

**The Role of the Media  
In the Effective Implementation  
Of the Freedom of Information  
Act 2011**



*Media  
Rights  
Agenda*

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**Media Rights Agenda  
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## What is Freedom of Information?

Freedom of Information is the right, which members of the public in any society have, to access information held by government officials and institutions. It is a fundamental human right established under international Law.

The underlying philosophy for Freedom of Information is as stated in Article IV(i) of the Declaration of Principles on Freedom of Expression in Africa, which is that: “***Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law.***”

## Key Features of the Freedom of Information Act 2011

The Freedom of Information Act of 2011 gives ***every person*** a legally enforceable right of access to records, documents and information held by public institutions, subject to certain exemptions stated in the Act.

In addition to public institutions, the Act also covers private entities performing public functions, providing public services or utilizing public funds.

## Which Institutions are Covered by the Freedom of Information Act

- **Public Institution:** A public institution is defined in the Act as any legislative, executive, judicial, administrative or advisory body of the Government, including boards, bureaux, committees or commissions of the State and any subsidiary body, including their committees and sub-committees, which are supported wholly or partly by public funds or which expend public funds. It also applies to other government bodies, including any executive department, military department, government corporation, government-controlled corporation, or other establishment in the executive branch of the government, including the Executive Office of the President, or any other arm of government, independent or regulatory government agency or public institution.
- **Private Bodies:** Private bodies covered by the Act are those non-governmental entities that are performing public functions, providing public services or utilizing public funds.

## **Types of Information Covered by the Act**

The types of information covered by the Act include all records, documents and information stored in whatever form, including written, electronic, visual images, sound, audio recording, etc.

## **Proactive Publication of Certain Types of Information**

Under the Act, all public institutions are required to proactively publish certain types of information through print, electronic and online means and to regularly update the information.

## **Mandatory Record Keeping by Public Institutions**

The Act makes it mandatory for all public institutions to record and keep information about their activities, operations and businesses and maintain the information in a manner that facilitates public access to the information.

## **Information Exempted from Routine Public Access**

The Act recognizes that some information held by public institutions may be sensitive and therefore exempts certain categories of information from the general right of access which the Law grants to members of the public. However, where there is an overriding public interest involved, even exempted information can be disclosed.

The types of information that are exempted from general access under the Act include:

- Information which may be injurious to the conduct of international affairs
- Information which may be injurious to the defence of Nigeria.
- Library circulation and other records identifying library users with specific materials.
- Information which may interfere with law enforcement investigations or be injurious to the security of penal institutions

- Information which may undermine a person's right to fair trial or fair hearing in actual or reasonably contemplated proceedings before a court.
- Personal information about the private lives of individuals, whether they are public officials or private citizens.
- Information pertaining to test questions, scoring keys and other examination data used to administer an academic examination;
- Trade secrets and commercial information obtained from a person or business that are proprietary, privileged or confidential;
- Information subject to Solicitor-Client privilege; Doctor-Patient privilege; Journalism confidentiality privileges; and other professional privileges conferred by Law.

### **Judicial Redress for Non-Disclosure of Information**

An applicant who is refused access to information can apply to a court to review the refusal and the court has the power to examine any record under the control of a public institution to determine if it falls within the exemptions in the Act. If the court decides that it is not exempted, it can order the public institution to disclose the information to the applicant.

Even if the information falls within one or more of the exemptions, in certain cases, the court may nonetheless order that the information be disclosed where it considers that the public interest in disclosing the information outweighs whatever injury disclosure would cause.

### **Offences under the Act**

The Act creates two offences. These are:

- Wrongful denial of access to information with N500,000 fine as sanction.
- The wilfully destruction or falsification of any record by any officer of a public institution before releasing the record to any person applying for it. It prescribes a minimum of one year imprisonment for the offence.

## **Oversight Responsibilities**

The Attorney-General of the Federation has broad oversight over all public institutions in the implementation of the Act. The Attorney-General is required to submit annual reports to the National Assembly on how the Law is being implemented and complied with.

## **Status of the Act in the Hierarchy of Laws**

The Act supersedes the provisions of all other Acts, Laws or Regulations, except the Constitution and those Laws with constitutional flavour. In particular, it supersedes the Official Secrets Act, the Evidence Act, the Criminal Code, the Penal Code, the Federal Public Service Rules, etc. These instruments cannot be used to limit its scope or application.

But access to records and documents under the Act is not free although the fees that can be charged are limited to standard charges for the duplication of documents and for transcription, where it is necessary to transcribe the information.

## **Implications of the Freedom of Information Act for Media Practice in Nigeria**

The Act will have a significant impact on the way the media work.

Prior to the enactment of the Act, a major challenge for most journalists was the difficulty in obtaining information from government bodies, among others, through legitimate channels. The situation was worsened by the absence of any legal protection for journalists' confidential sources, which created additional challenges for journalists and the media to persuade sources to give them information unofficially. Without access to information, journalism practice was extremely difficult. The Act can change this situation drastically. With the coming into force of the Act, media practitioners now have a real possibility of legitimately obtaining much of the information they require to do stories that will be of interest to the public and impact governance. In addition, public officials who provide them with information of public interest unofficially will also be protected against any adverse legal or employment related consequences.

Using the Law, journalists can approach virtually any public institution and where necessary, some private bodies, to request the information that is relevant for their work. If the Law works well, journalists, like other members of the public, should be able to get the information within seven days on average. In addition, civil servants and other public officials who are privy to information which show a violation of any law, rule or regulation; mismanagement, gross waste of funds, fraud, and abuse of authority; or a substantial and specific danger to public health or safety will now be encouraged to come forward voluntarily to reveal such information to the media or to the public through other channels without fear of reprisals.

### **The Role of the Media in Ensuring Effective Implementation of the Act**

Despite its huge potential, the Act can only make a difference if it is effectively implemented. But the Act will not enforce itself. Responsibility for implementation and ensuring compliance rests with a variety of stakeholders, including the media. Some of the key stakeholders with responsibility for enforcement and ensuring compliance will have to be prompted or prodded to perform these roles. The media is ideally placed to do the prompting and prodding.

There are ways that the media and individual journalists can contribute to the effective implementation of the Act. These are:

- Enlightening and Educating themselves about the provisions of the Act
- Publicising and Popularizing the Act
- Using the Act to obtain information from public institutions and relevant private institutions.
- Complying with the provisions of the Law
- Ensuring that the Law is working by monitoring its implementation

### **How can Journalists Enlighten and Educate themselves about the provisions of the Act?**

Journalists can enlighten and educate themselves about the provisions of the Act by reading the Act as many times as necessary to give them sufficient familiarity and understanding of the provisions to be able to discuss it in



detail; to enable them ask pertinent questions about the Act; and to enable them challenge any misinformation or inaccurate representation of the provisions of the Act. They should also try to read up as many materials as possible about access to information issues generally. Unless journalists have a good knowledge and understanding of the Act, they will not be able to write or talk knowledgeably and authoritatively about it; they will not be able to ask intelligent and pertinent questions of public officials and other individuals about the Act; they will not know how to use the Act to obtain information themselves; they will not know what to do or how to bring themselves into compliance with the Act; and they will not be able to monitor its implementation as they will not know what is required to be done under the Act by public institutions and relevant private bodies.

### **How can Journalists and the Media Publicise and Popularize the Act?**

- Newspapers and news magazines can publish or serialize the text of Act to enable as many people as possible within their general readership to have access to the text.
- Newspapers and news magazines can publish analytical stories and articles about the Act, explaining its objectives, its provisions, how to use it, its implications for governance, its benefits to citizens, government and the country as a whole, among other things;
- Newspapers and news magazines can publish editorial comments, write feature stories or articles about the usage of the Act; its relevance to different sectors of the society; comparative performance by different public institutions and relevant private entities in their implementation of the Act; successes recorded and challenges outstanding in the implementation of the Act, etc.
- Newspapers and news magazines can sustain public debates and discussions about the Act by continuing to publish opinion articles from members of the public regarding the Act or its implementation.
- Newspapers, news magazines, radio and television can publish stories based on their observations about the implementation of the Act by any public institution, relevant private entities and the regulatory authority.

- Radio and television stations can broadcast news analysis, commentaries, magazine programmes, etc on the Act to explain its objectives, its provisions, how to use it, its implications for governance; its relevance to different sectors of the society; the comparative performance by different public institutions and relevant private entities in their implementation of the Act; its benefits to citizens, government and the country as a whole; the successes recorded and outstanding challenges in the implementation of the Act, among other things;
- Radio and television stations can sustain public debates and discussions about the Act by continuing to provide air time and facilitating public discussions relevant to it and its implementation; etc.

### **How can Journalists and the Media Use the Act to Obtain Information?**

Public records and documents are invaluable assets to journalists and the media as a whole. They are important in ensuring that the media has accurate and reliable facts; in helping the media to correctly report events that may have escaped public attention when they happened or where the full facts are not known; they can assist the media in bringing previously unknown facts to light, in verifying information obtained from anonymous sources, etc. There are a multitude of records and documents covering a wide variety of issues and subjects, generated daily and stored by various government departments and agencies as well as private bodies. Public institutions, whether at Federal, State or Local Government levels as well as private entities utilizing public funds, performing public functions or providing public services hold a vast amount of information that would constitute a treasure trove for the journalist and the media, whether print or broadcast.

The Freedom of Information Act is a powerful tool through which the media can gain access to these public records and documents. Since government officials are inherently wary of releasing documents which do not favour them to journalists, the Act becomes indispensable as it can be used to compel them to release such records and documents.

Individual journalists as well as media organizations as corporate entities can

make an infinite number of applications to any public institution and any private body covered by the Act in an effort to obtain almost any type of information, except the limited categories of exempted information, which can themselves also be obtained where an overriding public interest can be demonstrated. By so using the Act, the media can itself contribute towards a new culture of openness and transparency as the public institutions get more and more used to being asked for information and begin to develop the practice of giving out information.

### **How can Journalists and the Media Comply with the Provisions of the Act?**

Government-owned media, whether owned by Federal, State or Local Governments, are themselves public institutions within the meaning of the Act. They will have to fulfil all the obligations of public institutions required under the Act. Private media organizations which may be said to be utilizing public funds, performing public functions or providing public services, will themselves be subject to the application of the Act. They will also have to fulfil the relevant obligations under the Act.

However, for individual journalists and private media organizations that do not fall within the scope of the application of the Act, they nonetheless need to respect and comply with the requirements of the Act and the procedures specified in it in seeking to obtain information under the Act. Strict compliance with the requisite procedures outlined in the Act will also enhance their chances of obtaining information under the Act and successfully challenging any denial of access to information. Whenever they fail or neglect to comply with the provisions of the Act, they may unwittingly be providing grounds, justification or excuses for public institutions or relevant private bodies to deny them access to information.

### **How Can Journalists and the Media Ensure that the Act is Working?**

Journalists and the media can ensure that the Act is working by monitoring its implementation. They can do this in two principal ways, namely:

- By submitting requests for information to public institutions and private entities covered by the Act, and thereafter documenting and reporting on their experiences on how much relevant institutions

satisfy the requirements of the Law.

- By a systematic assessment of the level of compliance by public institutions with various actions mandated by the Law and issuing reports of their findings

### **What Can Journalists and the Media Monitor?**

- All public institutions and private bodies covered by the Act have certain obligations under the Act. Some of these obligations are specifically mandated by the Act. However, there are also other requirements which, though not specifically mandated by the Act, will be necessary for the institutions and entities covered by the Act to process requests for information efficiently and to bring themselves into full compliance with the provisions of the Act. There are at least 24 specific obligations of public institutions and relevant private bodies that would require monitoring (see below). Journalists and the media can monitor compliance with these obligations.

### **Obligations of Public Institutions Under the Act**

1. Every public institution must ensure that it records and keeps every information about all its activities, personnel, operations, businesses and other relevant or related information or record in accordance with Sections 2(1) & 9(1). Journalists and the media can monitor which public institutions are complying with this requirement. The media can do this through systematic surveys of some public institutions across the country; through interviews with relevant officials of some public institutions across the country; through investigative reporting and other ways.
2. Every public institution must also ensure the proper organization and maintenance of all information in its custody in a manner that facilitates public access to such information, in accordance with Sections 2(2) & 9(2) of the Act. Journalists and the media can assess how public institutions across the country are organizing and maintaining their records and information. They can also assess whether such information storage and management systems and practices can enhance public access to such information. The media

can do this through systematic surveys of some public institutions across the country; through interviews with relevant officials of some public institutions across the country; by interviewing experts on information storage and management; through investigative reporting and other ways.

3. Every public institution is required to designate an officer to be in charge of public requests. Journalists and the media can monitor which public institutions have designated such officers in compliance with this requirement and how available and accessible such officials are in practice to members of the public seeking information. They can also monitor how easy it is for members of the public to submit requests for information to public institutions and private entities covered by the Act and whether there are challenges which requesters face such as not being able to get past security men at the gate or the receptionist in the institution. The media can also assess whether some categories of requesters are finding it more difficult to submit than others, etc. The media can do this through surveys of some public institutions across the country; through interviews with relevant officials of some public institutions across the country; by interviewing members of the public who have submitted requests, etc.
4. Section 2(3)(f) of the Act requires every public institution to publish the title and address of the appropriate officer to whom an application for information under the Act should be sent, although the failure to publish this information will not negatively affect the public's right to access information in its custody. Journalists and the media can monitor which public institutions are complying with this requirement, i.e. even if they have designated the officers, are the details stipulated in the Act published? The media can do this by checking the websites of public institutions, their notice boards and other platforms they are using for their proactive publications.
5. Every public institution is required to ensure the provision of appropriate training for its officials on the public's right of access to information or records held by government or public institutions as well as for the effective implementation of the Act. Journalists and the media can monitor which public institutions are training their officials in compliance with this requirement. They can also assess

whether the training programmes are appropriate or suitable. The media can do these through systematic surveys of some public institutions across the country; through interviews with relevant officials of some public institutions across the country; by interviewing experts on the issue; through investigative reporting; and in other ways.

6. Although not specifically mandated by the Act, it is important that public institutions and private entities covered by the Act establish some basic rules and procedures to guide the submission of requests for information and for giving out responses to facilitate the smooth operation of the Act. Such rules may include a requirement that the responsible officer must register every application for information and issue acknowledgment receipts to the applicant for every application. Such receipts should ideally include a registration number, the date of submission of the application, the name and contact details of the applicant, the information requested and the details of the official who received the application. This would obviously facilitate the easy resolution of any dispute about whether an application was submitted or received and if so, on what date, etc. Journalists and the media could monitor whether public institutions and private entities covered by the Act are maintaining suitable registers and issuing receipts to applicants who request information as well as whether they have instituted other basic rules and procedures to facilitate implementation of the Act within their institutions. The media can do this through systematic surveys of some public institutions across the country; through interviews with relevant officials of some public institutions across the country; through investigative reporting and in other ways.
7. The Act provides in Section 1(2) that an applicant should not be required to state any reason why he or she needs the information being applied for. Journalists and the media can monitor whether public institutions are asking applicants why they need the information requested or to demonstrate their interest in the information. The media can do a survey of some public institutions across the country and/or interview officials of some public institutions to find out if they understand this provision and interview those who have applied for information to find out if they were asked

about their interest in the information; through investigative reporting and in other ways.

8. The Act provides in Section 3(4) that an official to whom an applicant makes an oral application for information should reduce the application into writing and give a copy to the applicant. Journalists and the media can monitor compliance with this requirement and in particular, whether officials are assisting those who cannot write either by reason of illiteracy or of a physical disability, to reduce their applications into writing. The media can do this by interviewing non-literate persons or persons with disabilities who have applied for information as well as officials of some public institutions; through investigative reporting and in other ways.
9. The Act stipulates that public institutions and relevant private entities must respond to applications for information within seven days. Journalists and the media can monitor which public institutions are complying with this time frame. The media can do this through systematic surveys of some public institutions across the country; through interviews with relevant officials of some public institutions across the country; through interviews with persons who have applied for information; through investigative reporting to obtain first hand experiences; and in other ways.
10. The Act provides in Section 4(b) that where a public institution or relevant private body decides to deny an application for information, a written notice must be given to the applicant stating that access to all or part of the information will not be granted, with reasons for the denial and the section of the Act under which the denial is made. The Act stipulates in Section 7(1) that in addition to the grounds for refusal, the notice must also state that the application has a right to challenge the refusal in court. In addition, it is also a requirement under the Section that the notice must contain the names, designation and signature of each person responsible for the refusal. Section 7(3) states that the institution must also indicate in the notice whether the information or record applied for actually exists. Journalists and the media can monitor whether public institutions and relevant private bodies are complying with these requirements. The media can do this through interviews with officials of some institutions across the

country; by interviewing persons who applied for information but were refused and reviewing the notices they were given, if any; through investigative reporting and in other ways.

11. As indicated earlier, the Act recognizes that some information held by public institutions may be sensitive and therefore exempts certain categories of information from the general right of access which the Law grants to members of the public. These exemptions are contained in Sections 11, 12, 14, 15, 16, 17 and 19. However, the Act permits that where there is an overriding public interest involved, even exempted information can be disclosed. The Act, also stipulates in Section 18 that where an application is made to a public institution for information which is exempted from disclosure, the institution must disclose any part of the information that does not contain such exempted information. The journalists and the media can monitor how the exemptions specified in the Act are being interpreted and applied. It can also monitor whether the public interest test is being applied before information that may be said to be exempted is denied an applicant. In addition, the media can monitor where aspects of records and documents which are not exempted are being disclosed in accordance with Section 18 of the Act even if most of the document or record contains exempted information. The media can monitor these by surveying public and private entities covered by the Act; interviewing officials of institutions covered by the Act; interviewing applicants who have applied for information and have been granted access to information that would be otherwise regarded as exempted or those who have been denied access to requested information on the ground that the information is exempted.
12. The Act outlines two circumstances when the timeframe for response provided in the Law may be extended by a further period of no more than seven more days. The circumstances are, in Section 6(a), where the application is for voluminous records and meeting the original time limit would disrupt the institution's operations and, in Section 6(b), where consultations are necessary to comply with the application and the consultations cannot be completed within the original time limit. Journalists and the media can monitor whether the time frames are being extended by the affected institution, how frequently this is done, what reasons are being given for the extensions, etc. The media can do this through systematic surveys of some public institutions across the country; through interviews with



relevant officials of some public institutions across the country; by interviewing persons who have applied for information from institutions covered by the Act; through investigative reporting and in other ways.

13. Under the Act, if a public institution receives an application and it is of the view that another public institution has greater interest in the information, it may within three days but not later than seven days after the application is received, transfer it and, if necessary, the information, to the other institution. In such a case, the institution must give a written notice of the transfer to the applicant. Where an application is so transferred, the application will be deemed to have been made to the institution to which it was transferred on the day it received it. The Act states that a public institution has “a greater interest” in the information if the information was originally produced in or for the institution; or if the institution was the first institution to receive the information. Journalists and the media can monitor whether these requirements and stipulations are being complied with and generally assess the practices of institutions regarding the transfer of information to determine whether they satisfy the requirements of the Law. The media can do this through systematic surveys of some public institutions across the country; through interviews with relevant officials of some public institutions across the country; by interviewing persons who have applied for information from institutions covered by the Act; through investigative reporting and in other ways.
14. The Act provides in Section 7(5) that where a case of wrongful denial of access is established, the defaulting officer or institution shall on conviction be liable to a fine of N500,000. Journalists and the media can monitor whether this provision of the Act which is intended to ensure the fulfillment of the intention of the Act is being enforced. The media can monitor this by interviewing applicants who have been denied information to determine whether the denials are being challenged and what the attitude of the courts are where wrongful denial has been established. The media can also follow up cases that have gone to court to ascertain what the decisions of the courts have been in such circumstances.
15. Section 2(3) & (4) of the Act require every public institution to publish certain types of information proactively, even without anyone

requesting them. These should be widely disseminated and made available to the public through various means, including print, electronic and online channels as well as at the offices of the public institution. Under Section 2(5) of the Act, every public institution is also required to review and update this information periodically and whenever any changes occur. The types of information to be proactively published are listed in Section 2 of the Act and include:

- (a) a description of the organization and its responsibilities, including details of the programmes and functions of each division, branch and department;
- (b) a list of all classes of records under its control in sufficient detail to facilitate the exercise of the right to information under the Act.
- (c) a list of all manuals used by its employees in administering or carrying out any of its programmes or activities;
- (d) a description of documents containing final opinions including concurring and dissenting opinions as well as orders made in the adjudication of cases;
- (e) documents containing its substantive rules;
- (f) documents containing statements and interpretations of policy which it has adopted.
- (g) documents containing final planning policies, recommendations and decisions;
- (h) documents containing factual reports, inspection reports and studies, whether prepared by or for the institution;
- (i) documents containing information relating to the receipt or expenditure of public or other funds of the institution;
- (j) documents containing the names, salaries, titles and dates of employment of all employees and officers of the institution;
- (k) documents containing the rights of the state, public

institutions, or of any private person(s);

- (l) documents containing the name of every official and the final records of voting in all proceedings of the institution;
- (m) a list of files containing applications for any contract, permit, grants, licenses or agreement;
- (n) a list of reports, documents, studies, or publications prepared by independent contractors for the institution;
- (o) a list of materials containing information relating to any grant or contract made by or between the institution and another public institution or private organization; and
- (p) the title and address of the appropriate officer of the institution to whom an application for information under the Act should be sent.

Journalists and the media can monitor whether these proactive publications requirements are being complied with by all public institutions and, in particular, whether the categories of information stipulated in the Act are being proactively published; whether they are being widely disseminated and made available to public through various means, including print, electronic and online channels as well as at the offices of the public institution; whether the public institutions are also reviewing and updating the information periodically and whenever changes occur and whether all the types of information they are required to publish proactively are being published. The media can do this through systematic surveys of some public institutions across the country; through interviews with relevant officials of some public institutions across the country; by interviewing experts in civil society who can help shed light on some of the issues; by reviewing the websites of the public institutions; through investigative reporting and in other ways.

- 16 The Act provides that any applicant who has been denied access to information can apply to the Court for a review of the matter and that such matters should be heard and determined summarily by the

Court. Journalists and the Media can monitor compliance with these provisions to determine whether the procedures being adopted by the courts in cases of denial of access to information are such that will speed up the proceedings and assess how long it takes the courts to decide such cases. The media can do this by tracking such cases in court and interviewing applicants or lawyers involved in those cases.

17. Section 8 of the Act provides that the fees that can be charged for access to records and documents are limited to standard charges for the duplication of documents and for transcription, where it is necessary to transcribe the information. Journalists and the media can monitor how public institutions and private entities covered by the Act are charging requesters for the information they provide. They can assess whether the charges are consistent with the principles outlined in the Act or if applicants are being systematically denied access to information through being charged exorbitant fees which they cannot pay. The media can do this through systematic surveys of some public institutions and private entities covered by the Act across the country; by interviewing officials of some relevant private entities and public institutions across the country; by interviewing experts in civil society who can help provide expert opinions of fees for access to information; by interviewing applicants who have been granted access to information; through investigative reporting and in other ways.
18. Section 27 of the Act provides that notwithstanding anything contained in the Criminal Code, Penal Code, the Official Secrets Act, or any other enactment, no civil or criminal proceedings should be instituted against an officer of any public institution, or against any person acting on behalf of a public institution for disclosing in good faith any information under the Act, for any consequences arising from such disclosure, or for the failure to give any notice required under the Act, if care is taken to give the required notice. It also stipulates that nothing contained in the Criminal Code or the Official Secrets Act shall be used against any public officer who, without authorization, discloses to any person, any information which he reasonably believes to show a violation of any law, rule or regulation; mismanagement, gross waste of funds, fraud, and abuse of authority; or a substantial and specific danger to public health or safety even if

such information was not disclosed in accordance with the provision of the Act. It also provides that no civil or criminal proceedings can be instituted against any person receiving the information or further disclosing it. Journalists and the media can monitor whether these provisions are being complied with. In particular, the media can monitor whether public officials are being sued for disclosing information, or being charged under the Criminal Code, Penal Code or Official Secrets Act for unauthorized disclosure of information; or whether citizens, including journalists, are being sued or charged for receiving or further disclosing information whose disclosure to them was not authorized.

19. Section 28 of the Act stipulates that the fact that any information in the custody of a public institution is kept by that institution under security classification or is a classified document within the meaning of the Official Secrets Act does not preclude it from being disclosed in the event of an application for its disclosure under the Freedom of Information Act, unless the public institution decides that the information is exempted by Sections 11, 12, 14, 15, 16, 17, 19, 20 or 21 of the Freedom of Information Act. If the public institution decides that the information is not exempted under any of these provisions, it must give access to the information to the applicant. But if the public institution decides that the information is exempted under any of these sections, then it must give notice of its decision to the applicant. Journalists and the media can monitor compliance with this provision. In particular, they can monitor whether the Official Secrets Act or any other Law is being used as a basis to denying information to members of the public.
20. Under Section 29 of the Act, each public institution is required to submit to the Attorney-General of the Federation on or before February 1 of every year, a report covering the previous fiscal year, including the following information:
  - (a) the number of decisions made by the public institution not to grant applications for information made to the public institution and the reasons for such decisions;
  - (b) the number of appeals made by persons under the Act, and the

reason for the action in each appeal that resulted in a denial of information;

- (c) a description of whether a court has upheld the decision of the public institution to withhold information under such circumstances and a concise description of the scope of any information withheld;
- (d) the number of applications for information pending before the public institution as at October 31 of the previous year and the average number of days that such application had been pending before the public institution as of that date;
- (e) the number of applications for information received by the public institution and the number of applications which the public institution processed;
- (f) the average number of days taken by the public institution to process different types of application for information;
- (g) the total amount of fees collected by the public institution to process such applications; and
- (h) the number of full-time staff of the public institution devoted to processing applications for information, and the total amount expended by the public institution for processing such applications.

Each public institution is also required to make the report available to the public by different means, including by computer and telecommunications, or if computer and telecommunications means have not been established by the institution, by other electronic means. In addition, the Attorney-General is required to make each report, which has been submitted to him, available to the public in hard copies, online and also at a single electronic access point. Journalists and the media could monitor whether public institutions are submitting the information required by the Act to the Attorney-General of the Federation and whether the submissions are being made within the timeframe specified in the Act. They can also

monitor whether the reports are being made available to the public by the public institutions and the Attorney-General of the Federation in the various ways prescribed in the Act. The media can do this by checking with the office of the Attorney-General of the Federation and by trying to access the reports directly.

21. Section 29 (4) of the Act provides that the Attorney General must notify the Chairman and ranking minority member of the Committee on Government Reform Oversight of the House of Representatives and the Chairman and ranking minority member of the Committees on Government Affairs and the Judiciary of the Senate, not later than April of the year in which the report is issued, of the existence of the report and make it available to them in hard copies as well as by electronic means. Journalists and the media can monitor whether the Attorney-General of the Federation is duly notifying the relevant committees of the National Assembly stipulated in the Act of the existence of the report; whether he is making the reports available to the committees in hard copies and electronic means and whether these are being done within the timeframe specified in the Act. The media can do this by checking with the relevant committees of the National Assembly.
22. Section 29 (5) of the Act requires the Attorney-General to develop reporting and performance guidelines for the reports required under the Act and empowers him or her to establish additional requirements for the reports as he or she decides may be useful. Journalists and the media can monitor whether the Attorney-General of the Federation has developed the required reporting and performance guidelines for public institutions and whether he or she has established any additional requirements for the reports by public institutions. The media can do this by checking with the office of the Attorney-General of the Federation; by interviewing officials of public institutions, and obtaining copies of such reporting and performance guidelines.
23. Section 29(6) of the Act provides that in the exercise of his oversight responsibility under the Act, the Attorney General must ensure that all institutions to which the Act applies comply with the provisions of the Act. Journalists and the media can monitor compliance with this requirement by ascertaining what steps or measures the Attorney-

General of the Federation is taking to ensure that all institutions covered by the Act comply with its provisions. The media can do this by checking with the office of the Attorney-General of the Federation and verifying any claims with public institutions and private bodies covered by the Act.

24. Section 29(7) of the Act stipulates that the Attorney-General must submit to the National Assembly an annual report on or before April 1 of each calendar year and that the report should include for the previous calendar year a listing of the number of cases arising under the Act, the exemption involved in each case, the disposition of such cases, and the cost, fees, and penalties assessed. The report should also include detailed description of the efforts made by the Ministry of Justice to encourage all government or public institutions to comply with the Act. Journalists and the media can monitor whether the Attorney-General of the Federation is submitting the required annual reports to the National Assembly; whether such reports include the listing of cases arising under the Act and other information indicated in the Act; whether the reports also contain detailed descriptions of the efforts made by the Ministry of Justice to encourage all government or public institutions to comply with the Act; and whether the reports are being submitted within the timeframe stipulated in the Act. The media can do this by checking with the office of the Attorney-General of the Federation; by checking with the National Assembly and by ascertaining copies of the annual reports submitted by the Attorney-General of the Federation, if any.

## **Conclusion**

The Freedom of Information Act of 2011 is a powerful tool that Nigerians now have in their hands. But no individual or entity, governmental or non-governmental, can single-handedly ensure the effective implementation of the Act. The task of ensuring the effective implementation of the Act is a critical one that must involve all stakeholders and all sectors of the society. All stakeholders must make a firm commitment to ensure that it works.

However, as outlined above, the media has a vital role to play in its effective implementation. The media was instrumental to the passage of the Act but its



job is not done yet. It is imperative that the media continue to play their roles to make the Act work effectively.

As Nigerians and media practitioners, you must take advantage of the Act to make a difference in your work, in your personal lives and to change your country for the better.

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