

## Nigeria Freedom of Information Act 2011 and it's Implication for Records and Office Security Management

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**Abstract.** The Nigerian Freedom of Information Bill was along awaited bill which was finally signed into law. The paper has two key aims, firstly to review the content of the Freedom of Information Act 2011, secondly, its implication to records and office security management to administrative managers. The method used in the study was secondary source of data from the freedom of information Act 2011. The findings of the paper state the importance of classified documents, the method of handling and conveyance of classified documents and threats of e-mails information to office security management. The findings further revealed the protection against public officers and no civil or criminal proceedings shall be made against any government or public institution, or against any person acting on behalf of the government or public institution, and no proceedings should be made against the Federal Government, state or Local Government or any institution. The paper recommends that any Administrative Manager who wants to achieve success in his career must adhere strictly to information security in line with the Freedom of Information Act and concluded that the Freedom of information Act has made records or information in such a way that “you must know only what you need to know”

**Key words:** Freedom of Information, Records, Office Security Management:

### 1. Introduction

The long awaited Freedom of Information Bill has gained approval by the National Assembly and assented by Mr. President and thus become a law. The question still is how free is the Freedom of Information Act 2011 and what are its implications on records and office security management? Though the Act is to make public records and information more freely available, provide for public access to public records and information, project public records and information to the extent consistent with the public interest and the protection of personal privacy. It also protects serving public affairs from adverse consequences for disclosing certain kinds of official information without authorization and establishes procedures for the achievement of those purpose and related purpose thereof. The Freedom of Information Act made it clear on how information records can be obtained such as right to access records, application for access to records due to refusal by Head of Government to public institution to disclose records. The Act further spelled out ways of getting access to record by court, materials exempted and documents under the security classification.

The statement of the problem is that, the freedom of the Press is an essential ingredient for democracy; the laws governing the press in democratic countries are those which seek only to protect the fundamental rights of individuals and ensure the maintenance of peace and order. There is hardly any country in the world where there is no Press law even though in most developing countries including Nigeria does not enjoy a high degree of press freedom. This is due to the fact the ruling elite is always passing obnoxious laws which

seek to protect the selfish interest of those in power (Momoh 2002). However, Press laws are legislations made by the government in power at the Federal, State and Local Government levels to control or regulate the activities of the Press in their country. The Nigerian press haven succeeded in enacting the Freedom of Information bill into law, the major concern of this paper is to examine the implications of the Act on effective records and office security management.

To this end, the objective of this paper is to critically review the content of the Nigerian Freedom of Information Act 2011 with the view to assessing its implication for records and office security management.

## **2. METHODOLOGY**

The paper began with the exploratory study on the content of freedom of information Act 2011. The paper was a survey research and the data was collected mainly from secondary sources derived from reviewing conceptual framework on the issue of press freedom in the freedom of information Act regarding requesting, issuing and receiving information from government or public institution and content analysis was in analyzing the data.

### **2.1 The need for press freedom**

Onagoruwa (1985) defines Press Freedom as the right of the press to “publish without being subjected to intimidation, threat, molestation or blackmail.” While Alabi (2003) sated that, Press Freedom “simply means that the press should be allowed to publish without prior restraint.” In this situation, Press should be free to publish or broadcast whatever it deems fit to the public without harassment. Press freedom is an essential ingredient of democratic culture and the higher the degree of press freedom allowed in any country, the better the degree of democracy its citizens enjoy as gain of democracy and freedom of expression.

### **2.2 Evolution of Press Freedom in Nigeria**

The first newspaper in Nigeria was established in 1859 called Iwe Irohin, The paper existed from 1859 to 1867 and subsequently some newspapers begun to appeared in the late 1880s. In the early 1900s, the British Colonial Government started feeling uncomfortable with the press and started enacting laws that were harsh for the operation of the press and finding ways of checking the excesses of the press especially towards the colonial administration. Omu (1978) stated that, the heightened tone of press criticism which marked political opposition from the last days of the nineteenth century to the eve of the First World War could not but irritate the colonial administration”. In view of the situation, the colonial government enacted a law called the Newspaper Ordinance of 1903 followed by Seditious Offences Ordinance of 1909 etc.

However, the Nigerian Press began to struggle for press freedom as rightly observed that most of the press laws enacted in Nigeria from colonial times were obnoxious impositions by those in power to protect themselves from the legitimate searchlight of a dutiful and patriotic press. Incidentally, the struggle for press freedom in Nigeria was tied to the struggle for political independence. The early newspapers used their editorials and columns to crusade relentlessly for political independence. According to Daramola (2003), as far back as 1881, when the Colony of Lagos was being administered from Sierra-Leon, the struggle for independence from colonial masters had started to appear in newspaper editorials. For example, the Lagos Times and Gold Coast Colony Advertiser of March 9, 1881 stated:

“We are not clamouring for immediate independence, but it should always be borne in mind that the present order of things will not last for ever. ...A time will come when the colonies on the West Coast will be left to regulate their own internal and external affairs”

These newspaper editorials continued until when Nigeria got her independence on October 1, 1960. As expected there were provisions for freedom of expression in the Independence Constitution, but there was no specific provision granting freedom of the press. The struggle to have definite constitutional provisions guaranteeing press freedom was still on. The Nigerian press continues to clamour for the Press freedom and the Freedom of Information Bill inspite of the fact that it did not receive the assent of past administration of President Obasanjo until 28th May 2011 when it was signed into law by the President Goodluck Jonathan administration.

### **2.3 A Review of Freedom of Information Act 2011**

All over the world, governments regulate various fields of human endeavour. Thus, banking, education, healthcare delivery, hotels, etc., are regulated. This means these industries were provided with basic structures for their operation. The mass media industry was equally regulated. However, because of the peculiar nature of the mass media as vehicles for free expression, which is a fundamental human right, government was careful to regulate the media only to the extent consistent with the expectations of a democratic society. Thus, over-regulation of the media which stifle free expression brought about the underground press and even rebellion. Malemi (1999) identifies four formal regulatory mechanisms of the mass media to include; constitutional provisions, statutes, ethical guidelines and informal restraints. It is against this background that Nigeria decided to give the press and its citizens the freedom of information by promulgating the Act called Freedom of Information Act 2011 as reviewed below.

### **2.4 Right to access to Records**

The Act indicated that every citizen of Nigeria is entitled to have access to any records under the control of the government or public institution provided he apply for and has no specific interest to the information being applied for. However, one has to analyse the right of access to records as there is no way one apply for information without having personal interest except if the candidate has been sent by his employer. Even such, the employer provided “he” is an employee of that organisation in one way or the other has vested interest of his employer as the information applied for may be for the benefit of the employers.

The essential records of information/documents that every citizen has right to access in an organisation include;

- Orders made in the adjudication of cases.
- Statements and interpretations of policy of an institution.
- Factual reports, inspection reports and studies prepared by the institution on their behalf.
- Information related to receipt of expenditure or other funds.
- Documents confirming information on names, salaries, titles and dates of employment of all categories of employees and officers.
- Documents containing the right of the state, the public and local governments.
- Files containing applications for any contract, permit, grants or agreements.
- List of reports, document, studies or publications prepared by independent Contractors for the institution.

### **2.5 Application for access to a record**

Application for access to record shall be made in writing by the person who made the application as to whether or not access to the record or a part thereof will be given. A total of (fourteen) 14 working days is required to get the information from the date applied. The date fee is paid is exclusive. A seven day extension of time limit may be given according to the Act.

### **2.6 Access to information is refused**

Where access to information is refused by government or public institution, it is expected that the person seeking for the information need to be informed about the refusal and he has the right to be reviewed by a court. Any notification of denial of any information for records shall set forth the names of each person responsible for the denial of such application.

### **2.7 Payment for access to information/records**

The Act in section 9 (i) gave the provision for the payment limited to reasonable standard charges for document search, duplication, review and transcription. Where records are applied for commercial use or not sought for commercial use. The fees schedule shall provide for the recovery of only the direct cost and no fee may be charged by any government or public institution.

### **2.8 Destruction or falsification of record**

The freedom of information Act section 10 stated that it is a criminal offence for any officer or the Head of any government or public institution to who willfully destroy, alter or doctor any records kept in his/her custody before they are released to any person or community applying for it.

## **2.9 Standard access to records**

Access to record by the applying institution or person shall be released to him in a standard form. Where the person applying for access to information in a particular form and access in that form is refused, but given in another form. In this situation, the person applying for access shall not be requested to apply a charge higher than what has been charged initially.

## **2.10 Refusal of disclosure of record**

The Head of a government or public institution may refuse to disclose any record that is sought for provided such will be injurious to the conduct of international affairs or the defence of the Federal Public of Nigeria. However the court has the right to override the refusal. Some of the important records that Head of the government or any public institution may refuse disclosure according to Section 14 of the Act include information that will;

- interfere with law enforcement and investigation
- interfere with administrative proceedings of government or public institution
- preventing a person from fair trial
- disclosure of a confidential source.
- information that will facilitate the commission of an offence.

The Heads of a government or public institution may refuse to disclose any economic interest of the Federal Public of Nigeria. Section 15 of the Act clearly pointed out that such information not be disclose are;

- Trade secret, financial, commercial or technical information that belongs to the government and has a substantial economic values or likely to have value.
- Material/information that is prejudice to competitive position with government
- Materials injurious to the financial interest of the Federal Public of Nigeria either Federal, state or local government.

The Freedom of Information Act allows for the disclosure or personal information about patients, students, residents, other individuals receiving social, medical, educational, vocational, financial, supervisory or custodian care or services directly from Federal agencies or government or public institution. Also, the Head of a government or public institution may refuse to disclose any record applied for that contains information pertaining to;

- Test questions, scoring keys and other examination data used to administer academic examination or determine the qualifications of an application for a licence or employment.
- Architects and engineer's plans for building that may constitute security risk.
- Finally, the freedom of information Act spelled out any record in the custody of government or public institution is kept by that institution under security classifications or is classified document within the official secret Act does not preclude it from being disclosed pursuant to an application for disclosure thereof under the provisions of the Act but in every case the head of that government or public institution to which an application for such record is made shall decide whether such record is of a type referred to in sections 14 to 21 of this freedom of information Act.

In pursuant of the understanding of the Freedom of Information Act 2011, Administrative manager are expected to be remained by what is classified document. With proper understanding of that, it will give Administrative managers the zeal to perform their administrative responsible with a good understanding of what classified document is.

## **2.11 Office Security Management**

Classified documents are documents regarded as top secret, secret, confidential, staff confidential and restricted documents. Such documents must be carefully handled by Administrative Managers under their custody. This is because the contents of such documents/records should not be disclosed to an unauthorized

person. Such disclosure will cause embarrassment to the organization or even the nation. Administrative managers who are directly responsible for handling of such documents are to be trained and inducted to take or swear an “oath of secrecy”.

## **2.12 Handing and Conveyance of Classified Documents**

**Confidential letters:** Classified document such as “confidential letter” if it is to be delivered by hand must be sealed in an envelop, stamped with appropriate grading in Red Capital Letter at the Top and Bottom Centre. The envelope must be wax-sealed with office stamp at both envelop ends and must be registered in the dispatch book and delivered to the addressee.

**Secret letter:** A secret letter is also handled as confidential letter. Only that a secret letter is further enclosed in a suitable addressed envelop with reference number and date inserted on the right hand top centre of the envelop. The letter must be wax-sealed with official stamp and enclosed in another envelop with the address of the addressee(s) entered in a dispatch book and sent to the addressee by hand. Where confidential or secret letters are to be delivered by post, then the posting of confidential or secret letter must pass through the same procedure as by hand. The slight difference is that a receipt is obtained and pasted on the dispatch book if any and entered into the dispatch book or the receipt is pasted on the file or office copy of the letter. If the letter is to be delivered within the country, it is accompanied by a responsible senior administrative officer either by car or by air (plane). The dispatch of confidential documents to another country is done through what is referred to as “Diplomatic Mail Bag”. Administrative managers or officers must ensure no classified documents are left on their table while they are out of the office. All classified documents must be kept in a fire proof cabinet under lock and key.

On the issue of destruction of classified documents officially, this is done by shredding burning or both and a senior administrative manager or officer must witness the burning exercise to confirm that no documents is left un-burnt.

## **2.13 E-Mail Office Security Threats**

There exist numbers of threats using email in the transmission of classified documents. The threats are;

- Sensitive information on mail server may be read by unauthorized persons or changed in an unauthorized manner.
- Classified information transmitted unencrypted between mail server and client user may be intercepted.
- Classified information with email messages may be altered or tempered with at certain point of communication between the organizations (sender) and the recipients.
- Unauthorized persons may gain access to classified documents within an organization network via successful attack on the mail server and thus change the information.
- Mis-configuration of the organization network may allow unauthorized or malicious person to use the organization mail server to send classified information not authorized.
- Organization may send classified information via email and that could expose the organization to legal action when uncovered by other organization or affected persons.

## **2.14 The safety of classified documents or information**

To ensure the safety of classified documents or information, Administrative managers must;

- Never hand over letters or files or any records that is a classified document to messenger or office clerk unless they are locked in a security outfit or enclosed in a sealed double envelopes.
- Any official that is authorized excluding messengers and other junior officers can transmit classified documents by hand.
- Classified documents for addresses outside the same locality should be dispatched through the Diplomatic mail bag or by courier.
- Administrative managers must be given adequate training in the registry duties and record keeping.
- To ensure that records are properly kept, there should be no tempering with records. No records manipulation as, record keeping is a must in order to ensure the ultimate security of the records.

Records discrepancies need to be harmonized, records must be given to those who apply for it in a prescribed standard form meant for records to be kept. Administrative managers must carefully plan and address the security aspect of deployment of classified document via the emails.

- Administrative managers must ensure security management practices and controls when maintaining and operating a secure mail server.
- Administrative manager should ensure that mail server operating system is deployed, configured and managed to meet the security requirements of the organization.
- Administrative manager should consider the implementation of cryptographic technologies to perfect user's authentication and email data.
- Administrative managers must ensure that maintenance of security of mail servers is a continuous one.

## **2.15 Freedom of Information Act and its Implication for Records and Office Security Management**

The implication of freedom of information Act on records and security management is that it given the needed protection against public officers by stating that notwithstanding anything contained in the Criminal Code, Penal Code, the Official Secrets Act, or any other enactment, no civil or criminal proceedings shall be made against any government or public institution, or against any person acting on behalf of the government or public institution, and no proceedings should be made against the Federal Government, state or Local Government or any institution. Thereof for the disclosure in good faith of any record or any part of a recovered pursuant to this Act, for any consequences that flow from that disclosure, or the failure to give any notice required under this Act, if care is to give the required notice.

One area of worry in this Act, it did not specify who is eligible to get records from public institution or government. Does it mean, a man on the street can just apply for information from government or public institution and get it easily and free from interference. Otherwise, you cannot get information on Abiola/Yar-Adua death. There are certain official records that are difficult to get because official records are regulated such as secret file/confidential file, medical records, bank records, etc.

## **3. Conclusion**

Fortunate or unfortunately, Administrative Managers are not reputed to be highly principled, disciplined and ethical in the discharge of their official record keeping and office security management. Administrative Managers deals with human and financial information that require proper records in terms of security often referred to as classified document. It will be unreasonable to expect the Administrative Managers to be without blame in either receiving, issuing and keeping of official records. Administrative Managers are catalyst for change if the freedom of Information should be followed strictly according to the law. Any Administrative Manager who wants to achieve success in his career must adhere strictly to information security in line with the Freedom of Information Act. On this note, the Freedom of Information Act has made the records or information in such a way that ***“you must know only what you need to know”***

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