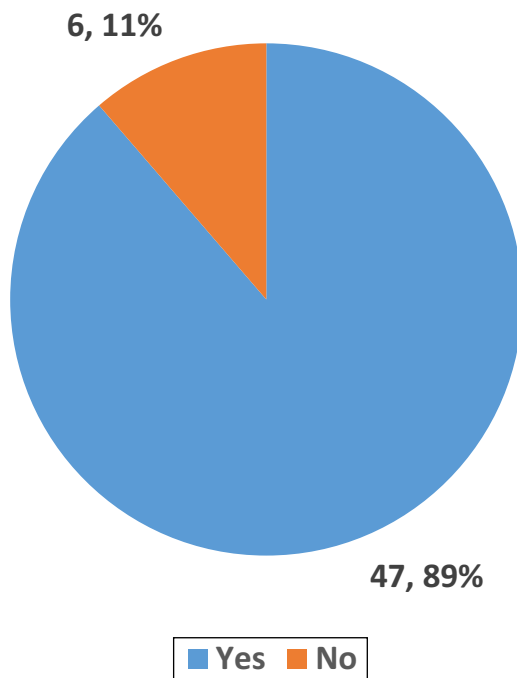
Respondent 3: "They do compliance monitoring and they advise when necessary".

Respondent 5: "Departments are workshopped and the necessary tools to perform duties in accordance with legislation are given . . .".

Respondent 6: "They are always available for consultations and always conduct records inspection".

Respondent 7: "They do inspections all the time".

Respondent 8: "Provincial archives conduct meetings to guide and educate departments on what is expected from them as [a] department".



Legislative framework

**Figure 4.** Limpopo Provincial Archives' enforcement of the implementation of records management legislation (N = 53)

Source: Authors (2023)

Respondent 9: "Their work is done appropriately according to the legislation, and they enforce all departments to work by the book".

Respondent 13: "They do follow-ups so that they can see that we follow all the records legislation".

As the findings presented in Table 1 reveal, 61% (30) of respondents agreed that the LPARS enforced the implementation of records management legislation, by sensitising the various departments about the consequences stipulated in the National Archives and Records Service Act (RSA, 1996b) (see first entry under Actions in Table 1). As indicated, 35% (17) of the respondents were neutral regarding this action, and 4% (2) disagreed that such action was taken. Moreover, 61% (30) of respondents agreed that the LPARS advised departments in writing when they are found to disregard legislation, 31% (15) gave a neutral response and 8% (4) disagreed. Fifty-nine per cent (29) of respondents agreed that the LPARS issued frequent directives to guide departments on what was expected of them, 35% (17) were neutral and 6% (3) disagreed.

As Table 1 shows, 59% (29) of the respondents believed that the LPARS enforced the implementation of legislation by educating government departments on legislation, 33% (16) were neutral and 8% (4) disagreed. Almost half (57%; 28) of the respondents agreed that the LPARS informed departments by word of mouth when they were found to disregard legislation, 29% (14) were neutral on this and 14% (7) disagreed. A total of 51% (25) of respondents believed the LPARS took legal action against anyone who failed to comply with a request, 43% (21) remained neutral on this issue and 6% (3) disagreed. Six per cent (3) of the respondents indicated that the provincial archives enforced the implementation of

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legislation, by not allowing the disposal of records without their approval, authority and supervision. The interviewees indicated the following:

Interviewee 4: “The Limpopo Provincial Archives enforce the implementation of the records management legislation by doing records management inspections at the governmental departments and municipalities”.

Interviewee 5: “[...] through the implementation of the objectives that are outlined in the Limpopo Provincial Archives Act”.

Interviewee 6: “[...] when conducting records management inspections. When conduct[ing] records management training, the legislations governing records management are included in the presentation slides”.

As the findings from the document analysis revealed, all the departments had records classification systems in place (as required for the management of records), including file plans, records management policies, registry procedure manuals, and other policies and registers. The document analysis also revealed that the records management policies in use were endorsed by the LPARS, as were the registry procedure manuals. The file plans in use were found to adequately cover all the functions and activities performed in the respective departments, and all the file plans used by the provincial departments contained general instructions or guidelines on how the plan had to be used, and how records had to be handled. One such instruction pertained to the destruction register, which instructs an organisation to have a destruction certificate for the purpose of recording the disposal year of records to allow for a well-organised disposal process.

Most organisations were found not to have a destruction register. As the document analysis revealed, the symbol “AP” [which, according to National Archives and Records Service of South Africa (RSA, 2007), means that records can remain in the custody of the body indefinitely. When disposal does take place, e.g. when the body closes or assets are disposed of, it must be transferred to an archives repository] was not used in the file plans of the provincial departments – instead, “A” and “D” were used, indicating “archive” and “destroy”, respectively. Policy records were regarded as “A20” [which, according to the National Archives and Records Service of South Africa (RSA, 2007), involves a “transfer to archives repository 20 years after the end of the year in which the records were created”], and most were found not to meet the requirements to be transferred to the archives under normal circumstances.

When the questionnaire respondents were asked to indicate which strategies were used or could be used to ensure compliance with records management legislation, they noted the following:

Respondent 1: “Provincial Department of Sport, Arts and Culture should monitor all departments regularly”.

Respondent 3: “. . . quarterly support visit and inspections by the provincial archives”.

Respondent 4: “Stay on track with changing laws and regulation[s], ensure employees follow procedures”.

Respondent 5: “Provincial Archives must ensure to inspect [the] records department at least twice quarterly and issue circulars and flyers [to] all departments”.

Respondent 6: “Archives to brief management [in] all departments about the importance of legislation and compliance, management will then lead by example”.

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## Discussion of the findings

The findings revealed that the LPARS ensured the implementation of records management legislation, by sensitising the various departments about the consequences stipulated in the National Archives Act (RSA, 1996b) for persons who wilfully damage any public or non-public records in the control of a government body, or other than in accordance with the archival act or any other law, remove, destroy or erase such records. The findings also revealed that the LPARS ensured the implementation of records management legislation by advising departments – in writing – when they were found to disregard legislation and issued frequent directives to guide departments on what was expected of them. In addition, the findings revealed that the LPARS ensured the implementation of records management legislation by educating government departments on the relevant laws. Furthermore, archivists advised the departments by word of mouth when legislation was not being adhered to.

The LPARS discouraged the disposal of records without its approval, authority and supervision. The LPARS was found to ensure the implementation of records management legislation through the approval of policies and classification systems. In addition, the body conducted inspections on the status of records and monitored compliance. Some findings contradicted what was reported in the literature review, which revealed that, in South Africa, organisations seem to lack diligence in respect of following guidelines and processes (Van der Walt and Schellnack-Kelly, 2015). As the study by Hamooya *et al.* (2011, p. 117) found, archives legislation in Zambia was outdated and that prevented the National Archives of Zambia from effectively overseeing the management of public records – which was not the case in this country.

What the findings of this study also revealed is that departments do adhere to records management legislation, regardless of the Limpopo Provincial Archives Act (RSA, 2001) being outdated and incomplete, to some extent. Nonetheless, there is still room for improvement. For instance, the document analysis revealed that most departments did not have a destruction register, which may be the reason why they keep records for longer than is necessary, and this causes challenges when it comes to storage space. Moreover, there seems to be a lack of understanding of the instructions contained in the departmental file plans: for example, all underlined descriptions within a file plan indicate the subject heading only, while subdivisions must be made for subject descriptions, as no file can be opened for any underlined descriptions (RSA, 2003, p. 8).

Regardless of this instruction, most departments have assigned retention periods to such descriptions. Furthermore, there seems to be a lack of understanding and the incorrect use of disposal symbols. As the document analysis revealed, “AP” was never used in the file plans in the provincial departments, but rather “A” (archive) and “D” (destroy). This resulted in all policy records being regarded as “A20”, while most did not even meet the requirement of being transferred to the archives under normal circumstances, as “A20” indicates records found to have archival value.

The mother body must keep such records for 20 years from the date on which the record was created, after which the record must be transferred to the archives, in accordance with section 11(2) of the National Archives Act (RSA, 1996b). Policy records that do not meet the requirements of being transferred to archives for permanent preservation may be given the “AP” symbol and preserved permanently within the institution and can only be transferred to the archives if an organisation closes down. In view of all these shortfalls, the findings have led to several strategies being proposed, for ensuring that departments fully adhere to legislation and regulations throughout the life cycle of each record:

- The LPARS should monitor all government departments regularly. These visits should be unplanned to provide assistance in ensuring uniformity and compliance with legislation.
- The LPARS should inspect the records department at least twice per quarter and issue advisory circulars and flyers to all departments.
- The LPARS and departments should keep abreast of changing laws and regulations and ensure that their employees follow procedures.
- The LPARS should brief the management in all departments on the importance of legislation and compliance, and management should lead by example.
- All employees should be trained or workshopped on policies, acts and legislation and should be supplied with related documentation.
- The LPARS should take action against any employees or users who fail to abide by the laws pertaining to the archives.
- Heads of department and members of the executive council should become involved in matters related to records management and should be hands-on and provide budgeted financial support on records management matters.

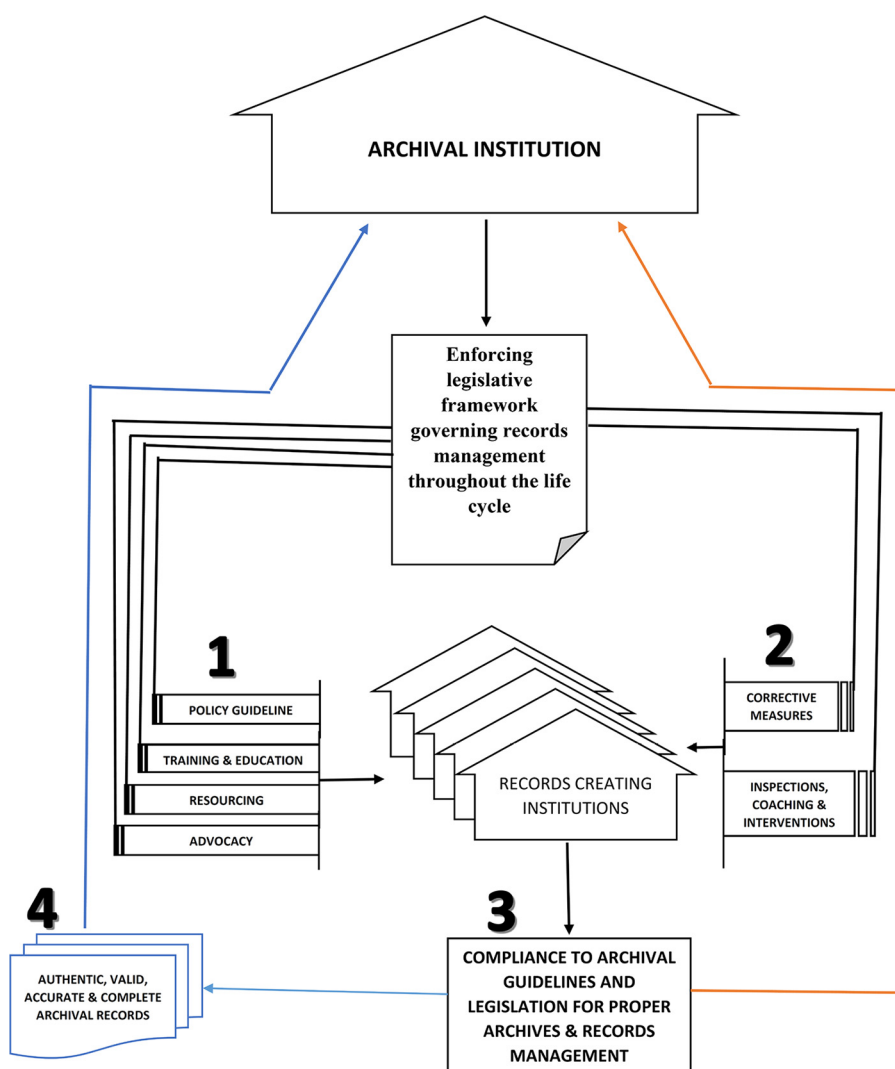
### **Recommendations**

The study recommends several strategies that can help to improve adherence to records management legislation throughout the life cycle of a record, including that the LPARS should monitor all government departments regularly. During unplanned visits, it can identify gaps and provide assistance to those departments to ensure uniformity and compliance with legislation. Moreover, records management inspections should be conducted at least twice in each quarter, and informative circulars and flyers should be disseminated to raise awareness. The LPARS and departments should keep abreast of changing laws and regulations to ensure that their employees follow procedures. The management of all departments should be briefed on the importance of legislation and compliance with records management, while employees should be trained or workshopped on policies, acts and legislation and be supplied with related documentation. Also, the LPARS should take actions against any person who fails to abide by the relevant laws relating to the archives. It will be beneficial for heads of departments and members of the executive council to familiarise themselves with what records management entails, so that they can ensure that staff are given the necessary support and resources.

### *Proposed framework*

Based on the findings derived from the literature review and the investigation reported on here, [Figure 5](#) offers a proposed model for enforcing the legislative framework governing records management throughout a record's life cycle.

As the model shows, in enforcing the legislative framework governing records management throughout a record's life cycle, the archival institution must start by discharging the activities listed under 1 to ensure that records-creating institutions are equipped with the tools, support and knowledge required to ensure compliance. This includes archival institutions creating and supplying policy and guidelines to records-creating institutions, as informed by legislation. Archival institutions should train and educate records-creating institutions on archives and records management policies, procedures and other guidelines to enable proper implementation, and archival institutions



**Figure 5.** Model for implementation of the legislative framework governing records management

Source: Authors (2023)

may also decide to support records-creating institutions with resources, for instance designated stationery (e.g. archival boxes). The former may also play a significant role in advocating for records management functions or divisions in different institutions that create records – especially those with enduring value, which eventually end up in an archival repository.

The next step involves those activities under 2 in the model, where the archival institution needs to undertake inspections, coaching and interventions, and implement corrective measures, where necessary. The archival institution must eventually inspect records-creating institutions after discharging the activities under 2, to verify whether the



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latter comply with legislative frameworks, as guided by policy, procedures and other guidelines, training and advocacy, as well as resourcing. During inspection, archival inspectors need to coach and conduct interventions based on their findings. Where elements of misconduct, negligence or criminality are uncovered, corrective measures need to be implemented, in line with the appropriate legislation on records management and labour relations. As shown in 3, this may eventually secure compliance with the legislative framework, through policies and procedures being provided and enforced, for proper records management. Finally, archival institutions will enjoy receiving and archiving records that are authentic, complete, valid and accurate. In that way, both archival and records-creating institutions will be complying with the legislative framework governing archives and records management, as shown in the outer arrows. It is hoped that this model will assist archival institutions not only in South Africa but across the world, to enforce the legislative frameworks governing records management appropriately and successfully, throughout the life cycle of each record, across multiple records-creating institutions.

### Concluding remarks

The LPARS was found to be doing well in enforcing the implementation of records management legislation. However, due to a lack of resources to fully support departments in ensuring proper records management throughout the life cycle of those records, in certain areas the implementation of legislation was not being fully enforced. For instance, although all departments had functional file plans, they did not fully adhere to instructions contained in those plans: some instructions were overlooked, such as the directive to create and maintain a destruction register, which is meant to guide departments on the lifespan of a record and when it can be disposed of. The lack of such registers led to records being kept longer than necessary.

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### Further reading

- Marutha, N.S. (2021), "Driving patient's records management process on the healthcare service delivery using records life cycle as a tunnel towards quality patients care", *Health and Technology*, Vol. 11, pp. 75-86.

### About the authors

Mrs Ouma Malatji is working as an Archivist in the Limpopo provincial Department of Sport, Arts and Culture in South Africa. Prior to this, she also worked as a Librarian under the same department at Letsitele Library. She holds Bachelor of Information studies from University of Limpopo, Bachelor of Arts Honours in Information Science from University of South Africa and currently working towards completing Master of Information Science at the University of South Africa.

Prof. Ngoako Solomon Marutha is working as a full Professor in the Department of Information Science at the University of South Africa. He also serves as a representative of the Unisa Department of Information Science on the International Council on Archives (ICA), and he is an ICA Regular Member of Section on University and Research Institution Archives (ICA/SUV), where he also serves as an executive member for bureau. He is also a regular member for ICA section for Archival education and section for the National Assembly. He has recently been appointed as an ICA New Professionals mentor for the year 2023. He is also a member of the South African Society of Archivists and serves on the National Executive Committee as editor-in-chief of the *Journal of the South African Society of Archivists*. He is also a review editor for the journal *Frontiers in Research Metrics and Analytics*. He has published several books, chapters and articles in different national and international publications and presented conference papers. His research interest includes knowledge, archives and records management, especially on patients and hospital records, electronic records, artificial intelligence, Internet of Things, cloud computing, blockchain technology, enterprise content management, big data management and police case records security. The other field of interest includes library management and marketing as well as open distance electronic learning. His professional industry background includes working as an information and records manager as well as librarian in several public and private institutions for over 13 years. He has been in the academic industry for over five years so far. He holds Bachelor of Information studies and Bachelor of Information Studies honour from University of the North – now known as University of Limpopo – and Master of Information Science and Doctor of Literature and Philosophy from University of South Africa. He serves as external examiner for masters and doctoral research studies for over seven universities. Ngoako Solomon Marutha is the corresponding author and can be contacted at: [emarutns@unisa.ac.za](mailto:emarutns@unisa.ac.za)

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