

PROMOTION OF ACCESS TO INFORMATION ACT (PAIA) NO. 2 OF 2000

PURPOSE

The purpose of PAIA is to give effect to the constitutional right of access to information. It fosters a culture of transparency & accountability in public & private bodies to enable the South African society to fully exercise and protect their rights.

(a) Responsibility for Implementation of PAIA:

The Information Officer of a Public or Private Body.

APPLICATION

It applies to a record of a public or private body whenever it comes in to existence.

Note: It does not apply to records requested for criminal/civil proceedings after commencement thereof (s7), and it does not apply to certain public or private bodies, e.g. Cabinet.

RIGHT OF ACCESS TO RECORDS (S11)

A requestor must be given access to the records if:

(a) They comply with all the procedural requirements of PAIA.

Note: This must be done in a way that balances this right with other rights stipulated in the Constitution of South Africa.

DEVELOP A MANUAL

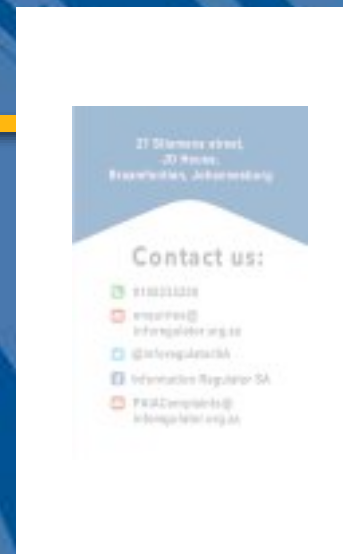
- (a) A manual should contain details to facilitate a request for access to a record.
- (b) It must be published in at least three languages in the case of a public body.
- (c) The manual must be updated regularly & be made available in the public body's communication platforms.
- (d) Refer to Section 14 of PAIA on more requirements regarding manuals.

VOLUNTARY DISCLOSURES

Make records publicly available without a person having to ask for them.

MANNER OF ACCESS

- (a) The Information Officer (IO) should ensure that a form to be used when requesting a record is available (s18).
- (b) If requester is unable to write, the IO must reduce the oral request in writing.



MANNER OF ACCESS

- (c) The IO has a duty to assist requesters (s19) and finalise the request within 30 days after the request was received (s25).
- (d) The IO can transfer a request for access to another public body that has the records if they do not hold the record requested. It must be done within 14 days after receiving the request. The requester must be informed and should give consent on the extension (s20).
- (e) If extension is required by the IO to whom the records have been transferred, it should not be more than 30 days. The requester should be informed and should give consent on the extension.
- (f) Records requested must be preserved until a final decision on request has been made (s21).
- (g) Records that cannot be found or do not exist require an affidavit that gives a full account of all steps taken to find such records (s23).
- (h) If a request was going to be granted, but it is required by law to be published at a specific time; access to such records may be deferred (s24). The requester must be informed.

GROUNDINGS FOR REFUSAL

- (a) Grounds for refusal include; mandatory protection of privacy of third party/ natural person, safety of individuals, defence of the Republic (ss33-46), etc.
 - (b) If the request is refused, the notice that states the reasons for refusal must be issued to the requester' (s25(3)).
 - (c) If the request is granted, the notice that states the form in which access will be given will be issued to the requester.
- Note:** The IO must inform the third party to whom the record relates if he/she considers a request for access to a record stated in s34(1) as an example (ss47-49).

IMPORTANT TO ALSO NOTE

- (a) Internal appeal against IO's decision may be lodged by the requester/third party (ss74-77).
- (b) A requestor/third party (s74) may lodge a complaint to the Information Regulator after exhausting internal appeal procedures in the case of a public body. (ss77A – 77K)
- (c) A requester/third party may apply to court for appropriate relief if unsuccessful with the internal appeal or aggrieved by the decision of the Regulator (ss78-82).

The IO must submit to the Information Regulator, a report stating the number of requests for access received and granted. It must be done annually. See section 32 for other data that must be reported to the Regulator.