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*“Everyone has the right to...seek, receive and
impart information...”*

Article 19, Universal Declaration of Human Rights

*“...access to information is indispensable to genuine democracy and
its functionaries.”*

Preamble, Liberian Freedom of Information Act

Who? What? Where?.....10

tember 16, 2010, provides all persons the right of access to public information. The right of access to information is a fundamental human right guaranteed by the Universal Declaration of Human Rights and the

tion of Liberia. Freedom of Information laws or regulations have been passed in over 90 countries around the world, with an even greater number enjoying a constitutional right to information. Liberia is the first county in West Africa to establish a comprehensive right to information law and the sixth in Africa.

Advancing the right of access to information is a joint responsibility between the government and its citizens. While the government must assure full and effective implementation and enforcement of the FOI Act, it is up to the citizens to monitor government efforts and to use the law. Ultimately, the value of the FOI law rests in its implementation and use as it is only by seeking and making requests for information, that the benefits of access to information can fully be enjoyed.

This publication is not a comprehensive explanation of the FOI law or a procedures manual. However, we hope that it will serve as a helpful guide to assist public servants in understanding the benefits of the new Freedom of Information Act, some key specifics about the law, and the duties and obligations the FOI Act confers.

with Access to information is used synonymously

and regulatory autonomy, and general independence in the exercise of his or her work.

Records/data of facts, people, subjects, events, phenomena, processes, etc. that are created and received, regardless of their form (hard copy documents, electronic documents, records, videos, films, photos, drawings, schemes, notes, maps, etc.).

A person appointed within a public agency or private entity receiving public funds or performing public services who is responsible for receiving requests for information held by the agency or entity and coordinating the response(s) of the agency or entity; serving as the primary FOI contact of the agency or entity; promoting best practices in records management; and assisting the public in filing requests for information.

A review of a negative decision or action or failure to act regarding a request for information. An internal review is conducted by a senior official or an internal information request review body established by each public agency.

A review of a negative decision or action regarding a request for information or allegedly high reproduction fees that is carried out within the Civil Law Court in Montserrado County and/or in the Circuit Court of the county where the agency exists.

All bodies, entities, corporations, agencies and other institutions owned wholly or substantially by the Government of Liberia.

Any agency, ministry, or institution of the Government of Liberia or person acting on behalf of such agency, ministry, or institution of all public authorities and agencies.

Any act normally carried out by the Government or any of its agencies, ministries and institutions.

A person who holds a government position by election or appointment.

Services rendered for or to the general public at cost or for free, and includes sanitation, health, transportation, banking, education, broadcasting and telecommunications, etc.

Any publication by a public agency providing detailed information to the public on the nature and activities of that agency and information it publishes.

A record, manual rule book, regulation, or other documents produced or received by, being used or having been used by, possessed by or under the control of a public authority, whether in written form, recorded, stored in electronic form, or in any other device.

Any body, business or otherwise, owned by private persons that receive public funds or benefits.

Information created, received, and maintained by a government, organization, or person, in pursuance of legal obligations or in the transaction of business.

The right of access to information is a fundamental human right now enjoyed by over 4 billion people within 90 countries around the world. Access to information is essential to assuring the exercise of all other rights, such as the right to education, health care and clean water. With information, people can more fully participate in public life, help set priorities for government spending, understand decisions taken in their name, and hold leaders to account. The right of access to information is particularly critical for vulnerable populations, including women and minorities, as with greater access to information they are better able to make informed decisions and enjoy more participation in democratic processes. A well informed society will better be able to influence government policies and enjoy the benefits of a vibrant and sustainable democracy.

Equally important, establishing the right of access to information is good for the government. It helps the public administration to be more effective and efficient, to have the necessary information to make good and equitable decisions, and to properly apply scarce resources. With a flow of information, there will be less duplication of efforts, time saved to do other work and better customer service. Access to information is the cornerstone of a modernized public administration.

Perhaps most importantly, in the long-term, the free flow of information will enhance trust between the government and its citizens.

In sum, the right of access to information:

- Is a fundamental human right
- Is critical to the exercise of other rights such as the right to education, health care, and clean water
- Is a tool in the fight against corruption
- Is necessary for good governance
- Increases transparency and government accountability
- Provides a clearer understanding of government policies
- Promotes citizen participation
- Fosters more efficient and effective public administration
- Improves use of scarce resources

Encourages foreign investment
Ensures equity and fairness in government processes
Is a key component of a modernized public administration
Enhances citizen trust and confidence in government

to the public service or funds that the private entity performs or receives.

While personnel in all public agencies and private entities covered by the FOI Act are responsible for complying with the law, at least one staff member in each agency/entity should be appointed to serve as the designated Information Officer. The Information Officer shall be responsible for receiving requests for information held by the agency or entity and coordinating the response(s). The designated Information Officer shall serve as the primary contact of the agency or entity with the public relative to requests for and provision of information. His/her responsibilities also include promoting best practices in records management and assisting the public in filing requests for information.

Any information held by a public authority or a private entity that receives public funds, engages in public functions, and/or provides public services that is in written, printed, audio, visual or electronic form can

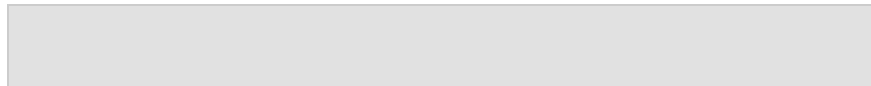


Every public authority is required by the FOI law to create and maintain a user- includes detailed information regarding its core functions, the nature of its activities and operations, and the types of documents/information it holds.

More specifically, the publication scheme should provide:

- Clear description of the organization, function and powers of the agency and an explanation of how it makes decisions and discloses information
- Location and types of categories of documents and information the agency holds
- Procedures for accessing documents or information.

If an individual is not sure which authority holds the information they wish to obtain, they can review the publication scheme, ask the Information Officer in the agency that they think holds the information, or simply file their request with this agency. The agency is obligated to transfer requests in the event that they do not hold the information. The Information Officer has the duty to assist individuals with filing requests and obtaining information.



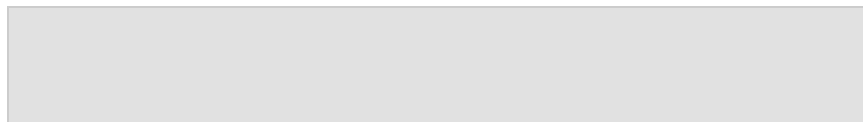
AUTOMATIC PUBLICATION

COST

The application for information and search are free. The requested documents also may be viewed for free. However, public agencies and private entities may charge for the actual cost of reproducing the requested information, such as photocopying, transcribing, scanning, or other forms of reproduction.

If an individual requesting information thinks that the fees charged for the reproduction of the requested information are too high, they may seek an internal review of the decision. An internal review is a review of a negative decision or action regarding a request for information or allegedly high reproduction fees that is conducted by a senior official or an internal information request review body established by each public agency.

If the individual is still not satisfied, they may file a complaint with the Information Commissioner. More information about the appeals process is available on page 21 of this guidebook



THE AGENCY RESPONSE

Once a request for information has been received the agency must begin processing the request. Each agency might develop its own internal processing guidelines, but generally the processing of a request begins with recording the date received and acknowledgment of receipt of the application for information, review of the request, and determination of whether the requested document is held within the agency.

In most cases, upon receiving a request for information, the Information Officer or other designated public servant should:

If the agency can show reasonable cause, it may extend the period for responding one time. The one time extension is for a maximum of an additional thirty (30) days.

If the agency does not hold the information, it can transfer the request one time to the correct public agency or private entity within fifteen

EXEMPTIONS

The law states that a request for information, including inspecting, reviewing, or reproducing information, can be denied ONLY if the requested information falls under one of the exemptions outlined within the FOI act and the harm of disclosing the requested information is

All denials must be in writing, provide the reason for being denied, and be delivered to the requester within thirty (30) calendar days of the date the request was filed, except for cases of transfers as discussed previously.

The Liberian FOI act indicates that a document, information, or record is exempted from public access ONLY if the release of the information would cause injury or substantial harm to:

A document is exempt from the general right of access to information when it would be an unreasonable disclosure of .

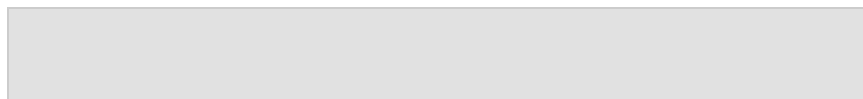
When part of the document has exempt information, only that part should be excluded from disclosure and the rest of the document released to the requester.

Also, public agencies and private entities cannot just claim that the requested information falls under an exemption, is confidential, or secret. They must also show that the harm of disclosure outweighs the public interest in knowing the information. To satisfy the public interest test, the agency must show the following:

- The requested information falls under one or more of the exemptions outlined in the FOI Act
- Disclosure of the information will or is likely to cause injury or substantial harm to the interest protected by the exemptions
- The harm to be caused is greater than the benefit to be gained if the information was provided

Exempted information can only remain exempted from disclosure for a continuous maximum period of fifteen (15) years.

Example of a document with exempted material redacted:



APPEAL MECHANISMS

If an individual receives:

- no response within the time period
- a denial of information
- a partial document
- a transfer notice with which they disagree
- a fee/charge that they think is too high
- or any other negative decision

they have the right to ask for an internal review. In an internal review,



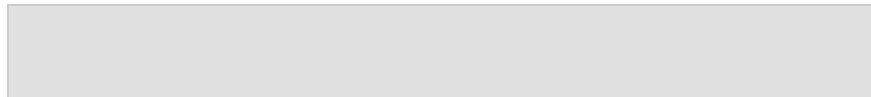
decision, they have the right to request a judicial review before the Civil Law Court in Montserrado County and in the Circuit Court of the county where the public agency or private entity is located.

If there is a violation of the FOI Act, the person deemed responsible for the agency will be subject to monetary fines from L\$5,000 to L\$10,000. A public servant who wrongfully denies a request or violates the appli-

dismissal. The fines, formal reprimand, suspension, and/or dismissal of a public servant may be imposed by the public authority or the Information Commissioner following a review or hearing.

Willfully destroying or altering records that are the subject of a request for information will carry a criminal sanction of up to two (2) years imprisonment.

Any person who discloses information in good faith will be protected from civil or criminal liabilities.



THE INDEPENDENT INFORMATION COMMISSIONER

To evaluate existing laws and regulations relating to access to information and to make recommendations for reform and harmonization of laws.

To coordinate, compile, and publish an annual report to the National Legislature concerning activities carried out in relation to the FOI Act.

A technical secretariat will support the Information Commissioner in his/her work. While the Information Commissioner has many powers related to overseeing compliance with the law, and can order public agencies to release information, a critical aspect of the work is to serve as a support for the public servants. The Information Commissioner is designated to develop guidelines to assist the agency in fulfilling its FOI mandate, training public servants, and raising awareness.

Finally, the Information Commissioner is tasked with compiling an annual report. The annual report is submitted to the National Legislature, and includes the status of implementation and specifics related to the number of overall requests received, responses and fees.

All public agencies and private entities to which the FOI Act applies are required to submit to the Independent Information Commissioner an annual report concerning the FOI activities carried out during the preceding year. This report shall include several statistics related to the FOI Act, such as the number of requests

received, satisfied, pending, denied, etc. as well as the average number of days to process requests, the total amount of fees collected, and a description of compliance measures. Therefore, it is necessary to ensure that this information is accurately and consistently tracked within each public agency and private entity covered by the Act.



Records are critical to government as they document how a given process was carried out, provide a source of authoritative, complete and accurate information for future decision-making, and serve as historical memory. Moreover, records support the development, management, and delivery of strategies, operations and compliance and provide evidence of business transactions, ensuring accountability and transparency.

Without records, a freedom of information regime cannot exist. At its core, the right to information is largely dependent on the existence of good records. The proper creation and organization of records is one of the most critical ingredients for a successful right of access to information. If documents are not organized and cannot be located quickly, agencies may have difficulty complying with the FOI requirements of automatic publication and responding to requests within 30 days.

Consequences of poor records management include:

- reduced effectiveness and efficiency
- reduced capacity to make complete and informed decisions
- inability to assess the impact of government programs
- increased operating costs
- wasted investment in technology
- increased legal, financial and political risk
- reduced transparency and accountability
- gaps in organizational memory

When records management is poor, citizens are negatively affected because poor records management contributes to:

- ineffective public services
- reduced access to entitlements and the erosion of basic rights
- reduced transparency, accountability and trust in government

6. Condition of records

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6.1. Condition of records

6.1.1. Condition of records

6.1.2. Condition of records

6.1.3. Condition of records

6.1.4. Condition of records

6.1.5. Condition of records

6.1.6. Condition of records

: A transparent government enables greater public participation in democratic processes.

Publish information automatically as required by the FOI act. Information is more valuable when it is shared widely and is easily accessible to the public, and the more information that is automatically published without the need for a decision/review, the less work for the public agency.

When a request for information is received, public servants have a legal responsibility to identify that a request has been

The Carter Center is currently working in Liberia
to support government and civil society efforts
to establish greater transparency and improve

Alphonsus Zeon, Project Coordinator
Carter Center Field Office
Monrovia, Liberia
Phone: 231-886-522-916
Email: alphonsus.zeon@cartercenterliberia.org

Laura Neuman, Manager
Global Access to Information Initiative
The Carter Center
One Copenhill
453 Freedom Parkway
Atlanta, GA 30307
Phone: 404-420-5146 Fax: 404-420-5196
Email: lneuman@emory.edu
www.cartercenter.org/accesstoinformation.html