



FAQ

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FOIA – FAQ

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1 What is Freedom of Information?

Freedom of information is the legal right of individuals to access and request public records or information held in official or government custody.

2 Does FOI Counsel write FOI requests for any interested applicant?

Yes. FOI Counsel assists prospective applicants in writing their requests on their letterhead paper. In addition, we play an instrumental role mainly in circumstances where the request made is denied.

3 Does the Freedom of Information Act apply to only Federal Institutions?

No. Although it is an Act of the National Assembly, it applies to all public institutions including federal, state, local government institutions, and private bodies providing public functions and utilizing public funds.

4 Can I use FOIA to get public documents from the National Assembly?

Yes. The law can be used to obtain information from all arms of government including the judiciary and the legislature.



5 How does one obtain access to public records from the government?

The process is simple. All you need to do is write a request letter stating the information you require and transmit the application letter via post, email, courier, or personal delivery to the institution where the information is created or stored. The government institution is required to acknowledge the receipt of the request and respond to the request within 7 days of the receipt of the letter.

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8 What happens if the request is denied?

An applicant whose request is denied can apply to the High Court for judicial review within 30 days of the denial.



9 What types of records can be obtained using FOIA?

Information contained in documents, records, visual or audio tapes, or computer entries. Other sets of information accommodated by the Act includes: maps, photos, digital data, emails, and handwritten notes, etc.

10 Can I go to court for judicial review before I make a request?

No. Your relief for judicial review is based on the request made and refusal to disclose the same or where the institution neglects to attend to the request.

11 Does FOI request need to be in writing?

Yes, generally requests for information must be in writing. However, where illiterates and physically challenged persons make an oral application, it is reduced to writing by authorized officers of the institutions and a copy is made available to the

12 Do I need to pay any fee to obtain copies of public records?

Yes. The fee for any applicant is limited to standard charges for document duplication and transcription where necessary. Where it is exorbitant, the requester has a right to review the rate.



13 Will an identified commercial requester be made to pay a high processing fee?

No. Commercial users of FOIA are those who use the Act to project their financial interests. Corporate bodies can use FOIA to further their market data analysis. Nevertheless, commercial requesters are not contemplated for higher costs.

14 Can government institutions disclose information with or without formal request?

Yes. Public institutions are enjoined to periodically publish descriptive information about the institution including its duties and responsibilities, list or enumeration of records such as its guidelines and manuals, and actual records/data. This is called proactive disclosure of information to the public.

15 Who can sue under the law?

An applicant who writes a formal letter of request to the institution, requesting information can sue. Thus, a person entitled to the right to information under the Act, where such right is breached can sue. Under the FOIA, the letter of request must be written by the applicant because it is only the person who made an application that can sue, save a case of illiteracy and disability.

16 The institution has told me that it cannot find any records responsive to my request, can I sue?

Yes. The Act allows an applicant to sue in any case of denial of access to information where it is wrongfully withheld or denied.



14 What is public interest under the Freedom of Information Act?

Public interest is not defined under the Act. However, it refers to the common welfare and good of the public and consideration of the interest of the public in making decisions as to whether it

15 Does the Freedom of Information Act 2011 repeal the Official Secrets Act 1966?

Yes

16 Can Both State and Federal Governments legislate on Information?

Yes. They both have the power to legislate on the subject because information and archives are on the concurrent list of the Constitution. But any law made on the matter by the federal government has an overriding effect.

17 Is FOIA a Media Law?

Yes. But it is more of open government legislation

18 Can an individual institute an action under the Freedom of Information Act 2011?

Yes. The right to institute an action under the law rests with individuals, NGOs, government, and other corporate bodies (whether registered or unregistered).

19 Is a pre-action notice dispensable in FOI cases?

Yes. It is the letter requesting for information that serves the purpose of intention to sue. The requirement of a pre-action notice is merely ornamental in the right to information suit.

20 Is Freedom of Information the first open government legislation in Nigeria?

No. Before the advent of the FOIA, the right to information was guaranteed by the Constitution of 1963 which was later amended in 1979, 1999, and 2010. There are a plethora of legislations on access to information in Nigeria like the Finance (Control and Management) Act of 1958, Fiscal Responsibility Act of 2007, Public Procurement Act of 2007, National Archives Act of 1992, Nigeria Extractive Industry Transparency Initiative Act of 2007, and Statistics Act of 2007. The promulgation of the FOIA only opened a vista for compensatory and review process if the information being sought is withheld or denied.

21 Is FOI a fundamental right?

Yes. The right to expression and information is a fundamental right.

22 Can FOIA be instituted under Fundamental Rights Enforcement Procedure Rules?

Yes.

23 Can a Public Officer's assets be accessed under FOIA 2011?

Yes. A public officer's assets qualify as a public document. It is stated in a prescribed form, signed by the Commissioner of Oath, and counter-signed by the Judge of the High Court before it is lodged at the Code of Conduct Bureau. Thus, it becomes a public document.

24 Can the Public Officers Protection Act protect Public Officers who refuse to release public records?

No. The Public Officers Protection Act will not avail any public officer who reneges in their duty because no law can be called to aid negligence or protect against abuse of office.

25 Where the information sought is not in the custody of the agency what option is open to the procuring officer or Agency?

After receiving the Applicant's request and if the document cannot be found the agency has a duty to transfer the request to the office(s) where they think the information is situated and serve the Applicant a written notice of the transfer of request.

26 Whether a Public Officer who denied applicant information can be convicted?

Yes. Where a case of wrongful denial of access is established, the defaulting officer or institution commits an offence and is liable on conviction to a fine of N500,000.

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