

ACCESS TO INFORMATION MANUAL OF THE GAUTENG DEPARTMENT OF e-GOVERNMENT

(Hereinafter referred to as “e-Gov”)



**MANUAL IN TERMS OF SECTION 14 OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000
(ACT NO. 2 OF 2000)**

**PREPARED IN TERMS OF SECTION 14 OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000
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This manual is also available in isiXhosa, Zulu, Afrikaans and in Braille.



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1. AIM OF THIS MANUAL

Section 32(1)(a) of the Constitution of the Republic of South Africa, 1996 provides that *everyone has a right of access to any information that is held by the state and / or any information that is held by another person, which may be required for the exercise or protection of any rights.*

The Promotion of Access to Information Act, 2 of 2000 (hereinafter referred to as “**PAIA**”) is the national legislation, which has been enacted to give effect to the abovementioned constitutional right of access to information.

PAIA gives all South Africans the right to have access to **Records** held by the State, government institutions and / or private bodies.

The following are the objectives, which **PAIA** seeks to achieve:

- to ensure that the State takes part in promoting a human rights culture and social justice;
- to encourage openness and to establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner as reasonably as possible; and
- to promote transparency, accountability and effective governance of all public and private bodies, by empowering and educating everyone to understand their rights in terms of **PAIA** so that they are able to exercise their rights in relation to public and private bodies, to understand the functions and operation of public bodies, and to effectively scrutinise, and participate in decision making by public bodies that affects their rights.

PAIA, however, recognises that such right of access to information is subject to justifiable limitations and following this, it seeks to balance the **Requester’s** constitutional right to information against the **Information Officer’s** right to refuse access to information on any of the grounds mentioned in Part 2, Chapter 4 of **PAIA**, which grounds, for ease of reference are summarised under **Annexure “D”** attached hereto.



Section 14 of **PAIA** places a duty on all public bodies and more in particular on the **Information Officer** of a public body to compile, in at least three official South African languages, a **PAIA Manual** containing, *inter alia*,

- a description of its structure and functions;
- the contact details of its **Information Officer**;
- a description of the **South African Human Rights Commission Guide** referred to under section 10 of **PAIA** and how to access it or obtain a copy thereof;
- sufficient detail to facilitate a **Request** for access to a **Record** of the body;
- a description of the subjects on which the body holds **Records**;
- the categories of **Records** held on each subject;
- the latest notice, in terms of section 15 (2), if any, regarding the categories of **Records** of the body which are automatically available without a person having to **Request** access to such **Record (s)** in terms of this Act;
- a description of the services available to members of the public from the body and how to gain access to those services;
- a description of all remedies available in respect of an act or a failure to act by the body; and
- such other information as may be prescribed,

which manual hereinafter will be referred to as the “**PAIA Manual**”.

In compliance with **PAIA**, the Gauteng Department of e-Government (hereinafter referred to as “e-Gov”) hereby presents its **PAIA Manual** containing, amongst other details:

- details of its core functions and services provided to the public;
- the organisational structure of e-Gov;
- a list of all Records kept by e-Gov;
- the details of the e-Gov **Information Officer**.

The aim of this **PAIA Manual** is to provide the required procedures which must be followed by a person, or a person acting on behalf of such person, who would like to apply for access to information which such person believes he, she or it has a right to and how to go about requesting such information, thereby ensuring that all requests for access to information are dealt with efficiently and effectively, in line with and to further promote the objectives and spirit of **PAIA**.



2. DEFINITIONS

In this **PAIA Manual**, words importing any one gender shall include the other two genders, and the singular shall include the plural, unless the context indicates otherwise.

In this **PAIA Manual**, any word or expression to which a meaning has been assigned under **PAIA** shall bear the same meaning so assigned, and unless the context otherwise indicates –

- **e-Gov** means the Gauteng Department of e-Government;
- **GPG** means the Gauteng Provincial Government;
- **Guide** means the book produced by the South African Human Rights Commission in terms of section 10 of **PAIA** for the purposes of reasonably assisting a person who wishes to exercise any right in terms of **PAIA**;
- **Information Officer** means the function detailed under paragraph 4 below;
- **PAIA Manual** means this manual compiled in terms of section 14 of **PAIA**;
- **Personal Requester** means the person Requesting access to a **Record** containing Personal Information about the Requester;
- **Personnel** means any person who works for, or provides services, to or on behalf of, e-Gov and receives or is entitled to receive any remuneration, including all permanent, temporary and part-time staff as well as contract workers;
- **Record** means any recorded information, regardless of form or medium, which is under the control of e-Gov, irrespective of whether it was created by e-Gov or not;
- **Request** means a request for access to a **Record** of e-Gov;
- **Requester** means any person making a **Request** for access to a **Record** of e-Gov and includes any person acting on behalf of that person or **Requester**; and
- **SAHRC** means the South African Human Rights Commission.



3. ABOUT e-GOV

3.1 Role and function

The core mandate of e-Gov is to

- champion the modernisation of government in Gauteng through the continued rollout of the Gauteng Broadband Network as well as the related e-Government services to citizens broadly in the Gauteng province;
- to create the necessary ICT governance structures to regulate and promote the usage of the available e-Services in the Gauteng province.

In line with the abovementioned mandate, e-Gov will perform the following short to medium functions:

- the design, building, operation, maintenance and support of the GBN Network;
- the design, building, maintenance and support of e-Services for the GPG and the Gauteng province;
- the design and validation of innovation of new services;
- the incubation and stimulation of innovation and entrepreneurship;
- increasing the awareness and usability of government services within the GPG and the Gauteng province;
- skills development and job creation in ICT.

3.2 Vision

e-Gov's vision is *"a Connected Gauteng City Region that leverages technology to provide quality services to its citizens"*

3.3 Mission

e-Gov's mission is to realize the intent of a connected government through, inter alia:

- the provision of relevant technologies, standards and governance;
- the creation of an environment of collaboration between key stakeholders;
- the facilitation of the evolution of the GCR service delivery.



3.4 Values

In support of the above vision, mission, and related roles and functions, e-Gov has adopted and will pursue and entrench within its areas of operation, the following core values:

Excellence: to incrementally, systematically and consistently enhance frontline service delivery;

Growth: to constantly innovate and seek new opportunities;

Openness: to be customer centric and thrive to improve high levels of service to the public;

Value for Money: to provide services at costs affordable to the citizens of the Gauteng province.

3.5 Strategic goals (strategic outcome-oriented goals)

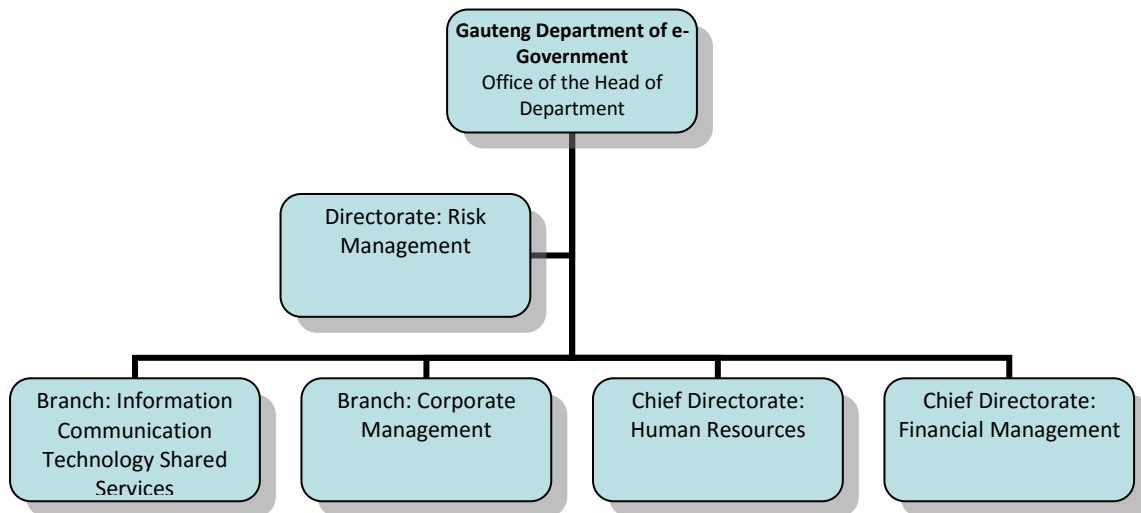
The key strategic objectives of e-Gov are:

- to ensure efficient administration and management of the e-Gov department;
- to build an enabling ICT infrastructure for the GCR connected government;
- to create the enabling platform and support services to enable GCR entities to design, develop and deliver e-Gov Services;
- to establish a GCR e-Gov governance structure to drive priorities, policies, standards and regulations;
- to promote the usage of e-Gov services by the Citizens, Business and Government Entities within the Gauteng province;
- to stimulate the ICT economy through facilitating incubation and innovation as well as encouraging public private partnerships for the development and rollout of e-Gov services.

3.6 Structure of e-Gov

3.6.1 Organogram

To fulfill the mandate outlined above, e-Gov is structured as illustrated below:





3.6.2 E-Gov business units

e-Gov is comprised of the following business units:

- i. Directorate: Risk Management;
- ii. Branch: Information Communication Technology Shared Services;
- iii. Branch: Corporate Management;
- iv. Chief Directorate: Human Resources;
- v. Chief Directorate: Financial Management.

3.6.3 Directorate: Risk Management

The purpose of the Directorate: Risk Management is to manage internal risk management within e-Gov.

The functions of the Directorate, *inter alia*, include:

- develop and implement processes and frameworks for risk management;
- develop and implement of Business Continuity Planning (BCP) and Disaster Recovery Planning;
- ensuring that major risks are reported on;
- monitor the implementation of risk mitigation plans developed by line managers.

3.6.4 Branch: ICT Shared Services

The purpose of the Branch: ICT Shared Technology Services is to render information communication technology support services within the GPG Departments.

The functions of the ICT Shared Services Branch, *inter alia*, include:

- rendering comprehensive programming and applications support to the GPG;
- rendering overall planning and operations management of transversal technology support services;
- transforming the GPG business by seeking efficiencies in operational routines with the aid of IT, and the redesign of non - innovative bureaucratic systems and processes, in order to modernized public services.



The Branch: ICT Shared Services consists of the following components:

- Chief Directorate: Applications;
- Chief Directorate: ICT Infrastructure;
- Chief Directorate: Business Alignment.

3.6.5 Branch: Corporate Management

The purpose of Corporate Management is to create policies and procedures that are aligned to the Public Finance Management Act, 1 of 1999 (PFMA) and other legislative prescripts; and to ensure the enforcement of these policies and procedures.

The functions of the Branch, *inter alia*, include:

- facilitation and management of resource management services;
- provision of communication services;
- contribute to operational excellence by providing tools and support to every senior manager in their role of strategy making and strategy implementing, and working closely with core business areas to ensure customer satisfaction and successful management of service level agreements.

The Corporate Management Branch consists of the following main components:

- Chief Directorate: Resource Management;
- Chief Directorate: Communication Services;
- Chief Directorate: Strategic Management.

3.6.6 Chief Directorate: Human Resources

The purpose of the Chief Directorate: Human Resources is

- to render transversal human resource services, to the GPG departments;
- managing and facilitating human resource planning and organizational development;
- the provision of employee health, wellness and relations programmes; and
- the provision of logistics and transport services.



The functions performed by the Chief Directorate: Human Resources, *inter alia*, include:

- HR Information management and policy development services to the GPG;
- injury on duty services;
- administration of human resource conditions of service for the following departments within the GPG: Health, Social Development, Transport, Sports, Arts and Culture, GDID, GDED, e-Gov, DLGH and Safety, GDE, Agriculture, OOP and Treasury; and
- administration of the GPG wide payroll.

The **Chief Directorate: Human Resources** consist of the following components:

- Directorate: HR Administration Cluster 1;
- Directorate: HR Administration Cluster 2;
- Directorate: Payroll Services; Directorate: Debt Management;
- Sub directorate: HR Information Management and Policy Co-ordination; and
- Division: Injury on Duty.

3.6.7 Chief Directorate: Financial Management

The purpose of the Chief Directorate: Financial Management is to render sound financial management.

The functions of the Chief Directorate Financial Management, *inter alia*, includes the rendering of the following services:

- management accounting services;
- financial accounting services;
- supply chain management services.

The Chief Directorate : Financial Management consists of the following components:

- Directorate: Management Accounting;
- Directorate: Financial Accounting; and
- Directorate: Supply Management.



4. e - GOV INFORMATION OFFICER AND DEPUTY INFORMATION OFFICER

4.1 Information Officer Mr. Boy Ngobeni

In terms of **PAIA**, the Head of Department (HOD) is the **Information Officer** of e-Gov.

The contact details of the HOD are as follows:

Name: Mr. Boy Ngobeni
Physical Address: 75 Fox Street, Imbumba House, Marshalltown, 2107
Postal Address: Private Bag x112, Marshalltown. 2107
Tel: (011) 689 8984
E-mail: boy.ngobeni@gauteng.gov.za
Website: <http://www.egov.gpg.gov.za/>

4.2 Deputy Information Officer: Ms. Mahlodi Mashita

The HOD has duly authorised as per a written delegation the person listed below to act as **Deputy Information Officer** in order to ensure that the requirements of **PAIA** are administered in accordance with the Act:

Designation: Legal Services
Name: Ms. Mahlodi Mashita
Physical Address: 75 Fox Street, Imbumba House, Marshalltown, 2107
Postal Address: Private Bag x112, Marshalltown. 2107
Tel: (011) 689 8692
E-mail: mahlodi.mashita@gauteng.gov.za



5. INFORMATION AND RELATED RECORDS HELD BY e-GOV

5.1 Subjects and categories of Records held by the e-Gov in terms of Section 14(1)(d) of PAIA

e-Gov has categorised the **Records** held by it relevant to the functions and services of e-Gov and / or per subject area as follows:

A Policy, as per applicable Legislation and Government Notices, and internal procedures

- a. Internal Policies, Strategies, Delegations
- b. Policy Oversight and Development and Knowledge Management
- c. Statutory Records compiled in accordance with Legislation, including:

Basic Conditions of Employment Act, 75 of 1997
Constitution of the Republic Of South Africa Act, 108 of 1996
Compensation for Occupational Injuries and Health Diseases Act, 130 of 1993
Copyright Act, 98 of 1978
Disaster Management Act, 57 of 2002
Electronic Communications and Transactions Act, 25 of 2002
Employment Equity Act, 55 of 1998
Income Tax Act, 45 of 1967
Insolvency Act, 24 of 1936
Government Employees Pension Law Act, 21 of 1996
Intellectual Property Laws Amendments Act, 38 of 1997
Labour Relations Act, 66 of 1995
National Environment Management: Air Quality Act, 39 of 2004
National Environmental Management Act, 107 of 1998
National Environmental Management Waste Act, 59 of 2008
National Health Act, 61 of 2003
Occupational Health and Safety Act, 85 of 1993
Promotion of the Administrative Justice Act, 3 of 2000
Preferential Procurement Policy Framework Act, 5 of 2000
Prevention of Organized Crime Act, 121 of 1998
Prevention and Combating Of Corrupt Activities Act, 12 of 2004
Promotion of Equality & Prevention of Unfair Discrimination Act, 4 of 2000
Protected Disclosure Act, 26 of 2000



Public Finance Management Act, 1 of 1999
Public Service Act, 103 of 1994
Regulation of Interception of Communications and Provision of Communication-Related Information Act, 70 of 2002
Skills Development Act, 97 of 1998
Skills Development Levies Act, 9 of 1999
South African Qualifications Authority Act, 58 of 1995
Tax Administration Act, 28 of 2011
Tobacco Products Control Act 83 of 1993
Trade Marks Act, 194 of 1993
Unemployment Contributions Act, 4 of 2002
Unemployment Insurance Act, 63 of 2001
Value Added Tax Act, 89 of 1991

B Media

- a. Press statements and speeches

C Labour, as per applicable labour Legislation and Government Notices

- a. Labour Relations, Negotiations and Discipline Management
- b. Remuneration and Job Grading (Macro and General)
- c. Employee Benefits; Workplace Environment Management
- d. Human Resources Planning, Employment Practices and Performance Management
- e. Human Resources Development
- f. Contracts of employment
- g. Human Resource Management
- h. Human Resources Management Information Systems
- i. Internal Human Resources and Facilities Management

D Risk Management, as per applicable labour Legislation and Government Notices

- a. Risk methodologies
- b. Risk management procedures and processes
- c. Risk policies
- d. Risk registers



E Governance, as per applicable Legislation and Government Notices, and internal procedures

- a. Ethics and Integrated Management
- b. Governance policies, procedures and related documents

F Information Systems as per applicable Legislation and Government Notices, and internal procedures

- a. Management Information Management Systems
- b. Stakeholder Management
- c. Information Technology Risk Management
- d. Information Technology e-Enablement
- e. Information Technology Service Management

G Service Delivery as per applicable Legislation and Government Notices, and internal procedures

- a. Operations Management
- b. Service Delivery Support Programmes
- c. Complaints and Change Management (Batho Pele)
- d. Public Participation and Social Dialogue

H Legal Services

- a. Litigation Management
- b. Legislative Compliance
- c. Contract Drafting and / or Vetting and Advisory Services
- d. PAJA & PAIA Requests

I Corporate Services

- a. Strategic Management and Support
- b. Corporate Communications and Information Communication Technology Management



J. Financial Management Services as per applicable Legislation and Government Notices, and internal procedures

- a. Departmental financial Records
- b. Reports, Circulars and Information
- c. Financial Governance
- d. Budget Management
- e. Fiscal Policy
- f. Provincial Government Finance
- g. Local Government Finance
- h. Financial Asset Management
- i. Financial Systems
- j. Moveable and Immovable Asset Management

5.2 Records automatically available to the public as per Section 14(1)(e) of PAIA

In terms of section 14(1)(e) of the Act, e-Gov has the following categories of **Records** that are automatically available for copying and inspection without a person having to **Request** access in terms of **PAIA**.

- a. Annual Performance Plans
- b. Annual Reports
- c. Acts, Bills and Regulations published by the Department
- d. e-publications including booklets and brochures
- e. Fact sheets
- f. Growth and Development Strategy
- g. Press releases
- h. Published policies and guidelines available to the public
- i. On-line Presentations available to the public
- j. On line Application forms
- k. Service Charters
- l. Speeches
- m. Tenders
- n. Published marketing material, including departmental marketing brochures
- o. Published newsletters
- p. Strategic plans
- q. Vacancy circulars

These documents are automatically available on the e-Gov website: <http://www.egov.gpg.gov.za> Please refer and use the website before submitting Requests as it will be an easier way of accessing these Records. If the information is not available on the e-Gov website, please then make contact with the e-Gov **Information Officer** for access.



5.3 Records with National Archives

Where Records have already been submitted to the National Archives of South Africa, the Records will be made available in compliance with the laws applicable to the perusal of such Records, which are among others:

- the Promotion of Access to Information Act, 2 of 2000;
- the Protection of Information Act, 84 of 1982; and
- the National Archives and Records of South Africa Act, 43 of 1996.

6. GUIDE OF THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION ON HOW TO USE THE ACT

The South African Human Rights Commission (SAHRC) has in terms of section 10 of the **PAIA**, compiled a Guide on the use of the **PAIA**.

The Guide on **PAIA**, the rights available thereunder and how to access information is available from the **South African Human Rights Commission**.

This Guide is available in each South African official language on the website of the SAHRC at <http://www.sahrc.org.za>

The Guide is also available for public inspection during office hours at the offices of the SAHRC at the following address:

Postal Address: The South African Human Rights Commission PAIA Unit, The Research and Documentation Department Private Bag x 2700, Houghton, 2041

Physical Address: PAIA Unit, The Research and Documentation Department 29 Princess of Wales Terrace, Parktown, Johannesburg

Website: <http://www.sahrc.org.za/>

E-mail: PAIA@sahrc.org.za



7. REQUEST FOR ACCESS TO INFORMATION IN TERMS OF SECTION 13(1)(D) OF PAIA

7.1 Right to Request access to a Record

In terms of **PAIA**, everyone has the right to **Request** access to a **Record** or information housed under a **Record** held by e-Gov, subject to the following conditions:

- 7.1.1 that such **Request**, save in the case of those **Records** detailed under clause 5.2 above, is made in the prescribed manner and form;
- 7.1.2 that the prescribed fees are paid as described under **Annexure C**;
- 7.1.3 that access to the **Requested Record** will be subject to the grounds of exclusion found in Chapter 4 of PAIA, as described under **Annexure D**.

The **Request** for access to a **Record** can be made by any person acting in respect of their own interests or who has been asked to act on behalf of another person who would like to have access to a **Record** and who is unable to make the **Request** personally due to a disability.

7.2 Procedure for Requesting Records:

Any person in order to **Request** access to a **Record** should follow the following **Request** procedure:

7.2.1 Obtain the PAIA Request Form

Obtain the **PAIA Request** form, which form

- (a) can be found in the Regulations to **PAIA**;
- (b) is also on the website of the SAHRC at www.sahrc.org.za;
- (c) is attached to this document as **Annexure A**.
- (d) is also obtainable from the Department's Centre of Innovation unit on the ground floor.

7.2.2 Complete the PAIA Request form

The **Requester** either on his, her or its own or with the assistance of another must complete the prescribed **PAIA Request** form.



7.2.3 Payment of the prescribed fee

There are two types of **fees** payable and levied in terms of **PAIA**, namely a **Request fee** which is payable under certain circumstances; and an **access fee**.

These fees are as follows “

REQUEST FEE
Request fee payable by a Requester, other than a request by a person for personal information referred to in Regulation 7(2) R35.00
Request fee payable by a Requester asking for Personal Information referred to in Regulation 7(2) R0.00

Where a **Requester** is seeking access to a **Record** containing personal information about him / her / it, then in such case such person is not required to pay a **Request fee** (hereinafter known as a “**Personal Requester**”).

Any person who is NOT ASKING FOR PERSONAL INFORMATION, must pay the required **Request fee**, being the sum of **R35.00 (thirty five rands)**, which amount must be paid into the e-Gov banking account prior to lodgement of the **Request**.

The e-Gov bank account details are as follows:

First National Bank
Department of e-Government
Cheque account
Account number 62305791073
Branch code 210 - 554
Swift code FIRNZ AJJ

In terms of **PAIA**, where e-Gov is to spend time on searching and preparing the **Requested Record**, then it will have the right to levy certain **access fees** in respect of the search, preparation and reproduction of the **Requested Record(s)**, which fees are set out under **Annexure “C”** annexed hereto and reproduced below.

**ACCESS FEES- REPRODUCTION FEES**

Fees for reproduction referred to in Regulation 7(1) are as follows:

- | | | |
|----|---|--------|
| a. | For every photocopy of an A4-size page or part thereof | R0.60 |
| b. | For every printed copy of an A4-size page or part thereof held on a computer or in electronic machine-readable form | R0.40 |
| c. | For a copy in a computer-readable form | |
| | 1. Stiffy disk | R5.00 |
| | 2. Compact disk | R60.00 |
| d. | For a transcription of visual images | |
| | i. For an A4-size page or part thereof | R22.00 |
| | ii. For a copy of a visual image | R60.00 |
| e. | For a transcription of an audio Record | |
| | i. For an A4-size page or part thereof | R12.00 |
| | ii. For a copy of an audio Record | R17.00 |

The access fees payable by a Requester referred to in Regulation 7(3) are as follows:

- | | | | |
|--------|--|--------|---------------|
| 1. (a) | For every photocopy of an A4-size page or part thereof | R0.60 | |
| (b) | For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form. | R0.40 | |
| (c) | For a copy in a computer-readable on | | |
| | i. Stiffy disk | R5.00 | |
| | ii. Compact disk | R40.00 | |
| (d) | For a transaction of visual images | | |
| | i. For an A4-size page or part thereof | R22.00 | |
| | ii. For a copy of visual images | R60.00 | |
| (e) | For a transcription of an audio Record | | |
| | i. For an A4-size page or part thereof | R12.00 | |
| | ii. For a copy of an audio Record | R17.00 | |
| (f) | To search for and prepare the Record for disclosure, for each hour or part thereof, excluding the first hour, reasonably required for search and preparation | R15.00 | for each hour |
3. For purposes of section 22(2) of the PAIA, the following applied:
- | | |
|----|--|
| a. | Six hours as the hours to be exceed before a deposit is payable |
| b. | One third of the access fee is payable as a deposit by the Requester |

3. The actual postage is payable when a copy of a Record must be posted to a Requester



Where e-Gov is to spend time on searching and preparing the Requested Record, e-Gov will advise the **Requester** of the **Access fees** who will be required to pay said fees to e-Gov by way of a direct deposit into the e-Gov bank account.

Note that where the time spent by e-Gov in respect of the search, preparation and reproduction of the **Requested Record** will exceed a period of six (6) hours, then the **Requester** will be required to pay a **deposit** to e-Gov before the **Record** will be released to the **Requester**.

The sum of such deposit will **be equal to one third of the Access Fee** payable by the **Requester**, which amount will be paid by the **Requester** into the e-Gov bank account before e-Gov commences with the preparation of the **Requested Records**.

Where a **Requester Requests** that a copy of a **Record** is posted to the **Requester**, then the **Requester** will be liable for the actual cost of postage, which will be added to the access fee.

The above fees are to be paid when required into the e - Gov bank account details being as follows:

The e-Gov bank account details are as follows:

First National Bank
Department of e-Government
Cheque account
Account number 62305791073
Branch code 210 - 554
Swift code FIRNZ AJJ



7.2.4 Submit Request to e-Gov

The **Request** for information must be submitted to the e-Gov **Information or Deputy Information Officer** at the address detailed under clause 4 above.

The **Requester** must indicate in what manner and form he/she/it would like to receive the **Record**.

If a person asks for access in a particular form, then the **Requester** should get access in the manner that has been asked for, save where in doing so would interfere unreasonably with the running of the e- Gov, or would cause damage to the **Record** concerned, or infringe any copyright not owned by e-Gov.

If for practical reasons, access cannot be given in the required manner and form, but in an alternative manner, then the fee must be calculated according to the way that the Requester first asked for it as per the provisions of s 29(3) and (4) of PAIA.

If, in addition to a written reply to a **Request** for the **Record**, the **Requester** wants to be told about the decision in any other way, for example, telephonically, this must be indicated.

7.2.5 Request on behalf of another person

If a **Request** is made on behalf of another person, then the person making such a **Request** must submit proof of the capacity in which he/she is making the **Request**, to the reasonable satisfaction of the **Information or Deputy Information Officer**.

7.2.6 Request by people with disabilities

If a **Requester** is unable to read or write, or if he/she has a disability that prevents him/her from completing the prescribed form, then he/she can make the **Request** orally. The **Information or Deputy Information Officer** (or his/her delegate) will then complete the form on behalf of the **Requester** and give a copy of the completed form to the **Requester**.



7.2.7 Transfer of Requests

The **Information or Deputy Information Officer** of e-Gov has the right to transfer any **Request for a Record** to another public body under the following circumstances:

- when the **Record** is in the possession of another public body;
- the subject matter of the **Record** is more closely associated with the functions of another public body;
- the **Record** was created for another public body, or was received first by another public body; or
- the **Record** contains commercial information relating to economic interests and the financial welfare or commercial activities of another public body.

In the aforementioned circumstances **the Information or Deputy Information Officer** (or his/her delegate) must transfer the **Request** to the other public body/s as soon as is reasonably possible, but by **no later than 14 days** after receipt of the **Request**.

If the public body or the **Information Officer** to whom the **Request** is made is in possession of the **Record** and considers it helpful to do so to enable the **Information Officer** of the other public body to deal with the **Request**, the **Record** or a copy of the **Record** will be sent to that **Information Officer**.

When a **Request for access to a Record** or information has been transferred to another body, **the Information or Deputy Information Officer** making the transfer must immediately notify the **Requester** of:

- the transfer and the details of the body to whom the **Request** has been transferred to;
- the reasons for the transfer; and
- the period within which the **Request** must be dealt with.

7.2.8 Granting or refusing access

A **Requester** must be given access to the **Requested Record** if the **Requester** has complied with all the procedural requirements in **PAIA** relating to the **Request** for access to that **Record**; and access to that **Record** is not refused on any ground of refusal permitted under **PAIA**.

Access to a Record will be withheld until all the **applicable fees** have been paid



8. OTHER LAWS

8.1 Promotion of the Administrative Justice Act, 3 of 2000 (PAJA)

In cases where an administrative action materially and adversely affects the rights or legitimate expectations of any person or the rights of the public, then the prescripts for a procedurally fair administrative action set out in the provisions of the Promotion of the Administrative Justice Act, 2000 (Act No. 3 of 2000), and in particular sections 4 and 5 will be adhered to.

8.2 Protection of Personal Information Act, 2013 (POPIA)

8.2.1 Purpose of POPIA

The Protection of Personal Information Act, 4 of 2013, (“**POPIA**”) regulates and controls the processing, including the collection, use, and transfer of a person’s personal information. In terms of **POPIA**, a person (**Responsible Party**) has a legal duty to collect, use, transfer and destroy (**process**) another’s (**Data Subject**) personal information (**Personal Information**) in a lawful, legitimate and responsible manner and in accordance with the provisions and the 8 processing conditions set out under **POPIA**.

8.2.2 Reasons why e-Gov Processes Personal Information

e - Gov does and will from time to time process **Personal Information**, which belongs or is held by a **Data Subject**.

This processing is required by e-Gov to allow it to perform the following:

- (i) to pursue its objectives and strategies,
- (ii) to comply with a variety of lawful obligations, including without detracting from the generality thereof those listed under Paragraph 5 above;
- (iii) to carry out actions for the conclusion and performance of a contract as between e-Gov and **Data Subjects**;
- (iv) to put in place protective mechanisms to protect the **Data Subject’s** and / or e-Gov’s legitimate interest (s) including the performance of risk assessments and risk profiles;
- (v) to obtain Personal Information about Data Subjects, as may be required by law or to protect the respective party’s or **Data Subject’s** legitimate interests, from Regulators, law enforcement agencies, such as the SAPS, a credit bureau, credit provider or credit association;
- (vi) to provide **Personal Information** pertaining to **Data Subjects**, as may be required by law or to protect the respective party’s or **Data Subject’s** legitimate interests to Regulators, law enforcement agencies, such as the SAPS, credit bureaus, credit providers or credit associations;



- (vii) for the purposes of making contact with the **Data Subject** and attending to the **Data Subject's** enquiries and **Requests**;
- (viii) for the purpose of providing the **Data Subject** from time to time with information pertaining to e-Gov , its officers, personnel, employees, services and goods and other ad hoc business related information;
- (ix) to pursue the **Data Subject's** and / or e-Gov's legitimate interests, or that of a third party to whom the Personal Information is supplied;
- (x) for the purposes of providing, maintaining, and improving the e-Gov products and services, and to monitor and analyze various usage and activity trends pertaining thereto;
- (xi) for the purposes of performing internal operations, including management of personnel, employees, employee wellness programmes, the performance of all required HR and IR functions, call centres, customer care lines and enquiries, attending to all financial matters including budgeting, planning, invoicing, facilitating and making payments, making deliveries, sending receipts, and generally providing commercial support, where needed, requested or required;
- (xii) for the purpose of preventing fraud and abuse of e-Gov processes, systems, procedures and operations, including conducting internal and external investigations and disciplinary enquiries and hearings.

8.2.3 Storage and retention and destruction of information

e- Gov will ensure that the **Data Subject's Personal Information** is stored electronically in a centralised data base, which, for operational reasons, will be accessible to all within e-Gov on a need to know and business basis, save that where appropriate, some of the **Data Subject's Personal Information** may be retained in hard copy. All such **Personal Information** will be held and / or stored securely. In this regard e - Gov will ensure that it performs regular audits regarding the safety and the security of all **Data Subject's Personal Information**. Once the **Data Subject's Personal Information** is no longer required due to the fact that the purpose for which the **Personal Information** was held has come to an end and expired, such **Personal Information** will be safely and securely archived for the required prescribed periods or longer should this be required by e-Gov. e-Gov thereafter will ensure that such **Personal Information** is permanently destroyed.



8.3. Access by others and cross border transfer

e - Gov may from time to time have to disclose a **Data Subject's Personal Information** to other parties, including other organs of state, other departments or subsidiaries, product or third party service providers, regulators and or governmental officials, overseas service providers and or agents, but such disclosure will always be subject to an agreement which will be concluded as between e-Gov and the party to whom it is disclosing the **Data Subject's Personal Information** to, which contractually obliges the recipient of this **Personal Information** to comply with strict confidentiality and data security conditions.

Where **Personal Information** and related data is transferred to a country which is situated outside the borders of South Africa, the **Data Subject's Personal Information** will only be transferred to those countries which have similar data privacy laws in place or where the recipient of the **Personal Information** is bound contractually to a no lesser set of obligations than those imposed by **POPIA**.



9. REMEDIES AVAILABLE IN THE EVENT OF NON-COMPLIANCE WITH PAIA (SECTION 14(1)(H))

9.1 Internal appeal

When a **Requester** is unhappy with a decision made by the **Information Officer or Deputy Information Officer**, the **Requester** has the right to file an internal appeal.

An internal appeal involves a more senior person, known as the **relevant authority**, who will review the decision of the **Information Officer or Deputy Information Office** and decide whether he/she made the correct decision.

If the senior person approves of the **Information Officer or Deputy Information Officer's** decision, then the internal appeal is denied and the original decision regarding the **PAIA Request** is confirmed.

If the senior person does not approve of the **Information Officer or Deputy Information Officer**, then the appeal is granted and the original decision regarding the **PAIA Request** is overturned.

If the internal appeal involves any third party, e-Gov is responsible for notifying all relevant third parties.

Third parties are also allowed to file internal appeals against the decision made by the **Information Officer or Deputy Information Officer**

A **Requester** may lodge an Internal Appeal against the following decisions of the **Information or Deputy Information Officers**:

- a refusal of any a **Request** for access to a **Record**;
- a levied access fee, or
- a **Request** for an extended period to deal with the Request.
- the **requester** is not satisfied with the decision to grant a 30 day extension to e-Gov to respond to the request.
- the requester is not satisfied when the form in which the records are provided are not the same as the form that was requested, and the requester believes that it would not have been unreasonably burdensome for e-Gov, to provide the records in the requester's preferred form.



9.2 Procedures, Time periods and Form

The appeal must be lodged by using the prescribed form attached to this **PAIA Manual** as “**Annexure B**”.

The appeal must be made to the address, fax number or electronic mail address of the **Information or Deputy Information Officer**.

The person lodging the appeal (hereinafter referred to as the “appellant”) must

- provide sufficient details on the appeal form of the reasons for the internal appeal;
- how he / she wishes to be informed of the decision about the appeal; and
- pay the *prescribed appeal fee (if any) as per annexure fee .

* no fee currently.

The appellant / **Requester** must file an internal appeal within 60 days of receiving the refusal for the original **PAIA request**.

Form B must be submitted to the **Information Officer/Deputy Information Officer** who refused the initial **Request**, who is then required to forward it to the more senior person.

If the appeal requires that notice be given to a third party (i.e. when the information contains Personal Information about another person, as well as confidential information, specific commercial information, and research information about the third party), then the appeal must be lodged within 30 days of notice being given to that third party.

A requester must submit the internal appeal to the **Information Officer/Deputy Information Officer** of the relevant body via post, fax or email.

An internal appeal must include the subject of the internal appeal, reasons in support of the appeal, and include any other relevant information known to the person making the appeal.

If the requester would like to be informed of the decision regarding the internal appeal in a different manner he or she must indicate this.

A requester who lodges an internal appeal is required to pay the **prescribed fee**. The decision regarding the appeal may be deferred until the fee is paid. * no fee currently.



e-Gov will only allow the appellant to lodge a late appeal if the appellant is able to give good reasons for the lateness of the appeal and the motivation is credible.

When an internal appeal is filed after the 60 day period has lapsed, the **Information or Deputy Information Officer** must accept the appeal if good cause is shown for the late lodging. When the **Information or Deputy Information Officer** does not accept the late lodging of an internal appeal, it must inform the appellant if his/her late appeal was disallowed.

9.3 Appeal Fee

An appellant has to pay the prescribed ***appeal fee** (if any). A decision on the Internal Appeal may be deferred until the appeal fee is paid. (* No fee currently).

9.4 Third Party

If e-Gov is considering an Internal Appeal against the refusal of a **Request for access to a Record** which pertains to a third party and that relates to the privacy, commercial interests and other confidential information of such third party; or the **Records** of SARS, e-Gov must inform the third party about the appeal within **30 days** after receipt of the appeal, and by the fastest means reasonably possible.

e-Gov will furnish the third party with a description of the contents of the appeal, details of the appellant, and state whether e-Gov is of the opinion that the information should be revealed in public interest.

The third party then has **21 days** to make a written representation why the **Request** for information should not be granted, or give written consent for the disclosure of the **Record** to the **Requester**.

9.5 Notice of decision

After receiving an appeal, the **Information or Deputy Information Officer** must within **10 working days** submit his/her reasons for the decision, and details of a third party involved, if any.

e - Gov may confirm the original decision, or make another decision. This will be done within **30 days** after receipt of the internal appeal, or within **5 working days** after receiving written representation regarding the appeal. Notice will be given to the appellant, every third party involved and the **Requester**, stating the reason/s for the decision.



The notice must

- state adequate reasons for the decision, including the provision of the Act relied upon;
- exclude, from such reasons, any reference to the content of the **Record**;
- state that the appellant, third party or **Requester**, as the case may be, may lodge an application with a court against the decision on internal appeal within **60 days**; or
- if notice to a third party is required within **30 days**, after notice is given, and the procedure for lodging the application.

If e - Gov fails to give notice of the decision on an internal appeal to the appellant within the prescribed period, e-Gov is, for the purposes of this Act, regarded as having dismissed the internal appeal.

9.6 Appeal to court

If the internal appeal has been unsuccessful, or if e-Gov has refused to accept the late lodging of an internal appeal, or if the **Requester** or third party (appellant) is aggrieved in any way because of a decision made by e-Gov, such person may apply to court for relief by filing an application within **180 days** of receiving the decision

A **Requester** or third party may **ONLY** apply to a High Court (or court of similar status) for appropriate relief after the **Requester** or third party has exhausted the Internal Appeal procedure and has received notice of the decision or deemed notice, as the case may be.

No **Record** may be withheld from the court.

The court proceedings are civil, and the court may confirm, amend or set aside the decision on internal appeal, or grant an interdict.



ANNEXURE A
FORM A
REQUEST FOR ACCESS TO RECORDS OF PUBLIC BODY
(Section 18(1) of the Promotion of Access to Information Act, 2000)
(Act No.2 of 2000)

(Regulation 6)

FOR DEPARTMENTAL USE

Reference Number: _____

Request received by: _____ (State rank, name and surname of Information Officer/
Deputy Information Office) on _____ (date), at _____ (place).

Request Fee (if any): R _____

Deposit (if any): R _____

Access Fee: R _____

SIGNATURE OF INFORMATION
OFFICER/ DEPUTY INFORMATION
OFFICER



a. PARTICULARS OF PUBLIC BODY

The Information Officer/ Deputy Information Officer:

a. PARTICULARS OF PERSON REQUESTING ACCESS TO THE RECORDS

- a. The particulars of the person who Requests access to the Records must be given below.
- b. The address and/or fax number in the Republic to which the information is to be sent, must be given.
- c. Proof of the capacity in which the Request is made, if applicable, must be attached.

Full Names and Surname: _____

Identity Number: _____

Postal Address: _____

Fax Number: _____

Telephone Number: _____

Email Address: _____

Capacity in which the Request is made, when made on behalf of another person:

b. PARTICULARS OF PERSON WHOSE BEHALF THE REQUEST IS MADE

This section must be completed ONLY if a Request is made on behalf of another person

Full Names and Surname: _____

Identity Number: _____



c. PARTICULARS OF RECORD

- a. Provide full particulars of the Record to which access is Requested, including the reference number if that is known to you, to enable the Record to be located.
- b. If the provided space is inadequate please continue on a separate folio and attach it to this form. The Requester must sign all the additional folios.

1. Description of Record or relevant part of the Record:

2. Reference number, if available:

3. Any further particulars of the Record:

d. FEES

- a. A Request for access to a Record, other than Record containing personal information about yourself, will be processed only after a Request fee has been paid.
- b. You will be notified of the amount required to be paid as the Request fee.
- c. The fee payable for access to a Record depends on the form in which access is required and the reasonable time required to search for and prepare a Record.
- d. If you qualify for exemption of the payment of any fee, please state the reason for exemption.



Reason for exemption from payment of fees

If you are prevented by a disability to read, view or listen to the Record in the form of access provided for in 1 to 4 below, please state your disability and indicate in which form the Record is required.

Disability:	Form in which the Record is required:

Mark the appropriate box with an X.

NOTES

- a. Compliance with your Request for access in the specified form may depend on the form in which the Record is available.
- b. Access in the form Requested may be refused in certain circumstances. In such a case, you will be informed and the Record will be granted in another form.
- c. The fee payable for access to the Record, if any, will be determined partly by the form in which access is requested.



1. If Record is in written or printed form:		
Copy of Record*	Inspection of Record	
2. If Record consists of Recorded words or information which can be reproduced in sound:		
View the images	Copy of the images*	Transcription of the images*
3. If Record consists of Recorded words or information which can be reproduced in sound:		
Listen to the sound track (audio cassette)	Transcription of sound track (written or printed document)	
4. If a Record is held on a computer or in an electronic or machine-readable form		
Printed copy of Record*	Printed copy of information derived from the Record*	Copy in computer readable form* (stiffy or compact disk)

<p>*If you Requested a Record or transcription of a Record (above), do you wish the copy or transaction to be posted to you?</p> <p>Postage is payable</p>	YES	NO

<p>Note that if the Record is not available in the language you prefer, access may be granted in the language in which the which the Record is available</p>
<p>In which language would you prefer the Record? _____</p>



e. NOTICE OF DECISION REGARDING REQUEST FOR ACCESS

You will be notified in writing whether your Request has been approved/denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your Request.

How would you prefer to be informed of the decision regarding your Request for access to the Record?

Signed at: _____ this _____ day of _____ 20____

SIGNATURE OF THE REQUESTER/
PERSON WHOSE BEHALF THE
REQUEST IS MADE



ANNEXURE B

FORM B

NOTICE OF INTERNAL APPEAL

(Section 75 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))

(Regulation 8)

STATE YOUR REFERENCE NUMBER:

a. PARTICULARS OF PUBLIC BODY

The Information Officer/Deputy Information Officer: _____

b. PARTICULARS OF THE REQUESTER/ THIRD PARTY WHO LODGES THE INTERNAL APPEAL

- a. The particulars of the person who lodges the Internal Appeal must be given below.
- b. Proof of the capacity in which the appeal is lodged, if applicable, must be attached.
- c. If the appellant is a third party and not the person who originally requested the information, the particulars of the Requested must be given at C below.

Full Names and Surname: _____

Identity Number: _____

Postal Address: _____

Fax Number: _____

Telephone Number: _____

Email Address: _____

Capacity in which an Internal Appeal on behalf of another person is lodged:



c. PARTICULARS OF THE REQUESTER

This section must be completed ONLY if a third party (other than the Requester) lodges the Internal Appeals

Full Names and Surname: _____

Identity Number: _____

Postal Address: _____

Fax Number: _____

Telephone Number: _____

Email Address: _____

Capacity in which an Internal Appeal on behalf of another person is lodged:



d. THE DECISION AGAINST WHICH THE INTERNAL APPEAL IS LODGED

Mark the decision against which the Internal Appeal is lodged with a X in the appropriate box: <hr/>
Refusal of Request for access
Decision regarding fees prescribed in terms of section 22 of the Act
Decision regarding the extension of the period within which the Request must be dealt with in terms of section 26(1) of the Act
Decision in terms of Section 29(3) of the Act to refuse access in the form Requested by the Requester
Decision to grant Request for access

e. GROUNDS FOR APPEAL

If the provided space is inadequate, please continue on a separate folio and attach it to this form. You must sign all the additional folios.

State the grounds on which the Internal Appeal is based:

State any other information that may be relevant in considering the appeal:



NOTICE OF DECISION ON APPEAL

You will be notified in writing of the decision to your Internal Appeal. If you wish to be informed in any other manner, please specify the manner and provide the necessary particulars to enable compliance with your Request.

State the manner: _____

Particulars of the manner: _____

Signed at: _____ this _____ day of _____ 20____

SIGNATURE OF APPELLANT



FOR DEPARTMENTAL USE

OFFICIAL RECORD OF INTERNAL APPEAL:

Appeal received on _____ (date), by _____ (state rank, name and surname of Information Officer/Deputy Information Officer).

Appeal accompanied by the reasons for the Information Officer's/Deputy Information Officer's decision, and where applicable, the particulars of any third party to whom or which the Record relates, submitted by the Information Officer / Deputy Information Officer on _____(date) to the relevant authority.

OUTCOME OF APPEAL:

DECISION OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER CONFIRMED / NEW DECISION SUBSTITUTED/ NEW DECISION:

DATE: _____

RELEVANT AUTHORITY: _____



ANNEXURE C
FORM C
SCHEDULE OF PRESCRIBED FEES

REQUEST FEE	
Request fee payable by a Requester, other than a personal Requested referred to in Regulation 7(2)	R35.00
COPY OF MANUAL	
Fee for a copy of the manual as contemplated in Regulation 5(c) for every photocopy of an A4-size page or part thereof	R0.60
ACCESS FEES- REPRODUCTION FEES	
Fees for reproduction referred to in Regulation 7(1) are as follows:	
a. For every photocopy of an A4-size page or part thereof	R0.60
b. For every printed copy of an A4-size page or part thereof held on a computer or in electronic machine-readable form	R0.40
c. For a copy in a computer-readable form	
1. Stiffy disk	R5.00
2. Compact disk	R60.00
d. For a transcription of visual images	
i. For an A4-size page or part thereof	R22.00
ii. For a copy of a visual image	R60.00
e. For a transcription of an audio Record	
i. For an A4-size page or part thereof	R12.00
ii. For a copy of an audio Record	R17.00

**ACCESS FEES- REPRODUCTION FEES**

The access fees payable by a Requester referred to in Regulation 7(3) are as follows:

- | | |
|--|----------------------|
| 1. (a) For every photocopy of an A4-size page or part thereof | R0.60 |
| (b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form. | R0.40 |
| (c) For a copy in a computer-readable on | |
| iii. Stiffy disk | R5.00 |
| iv. Compact disk | R40.00 |
| (d) For a transaction of visual images | |
| i. For an A4-size page or part thereof | R22.00 |
| ii. For a copy of visual images | R60.00 |
| (e) For a transcription of an audio Record | |
| i. For an A4-size page or part thereof | R12.00 |
| ii. For a copy of an audio Record | R17.00 |
| (f) To search for and prepare the Record for disclosure, for each hour or part thereof, excluding the first hour, reasonably required for search and preparation | R15.00 for each hour |
3. For purposes of section 22(2) of the PAIA, the following applied:
- c. Six hours as the hours to be exceed before a deposit is payable
 - d. One third of the access fee is payable as a deposit by the Requester
3. The actual postage is payable when a copy of a Record must be posted to a Requester

Link to fees: <https://www.sahrc.org.za/home/21/files/PAIA%20Notice%20on%20fees.pdf>



ANNEXURE D

Grounds for refusing of access to information

These grounds are listed in PAIA under Chapter 4 of Part 2 of PAIA

Protection of the privacy of a third party

An Information Officer of a public or private body must not allow access to personal information of a natural person, including a deceased individual.

PAIA states that in order to protect the right to privacy of a third party who is a natural person, the Information Officer must assess whether releasing the information in question to the requester 'would involve the unreasonable disclosure of personal information' (see sections 34 and 63 of PAIA).

Section 1 of PAIA provides a broad definition of what information constitutes "personal information". It includes information relating to sex, pregnancy, and religion, as well as personal correspondence, DNA, fingerprints, and instances where the individual's name appears in records.

The Information Officer must also consider whether or not the personal information in question falls into the following categories of personal information which may be disclosed:

- Personal information of an individual who has given consent for this information to be released;
- Personal information which has already been made public;
- Personal information about a child under the age of 18 where the disclosure of such information is in the best interest of the child, and the requester is the child's carer (i.e. parent or guardian);
- Personal information of a deceased person to a requester who is the individual's next of kin, or who has been authorised (written consent) by the next of kin;
- Personal information of a deceased person who has been deceased for a period of more than 20 years;
- Personal information of an individual who is or was an official of a public or private body and where the information relates to their position as an official.

PAIA requires that Information Officers from the South African Revenue Services (SARS) do not disclose personal tax and revenue information, unless the requester is requesting access to his/her own information.



Protection of commercial information of a third party

The Information Officers of public and private bodies must refuse access to information if releasing that information would cause harm to the commercial or financial interests of the business.

PAIA lists the following commercial information, which cannot be disclosed by an Information Officer:

- Trade secrets;
- Financial, commercial, scientific, research or technical information about a third party which, if released,
- would cause harm to the third party;
- Information which has been supplied in confidence by the third party.

Although there is a general rule to protect the information of a company, a public body is required to operate in a transparent manner. There are therefore certain instances where commercial information of a company can be released.

PAIA Exclusion: Records of a third party which contain information relating to public safety or environmental risks must be released, even if the release of such information will likely cause harm to the third party. This constitutes public interest information.

Protection of confidential information

PAIA provides that an Information Officer must refuse access to a record if the release of the record will amount to a breach of a duty of confidence owed to a third party in terms of an agreement or contract.

Protection of the safety of individual and property

This section states that an Information Officer must refuse access to a record if the disclosure of the record could reasonably be expected to compromise the safety of an individual or property. This section has a right to privacy aspect to it as it considers the personal life of an individual and their property.

Protection of information in legal proceedings

The purpose of this section is to protect information required in legal and law enforcement processes. This section recognises other legislation governing certain categories of information. In this section, the Criminal Procedure Act 51 of 1977 is recognised as the law governing records pertaining to bail proceedings and other law enforcement procedures. Also, this applies to records that are privileged from production and that are not available to anyone else other than the person who has the privilege to access those records. For example, any records subject to the relationship between an attorney and his/her client are protected under section 40 of PAIA.



Although PAIA acknowledges the existence of other legislation relating to the management and disclosure of information and records, where the other legislation unjustifiably limits the right of access to information and is contrary to the principles of transparency and accountability, PAIA will supersede that law.

Protection of Research Information

An Information Officer of a public or private body must refuse access to records which contain information relating to research which is or will be undertaken by the public or private body in question or a third party. This refusal of access to information is in circumstances where the disclosure of the record will expose the research of the third party or public or private body, the individual or institution carrying out the research, or the subject matter of the research to a serious disadvantage (see sections 43 and 69 of PAIA).

Information where access may be refused

The following categories of information relate to information which an Information Officer may refuse access to if they can justify that the information in question falls within the following categories and is not in the public interest to disclose (for further information on the public interest clause see section 4.4 below).

South Africa's defence, security and international relations

Section 41 of PAIA requires an Information Officer to consider whether the request for information relates to information about the security of South Africa. The Information Officer may refuse a request if they can prove that it will compromise the safety of South Africa to release the information.

Economic, financial and commercial interest of South Africa

Section 42 of PAIA requires the protection of information of a public body if its disclosure will be harmful to the economic and financial status of the Republic. This ground for refusal is discretionary meaning that the Information Officer must take into account that public bodies are mandated under the Constitution of South Africa to be accountable to the public, and that it is therefore only in certain instances that the information may be refused. Further, the Information Officer will need to demonstrate that the disclosure of the information in question will cause harm to the financial and economic interests of South Africa.



Operations of public bodies

Section 44 of PAIA gives Information Officers the discretion to refuse access to a record if it will hamper the operations of a public body. Section 44 is broad and may include:

- Minutes of meetings;
- Records containing advice or opinions;
- Records pertaining to consultations with other bodies;
- Records pertaining to the formulation of policies or recommendations.

“Manifestly frivolous or vexatious requests, or substantial and unreasonable diversion of resources”

An Information Officer may refuse a request for information if he/she is of the opinion that processing requests will be unreasonably time consuming and lead to waste of resources. In addition, an Information Officer may refuse access to a record if the request is seen to be made by a requester to unnecessarily annoy or provoke.

Public Interest Override

All the protections afforded to information as detailed above falls away if the release of the information is in the public interest. In this way, the public interest test overrides all the other grounds of refusal of access to information.

The following test must be applied by an Information Officer of a public or private body before refusing to allow access to information that falls under the categories for non- disclosure listed above. If these conditions are met, then the information must be disclosed on the grounds of public interest.

Does the information demonstrate a serious breach of a law?

OR

Do the records in question contain information relating to an imminent and serious public safety or environmental risk?

AND

Does the public interest in disclosing the information clearly outweigh the potential harm?



REASONS TO DECLINE PUBLIC BODY- EXTRACT FROM ACT

Mandatory protection of commercial information of a third party

The information officer of a public body must refuse a request for access to a record if it contains:

Trade secrets of a third party;

- Financial, commercial, scientific or technical information other than trade secrets of a third party, where the disclosure thereof would be likely to cause harm to the commercial or financial interests of that third party;
- Information supplied by a third party in confidence, and if disclosed would reasonably be expected to place the third party at a disadvantage in contractual or other negotiations; or prejudice the third party in commercial competition.

However, a record may not be refused if it consists of information:

- Already publicly available;
- About a the third party who has consented in writing, to its disclosure to the requester;
- About the results of any product or environmental testing (not the results of preliminary testing or investigations conducted for developing methods of testing) or other investigation carried out by or on behalf of a third party;
- where the disclosure thereof would reveal a serious public safety or environmental risk.

Mandatory protection of certain confidential information and protection of certain other confidential information of a third party

- The information officer must refuse a request for access to a record of that public body, if the disclosure thereof would constitute a breach of a duty of confidence owed to a third party in terms of an agreement.
- The information officer of a public body may refuse a request for access to a record of that body, if the record consists of information supplied in confidence by the third party, and if disclosed, could prejudice the future supply of similar information or information from the same source and it is in the public's interest that the information from the same source continue to be supplied.



However, a record may not be refused if it consists of information:

- Already publicly available;
- About the third party concerned and the third party has already consented in writing, to its disclosure to the requester.

Mandatory protection of safety of individuals and protection of property

The information officer of a public body must refuse a request for access to a record of that body, if its disclosure could reasonably be expected to endanger the life or physical safety of an individual. The information officer of a public body may refuse a request for access to a record of that body, if its disclosure would likely prejudice or impair:

- The security of a building, structure, or system, including a computer or communication system, a means of transport or any other property;
- The information officer of a public body may refuse a request for access to a record of that body, if its disclosure would likely prejudice or impair the methods, systems, plans or procedure for the protection of:
 - An individual under a witness protection scheme;
 - The safety of the public, or any part of the public;
 - The security of a building, structure, or system, including a computer or communication system, a means of transport or any other property.

Mandatory protection of police dockets in bail proceedings, and protection of law enforcement and legal proceedings

The information officer of a public body must refuse a request for access to a record of the body, if the access to that record is prohibited in terms of section 60(14) of the Criminal Procedure Act, No. 51 of 1977.

The information officer has a discretionary ground of refusal in terms of section 39(1)(b) of PAIA.

Mandatory protection of record privileged from production in legal Proceedings

The information officer of a public body must refuse a request for access to a record of a public body if the record is privileged from production in legal proceedings, unless such privilege has been waived.



Defence, security and international relations of the Republic

The information officer of a public body may refuse a request for access to a record of that body, if its disclosure could reasonably be expected to cause prejudice to:

- The defence of the Republic;
- The security of the Republic;
- The international relations of the Republic.

The information officer of a public body may refuse a request for access to a record of that body, if its disclosure would reveal information:

Supplied in confidence by or on behalf of another State or an international organisation;

Supplied by or on behalf of the Republic to another State or international organisation in terms of an arrangement or international agreement with that state or organisation, which requires the information be held in confidence;

Required to be held in confidence by an international agreement or customary international law contemplated under sections 231 or 232 of the Constitution.

Economic interests and financial welfare of the Republic and commercial activities of public bodies

The information officer of a public body may refuse a request for access to a record of that body, if its disclosure would likely materially jeopardise the economic interests or financial welfare of the Republic, or the ability of the government to manage the economy of the Republic effectively, in the best interests of the Republic.

The information officer of a public body may refuse a request for access to a record of that body if the record:

- Contains trade secrets of the State or a public body;
- Contains financial, commercial, scientific or technical information, and the disclosure thereof would likely cause harm to the commercial or financial interests of the State or public body;
- Contains information, which if disclosed, could place the public body at a disadvantage in contractual or other negotiations, or prejudice a public body in commercial competition;
- Is a computer programme as defined in the Copyright Act, No. 98 of 1978, which is owned by the State or a public body, unless it is required to give access in terms of PAIA.



The information officer may not refuse a request for access to a record of that body if the record consists of information:

- Already publicly available;
- About or owned by a public body, other than the public body to whom the request is made, and this public body has consented in writing to its disclosure to the requester;
- About the results of any product or environmental testing or other investigation (excluding the results of preliminary testing or investigations conducted for developing methods of testing) carried out by or for the public body, and the disclosure thereof would reveal a serious public safety or environmental risk.

Mandatory protection of research information of a third party, and protection of research information of a public body

The information officer of a public body must refuse a request for access to a record of that body, if the record contains information about research being carried out or to be carried out on behalf of a third party and if this were to be disclosed, it would likely:

- Expose the third party, the person carrying out the research or will be carrying out the research on behalf of the third party, or the subject matter of the research, to a serious disadvantage.
- The information officer of a public body may refuse a request for access to a record of that body, if the record contains information about research being carried out or to be carried out on behalf of a public body and if this were to be disclosed, it would likely:
- Expose the public body, the person carrying out the research or will be carrying out the research by or on behalf of the public body or the subject matter of the research, to a serious disadvantage.

Operation of public bodies

The information officer of a public body may refuse a request for access to a record of a public body, if the record contains an opinion, advice, report or recommendation obtained or prepared; or an account of a consultation, discussion or deliberation, including the minutes of meetings, for the purposes of assisting to formulate policy or the taking a decision in the exercise of power or the performance of a duty in terms of the law on the public body.

The information officer of a public body may refuse a request for access to a record of that body, if the disclosure of the record could reasonably be expected to frustrate the deliberative process in a public body or between public bodies, by inhibiting the candid communication of an opinion, advice, report or recommendation; or the conduct of a consultation, discussion or deliberation; or if the disclosure of the record could, by premature disclosure of a policy or contemplated policy, reasonably be expected to frustrate the success of that policy.



The information officer of a public body may refuse a request for access to a record of that public body, if:

- The disclosure of the record could reasonably be expected to jeopardise the effectiveness of a testing, examining, or auditing procedure or method used by a public body;
- The record contains evaluative material, whether or not the person who supplied it is identified in the record, and the disclosure of the material would breach an express or implied promise, which was made to the person who supplied the material, that the material or the identity of the person who supplied it would be held in confidence; or
- The record contains a preliminary, working or other draft of an official of a public body.

Manifestly frivolous or vexatious requests, or substantial and unreasonable diversion of resources

The information officer of a public body may refuse a request for access to a record of that public body, if the request is trifling or intended to harass, or if the work involved in processing the request would substantially and unreasonably divert the resources of the public body.

Mandatory disclosure in the public interest

Despite the above-listed grounds for refusal, the information officer of a public body must grant a request for access to a record of a public body if, the disclosure thereof would reveal evidence of:

A substantial contravention of, or failure to comply with the law; or an imminent and serious public safety or environmental risk; and the public interest in the disclosure of the record, outweighs the harm contemplated under the grounds for refusal.

End