

PROCEDURES AND TIMELINES FOR PROCESSING REQUESTS FOR INFORMATION UNDER THE FREEDOM OF INFORMATION ACT, 2011 & THE FMOJ's PROPOSED DRAFT REVISED IMPLEMENTATION GUIDELINES

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- ◎ The relevant provisions of the Act dealing with the processing of requests for information and the applicable timelines are Sections 1 , 3 – 8.
 - ◎ Section 1, does the following:
 - ◎ It affirms the primacy of the Act.
 - ◎ It guarantees the right of access to information to citizens and non-citizens alike.
 - ◎ It provides for access to information irrespective of the form in which the information is kept.
 - ◎ It makes custody or possession of the information or record, the basis for the compliance obligation of an institution when dealing with any request for information.

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- ◎ It does not require that the applicant demonstrates any specific interest in the information that he or she seeks.
 - ◎ Section 3 of the Act does the following;
 - ◎ It reiterates the fact that the form in which the information is kept is immaterial.
 - ◎ It grants illiterates and people living with disabilities the right to make their requests through third parties.
 - ◎ It makes provision for oral applications but requires that such be reduced into writing by the relevant officials of the public institution and a copy of the written application made available to the applicant.
 - ◎ It vests authorized officials of public institutions with a duty to assist requesters.

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- ◎ Sections 4 - 8 requires that requests for information or records be dealt with promptly and inexpensively.
 - ◎ The timeline for dealing with request for information is 7 days in the first instance.
 - ◎ Within this period, the information is either given to applicant or where he/she is being refused, they should be notified in writing.
 - ◎ The said refusal notice should state the reasons for the refusal and the provisions of the Act on which it is based.

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- ◎ The Act makes provision for any information request received by a public institution to be transferred to another public institution.
 - ◎ The Act uses the expression “greater interest” as what should be guiding principle that triggers any decision to transfer a request for information.
 - ◎ It defines greater interest to mean “where the information was either originally produced in or for the institution or where the institution was the first to have received the information”
 - ◎ The applicant is to be notified of this decision to transfer his/her application to the appropriate institution, including his/her right to have such decision challenged in court.

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- ⦿ The maximum timeline for effecting the transfer of any request for information is 7 days.
 - ⦿ Time to start to count for the institution to which the request is transferred, on the day that it receives the transferred request.
 - ⦿ The Act grants possibilities for extending the timeline for dealing with information requests by an additional 7 days. However this can only be done in two circumstances;
 - ⦿ Where the request is for a large number of records and it is impossible to have it concluded within 7 days without unreasonably interfering in the operations of the institution; or

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- ⦿ Consultations need to be made within the institution which cannot reasonably be concluded within the original 7 days timeline.
 - ⦿ Notification of this decision extending the timeline for processing the request must be given to the applicant.
 - ⦿ Such notification should clearly state that it is based on either of both grounds for extension of time as stated above.
 - ⦿ It should also contain a statement intimating the applicant of his/her right to have such decision challenged in court.

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- ◎ Where the public institution decides to refuse the applicants request, it needs to do the following;
 - ◎ Give applicant notice of this decision.
 - ◎ Such notification should state the grounds for the refusal, the provisions of the Act on which it is anchored and also intimate the applicant of his/her right to have such decision challenged in court.
 - ◎ The notification should also contain the names, designation and signature of each person that is responsible for the decision to refuse the applicant's request.

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- ◎ The institution is also required to state in the refusal notification whether the information or record does exist in the first place.
 - ◎ The Act also treats failure to give an applicant access to the information that he/she requests for within the timeline stipulated in the Act, as a clear case of deemed refusal.
 - ◎ Where a case of wrongful denial is established, the penalty is N500,000 and it is applicable to either the individual or the responsible institution.

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- ◎ The Act also penalizes the destruction, falsification or alteration of information/records or attempts to do any of these things, all aimed at preventing the effective realization of the public's right to know.
 - ◎ These offences attract a minimum of One year imprisonment, with no option of fine and no upper limit for sentencing.
 - ◎ The fees payable by an applicant is limited to the standard cost of duplication and transcription where necessary, hence no cost should be charged an applicant where none of these are required.

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- ◎ Institutions are required to ensure that they keep, organize and maintain information and records about their activities, businesses, personnel and operations, in a way and manner that facilitates public access to such information.
 - ◎ Institutions also have an obligation to build the capacity of their staff to effectively comply with the provisions of the Act.
 - ◎ It also provides protection for whistleblowers.

PROPOSALS UNDER THE EXTANT GUIDELINES

- × The extant guidelines classifies processing of information requests into 9 stages. These are referred to as the 9 'R's. These are:
 - × a) Read
 - × b) Record
 - × c) Responsibility
 - × d) Retrieve
 - × e) Refer to others

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- Redact and Separate
 - Review
 - Reply
 - Release to Publication Scheme under
Section 2: