

FREE STATE DEPARTMENT OF COOPERATIVE GOVERNANCE, TRADITIONAL AFFAIRS

AND

DEPARTMENT OF HUMAN SETTLEMENTS

MANUAL ON THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000 (ACT NO. 2 OF 2000)

NOTE FOR INFORMATION: In alignment with changes made nationally, the Department of Local Government and Housing as it was previously known, has been divided into two separate departments viz. Department of Cooperative Governance and Traditional Affairs, and the Department of Human Settlements. These departments remain under a single ministry, and are thus in the same PAIA manual until further changes are made in the ministry.

THE VISION OF THE DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

Improved and accountable municipal service delivery through the coordination and implementation of integrated planning

THE MISSION OF THE DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

The department will, through partnerships and collaboration with all our stakeholders, accelerate municipal service delivery and enhance planning and sustainable development by monitoring, supporting and strengthening local government.

THE VISION OF THE DEPARTMENT OF HUMAN SETTLEMENTS

Integrated and sustainable human settlements

THE MISSION OF THE DEPARTMENT OF HUMAN SETTLEMENTS

The Department of Human Settlements will contribute to the building of cohesive, sustainable human settlements.

The Executing Authority of the Ministry is MEC SM Mlamleli

The Ministry of Cooperative Governance, Traditional Affairs and Human Settlements consist of two departments namely, the Department of Cooperative Governance and Traditional Affairs, and the Department of Human Settlements.

- The head of the Department of Cooperative Governance and Traditional Affairs is Mr Kopung Ralikontsane
- The head of the Department of Human Settlements is Mr N Mokhesi

A. CONTACT DETAILS [*section 14(1)(b) of the Act*]

Information Officer

HoD: Cooperative Governance and Traditional Affairs, Mr KF Ralikontsane

Deputy Information Officers

- Deputy Director-General: Cooperative Governance and Traditional

Affairs (in respect of matters related to local government)

- Deputy Director-General: Human Settlements (in matters related to housing)
- Chief Director: Corporate Services (in matters related to corporate services)
- Chief Financial Officer (in matters related to financial and procurement services)

Physical Address

Street Address: 7th Floor Lebohang Building
Corner Markgraaff & St Andrew's Streets
BLOEMFONTEIN
9301

Postal address

PO Box 211
BLOEMFONTEIN
9300
Tel: (051) 405-5719
Fax: (051) 403-3650

E-mail addresses:

Information Officer - COGTA: hod@fscogta.gov.za

HUMAN SETTLEMENTS

Information Officer

HoD: Human Settlements, **Mr N Mokhesi**
Information Officer HS: hodhs@fshs.gov.za

Physical Address

Street Address: Room 749, 7th Floor Lebohang Building
Corner Markgraaff & St Andrew's Streets
BLOEMFONTEIN
9301

Postal address

PO Box 211
BLOEMFONTEIN
9300
Tel: (051) 405- 4727
Fax: (051) 403- 3699

Deputy Information Officers

Human Settlements: Kaizer Maxatshwa (Chief Director): kaizer@fshs.gov.za
Cooperative Governance: Palesa Kaota (Chief Director): palesak@fscogta.gov.za
Corporate Services (Chief Director): tsekiso@fscogta.gov.za
Finance and Procurement: cfocogta@fscogta.gov.za

B. THE SECTION 10 GUIDE [section 14(1)(c)]

The South African Human Rights Commission has published a guide on how to use the Act in the twelve official languages. The manual can be accessed at PAIA@sahrc.org.za or www.sahrc.org.za. The Human Rights Commission can also be contacted at the following address:

PAIA Unit

Department of Research and Documentation
South African Human Rights Commission
Private Bag X2700
HOUGHTON
2041

Tel: (011) 484-8300
Fax: (011) 484-1360

C. ACCESS TO THE RECORDS HELD BY THE DEPARTMENT

C.1 Automatic disclosures [section 14(1)(e)]

The following categories of records are automatically available from the Department and can be accessed at: www.fscogtahs.gov.za.

- Strategic Plan
- Business Plan
- Annual Report
- Budget vote of the MEC
- Publications
- Press Releases.

C.2 Records that may be requested [section 14(1)(d)]

The following categories of records may be requested from the department in terms of the procedures set out in this manual:

- Minutes of meetings
- Papers delivered by the MEC
- Workshop and seminar resolutions
- Published reports
- Complaints received
- Policy and strategy frameworks
- Employment records
- Budget statements
- Medium Term Expenditure Framework (MTEF) submissions
- Procurement records

C.3 The request procedure

A request for access to a record must be made by completing a request form i.e. **Form A** for public bodies and **Form B** for private bodies. A copy of the forms is attached at the back of the Guide. The request forms must be completed and submitted to the information officer of the public body or head of the private body from which access to a record is sought. The information officer of a public body or the head of a private body must respond to the request within 30 days. The forms are available from the offices and website of the South African Human Rights Commission at www.sahrc.org.za.

C.4 Manner of request

A requester has a right of access to a record of a public body or a private body and must be given access to a record of a public body or private body if the requester complies with the following procedural requirements:

- That the request is made on the request form to the information officer of the public body or head of a private body.
- That the completed request form is faxed or electronically mailed or hand delivered to the information officer of the public body or head of the private body concerned.
- That access to the requested record is not refused in terms of any of the grounds for refusal under the Promotion of Access to Information Act (PAIA).

C.5 How to fill in a request form – private and public bodies

A request for access to a record of a private or public body is made, by filling in a form called a request form. The request must be made to the information officer of the public body or head of the private body at his address, fax number or electronic mail address. In the request form, the requester is required to provide the following information:

- Sufficient particulars to enable an official of the public body or the head of a private body to identify the requester.
- Sufficient particulars to enable an official of the public body or head of a private body to identify the record, including the reference number, if that is known to the requester. If the space in the request form is not adequate, the requester may continue on a separate folio and attach it to the request form.
- The requester must sign all additional folios.
- Clearly indicate the form of access or nature of the record in which the record should be provided.
- The preferred language in which the record should be provided in the case of a public body.
- The postal address or fax number of the requester in the Republic.
- State the manner in which the requester would like to be informed about the decision on the request.
- If the request is made on behalf on another person, to submit proof of the capacity in which the requester is making the request.
- In the case of a private body, the requester must state the right that is to be exercised or protected and why the record requested is required for the exercise or protection of such right.

Note: Requesters who cannot read or write can make oral requests to the information officer of a public body who must fill in the request form for the requester.

C.6 Who can make a request for access to a record?

A requester may make a request for access to records of a private or public body. The requester's right of access to a record of a private or public body includes a right of access to a record containing personal information about the requester, or a person on whose behalf the request is made.

A public body may make a request for access to a record of a private body for the exercise or protection of any rights other than its rights, only if it is acting in the public interest.

C.7 Cost of requests - public body

When you make a request for access to a record of a public body, the information officer will inform you in writing of the request fee. In the case of a personal requester, the request fee is not payable. However, a personal requester must pay the prescribed access and reproduction fees.

C.8 Prescribed fees in respect of public bodies

The following is the breakdown of the costs for accessing the records of a public body as prescribed in the Regulations (Part II of Regulation 187 published in the Government Gazette on the 15 February 2002):

(a) The fee for a copy of the manual as contemplated in Regulation 5(c) is R0, 60 for every photocopy of an A4-size page or part thereof.

(b) The fees for reproduction referred to in Regulation 7(1) are as follows:

R

- For every photocopy of an A4-size page or part thereof 0, 60
 - 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
 - For a copy in a computer-readable form on – memory stick or by email (users to bring own memory stick)
 - For a transcription of visual images, for an A4-size page or part thereof: R22, 00
 - For a copy of visual images R60, 00
 - For a transcription of an audio record, for an A4-size page or part thereof R12, 00
 - For a copy of an audio record R17, 00
- (c) The request fee payable by every requester, other than a personal requester referred to in Regulation 7(2) is R35, 00.
- (d) The access fees payable by a requester referred to in Regulation 7(3) are as follows:
- For every photocopy of an A4-size page or part thereof R0,60
 - 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
 - For a copy in a computer-readable form on – stiffy disc: R5, 00
compact disc: R40,00
 - For a transcription of visual images, for an A4-size page or part thereof R22,00
 - For a copy of visual images: R60, 00
 - For a transcription of an audio record, for an A4-size page or part thereof: R12,00
 - For a copy of an audio record: R17, 00
 - To search for and prepare the record for disclosure for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation: R15,00
- (e) For purposes of section 22(2) of the Act, the following applies:
- Six hours as the hours to be exceeded before a deposit is payable; and
 - One third of the access fee is payable as a deposit by the requester.
- (f) The actual postage is payable when a copy of a record must be posted to a requester.
- (g) If the information officer believes that the search and preparation of the record requires more than a period of six hours, the information officer must by notice require the requester (excluding a personal requester) to pay a deposit of one third of the access fee.

C.9 Costs of requests - private bodies

The head of a private body to whom the request is made will notify you in writing to pay the prescribed request fee, if any, before processing the request. If you require access to records of your personal information, you do not have to pay a request fee.

The following is a breakdown of the fees structure for the purposes of determining the manner in which fees relating to a request for access to a record of a private body are to be calculated (Part III of Regulation 187 published in the Government Gazette on the 15 February 2002):

(a) The fee for a copy of the manual as contemplated in regulation 9(2)(c) is R1, 10 for every photocopy of an A4-size page or part thereof.

(b) The fees for reproduction referred to in regulation 11(1) are as follows:

- For every photocopy of an A4-size page or part thereof R1,10
- For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form R0, 75
- For a copy in a computer-readable form on:
stiffy disc: R7, 50
compact disc: R70,00

(The information may be emailed or provided on a memory stick or CD, the latter at the requester's cost)

- For a transcription of visual images, for an A4-size page or part thereof: R40,00
- For a copy of visual images: R60, 00
- For a transcription of an audio record, for an A4-size page or part thereof: R20, 00
- For a copy of an audio record: R30, 00

(b) The request fee payable by a requester, other than a personal requester, referred to in Regulation 11(2) is: R50, 00.

(d) The access fees payable by a requester referred to in Regulation 11(3) are as follows:

- For every photocopy of an A4-size page or part thereof: R1, 10
- For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form R0, 75
- For a copy in a computer-readable form on:

stiffy disc: R7,50

compact disc: R70,00

(The information may be emailed or provided on a memory stick or CD, the latter at the requester's cost)

- For a transcription of visual images, for an A4-size page or part thereof R40,00
- For a copy of visual images R60, 00
- For a transcription of an audio record, for an A4-size page or part thereof R20,00
- For a copy of an audio record R30,00
- To search for and prepare the record for disclosure, for R30,00 each hour or part of an hour reasonably required for such search and preparation.

(e) For purposes of section 54(2) of the Act, the following applies:

- Six hours as the hours to be exceeded before a deposit is payable; and
- One third of the access fee is payable as a deposit by the requester.

(f) The actual postage is payable when a copy of a record must be posted to a requester.

C.10 The assistance available from the information officer of a public body

- When a requester informs the information officer of a public body that he or she wishes to make a request for access to a record of that particular public body or of another public body, the information officer must render such reasonable assistance, free of charge, as is necessary, to enable the requester to complete the prescribed form.
- Where the request for access does not comply with the provisions of PAIA, the information officer may not refuse the request because of such non-compliance, unless the information officer has notified the requester in writing of the intention to refuse the

request, together with the reasons for the intention to refuse the request and further, that the information officer or other official will provide assistance to the requester so that the request is made in such a form, where there would no longer be a ground for refusal.

- Where reasonably possible, the information officer must also furnish the requester in addition to the information requested (to which access may be granted or may be refused) with any other information that is held by the public body, and which are relevant to the request.
- The information officer must afford the requester a reasonable opportunity to either confirm or alter the request, so that it complies with the formalities of the form of requests.
- If after the information officer receives a request for access, it becomes apparent that the request should have been made to another public body, the information officer must render such necessary assistance so as to enable the person to make the request to the information officer of the appropriate public body; or must transfer the request to the relevant information officer, whichever is the more expedient.
- Where a request for access is made to the information officer of a public body and the record is not in the possession or under the control of that body, but in the possession of another public body; or where the subject matter of the requested record is more closely connected with the functions of another public body, the information officer must within 14 days after the request is received, transfer the request to the information officer of that other relevant public body. The information officer must notify the requester of this in writing.
- The information officer must respond to a request for access within 30 days after the receipt of the request. The information officer may extend the period of 30 days, for a further period of 30 days, if he has given notice to the requester of the extension.
- The information officer may only extend this period once, and under certain conditions, which include *inter alia*, the request being for a large number of records, consultation among divisions within the public body or with another public body is required, or if the requester has consented thereto in writing.
- The information officer must decide whether to grant the request for access, and must give notice to the requester of this decision.
- If the request for access is granted, the requester must be given a notice stating the access fee (if any) that must be paid upon access, and the form in which access will be given. The notice must also state that the requester may lodge an internal appeal or an application with a court, against the access fee or the form of access granted. The notice must also indicate the procedure and the period for the lodging of the internal appeal or the court application.
- If the request for access is refused, the notice must state the adequate reasons for the refusal, including the provisions of PAIA relied upon. The notice must also state that the requester may lodge an internal appeal or an application with a court, as the case may be, against the refusal of the request and must indicate the procedure and the period, for lodging the internal appeal or application, as the case may be.

C.11 Legal remedies

You have a right to take further legal steps if the information officer of a public body or head of a private body refuses you access to a record you have requested, and you had complied with all the requirements of the Act in making the request.

C.12 Public bodies

The Act makes a provision for an internal appeal procedure, which must be exhausted before the matter may be taken to court. The internal appeal procedure is applicable to national and provincial departments and municipalities only; all other public bodies do not have an internal appeal structure or/and procedure.

C.13 Who may lodge an internal appeal?

If your request for access to a record of a public body has been refused for whatever reason, you have a right to make an internal appeal to the relevant authority by completing a form called **Form C, which** can be obtained from PAIA@sahrc.org.za

A third party may lodge an internal appeal with the relevant authority, against a decision of the information officer of a public body, to grant a request for access.

C.14 When may you lodge an internal appeal?

The following are the grounds upon which a requester may lodge an internal appeal with the relevant authority, against a decision taken by the information officer of the public body:

- When the requester is not satisfied with the fees that are required to be paid in respect of the request.
- When the requester is not satisfied with the extension of the period to deal with request; the Act provides that the information officer may extend the period of 30 days only once for a further period of 30 days if for example the request for is a large number of records and if the requester consents to such extension.
- If the form of access in which the records are provided are not in line with the particular form in which the requester preferred; and the requester is satisfied that the record could be provided in the preferred form without unreasonably interfering with the administration of the public body concerned; or be detrimental to the preservation of the record or amount to infringement of copyright not owned by the state or the public body concerned.

C.15 Manner of lodging an internal appeal

- A requester may lodge an internal appeal by filling in the prescribed form within 60 days from the date when the request was refused. If the request was made to a national government department, you appeal to the Minister of that department.
- If the request was made to a provincial department, you appeal to the Member of the Executive Council of the department. If the request was made to a municipality, you appeal to the mayor of the municipality, or the speaker or any person designated by the Municipal Council of that municipality. The appeal form itself is submitted to the same information officer who refused the request; who must then submit it to the relevant authority.
- If notice to a third party is required (this is where the disclosure of the information sought would involve the unreasonable disclosure of personal information about a third party, certain records of the South African Revenue Services (SARS), confidential information of a third party, specific commercial information of a third party, and research information of a third party, or of a public body), then the internal appeal must be lodged in the prescribed form within 30 days after notice is given to the appellant of

the decision that is being appealed against, or if notice to the appellant is not required, then 30 days after the decision was taken.

- The requester must deliver the internal appeal form or send it to the information office of the public body at his address, fax number or electronic mail address.
- The internal appeal must identify the subject of the internal appeal, state the reasons thereof and may include any other relevant information that is known to the appellant.
- Should the requester wish to be informed of the decision of the internal appeal in another manner, in addition to a written reply, he/she must state such manner, and provide the necessary particulars of such manner.
- The internal appeal lodged must specify a postal address or fax number of the requester.

C.16 What happens when an appeal is lodged after the expiry of the prescribed period?

- If there is good cause shown, the relevant authority must allow an internal appeal that was lodged late; that is after the expiry of the period allowed for the lodging of the internal appeal.
- Where the relevant authority disallows the late lodging of an internal appeal, it must give notice of that decision to the person who lodged the appeal.

C.17 Prescribed fees for internal appeals

A requester who lodges an internal appeal must pay the prescribed appeal fee, if any. If such fee is in fact payable, the decision on the internal appeal may be deferred, until the fee is paid.

C.18 Application to court against the decision of the information officer of a public body or relevant authority

Where a requester has been unsuccessful in an internal appeal to the relevant authority, or is aggrieved by a decision of the relevant authority to disallow the late lodging of an internal appeal, or is aggrieved by the decision of the information officer to refuse a request for access, or is aggrieved by a decision of the information officer taken in terms of section 22 relating to fees, section 26(1) relating to the extension of period to deal with the request or section 29(3) relating to access and forms of access, the requester may within 30 days, and by way of an application, apply to court for appropriate relief.

Note: A requester or third party may only apply to court for appropriate relief after the requester or third party has exhausted the internal appeal procedure against a decision of the information officer where applicable.

C.19 Private bodies

Where a requester or a third party is aggrieved by a decision of the head of a private body to refuse a request for access, or by a decision taken in terms of section 54 relating to fees payable for and in connection with access to records of a private body, section 57(1) relating to the extension to deal with the request, or section 60 relating to the form of access, the requester may within 30 days, and by way of an application, apply to court, for appropriate relief. The court will then review the request and decide whether in fact the head of the private body should give you the information you requested or not.

Note: Once the Rules Board for Courts has produced the rules and procedures for access to information cases, all access to information matters will be heard in the Magistrates' Court as a court of first instance (section 79 of PAIA).

C.20 Decision on applications to court

The court hearing an application in terms of PAIA may grant any order that is just and equitable including orders:

- Confirming, amending or setting aside the decision which is the subject of the application
- Requiring the information officer or relevant authority of a public body or the head of a private body to take such action or to refrain from taking such action, as the court considers necessary within the period mentioned in the court order
- Granting an interdict, interim or specific relief, a declaratory order or compensation
- Granting an order as to costs.

D. WHEN ACCESS TO INFORMATION MAY BE REFUSED

PAIA has balanced the requester's constitutional right to information against the information officer's or a head of a private body's right to refuse access to information, if granting the information would harm the public or private body in question on any of the grounds mentioned below.

D.1 Grounds upon which access to a record of a public body may be refused

The information contained in this section relates to the grounds upon which a public body is entitled to refuse access to its records. The information is intended to provide a requester with clarity as to the reasons why a request may be refused by the public body.

(a) Mandatory protection of privacy of a third party who is a natural person

The information officer of a public body must refuse a request for access to a record of that public body, if the disclosure would involve the unreasonable disclosure of personal information about a third party, including a deceased individual.

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

- About an individual who has consented in writing to the disclosure of the information.
- Given to the public body by the individual to whom it relates, and that individual is informed by the public body before it is disclosed, that the information belongs to a class of information that might already be publicly available.
- That is already publicly available.
- Relating to an individual's physical or mental health, or well-being, who is under the care of the requester, and who is under the age of 18 years or is incapable of understanding the nature of the request, and further that the giving of access would be in the individual's best interests.
- About an individual who is deceased and the requester is the individual's next of kin, or is making the request with the written consent of the individual's next of kin.
- About an individual who is or was an official of a public body, and the information relates to the position or functions of the individual.

(b) Mandatory protection of certain records of South African Revenue Service

The information officer must refuse a request for access to a record of the South African Revenue Services (SARS), if it contains information obtained or held by SARS for the purposes of enforcing legislation concerning the collection of revenue in terms of the South African Revenue Service Act, No. 32 of 1997; unless the record requested consists of information about the requester or the person on whose behalf the request is being made, in which case the record may not be refused.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(f) 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.

(g) 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 organization;
- Supplied by or on behalf of the Republic to another State or international organization in terms of an arrangement or international agreement with that state or organization, 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.

(i) 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 jeopardize 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.

(j) 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.

(k) 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 jeopardize 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.

(l) 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.

(m) 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.

(n) Grounds for refusal of access to records of a private body

The information contained in this section is a summary of the grounds upon which a private body is entitled to raise, as grounds for the refusal of access to its records. The information is intended to provide a requester with clarity as to the reasons why a request may be refused by the private body. The list is a summary of the grounds contained in Part 3, Chapter 4 of PAIA, and is by no means exhaustive.

(o) Mandatory protection of privacy of a third party who is a natural person

The head of a private body must refuse a request for access to a record of that body if its disclosure would involve the unreasonable disclosure of personal information about a third party, including a deceased individual. However, a record may not be refused if it consists of information:

- About an individual who has consented in writing to the disclosure of the information.
- Already publicly available.
- Given to the private body by the individual to whom it relates, and that individual was informed by the private body before it is disclosed that the information belongs to a class of information that may already be publicly available.
- About an individual's physical or mental health, or well-being, who is under the care of the requester, and who is under the age of 18 years or incapable of understanding the nature of the request, and further if the disclosure would be in the individual's best interests.

- About an individual who is deceased and the requester is the individual's next of kin, or is making the request with the written consent of the individual's next of kin.
- About an individual who is or was an official of a private body, and the information relates to the position or functions of the individual.

(p) Mandatory protection of commercial information of a third party

The head of a private body must refuse a request for access to a record of that private body if it contains:

- Trade secrets of a third party
- Financial, commercial, scientific or technical information of a third party, other than trade secrets, where the disclosure thereof would be likely to cause harm to the commercial or financial interests of that third party

Information supplied to the third party in confidence, and if disclosed would 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:

- About a third party who has already consented in writing, to its disclosure to the requester
- About the results of any product or environmental testing or other investigation supplied by the private body or the results of any such testing or investigation carried out on by or on behalf of the private body and its disclosure would reveal a serious public safety or environmental risk.

(q) Mandatory protection of certain confidential information of a third party

The head of a private body must refuse a request for access to a record of that body, if its disclosure would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement.

(r) Mandatory protection of safety of individuals, and protection of property

The head of a private 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 head of a private body may refuse a request for access to a record of that body if its disclosure would be likely to 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 methods, systems, plans or procedures for the protection of an individual in accordance with a witness protection scheme; the safety of the public or part of the public or the security of a building, structure, or system, including a computer or communication system, a means of transport or any other property.

(s) Mandatory protection of records privileged from production in legal proceedings

The head of a private body must refuse a request for access to a record of that body, if the record is privileged from production in legal proceedings unless the person entitled to the privilege has waived such privilege.

(t) Commercial information of a private body

The head of a private body may refuse a request for access to a record of that body if the record:

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

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

- About the results of any product or environmental testing or 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.

(u) Mandatory protection of research information of a third party, and protection of research information of a private body

The head of a private 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, by or on behalf of a third party, and if this were to be disclosed, it would be likely to:

- Expose the third party or 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 head of a private body may refuse a request for access to a record of that body, if the record contains information about research being carried out or about to be carried out, by or on behalf of the private body, and if this were to be disclosed, it would likely:

- Expose the private body or the person carrying out the research or will be carrying out the research on behalf of the private body, or the subject matter of the research to a serious disadvantage.

(v) Mandatory disclosure in the public interest

Despite the above listed grounds for refusal, the head of a private body must grant a request for access to a record of that 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 ground for refusal.

D. SERVICES AVAILABLE [section 14(1)(f)]

D.1 Nature of services

The services of the Department are:

HOUSING

- Housing Project Management and Technical Services
- Housing Policy Development, Planning and Research
- Housing Contract and Asset Management
- Housing Capacity Building and Partnership
- Settlements and Land Tenure Services
- Information Management and Customer Care Services
- Housing Subsidies and Development
- People Housing Processes
- Social Housing and Rental

LOCAL GOVERNMENT

- Municipal Policy Development and Advice
- Municipal Performance Management
- Disaster Management
- Municipal Finances and Performance Monitoring
- Traditional Affairs
- Municipal Intergovernmental Relations
- Integrated Development Planning
- Local Economic Development
- Spatial Planning, including Land Administration
- Free Basic Services and Partnerships
- Urban Renewal
- Provincial Municipal Infrastructure Grant Management

CORPORATE SERVICES

- Human Resources Management
- Labour Relations
- Skills Development
- Organizational Development
- Special Programmes
- Employee Assistance Programme
- Job Evaluation
- Performance and Development Management
- Strategic Planning, Monitoring and Evaluation
- Structural Designing
- Communication, including publications and media relations
- Information Technology
- Physical Planning
- Departmental Legal Services

FINANCIAL AND PROCUREMENT SERVICES

- Financial Management
- Supply Chain Management
- Budget Management

OFFICE OF THE HEAD OF DEPARTMENT

- Internal Audit
- Security Management Services
- Anti-Corruption Services

D.2 How to gain access to these services

To gain access to the services of the Department, requests must be made to the Head of Department.

E. ARRANGEMENT ALLOWING FOR PUBLIC INVOLVEMENT IN THE FORMULATION OF POLICY AND THE EXERCISE OF POWER [section 14 (1)(g)]

In terms of the Rules and Orders of the Provincial Legislature, all legislation is published for public comment before being tabled. The public is given an opportunity to make written representations or to appear before different portfolio committees. Different provincial laws make provision for members of the public to nominate members who are to serve on certain committees.

F. THE REMEDIES AVAILABLE IF THE PROVISIONS OF THIS ACT ARE NOT COMPLIED WITH [section 14(1)(h)]

A requester may lodge an internal appeal against the decision of the information officer to a person designated by the Premier. The requester may apply to a court for appropriate relief after the requester has exhausted the internal procedure. The courts will have to be approached in instances where there is no compliance with the provisions of the Act by the Provincial Administration. This would apply to any situation in which the requester wishes to appeal a decision made by the Information Officer.

G. UPDATING OF THE MANUAL [section 14(2)]

The Provincial Administration will, if necessary, update and publish this manual, at intervals of not more than a year.

H. AVAILABILITY OF THE MANUAL [section 14(3)]

The manual of the Provincial Administration is made available in the following manner: A copy in each of the three official languages must be made available to every place of legal deposit as defined in section 6 of the Legal Deposits Act 1997, the South African Human Rights Commission, and every office of that public body.

The manual has been published in Sesotho, English and Afrikaans. The manual is available on the website of the Provincial Administration at <http://www.fs.gov.za> or www.fscogtahs.gov.za