

# **PROMOTION OF ACCESS TO INFORMATION MANUAL**

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**LUCHA LUNAKO FOUNDATION NPC**  
**REGISTRATION NUMBER: 2020/819559/08**

**Compiled in terms of Section 51 of**  
**The Promotion of Access to**  
**Information Act No. 2 of 2000**  
**(the "ACT")**

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## 1. **INTRODUCTION:**

Section 32 of the Constitution of the Republic of South Africa Act No. 108 of 1996 (“the Constitution”) states that “*everyone has a right of access to any information held by the state and any information held by another person that is required for the exercise or protection of any rights.*” In order to give effect to this constitutional right, the Promotion of Access to Information Act No. 2 of 2000 (“PAIA”) was enacted by Parliament and came into operation on 9 March 2001.

In terms of the Constitution and PAIA, all persons in South Africa, including non-nationals, can request information from public and private bodies. However, the right to access this information may be limited, in terms of section 36 of the Constitution, by a law of general application that is reasonable and justifiable in an open and democratic society based on dignity, freedom and equality.

Section 51 of PAIA prescribes that it is compulsory for all private bodies (including but not limited to: natural persons, partnerships, companies, close corporations, homeowners’ associations and body corporates) who carry on or have carried on any trade, business or profession in South Africa, to have a PAIA manual in place.

Lucha Lunako Foundation NPC has put in place this Promotion of Access to Information Manual in compliance with PAIA, setting out the policies and procedures dealing with any requests for access to its information and records.

## 2. **DEFINITIONS AND INTERPRETATION:**

In this Promotion of Access to Information Manual –

- 2.1. Headings are for convenience and reference only and shall not be used in the interpretation thereof;
- 2.2. Any gender includes the other genders and a natural person includes a juristic person and vice versa;

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2.3. unless the context otherwise requires –

2.3.1. “**Access Fee**” means a fee prescribed in terms of sections 52 and 54 of PAIA for the purpose of access and reproducing records, as set out in Annexure 2;

2.3.2. “**Application**” means an application to a court in terms of section 78 of PAIA;

2.3.3. “**Consent**” means any voluntary, specific and informed expression of will in terms of which permission is given for the processing of personal information;

2.3.4. “**Constitution**” means the Constitution of the Republic of South Africa Act No. 108 of 1996;

2.3.5. “**Court**” means –

2.3.5.1. the Constitutional Court acting in terms of section 167(6)(a) of the Constitution;

2.3.5.2. a High Court or another Court of similar status; or

2.3.5.3. a Magistrate's Court for any district or for any regional division established by the Minister for the purposes of adjudicating civil disputes in terms of section 2 of the Magistrates' Courts Act, 1944 (Act 32 of 1944), either generally or in respect of a specified class of decisions in terms of this Act, designated by the Minister by notice in the *Gazette* and presided over by a magistrate, an additional magistrate or a magistrate of a regional division established for the purposes of adjudicating civil disputes, as the case may be, designated in terms of section 91A;

within whose area of jurisdiction –

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- 2.3.5.3.1. the decision of the Information Officer or relevant authority of a Public Body or the Head of a Private Body has been taken;
  - 2.3.5.3.2. the Public Body or Private Body concerned has its principal place of administration or business; or
  - 2.3.5.3.3. the Requester or Third Party concerned is domiciled or ordinarily resident.
- 2.3.6. “**Company**” means Lucha Lunako Foundation NPC (registration number: 2020/819559/08), a not-for-profit company registered and incorporated in accordance with the laws of the Republic of South Africa;
- 2.3.7. “**Data Subject**” means the natural or juristic person to whom the Personal Information relates;
- 2.3.8. “**Official**” in relation to a public or private body, means –
- 2.3.8.1. any person in the employ (permanently or temporarily and full-time or part-time) of the public or private body, as the case may be, including the head of the body, in his or her capacity as such; or
  - 2.3.8.2. a member of the public or private body, in his or her capacity as such.
- 2.3.9. “**Operator**” means a person who processes personal information for a responsible party in terms of a contract or mandate, without coming under the direct authority of that party;

- 2.3.10. **“Person”** means a natural person or a juristic person;
- 2.3.11. **“Personal Information”** means information relating to an unidentifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to:
- 2.3.11.1. information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
  - 2.3.11.2. information relating to the education or the medical, financial, criminal or employment history of the person;
  - 2.3.11.3. any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
  - 2.3.11.4. the biometric information of the person;
  - 2.3.11.5. the personal opinions, views or preferences of the person;
  - 2.3.11.6. correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
  - 2.3.11.7. the views or opinions of another individual about the person; and
  - 2.3.11.8. the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;

2.3.12. **“Personal Requester”** means a Requester seeking access to a Record containing Personal Information about the Requester;

2.3.13. **“POPI”** means the Protection of Personal Information Act No. 4 of 2013;

2.3.14. **“Private Body”** means –

2.3.14.1. a natural person who carries on or has carried on any trade, business or profession, but only in such capacity;

2.3.14.2. a partnership which carries on or has carried on any trade, business or profession; or

2.3.14.3. any former or existing juristic person;

but excludes a Public Body;

2.3.15. **“Processing”** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including:

2.3.15.1. the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;

2.3.15.2. dissemination by means of transmission, distribution or making available in any other form; or

2.3.15.3. merging, linking, as well as restriction, degradation, erasure or destruction of information;

2.3.16. **“Public Body”** means –

- 2.3.16.1. any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or
- 2.3.16.2. any other functionary or institution when –
  - 2.3.16.2.1. exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or
  - 2.3.16.2.2. exercising a public power or performing a public function in terms of any legislation;
- 2.3.17. “**Record**” of, or in relation to, a public or private body, means any recorded information –
  - 2.3.17.1. regardless of form or medium;
  - 2.3.17.2. in the possession or under the control of that public or private body, respectively; and
  - 2.3.17.3. whether or not it was created by that public or private body, respectively;
- 2.3.18. “**Regulator**” means the Information regulator established in terms of POPI to regulate affairs in terms of PAIA and POPI;
- 2.3.19. “**Request**” means a request for access to a Record or Company information;
- 2.3.20. “**Requester**” in relation to –
  - 2.3.20.1. a Public Body means –



2.3.20.1.1. any person (other than a public body contemplated in paragraphs 2.3.16.1 or 2.3.16.2.1 of the definition of Public Body, or an official thereof) making a request for access to a record of a public body; or

2.3.20.1.2. a person acting on behalf of the person referred to in paragraph 2.3.20.1.1;

2.3.20.2. a Private Body means –

2.3.20.2.1. any person, including, but not limited to, a public body or an official thereof, making a request for access to a record of that private body; or

2.3.20.2.2. a person acting on behalf of the person contemplated in paragraph 2.3.20.2.1;

2.3.21. “**SAHRC**” means the South African Human Rights Commission;

2.3.22. “**Third Party**” in relation to a request for access to –

2.3.22.1. a record of a Public Body, means any person (including, but not limited to, the government of a foreign state, an international organisation or an organ of that government or organisation) other than –

2.3.22.1.1. the Requester concerned; and

2.3.22.1.2. a Public Body; or

2.3.22.2. a record of a Private Body, means any person (including, but not limited to, a Public Body) other than the Requester,

but, for the purposes of sections 34 and 63 of PAIA, the reference to “person” in paragraphs 2.3.22.1 and 2.3.22.2 must be construed as a reference to a natural person;

2.3.23. **“Working Days”** means any days other than Saturdays, Sundays or public holidays, as defined in section 1 of the Public Holidays Act, 1994 (Act 36 of 1994).

### 3. **CONTACT DETAILS:**

- 3.1. Registered Name: **LUCHA LUNAKO FOUNDATION NPC**
- 3.2. Registration Number: **2020/819559/08**
- 3.3. Trading Name: **LUCHA LUNAKO**
- 3.4. Head of Body: **Alana Bond** (Director)
- 3.5. Information Officer: **Alana Bond** (Director)
- 3.6. Physical Address: **101 20<sup>th</sup> Street, Parkhurst, Johannesburg 2193**
- 3.7. Postal Address: **101 20<sup>th</sup> Street, Parkhurst, Johannesburg 2193**
- 3.8. Telephone Number: **+27 10 822 1216**
- 3.9. Email Address: [office@luchalunako.com](mailto:office@luchalunako.com)
- 3.10. Other Offices: **NONE**
- 3.11. Website Address: [www.luchalunako.com](http://www.luchalunako.com)

4. **NATURE OF BUSINESS AND STRUCTURE:**

4.1. Nature of Business: The Company is involved in youth development implementation.

5. **GUIDE REFERRED TO IN SECTION 10 OF PAIA:**

5.1. The SAHRC has published a guide, as prescribed by section 10 of PAIA, to assist members of the public as well as Private and Public Bodies with accessing information and Records.

5.2. The guide is available from the SAHRC at:

5.2.1. The PAIA Unit

5.2.2. Postal Address: PO Box 31533  
Braamfontein, Johannesburg 2001

5.2.3. Physical Address: JD House,  
27 Stiemens Street,  
Braamfontein, Johannesburg 2001

Telephone: +27 11 877 3600

5.2.4. Website Address: [www.sahrc.org.za](http://www.sahrc.org.za)

5.2.5. Email Address: [PAIA@sahrc.org.za](mailto:PAIA@sahrc.org.za)

6. **APPLICABLE LEGISLATION:**

6.1 Legislation applicable to the Company:

<b><u>No</u></b>	<b><u>Ref</u></b>	<b><u>Act</u></b>	<b><u>Mark (x) if applicable</u></b>
1	No 61 of 1973	Companies Act	x
2	No 71 of 2008	Companies Act	x
3	No 98 of 1978	Copyright Act	x
4	No 55 of 1998	Employment Equity Act	x
5	No 58 of 1962	Income Tax Act	x
6	No 66 of 1995	Labour Relations Act	x
7	No 89 of 1991	Value Added Tax Act	x
8	No 37 of 2002	Financial Advisory and Intermediary Services Act	
9	No 38 of 2001	Financial Intelligence Centre Act	
10	No 75 of 1997	Basic Conditions of Employment Act	x
11	No 69 of 1984	Close Corporations Act	
12	No 25 of 2002	Electronic Communications and Transactions Act	x
13	No 2 of 2000	Promotion of Access of Information Act	x
14	No 4 of 2013	Protection of Personal Information Act	x
15	No 63 of 2001	Unemployment Insurance Act	x
16	No 68 of 2008	Consumer Protection Act	x
17	No 130 of 1993	Compensation for Occupational Injuries and Health Diseases Act	x
18	No 71 of 1997	Non-profit Organisations Act	X
19	No 53 of 2003	Broad Based Black Economic Empowerment Act	x

## 7. **SCHEDULE OF RECORDS SUBJECT TO SECTION 8 REQUEST:**

7.1. Records that require Request in terms of PAIA:

7.1.1. Company records:

7.1.1.1. Documents of Incorporation;

7.1.1.2. Memorandum of Incorporation (MOI);

7.1.1.3. Minutes of Meetings of Shareholders;

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- 7.1.1.4. Records relating to the appointment of directors, auditors, secretary, public officer and other officer;
- 7.1.1.5. Share register and other statutory registers, records and/or other documents;
- 7.1.2. Income Tax Act records:
  - 7.1.2.1. Paye-as-you-earn (PAYE) records;
  - 7.1.2.2. Value added tax;
  - 7.1.2.3. All documents relating to levies;
  - 7.1.2.4. Payments to the South African Revenue Services (SARS) on behalf of employees and/or staff;
- 7.1.3. Other:
  - 7.1.3.1. Computer software and licenses;
  - 7.1.3.2. Annual financial records;
  - 7.1.3.3. Records relating to clients, employees, partners, insurance, suppliers etc.;
  - 7.1.3.4. Correspondence with clients, employees, partners, insurance, suppliers etc.;
  - 7.1.3.5. Personnel documents and records;
  - 7.1.3.6. Personal information in general; and
  - 7.1.3.7. Specific personal information;
  - 7.1.3.8. Privileged and confidential information;
  - 7.1.3.9. Information after commencement of civil or criminal proceedings.

8. **FORM OF REQUEST AND PROCEDURE TO REQUEST:**

- 8.1. A Request for access to Company information and Records that are not freely available in the public domain can be made to the Information Officer referred to in paragraph 3.5 above. In this regard, the Requester must complete and sign the prescribed request form (Annexure 1) and forward same to the Company Information Officer.
- 8.2. The Company may refer the Request back to the Requester and insist that the prescribed request form (Annexure 1) be used and/or that any additional information, reasonably required by the Company, must be provided for the Company to make a decision to grant or refuse access.
- 8.3. If a Request is made on behalf of another Person, proof of the capacity in which such a Requester makes the Request must be submitted to the Company.
- 8.4. The Information Officer shall, in terms of section 56(1) of PAIA, notify the Requester in writing, as soon as reasonably possible but no later than 30 (thirty) Working Days from date of receipt of Annexure 1, of the Company's decision to grant or refuse access.
- 8.5. If the Request for access is granted, the notice referred to in paragraph 8.4 above must state the following:
- 8.5.1. The Access Fee (if any) to be paid upon access;
- 8.5.2. The form in which access shall be given; and
- 8.5.3. that the Requester may lodge an application with a Court against the Access Fee to be paid or the form of access granted, and the procedure, including the period allowed, for lodging the application.

- 8.6. If the Request for access is refused, the notice referred to in paragraph 8.4 above must:
- 8.6.1. state adequate reasons for the refusal, including the provisions of PAIA relied on;
  - 8.6.2. exclude, from any such reasons, any reference to the content of the Record; and
  - 8.6.3. state that the Requester may lodge an application with a Court against the refusal of the request, and the procedure (including the period) for lodging the application.
- 8.7. The Information Officer, to whom a Request for access has been made, may in terms of section 57 of PAIA extend the period of 30 Working Days, referred to in paragraph 8.4 above (referred to as the 'original period'), once for a further period of not more than 30 Working Days, if:
- 8.7.1. the Request is for a large number of Records or requires a search through a large number of Records and compliance with the original period would unreasonably interfere with the activities of the Company;
  - 8.7.2. the Request requires a search for Records in, or collection thereof, from an office of the Company not situated in the same town or city as the office of the Information Officer and which search cannot reasonably be completed within the original period;
  - 8.7.3. consultation among divisions of the Company or with another private body is necessary or desirable to decide upon the Request that cannot reasonably be completed within the original period;

- 8.7.4. more than one of the circumstances contemplated in paragraphs 8.7.1, 8.7.2 and 8.7.3 above exist in respect of the Request making compliance with the original period not reasonably possible; or
  - 8.7.5. the Requester consents in writing to such extension.
- 8.8. If a period is extended in terms of paragraph 8.7 above, the Information Officer must, as soon as reasonably possible, but in any event within 30 Working Days, after the Request is received, notify the Requester of that extension, the period of the extension and the reasons for the extension.
- 8.9. The notice in terms of paragraph 8.7 above, must state:
- 8.9.1. The period of the extension;
  - 8.9.2. adequate reasons for the extension, including the provisions of PAIA relied upon; and
  - 8.9.3. that the Requester may lodge an application with a Court against the extension, and the procedure including the period for lodging the application.
- 8.10. If the Company fails to give a decision, on a Request for access, to the Requester concerned within the period contemplated in paragraph 8.4 above, the Company is regarded as having refused the Request in terms of section 58 of PAIA.

9. **GROUNDINGS FOR REFUSAL:**

- 9.1. The Company must refuse a Request for access to a Record of the Company if its disclosure would involve the unreasonable disclosure of Personal Information about a Third party, including a deceased individual.
- 9.2. A Record may not be Refused in terms of paragraph 9.1 above insofar as it consists of information:

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- 9.2.1. about an individual who has consented in terms of section 72 of PAIA or otherwise in writing to its disclosure to the Requester concerned;
- 9.2.2. already publicly available;
- 9.2.3. that was given to the Company by the individual to whom it relates and the individual was informed by or on behalf of the Company, before it is given, that the information belongs to a class of information that would or might be made available to the public;
- 9.2.4. about an individual's physical or mental health, or well-being, who is under the care of the Requester and who is:
  - 9.2.4.1. under the age of 18 years; or
  - 9.2.4.2. incapable of understanding the nature of the Request, and if giving access would be in the individual's best interests;
- 9.2.5. about an individual who is deceased and the Requester is:
  - 9.2.5.1. the individual's next of kin; or
  - 9.2.5.2. making the Request with the written consent of the individual's next of kin; or
- 9.2.6. about an individual who is or was an official of a private body and which relates to the position or functions of the individual, including, but not limited to:
  - 9.2.6.1. the fact that the individual is or was an official of that private body;

- 9.2.6.2. the title, work address, work phone number and other similar particulars of the individual;
  - 9.2.6.3. the classification, salary scale or remuneration and responsibilities of the position held or services performed by the individual; and
  - 9.2.6.4. the name of the individual on a Record prepared by the individual in the course of employment.
- 9.3. The Company must refuse a Request for access to a Record of the Company if the record contains:
- 9.3.1. trade secrets of a Third Party;
  - 9.3.2. financial, commercial, scientific or technical information, other than trade secrets, of a Third Party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that Third Party; or
  - 9.3.3. information supplied in confidence by a Third Party, the disclosure of which could reasonably be expected:
    - 9.3.3.1. to put that Third Party at a disadvantage in contractual or other negotiations; or
    - 9.3.3.2. to prejudice that Third Party in commercial competition.
  - 9.3.4. A Record may not be Refused in terms of paragraph 9.3 above insofar as it consists of information about:
    - 9.3.4.1. a Third Party who has consented in terms of section 72 of PAIA or otherwise in writing to its disclosure to the Requester concerned;

- 9.3.4.2. the results of any product or environmental testing or other investigation supplied by a Third Party or the results of any such testing or investigation carried out by or on behalf of a Third Party and its disclosure would reveal a serious public safety or environmental risk.
  - 9.3.5. For the purposes of paragraph 9.3.4.2 above, the results of any product or environmental testing or other investigation do not include the results of preliminary testing or other investigation conducted for the purpose of developing methods of testing or other investigation.
- 9.4. The Company must refuse a Request for access to a Record of the Company if its disclosure would constitute an action for breach of a duty of confidence owed to a Third Party in terms of an agreement.
- 9.5. The Company:
  - 9.5.1. must refuse a Request for access to a Record of the Company if its disclosure could reasonably be expected to endanger the life or physical safety of an individual; or
  - 9.5.2. may refuse a Request for access to a Record of the Company if its disclosure would be likely to prejudice or impair:
    - 9.5.2.1. the security of:
      - 9.5.2.1.1. a building, structure or system, including, but not limited to, a computer or communication system;
      - 9.5.2.1.2. a means of transport; or

- 9.5.2.1.3. any other property; or
- 9.5.2.2. methods, systems, plans or procedures for the protection of:
  - 9.5.2.2.1. an individual in accordance with a witness protection scheme;
  - 9.5.2.2.2. the safety of the public, or any part of the public; or
  - 9.5.2.2.3. the security of property contemplated in paragraphs 9.5.2.1.1 to 9.5.2.1.3.
- 9.6. The Company must refuse a Request for access to a Record of the Company if the Record is privileged from production in legal proceedings unless the person entitled to the privilege has waived the privilege.
- 9.7. The Company may refuse a Request for access to a Record of the Company if the Record:
  - 9.7.1. contains trade secrets of the Company;
  - 9.7.2. contains financial, commercial, scientific or technical information, other than trade secrets, of the Company, the disclosure of which would be likely to cause harm to the commercial or financial interests of the Company;
  - 9.7.3. contains information, the disclosure of which could reasonably be expected:
    - 9.7.3.1. to put the Company at a disadvantage in contractual or other negotiations; or

- 9.7.3.2. to prejudice the Company in commercial competition; or
- 9.7.4. is a computer program, as defined in section 1(1) of the Copyright Act No. 98 of 1978, owned by the Company, except insofar as it is required to give access to a Record to which access is granted in terms of PAIA.
- 9.8. A Record may not be refused in terms of paragraph 9.7 above insofar as it consists of information about the results of any product or environmental testing or other investigation supplied by the Company or the results of any such testing or investigation carried out by or on behalf of the Company and its disclosure would reveal a serious public safety or environmental risk.
- 9.9. For the purposes of paragraph 9.8 above, the results of any product or environmental testing or other investigation do not include the results of preliminary testing or other investigation conducted for the purpose of developing methods of testing or other investigation.
- 9.10. The Company must refuse a Request for access to a Record of the Company if the Record contains information about research being or to be carried out by or on behalf of a Third Party, the disclosure of which would be likely to expose:
- 9.10.1. the Third Party;
- 9.10.2. a person that is or will be carrying out the research on behalf of the third party; or
- 9.10.3. the subject matter of the research,
- to serious disadvantage.

9.11. The Company may refuse a Request for access to a Record of the Company if the Record contains information about research being or to be carried out by or on behalf of the Company, the disclosure of which would be likely to expose:

9.11.1. the Company;

9.11.2. a person that is or will be carrying out the research on behalf of the Company; or

9.11.3. the subject matter of the research,

to serious disadvantage.

9.12. Despite any other provisions mentioned above, the Company must grant a Request for access to a Record of the Company contemplated in paragraphs 9.1, 9.3, 9.4, 9.5.1 or 9.5.2, 9.6, 9.7 or 9.10 or 9.11 if:

9.12.1. the disclosure of the Record would reveal evidence of:

9.12.1.1. a substantial contravention of, or failure to comply with, the law;  
or

9.12.1.2. imminent and serious public safety or environmental risk; and

9.12.2. the public interest in the disclosure of the Record clearly outweighs the harm contemplated in the provision in question.

9.13. The Company may refuse a Request for access to a Record of the Company in circumstances provided in other legislation, other than the grounds of refusal stipulated in PAIA.

- 9.14. The Company may refuse a Request for access to a Record of the Company in the event the Requester is not able to establish *locus standi* in terms of PAIA or cannot convince the Company of the right the Requester wants to protect or exercise.
- 9.15. Some information may be protected subject to an obligation of confidentiality by virtue of office, employment, profession, or legal provision, or established by a written agreement.

## 10. **ACCESS TO HEALTH AND OTHER RECORDS**

- 10.1. If the Company who grants a Request for access to a Record provided by a health practitioner in his or her capacity as such about the physical or mental health, or well-being:

10.1.1. of the Requester; or

10.1.2. if the Request has been made on behalf of the person to whom the record relates, of that person,

is of the opinion that the disclosure of the Record to the relevant person might cause serious harm to his or her physical or mental health, or well-being, the Company may, before giving access, consult with a health practitioner who, subject to paragraph 10.2 below, has been nominated by the relevant person.

- 10.2. If the relevant person is:

10.2.1. under the age of 16 years, a person having parental responsibilities for the relevant person must make the nomination contemplated in paragraph 10.1 above; or

10.2.2. incapable of managing his or her affairs, a person appointed by the Court to manage those affairs must make that nomination.

- 10.3. If, after being given access to the Record concerned, the health practitioner consulted in terms of paragraph 10.1 above is of the opinion that the disclosure of the Record to the relevant person, would be likely to cause serious harm to his or her physical or mental health, or well-being, the Company may only give access to the Record if the Requester proves to the satisfaction of the Company that adequate provision is made for such counselling or arrangements as are reasonably practicable before, during or after the disclosure of the record to limit, alleviate or avoid such harm to the relevant person.
- 10.4. Before access to the Record is so given to the Requester, in terms of paragraph 10.3 above, the person responsible for such counselling or arrangements must be given access to the Record.

11. **LOST AND NONEXISTENT RECORDS:**

- 11.1. In the event that:
- 11.1.1. all reasonable steps have been taken to find a Record requested; and
- 11.1.2. there are reasonable grounds for believing that the Record:
- 11.1.2.1. is in the Company's possession but cannot be found; or
- 11.1.2.2. does not exist;
- 11.1.3. the head of the Company must, by way of affidavit or affirmation, notify the Requester that it is not possible to give access to the Record.
- 11.2. The affidavit or affirmation referred to in paragraph 11.1.3 must give a full account of all steps taken to find the Record in question or to determine whether the Record exists including all communications with every person who conducted the search on behalf of the head.



11.3. For the purposes of PAIA, the notice in terms of paragraph 11.1.3 is to be regarded as a decision to refuse a Request for access to the Record concerned.

11.4. If, after notice is given in terms of paragraph 11.1.3, the Record in question is found, the Requester concerned must be given access to the Record unless access is refused on a ground for refusal.

12. **SEVERABILITY:**

12.1. If a Request for access is made to a Record of the Company containing information which may or must be refused, every part of the Record which does not contain and can be severed from any part that contains, and where such information can be deleted or redacted or removed, such information must be disclosed.

12.2. If a Request for access to a part of the Record is granted and the other part of the Record is refused, the procedure set out in paragraph 8.6 and paragraph 8.7 shall apply.

13. **THIRD PARTY NOTICE AND INTERVENTION:**

13.1. The Company considering a Request for access to a Record that might be a Record contemplated in paragraphs 9.1, 9.3, 9.4 or 9.10 above, must take all reasonable steps to inform a Third Party to whom or which the Record relates, of the Request.

13.2. The Company must inform a Third Party in terms of paragraph 13.1 above:

13.2.1. as soon as reasonably possible, but in any event within 21 Working Days after that Request is received; and

13.2.2. by the fastest means reasonably possible.

13.3. When informing a Third Party in terms of paragraph 13.1 above, the Company must:

- 13.3.1. state that the Company is considering a Request for access to a Record that might be a Record contemplated in paragraphs 9.1, 9.3, 9.4 or 9.10 above, as the case may be, and describe the content of the Record;
- 13.3.2. furnish the name of the Requester;
- 13.3.3. describe the provisions set out in paragraphs 9.1, 9.3, 9.4 or 9.10 above, as the case may be;
- 13.3.4. in any case where the Company believes that the provisions set out in paragraph 9.12 above (section 70 of PAIA) might apply, describe those provisions, specify which of the circumstances referred to in paragraph 9.12.1 above (section 70 (a) of PAIA) in the opinion of the Company might apply and state the reasons why the Company is of the opinion that paragraph 9.12 (section 70 of PAIA) above might apply; and
- 13.3.5. state that the Third Party may, within 21 Working Days after the Third Party is informed:
  - 13.3.5.1. make written or oral representations to the Company as to why the Request for access should be refused; or
  - 13.3.5.2. give written consent for the disclosure of the Record to the Requester.
- 13.4. If a Third Party is informed orally of a Request for access in terms of paragraph 13.1 above, the Company must give a written notice stating the matters referred to in paragraph 13.3 above to the Third Party.
- 13.5. A Third Party that is informed in terms of paragraph 13.1 of a Request for access, may, within 21 Working Days after being so informed:
  - 13.5.1. make written or oral representations to the Company concerned why the request should be refused; or

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- 13.5.2. give written consent for the disclosure of the Record to the Requester concerned.
- 13.6. A Third Party that obtains knowledge about a Request for access other than in terms of paragraph 13.1 above may:
- 13.6.1. make written or oral representations to the Company concerned why the Request should be refused; or
  - 13.6.2. give written consent for the disclosure of the Record to the Requester concerned.
- 13.7. The Company must, as soon as reasonably possible, but in any event within 30 Working Days after every Third Party is informed as required in paragraph 13.1 above:
- 13.7.1. decide, after giving due regard to any representations made by a Third Party in terms of paragraphs 13.5 and 13.6 above, whether to grant or refuse the Request for access;
  - 13.7.2. notify the Third Party so informed and a Third Party not informed in terms of paragraphs 13.1 above, but that made representations in terms of paragraph 13.6 above or is located before the decision is taken, of the decision; and
  - 13.7.3. notify the Requester of the decision and, if the Requester stated that he or she wishes to be informed of the decision in any other manner, inform him or her in that manner if it is reasonably possible, and if the request is:
    - 13.7.4. granted, notify the Requester in accordance with paragraph 8.6 above; or
    - 13.7.5. refused, notify the Requester in accordance with paragraph 8.7 above.

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- 13.8. If, after all reasonable steps have been taken as required in paragraphs 13.1 to 13.4 above, a Third Party is not informed of a Request, any decision whether to grant the Request for access must be made with due regard to the fact that the Third Party did not have the opportunity to make representations in terms of paragraphs 13.5 or 13.6 above, why the Request should be refused.
- 13.9. If the Request is granted, the notice in terms paragraph 13.7.2 above must state:
- 13.9.1. adequate reasons for granting the Request, including the provisions of PAIA and this Manual relied upon to justify the granting of the Request;
  - 13.9.2. that the Third Party may lodge an application with a Court against the decision of the Company within 30 Working Days after notice is given, and the procedure for lodging the application; and
  - 13.9.3. that the Requester will be given access to the Record after the expiry of the applicable period contemplated in paragraph 13.9.2 above, unless an application with a court is lodged within that period.
- 13.10. If the Company decides in terms of paragraph 13.7 above to grant the Request for access concerned, he or she must give the Requester access to the Record concerned after the expiry of 30 Working Days after notice is given in terms of paragraph 13.7.2, unless an application with a Court is lodged against the decision within that period.

14. **PRESCRIBED FEES:**

- 14.1. The Company to whom a Request for access is made must by notice require the Requester, other than a Personal Requester, to pay the prescribed request fee (if any), before further processing the Request.
- 14.2. If the search for a Record of a Private Body in respect of which a Request for access by a Requester, other than a Personal Requester, has been made, and the

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preparation of the Record for disclosure would, in the opinion of the Information Officer of the Company concerned, require more than the hours prescribed for this purpose for Requesters, the Information Officer must by notice require the Requester, other than a Personal Requester, to pay as a deposit, the prescribed portion being not more than one third of the Access Fee that would be payable if the request is granted.

- 14.3. The notice referred in paragraphs 14.1 and 14.2 above must state:
- 14.3.1. the amount of the deposit payable in terms of paragraph 14.2, if applicable; and
  - 14.3.2. that the Requester may lodge an application with a Court against the tender or payment of the Request fee in terms of paragraph 14.1, or the tender or payment of a deposit in terms of paragraph 14.2, as the case may be; and
  - 14.3.3. the procedure, including the period, for lodging the application.
- 14.4. If a deposit has been paid in respect of a Request for access which is refused, the Company must repay the deposit to the Requester.
- 14.5. The Company may withhold a Record until the Requester concerned has paid the applicable fees, if any.
- 14.6. A Requester whose Request for access to a Record of a Private Body has been granted must pay an Access Fee for reproduction and for search and preparation, respectively, for any time reasonably required in excess of the prescribed hours to search for and prepare, including making any arrangements, the Record for disclosure.
- 14.7. Access fees prescribed for the purposes in paragraph 14.6 above must provide for a reasonable Access fee for:

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- 14.7.1. the cost of making a copy of a Record, or of a transcription of the content of a Record, and if applicable, the postal fee; and
- 14.7.2. the time reasonably required to search for the Record and prepare the Record for disclosure to the Requester.

Accepted this 30th day of June 2021

Head of Body: Alana Bond (Director)



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## ANNEXURE 1

### REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY (Section 53(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)

[Regulation 10]

#### A. Particulars of private body

The Head: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

#### B. Particulars of person requesting access to the record

- (a) The particulars of the person who requests access to the record 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: \_\_\_\_\_ E-mail address: \_\_\_\_\_  
 Capacity in which request is made, when made on behalf of another person: \_\_\_\_\_  
 \_\_\_\_\_

#### C. Particulars of person on whose behalf request is made

This section must be completed *ONLY* if a request *for information* is made on behalf of *another* person.

Full names and surname: \_\_\_\_\_  
 Identity number: \_\_\_\_\_

#### D. 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.

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1 Description of record or relevant part of the record: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2 Reference number, if available: \_\_\_\_\_

3 Any further particulars of record: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**E. Fees**

- (a) A request for access to a record, other *than* a 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: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**F. Form of access to record**

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 hereunder, state your disability and indicate in which form the record is required.

Disability:	Form in which record is required:
Form in which record is required:	
Mark the appropriate box with an X.	
NOTES:	
(a) Compliance with your request 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 if access will be granted in another form.	
(c) The fee payable for access for the record, if any, will be determined partly by the form in which access is requested.	

**1. If the record is in written or printed form:**

<input type="checkbox"/> copy of record*	<input type="checkbox"/> inspection of record	
------------------------------------------	-----------------------------------------------	--

**2. If record consists of visual images**  
 this includes photographs, slides, video recordings, computer-generated images, sketches, etc)

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	view the images		copy of the images"		transcription of the images*	
<b>3. If record consists of recorded words or information which can be reproduced in sound:</b>						
	listen to the soundtrack audio cassette		transcription of soundtrack* written or printed document			
<b>4. If record is held on computer or in an electronic or machine-readable form:</b>						
	printed copy of record*		printed copy of information derived from the record"		copy in computer readable form* (stiffy or compact disc)	
'If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.					YES	NO

**G Particulars of right to be exercised or protected**

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. Indicate which right is to be exercised or protected: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2. Explain why the record requested is required for the exercise or protection of the aforementioned right: \_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**H. 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 REQUESTER / PERSON ON WHOSE BEHALF REQUEST IS MADE

## ANNEXURE 2

### Fees for records of private body

(1) The fee for reproduction referred to in section 52(3) of the Act, is as follows:

(a)	For every photocopy of an A4-size page or part thereof	R1.10
(b)	For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R0.75
(c)	For a copy in a computer-readable form on: –	
	(i) stiffer disc	R7.50
	(ii) compact disc	R70.00
(d)	(i) For a transcription of visual images, for an A4-size page or part thereof	R40.00
	(ii) For a copy of visual images	R60.00
(e)	(i) For a transcription of an audio record, for an A4-size page or part thereof	R20.00
	(ii) For a copy of an audio record	R30.00

(2) The request fee payable by a requester, other than a personal requester, referred to in section 54(1) of the Act is R 50.00.

(3) The access fees payable by a requester referred to in section 54(7) of the Act, unless exempted under section 54(8) of the Act, are as follows:

(a)	For every photocopy of an A4-size page or part thereof	R1.10
(b)	For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R0.75
(c)	For a copy in a computer-readable form on –	
	(i) stiffer disc	R7.50
	(ii) compact disc	R70.00
(d)	(i) For a transcription of visual images, for an A4-size page or part thereof	R40.00
	(ii) For a copy of visual images	R60.00
(e)	(i) For a transcription of an audio record, for an A4-size page or part thereof	R20,00
	(ii) For a copy of an audio record	R30, 00
(f)	To search for the record for disclosure, R30.00 for each hour or part of an hour reasonably required for such search.	

(4) The actual postal fee is payable when a copy of a record must be posted to a requester.

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(5) For purposes of section 54(2) of the Act the following applies: (a) Six hours as the hours to be exceeded before a deposit is payable; and (b) one third of the access fee is payable as a deposit by the requester.

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## Document history



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**06 / 30 / 2021**

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