

ESSENTIALS OF THE RIGHT TO ACCESS INFORMATION ACT - SIERRA LEONE

A Manual for Journalists



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ABOUT THIS MANUAL

Essentials of the Right to Access Information Act – Sierra Leone: A Manual for Journalists seeks to educate the public on the Right to Access Information (RAI) Act of Sierra Leone. The manual is produced to guide citizens, information holders but most importantly, journalists, on how to use Sierra Leone’s RAI Act to access information.

The manual has four chapters that highlight key information about the RAI law. It presents an easy-to-understand information about the law that empowers the reader to use and assert it.

Chapter 1: This chapter gives a general brief about access to information and its relevance in promoting accountable governance. The chapter also highlights the relevance of the RAI law to the media.

Chapter 2: The second chapter highlights the institutions and structures that support the smooth operation of the right to access information law in Sierra Leone. The chapter explains the various institutions and their roles within the RAI structure.

Chapter 3: This chapter explains the steps involved in accessing information under the RAI law. It provides a checklist on what is required when requesting information under the RAI law. The chapter also discusses the basis for which information requested may be refused, and the processes to appeal such decisions. Issues surrounding fees and charges are also explained under the chapter.

Chapter 4: The final chapter gives journalists quick tips on how to use the RAI law to access information in Sierra Leone.

ACKNOWLEDGEMENTS

The Essentials of the Right to Access Information Act – Sierra Leone: A Manual for Journalists was commissioned by the Media Foundation for West Africa to contribute to public sensitization and access to information under Sierra Leone’s Right to Access Information Law. Particularly, the manual seeks to help journalists, citizens and information holders to understand the RAI Act and how it operates.

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CHAPTER 1

1.1 Introduction



The right to seek, access and receive information is a fundamental human right enshrined in several international and national normative frameworks. Globally, this right can be found under Article 19 of the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights (ICCPR). In Africa, access to information is guaranteed in the African Charter on Human and Peoples' Rights (ACHPR), the African Charter on Democracy, Elections and Governance, among others. Several states have also adopted specific laws that promote access to information or incorporated provisions that grant such access in their national constitutions.

Across the globe, access to information is fast gaining popularity. In Africa alone, almost half of the countries have specific legislations that grant citizens access to public-held information. West Africa has the highest with more than 10 out of the 16 countries having adopted specific access to information laws.

Access to information is vital for the promotion of transparent and accountable governance. Access to information allows people to seek and receive public-held information which is critical for fighting corruption, making governments more efficient and helping people exercise their basic human rights.

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In all these, the role of the media cannot be disregarded. The media plays a vital role in ensuring that access to information laws are enacted and running smoothly. As conduits of information also, the media fulfils an important function in ensuring that the public is informed. The media requires credible information to play this role. One way to ensure the media receives credible information is through the RAI law.

The Media Foundation for West Africa (MFWA) has initiated interventions to promote the use of access to information laws among the media, particularly journalists in West Africa. As part of the interventions, the MFWA has been developing simplified manuals on access to information laws for the media. Essentially, the manuals provide crucial information about access to information laws and quick tips on how journalists and other information seekers can use the laws to access information.

The current manual presents an easy understanding of the Right to Access Information Act of Sierra Leone and how it can be used to access critical information.

1.2 The Sierra Leone Right to Access Information Act, 2013

Sierra Leone’s Right to Access Information Act was passed in October, 2013 following calls by civil society to make public-held information available and accessible. Aside this, the Act satisfies section 25 of the 1991 Constitution which states, among other things, “the freedom to receive and impart ideas and information without interference.”

The Right to Access Information law allows every person the right to access information held by or under the control of a public authority

The Right to Access Information law allows every person the right to access information held by or under the control of a public authority (section 2 (1) of the RAI Act 2013). Where the information is under the control of a private body but it is necessary for the enforcement or protection of any right, the law allows for its access (section 2 (2)). The adoption of the RAI law surpasses any other enactment, policy or practice (section 2 (3)).

The RAI law details mechanisms for operationalizing access to information in Sierra Leone. The Act is made up of 51 sections divided into nine (9) broad parts. Each part spells out critical information about the Right to Access Information law and how it operates in Sierra Leone. For instance, it highlights what information or document is public and what is classified as an exempt. The law also lists procedures to follow to access information and the steps to take when the information is denied. Information about fees, period for processing information request, penalties, sanctions, among others are also explained under the Act.

1.3 Understanding key elements under the Sierra Leone Right to Access Information Act

This section of the manual explains some of the key elements under the RAI Act.

1.3.1 Scope of the RAI Act

The RAI law provides for the disclosure of information held by public authorities or by persons providing services for them (public authorities). Public authorities under the Act encompass those:

- Established by the Constitution of Sierra Leone,
- Established by a statute,
- That form part of a branch of government,
- Owned, controlled or substantially financed by funds provided by government,
- Carrying out a statutory or public function or a body or organisation that receives monies on behalf of the people of Sierra Leone.

1.3.2 Proactive vs. Reactive Disclosure of Information

The RAI law mandates every public authority to willingly publish certain classes of information in a Publication Scheme

The RAI law mandates every public authority to willingly publish certain classes of information in a Publication Scheme. Section 8 (1) of the RAI Act spells out the kinds of information that must be published and disseminated. They include:

- Particulars of the public institution, including their functions and duties
- Organogram of the organization
- Decision making processes and procedures
- Processes to request information
- Statement of boards, councils, committees and other bodies
- Particulars of facilities available to citizens for obtaining information
- Budget allocations, etc.

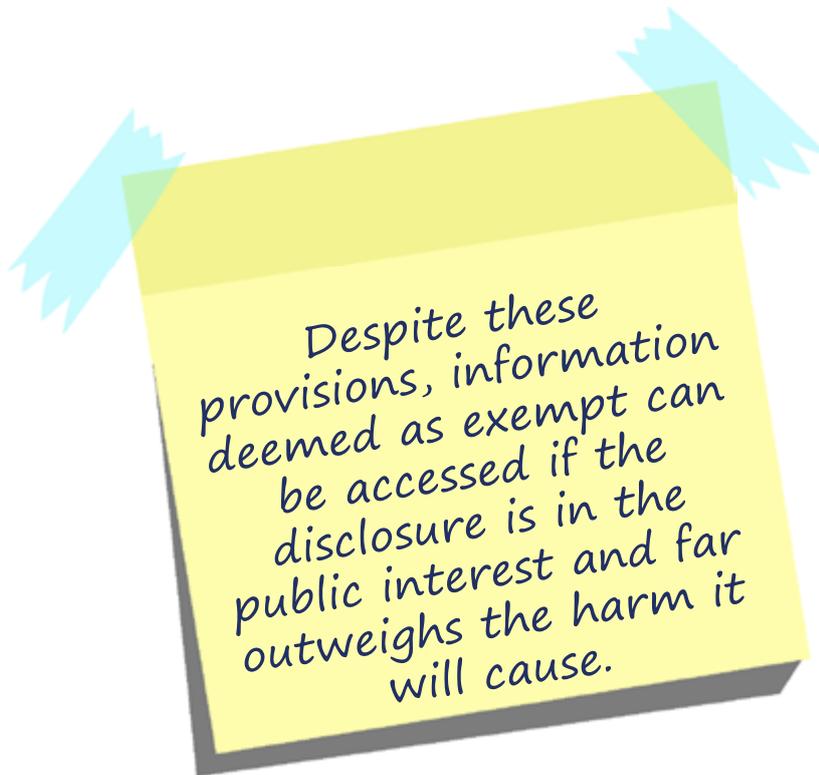
These kinds of information must be published even when a formal request has not been made. The reason is to allow access to information, ensure proactive disclosure and minimize the need for individuals to make formal requests for information held by public institutions.

The law also states that where a public institution is not proactively publishing information, they should be willing to provide the information when a formal request is made provided such information is not an exempt.

1.3.3 Accessible and Non-accessible Information

Although the RAI law grants access to public-held information, not every information is accessible under the law. Information that cannot be accessed under the law are known as exempt information. Their disclosure can be harmful to the security and safety of the country. Section 15 through to 18 itemizes the classes of information that cannot be accessed. They include; national security and defense information, information related to international relations, criminal investigations, economic interests, investigations and law enforcements, third party information, client professional prejudices, personal matters among others.

Despite these provisions, information deemed as exempt can be accessed if the disclosure is in the public interest and far outweighs the harm it will cause.



CHAPTER 2

2.1 Institutional structures for the operationalization of the Right to Access Information Act

This part of the manual states and explains the various institutional structures necessary for the effective functioning of the RAI Act

2.1.1 Information Communication Facilities

Every public institution is mandated to establish Information Communication Technology Units to, among other things, facilitate access to information, ensure transparency and accountability and improve record keeping (section 29). The development of the Information Communication Technology Unit must however, be in accordance with the National Information Communication Technology Act of Sierra Leone.

2.1.2 Public Information Officers

The RAI law provides that every public institution has as many public information officers and units as necessary to facilitate information processes and accessibility (section 28 (1)). In a situation where a public authority has not appointed a public information officer, the head of the institution shall act as the information officer (section 28 (2)). Public information officers are the principal contact persons within a public authority or institution.

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2.1.3 Internal Review/Appeal

Every public institution is mandated to put together an internal review mechanism to address grievances associated with information requests (section 42). The process for internal appeal must be simple and must not take more than twenty-one working days.

2.1.4 Independent Information Commission

The Independent Information Commission oversees the effective implementation of the RAI law. The Commission can also address grievances associated with information requests. This happens when the internal review mechanism of a public institution has been exhausted and the complainant is still not satisfied. The Commission can also intervene in instances where a public institution fails to communicate information in a form requested by the applicant or charges excessive fees or refuses to accept a RAI request.

2.1.5 High Court

The law provides for right to appeal at the High Court. This happens when the applicant is not satisfied with the decision of the Independent Information Commission. The complainant or the public authority may, within forty-five working days, appeal to the High Court for a review of the decision by the Commission (section 46).

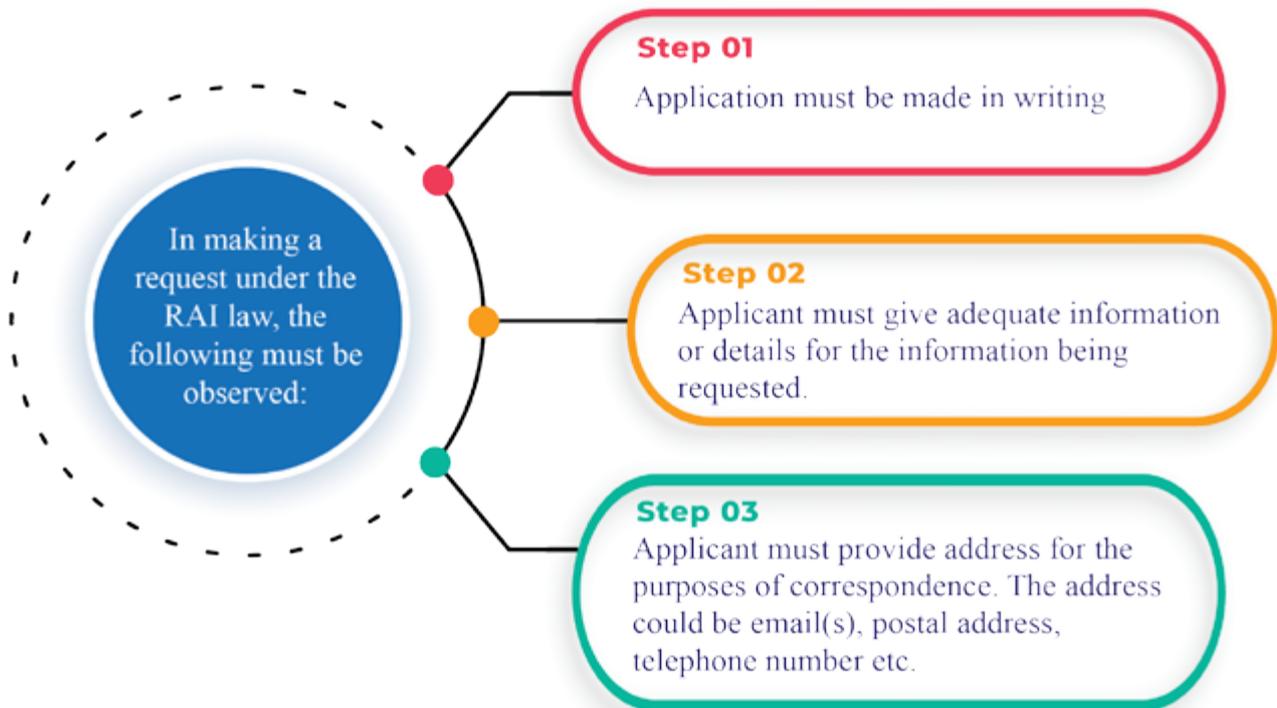
CHAPTER 3

3.1 The Right to Access Information Request and Appeal Processes

The Right to Access Information provides conditions and processes to make a request or appeal a decision. This chapter seeks to give an insight into the two processes. The chapter also addresses the issue of fees and charges when making a request.

3.1.1 Steps for making RAI request

The procedure is very simple. The request can be made orally or in writing (section 3). In writing however, the request can be made in the English, Krio or any other local language in use in Sierra Leone.



In instances where the applicant makes an oral request, the public information officer has the duty of reducing the request into writing. He/she must also include his/her name and designation and sign. A copy of the written request must be handed over to the applicant.

Although the RAI law gives a 15-day time period for a response to be given to an applicant, the law also makes provisions for emergencies. For instance, where the information being requested is a matter of life and death, the law states that, such information should be given within forty-eight (48) hours or receiving the request (section 4).

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A public authority or institution can request an extension of time where a request is complex or entails a lot and may require additional time to respond. The public institution in this case must seek additional time from the Independent Information Commission. The additional time that can be given to the public institution is 15 days (section 4).

There are times that the public institution may not have the information being requested. The law permits the institution to transfer the request to the right public institution. This must be done within three (3) days of receiving the request and inform the applicant. The second institution has fifteen (15) days from the day of receipt of transfer to provide the information (section 5).

3.1.2 Steps for appealing a decision

Part VII addresses the appeal process. Applicants who are dissatisfied by the decision of a public authority can make appeals. There are three levels for appealing a decision. They are:

- i. Internal Appeal
- ii. Independent Information Commission
- iii. High Courts

An internal appeal must be made to the head of the public institution that denied the request. It must be simple and inexpensive and must be completed and a decision arrived at within twenty-one (21) days.

If the applicant is not satisfied with the decision or response given by the internal appeal process, he/she has the right under section 43 to appeal to the Independent Information Commission. An applicant requesting information under the RAI law can also appeal under the following circumstances:

- 1 When public authority fails to communicate information in the form requested
- 2 Refusing to accept an application
- 3 Failing to respond to a request
- 4 Information provided is not satisfactory
- 5 Charging an excessive fee

The Information Commission has a maximum of fifteen (15) working days to give a decision after hearing from both parties (the public institution and the applicant). The Commission's verdict shall be either;

- Rejecting the application
- Requiring the public authority to act in accordance with the RAI law which may be;
 - Providing the information
 - Compensate applicant
 - Impose a fine on the public authority

3.1.3 Fees or charges for information requested

Under the RAI law, applicants who wish to make a request are charged fees for the reproduction/sending/posting of the information (section 6). The fees charged must commensurate with the work (reproduction or sending/posting). A public authority under this provision must serve the applicant with a fee notice. The public authority is not obliged to provide the information until the applicant makes payment. However, an applicant may get the information free of charge if;

- Request is in the public interest
- Within a certain income level
- Information is a personal one, relating to the applicant

Applicants must however state in their application one of the above reasons to be able to enjoy a fee waiver.



CHAPTER 4

Ten Tips for Journalists to access information using RAI law in Sierra Leone

1. Plan your story development process:

This includes having the story idea, identifying the resource persons, sources or institutions to engage; what type of information you may need and who or which institution may have that kind of information. In the story development planning process, you will be able to determine which information you can directly access and which one you will need to specifically request under the Right to Access Information Act.

2. Keep record of the Requests you submit:

Journalists are encouraged to submit formal information requests or make requests in writing. This will help you keep records of such requests in case you would need to refer to them later. Such records are also useful in case you would have to appeal against failure or silence to your request by a public institution. It is advised that you start the request process early as some public institutions are less responsive.

3. Indicate in your request that you are a journalist:

You can make the choice to indicate in your request that you are a journalist or not. Some public institutions tend to provide information to journalists quickly once you clearly identify yourself as such. Remember however that, if you choose to identify yourself, you write your request on your media organisation's letterhead or mention in the letter or e-mail that you are a journalist who works for this or that media organisation. Be careful to ensure that this is also acceptable with your media organisation.

4. **Know what the law says about Exemptions:**

The Sierra Leone Right to Access Information law lists information that are exempted. This includes for example state secrets, national defence secrets, etc. Before you submit a request therefore, check out on what those exemptions are to be sure that your requests do not fall under the exemptions.

5. **Check what the law says about Fees and Charges:**

Section 6 of the RAI law provides a context within which fees could be charged. Fees will only be charged for the reproduction of the information, i.e. photocopying and posting etc. There are also fee waivers for certain classes of the public. Before you submit a request therefore, check whether your application would possibly incur any fees or charges. It is advised that in order to avoid costs, you can indicate in your request that you would prefer the information in an electronic format i.e. scanned and sent via email. Remember to provide the email address to which it should be sent to in your request letter or application.

6. **Make room for Delays:**

Remember that not all public institutions are inclined to be very responsive to information requests immediately a request is made. Even though the Right to Access Information law provides timelines within which a determination should be made on your request, some public institutions might not respond to your request at all or completely refuse you the information. Be prepared therefore to go through the appeal process which might create further delays.

7. **Make a story out of Refusals and Silence:**

Some public institutions will refuse to release information while others may be completely silent on your request. If your information request is in the public interest, the refusal to release information is in itself a story to tell. Make a story out of it. This can be done by writing or broadcasting a story that the request has been submitted, but the public institution has refused to release information. This can draw public attention and also put pressure on the public institution to process and respond to the request.

8. **Appeal against refusals and silence:**

The Sierra Leone Right to Access Information law provides for an appeal mechanism in the case of a refusal or silence. Be abreast with the mechanism including knowing the next authority to appeal to and what time frames are involved. Ensure to exhaust all the appeal mechanism before considering a court option as that might be unduly expensive. It is advised that your appeal be based on **public interest**. For instance, if you have been refused information that you were pursuing for your story, state in your appeal that the information is needed for a media story and that there is a public interest in knowing that information.

9.**Submit Multiple requests when in Doubt:**

Once you decide on your story idea and the kind of information you might need in advancing your story, it is encouraged that you carefully search for the institution which can provide the information you may be looking for. When you are not sure which institution you should submit a request to, send requests to different institutions simultaneously. If a particular institution does not have the information you need, the Freedom of Information law stipulates that the information officer must inform you after processing your request and advise on where to get the information. Remember that, if a public institution does not have the information you requested, they can redirect you to the right institution or even forward your request letter to the appropriate institution and inform you accordingly.

10.**Mention your Right to information:**

Though you are not legally mandated to state in your letter of request that you are making the request under the RAI law, it is however recommended to demonstrate that you know your legal rights. For instance, you could state that you are making this request in accordance or under the RAI Law (2013). This is likely to encourage correct processing of the requests according to the law.

REFERENCES

The Sierra Leone National Constitution

The Right to Access Information Act, 2013

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