

Freedom of Information Baseline Assessment

*Report from MRA FOI Audit of
Federal MDAs in Nigeria, 2012 -
2013*



**Freedom of Information Baseline
Assessment**

*Report from MRA FOI Audit of Federal
MDAs in Nigeria,
2012 - 2013*

**June 2013
Media Rights Agenda**

Acknowledgement

This report is published by Media Rights Agenda (MRA) as part of a project to monitor the implementation of the Freedom of Information Act, 2011 in selected public institutions.

This report has been made possible with the financial support of the Ford Foundation and Media Rights Agenda would like to acknowledge and thank the Foundation for its generous support to our work, including the Freedom of Information project.

Media Rights Agenda is also grateful to the project personnel - Tive Denedo, Ayode Longe, Jennifer Onyejekwe, Okiemute Patrick and John Gbadamosi - for their contributions to developing the assessment instrument, desk and field research, the writing and production of this report as well as their lively and frank discussions and debates during the implementation of the project.

Media Rights Agenda also wishes to thank the officials and representatives of various public institutions who responded to our enquiries and participated in our assessment. Their contributions provided a rich source of information for the report.

Table of Content

	Page
Acknowledgement	i
Preface	
Introduction	1
Chapter One: Overview	
1.1 Scope of Assessment	
1.2 Objective	
1.3 Methodology	
Chapter Two: Assessment Process	
Stage 1: Development of Research Template	
Stage 2: Identification and Notification of MDAs	
Stage 3: Interviews	
Chapter Three: Outcomes and Findings	
3.1 General Principles of the FOI Act	
3.1.1 Assessment	
3.2 Proactive Disclosure	
3.2.1 Assessment	
3.3 Duties and Obligations of MDAs to the FOI Act	
3.3.1 Assessment	
3.4 Responsiveness to Request for Information	
3.4.1 Assessment	
3.5 Reporting	

3.5.1 Assessment

Chapter Four

4.1 Challenges

4.1.1 The Culture of Secrecy

4.1.2. Bureaucracy

4.1.3 Record Keeping

4.2 Recommendations

4.2.1 Designation of an FOI Officer

4.2.2 Training and Sensitization

4.2.3 Development of ICT component

4.2.4 Advocacy

4.2.5 Other Matters

Chapter 5: Conclusion

Preface

Freedom of information (FOI) is globally recognized as a basic human right, established under international law. An effective FOI regime promotes a transparent and accountable government and governance system which encourage public participation. Given that the effectiveness of the Law in achieving these goals depends on its rigorous implementation, it is imperative that the implementation of the Nigerian Freedom of Information Act, 2011 is monitored to assess how well it is working and whether it can bring about the desired objectives.

With over 800 public institutions at the federal level, most of the government agencies are yet to put in place structures to ensure an effective FOI regime. Indeed, some of them have instituted measures and practices which contravene the provisions of the FOI Act.

It is in recognition of the need to monitor public institutions and to determine their level of compliance with their obligations under the Act that this project has been undertaken.

The research and this report identify the impediments to the effective implementation of the Act by public institutions and many of the challenges they face in this regard. The report makes suggestions on possible solutions to these challenges and these recommendations are targeted at various stakeholders including the Government, public officials, the Attorney-General of the Federation, civil society organizations, the media, and the international community, among others.

MRA hopes that this report will encourage various stakeholders to play their respective roles in ensuring the effective implementation of the Act which will in turn enable it to bring about a high level of transparency and accountability in government of Nigeria.

Edetaen Ojo

Executive Director
Media Rights Agenda

Introduction

The right of access to information is an important fundamental human right. The importance of this right was strengthened by its adoption in the first session of the United Nations (UN) General Assembly in 1946. It is one of the bedrocks of democracy and observed as vital for citizens' empowerment in engaging government.

Right to information increases government transparency which enables the general public to hold policy-makers accountable while participating in the decision making process which promotes good governance and eradicate corruption.

The Freedom of Information (FOI) Act is seen as crucial in assisting the public to access information as it promotes good governance. An important way by which good governance can be achieved is when the government and its institutions are willing to abide by the principles and provisions of the FOI Act.

The Act provides a legal guarantee for access to information and requires Public institutions to proactively publish information as well as to release information upon request. The Act contains certain features that are necessary for the law to achieve its purpose such as:

- It encourages proactive disclosure of information
- It establishes procedures for access to information
- It lists out categories of information exempted from the general right of access
- It stipulates cost of access to information
- It sets out the mechanism for seeking redress when request is denied

- It mandates the oversight body to produce operational guidelines for its implementation
- It states the process for awareness and sensitization on the Act within institutions; and
- It provides for the protection for whistle blowers etc.

The Nigeria FOI Act was enacted in May, 2011 by President Goodluck Jonathan. Two years down the line, it has become necessary to evaluate how well Public institutions have fared in carrying out their responsibilities under the Act. Though, like most developing countries, Nigerian government institutions are encumbered with bureaucracy and red tapes, yet, the law clearly states the obligations and duties of Public institutions in promoting the Act regardless of prevailing conditions.

With support from Ford Foundation, Media Rights Agenda (MRA) embarked on a pilot research project to ascertain the level of compliance by Public institutions to the Act. This report aims to show the progress made by Public institutions in pushing forward transparency and accountability by using the Act.

Chapter One

Overview

1.1 Scope of Assessment

This Baseline assessment sought to identify the prevailing conditions within government institutions relating to public access to information as provided for in the Act. This assessment also sought to find out how Public institutions are faring under the law, to investigate institutions' responsiveness in fulfilling their responsibilities, to find out their challenges and make recommendations.

This Assessment Report provides analysis of the key issues faced in FOI implementation by Public institutions. With over 800 federal public institutions, the assessment provides a reference document and guide for heads of government offices that will enable them take action in responding to some generic problems that cut across board.

The targets of this research were Ministries, Departments and Agencies (MDAs) recognized in the Act as Federal MDAs (MDAs) located within Abuja, the Federal Capital Territory (FCT) of Nigeria and Lagos State. The research was conducted over the period of June 2012 to May 2013.

1.2 Objective

The objectives of this assessment were:

- To assess the policies put in place to implement the Act including implementing the Attorney General of the Federation's (AGF) operational guideline.
- To improve on the understanding of the Act by government officers which ensures compliance
- To identify existing problem areas and the needs for improving access to public information, including assessing the awareness of the right to information among local civil servants and their training needs.

1.3 Methodology

The purpose of the assessment was to establish whether MDAs are complying with international best practices in dealing with access for information and to identify and make recommendations in relation to areas where procedures and practice are not in line with expected practice.

The assessment considered all aspects of MDAs' or their procedures for handling of record keeping, requests for information and responses to requests as stipulated in the Act. Based on the research findings, this report provides a set of recommendations to improve the implementation of the Act.

The design of this research will also be used as a model with the intention of replicating the assessment annually in order to determine the trend of MDAs' responsiveness to implementing the Act.

The assessment was carried out using qualitative research methods to collect data. These were questionnaires and one-on-one interview. Out of the 105 MDAs visited for this phase of the project, only 34 engaged the research team. The following five areas were identified for consideration and discussion:

- General principles of the FOI Act
- Proactive disclosure
- Duties and obligations of MDAs under the FOI Act
- Responsiveness and
- Reporting

Chapter Two

Assessment Process

Stage 1: Development of Research Template

The research team developed an internal strategy document for carrying out the research component. They identified the major attributes of the FOI Act which the MDAs should comply with as specified by the Act. A questionnaire and scoring guide was developed to act as a template for the research team. Identified MDAs were assessed based on the responses given on each question.

Stage 2: Identification and Notification of MDAs

A total of 105 MDAs were identified for the research while 34 of that number cooperated with the research team and responded to the questionnaire. The identified MDAs were notified in a letter of MRA's intention to visit the institution and conduct an assessment of its compliance with the Act. The letters were addressed to the heads of the MDAs. The letter informed MDAs of the reason for MRA's visit and requested for audience. The letter also stated that MRA will like to discuss ways in which the MDAs can improve on their implementation of the Act.

Letters were delivered to the following MDAs:

1. Ministry of Niger Delta Affairs
2. National Commission for Refugees
3. Federal Ministry of Justice
4. Nigerian Communication Commission (NCC)
5. Public Complaints Commission

6. National Assembly
7. Ministry of Education
8. Ministry of Trade and Investment
9. Ministry of Mines and Steel
10. Health and Social Services
11. Ministry of Information and Communication Technology
12. National Sports Commission
13. National Boundary Commission
14. Office of the Accountant General of the Federation
15. Ministry of Defence
16. Nigerian Geological Survey Agency
17. National Salary, Wages and Income Commission
18. Nigeria Copyright Commission
19. Economic and Financial Crimes Commission (EFCC)
20. Federal Character Commission
21. Nigerian Pilgrim's Christians Commission
22. National Youth Service Corp (NYSC)
23. Federal Road Safety Corp (FRSC)
24. National Lottery Regulatory Commission
25. Environmental Health Services officers Regulatory Council of Nigeria
26. Federal Ministry of Labour and Productivity
27. Revenue Mobilization Allocation and Fiscal Commission (RMAFC)
28. Office of the Head of the Civil Service of the Federation (OHSCF)
29. Corporate Affairs Commission (CAC)
30. Federal Ministry of Power
31. The Presidency, Inter-Party Affairs
32. The Presidency, Ministry of Ethics and Values
33. The Presidency, Ministry of Special Duties

34. National Agency for Food & Drug Administration & Control (NAFDAC)
35. National Agency for Prohibition of Traffic in Persons and other Related Matters (NAPTIP)
36. Ministry of Science and Technology
37. Ministry of Foreign Affairs
38. Ministry of Police Affairs
39. Ministry of Women Affairs
40. The Presidential Advisory Council
41. Ministry of Aviation
42. Office of the Auditor General of the Federation
43. Tertiary Education Trust Fund (TETFUND)
44. Transmission Company of Nigeria (TCN)
45. Ministry of Water Resources
46. Bureau of Public Enterprise (BPE)
47. National Mass Literacy and Adult Education Commission (NMEC)
48. Nigerian Electricity Regulatory Commission (NERC)
49. Independent National Electoral Commission (INEC)
50. Independent Corrupt Practices and other Offences Commission (ICPC)
51. Code of Conduct Bureau (CCB)
52. Nigerian Press Council
53. Technical Unit on Governance and Anti Corruption Reforms (TUGAR)
54. National Library
55. Nigerian Extractive Industries Transparency Initiative (NEITI)
56. National Orientation Agency (NOA)
57. Ministry of Information and Communication
58. National Human Rights Commission
59. Bureau of Public Service Reforms
60. News Agency of Nigeria (NAN)
61. Legal Aid council

62. Federal Urban Mass Transit
63. Nigerian Film and Video Censors Board (NFVCB)
64. National Merit Award
65. National Agency for Control of AIDS (NACA)
66. Dental Technologists Registration Board of Nigeria
67. Police Service Commission
68. National Salaries, Wages and Incomes Commission
69. National Institute of Oceanography And Marine Research (NIOMR)
70. Federal College of Fisheries and Marine Technology
71. Yaba College of Technology
72. Federal College of Education (Technical)
73. University of Lagos
74. National Open University of Nigeria (NOUN)
75. Queens College, Lagos
76. School of Nursing, Nurse Tutor Programme
77. National Post Graduate Medical College
78. Lagos University Teaching Hospital (LUTH)
79. National Orthopedic Hospital
80. Federal Medical Centre, Lagos
81. Nigerian Institute of Medical Research
82. Federal Laboratory Science Council of Nigeria
83. Federal School of Occupational Therapy
84. Standard Organisation of Nigeria (SON)
85. Trade Fair Council
86. Technology Business Incubator Centre
87. National Agency for Science and Engineering Infrastructure (NASENI)
88. National Centre for Renewable Energy Efficiency and Conservation,
89. Nigeria Airspace Management Agency (NAMA)
90. Federal Airport Authority of Nigeria (FAAN)

91. Nigerian Building Research Development
92. Ministry of Finance
93. Ministry of Transport
94. Petroleum Products Pricing and Regulatory Agency (PPPRA)
95. National Board for Technical Incubation
96. Nigerian Security and Civil Defence Corp (NSCDC)
97. Directorate of Technical Aid Corps
98. Nigeria Customs Service
99. Teachers Registration Council of Nigeria
100. Universal Basic Education Commission (UBEC)
101. Federal Road Maintenance Agency (FERMA)
102. National Information Technology Development Agency (NITDA)
103. National Identity Management Commission (NIMC)
104. National Industrial Court
105. National Centre for Women Development
106. Nigerian Institute for Advanced Legal Studies
107. Budget Office, Ministry of Finance
108. Debt Management Office of Nigeria (DMO)
109. Nigeria Deposit Insurance Corporation (NDIC)
110. Nigeria Export/Import Bank (NEXIM)
111. National Insurance Commission (NAICOM)
112. Abuja Securities and Commodity Exchange
113. Securities and Exchange Commission (SEC)
114. National Seed Service
115. National Oil Spill Detection and Response Agency
116. National Sugar Development Council
117. Presidential Taskforce on Power
118. Energy Commission of Nigeria
119. National Directorate of Employment (NDE)
120. Office of Establishment and Management services
121. Surveyors Council of Nigeria
122. Consumers Protection Council

123. National Automotive Council
124. National Institute for Pharmaceutical Research and Development (NIPRD)
125. Office of the Surveyor General of the Federation (OSGOF)

The following MDAs responded to MRA's interview:

1. National Population Commission
2. National Library
3. Federal Ministry of Education
4. Ministry of Trade and Investment
5. National Agency for the Control of Aids
6. Ministry of Aviation
7. National Sports Commission
8. Ministry of Police Affairs
9. Technical Unit on Governance and Anti corruption Practice
10. Federal Character Commission
11. Police Service Commission
12. Independent National Electoral Commission
13. Independent Corrupt Practices and other Offences Commission (ICPC)
14. Revenue Mobilization, Allocation and Fiscal Commission
15. Ministry of Environment
16. Ministry of Information
17. Ministry of Justice
18. National Press Council
19. National Drug Law Enforcement Agency
20. Nigerian Extractive Industries Transparency Initiative
21. National Human Rights Commission

22. Bureau of Public Service Reform
23. Health Officers Registration Council
24. Code of Conduct Bureau
25. National Orientation Agency
26. National Salaries, Income and Wages Commission
27. Nigerian Electricity Regulatory Commission
28. National Youth Service Corp
29. Office of the Head of Service
30. Presidential Advisory Council
31. Ministry of Inter-party Affairs
32. National Automotive Councils
33. National Institute for Pharmaceutical Research and Development
34. Office of the Surveyor General of the Federation

Stage 3: Interviews

Following the letters, the research team fixed visits with MDAs and worked through the assessment checklist produced for the research. This is to ensure that each relevant area of practice had been considered and appropriate evidence gathered.

The checklist covered:

- Reviewed MDAs understanding of the Act
- Examined MDAs (or MDAs) efforts on proactive disclosure which includes, publications and websites
- Discussed the FOI request handling and processing procedures especially as recommended by the AGF's guidelines.
- Identify challenges
- Request for recommendations

The feedbacks provided at these meetings are reflected and expanded upon in the points raised in the next segment of this report.

Chapter Three

Outcomes and Findings

Though this assessment showed a great deal of ignorance on the part of the MDAs concerning the Act, it was evident through the discussions with the government officials that the institutions desired to comply with the provisions of the Act. It was observed that the poorest performances belonged to the older established institutions like Ministries more than Agencies and Parastatals created under such ministries.

The findings showed that while they could demonstrate good practice in some aspects, the institutions failed to comply with most of the requirements as contained in the Act. With non compliance attributed to such excuses as the non availability of the Act , the bureaucracy, absence of budgetary allocation for implementation of the Act and the 'business as usual' attitude of public officers, it was apparent that the implementation of the Act still has a long way to go with MDAs..

Following the assessment, it was clear that a significant number of the MDAs have received the AGF operational guideline sent in January 2012. Also, a significant number have instituted/inaugurated FOI Committees to oversee the FOI Unit. And that is where it stopped. The survey showed that although these committees have been constituted ,most of them are yet to meet and create the FOI Unit. Some MDAs do not see the reason to constitute an FOI committee; insisting that the Act does not cover their institution. Others

have appointed an FOI desk officer but with no instruments to run the office.

The questionnaire was divided into five assessment areas with different numbers of questions but all summing up to a total of 37 questions in all. They are also scored differently depending on the importance or relevance of the question to the effective implementation of the FOI Act.

The following sections of this report set out the survey findings and recommendations.

3.1 General Principles of the FOI Act

The Act makes all public records and information more freely available, subject only to limited exemptions. The Act says that regardless of what is contained in any other Act that the right of any person to access information is established. This clearly means that the Act recognizes a fundamental right of access to information. All the MDAs that were interviewed agreed that the Act is a right and should be treated as such. There is also the general agreement by the MDAs (or MDAs) that everyone has a right of access to information subject to the exemptions listed in the Act.

One of the general principles of the Act says that for anyone requesting for information, the individual does not have to give an explanation to justify the request for the information. The information is for the public and the MDAs are just custodians of public information and are under obligation to make them available when requested by members of the public.

Requesters should also refrain from giving explanations why they need access to public information so as to avoid providing grounds that will be deemed insufficient by public officials and used to deny them access. Some of the MDAs (or MDAs) considered that principle as wrong stating that every demand for information should be accompanied by a reason for making the request.

Those on the side of having an explanation made said it will help the Information Officer put the demand in context of how important the request is and help them facilitate the release of such information. This was the position of MDAs like NEITI and Ministry of Aviation.

3.1.1 Assessment

The first assessment area labeled “General Principles” contained eight questions which are based on general principles of FOI as they apply to access to information laws by acceptable global standards and practices.

Thirty-one of the 32 public officers who cooperated with MRA assessors and responded to their questionnaires agreed with the principle that the FOI Act recognizes a fundamental right of access to information. This means that 96.7% of the respondents agreed with the principle; an indication that majority of public officers who have had access to the FOI Act know and agree with this principle.

Another 30 officers or 93.75% of the respondents agreed that the Act creates a specific presumption in favour of

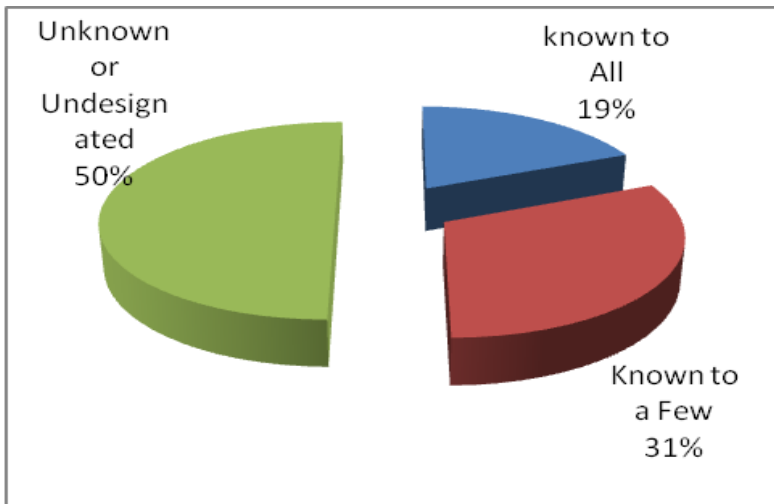
access to all information held by public authorities/institutions, subject to only limited exemptions.

Twenty-eight officers or 87.5% of the respondents agree that requesters do not need to demonstrate a specific reason for demanding or requesting information or record.

Again, 30 public officers who responded to the questionnaires or 93.75% of respondents believe everyone; including non-Nigerians have a right, under the FOI Act, to request for information and records.

Sixteen of the 32 MDAs surveyed or 50% have designated FOI Officers while three institutions or 9.37% of the institutions surveyed have not specifically designated anyone a Freedom of Information Officer but expect or have asked either their legal officers or information/press officers to double as FOI Officers.

Only in six of the 32 MDAs surveyed or 18.75% are the FOI Officers designates known to all the staff of the institutions: in 10 of these institutions or 31.25% of them, the FOI officer designate is known to only a limited number of staff of the MDAs but not to all of them. In 16 of these institutions, or 50% of the institutions surveyed, the FOI officers are either not known to staff members or have not been designated.



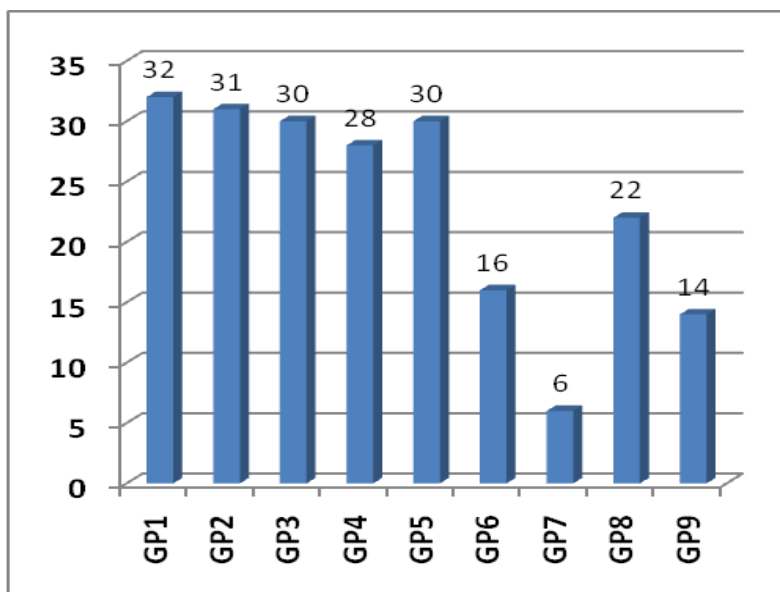
The chart above shows the percentage of the extent to which staff and officials in the federal institutions surveyed know the FOI Officers designate in their institutions

Twenty-two or approximately 68.75% of the MDAs surveyed said they had the FOI implementation guideline issued by the office of the Attorney General of the Federation (AGF). Ten or 31.25% of the institutions surveyed do not have the guideline. The AGF, under section 29 of the FOI Act has a responsibility to develop an implementation guideline for MDAs. The AGF has issued two guidelines while the second guideline which was revised late last year is in the works. The AGF's guideline is crucial to the successful implementation of the Act as it explains and gives guidance on the Act.

Fourteen of the MDAs surveyed or 43.75% say in addition to possessing the Attorney General's guidelines on implementing the FOI Act, they actually fully abide by the

guidelines in responding to requests for information and records by members of the public. In five cases, the respondents said the institutions they work for apply the AGF's guideline partially in responding to requests for information by members of the public. In other words, 15.62% of the institutions surveyed apply the AGF's guidelines partially. The rest 13 of the institutions surveyed or 40.62% of them do not apply the AGF's guideline.

Six of the 32 institutions surveyed scored the maximum 11 points scorable by an institution in this 'General Principles' assessment area; one institution scored 10, three institutions scored 9 while one institution scored 8. The rest scored 7 and below.



The table above shows the administration of questionnaire and responses for the "General Principles" assessment area of the survey

Key to the graph above

- GP1** - Number of MDAs Surveyed
- GP2** - Institutions that agree FOI Act recognizes a Fundamental Right of Access
- GP3** - Institutions that believe the FOI Act creates specific presumption in favour of access to all information
- GP4** - Institutions that agree applicants' need not give explanation for seeking information
- GP5** - Institutions that agree that everyone has a right of access to information, including non-Nigerians
- GP6** - Institutions that have designated FOI Officer
- GP7** - Institutions where the FOI Officer designate is known to all staff
- GP8** - Institutions that have a copy of the Attorney General of the Federation's (AGF) guidelines for the implementation of the FOI Act
- GP9** - Institutions that fully apply the AGF's FOI implementation guidelines

3.2 Proactive Disclosure

There are two ways by which the public can access information held by MDAs. These are proactive disclosure by MDAs and release of information upon requests by members

of the public. For proactive disclosure, the FOI Act stipulates that information should be proactively published and widely disseminated and delivered to the public through various means including print and electronic media.

In terms of proactive information disclosure, most of the MDAs surveyed are yet to meet the requirements stipulated in the Act. In particular, information relating to finances is rarely published through any means. The institutions agreed that such information exist in files but are not published as required by the Act Routine information like the name and address of the FOI Officer is not published on institutions' website. This makes it difficult for interested members of the public to make further enquiry. The National Youth Service Corps (NYSC) and the National Orientation Agency (NOA) are the only MDAs assessed that have FOI Desk Officers' Contact link without the contact name on its website. The National Population Council is not aware that such an action needs to be taken since certain information under proactive disclosure is already on the website.

The Act lists information that every MDA should consistently keep in the public domain to ease citizens' access to such information.. Such information can be disclosed through institution's websites, publications, journals, notice boards, newsletter and brochures.

Information which the Act obliges MDAs to publish proactively are:

- Publications that describe the MDAs' responsibilities which include programmes and functions of each department, division or branch

- A publication that contains a list of all classes of records
- Employees' manual
- Files containing final opinions made in adjudication of cases.
- Rules and regulations of the MDA.
- A publication which interprets the 'MDAs' policies.
- A list of all financial receipts and expenditures (budget allocations).
- A file containing the names, salaries, titles and dates of employment of all employees
- A file containing applications for contracts, permits, licenses or MOUs and materials relating to contract made by the institution.
- Reports made by independent contractors on behalf of the institution.
- Information about the FOI Officer for the MDA which includes the officer's title and address widely disseminated to the public through various means.

A significant number of MDAs surveyed have developed and have in their files, some of the above mentioned information. A few of these information can be found in hard copies which are given freely to the public when requested. Information

such as the responsibilities of the institutions, its records and annual reports are available for public consumption. The results based on the assessed indicators show that commissions, agencies and departments practice proactive disclosure over ministries. The Police Service Commission, National Youth Service Corp, Code of Conduct Bureau, National Population Commission, Independent National Electoral Commission, Revenue Mobilization Allocation Fiscal Commission and the Nigeria Press Council had all published reports which detailed these information. A substantial part of this information is contained in the Civil Service Rules which regulate the establishment and the activities of the respective institution.

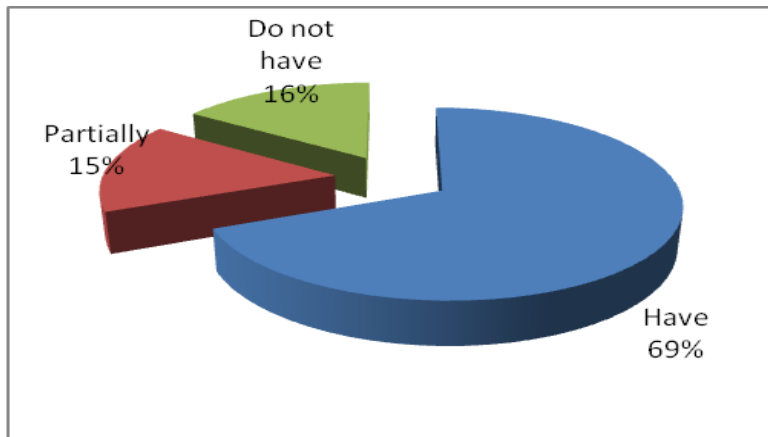
It was noted that most of these information though published in hard copy were not uploaded on the 'MDAs' websites. Many of the surveyed institutions do not have functional websites and where they have information on the websites are not regularly updated. A website should be the one stop point for reading about the functions and responsibilities of the MDAs as well as the services they provide to the public. It is noteworthy, that these information are not given to the public without the public requesting for the information. MDAs should, as best practice, distribute such reports to the citizens with or without the request for such information from the public. This distribution could be quite easily done through a functional website. It also important to mention that though these categories of information are available, they are located in different department and not collated under one section or published as one document. It says so much about the information management systems of MDAs in Nigeria.

Information related to contracts, finances, employment details and court cases are hardly published (hard copy or soft copy) even though the reports are prepared, they are not made available to the public.

3.2.1 Assessment

There were 11 questions under the “Proactive Disclosure” assessment area. Questions in this assessment area were focused the proactive disclosure obligations of MDAs in the FOI Act. The Act lists a number of areas in which MDAs are expected to comply by proactively disclosing certain information. These set of proactive disclosures constitute one of the duties and obligations expected of these institutions. They were taken out and classified together as one set of duties and obligations but specifically categorized as ‘Proactive Disclosure’ as this is what these obligations amount to. Ordinarily, they should be classified with other duties and obligations under the Act.

On whether the MDAs have any publications that describes their responsibilities which include programmes and functions of each department, division or branch, 22 of the institution or approximately 69% said they had such publications; five MDAs or 15.62% said they had such publication but not fully capturing all the information the Act requires such to capture. Another set of five institutions or 15.62% said they do not have. Twenty-three of these institutions or approximately 72% of the institutions said these publications are constantly updated while the rest nine or 28% said they do not update theirs as they either were in partial compliance with the Act or not in compliance at all.



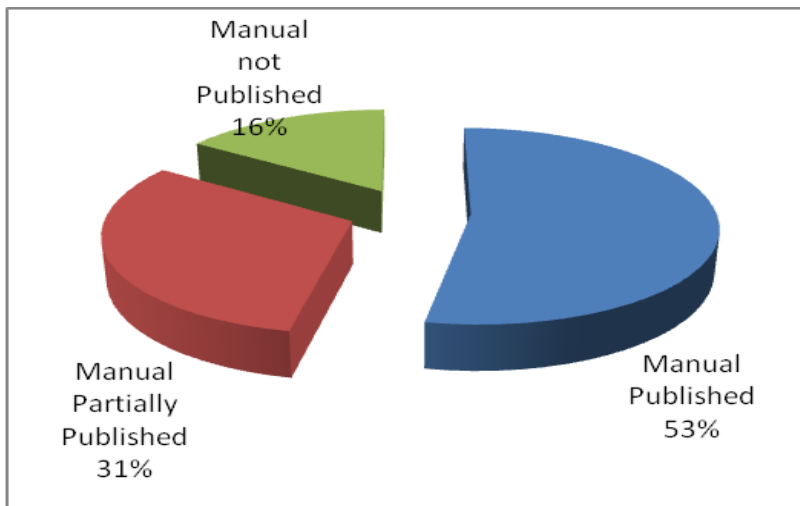
The chart above shows the percentage of compliances with the provision of the FOI Act which requires publications that describes the responsibilities which include programmes and functions of each department, division or branch of MDAs

Asked whether they had published all classes of records, 10 MDAs or 31.25% of the institutions that responded said they do; another set of five institutions or 15.62% said they have partially published these records while 17 of the institutions or 53.12% said they have not published any class of records.

Nine MDAs surveyed or 28.12% said they regularly update their publications on classes of records; six of these institutions or 18.75% said they updates their publications on classes of records but not regularly while 17 institutions or 53.12% do not publish the classes of records they hold and consequently do not update any.

The questionnaire also sought to know if the MDAs surveyed had published manuals used by employees in carrying out activities. Seventeen of the institutions or 53.12% said they have published such manual while 10 of the institutions or

31.25% said they have partially published such and the rest five institutions surveyed or 15.62% have not published such manual.



The chart above shows the percentage of public institution which published manuals used by their employees in carrying out their routine activities

On how often those who published the manual updated them, 11 of the institutions or 40.74% of the institutions which published employee manuals said they regularly update the manuals; nine of them or 33.33% said they update the manuals but not regularly. The rest seven institutions or approximately 30% said they do not update their manuals.

A question was also asked if the MDAs surveyed had published files containing final opinions made in adjudication of cases. In their responses, nine of the 32 institutions or 28.12% said they had while the rest 23 institutions or approximately 72% have not published any such file. Eight

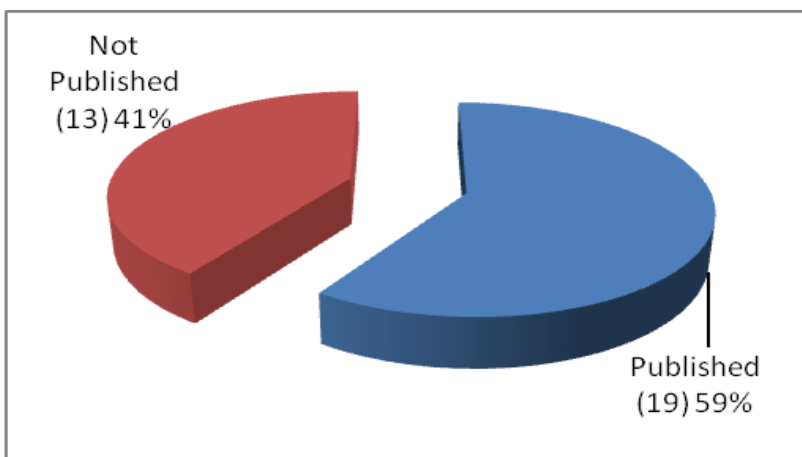
or approximately 89% of the nine institutions which said they published files containing final opinions made in adjudication of cases said they regularly updated such files.

Another question asked if the MDAs surveyed had published documents that state their rules and or policy. Twenty seven or 84.37% of the institutions said they published such documents while the rest five or 16.62% said they do not. Twenty-four or approximately 89% of those who said they published documents stating their rules and policies also said they regularly update these documents.

On whether the MDAs surveyed had published documents that contain statements and interpretations of policies which have been adopted by them, six institutions or 18.75% said they have published; nine or 28.12% said they have partially published while the rest 17 or 53.12% of the institutions said they had not published such document. Thirteen or 86.66% of the 15 institutions which said they had published some sort of documents that contain statements and interpretations of policies which have been adopted by them said they update these documents.

Institutions which responded to MRA's questionnaires were also asked if the institutions had published a list of all their financial receipts and expenditures. Of the 32 institutions surveyed, 17 of them or 53.12% said they had published the list of all their financial receipts and expenditures. While the other 15 or approximately 47% had not. Fifteen or 88.23% of the 17 institutions which said they had published the list of all their financial receipts and expenditures also said they updated these documents.

The MDAs were also asked if they had published any file containing the names, salaries, titles and dates of employment for all their employees. Responding, 19 of them or 59.37% said they had published while 13 or 40.62% said they had not published any such file. Fifteen or approximately 79% of the 19 institutions which said they published files containing the names, salaries, titles and dates of employment for all their employees also said they regularly updated these files.



The chart above shows the number and percentage of MDAs which said they had published files containing the names, salaries, titles and dates of employment for all their employees and those which had not

The questionnaire also sought to know if the institutions had published any file which contains applications for contracts, permits, licenses or MOU and materials relating to contract made by the institutions. Fourteen of the responding institutions or 43.75% said they had published such file while the other 18 or 56.25% said they had not published any such

document. Thirteen or approximately 93% of the 14 institutions which said they had published files containing applications for contracts, permits, licenses or MOU and materials relating to contract made by the institutions said they update the files.

MDAs were also asked if they had published reports made by independent contractors on their behalf. Of the 32 responding institutions, 16 of them or 50% said they had published such reports while the other half said they had not. All 16 institutions or 100% which said they published reports made by independent contractors on their behalf said they also update these reports.

MDAs were also asked if information about the FOI Officer designate for the institution, which includes the officer's title and address were widely disseminated to the public through various means. Five of the institutions or 15.62% said such information were widely disseminated while for two or 6.25% said the information were disseminated but not widely or by various means. For the majority 25 institutions or 78.12% information about the FOI designate were not disseminated.

3.3 Duties and Obligations of MDAs to the FOI Act

Part of the duties of the MDAs as stipulated in Section 13 of the Act is to train the FOI desk officer on the Act and sensitize the institution's staff about the Act. The objective of the sensitization activity is to educate the MDA staff on the Act. This is to enable the different units to cooperate with the

FOI officer in carrying out the duties of the office. When the MDA staff are aware of the Act and its provisions, it is in a better position to direct the public to the proper office.

The assessment showed that the staff especially the front desk officers including receptionist and security personnel of most MDAs visited are not aware of the existence of an FOI Unit or committee. In some offices, only the staff at the directorate level are aware that there is an FOI office and an officer. This was noticed at Nigeria Electricity Regulatory Commission (NERC), Independent National Electoral Commission (INEC) and Ministry of Information. In all institutions visited, only the Nigerian Press Council security officer and receptionist were aware of the unit and directed the assessors accordingly to the proper office. Although 17 of the PFIs interviewed had FOI committees (inaugurated or not), only eight out of the 34 reviewed PFIs had created an FOI Office with a desk officer of which were INEC, Ministry of Justice, Ministry of information, CCB, RMAFC, NYSC, Police Service Commission, and National Orientation Agency.

The Act states that information about the FOI Officer for the MDAs which include the officers' title and address should be widely disseminated to the public through various means. RMAFC has indicated that it has offices all over the country where a requester can find an FOI office. This information is also included in its newsletter.

However, it was observed that most of the FOI officers doubled as press officers. This is contrary to the schedule of duties for both staff and it defeats the purpose of the Act. The press officer manages the image of the MDA while an

FOI officer is required by the Act to release information, subject only to certain exemption, to members of the public. It was also observed that in some institutions, where member of staff have been given FOI related trainings, the institution does not provide the structure for step down training for other members of the team or other staff of the institution. There are specific cases at both the Ministry of Aviation and Federal Character Commission. At the Federal Character Commission, the officer that attended the FOI training organized by the Office of the Head of Service is not the FOI Officer. At the interactive session with the MRA team, the FOI desk officer, showed that he neither understands the Act nor the mandate of the office in relation to the Act. The Ministry of Aviation is yet to set up an FOI Office even though it gives out certain information when members of the public make such request. For the Aviation Ministry, the SERVICOM is the same as the FOI Office. Information is disseminated through the press unit when directive is given for information to be released to the public.

In contrast, INEC has arrangement that provided for the cascading of training and sensitization knowledge and skills to other members of the Commission .The officer who attended training on FOI, passed on the information to his superiors and ensured 'that proper steps were taken for the creation of a functional FOI office. An improved version of what is practiced at INEC, is the establishment of FOI desk offices across the 36 states of Nigeria. The MDAs with this setup in place include the NYSC and NOA.

Section 4 and 7 of the FOI Act specifies the context of refusal of access to information. It stipulates that when information is being withheld in response to a request, the applicant should be given a written refusal notice which will

contain: the reason for the denial; the names, titles, signatures of all officers that was part of the decision to refuse the request; and advising the requester in the notice of his/her right to go to court to seek redress. MDAs have issued few refusal notices. The general trend is that information has been dutifully given out to requesters and has prevented the case of asking requesters to go to court to enforce their rights.

Aside INEC and CCB, all the other MDAs have hardly received any request for information that was not provided. At the time of administering this survey questionnaire, INEC had denied two requests for information one of which is in court while CCB has denied all request for information. The Legal Adviser to CCB, Mr. Simon Egede, said the Bureau refused all the requests it received under the FOI Act because they were requests for copies of the assets declaration submitted to it by public officers. Mr. Egede said assets declaration made by public officers are exempted under the FOI Act because they are private information. He also believes that the Constitution requires that the National Assembly enact a specific law that will enable members of the public to access the declaration and that the National Assembly has not enacted such a law. INEC and CCB failed to comply with some of the statutory requirement to advise applicants of their right of review and to go to court when both organizations refused to release the information.

For MDAs it is 'business as usual' in the process of handling and processing request for information due to the low number of public usage of the Act. In defense of this mode of operation, the MDAs stated that 98% of request for information received come through regular enquiry process without reference to the FOI Act. The press officers of most

MDAs, have good relations with members of the media. The media regularly ask such press officer (through phone calls, emails, text messages) for information which are also sent to them through e-communication. This was attested to at the Police Service Commission and ICPC. It is worth mentioning that the media and MDA press units have a symbiotic relationship which promotes access to information. The general public does not have such relationship that will provide access to information.

Regardless of all the above, the MDAs say that members of the public are not making use of the Act; they are not making request for information under this law and thereby the MDAs are not encouraged to put things in place in ensuring its effectiveness. This also affects other aspects of FOI Act implementation such as adhering to Sections 3(3), 4(b), 5(i), 6 and 7 which deal with handling request for information: making it an obligation for public officers to give notices to those requesting for information on the status of their requests and what actions they could take. It will also affect Section 8 which deals with charging of fees for access to information by creating a regime of fees. The MDAs have not used the provision which requires them to fix a regime of fees and have never issued a refusal notice with the advice to go to court in compliance to section 7(i) of the Act. INEC is the only institution that has charged photocopy fee for information it gave.

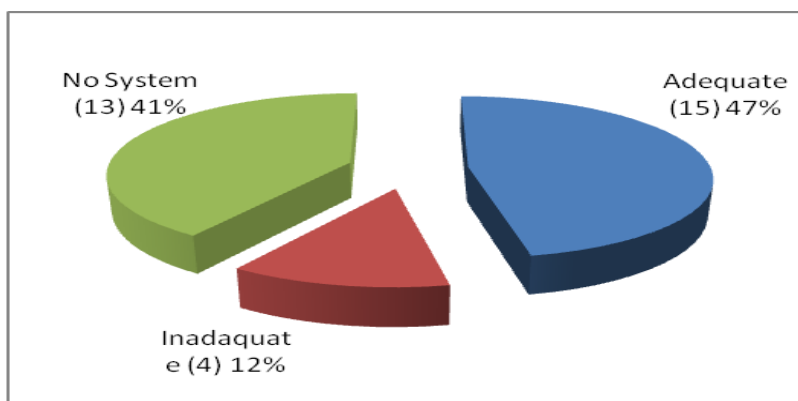
3.3.1 Assessment

Another assessment area in the questionnaire was “Other Duties and Obligations” which had 11 questions. These duties and obligations are different from the proactive

disclosure of various kinds of records and information required of MDAs and they were taken and classified together.

Asked if the institutions have Freedom of Information Committee, Department or Unit, 20 of the institutions or 62.5% of these institutions said they have an FOI Committee, Department or Unit, while 12 or 37.5% did not have.

The MDAs were also asked if they have adequate information management and record keeping system for the implementation of the Act and 15 institutions or approximately 47% said they had while four institutions or 12.5% said what they have was not adequate. The rest 13 or 40.62% do not have any information management and record keeping system for the implementation of the Act.



The chart above shows the number and percentage of institutions which said they had or did not have adequate information management and record keeping system for the implementation of the Act

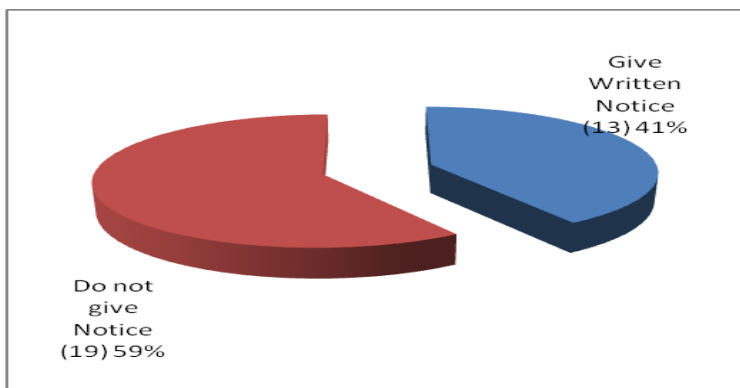
The MDAs were also asked if they have any policy, procedure or process made for Illiterate or applicants with disabilities who by virtue of their illiteracy or disability are unable to make an application for access to information. Seven of the institutions or approximately 22% said they had and actually demonstrated this, that is, assist the disabled applicant to write the application and get him/her to sign it after reading it to him/her; another seven institutions relied on personal whims not the provision of the Act. The majority of 18 or 56.25% did not have a policy, procedure or process nor know what is expected of them.

A question asked respondents if the MDAs give written notice to the applicants when access to all or part of the information requested are denied stating reasons for the denial, and the section of this Act under which the denial is made. Fifteen of the responding institutions or approximately 47% said they give such written notice to applicants while 17 institutions or 53.12% either do not implement the Act or do not give such notice to applicants.

The institutions were also asked if they give notice to applicants within 3 days but not later than 7 days that the information requested has been transferred to another Federal Public Institution which has a greater interest to the information. Fourteen of the responding institutions or 43.75% said they give this type of notice while 18 or 56.25% of the responding institutions either do not implement the Act or do not give such notice.

Another question sought to know if the institutions give notices with reason for extension of time when it is unable to respond to a request for information within the specified period. To this question, 15 or approximately 47% of the respondents said they give such notice while 17 or 53.12% of the responding institutions either do not implement the Act or do not give such notice.

The next question that was asked had two other related questions attached to it. The main question sought to know if the institutions give written notices with reason when they refuse request for information. Thirteen or 40.62% of the institutions surveyed said they give written notice stating the grounds and provisions of the law upon which they refuse information while 19 others or 59.37% of the respondent institutions are either not implementing the law yet or do not give the required notice.



The chart above shows the number and percentage of MDAs which give written notices with reason when they refuse request for information and those which do not

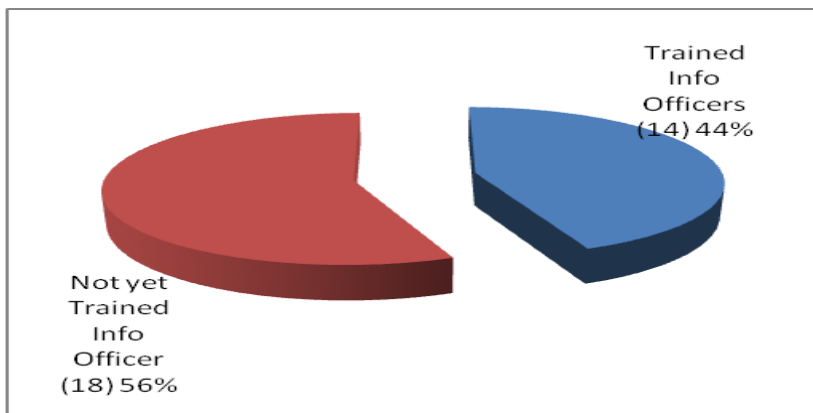
Allied to the above question was the next one which sought to know if such written notices contain the names, titles, and signatures of every officer that was part of the decision to refuse the request. The same pattern of response was received for this question as the above with 13 saying that such notices contain the names, designations and signatures of the officers involved in taking the decision while the rest 19 are either not implementing the law yet or do not state all of these information in their letter of refusal.

The second allied question sought to know if the institutions, in notice refusing requests for information, advise requesters of their right to go to court to seek redress. Twelve of the institutions or 37.5% said they do while the rest 20 or 62.5% of the institutions either do not give notice at all or do not specify in their responses that applicants may seek judicial review of the refusal.

The FOI Act prescribes standard charges for making information available to members of the public so the question was asked if the institutions have a regime of fees charged for duplicating records for FOI requests. Only eight or 25% of the institutions said they had standard charges for duplicating requested information for applicant under the Act. The other 24 or 75% institutions charge discretionary fees or do not even charge at all.

The institutions were also asked in the questionnaire if they had conducted training for their officials directly involved in the implementation of the FOI Act. Fourteen of the institutions or 43.75% said they had conducted at least training for their officials directly involved in implementing

the Act. The other 18 institutions which constitute 56.25% had not conducted any sort of training.



The chart above shows the number and percentage of MDAs which said they had conducted trainings for their FOI Officers and those which had not

Allied to the above question was another that asked if the institutions have carried out sensitization exercise for their staff and other officials. Thirteen of the institutions which constitute 40.62% said they had carried out sensitization on the FOI Act for their staff and officials while the rest 19 institutions which constitute 59.37% said they had not carried out any sensitization for their staff and officials.

Surveyed institutions were also asked if they have any policy or established procedure for dealing with exemptions under the Act. The FOI Act vests the oversight responsibility of implementing the Act on the Attorney General of the Federation. The Attorney general has also published three

guidelines for dealing with requests especially where there is doubt about what information or record to release or withhold and which to give, among several other issues related to interpreting the provisions of the FOI Act.

The MDAs were also asked in the questionnaire if they respected the protection of whistle blowers as provided for under the Act. Eighteen of the institutions or 56.25% said they respected it while another two said it will depend on the situation. For the rest twelve or 37.5% they will not respect the protection of whistle blowers. If such persons are found out, the institutions will sanction them based on civil service rules or according to the laid down disciplinary procedures of the institution.

3.4 Responsiveness to Request for Information

In compliance with section 29 of the Act, the Attorney General of the Federation (AGF) on January 29, 2012, issued a circular in form of an operational guideline to all MDAs directing them on how to implement the Act. . The circular provided timelines and standards of reporting, responsiveness of MDAs to requests for access to information as well as their compliance. Most of the MDAs including those that received it, read it or are aware of its existence are not implementing the Act as directed by the guideline.

The AGF has directed each MDA to assign a tracking number to each request and give the tracking number to the person making the request. The National Sports

Commission has in place a procedure for assigning tracking numbers but so far no one had made a request for information and the tracking number has not been used. The Ministry of Justice, National Press Council and NYSC also issue tracking numbers to requesters.

The AGF also directed that each MDA must establish a telephone line or Internet service to enable persons making requests for information under the Act to inquire about the status of their requests. As stated earlier, request for information from the public, are treated mainly as 'business as usual' rather than under the FOI Act since the request for information was made without referencing the law. The MDAs are yet to procure a phone line to facilitate requesters' inquiring about the status of their requests. The National Orientation Agency however has two mobile lines of its FOI Officer on its website.

The MDAs with published FOI email addresses are:

- INEC
- Police Service Commission
- NYSC
- NOA
- Ministry of Justice

Although MDA give the impression that they are favourably disposed towards releasing information (both "FOI requests" and those deemed "business as usual") they claim that restraining impact of myriad of bureaucratic bottle necks make meeting the seven-day deadline under the FOI law, impossible from the onset. The average time of response

from most MDAs is outside of the seven days timeline set by the Act.

The NYSC alone showed it was standing way ahead of the pack with a record number of 103 requests for information all of which it had responded to at the time of this report. RMACF and INEC came very far second. The NYSC also has an active phone number published on its website to be used for FOI requests.

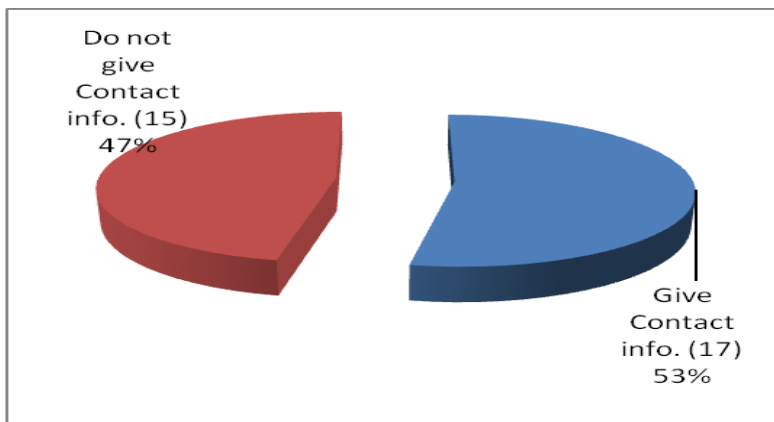
3.4.1 Assessment

Another assessment area where MRA assessed MDAs was in 'responsiveness'. Questions in this area were based on the recommendations on the effective implementation of the FOI Act given by the Attorney General in his guidelines.

The first question in this assessment area sought to know if MDAs assign tracking numbers to every FOI request and give such a number to the applicant. Only seven institutions, amounting to approximately 22% said the assign tracking numbers to applications/requests for information and records and give the numbers to the applicants. The majority, that is, 25 or 78.12% of the institutions do not assign tracking numbers to requests for information under the FOI Act.

The institutions were also asked if they provide requesters with phone and email contacts for follow up on requests. Seventeen of the institutions or 53.12% said they provide applicants/requesters with contact details to use for follow-up

on their requests/applications. The other 15 institutions, approximately 47% do not give contact details for follow-up.



The chart above shows the number and percentage of MDAs which said they provide requesters with phone and email contacts for follow up on requests

The questionnaire also sought to know if the institutions surveyed issue formal acknowledgement or receipt to requesters when they make requests under the FOI Act. Fifteen of the institutions, approximately 47% said they do while 17 or 53.12% said they do not issue formal acknowledgement or receipt to applicants for information/records.

Respondents were also asked if their institutions formally respond to every request for information that they receive. The majority of them, 18 in number or 56.25% said they do while the rest 14 institutions which constitute 43.75% do not.

Allied to that was the question about the average number of days it takes the institutions to respond to requests for information and 18 of them amounting to 56.25% said they respond within the seven days stipulated by the FOI Act. The other 14 institutions or 43.75% either have not received request for information or do not respond within the stipulated seven days.

3.5 Reporting

The Act came into force in May 2011. The law states that every MDA must submit an FOI annual report to the AGF by February 1, of every year. Between 2011 and 2013 only a handful of MDAs had submitted their reports. The AGF's annual report released in 2012, showed a list of all MDAs that submitted their 2011 FOI report. They were 16 in number and all of them except the Ministry of Justice filed nil reports . None, except the Ministry of Justice had received any request under the Act as at February 2012. The 2012 report fared better than that of 2011. The 2012 annual report which was released in May 2013 indicated that 25 MDAs submitted their annual reports (www.foia.justice.gov.ng).

The Under Listed MDAs Submitted Reports Covering March 2012 to February 2013

1. Federal Ministry of Justice.
2. National Youth Service Corps.
3. National Centre of Women Development.
4. National Orientation Agency
5. Federal Capital Territory Administration.
6. National Sports Commission.
7. National Pension Commission.
8. Federal Road Safety Corps.
9. Office of the Accountant-General of the Federation.
10. National Planning Commission.
11. Nigerian Institute of Social and Economic Research.
12. Police Service Commission.
13. Nigerian Press Commission.
14. National Agency for the Prohibition of Traffic in Persons.
15. Federal Ministry of Land, Housing and Urban Development.
16. Federal Ministry of Tourism.
17. Manpower Development Office (OHSF).
18. National Drug Law Enforcement Agency.

19. Federal Ministry of Health.
20. Nigeria Football Federation.
21. Lagos University Teaching Hospital.
22. Nigeria Electricity Regulatory Commission.
23. News Agency of Nigeria.
24. Federal Ministry of Youth Development.
25. Federal Medical Centre, Gusau.
26. Independent National Electoral Commission.
27. National Judicial Institute.
28. Head of Civil Service of the Federation.

MDAs that Submitted Nil Reports

1. National Youth Services Corps;
2. National Centre for Women Development;
3. National Orientation Agency;
4. Office of the Accountant General of the Federation;
5. Police Service Commission;
6. National automotive Council;
7. Nigeria Football Federation;
8. Nigerian Electricity Regulatory Commission;

9. Federal Ministry of Youth Development;
10. Federal Medical Centre, Gusau;
11. National Judicial Institute; and
12. Head of Civil Service of the Federation.

MDAs with Processed Request/Application for Information

1. Federal Ministry of Justice;
2. Federal Capital Territory Administration;
3. National Sports Commission;
4. National Pension Commission;
5. Federal Road Safety Corps;
6. National Planning Commission;
7. Nigerian Press Council;
8. National Agency for the Prohibition of Traffic in Persons;
9. Federal Ministry of Tourism;
10. Manpower Development Office
11. National Drug Law Enforcement Agency;
12. Federal Ministry of Health;
13. News Agency of Nigeria;

14. Independent National Electoral Commission;
15. Nigeria Institute of Social and Economic Research (NISER);
16. Ministry of Lands, Housing and Urban Development; and
17. Lagos University Teaching Hospital.

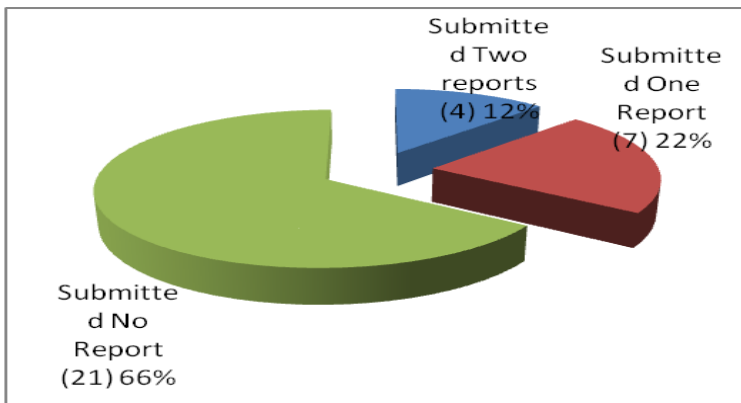
A total of 21 of the MDAs that were interviewed have received the implementation guidelines issued by the AGF's office in January 2012 but two of the MDAs are yet to implement the guidelines. They are the Ministry of Aviation and Ministry of Environment.

At the time of the survey, the RMAFC had indicated with proof of an acknowledged letter from the AGF's office that it had submitted its annual report to the AGF's office. But RMAFC was not indicated on this list from the AGF as having submitted its annual report. Both the Ministry of Police Affairs and the National Population Commission also indicated they had submitted their respective annual FOI reports but none of the institutions was listed in the AGF's report.

3.5.1 Assessment

The next assessment area for which questions were drafted was in 'reporting'. Every institution affected by the Act is expected to send an annual report of its implementation of the Act to the Attorney General of the Federation and at the time of the survey, it is expected that every institution would have submitted two reports.

The first question in this assessment area of the questionnaire sought to know many annual reports the institutions have submitted to the AGF's office since inception of the Act. Four institutions or 12.5% said they have submitted two annual reports; seven institutions or approximately 22% said they had submitted one report each while the rest 21 institutions which amounts to 65.62% had not submitted any annual report to the AGF's office.



The chart above shows the number and percentage rate of submission of annual reports the institutions have submitted to the AGF's office since inception of the Act

Asked if their annual reports were accessible to members of the public, and seven of these institutions which come to approximately 22% said their annual reports were accessible to the public.

The institutions were also asked how many FOI requests they had (1) received, (2) denied and (3) granted in the last 12 months and for all three areas, all the institutions said they had neither received any request nor deny or grant any in the last 12 months.

Chapter Four

4.1 Challenges

4.1.1 The Culture of Secrecy

In general, the idea behind the Official Secrets Act is to protect government information but this has been abused and used as a tool for hiding corruption and abuse of human rights. The Official Secrets Act was established in 1962 and MDA officials swear by the Act to keep all government transactions secret. The Official Secrets Act promotes the culture of secrecy in Nigeria's bureaucratic system which promotes corruption. The fear of reprisals from higher officers has made the level of secrecy so acute that the release of regular information is seen as potential platform of treason. Some information requested for may already have been published and in the public domain (newspapers, diaries, books, calendars, annual reports, internet, thesis etc) but the public servant's first response is to deny the request.

4.1.2. Bureaucracy

There is a general complain about the many layers of approvals that make the release of information to members of the public difficult. Many of the officers agreed that although information may be available to be given out, it is not possible to give out such information except with due approval from a higher office. This restriction also affect routine and even those that are believed to be harmless

information. All requests must receive clearance especially when it is asked for through such formal channels.

The AGF's operational guidelines clearly states that the FOI Officer should be at the level of an Assistant Director in the institution. This is because at this level, the officer has the authority to vet and approve information that can be readily release to members of the public..This is an effort to reduce the layers of authorities, the tedious prevailing bureaucratic channels and red tapes found in the government system. Without having a proper personnel at a higher level in-charge of the office, it will be difficult if not impossible to meet the stipulated seven days deadline for granting access to information. So far, the designated officer at that senior level is yet to change the age long tradition of processing and releasing government information with a satisfactory level of speed. The powers vested in the officer is yet to translate to pulling down the walls of secrecy and reducing the blockades.

4.1.3 Record Keeping This is one of the most daunting challenges faced by the Act. Data that took decades to compile are stored haphazardly in inaccessible, unproductive and destructive manners and in all kinds of storage systems. It is a system that clearly defeats the spirit of access to information. The absence of a clear system of classification and grading of information (e.g. general, top secret, confidential etc) means that decisions on what information can be accessed by the public are based on the subjective judgments of government officials. Though the Act lists the categories of information that are exempted from the general access to records and information, there is no mechanism to differentiate such information. All information are considered exempted by the public officer who would rather want the requester to go to court.

4.2 Recommendations

The following recommendations are made as a result of the survey

4.2.1 Designation of an FOI Officer

Every MDA should designate an FOI Officer and set up an FOI Unit regardless of having an FOI committee. The committee serves a supervisory role for the unit which the committee is mandated to establish in each MDA. The press/protocol/public relations officer should not be made to double as FOI Officers. Relying on these officers to carry out the work of an FOI Officer is not only conflicting but a violation of the Act. The MDAs should, as a matter of urgency and in compliance with the Act, designate a staff at the Assistant Director's level to be the FOI Officer of the institution.

4.2.2 Training and Sensitization

The Office of the Head of Service ... (OHSC), AGF and the Secretary to the Government of the Federation (SGF) should collaborate to sensitize the entire civil service about the FOI Act and the AGF's guideline. This will go a long way in making sure that no public officer is left behind in the quest to ensure that there is full understanding of the provisions of the Act in all MDAs as stipulated by the Act and that no public office gets lost within the cracks of the civil service rules and claim ignorance of the law. For certain groups, added training will be required to facilitate FOI effectiveness.

There are various components to the training

- **Training of the FOI Officer** - This activity will be an in-depth training of the FOI and how it is applicable to the institution. The FOI Officer should ideally not be a new employee and should be at management level with a full understanding of the sort of information held within the institution. The training will subject the FOI Officer to different scenarios of which the officer is required to make judgment using case studies from actual events that had occurred within the institution.
- **Training of the Head of the MDA and its directors**
 - Training of the high echelon staff of MDAs on the FOI Act will ensure and promote their cooperation with the FOI Officer especially when they understand the FOI Act as a tool for promoting transparency and accountability and ultimately, good governance and not for ‘witch hunting’. Reminding these cadres of individuals that, they occupy their respective offices for a duration and it is necessary that as they leave they have left the institution on better grounds than when they joined.
- **Sensitization of the MDA Staff** – MDA staff need to be aware that there is an FOI Unit headed by the FOI Officer who has the mandate to ask for any information from their units. This will also help in facilitating internal cooperation with the FOI Office. Also further FOI training should be given to staff with potential influence on releasing information due to sensitivity of department.

4.2.3 Development of ICT component

It is crucial that for the FOI Act to work it is very important to have an effective Information Communication and Technology (ICT) compliant record keeping system. The law states that every MDA should have adequate information management system (Section 2(2)) for implementing the FOI Act. International best practice encourage electronic information systems within MDAs, which would enable the FOI officer speedily search for and retrieve information held in the institution's networked system, storage or even email folders. There is a huge ICT infrastructure deficit in the MDAs. The common practice for information and data management is the use of desks, chairs, drawers and cabinets to store pile of files containing information. The ministry staff, do agree, aside of the Act, that the institutions are working on transferring the paper documents into electronic copies. There is also the admission of that there are challenges in the transition from hard copy files to electronic files. Some of the challenges include finances and competent personnel in the ICT department.

A properly established ICT department in each of the MDAs will ensure standard record keeping, information retrieval, disclosure and dissemination of information. MDAs should invest in developing social and new media platforms as well as a dynamic and interactive websites which will create room for compliance for proactive disclosure. This will reduce traffic to the offices of the MDAs and also promote best practice.

Each website should have an organogram that reflects the structure of the process of administration of the MDAs. The organogram should have descriptions of the functions and

responsibilities of all the units as well as the names and titles of the officials in the unit. This will be located within the respective administrative structure as it appears on the organogram. This will respond to the proactive disclosure component under Section 2(3a) (3b) (3d (vi)).

4.2.4 Advocacy

An advocacy component on getting the Office of the Head of Service to issue a circular to compel all MDAs to proactively disclosed information must be one of the outcomes of this survey. Many of the MDAs had complied with the directives of the Office of the Head of the Civil Service of the Federation (OHCSF) in 2012 when it asked all MDAs to create FOI Committees. Almost all the institutions, especially the ministries have established FOI Committees but that is where it ends as far as implementation is concerned. Over 90% of the MDAs are unwilling to grant access to information; even for the routine and harmless ones. Clearly, the training that officers of MDAs have received from the OHCSF has done little to change their mindset about the public's right of access to information. The MDAs are requesting for directive in form of a circular from the OHCSF in partnership with the AGF, clearly informing them to proactively disclose information and comply with all requirements of the Act.

Another directive for which the MDAs crave is an order that the Act cannot be inhibited by the provisions of the Official Secrets Act and the Civil Service Rules. Officials of MDAs argue that they would rather face the 'future' wrath of the law than the immediate and speedy sanction from a superior officer in the department. There is a window of possibility

that such directives will tear the veil of secrecy in the civil service and wake the MDAs from their bureaucratic slumber. The FOI Act can be activated with every form of support that it can get from these two offices to ensure that implementation becomes more efficient as the Act gets into the third year of usage.

Advocacy to both the AGF and the OHCSF should be carried out to encourage the issuance of these circulars and shore up support for the Act. There should also be visits to the heads of public institutions to ask them to comply with the provisions of the Act as it carries the potentials to make their works very effective.

4.2.5 Other Matters

- Other recommendations include encouraging the MDAs to consider adopting the check-list used for this assessment to improve on their obligations in the law.
- The MDAs' websites should provide a link to their FOI Page which will contain a brief guideline (possibly sample letter) on making an FOI request along with the sort of classes of records that is held by the institutions.
- Every MDA should establish a proper record keeping and filing system for the classes of records and information in their custody. Effort, time and energy are wasted in the back and forth that go on in civil service in regards to information dissemination.
- MDAs should allocate sufficient financial and operational support to the FOI Office to ensure effective implementation

- The AGF which has the oversight responsibility for the Act should develop and impose some administrative sanctions on MDAs to respond to citizens' requests for information.

Chapter 5

Conclusion

There seems to be a long hard road to travel in the process of effectively implementing the Act. The report of this survey is a clear indication that there are costs namely, personnel, administrative, legal, financial, to be paid to enable the Act work in meeting the noble objectives of enthroning an accountable, transparent and open government in Nigeria.

Without doubt, access to information is a right that every government should seek to uphold even with those costs enumerated above. When such a law is provided for at the national level as has been started with the enactment in 2011, it directs the mode of operation at state and local government levels. The implementation of such a law needs to be monitored and enforced.

It is definite, that the implementation of the FOI Act is still in its infancy, even though governments and MDAs have had two years since enactment to implement the Act. It is not all gloomy as this survey had begun the process of hopefully, an irreversible partnership and collaboration with MDAs. A lot of public service officers were not unaware that the public has the right to access information held by MDAs under the Freedom of Information Act but now they know what the rights are and how they can also be enforced by the public when denied access. They are also aware now that there are grave consequences and implications for violating those rights. The MDAs have also been made to understand that effective implementation can improve their working environment, make their job less tedious and improve their perception by the public.

Above all of that, the survey has provided the first ground for assessing the challenges being faced by the MDAs in the transition from a regime that has thrived for decades on secrecy and darkness into that of openness, transparency, accountability and public participation. The survey has identified and made recommendations on how to improve access to information in the public sector. In improving access to information in MDAs, there will be improved supply in the public right to information. This will lead to demand for adequate infrastructures, sufficient resources and executive support to drive the process to run smoothly in the years ahead.

