

# PAIA Workshop Guide

A guide to requesting information in terms of the  
Promotion of Access to Information Act 2 of 2000 (PAIA)



# ACKNOWLEDGEMENTS

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SAHA's *Freedom of Information Project: Capacity Building in the Community-based Sector* is part of a long-term strategy aimed at building the capacity of individuals and organisations to understand and utilise the Promotion of Access to Information Act 2 of 2000 (PAIA) as a strategic advocacy tool.

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SAHA gives permission for the PAIA Workshop Guide to be used and reproduced, with acknowledgement, by all those seeking to better understand and utilise PAIA.

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Khulumani is a non-government organisation that empowers survivors of apartheid-era violations by building their advocacy skills and supporting their efforts to become self-reliant.

TLAC is a non-government organisation that uses the law as a tool for social change for women who are survivors of gender-based violence.

Black Sash is a non-government human rights organisation that has been working for justice and equality in South Africa for over 50 years.

groundWork is a non-government organisation focussing on issues of environmental justice and development in Southern Africa.

VEJA is an alliance of environmental organisations, groups, institutions, agencies and individuals acting in the Vaal Triangle challenging all forms of environmental degradation by local industry.

SDCEA is an environmental organisation based in the South Durban Basin organising across historical racial divisions to speak out for environmental justice.

SAHA also thanks the Human Rights Commission and the Public Protector for their expert input into the pilot workshops.

It is SAHA's intention that this PAIA Workshop Guide will stimulate and contribute to the excellent work of its partners in the National PAIA Civil Society Network.



***The Freedom of Information Project: Capacity Building in the Community-based Sector commenced in April 2008. For further information please contact:***

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# CHAPTER 1

## Introduction to the Freedom of Information Environment

### IN THIS CHAPTER WE COVER:

- The value of information
- The principles of Batho Pele
- Your right to know
- The world's right to know
- What PAIA says
- Who can use PAIA
- The Promotion of Access to Information Act 2 of 2000 (PAIA)
- Public and private bodies
- PAIA manuals
- Information and deputy information officers
- Structures of government
- The new South African administration
- The entities that monitor
- Coordinating Committee
- The Golden Key Awards: Monitoring accountability of public bodies
- The Rusty Padlock Awards: Monitoring underperforming public bodies
- Civil society
- A case study: How PAIA has been used by the Tshwaranang Legal Advocacy Centre
- Quiz yourself

# INTRODUCTION

In 2001 the South African History Archive established the Freedom of Information Programme (FOIP), and since then has been at the forefront of efforts to test the parameters of the Act. In order to help spread the knowledge it has gained about the Promotion of Access to Information Act 2 of 2000, FOIP developed this guide to outline the key lessons all people should know when attempting to use the Act. In exploring how we can use the Act to further our advocacy you can work through the following four chapters:

1. An introduction to the freedom of information environment;
2. Submitting a PAIA request;
3. Records management; and
4. Recourse and redress.

# THE VALUE OF INFORMATION

Openness is a key principle in a democracy as it allows people to access information on what government in all spheres is doing for them, or not doing for them. Providing citizens with information is not a privilege, but their right. The more we know as citizens the more we can do to better our lives by helping to make change happen.

Bad governments thrive on secrecy, as it allows for inefficiency, corruption and waste to stay hidden. Good governments work differently – they rely on openness to keep their citizens informed.

Many newly democratically elected governments throughout the world have sought to make the right to know a priority in the new state as a move away from their previously closed governments.

South African citizens value information as it can help us to overcome the historical legacy of secrecy and socio-economic disadvantage which the apartheid government created.

**“Information  
is the  
oxygen of a  
democracy”**

**Without access to information,  
our democracy would  
become undone.**

## ACTIVITY



1. Brainstorm where you get information from.
2. How long does it take you to get various kinds of information?
3. What makes getting information easy or more difficult?
4. Read the comic below about access to information online. Is the internet an accessible public domain for all South Africans? Where are the other places the public can access information more easily than online?



**Tammy:** “The quickest way to get information is on the internet. Everything you need to know is just a click away.”



**Siviwe:** “Oh no, bra. For me to get to the internet, I have to catch a taxi to town, pay an internet cafe, search, print and go home again. This takes hours and bucks.”

# THE PRINCIPLES OF BATHO PELE

South Africa's democratic government has an administration which is founded upon the principles of Batho Pele.



These principles commit the government to improving the lives of the people of South Africa through a transformed public service which is representative, coherent, transparent, efficient, effective, accountable and responsive to the needs of all. This also means specific commitments to openness which access to information demands:

**Batho Pele**  
– meaning  
“People First”.

## Principle 5: Providing Information

“As a requirement, available information about services should be at the point of delivery, but for users who are far from the point of delivery, other arrangements will be needed.”

## Principle 6: Openness and Transparency

“... the public should know more about the way national, provincial and local government institutions operate, (1) how well they utilize the resources they consume, and (2) who is in charge.”

“...It is anticipated that the public will take advantage of this principle and make suggestions for improvement of service delivery mechanisms, and to even make government employees accountable and responsible by raising queries with them.”

**Government has therefore expressly committed itself to enhancing every citizen's right to know through the administration of the state.**

# YOUR RIGHT TO KNOW

Your right to know is upheld by the Constitution and the Promotion of Access to Information Act 2 of 2000. Your right to know is originally enshrined in the Constitution as:

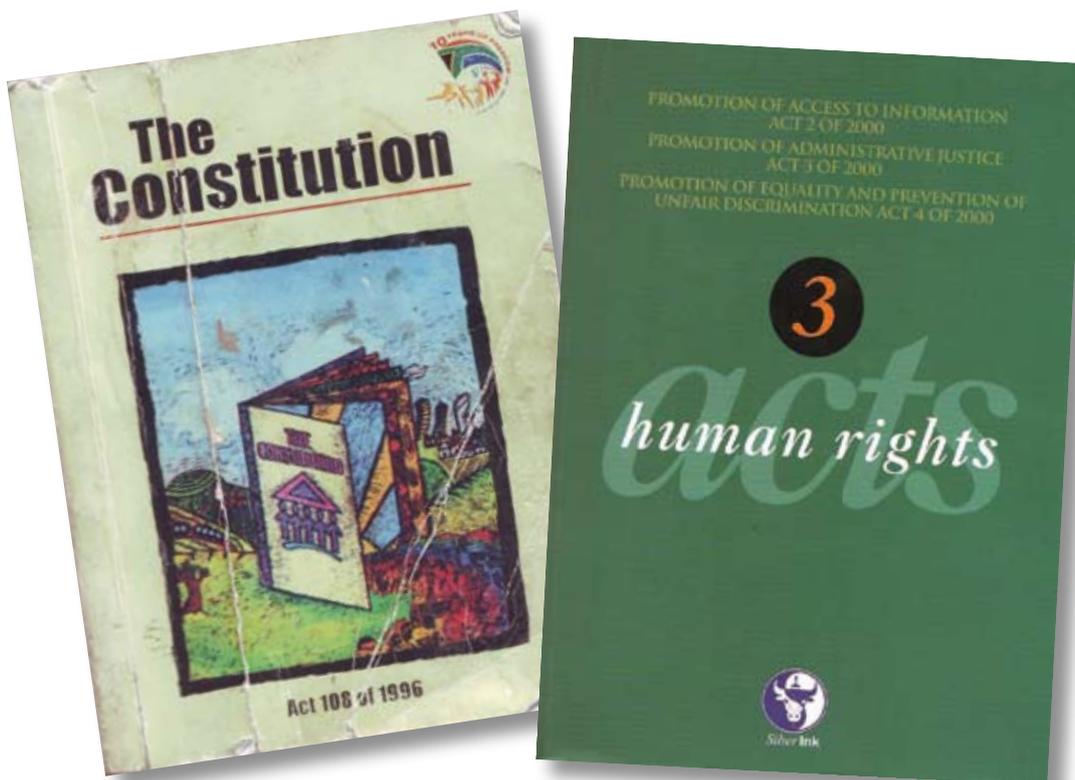
## “Access to information

32. (1) Everyone has the right of access to—
- (a) any information held by the state; and
  - (b) any information that is held by another person and that is required for the exercise or protection of any rights.
- (2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state.”

Your right to know is now expressed in an act: the Promotion of Access to Information Act 2 of 2000 (PAIA). To give effect to this very important right, the legislature passed PAIA. Most importantly, this Act's aim is to enhance transparency in government. The Act was passed not only to give effect to the constitutional right, but also to give effect to the Batho Pele principles our government is hoping to be guided by.

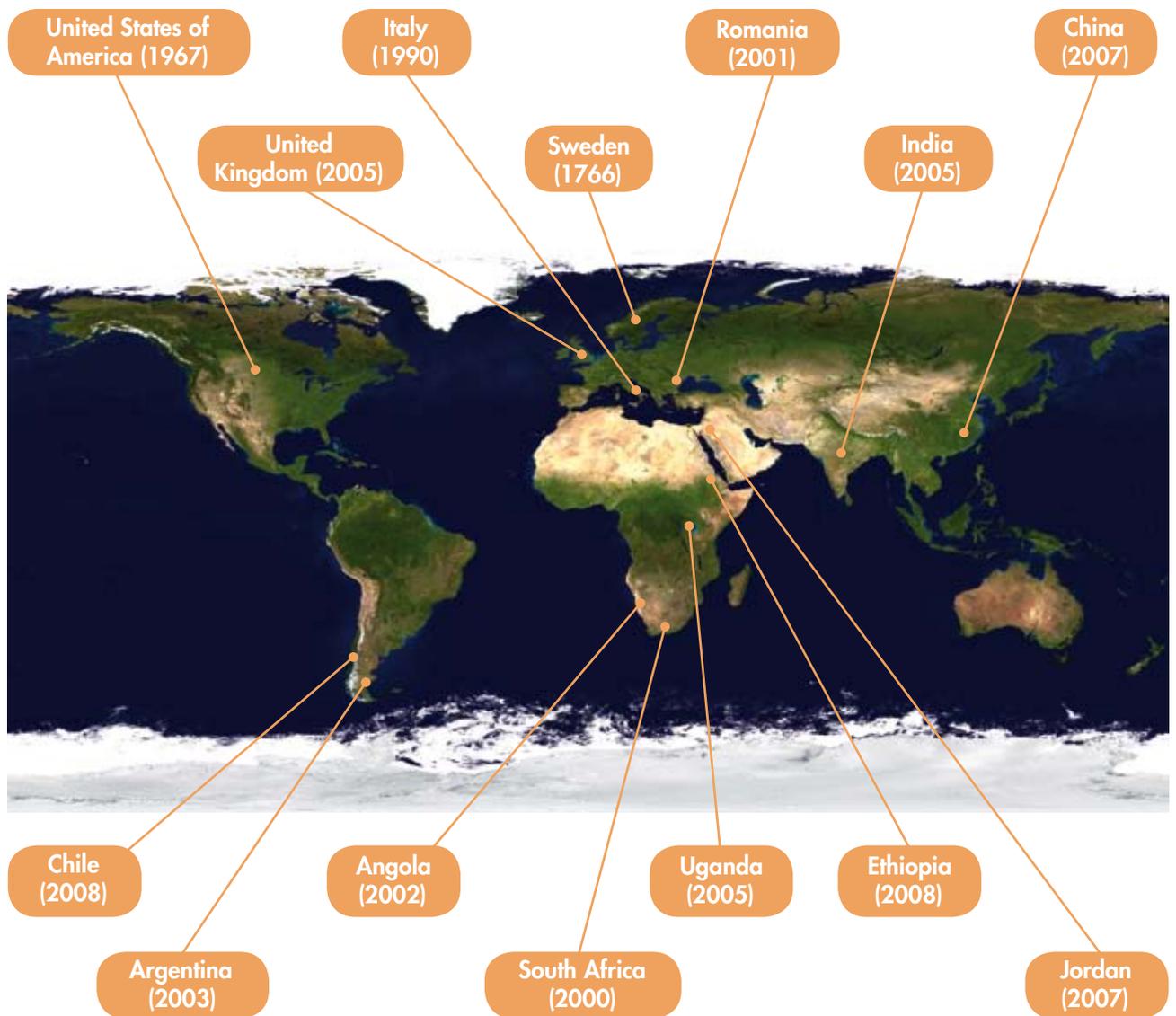
Not only is the access to information a right in itself, but it is also an enabling right that helps citizens exercise other socio-economic rights, such as the right to housing, food and health, property, clean environment, etc.

We can see that South Africa has put in place laws to help you realise your right to know thereby joining many other countries in the world.



# THE WORLD'S RIGHT TO KNOW

Many countries now have freedom of information laws. Some of these countries are:



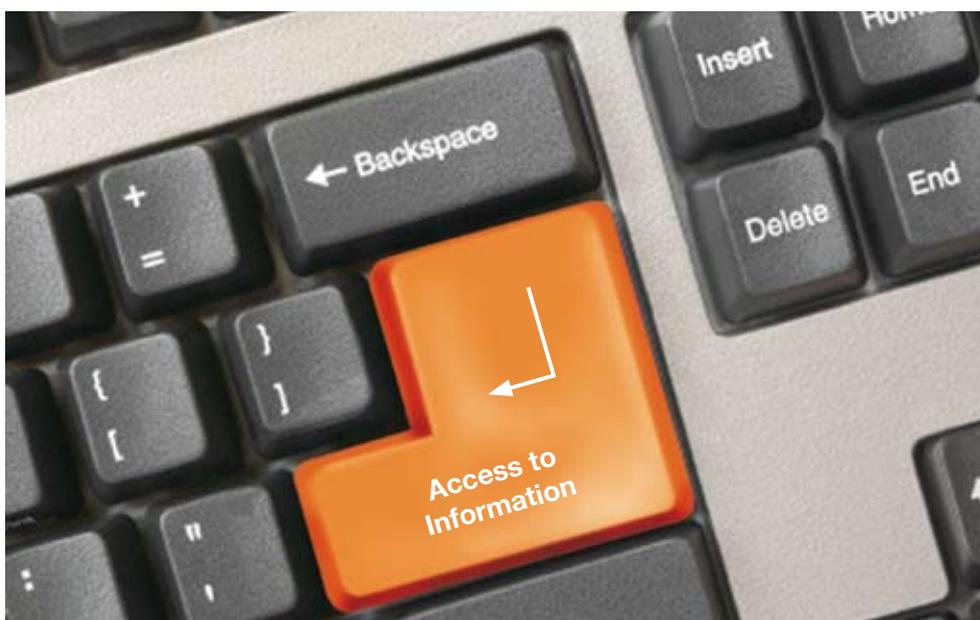
Over a half of the world's population now has a legal right to get information from public authorities. More than 80 countries have freedom of information laws, with over 60% having gained these laws only in the past 10 years. However, there are some long legacies of these laws – Sweden was the first country to achieve a freedom of information law as far back as 1766.

# WHAT PAIA SAYS

PAIA tells us that we have a right to know and access information. However, PAIA also tells us how we can go about accessing that information. This book will teach you how to use PAIA to get the information you need to know.

Electronic copies of the Act are available online at <http://www.info.gov.za/view/DownloadFileAction?id=68186>.

It is important to remember that you do not have an automatic right to access the documents you request. Your request may be rejected if there are valid grounds for refusal, which are outlined in PAIA, and dealt with in more detail later.



## Who can use PAIA

PAIA is designed to allow as many people as possible to use it. All South Africans with a South African Identity Document (ID) can submit a PAIA request. South Africans must provide their South African ID number alongside their PAIA request when they submit it.

All non-South Africans with a passport can submit a PAIA request. Similarly to South Africans, all non-South Africans must provide their passport number when submitting a PAIA request.



# PUBLIC AND PRIVATE BODIES

PAIA requests can be submitted to a **public body** (e.g. the Department of the Presidency) or **private body** (e.g. the AngloGold Mining Company). The information officer of a public body has a duty to provide you (the requester) with assistance in completing the form – it is in fact a part of the job the Act demands they do.

A public body performs a public function, such as providing electricity or water to the public. This means it does not matter if it forms a public function but is 'privatised' – in other words, Eskom and Telkom would be public bodies.

A private body performs a private function. Such a body has no connection to government and is privately owned, for example solar panel companies and cellphone companies.

When submitting a PAIA request to a private body you must state which right you are protecting or exercising by asking for this information. For example, you must specify if you are attempting to exercise your right of access to adequate housing or your right to fair labour practices. In contrast, when submitting a PAIA request to a public body you don't have to explain why you want the information.

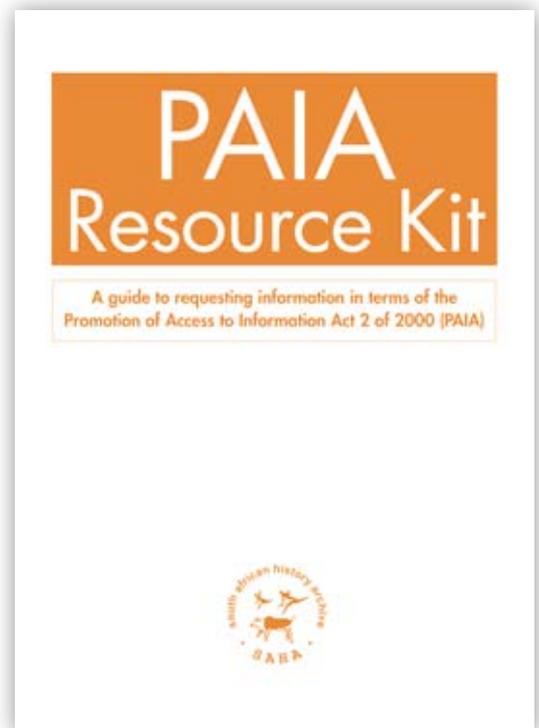
## PAIA manuals

PAIA requires public and private bodies to prepare a PAIA manual and to submit this manual to the South African Human Rights Commission (SAHRC). The manual should contain:

- What subjects the body records their information under;
- Categories of records under each subject; and
- What records are automatically available.

The manual also needs to be available in the public domain. For an example of this sort of manual, you can go online to [www.joburg.org.za](http://www.joburg.org.za) and search for their Promotion of Access to Information Act 2 of 2000 manual to see the kind of detail that the City of Johannesburg has provided to comply with their PAIA duties. You can also contact the City of Johannesburg telephonically on (011) 375 5555.

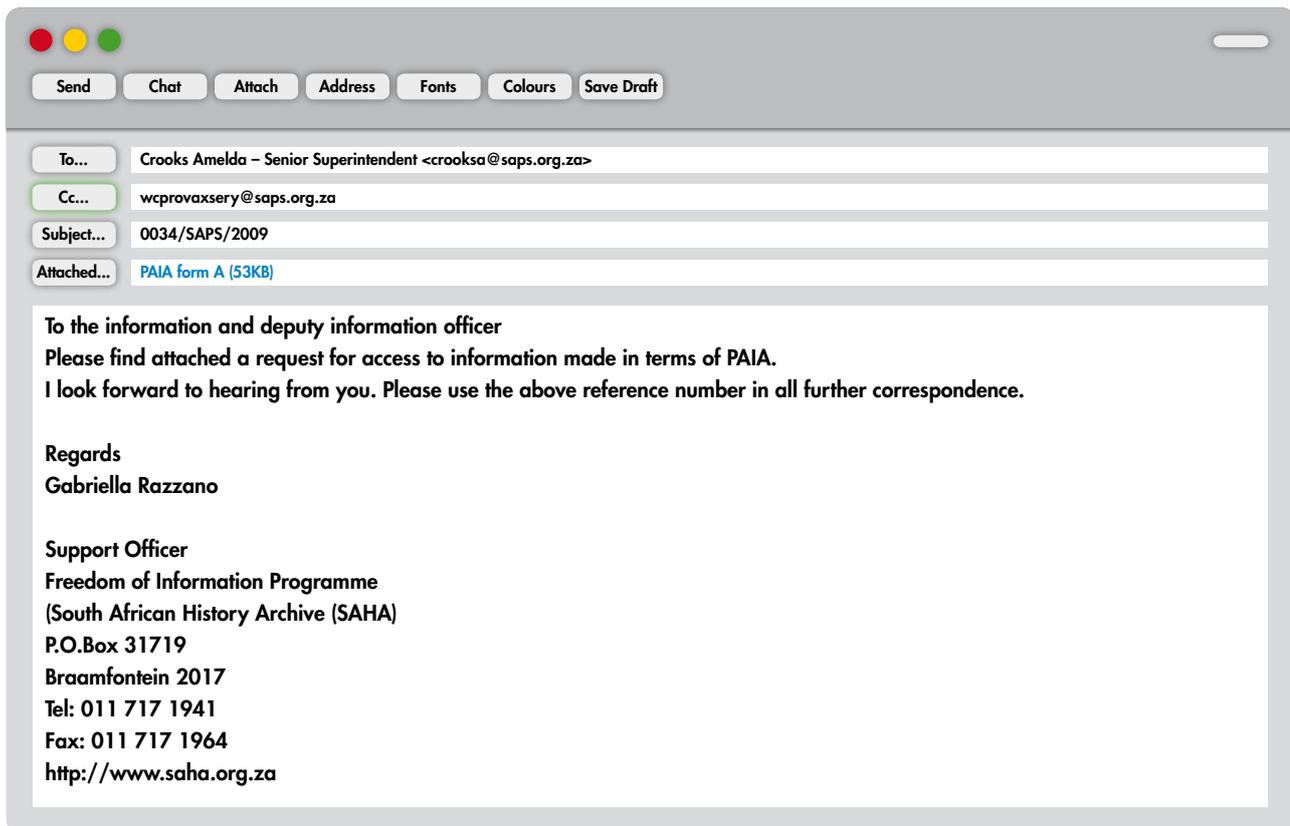
If you apply to the wrong body they must pass on the request to the correct body, but these manuals are clearly an additional help in the attempt to find out who you should submit your request to.



# INFORMATION AND DEPUTY INFORMATION OFFICERS

PAIA tells us that every public body must have an information officer (IO) and deputy information officer (DIO). They are in charge of handling your PAIA requests. They must also assist you as much as possible when you make your request. PAIA also informs these officers that, when they are performing their PAIA tasks, they should rather lean to the side of openness than towards secrecy.

You should note that it is best to send PAIA requests to both the information officer and deputy information officer at the same time to ensure that your request goes to the correct person. You can do this in an email by adding the extra name of the deputy information officer as a 'CC'. For example:



## The role of the information officer is to:

1. Receive the PAIA request.
2. Coordinate a request within the body (this may involve contacting one or more of the relevant offices to search for the record(s)).
3. Make a decision as to whether to grant access to the record(s) being requested.
4. Liaise with the requester (e.g. they may need to ask the requester for more details, may need to request an extension of time to deal with the request, etc).
5. Advise the requester of the outcome of their PAIA request.
6. Provide the requester with reasons for the decision made.
7. If the records are granted, provide the requester with a copy of the record(s).

# MEET AMELDA CROOKS

A deputy information officer

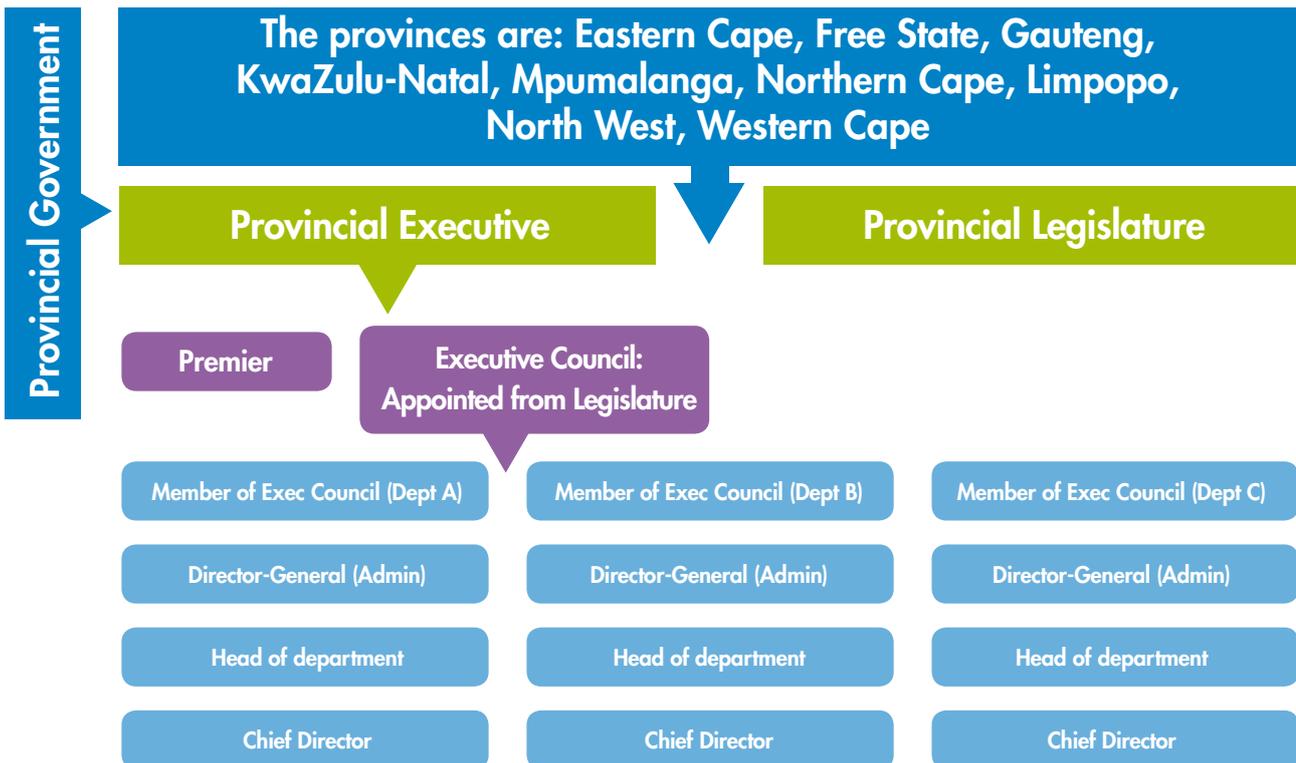
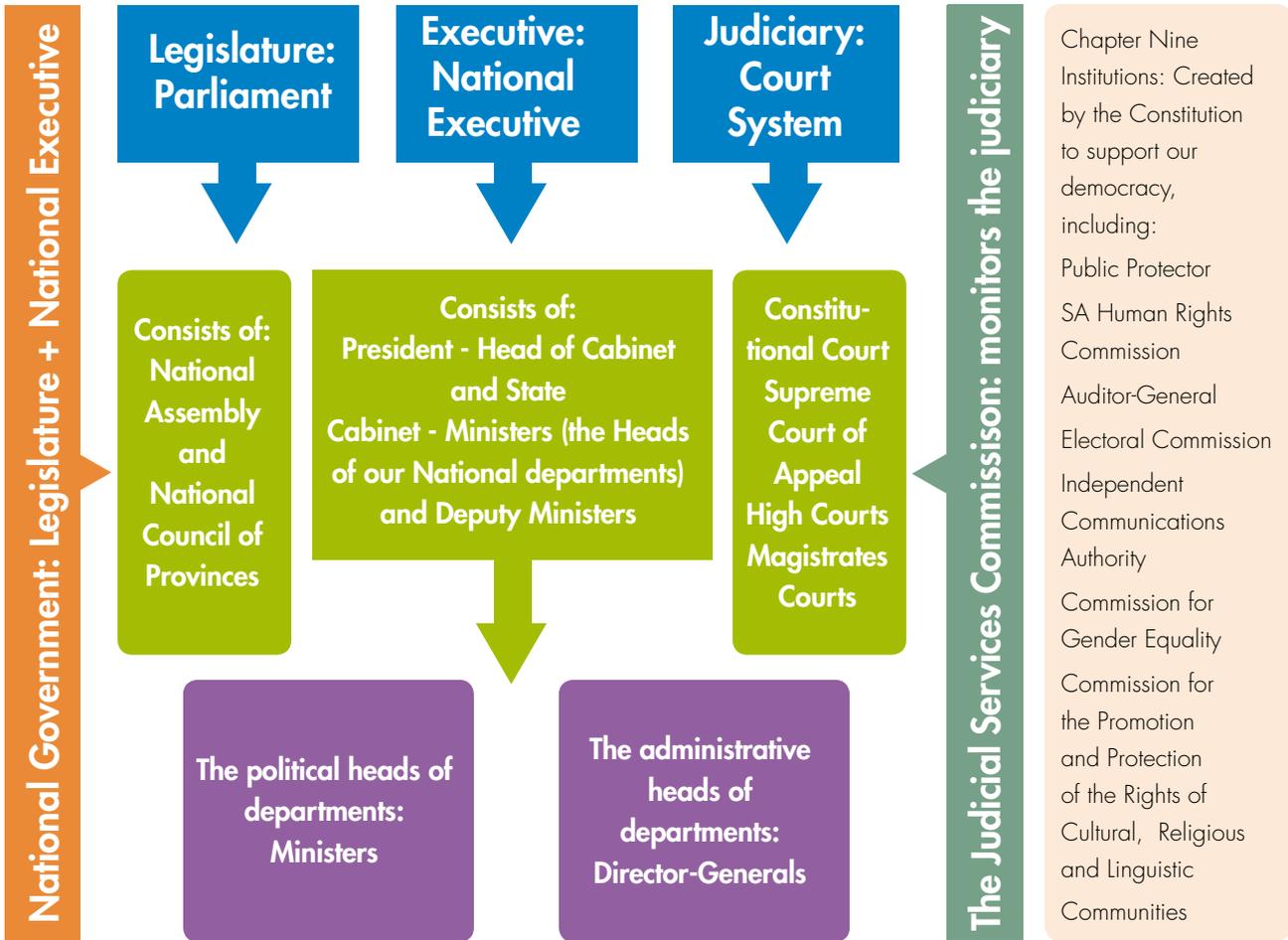


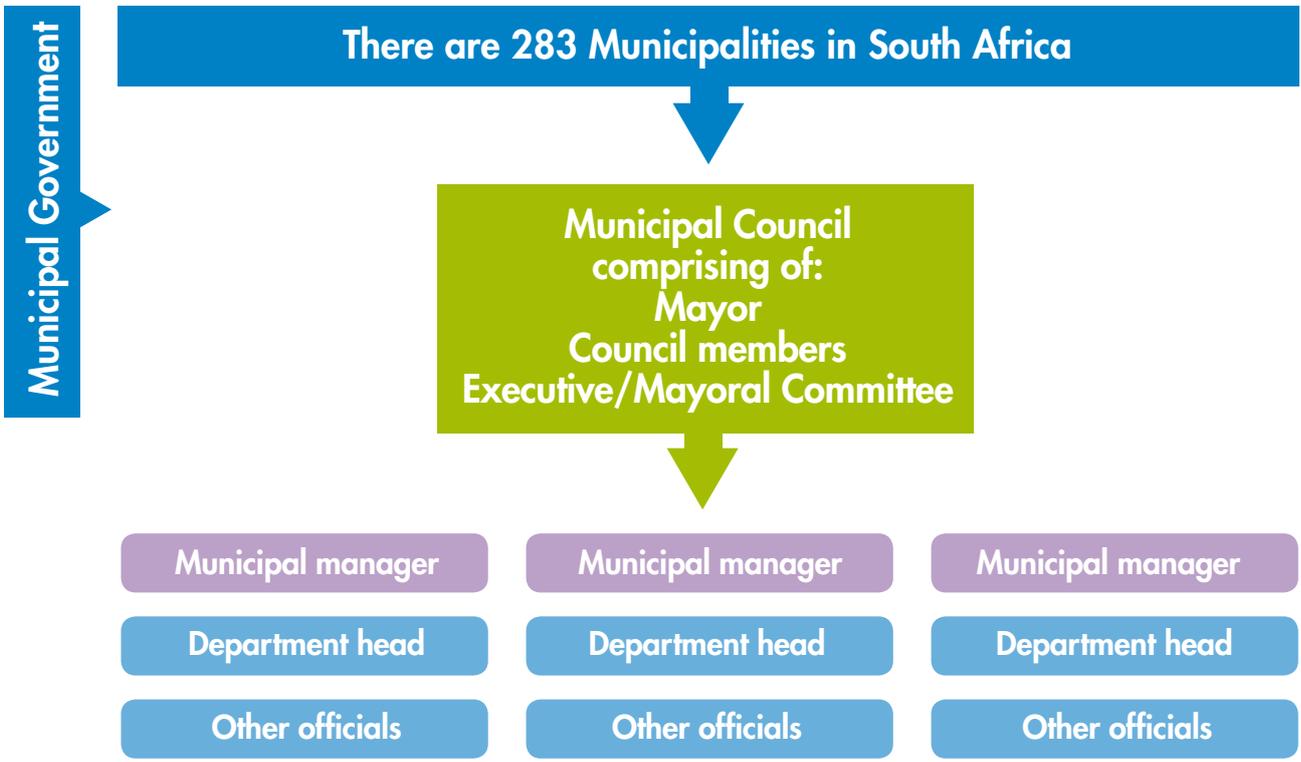
Amelda Crooks is the award winning deputy information officer of the South African Police Service. Her duties include managing and presenting training workshops about PAIA to others; compiling and updating the PAIA manual for her department; making recommendations about PAIA requests that have been received; assisting the public to use PAIA, and much, much more. Amelda Crooks has excelled in demonstrating what it means to be a deputy information officer, and has this to say about her role:

**“As the first national deputy information officer of the South African Police Service I have experienced that you can ensure that the ideals embodied in the Promotion of Access to Information Act are realised if you perform your responsibilities as DIO with enthusiasm and extreme commitment. As most police services have a culture of being secretive, the biggest challenge of being a DIO in a policing environment, is to make or ensure a change of this tendency. Therefore, you have to establish and nurture a culture focussing on what can be done to allow access to a record, rather than to deny access. In the service this culture is surely growing and as a DIO I can see that employees experience that being transparent does not impede on their effectiveness but actually assists them in achieving their policing targets. To be a national DIO, one should not hesitate to intervene in challenges experienced with requests to find ways of swift and effortless access to records to ensure that requesters have effective access to records to enable them to more fully exercise and protect all of their rights. A NDIO must implement the Act in a professional manner, handle all requesters equally and must through continuous training and guidance inspire other DIOs to do the same.”**  
– Amelda Crooks

# STRUCTURES OF GOVERNMENT

In order to identify who to send your PAIA request to, it may help to see how the different levels of national, provincial and local government are structured.





# THE NEW SOUTH AFRICAN ADMINISTRATION

With the change in presidency in 2009, there has been a big shift in the way government departments' responsibilities are divided. This chart assists us in understanding the concerns of each department. You should bear in mind, after each new administration is put in place, that there will probably be changes in departmental structures which you should check up on. You can find departments' names at: <http://www.info.gov.za/aboutgovt/dept.htm>.

It should be noted that this is only a guide to how to relate a problem to a particular department. Many of them in reality overlap. For instance, we have noted that the Department of Water Affairs can address socio-economic problems, but it should also be noted that they could address many environmental problems.

PROBLEM	DEPARTMENTS TO CONTACT
If you have queries relating to how the government is administering your affairs, you might need to approach:	<ul style="list-style-type: none"> <li>• Home Affairs • Independent Complaints Directorate • Public Administration Leadership and Management Academy</li> <li>• Public Service and Administration</li> <li>• Public Works • Science and Technology</li> <li>• SA Revenue Service • Transport</li> </ul>
If you have queries relating to international affairs or relations, you might approach:	<ul style="list-style-type: none"> <li>• International Relations and Cooperation</li> <li>• Tourism</li> </ul>
If you have queries relating to education problems, you might need to approach:	<ul style="list-style-type: none"> <li>• Basic Education • Higher Education and Training</li> </ul>
If you have queries relating to your socio-economic rights, you might need to approach:	<ul style="list-style-type: none"> <li>• Health • Human Settlements • Labour</li> <li>• Rural Development and Land Reform</li> <li>• Social Development • Sport and Recreation</li> <li>• Women, Children and Disabilities • Water Affairs</li> </ul>
If you have queries about safety, security or justice issues, you might need to approach:	<ul style="list-style-type: none"> <li>• Correctional Services • Defence and Military Veterans • Justice and Constitutional Development • National Intelligence Agency</li> <li>• Police • SA National Academy of Intelligence</li> <li>• SA Police Service • SA Secret Service</li> </ul>
If you have queries relating to the environment, you might need to approach:	<ul style="list-style-type: none"> <li>• Agriculture, Forestry and Fisheries • Energy</li> <li>• Environmental Affairs • Mineral Resources</li> </ul>
If you have queries as to how government is coordinated and working, you might need to approach:	<ul style="list-style-type: none"> <li>• Communication • Cooperative Government and Traditional Affairs</li> <li>• Economic Development • Government Communication and Information System</li> <li>• National Treasury • Public Enterprise</li> <li>• Statistics South Africa • Trade and Industry</li> <li>• The Presidency</li> </ul>

# THE ENTITIES THAT MONITOR

There are two key institutions in charge of monitoring government's PAIA role in terms of the Constitution: the Public Protector and South African Human Rights Commission.



## The Public Protector

The Public Protector (or Ombudsman) is an independent institution, provided for in chapter 9 of the Constitution, which receives complaints from people aggrieved by government departments, agencies or officials. With a special focus on mediation, the Public Protector acts as a referee to look at all sides of the problem you might be complaining of.

They can investigate any government level and any person performing a public function. This would then include the ability to investigate a complaint against an information officer of a public body who is not doing their job, including those working for Eskom, Telkom and the South African Broadcasting Authority.

If you have a complaint against a public body (for instance, because they have been unfair, abused their powers, been dishonest or incompetent) you can approach the Public Protector who will first advise you as to whether or not your complaint is something they can take care of.

The Public Protector's service is free, and they are contactable tollfree on: 0800 11 20 40, or online at [www.publicprotector.org](http://www.publicprotector.org). They also have booklets available that describe what they do in more detail.

As you can see, if government doesn't follow up on its Batho Pele principles, the Public Protector will be there to hold them accountable.



## The South African Human Rights Commission

The South African Human Rights Commission is also an institution derived from chapter 9 of the Constitution. Its aims are to promote, protect and monitor human rights in South Africa, which includes the right of access to information.

It also has a specific responsibility to promote and monitor the implementation of PAIA and is the constitutional 'watchdog' of the Act. With this mandate in mind the commission will be able to:

- Assist you in making PAIA requests to any type of body;
- Assist you with process questions;
- Follow up on complaints you might take to them if you have been denied access to information;
- Assist the responsible bodies in how to implement PAIA; and
- Provide information, education and training about PAIA.

If you would like the assistance of the South African Human Rights Commission on any matter, they can be contacted at (011) 484 8300 or online at [www.sahrc.org.za](http://www.sahrc.org.za). They also have booklets available, which describe in more detail what they do. Further, on their website, you can find some electronic learning resources which are available free to the public under the 'Education and Training' page on their website.

## Coordinating Committee

It is not only outside bodies that monitor public bodies, but the information officers themselves. The National Information Officers Forum is an organisation, developed with the assistance of the SAHRC, which gives information officers an opportunity to discuss the practical implementations of PAIA by the people charged with using it and it is hoped this will lead to optimal service delivery. This occurs mainly through an annual conference where information officers and information practitioners share their experiences and problems, but also discuss the latest developments in legislation which might affect access to information in South Africa.

The forum is then managed and assisted by a central group of members, elected by the participants at the forum itself, who serve as the Coordinating Committee of the National Information Officers Forum. This is a national committee, but they are currently also in the process of introducing provincial committees, with their own smaller regional forums, as well.



## The Golden Key Awards: Monitoring accountability of public bodies

Every year on the 28th of September the world celebrates Right to Know Day – and South Africa is no different. The day has given rise to the Golden Key Awards (run jointly by the Open Democracy Advice Centre and the South African Human Rights Commission) which celebrate positive performances by government departments (as well as some civil society awards) in implementing PAIA.

To create these awards, a request is sent to all the different departments for a copy of the body's PAIA report and PAIA manual, which they are obliged to submit anyway by PAIA in terms of sections 32 and 51. The responses are then assessed according to the strength of their 'roadmap', the efficiency of their record management, how well their internal procedures work and the resources allocated to assist in PAIA. The awards have been able to show some consistently good performers, which include the South African Police Service and the Department of Defence.

## Results

The awards are particularly useful for determining how easy it will be to receive a response from the various departments.

**Overall responses**



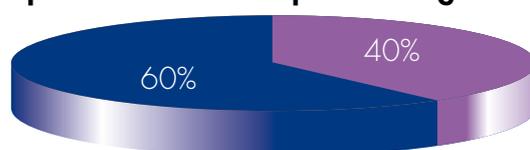
- ▲ Mute refusal (information not received)
- ▲ Information received

**Results of requests submitted to 27 district municipalities**



- ▲ Information received
- ▲ Mute refusal (information not received)

**Results of requests submitted to provincial government departments**



- ▲ Information received
- ▲ Mute refusal (information not received)

## Rusty Padlock Awards: monitoring underperforming public bodies

The Rusty Padlock Awards have shown the difficulties still faced by people when trying to use PAIA. In spite of monitoring entities, there are still departments which underperform in their PAIA duties. As a result, the Rusty Padlock Awards have been developed by civil society to take note of those departments which fail in their obligations. The 'winner' of the 2009 Rusty Padlock was the Department of Health, which has consistently failed to comply with their PAIA duties over the past few years.



## Civil Society

Civil society is a key player in helping to ensure that PAIA is able to realise its full potential. The PAIA Civil Society Network (PCSN) is a network of civil society organisations (and some individuals) who have banded together to maximise their experiences with PAIA and to help plan how to work toward bettering PAIA implementation nationally.

Many of these organisations provide training to the public to assist them in utilising PAIA. These organisations can be contacted directly if you require assistance in PAIA related matters. The training provided has also meant the growth of the network – two new organisations joined the network in 2009, namely Khulumani Support Group and Tshwaranang Legal Advocacy Centre, after receiving training in PAIA from the South African History Archive.

# FOUNDING MEMBERS OF THE CIVIL SOCIETY NETWORK

## FREEDOM OF EXPRESSION INSTITUTE (FXI)

FXI assists communities and individuals in using PAIA to access their socio-economic rights. It focuses on both public and private organisations that are involved with service delivery. • **Postal Address:** PO Box 30688, Braamfontein, 2017, South Africa • **Telephone:** +27 (0)11 482 1913 • **Email:** fxi@fxi.org.za

## LEGAL RESOURCES CENTRE (LRC)

The Legal Resources Centre (LRC) is a non-governmental organisation focussing on human rights and access to justice. They assist all persons with using PAIA. • **Postal Address:** PO Box 9495, Johannesburg 2000 • **Telephone:** +27 (011) 836 9832 • **Email:** jhb@lrc.org.za

## NELSON MANDELA FOUNDATION (NMF)

The NMF is an organisation devoted to promoting the vision of its founder. Largely through its Memory programme, the organisation is devoted to preserving our heritage and using this to move our development forward. It also facilitates dialogue between communities and civil society organisations around all issues, including PAIA related issues. • **Postal Address:** Private Bag X70000, Houghton, 2041, South Africa • **Telephone:** +27 (011) 728 1000 • **Email:** nmf@nelsonmandela.org

## OPEN DEMOCRACY ADVICE CENTRE (ODAC)

ODAC's mission is to promote transparent democracy, foster a culture of corporate and government accountability, and assist people in South Africa to realise their human rights. They provide an outreach programme which goes into communities to identify key problems and also assists in the training of those communities in PAIA matters. • **Postal Address:** PO Box 1739, Cape Town, 8001 • **Telephone:** +27 (021) 461 3096 • **Email:** odac@opendemocracy.org.za

## PUBLIC SERVICE ACCOUNTABILITY MONITOR (PSAM)

Based in the Eastern Cape, this organisation monitors how public officials are delivering to their communities. They have a significant reporting function and are proactive users, and trainers, of PAIA, which assists them in this reporting function. • **Postal Address:** PO Box 94, Rhodes University, Grahamstown, Eastern Cape, 6139, South Africa • **Telephone:** +27 (046) 603 8358 • **Email:** psam-admin@ru.ac.za

## SOUTH AFRICAN HISTORY ARCHIVE (SAHA)

SAHA is a non-governmental organisation with a programme, the Freedom of Information Programme, solely devoted to PAIA related issues. SAHA assists in training community based organisations and helping to build their capacity to use PAIA to further those organisations' aims. It also assists individuals and organisations in submitting PAIA requests. • **Postal Address:** PO Box 31719, Braamfontein, 2017, South Africa • **Telephone:** +27 (011) 717 1941 • **Email:** info@saha.org.za

## SOUTH AFRICAN HUMAN RIGHTS COMMISSION (SAHRC)

The SAHRC is a public institution set up by chapter 9 of the Constitution. It is concerned with monitoring the implementation of PAIA and assists in training community organisations and individuals. It has also set up an Information and deputy information officers forum to assist the implementers in PAIA related issues. • **Postal Address:** Private Bag 2700, Houghton, Johannesburg, 2041 • **Telephone:** +27 (011) 474 8300 • **Email:** paia@sahrc.org.za

## KHULUMANI SUPPORT GROUP (NEW MEMBER SINCE SEPT 2009)

Khulumani is a community based organisation that received special training in regard to PAIA by SAHA. They have a particular focus on transitional justice and now have a trained PAIA coordinator who assists all members of the organisation in using the Act. • **Postal Address:** PO Box 31958, Braamfontein, Johannesburg, 2017 • **Telephone:** +27 (011) 833 2045 • **Email:** info@khulumani.net

## TSHWARANANG LEGAL ADVOCACY CENTRE (NEW MEMBER SINCE SEPT 2009)

Tshwaranang Legal Advocacy Centre is a community based organisation that received special training in regard to PAIA by SAHA. With a special focus on promoting the rights of women, the organisation now has a trained PAIA coordinator who assists all members of the organisation in using the Act. • **Postal Address:** PO Box 31006, Braamfontein, Johannesburg, 2017 • **Telephone:** +27 (011) 403 8230/4267 • **Email:** director@tlac.org.za

## A CASE STUDY:

### How PAIA has been used by the Tshwaranang Legal Advocacy Centre

In 2008 the Tshwaranang Legal Advocacy Centre (TLAC) had heard disturbing complaints from women seeking advice from the centre that their children had been forcibly removed from their care into foster homes that were then providing inadequate care. Worried by this situation the TLAC, in conjunction with SAHA, decided to submit a PAIA request to the Gauteng Department of Social Development (GSD). The aim was to see whether the department was being responsible in its placement of children into foster care. The request therefore asked for access to the Gauteng Department's Standard Procedures in relation to removing children from their parents and placing them in foster care, including a significant number of specific details in regard to these removals such as the type of training required for foster parents, and how foster families are monitored. This was submitted on 20 February 2009.

On 15 May 2009 the GSD was emailed informing them that 30 days had passed and therefore they were presumed to have required a 30 day extension. In response, the department stated they would investigate – but on 19 May 2009 it was said that the request had been lost, and a copy had to be resubmitted for them to consider.

On 27 May 2009 a letter was sent by the department stating that they had provided the requested information, but, in fact, no information was attached. By as late as 20 July 2009, even after significant attempts to communicate with the department, there had still been no official response.

However, finally after TLAC's continued persistence, the files were received on 6 August 2009. Possession of the files has allowed the TLAC to give proper and considered legal advice to their clients, as well as helping to identify gaps in the foster care system which will be considered in future civil society advocacy on the issue.

Their story demonstrates that, even when you use PAIA correctly, getting information from a public body can be a hard road – even if it does end in reward.

## ACTIVITY: QUIZ YOURSELF



Answer these questions, to see how well you have understood this chapter.

1. What is the name of the principle adopted to underscore the South African government's approach to administration?
2. What section of the Constitution talks about access to information?
3. Which was the first country to have an access to information law?
4. Can non-South Africans submit a PAIA request?
5. What extra requirement must you show if you want to submit a request to a private body, rather than a public body?
6. Who do you submit your PAIA request to in an organisation?
7. If you had any form of educational problem, what are the new names of the two possible departments you would submit your request to since 2009?
8. Which two institutions are charged with monitoring PAIA?
9. What Department of government won the Rusty Padlock Award in 2009?
10. Name three organisations in the PAIA Civil Society Network?
11. Name one of the two departments mentioned under the description of the Golden Key Awards who are said to be 'consistently good performers'?

ANSWERS

1. Batho Pele.
2. Section 32.
3. Sweden.
4. Yes.
5. You must state which right you are protecting or exercising by asking for this information.
6. The information officer and/or deputy information officer.
7. Basic Education and Higher Education and Training.
8. The South African Human Rights Commission and the Public Protector.
9. The Department of Health.
10. FXI; Legal Resources Centre; NMF; ODAC; PSAM; SAHA; SAHRC; Khulumani Support Group; or Tshwaranang Legal Advocacy Centre.
11. The South African Police Service and the Department of Defence.



# CHAPTER 2

## Submitting a PAIA Request

### IN THIS CHAPTER WE COVER:

- How an issue can be turned into a PAIA request.
- Grouping types of information
- Lists of kinds of information you can request
- What details to give: what, when, where and who?
- Find out if the information is in the public domain
- Personal information
- What information **MUST** be given?
- What information **MUST NOT** be given?
- What information **MAY NOT** be given?
- The public interest override
- Avoid frivolous and vexatious requests
- Quiz
- PAIA forms
- What dates should I take note of?
- What costs are involved?
- Who does not have to pay fees?
- Method of payment
- Khulumani – a case example of using PAIA to help on an issue
- A final checklist
- **Activity: Consult the community**

# HOW AN ISSUE CAN BE TURNED INTO A PAIA REQUEST

The sources of your rights lie in the Constitution. What this means is that, when you are looking to hold public or private bodies accountable, it should be the first place you look to for ideas on what kind of information you are seeking. The Bill of Rights, in particular, should be a starting point for you to determine what your rights are. Your constitutional rights include the right of access to adequate housing in section 26; the right to dignity in section 10; the right to health care, food, water and social security in section 27; and a whole group of other very important things all the way from section 9 to 37. These rights must be respected by both public and private bodies.

## How an issue can be turned into a PAIA request

A PAIA request is useful because it can help you with a problem by giving you information you can then use to solve that problem. You need to think your problem through. Let's look at an example of a conversation between a facilitator and workshop participant to see how they thought about a problem.

### ACTIVITY

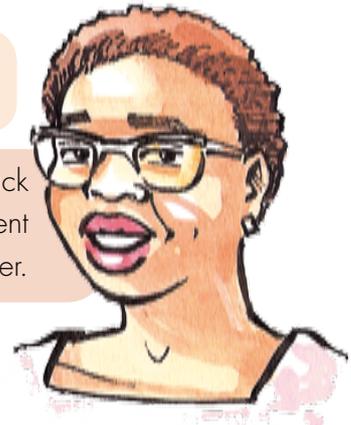


**In this example, what bodies do the participants need to approach and for what kinds of information?**



**Facilitator:** What is an issue in your life which you want to use PAIA to help solve?

**Participant:** My sister keeps getting sick and we need help. The government should be doing more to make her better.



**Facilitator:** That is a problem. So who do you think you should approach?

**Participant:** Well, the Department of Health are usually in charge of health issues. Maybe I could send a PAIA request to them to find out what they are doing to make her better?

**Facilitator:** That is true, but shouldn't you first ask why your sister is getting sick?

**Participant:** I suppose so – she keeps getting asthma attacks because of the damp and smog.

**Facilitator:** Why is she being exposed to damp and smog?

**Participant:** Because she is sleeping on the floor of our cousin's shack. Also, she is close to a factory that seems to be letting off too much dirty smoke into the area.

**Facilitator:** That's terrible! Why doesn't she have her own house? And what do you know about the factory's smog?

**Participant:** She applied for a RDP house years ago, but we just haven't heard anything. Also, one of the councillors went to speak to the factory owner, but he just said everything he was doing was legal.

**Facilitator:** That's interesting. So wouldn't you agree that her real problems come from not having a house and not knowing if the amount of smog coming from the factory is at the legal levels – it could be triggering her asthma, because smog is a health danger?

**Participant:** That is true. The problem is about housing and pollution and what we need to know is about what is happening about her RDP house, but also what the levels of pollution coming from the factory are. That means I should make a PAIA request to the Department of Housing and our local RDP office about her housing application, right?

**Facilitator:** And you can also make a PAIA request to the factory, saying that the smog may be affecting her right to a clean environment and her health. This would be a request to a private body. You could also ask for details about the factory's emissions and pollution levels.

**Participant:** Thanks. I can see that my problem is multi-layered and that different kinds of information from different bodies can help me understand it.

As you can see from the conversation, the best way of knowing the right question to ask is thinking carefully about what the real problem is. Once you have identified the problem you can then think of the information you could request. It helps to speak to others as well to discuss what the best approach might be.

## ACTIVITY



### Grouping types of information

There are four main categories of information:

#### 1. Policy documents

These are the kinds of documents that would help to show what a body intends to do.

#### 2. Procedural documents

These are the kinds of documents which show how a body practically implements what it does.

#### 3. Resources

These are the kinds of documents that show the capacity of a body to do what it does.

#### 4. Results

These are the documents which show the effect of what a body does (and in many ways is a result of all the kinds of information dealing with the first three groupings).

### List of kinds of information you can request

Here are some examples of useful kinds of information:

- Annual reports
- Strategic plans
- Annual budgets
- Records showing how an organisation spends its money
- Recruitment policy
- HIV/AIDs policy
- Evaluation reports
- Tender documents
- Various types of statistics, including crime statistics
- Future construction plans, i.e. for roads, toll gates or event parks and recreational areas
- Directives on managing the public body's recruitment policy
- Records dealing with the number of people who are being helped by a programme, or outlining what the demographics of such a group are, i.e. housing allocations
- Directives on managing public body's HIV/AIDs policy.

1. Divide the list of kinds of information into the categories of: policy documents, procedural documents, resources, and results. Discuss your selections as a group.
2. Now that you better understand what different types of information address, look through the list and identify which types might be useful for solving any problems you have? Discuss this as a group. Using these subdivisions helps to demonstrate again the importance of the relationship between your problem and what you need to ask for. For instance, if you think a body has no planning in place, you will try and look for their policy documents. If you think a body is causing pollution through its manufacturing, you will look for the type of documents which show the results of their activities.

Using these subdivisions helps to demonstrate again the importance of the relationship between your problem and what you need to ask for. For instance, if you think a body has no planning in place, you will try and look for their policy documents. If you think a body is causing pollution through its manufacturing, you will look for the type of documents which show the results of their activities.

### What details to give: what, when, where and who?

Moving on from what to ask, just as you want information from the body, that body needs certain information from you – it needs a full description of what you are looking for to help it respond. When you are completing a PAIA request form A or form C you should include the following information to help make it easier for the body to find what you are looking for, which you would have found out while you were doing your research:

1. **WHAT:** What type of records you want? In other words, is it an annual report, budget, set of statistics or a policy document?
2. **WHEN:** The date of the records you are requesting. The date could refer to a year, a month or even a period (such as 2008-2009).
3. **WHERE:** The location the information relates to. In other words, are you asking about HIV/AIDS policies in Gauteng, or for the annual budget for the area of Sebokeng?
4. **WHO:** The person or group the information is about, such as a person currently on a certain RDP list, or recruitment policies for the hiring of female personnel.

When you answer the WHO question, you may notice that you are asking for personal information. Section 34 of PAIA protects individuals – it says that personal records cannot be given to other people without that person’s permission. This is because your right to know has to be balanced against others’ right to privacy. In PAIA, this respect for “third party confidentiality” is a repeated concern. Third party confidentiality is just a term which is referring to the need to keep the information you hold about someone else private from other people. For instance, if you want to see your husband’s bank statements the bank will not show these to you because of third party confidentiality: they must respect the fact that they hold these documents for your husband and should not therefore be letting others see them without his permission.

### Find out if the information is already available in the public domain

Before you submit a request, your first step is to conduct research. Find out what information you can easily get hold of without submitting a PAIA request. It is best to start your research on the body’s website. You might also ask for the information at your local municipal office or in person at the public or private body’s office. You might also ask at your local library or phone the information officer directly. Only once you have done your research, will you then know whether or not you need to continue to prepare a PAIA request.



## Personal Information

Personal information would include a record where someone's name is given. This also means that when you are asking for information about somebody else, you should **always remember** to ask for the information in the record which is not personal. You would do this by making the request more general rather than personal, for example you would ask for 'Records detailing the number of RDP houses provided to residents in Bekkersdal' rather than for 'The names of the people who were given RDP houses in Bekkersdal'.

### **You can, however, submit a request for a person's personal information if:**

1. It is your own personal information.
2. The other person has given you permission to view their records and given you an "authorisation letter" to access them to which you attach a copy of your identity document.
3. The person whose information you are asking for has been deceased for over 20 years.
4. The person whose information you are asking for is deceased and you are their 'heir' i.e. child or spouse. If this is the case, then you will need to attach an "authorisation letter" explaining this, a copy of your identity document, and the deceased's death certificate.

It is also important to note that, in sections 47 and 71 of PAIA, it actually says that the public or private body are the ones who should contact that other person for permission to release their personal information (that person is entitled to refuse to allow the body to release the documents to you though).



## What information **MUST** be given?

When we use PAIA, there is some information that must be given to us; must not be given to us; or that may be given to us by the information or deputy information officer.

### **There are some types of information which a body can never refuse to give you.**

#### **For example:**

- (i) Sections 36, 64, 68 and 70 explain that when a record contains the results of any product or environmental testing/investigation and its release would reveal a serious public safety or environmental risk the body must then give this information to the requester. This is because PAIA focuses on doing what is in the interest of the public.
- (ii) Sections 41 and 44 tell us that you must also be given access to certain types of records that came into existence more than 20 years ago, which is expressed in sections 41 and 44 of PAIA.
- (iii) Sections 34, 36, 37 and 42 outline that a record cannot be refused if it contains information already in the public domain, because the information is already not secret.
- (iv) Sections 11 and 50 say that personal information about the requester must be released.



## What information **MUST NOT** be given?

Most of the information which must not be given is because of privacy and security concerns; PAIA must always be in balance with the other constitutional rights.

**There are also some types of information which PAIA says bodies **MUST NOT** give you. For example:**

- (i) Section 34 and 63 say they cannot give you information about another person (a third party) unless they have been given permission by that person to do so. This is to balance the right to know against other people's right to privacy.
- (ii) Section 35 explains that certain records of the South African Revenue Services cannot be given.
- (iii) Sections 36, 64 and 65 explain that the trade secrets of a third party or the financial, commercial, scientific or technical information of a third party cannot be given out. If it is given out that third party might be able to sue the body that releases the information'.
- (iv) Sections 43 and 69 say that information about someone else's research will also not be given.
- (v) Section 37 explains that information which was given in confidence cannot be given because this would be a breach of an agreement.
- (vi) Section 39 says that police dockets in bail proceedings and law enforcement and legal proceedings can also not be given. This section even explains that an information officer can refuse to confirm or deny the existence of such a record if they feel saying more would likely cause harm to investigations or enforcement activities.
- (vii) Sections 38 and 66 explain, importantly, that information that could endanger the life or physical safety of an individual or the security of property will not be given.
- (viii) Sections 40 and 67 prevent certain privileged legal records from being released unless the person who 'holds' that privilege gives permission (in the form of a waiver) for it to be released.
- (ix) Similarly, section 41 provides that defence, security and international relations records of the Republic cannot be given (again, an information officer can confirm or deny the existence of the record).



## What information **MAY NOT** be given?

We have seen what information must be given, what must not be given, and now we can see what might be given. This is because the Act gives the information officer the power to decide whether or not to give it to you. For example:

**There are also some types of information which PAIA says bodies **MAY NOT** give you. For example:**

- (i) Section 37 holds that information which is given to a public body in confidence by a third party may be refused if the disclosure would prejudice the future supply of similar information or information from the same source.
- (ii) Sections 38 and 66 say they also might refuse to give you information if doing so would be likely to impair or prejudice the safety of individuals and the security of property.
- (iii) Section 39 holds that a record of a public body which relates to methods of law enforcement or prevention where the disclosure could prejudice or harm investigations or enforcement activities might not be given.
- (iv) Section 41 provides that information that was supplied to another state or international organisation if that body requires that information to be held in confidence might be withheld.
- (v) Section 42 states that records that contain information that may jeopardise the economic or financial interests of the Republic or the ability of the government to manage the economy effectively could be refused.
- (vi) Section 68 explains that records containing trade secrets of a private body, including information that may put the body at a disadvantage in contractual or other negotiations or prejudice the body in commercial competition, might also be refused.
- (vii) Section 44 says records about operations of public bodies, but only if they contain an advice, opinion, report or recommendation or an account of a consultation, discussion or deliberation that has occurred, could also be refused.
- (viii) Finally, section 45 notes that frivolous or vexatious requests might not be given (these are requests which are silly or only made to harass the body).

## THE 'PUBLIC INTEREST OVERRIDE'

Looking at the previous information, it might look like a body is allowed to refuse more types of information than it is allowed to give! In light of this, PAIA contains in sections 46 and 70 something we call the 'public interest override'. This means that, no matter what the record is about, the information officer **MUST** grant your request for access if:

- “(a) the disclosure of the record would reveal evidence of—
  - (i) a substantial contravention of, or failure to comply with, the law; or
  - (ii) an imminent and serious public safety and environmental risk; and
- (b) the public interest in the disclosure of the record clearly out-weighs the harm contemplated in the provision in question.”

This means an information officer should always apply their mind to a request, even if at first glance it might look like the information could be refused.

Another thing to remember is that, if you are unsure whether they should or shouldn't give you the information, you should just make the request anyway. It is up to the body to give you the reason for refusing access if it believes it is allowed to do so.

### **Avoid frivolous or vexatious requests**

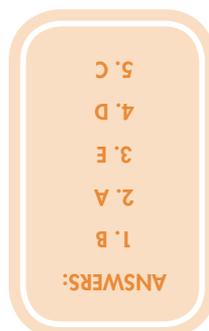
When you submit a request, always make sure it is not 'frivolous' as per section 45. This means that you should only be requesting what you actually need. You should never use the request process as an opportunity to just harass different bodies, or to be 'difficult'. It is a process put in place by the government to help and should not be abused; if it is abused, the body you request from has a right to refuse your request!

## ACTIVITY: QUIZ YOURSELF



To test your knowledge about **must**, **must not** and **may** be given, draw a line between the kind of information on the left, and the statement on the right that is correct about whether or not the information is available. See the example below: 1 matches with B. Find the other matching pairs.

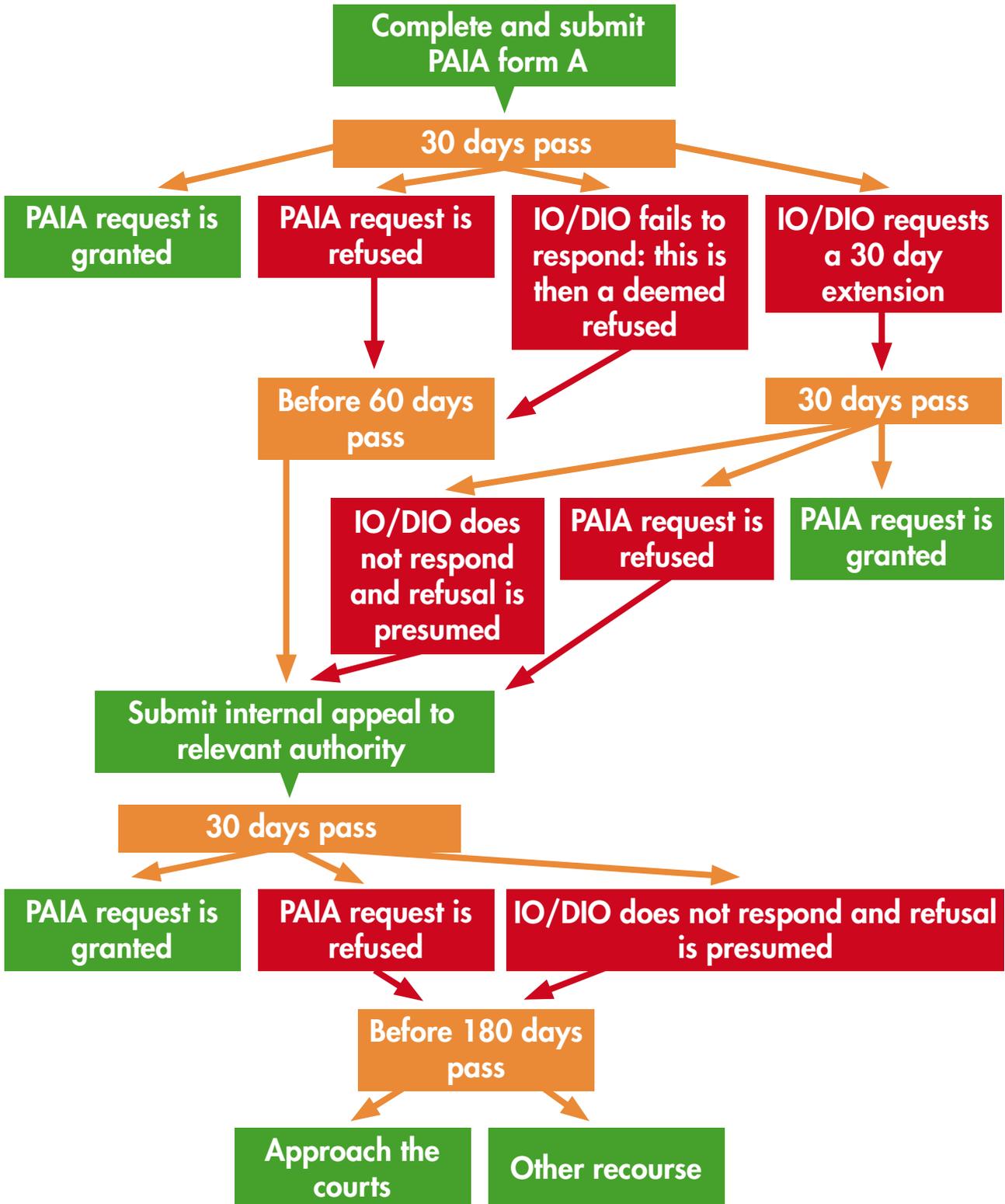
INFORMATION TYPE	Information Availability
1. The recipe for Coca Cola from the Department of Trade and Industry.	A. The information officer <b>must</b> give you this kind of information.
2. Your personal information which is held by the Department of Justice and Constitutional Development.	B. The information officer <b>must not</b> give you this kind of information.
3. Information about a private organisation's waste management system which would normally constitute a trade secret (because they specialise in waste systems), but you need to know because it is affecting the people's health who live around the organisation.	C. The information officer <b>must not</b> give you this kind of information.
4. Information that was supplied to the Zimbabwe government about their foreign nationals in our country that their government considers to be confidential.	D. The information officer <b>may</b> or might give you this kind of information.
5. Personal information about the whereabouts of someone who was a police informant and is now in protective custody.	E. The information officer <b>must</b> give you this kind of information, <b>because</b> of the public interest override.



# INTRODUCTION

Now that we have the background, we need to go into the more practical step-by-step stuff which is involved in submitting a request. We will therefore now see:

- The forms to use
- When to use the forms by
- Possible costs
- A case study

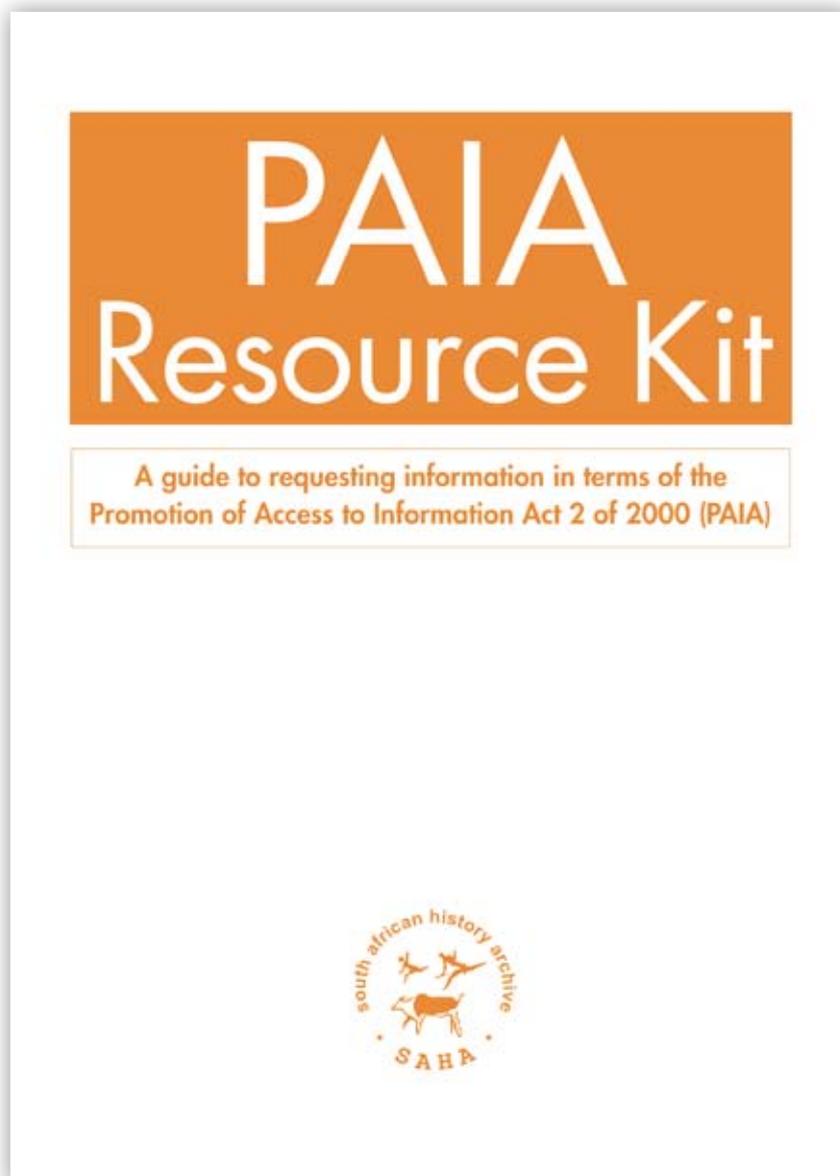


## PAIA Forms

You should review this section in conjunction with the PAIA Resource Kit. The PAIA Resource Kit was developed during training undertaken with Khulumani Support Group and the Tshwaranang Legal Advice Centre. The PAIA Resource Kit was developed to help trainees complete their PAIA requests on their own and it does this by explaining step-by-step how you should complete the different types of forms involved in the PAIA process. The kit is a useful resource, which can be kept to assist you in completing all future requests. The PAIA Resource Kit is available from SAHA and can also be downloaded off the internet at: [http://www.saha.org.za/publications/paia\\_resource\\_kit.htm](http://www.saha.org.za/publications/paia_resource_kit.htm).

SAHA would like to thank the generous financial support of the Ford Foundation for making the development of this kit possible.

PAIA refers to three forms. Let us now see what the forms we will use will look like when you get them, and what they then look like when you complete them.



## Form A

The request form A is the form you use to make the request to a public body and is the form you will use the most in practice. You can see an example of this, which can be copied. See Appendix A.

## Form B

The form B is the form you use to submit an internal appeal. You can see an example of this, which can be copied. See Appendix B. This will be dealt with in more detail in the chapter on recourse and redress.

## Form C

The request form C is the form you use to make the request to a private body. You can see an example of this, which can be copied. See Appendix C.

## What dates should I take note of?

There are different dates that we should take note of when making a request. Here is an easy table to show all the important times you should remember (later, when we deal with records management, we will go over where you can note these dates):

An initial response to your request (which includes when a recipient has transferred your request to the correct person) must happen within:	30 days
The possible extension taken by a body to the period above in which the request must be dealt with can be a further maximum of:	30 days
The transfer of your request to another public body by the body you sent it to must happen within:	14 days
The time in which a third party should be notified that information is being asked about them should happen within:	21 days
If submitting an appeal to a public body because of a refusal or other ground of appeal, you should do that within:	60 days
A public body should respond to your appeal within:	30 days
You should apply to court on the refusal of your appeal, or for another cause of action, within:	180 days

## Extension of days

As seen above, although a body must reply to you within 30 days of you submitting your request, it should be noted that in exceptional circumstances the body can ask for an additional 30 days to consider it. Sections 26 and 57 of the Act say that an information officer can extend the period by 30 days (but no more than this) for one or more of the following reasons:

1. The request is for a large number of records or requires that a large number of records are required to be searched through and without an extension it would interfere with the normal activities of the body concerned;
2. The request requires a search through records in an office of that body not situated in the same city or town and therefore cannot reasonably be completed within just 30 days; and
3. It requires a level of consultation which cannot reasonably be completed within just 30 days.

The information officer must notify you of their intention to extend the normal time period stating the period of extension, the reason for the extension and notifying you of your right to appeal this extension. While you can lodge an appeal against this extension, it is recommended that this not be done as it would in practice delay the request for just as long as if you hadn't appealed at all.

## What costs are involved?

When you submit a request you need to pay a fee to cover the cost of the administration it will take the body to process your request. Currently as it stands, the fee for a request to a public body is R35, and the fee for a request to a private body is R50.

After you have made a request, you may then be required to also pay access fees if they have chosen to give you the records. These fees are payable to the bodies for any extra time taken to search for the documents and to cover the reproducing of the record (by photocopying or transcribing), as well as for the preparation of such records. The fees are detailed in an annexure to the regulations of PAIA, but an example of such fees would be that for every A4 photocopied page of a public body they could charge R0.60, or of a private body R1.10.

## Who does not have to pay fees?

Some people do not have to pay any fees:

1. You do not have to pay fees when you are asking for your own information from a private or a public body.
2. You do not have to pay fees if you are making a request to a public body and earn less than R 14 712 per year if you are single, or R 27 192 if you are part of a couple.

You are still required to pay access fees if you are a personal requester. However, again, if you are making a request to a public body and earn less than R 14 712 per year if you are single, or R 27 192 if you are part of a couple, then you also do not need to pay them.

## Method of payment

Different governmental departments require you to pay the fees in different ways and the methods of paying fees may also change from time to time, so you should try and find out what this process is when you make contact with the department for the first time. For a list of the fee process for different departments see Appendix D.

# KHULUMANI

## – a case example of using PAIA to help on an issue

Lets now try to show what we have learnt in an example. The Khulumani Support Group is a group that received training about PAIA with SAHA in 2008-2009. This group has a particular focus on issues involving the Truth and Reconciliation Commission (TRC). When SAHA spoke to the group about what issues they had, we heard that they were not convinced that the unit was fulfilling all its proper roles and duties. They also felt that, as a group, the unit was not addressing their needs. The group then brainstormed and said they would like to know:

- (i) How is the TRC Unit run?
- (ii) How does the TRC Unit operate?
- (iii) Which part of the TRC Unit should Khulumani contact?
- (iv) Who is responsible for what in the unit?
- (v) Who is, in the end, being assisted by the work of the unit?
- (vi) Where are copies of the unit's annual reports?
- (vii) How much money was the unit given to do its work?
- (viii) How is the unit spending its money? The group had heard much conflicting information about this.

After finding out what the key issues were, and knowing that the group was asking questions about the TRC Unit, discussions showed that all this information could be answered by getting four key types of information:

1. Working plans of the unit (this would show how things worked)
2. Details of who the unit has assisted
3. Annual budgets (this would show what is being spent and where)
4. Annual reports

Using this information, the group filled out a request form A, which can be seen as Appendix E.

EXAMPLE OF FORM A (PAGE 1 OF 4)

**FORM A**  
REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY  
(Section 19 (1) of the Promotion of Access to Information Act, 2000  
(Act No. 3 of 2000)  
(Regulation 2)

**FOR DEPARTMENTAL USE**

Request received by: \_\_\_\_\_ Reference number: \_\_\_\_\_  
(State rank, name and surname of Information Officer/Deputy Information Officer)  
on: \_\_\_\_\_ (date) or \_\_\_\_\_ (date)  
Request fee (if any): R. \_\_\_\_\_  
Deposit fee (if any): R. \_\_\_\_\_  
Access fee: R. \_\_\_\_\_

MINISTER OF EDUCATION  
SOUTH AFRICAN HISTORY ARCHIVE (SAHA)

**A. Particulars of public body**  
The Information Officer/Deputy Information Officer: \_\_\_\_\_

**B. Particulars of person requesting access to the record**  
1) The particulars of the person who requests access to the record must be recorded below.  
2) Furnish an address and/or the number in the Republic to which information must be sent.  
3) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname: \_\_\_\_\_  
Identity/passport number: \_\_\_\_\_  
Postal address: \_\_\_\_\_  
Fax number: \_\_\_\_\_  
Telephone number: \_\_\_\_\_  
E-mail address: \_\_\_\_\_

18 PAIA Resource Kit brought to you by the South African History Archive (SAHA)

# A FINAL CHECKLIST

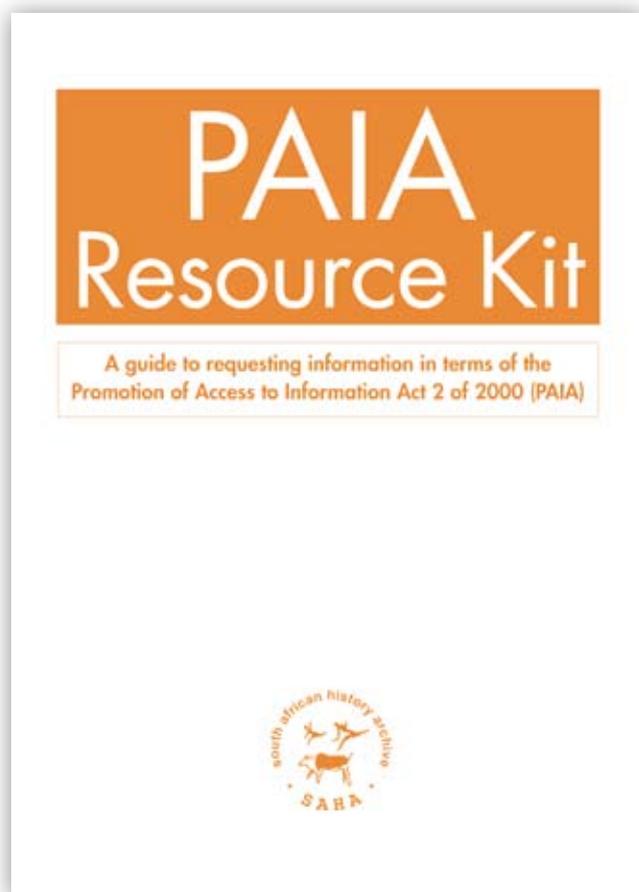


Now that you have constructed your PAIA request using all the knowledge you have gained from this chapter and your resource kit, you can check whether you have done everything you need to before you send off the request by looking at this list. Don't be scared of how long it is – it includes a lot of checks that we will be covering again in the records management section!

## CHECKLIST: SUBMITTING A PAIA REQUEST

TASK		COMPLETED?
Determine the issue(s) you want to address.		
Identify what information will be useful to address your issue(s).		
Find out all the details you need to describe the kind of information you want. These are the Who, What, When and Where details.		
Work out which public or private body/bodies may have the record(s) you would like to access.		
<b>Very important:</b> Determine who the proper information and deputy information officer for the correct body is. Confirm these details via phone or email.		
<b>Do research: Is the record already publically available?</b>	Yes: you don't need to submit a PAIA request to access the record.	
	No: Prepare and submit a PAIA request to access the record.	
<b>PREPARE AND SUBMIT PAIA REQUEST</b>		
<i>The step by step checklist for how to start your record keeping is covered in our records Management section of this manual, later.</i>		
Complete PAIA cover fax using: <i>PAIA Resource Kit: How to compile a Fax Cover.</i>		
Complete PAIA cover letter using: <i>PAIA Resource Kit: How to compile a Cover Letter.</i>		
<b>Are you submitting a request to a public or private body?</b>	<b>Public:</b> Complete form A using: <i>PAIA Resource Kit: How to complete form A.</i>	
	<b>Private:</b> Complete form C using: <i>PAIA Resource Kit: How to complete form C.</i>	
<b>Are you submitting the PAIA request on behalf of an individual or organisation?</b>	<b>Yes:</b> You will need proof that you have permission to do so. This is done with a Letter of Authorisation and a copy of their South African ID or passport (SA or foreign). See the PAIA Resource Kit.	
	<b>No:</b> You will need to provide your ID number when completing form A or form C.	

Send all the documents to the relevant public or private body.		
<b>How are you submitting your PAIA request?</b>	By <b>fax</b> : Wait for the fax confirmation. If it has been sent successfully you will get a print out with the message "OK". If the message does not read "OK" you will need to re-fax your PAIA request. You may need to call the body for an alternate fax number. If the fax does send "OK" store your fax confirmation in your request folder.	
	By <b>post</b> : Send by registered post and store a copy of the receipt in your request folder.	
	In <b>person</b> : Make sure you are given a receipt from the body stating the date that your PAIA request was submitted and received. Store a copy in your request folder.	
Call office of the information officer to confirm that your PAIA request has been received and that they know that they will now need to respond within 30 days from this date.		
Make a note in your diary that a response is due in 30 days for this request, so that you know when an answer is due.		
Make a note in your diary 2-3 days before the 30 day expiry. If you have not received a response by this date, call to remind the information officer/deputy information officer of the Response Due Date.		
Keep managing your records throughout (see chapter 3 on records management).		
Check your diary each day to see if there is anything to be followed up.		



# ACTIVITY: CONSULT THE COMMUNITY



Below is an activity for you to take home and complete. It will help you to use PAIA in problems experienced by your community.

## Putting PAIA into action in my community

Please complete this worksheet.

The worksheet asks you to do the following:

### Prepare to write a PAIA request to get this information.

**STEP 1:** You must organise a community/branch meeting where community/branch members can discuss what issues are affecting the community.

**STEP 2:** Take note of the issues that were discussed during this meeting.

**STEP 3:** Choose one issue as a key priority for your branch.

**STEP 4:** Identify what information would help you to deal with this issue.

**STEP 5:** Work out who may have this information.

**STEP 6:** Work out what records you should ask for in order to access this information.

<p><b>STEP 1:</b> I met with my organisation/ community representatives on (date, time, venue):</p>	
<p><b>STEP 2:</b> The issues we discussed included:</p>	
<p><b>STEP 3:</b> The one issue I selected as a key priority is:</p>	
<p><b>STEP 4:</b> Information that would assist me to deal with this issue:</p>	
<p><b>STEP 5:</b> I believe this information may be available from:</p> <p>a) Name of <b>public/private body</b></p> <p>b) <b>Public body</b> only: department</p> <p>c) <b>Public body</b> only: Level of government</p>	<p>a)</p> <p>b)</p> <p>c)</p>
<p><b>STEP 6:</b> The records I believe I should ask for in order to access this information are:</p>	<p>1.</p> <p>2.</p> <p>3.</p> <p>4.</p> <p>5.</p>

PAIA is there to protect our right to access to information. PAIA also tells us that, if we wish to use this right, we must use the correct procedure – which means using the right forms. As soon as you have mastered how to submit these forms, you have mastered the majority of PAIA, which can appear on its face to be just more complicated law.

# CHAPTER 3

## Records Management

### QUESTIONS TO BE ANSWERED IN THIS CHAPTER:

- Introducing records management
- Creating a new PAIA request number
- Justifying your PAIA request
- Creating a new record: Recording a PAIA request in a log book
- Creating a new record: Recording the PAIA request dates in a diary
- Creating a new record: Recording an “overview” of each of your PAIA requests
- Creating a new record: PAIA log book, file and diary contacts
- Creating a new record: Recording all PAIA request telephone calls
- Telephone conversation: A role play
- Creating a new record: Your final checklist!
- The power of PAIA: A quiz

# INTRODUCING RECORDS MANAGEMENT

Good records management is key to the successful use of PAIA. You need to find organised ways of dealing with all the communication you send and receive while submitting a request. During the PAIA process you will use many forms of communication such as telephone conversations; forms; emails; log books and a PAIA diary. You should be responsible for your own records management, but a central person in your organisation might also be tasked with generally administering your systems. All important communication needs to be managed in a way that allows for quick and easy access.

**Organised** adj. 3.a. Formed into a structured whole; systematically ordered and arranged; having a formal organisational structure to arrange, coordinate and carry out activities.

Good records management does not only assist in using PAIA, but also in ensuring transparency in your own organisation. If you have clear systems in place, then it is easier for other people to pick up what you are doing – after all, what if someone in charge of a request leaves your organisation, or passes the request on to you to deal with? If you have set up organised systems it will make it far easier to pick up what is going on.

**Transparent** 2.b. Easily seen through, recognized, understood or detected; manifest, evident, obvious, clear.

## Creating a new PAIA request number

Your first step when you have a request you want to make, is to give it a reference number; this is like giving it its own 'name'. Each new request you send should be given its own unique request number to make tracking its progress easier. You should make a file for each request so that a request's information is kept together in one place. Here is an example of the request reference number 0049/DEA/2009:

**No.** **0049** = the number of the request where 0001 is the first PAIA request to be submitted in that year, 0002 the next, and so on.

**Dept.** **DEA** = the acronym (or shorthand) that refers to the Public or private body to whom the PAIA request is being submitted. In this case it refers to the Department of Environmental Affairs.

**Year** **2009** = the year in which the PAIA request is submitted.

From the request reference number, we can see that this PAIA request was made to the Department of Environmental Affairs, and was the 49th PAIA request made in the year 2009.

If the last PAIA request that you submitted was number 0052/DOD/2008 and your new PAIA request is to be submitted to the South African Police Service (and it is the year 2008), then that new request reference number would be: 0053/SAPS/2008. You might also place the year first when creating request numbers to make filing and sorting PAIA request numbers into years easier.

**NOTE:** Not all public and private bodies will use your reference number in their own correspondence regarding your PAIA request. They may use their own reference number system, e.g. 00006.GR.961. You should therefore try and use both reference numbers when speaking to them, so that they can easily keep track of the communications in their system.

## Justifying your PAIA request

When you create a PAIA request, you should be aware of why you are asking for the information in your request. By keeping track of this on paper, you can ensure that:

- a) You clearly think through the type of information you are requesting; and
- b) At a later date any other person can review this sheet which may be of help if the request ends up in court.

You should then file this sheet in your request file so that it is easily accessible in future.

### WHAT IS THE SUBJECT OF YOUR REQUEST?

**Request:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



### WHY DO YOU WANT THIS INFORMATION? WHAT WILL IT HELP REVEAL OR EXPLAIN?

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

## Creating a new record: Recording a PAIA request in a log book

You have a unique number request reference. Now you need to have a book. A log book keeps all the request reference numbers so that you can easily tell what the next number of your next request should be. You should therefore log each of your PAIA requests in your 'log book'. Here is an example of a page from a logbook:

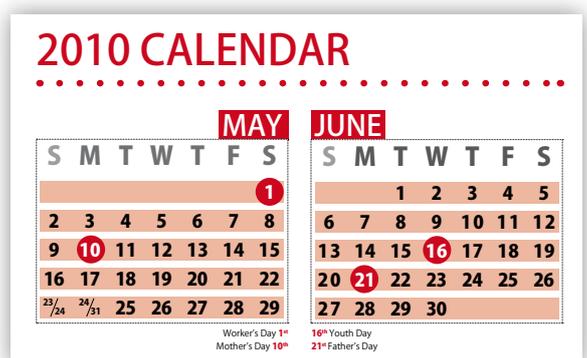
DATE	REQUEST REFERENCE NUMBER	SUBJECT
11/10/2008	0019/DOJ/2008	Records concerning the work of the TRC unit, including work plans; number of victims and survivors; the provinces where the unit assisted and Annual Budget Reports.
17/10/2008	0020/PRE/2008	All policies and/or draft policies on community reparations and plans to roll out projects as part of their commitment to community reparations.
12/11/2008	0021/DHA/2008	Records detailing the total number of RDP houses allocated in Gauteng in 2006-2007.

**NOTE:** You can now easily see that your next new request will start with 0022.

You can copy the columns into your own log book. You must remember to record every single request that you make in the logbook.

## Creating a new record: Recording the PAIA request dates in a diary

Now that you have made a request and logged it, you need to note down the dates applicable to the request. As we saw earlier when dealing with PAIA timeframes, there are a lot of dates you need to take note of, for instance the date you submit the request, the date a few days before a response is due so you follow up with the body concerned, and the date 30 days after you submitted the request so that you know when you should have received a response.



To keep track of all these dates you should get a diary for PAIA, or a calendar. This diary should only be used for your PAIA requests. Keeping a PAIA diary up to date will make it easier to keep track of each and every PAIA request.

## Creating a new record: Recording an “overview” of each of your PAIA requests

You have recorded your request in a diary, a log book and created a file for the PAIA request. It is a good idea to create an overview sheet for the top of each request's file. You should also set aside a filing cabinet to keep all your different PAIA files together.

The overview sheet is a summary of everything which has happened to a request.

Here is an example of an overview sheet:

PAIA REQUEST OVERVIEW	
Request: 0049/DEA/2009	
Who submitted this request:	Gabi
Date of original submission:	25 September 2009
Which information officer and deputy information officer was it submitted to:	Dr Ayanda Ntsaluba
Information officer and/or deputy contact details:	(012) 328 6004 (Fax) (012) 351 0857 (Tel)
What is the subject of the request:	The document outlining the amount of emissions coming from the FBGO factory next to the Alexandra township in Joburg
Was it to a <b>public</b> or <b>private</b> body:	Public: Dept of Environmental Affairs
When a response is due:	25 October 2009
Was the appeal transferred and when:	No
If transferred, to which information officer:	
What was the response:	Refused
If it was refused, on what grounds was this done:	On the grounds it constitutes private commercial information
Date of submission of appeal:	25 October 2009
Subject of appeal – on what grounds was the appeal by you submitted:	Public interest override
When a response to the appeal is due:	25 November 2009
Were the records provided: <b>Yes/No/Only in part:</b>	Yes
Where the records are kept:	SAHA offices
Number of pages of record:	312
Date file closed:	05 November 2009
<b>NOTES SECTION:</b>	
25 Sep 09: Request submitted 20 Oct 09: Received fax saying request was refused 30 Oct 09: Contacted by DEA and told Appeal successful 5 Nov 09: Sent a copy of documents to community leader in Alexandra 5 Nov 09: Closed file 30 Sep 09: Phoned and confirmed receipt 25 Oct 09: Submitted Appeal 3 Nov 09: Received documents – sent by DEA	

You can see from the example of the completed overview sheet the entire story of the file at a quick glance. It also serves as a second place to note significant dates and times! Remember to always pay particular attention to any promised deadlines. A blank copy of this overview sheet is in Appendix F – you can therefore photocopy clean versions of it for your own PAIA request files.

## Creating a new record: PAIA log book, file and diary contacts

It is important to write all your contact details (and your organisations contact details) on to the inside of the PAIA log book, diary and file so that if you misplace them they can be easily returned to you. Ensure that the information you provide is correct and current. Think of including:

- Your name
- Your organisations name
- The address of where the file must be returned
- All relevant telephone and fax numbers.

Writing these details in each of your records management books helps to ensure that they cannot be lost.

## Creating a new record: Recording all PAIA request telephone calls

When you telephone people in regard to your PAIA request, you should take note of each and every conversation. For instance, you should always call after submitting a PAIA request to make sure it was received, or to remind the IO and/or DIO of an upcoming deadline in keeping with the time frames. Most importantly, you need to call *before you have even submitted your request* to get the contact details of the IO and DIO – once you have both of their names you should try and communicate with both through the whole process. To help you keep a record of all telephone conversations, here is a list of ‘short hands’ of words you can use so that you can quickly draw up a record:



**YOU:** What is your name if you are calling, or receiving a phone call?

**CAL:** This is short for caller – what is the name of the other person? This can either be the person who called you, or who you called.

**TEL:** What telephone number will you be calling?

**RES:** What was the result of the call?



When you make or receive a call, you should log all your necessary information and give as much detail as possible. Remember:

- It is important that people who read your file later are able to know exactly what happened.
- Don't feel shy about asking someone who has called you to hold on while you get a "Phone call log" (see below) or so that you can find the file they are calling about.
- You should always have the file of the request you are talking about with you while you talk about it.
- It is also a good idea to keep a stack of phone call log sheets right next to the phone so that you can grab one quickly.
- Always remember to ask for the name and number of the person you are talking to.
- Even log those calls made which were not answered.

While you can draw up a new call sheet for each telephone call, I would suggest drawing up a one page "Phone call log". With every new file that you open you then print (or draw up) a "Phone call log" and place it in the file to record all future telephone conversations you have in relation to a particular request. There should be a "Notes" column where you write any information that was important that you learnt because of the phone call. Below is an example of what a phone call log will look like when it is being used for a specific request. Remember: there is nothing wrong with drawing one up by hand – you need to develop systems, after all, that are easy for you and your organisation to use. Here is an example of a phone call sheet:

<b>PAIA request 0049/DEA/2009</b>	
<b>Date:</b> 30/09/09	
<b>Time:</b> 10:40am	
<b>YOU:</b> Thabo	
<b>CALL:</b> Amanda Selepi	
<b>TEL:</b> (012) 351 0203	
<b>RES:</b> She answered. She confirmed the request had been received and had been forwarded to legal services to an S De Wet.	

You should remember to fill in a call on the PAIA phone call sheet even for phone calls that resulted in no answer, or resulted in you being transferred.

If you have access to a computer, you might also want to create a phone call log which would keep all the phone call information on one spreadsheet as an additional option. Here is an example of a phone call log sheet:

<b>PHONE CALL LOG</b>					
<b>Request 0049/DEA/2009</b>					
DATE & TIME	YOU	CALLER (CAL)	TELEPHONE NUMBER (TEL)	RESULT OF THE CALL (RES)	NOTES
30/09/09 10:40AM	Thabo	Amanda Selepi	(012) 351 0203	She answered	She confirmed the request had been received and forwarded to legal services to an S De Wet.
01/10/09 4:25PM	Thabo	Amanda Selepi	(012) 351 0203	Tried to call - but no answer	Switchboard told me to call Sbusiso instead on 1398.
01/10/09 4:30PM	Thabo	Sibusiso Ndou	(012) 351 1398	No answer.	
02/10/09 10:05AM	Thabo	Sibusiso Ndou	(012) 351 1398	No answer.	
05/10/09 9:45AM	Thabo	Sibusiso Ndou	(012) 351 1398	I answered - he called.	In response to my calls, he assured me they were reviewing it and promised to have a response to me by 20 December 09 to make sure they are within the 30 day period.

Take particular note in the example above of how the deadline was recorded in the notes column. This note allows you to easily follow up on any promises made to you. Also take note of any new telephone number extensions that were given, as it is always best to try and get a person's direct line rather than having to go through a switchboard. A blank copy of this phone call log is in Appendix G.

## TELEPHONE CONVERSATION: A ROLE PLAY



**To practice what we have learnt about recording a telephone conversation, you will need to take out some pieces of paper. Below is series of background stories, followed by an example of a telephone conversation that might follow it.**

Choose two people to role play each character and pick a name for them as well. Then write out what you think the phone call log would look like. The two characters should read the conversation. Once you have heard what they have to say, draw up an example of what the PAIA phone call sheet would look like using the example that was shown earlier to guide you.

### EXAMPLE 1: A call using a direct line

You have created a request with the reference number 0049/DEA/2009 (although the Department of Environmental Affairs has referred to it as GR-1 1-9). You submitted the request on 25 September 2009, but by 22 October 2009 have still received no response. You therefore decide to call the information officer of the DEA, whose number is in the request file as (012) 351 0857, on 22 October at 11:00 am.

**The phone call:** **YOU:** Hello, is this Dr Ayanda Ntsaluba speaking?

**CAL:** Yes it is.

**YOU:** Hello Dr. I am Thabo from SAHA. I have previously spoken to your assistant Amanda about this, but on 25 September 2009 I submitted a PAIA request to your office – Amanda confirmed the receipt. Our reference number is 0049/DEA/2009, but you have the reference number GR-1 1-9 – are you aware of the request I am talking about?

**CAL:** Please hang on a second while I look on the computer for the file?

**YOU:** Of course.

..... **PAUSE** .....

**CAL:** Hello again Thabo, I have the file. What would you like to know?



**YOU:** Well Dr, in terms of PAIA we should be receiving a response from you by 25 October but we have not yet heard anything. I was calling to remind you of the deadline, but also to remind you that you have the right to extend this deadline by another 30 days if it is needed. Can you tell me whether you will be extending the deadline?



**CAL:** Well, I am afraid I am unfamiliar with the file – can I get back to you about the extension?

**YOU:** Of course. Can I expect to hear from you before 25 October in this regard?

**CAL:** Yes. I assure you I will get back to you by, in fact, 24 October 2009.

**YOU:** Thank you so much, we will speak then. My direct line is (011) 717 1941.

**CAL:** Excellent, I have written it down. Goodbye.

**YOU:** Goodbye.



..... **THE END OF THE CALL** .....

Once you have drawn up a PAIA phone sheet, exchange it with the person sitting next to you. Comparing your answers, see whether you were able to note down all the main points.

**Here is an example of what it could look like:**

**PAIA request 0049/DEA/2009**  
Other Ref: GR-11-9

Date: 22/10/09  
Time: 11:00am

**YOU:** Thabo  
**CALL:** Dr Ayanda Ntsaluba  
**TEL:** (012) 351 0857

**RES:** He answered. I informed him that a response is due 25 Oct and asked whether an extension would be taken. He confirmed he had the file, but had not viewed it so no decision has been made. He has promised me a response on my direct line by 24 October 2009.

## EXAMPLE 2: A call that gets transferred

Let us now repeat the exercise using a different example. Again, choose two people to role play each character and pick a name for them as well. Then write out what you think the phone call log would look like. The two characters should read the conversation. Once you have heard what they have to say, draw up an example of what the PAIA phone call sheet would look like using the example that was shown earlier to guide you.

### The background story:

You have created a request with the reference number 0051/NAR/2009 (it is a request for a Security Legislation Directorate file of an individual which you are submitting to the National Archives of South Africa). You are trying to find the names and contact details of the information officer and deputy information officer. The number you call is (012) 325 5467, which is the number of the switchboard, and you call on 1 December 2009 at 8.45am.

### The phone call:

**YOU:** Hello. Can you please put me through to your information officer or deputy information officer?

**CAL:** I am afraid I do not know who that is; can I put you through to the Communications department?

**YOU:** Yes, but may I just have that person's name and extension in case I get cut off?

**CAL:** Of course: it is Tania Swart on 5468. Please hold while I put you through.

..... **PAUSE AS YOU ARE SWITCHED TO A NEW PERSON** .....



**CAL:** Hello?

**YOU:** Hello – is this Ms Swart?

**CAL:** Yes it is, how may I help?

**YOU:** I was put through to you by the switchboard. I am trying to get the contact details of the National Archives' information officer and deputy information officer. Do you perhaps have them?



**CAL:** Yes, of course. Our information officer is Dr Dominy and his extension is 5423. The deputy information officer is Gerrit Wagener, and his extension is 5424.

**YOU:** Thank you. Would you mind also providing me with their fax numbers?

**CAL:** Of course. Dr Dominy's is (012) 325 5555 and Mr Wagener's is (012) 325 5544.

**YOU:** Excellent, thank you so much. Could you perhaps transfer me through to either of them so that I can confirm these details?

**CAL:** I am sorry, but they are both away on a conference today. May I suggest calling them tomorrow?

**YOU:** Yes, thank you so much for your assistance. Goodbye.

**CAL:** Goodbye.

..... **THE END OF THE CALL** .....

Once you have drawn up a PAIA phone sheet, exchange it with the person sitting next to you. Comparing your answers, see whether you were able to note down all the main points.

**Here is an example of what it could look like:**

### PAIA request 0051/NAR/2009

Date: 01/12/09

Time: 08:45am

YOU: Thabo

CALL: NAR switchboard

TEL: (012) 325 5467

RES: Switchboard answered. I was transferred to Tania Swart (Communications department) on ext 5468. She provided the contact details for the information officer and deputy information officer as:

Information officer – Dr Dominy (Tel) (012) 325 5423

(Fax) (012) 325 5555

Deputy information officer – Gerrit Wagener (Tel) (012) 325 5424

(Fax) (012) 325 5544

Both are out of their offices today. It was suggested I call back on 2 December 2009 to confirm their contact details.

## Electronic Databases

We have been dealing largely with paper filing systems in considering records management. However, filing cabinets are increasingly being superseded by electronic systems and databases. It is not essential to have electronic systems to keep good records. However, if you or your organisation is interested in finding out more about such databases you can contact the South African History Archive, or other members of the PAIA Civil Society Network, to ask for further details and we will happily share with you what we have learnt about managing electronic systems.

### Contacts:

South African History Archive

Telephone: +27 (011) 717 1941

Email: info@saha.org.za

Freedom of Expression Institute

Telephone: +27 (011) 482 1913

Email: fxi@fxi.org.za

Open Democracy Advice Centre

Telephone: +27 (021) 461 3096

Email: odac@opendemocracy.org.za

## Creating a new record: Your final checklist!

Here is a checklist to help you to follow all the steps in creating a new PAIA record.

<b>CHECKLIST FOR PAIA RECORD KEEPING</b>	
<b>TASK</b>	<b>COMPLETED?</b>
<b>FIND YOUR LOG BOOK</b>	
1. Create a unique request reference number using your log book	
2. Record the new Request in the log book	
<b>TAKE OUT YOUR PAIA DIARY</b>	
3. Make a note of the day you submitted, as well as when 30 days will have passed from when you first submitted	
4. Remember to record any other significant dates which you might receive	
<b>TAKE OUT A NEW FILE</b>	
5. Label the file with the unique reference number	
<b>TAKE A NEW OVERVIEW SHEET</b>	
6. Fill in all the details you can into the overview sheet and keep it in the file	
7. Record every new development on your overview sheet	
<b>TAKE OUT A NEW PHONE SHEET</b>	
8. For every new phone call, received by you or made by you, write a phone record	
9. Insert each new phone record into the relevant file, alongside your overview sheet	

# THE POWER OF PAIA: A QUIZ



You have been learning about PAIA. You should:

1. Understand the freedom of information environment;
2. Be able to submit a PAIA request to a public or private body;
3. Understand how to manage your PAIA records.



To help practice this, let's do a quiz of everything we have discussed. Contestants should all stand in a semi-circle with the quiz master standing in front. Each contestant will get three 'tickets'.

The quiz master then will ask the first question on the question card to the contestant nearest to her/him on the left hand side. The quiz master will then ask the next question to the next contestant to the left of the first contestant and so on. Once the quiz master has asked each contestant a question the quiz master then returns to the start of the semi-circle and begins again.

Each contestant gets three lives represented by their three tickets – each time you get a question wrong, you must hand in a ticket. Once you have handed in all your tickets you should sit down. The last person standing will be declared the winner. Remember, some of these questions are a lot harder than others, so there is some luck involved in who wins. Also note, there are some questions, addressing chapter 4 on recourse and redress.

## QUIZ QUESTIONS

Photocopy and 



**TRUE OR FALSE: It is possible to have a successful democracy without providing information to citizens of a country?**

*A. False. Information is the oxygen of democracy.*



**TRUE OR FALSE: It is impossible for South Africa to develop to its full potential if corruption exists in its public institutions.**

*A. True.*



**TRUE OR FALSE: South Africans have a constitutional right to ask for information from a public body?**

*A. True.*

**Q TRUE OR FALSE: South Africans do not have a legal right to ask for information from a private body?**

A. *False (South Africans do have a right to ask for information from a private body).*

**Q TRUE OR FALSE: The right to access information is written in South Africa's Constitution?**

A. *True.*

**Q What section of South Africa's Constitution sets out our right to access information?**

A. *Section 32.*

**Q TRUE OR FALSE: The Constitution is the only law which sets out South Africans' right to access information?**

A. *False – PAIA sets out this right.*

**Q What word starting with a P is an acronym for South Africa's Act that deals specifically with our right to access information?**

A. *PAIA*

**Q What is the full name of the Act?**

A. *The Promotion of Access to Information Act 2 of 2000 (will accept answer without 'Act 2 of 2000')*

**Q TRUE OR FALSE: South Africa is the first country in Africa to enact a law on access to information?**

A. *True*

**Q What day is it today?**

A. *(Will accept answer with correct day).*



**Name one other African country that has adopted a freedom of information law?**

A. Accept: Ethiopia, Uganda, Angola or Zimbabwe (however Zimbabwe's Act acts more to suppress the media than to promote access to information).



**What 'S' was the first country in the world to enact a freedom of information law?**

A. Sweden.



**The 'SAHRC' stands for which government institution supporting democracy and supporting the implementation of PAIA?**

A. South African Human Rights Commission.



**What is the name of South Africa's President who has been serving as such since 2009?**

A. Jacob Zuma



**Which national government department would you submit a PAIA request to if you wanted to know about statistics on the number of domestic violence cases were reported in 2006-2007?**

A. SAPS (the South African Police Service).



**What is the title for the position of the person to whom you must submit a PAIA request to when asking for information from a national public body ?**

A. The information officer (accept deputy information officer, Director-General).



**What is 6 x 11?**

A. 66



**How long does the IO or DIO have before she/he must notify you of the response to your PAIA request: is it 30, 60 or 90 days?**

A. 30 days.

**Q** In some situations the period with which the DIO/IO has to deal with the PAIA request may be extended. What is the maximum period of time that the response due date can be extended by: is it 30, 60 or 90 days?

A. 30 days.

**Q** Which country hosted the 2010 Soccer World Cup?

A. South Africa

**Q** In terms of PAIA is a doctor considered to be a public or a private body?

A. Private: Anyone in any kind of profession is considered to be a private body in terms of PAIA.

**Q** In terms of PAIA is the National Prosecuting Authority (NPA) considered to be a public or private body?

A. Public.

**Q** What is the name of the Form that must be completed when submitting a PAIA request to a private body?

A. Form C.

**Q** In terms of PAIA, would you be able to access records that contain personal information about me if you did not have my permission?

A. No (section 34: Third party exemption).

**Q** TRUE OR FALSE: When submitting a PAIA request to a public body you must demonstrate why you want to access the information being requested?

A. False.

**Q** What additional information must you provide when submitting a PAIA request to a private body?

A. You must state which right you are protecting or exercising by asking for this information. E.g. The Right of Access to Adequate Housing or the Right to Fair Labour Practices.

**Q** Beginning with 'T' what was the court-like body assembled in South Africa after the end of apartheid where public hearings were held in order for victims and perpetrators to give testimony about their experiences during apartheid?

A. The TRC: Truth and Reconciliation Commission.

**Q** I submitted a PAIA request to the Department of Housing on 1st June 2008. It's now 20th August 2008 and I haven't heard back from the Department of Housing. Has the Department of Housing acted appropriately in terms of its responsibilities under PAIA?

A. No. 'It should have responded in 30 days

**Q** TRUE OR FALSE: PAIA states that it can be applied to public and private bodies but private bodies aren't obliged to cooperate.

A. False: private bodies are legally obliged to cooperate with PAIA: if they fail to meet their responsibilities they are breaking the law.

**Q** What organisation do I work for?

A. The South African History Archive (accept SAHA or other correct answer).

**Q** How much is the request fee that must be paid for the purpose of gaining access to records held by a public body: is it R35, R50 or R65?

A. R35.

**Q** How much is the request fee that must be paid for the purpose of gaining access to records held by a private body: is it R35, R50 or R65?

A. R50.

**Q** Is anyone exempt from paying request fees?

A. Yes.

**Q** Who is exempt from paying request fees?

- A. Personal requesters; or
  - B. Person earning a low wage / whose annual salary is less than a stipulated amount.
- (will accept either or both answers)

**Q** Personal requesters are exempt from paying access fees. True or False?

A. False (they are only exempt from paying request fees).

**Q** If the records requested in a PAIA request are believed to be held in a different government department to the one that the PAIA request was originally submitted to the PAIA request must be transferred to the relevant government department. Whose responsibility is it to transfer the PAIA request?

A. The DIO/IO.

**Q** Within how many days must the DIO/IO transfer a PAIA request to the relevant government department – is it 14, 20 or 30?

A. 14 days.

**Q** What is the name of the form that must be completed when submitting a PAIA request to a public body?

A. Form A.

**Q** Can PAIA help me to access my human rights?

A. Yes.

**Q** TRUE OR FALSE: A person living and working in Sandton has more of a right to access information in terms of PAIA than a person who is unemployed and homeless?

A. False. Every person has an equal right to access information in terms of PAIA.

**Q** When submitting a PAIA request to a private body who must you submit the PAIA request to? Who is given the responsibility of information officer in a private body?

A. The Head of the private body (accept CEO or Managing Director).

**Q** What 'E' is the operating language of the South African government?

A. English.

**Q** If I submit a PAIA request to the Department of Defense for records that contain sensitive information about South Africa's international relations with Zimbabwe am I likely to be given the records?

A. No. (section 41).

**Q** What is the name given to the principles that outline the government's commitment "to continually improve the lives of the people of South Africa by a transformed public service, which is representative, coherent, transparent, efficient, effective, accountable and responsive to the needs of all."

A. Batho Pele.

**Q** What does the 'I' in PAIA stand for?

A. Information.

**Q** What is the name of the person standing to your left?

A. Will be on their name tag!!

**Q** Who would you submit your internal appeal to if you were challenging a decision by the Ministry of Defence and Military Veterans?

A. The Minister of Defence (The name of the current Minister of Defence is an acceptable answer).

**Q** Must an information officer refuse you your own personal information?

A. No.

**Q** Must you go to court within 60 days, 110 days or 180 days after your internal appeal has been refused?

A. 180 days.

**Q** What does ODAC stand for?

A. The Open Democracy Advice Centre.

**Q** In what South African city is Parliament based?

A. Cape Town.

**Q** Do you have to try and write everything on the request form, or can you add additional information in a supplement?

A. You can add additional information in a supplement.

**Q TRUE OR FALSE: good records management is an essential step for assisting your PAIA request?**

A. *True.*

**Q If a PAIA request is 0013/DOJ/2010, what year was it submitted in?**

A. *2010*

**Q If a PAIA request is 0010/DEA/2009, what department was it submitted to?**

A. *The Department of Environmental Affairs.*

**Q If a PAIA request is 0050/NAR/2009, what department was it submitted to?**

A. *The National Archives of South Africa (National Archives is acceptable).*

**Q TRUE OR FALSE: you have to have a computer to have good records management?**

A. *False: well-kept paper records can be as effective.*

**Q What is the animal the South African rugby team is named after?**

A. *The springbok.*

**Q What does the 'P' in PAIA stand for?**

A. *'Promotion'.*

**Q Can an information officer or deputy information officer extend the time in which they have to respond to your request if they give a reason?**

A. *Yes – they can get an extra 30 days.*



**What is the flower the South African cricket team is named after?**

*A. The protea.*



**What is the name of the awards hosted by the Open Democracy Advice Centre and the South African Human Rights to Commission to reward consistent and successful PAIA implementation by public bodies?**

*A. The Golden Key Awards.*



**Are the information and deputy information officers required to assist you in completing your PAIA request forms?**

*A. Yes.*



**In what South African city is Table Mountain?**

*A. Cape Town.*



**What entity starting with the letter P is tasked alongside the South African Human Rights Commission with overseeing PAIA?**

*A. The Public Protector.*



**To what department would you submit a request to find out about the national environmental policy for reducing carbon emissions?**

*A. The Department of Environmental Affairs.*

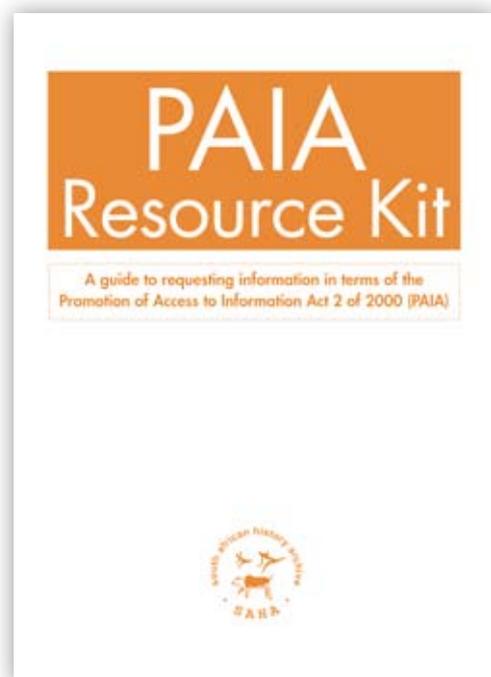
# CHAPTER 4

## Recourse and redress

### QUESTIONS TO BE ANSWERED IN THIS CHAPTER:

- Introducing recourse and redress
- Revising key sections of PAIA
- Examining third party confidentiality
- Examining the public interest override
- When would you appeal?
- Who should you appeal to?
- How do you appeal: Form B and the writing of a supplement
- Example of a supplement supporting an internal appeal.
- Examining a deemed refusal
- A case study: How recourse and redress assisted the South African History Archive
- Court: A final step
- Examples of PAIA requests that have gone to court.
- Conclusion

You should review this section in conjunction with your PAIA Resource Kit.



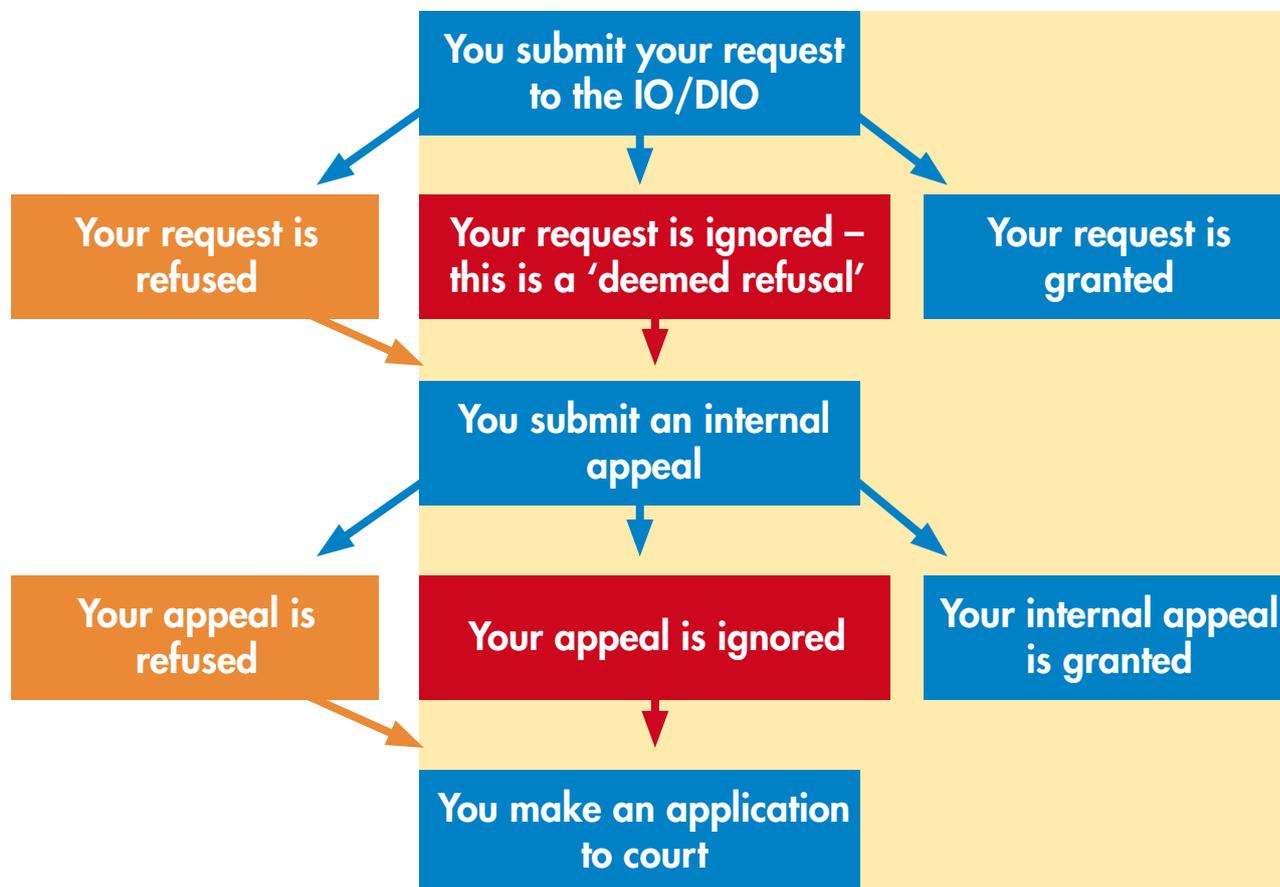
## INTRODUCING RECOURSE AND REDRESS

Recourse and redress are essential parts of PAIA learning. Recourse and redress are terms that simply refer to what you can do in a situation to make it better. In our context this would mean the actions you could take when information or deputy information officers have not been fulfilling their obligations. After you have submitted your request you may be granted access and then the process will stop there. However, there is the possibility that your request may be refused or even ignored. If you are not happy with these results the process doesn't need to end there. There is the option for you to submit an internal appeal.

**Recourse**, n: An act or the action of resorting or turning to (also *unto*) a person or thing for help, advice, protection, etc.

**Redress**, n: The action of redressing; correction, reparation, or amendment *of* a situation, a grievance, etc.

This diagram shows the pathways for recourse and redress issues. In the diagram below, we are now following the orange boxes relating to an explicit refusal:



As you can see in the diagram, the Act therefore requires you to exhaust the internal remedies available to you with a public body before you can make an application to court. In other words, you have to submit an internal appeal to a public body before going to court – it is not a choice. However, it is very important to remember before moving on, that you can only submit an internal appeal to a public body. There is no such procedure in place for a private body, which is confirmed by sections 74 to 77 of the Act. Therefore, if you are unhappy about the decision on your request to a private body, you have to go straight to court – there is no provision in the Act to make an internal appeal.

Note also that, from the day of the refusal, you have 60 days to file an internal appeal. From the day of the refusal of your internal appeal, you then have 180 days in which to make an application to court.

# ACTIVITY: REVISING KEY SECTIONS OF PAIA



## **Before we continue with recourse and redress, let us revise some sections and key concepts from the Act**

First, take out your copy of the Act, and highlight and read the following sections:

1. Sections 34 and 56 on third party confidentiality.
2. Sections 46 and 70 on the public interest override.
3. Section 1 and the definition of 'relevant authority'.
4. Sections 27 and 58 on deemed refusals.
5. Sections 78 through 82 on applications to court.

Now, to move us into our next activities, see the plain word explanations of two of these key sections:

### **Third party confidentiality**

Third party confidentiality is just a term that is referring to the need to keep the information a body holds about someone else private from other people. For instance, if you want to see your husband's bank statements the bank will not show these to you because of third party confidentiality: they must respect the fact that they hold these documents for your husband and should not therefore be letting others see them without his permission. You can refer to sections 34 and 63 of the Act to see the exact wording.

### **The public interest override**

This means that, no matter what the record is about, the information officer **MUST** grant your request for access if:

- (a) the disclosure of the record would reveal evidence of—
- i. a substantial contravention of, or failure to comply with, the law; or
  - ii. an imminent and serious public safety and environmental risk; and
- (b) the public interest in the disclosure of the record clearly outweighs the harm contemplated in the provision in question.

This means an information officer should always apply their mind to a request, even if at first glance it might look like the information could be refused. You can refer to sections 46 and 70 of the Act to see the exact wording.

### **Relevant authority**

The relevant authority is generally the political head of a body, as opposed to the administrative head that you submit your PAIA request to. So, for a national department for example, the political head would be the Minister.

### **Deemed refusal**

A deemed refusal exists where an information officer fails to give you any answer to your request and simply 'ignores' it. The Act tells us that no answer to the request is equivalent to expressly refusing the request.

### **Court sections**

The court sections of the Act deal with the procedural requirements for taking a request on application to court. It should be noted that the previous time to bring your application to court in 30 days, has been changed by a court case which now gives you 180 days to bring your application to court. Further, section 80 in particular gives the court a right to examine the documents you have requested so that they can themselves determine how to treat the records.

### **When would you appeal?**

Considering when you should appeal means that you need to consider what grounds you would be appealing on. What is it about the decision of the information officer and deputy information officer that you do not agree with? This means looking carefully at the reason for which the IO/DIO refused your appeal.

# ACTIVITY

## EXAMPLE 1: Examining third party confidentiality

There are some requests where an IO/DIO must refuse your request, because it has to do with the personal information of a third party, in terms of section 34 of PAIA.



**Let us look at three different situations where an IO/DIO might try and use third party confidentiality as a reason to refuse you documents.**

Read the examples below: only one of the situations would contain a reason for a legitimate refusal on the basis of third party confidentiality - can you identify which one it is?

**Example a):** You are a woman who is getting divorced. You request from the bank your husband's bank statement so that you can see how much money he has.

**Example b):** You are asking about the number of prisoners released early on bail in 2009, but have not asked for their names or any other identifying factors.

**Example c):** You are the son of a man who is deceased, but you want to gain access to information on him held by the National Archives of South Africa. You submit your request for his personal information, along with an heir authority form and all necessary attachments.

### Heir Authority

If you are an heir of a deceased person, you can still request that person's information if you submit along with your request:

1. A copy of your identity document;
2. An Authority Form explaining that you are the heir of the deceased; and
3. A copy of the deceased's death certificate (a body might accept a death notice if no certificate can be found, but this should be explained in the Form).

After consideration of these examples, discuss the questions below:

1. In example (b) the IO should not have refused the request on the basis of third party confidentiality – why is this?
2. In example (c) the IO should not have refused the request either – without referencing any specific section, why is this?
3. In example (a), a refusal of the request for information would be legitimate. What section of PAIA would the information officer of a public body reference here?

ANSWERS:  
1. Because you have expressly asked for the personal information to be left out and the IO can therefore sever such information from the record if it does exist in terms of sections 28 or 59.  
2. Because she is an heir requester.  
3. Section 34.

**TIP:** Take careful note of how you word your request so that you can reduce your risk of getting a refusal on the grounds listed in PAIA. For example, if you make a note in the request that you are specifically excluding personal information from what you are asking for, then an information officer will not be able to refuse the request on the grounds that it contains a third party's confidential details.

# ACTIVITY

## EXAMPLE 2: Examining the public interest override

Another example of where internal appeals are useful are where the IO/DIO has refused you access to a document, but has failed to consider the public interest override.



**Let us look at three different situations where the public interest override might be a necessary consideration for the IO or DIO when considering your request. Read the examples below: only one of the situations would contain a reason for a legitimate refusal even after considering the public interest override - can you identify which one it is?**

**Example a):** You ask for details about the emissions coming from a factory owned by the Department of Trade and Industry which you believe to be causing illness in the surrounding community. Access is then refused on the ground that the factory says it would constitute the disclosure of commercial secrets in terms of section 42 of PAIA.

**Example b):** You ask for a list of the names of South Africa's secret service agents for overseas operations from the Department of International Affairs and Cooperation, because you are interested for an article you are writing on the secret service. Access is then refused because the department says that it would prejudice the defence of the Republic and the safety of third persons in terms of sections 38 and 41 of PAIA.

**Example c):** You ask for a policy document from the Department of Home Affairs about whether or not citizenship has been granted to a known terrorist, in spite of the fact he does not fulfil the known requirements for citizenship. They refuse the request on the basis of section 34, because it is information about a third party.

After consideration of these examples, discuss the questions below:

1. In example (a) the IO should have considered the request in light of the public interest override – why is this?
2. What is it about the request example (b) that makes section 46 not applicable in this case?
3. In example (c), it appears clear there is a substantial contravention of law. However, there is one more thing you must show for the public interest override to apply – what is this?

**ANSWERS:**

1. In section 46 the public interest override expressly says a record should be disclosed if it would reveal an imminent and serious public safety or environmental risk
2. It would appear that the public safety risk does not outweigh the risk to the individual.
3. You must also show that the public interest in the disclosure outweighs the harm contemplated in the provision in question (in this case, section 34, third party confidentiality). 4. It can fall under 46(a)(i) or 46(a)(ii). However, even if it falls under one of those, it has to still also fulfil the requirement under section 46(b).

**TIP:** you might notice that, when trying to use the public interest override, you spend a bit of attention considering why you want the information. You should pay careful attention to the multiple requirements of sections 46 and 70.

## Who should you appeal to?

Although you submit a request to an information officer or deputy information officer, this is not the person that you send an internal appeal to. Section 74 of PAIA says that we must submit our internal appeal to the 'relevant authority'. The relevant authority is described in the definitions section. This section tells us that, generally, the person to submit an internal appeal to with a national department is to that Minister, with a provincial department to that Member of the Executive Council, or with a municipality to that Mayor or Speaker. Therefore, while you originally submit your request to the administrative head of an entity, you should send your internal appeal in regard to your request to the political head. For further information, turn back to pages 12 – 13 to the diagram on structures of government to assist you.

These persons can delegate their responsibility, but it is difficult to know whether or not this has been done – rather, therefore, submit to the Minister (or other relevant person in terms of the Act) and then it will be their responsibility to send it to the correct person.

When you submit the internal appeal, you should remember to copy in the original information officer and deputy information officer to prevent delays in receiving an answer.



## How do you appeal: Form B and the writing of a supplement

When you wish to submit an appeal you must list all the reasons why you do not agree with the response to your PAIA request. This list of reasons informs what we call an appeal supplement. The appeal supplement gives the relevant authority (the political head) as much information as possible. Therefore you should also include an outline of everything that has happened in the run-up to the internal appeal.

In order to make your appeal, you follow a simple process:

1. You complete a 'Form B'. Refer to Appendix B.
2. You complete an 'appeal supplement' to go along with your Form B on your own piece of paper. The **appeal supplement** gives you more room than in the form to give a full explanation as to why you are appealing. You can again refer to your PAIA Resource Kit to see how this is done. In completing this supplement you should:
  - a. Refer to specific sections of PAIA as a basis for why you are appealing; and
  - b. Cross-check the reasons for refusing you request given by the IO/DIO against the information that must be given, must not be given and may be given that was outlined earlier at pages 25 – 28.

## Example of a supplement supporting an internal appeal

Using one of the examples we looked at above, here is what an internal supplement could look like in the situation where you were refused access to records about emissions from a Department of Trade and Industry owned factory which were refused, but you think the public interest override should apply.

### GROUNDS FOR INTERNAL APPEAL

1. The appellants are the South African History Archive (SAHA) and Khulumani Support Group (KSG).
2. This internal appeal is directed to the Minister of Trade and Industry. The Minister is the relevant authority in terms of section 74 of the Promotion of Access to Information Act (PAIA) to decide an internal appeal against the information officer of the Department of Trade and Industry.
3. On 3 September the appellants made a formal request in terms of PAIA to the Department of Trade and Industry. The request was for "records relating to the amount of emissions of dangerous gasses, or environment-harming emissions, being released from the factory on ERF 73642 which resides alongside Alexandria, Johannesburg, as well as policy documents outlining the steps being taken to protect the surrounding communities from health hazards". A copy of this request is attached to this appeal and marked as appendix A.
4. In a letter dated 9 September the Department of Trade and Industries information officer, wrote to the appellants to inform them that the request had been received. A copy of this letter is annexed to the appeal and marked appendix B.
5. In a letter dated 6 October, the appellants wrote to the department to inform them that thirty days had passed since the request had been submitted, but no notice had yet been received as to whether or not access had been granted. A copy of this letter is annexed to the appeal and marked appendix C.
6. In a letter dated 15 October, wrote to the appellants to advise that its request had been refused in terms of section 42 of PAIA (this sections concerns the discretionary power of an information officer to refuse records on the grounds that they contain information about the economic interests and financial welfare of the Republic, or the commercial activities of public bodies). A copy of this letter is annexed to this appeal and marked as appendix D.
7. The appellant refutes this ground for refusal and submits the appeal to the Minister.

8. The appellant contends that section 42 of PAIA is not a valid basis for refusing its requests, because the section cannot stand in the face of the public interest override contained in section 46.
9. Section 46 states that an information officer must disclose information when the disclosure would reveal evidence of an imminent and serious public safety or environmental risk.
10. The appellant contends that the emissions from the factory are very clearly linked to increased health risks which the surrounding community are experiencing. In support of this the appellant consulted a Dr Fred Godo, who works in the area, and whose professional opinion is that the increased diagnoses of asthma and lung-related illnesses he has seen in the area over the past two years, is directly related to increased air pollution. In support of this, see a copy of his sworn affidavit attached to this appeal as appendix E.
11. The appellant contends that this refusal to provide access to information is in direct contrast to the spirit of openness and transparency which should underscore all the responsibilities of governmental departments. So too, the refusal directly violates the communities constitutional rights to health and environment which are deserving of protection and consideration by the Department of Trade and Industry.
12. In short, the decision by the information officer of the Department of Trade and Industry to refuse the appellant's request for access to records in terms of PAIA is inconsistent with the objects of the Act.
13. The Minister should accordingly order that SAHA and the Khulumani Support Group be given access to the information requested pursuant to section 77(2) of PAIA, which empowers the Minister to substitute the information officer's decision with a new decision inconsideration of our appeal.

# ACTIVITY



Let us carefully consider the letter above and then answer the following questions:

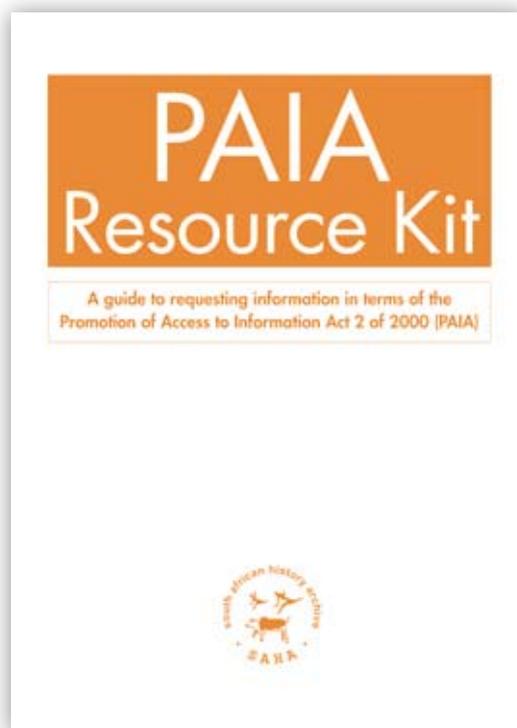
- i. What website could you go to to find the contact details of the Minister as seen in paragraph 2?
- ii. What reasons can you think of for attaching the request as an appendix, as seen in paragraph 3?
- iii. What other section, beyond section 46, also contains a public interest override, but for private requests?

**Appendix**, meaning: An addition that is added at the end of a large document. For example, in this guide, blank forms etc, have been added to the end as appendices.



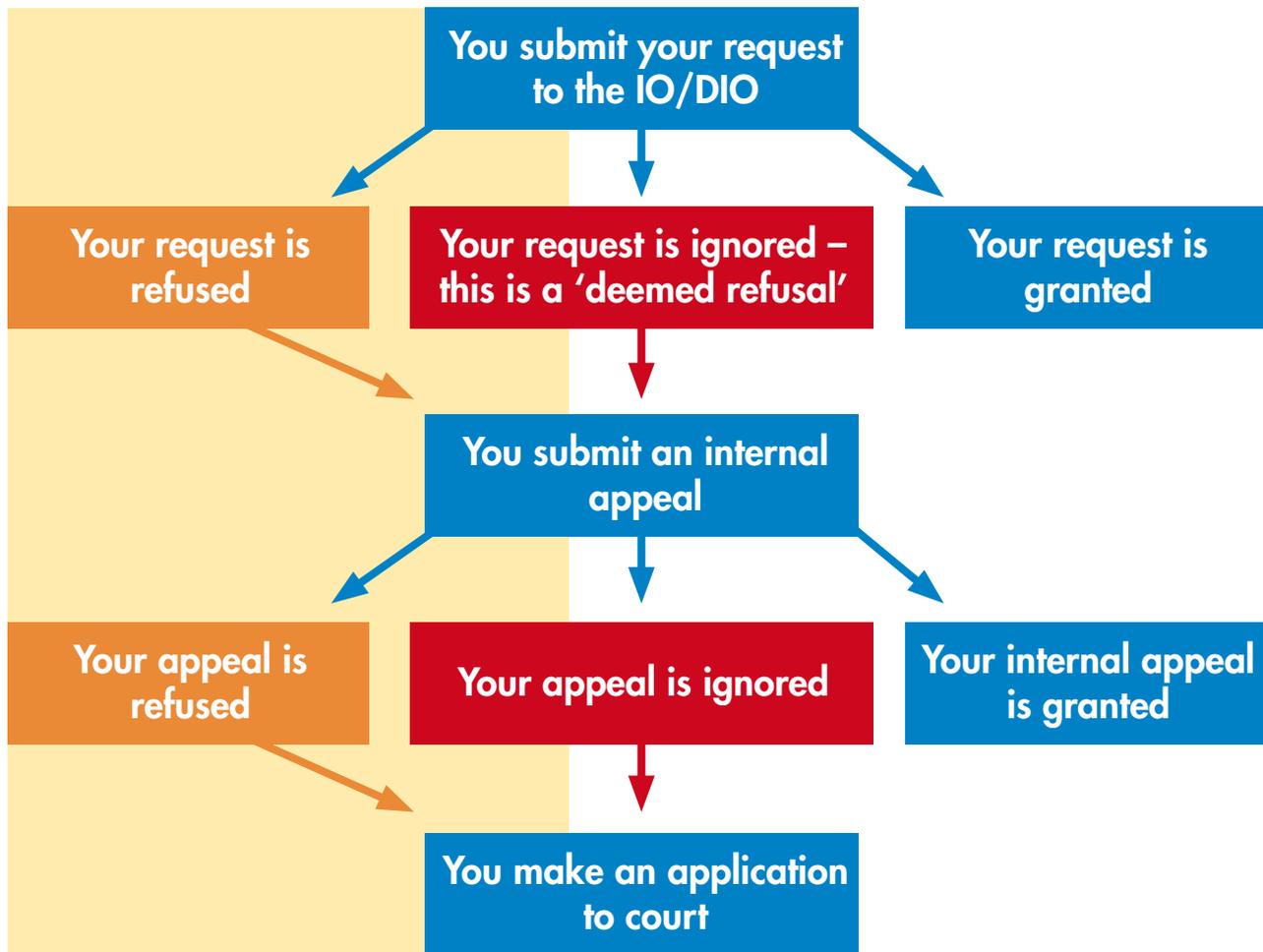
ANSWERS:  
i. The Government Communications and Information Systems website at [www.gcis.gov.za](http://www.gcis.gov.za) in their contact directory (except also the website for the relevant department).  
ii. The Appendices help give a clear picture of what happened before, when the relevant authority was not yet involved, so that they can make a proper decision on the basis of all the relevant information.  
iii. Section 70.

This example demonstrates that you should include as much relevant information as possible. You can also, by referring to the PAIA Resource Kit from pages 31-35, see a nice step-by-step example which clearly explains the type of wording you can use in your internal appeal as well.



## EXAMINING A DEEMED REFUSAL

In the diagram below, we are now following the red boxes relating to a deemed refusal:



It would be suitable to submit an internal appeal also in the situation of a deemed refusal. Sections 27 and 58 of PAIA tell us that if the relevant IO fails to give the decision on a request for access to the requester concerned within the period contemplated by the Act, the IO is regarded as having refused the request. So, in this situation you have asked for information, but simply received no response at all. An internal appeal is allowed as a response to no answer to a request, as the deemed refusal is seen as being equivalent to an unjustifiable refusal of your request.

## A CASE STUDY:

### How Recourse and Redress assisted the South African History Archive

Exhausting the internal remedies of a public body does sometimes result in release of the records without having to revert to court applications, which is why it is so essential to do it properly. SAHA has worked for many years on transitional justice issues, particularly trying to maximise truth recovery from information uncovered during the Truth and Reconciliation Commission (TRC). When the TRC completed its work, all of its records were transferred to the Department of Justice and Constitutional Development (DOJ). SAHA had discovered that, within the DOJ's possession was a comprehensive database of the names of all the persons who had been victims of apartheid crimes, with significant details about how and when such violations had occurred. SAHA, on the advice of many of its partners in the PAIA Civil Society Network, decided that this kind of information would be significant in future advocacy work concerning victim support.

On 30 March 2009 SAHA submitted a request to the DOJ for an electronic copy of the TRC Victims Database. SAHA expressly acknowledged that details of victim's personal names should be obscured so as not to violate the Act provisions on third party confidentiality.

On 04 May 2009 the DOJ took a 30 day extension. However, on 10 June 2009 SAHA received an express refusal of the request for information as the DOJ stated any release would result in a breach of third party confidentiality. This was in spite of the fact that SAHA had consulted with the designer of the database who had expressly told SAHA that the database could be released with personal information removed.

On 29 June 2009 SAHA submitted an internal appeal to the Minister of the DOJ against the refusal. However, it had to be resubmitted on 23 July 2009 when the DOJ stated they had not yet received it.

After a consistent and organised utilisation of the PAIA request process, SAHA was rewarded on 28 August 2009 when the Minister overturned the deputy information officer's decision and released the documents in full. It is hoped these documents will serve to better aid advocacy around the rights of victims of apartheid, many of whom have still seen no betterment of their circumstances since 1994.

### Court: The final step

Sections 78 to 82 of PAIA make allowances for you to go to court as a final resort, if you cannot resolve your request through the internal appeal process. This is, however, a costly and slow process and you will be required to seek legal assistance. In such circumstances, it would be best to approach one of the civil society organisations mentioned in chapter 1 for more help.

You must make your application to court within **180 days** after the decision is made which you are contesting. You can go to Court to challenge if you disagree with the fact your request has been denied (even if only in part):

- challenge the fact they have given you the documentation in the wrong format;
- challenge possible fees; or
- challenge the decision of an IO or DIO to not permit your late lodging of your appeal.

## EXAMPLES OF PAIA REQUESTS THAT HAVE GONE TO COURT

### **Mittalsteel South Africa Limited v Hlatshwayo [2007]1 All SA1(SCA)**

Hlatshwayo was a student who was researching about factory regimes in the sixties and seventies for his thesis. He therefore attempted in 2002 to get from Mittalsteel a number of documents which would help him in uncovering how Iscor (the largest steel producer in South Africa) had been conducting their labour relations during that time. Mittalsteel refused him this information, claiming that they were not a public body and therefore the proper procedures had not been followed to get the information.

This case was finally decided in the Supreme Court of Appeal. The court held that 'public body' should be given a broad meaning. A 'public body' will therefore be said to exist where the body in question performs a public function. The release of the information meant that Hlatshwayo was able to give a more detailed historical scope for his thesis.

### **Earthlife Africa v Eskom Holdings Ltd [2006] 2 All SA632(W)**

This case, heard in the Gauteng High Court, concerned an environmental organisation called Earthlife, and its attempt to use PAIA to access information about the electricity provider's Pebble Bed Modular Reactor and its possible effects on the environment. Eskom had been considering using this form of reactor as a method for generating more power.

Eskom refused the information on the basis that the records constituted a 'protected disclosure' as per PAIA. However, Earthlife lost the case when the court decided in 2006 that the requested information did constitute a protected disclosure, even though these exemptions should be interpreted narrowly by a court. This proved detrimental to Earthlife's advocacy on the issue, as they had been hoping to show with the information that government had not done the necessary amount of research into the Pebble Bed Modular Reactor, in spite of pumping large amount of public money into its development.

### **Transnet Ltd and Another v SA Metal & Machinery Co(PTY)Ltd 2006 (6) SA285 CSCA**

This case was finally heard in the Supreme Court of Appeal. The SA Metal & Machinery Co. had applied for a tender with a subsidiary of Transnet in 2001, which was awarded to another company. SA Metal then requested the other company's tender documents, which was refused because Transnet claimed that such information contained information comprising trade secrets or financial, commercial, scientific or technical information belonging to Inter Waste and could therefore not be released under PAIA.

The court held expressly that tender information could be accessed through PAIA and that information relating prices did not constitute information that would prejudice a third party's commercial interest, largely because the nature of this kind of transaction which should remain transparent in the public interest. The release of the information then meant that SA Metal could adjust the tender offers to be more competitive in the future.

## **Trustees, Biowatch Trust v Registrar: Genetic Resources & Others 2005 (4) SA 111 (T)**

This case was heard in the Gauteng High Court and concerned an environmental organisation's attempts to use access to information laws to uncover information relating to the use of genetically-modified organisms in South Africa. They were concerned about the possible health risks for citizens.

The requests were filed in 2000, and were essentially ignored by Monsanto (who were the body that held the documents). Although there were some technical discussions about the retrospectivity of the Act, the court ordered Monsanto to release the majority of the documents. However, in an interesting twist to the case, although they were largely successful the court ordered a hefty cost order against Biowatch that would have essentially meant Biowatch would have had to shut its doors – this cost order (and only the cost order) was appealed to the Constitutional Court and was overturned.

## **Public Service Accountability Monitor and Another v Director-General, Office of the Premier, Eastern Cape Provincial Government and Another (6047/07) [2008] ZAECHC 20 (19 May 2008)**

This case was heard in the Eastern Cape High Court and concerned a PAIA request by a nongovernmental organisation called the Public Service Accountability Monitor (PSAM) to gain access to documents from the Eastern Cape Provincial Government for the 2006 Rapid Assessment Survey of 12 200 households which collated residents' perceptions of government performance and service delivery.

The information was refused as the Eastern Cape Provincial Government considered it an internal planning document. However, the court held that the release of documents would in no way interfere with government's deliberative process. The documents were therefore released to PSAM, who have been able to use it to further their work in monitoring government service delivery.

## CONCLUSION

Information is the “oxygen of a democracy”. The right to access information held by public and private bodies is an essential right for South African citizens in and of itself, but also as a way of making all your other fundamental human rights a reality. The Promotion of Access to Information Act 2 of 2000 (PAIA) entrenches the right to access information in South Africa and outlines all that we need to know about how to exercise our right. The Act is there to protect our right to access to information. The Act also tells us that, if we wish to use this right, we must use the correct procedure – which means using the right forms. Because it is a largely a paper process, you need to develop the skills of organising and monitoring large amounts of information. Good records management is therefore an essential element of learning about PAIA, but is easily mastered. Even if you are not successful in your first attempt, the Act provides you with recourse and redress mechanisms that try to ensure that your request is always properly considered. The Act is an essential tool for most advocacy goals, and it is hoped that FOIP’s experiences will serve to assist other individuals and organisations to explore the boundaries of this vital piece of law.



# APPENDIX A

## FORM A

### REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

(section 18 (1) of the Promotion of Access to Information Act, 2000

(Act No. 2 of 2000)

#### [Regulation 2]

#### FOR DEPARTMENTAL USE

Reference number: \_\_\_\_\_

Request received by: \_\_\_\_\_

(state rank, name and surname of information officer/deputy information officer)

on \_\_\_\_\_ (date) at \_\_\_\_\_ (place).

Request fee (if any): R \_\_\_\_\_

Deposit fee (if any): R \_\_\_\_\_

Access fee: R \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF INFORMATION  
OFFICER/DEPUTY INFORMATION OFFICER

#### A. Particulars of public body

The information officer/deputy information officer: \_\_\_\_\_

\_\_\_\_\_

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

*(a) The particulars of the person who requests access to the record must be recorded below.*

*(b) Furnish an address and/or fax number in the Republic to which information must be sent.*

*(c) Proof of the capacity in which the request is made, if applicable, must be attached.*

Full names and surname: \_\_\_\_\_

Identity/passport 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/passport 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 (pages).***

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.*

## FORM A (PAGE 3 OF 4)

Disability: _____ _____	Form in which record is required: _____ _____
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Mark the appropriate box with an "X".

**NOTES:**

- (a) Your indication as to the required form of access depends 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 to the record, if any, will be determined partly by the form in which access is requested.

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

Copy of record*	Inspection of record
-----------------	----------------------

**2. If record consists of visual images:**

(This includes photographs, slides, video recordings, computer-generated images, sketches, etc.).

View the images	Copy of the images*	Transcription of the images*
-----------------	---------------------	------------------------------

**3. If record consists of recorded words or information which can be reproduced in sound:**

Listen to the soundtrack (audio cassette)	Transcription of the soundtrack* (written or printed document)
--	---

**4. If record is held on computer or in an electronic or machine-readable form:**

Printed copy of the record*	Printed copy 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?

YES

NO

**A postal fee is payable.**

*Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available.*

***In which language would you prefer the record?***

**FORM A (PAGE 4 OF 4)**

How would you prefer to be informed of the decision regarding your request for access to the record? \_\_\_\_\_

Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ .

\_\_\_\_\_  
SIGNATURE OF REQUESTER

# APPENDIX B

## FORM B

### NOTICE OF INTERNAL APPEAL

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

#### [Regulation 8]

Reference number(s): \_\_\_\_\_

#### A. Particulars of public body

The information officer/deputy information officer: \_\_\_\_\_

#### B. Particulars of requester/third party who lodges the Internal Appeal

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

Full names and surname: \_\_\_\_\_

Identity/passport number: \_\_\_\_\_

Postal address: \_\_\_\_\_

Fax number: \_\_\_\_\_

Telephone number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

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

#### C. Particulars of requester

*This section must be completed ONLY if a third party (other than the requester) lodges the Internal Appeal.*

Full names and surname: \_\_\_\_\_

Identity/passport number: \_\_\_\_\_

**D. The decision against which the Internal Appeal is lodged**

*Mark the decision against which the Internal Appeal is lodged with an X in the appropriate box:*

	Refusal of request for access
	Decision regarding fees prescribed in terms of section 22 of the Act
	Decision regarding the extension of the period within which the request must be dealt with in terms of section 26(1) of the Act
	Decision in terms of section 29(3) of the Act to refuse access in the form requested by the requester
	Decision to grant request for access

**E. Grounds for appeal**

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

State the grounds on which the Internal Appeal is based:

**GROUND FOR INTERNAL APPEAL ATTACHED**

**F. Notice of decision on appeal**

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

State the manner: \_\_\_\_\_

Particulars of manner: \_\_\_\_\_

Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ .

\_\_\_\_\_  
SIGNATURE OF APPELLANT

**FOR DEPARTMENTAL USE**

**OFFICIAL RECORD OF INTERNAL APPEAL:**

Appeal received on \_\_\_\_\_ (date) by \_\_\_\_\_  
(state rank, name and surname of information officer/deputy information officer). Appeal accompanied by the reasons for the information officer's/deputy information officer's decision and, where applicable, the particulars of any third party to whom or which the record relates, submitted by the information officer/deputy information officer on \_\_\_\_\_ (date) to the relevant authority.

**OUTCOME OF APPEAL:**

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

\_\_\_\_\_  
RELEVANT AUTHORITY

\_\_\_\_\_  
RELEVANT AUTHORITY

RECEIVED BY THE INFORMATION OFFICER/DEPUTY INFORMATION OFFICER FROM THE  
RELEVANT AUTHORITY ON \_\_\_\_\_ (date)

# APPENDIX C

## FORM C

### 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 recorded below.  
(b) Furnish an address and/or fax number in the Republic to which information must be sent.  
(c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname: \_\_\_\_\_

Identity/passport 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/passport 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 (page) and attach it to this form. **The requester must sign all the additional folios.**

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

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

3. Any further particulars of 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.

## FORM C (PAGE 2 OF 3)

- (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 thereof.

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:

Mark the appropriate box with an "X".

#### NOTES:

- (a) Your indication as to the required form of access depends 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 to 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:

	Copy of record*		Inspection of record
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### 2. If record consists of visual images:

(this includes photographs, slides, video recordings, computer-generated images, sketches, etc).

	View the images		Copy of the images*		Transcription of the images*
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### 3. If record consists of recorded words or information which can be reproduced in sound:

	Listen to the soundtrack (audio cassette)		Transcription of the soundtrack* (written or printed document)
--	--	--	---

### 4. If record is held on computer or in an electronic or machine – readable form:

	Printed copy of the record*		Printed copy of 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?

YES      NO

### A postal fee is payable.

Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available

**In which language would you prefer the record?**

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

*If the space provided 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: \_\_\_\_\_

**The right of access to information and...**

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 thereof 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?

**Please write and call.**

Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ .

\_\_\_\_\_  
SIGNATURE OF REQUESTER

# APPENDIX D

## FINANCIAL PROCESS: REQUEST FEES - DECODED

Name of Public/private body	Procedure for Payment of request fees
<b>DAC</b> – Department of Arts and Culture	Same as NAR: Pay request fee when collecting copy of records (will also need to pay access fee at this stage). Judith Jansen, DAC, <a href="mailto:judith.jansen@dac.gov.za">judith.jansen@dac.gov.za</a>
<b>DCS</b> – Department of Correctional Services	Submit PAIA request. DCS will contact you regarding payment of request fee. You will need to respond by paying request fee and providing DCS with a copy of the proof of payment. Keep a copy of the letter and proof of payment for your records.
<b>DEA</b> – Department of Environmental Affairs and Tourism	Submit PAIA request. DEA will contact you regarding payment of request fee. You will need to respond by paying request fee and providing DEA with a copy of the proof of payment. Keep a copy of the letter and proof of payment for your records.
<b>DFA</b> – Department of Foreign Affairs	Submit cheque for R35 request fee when submitting PAIA request. Make a photocopy of the cheque and correspondence for your records.
<b>DHA</b> – Department of Home Affairs	DHA will send you correspondence requesting that you deposit R35 request fee directly into DHA's ABSA Account. They will provide you with a reference number which must be used as the reference number when depositing money into their account, using a Deposit Slip, available at ABSA Banks. Make a copy of the Deposit slip and fax this to DHA along with a covering letter and a copy of the letter to which you are responding. Refer to your PAIA request reference number (they will also provide their reference number - which you should also refer to in correspondence).
<b>DHS</b> – Department of Housing	Submit PAIA request to DOH, they will then ask for request fee. This can be paid either by sending a cheque or by postal order. Make a copy of cheque/postal order for your records. Susan Neething, PAIA Unit, DHS - 012 421 1721
<b>DLA</b> – Department of Land Affairs	Submit PAIA request. DLA will contact you regarding payment of request fee. You will need to respond by paying request fee and providing DLA with a copy of the proof of payment. Keep a copy of the letter and proof of payment for your records.
<b>DME</b> – Department of Minerals and Energy	Submit PAIA request. DME will contact you regarding payment of request fee. You will need to respond by paying request fee and providing DME with a copy of the proof of payment. Keep a copy of the letter and proof of payment for your records.
<b>DOA</b> – Department of Agriculture	Submit PAIA request. DOA will contact you regarding payment of request fee. You will need to respond by paying request fee and providing DOA with a copy of the proof of payment. Keep a copy of the letter and proof of payment for your records.
<b>DOC</b> – Department of Communications	Submit PAIA request. DOC will contact you regarding payment of request fee. You will need to respond by paying request fee and providing DOC with a copy of the proof of payment. Keep a copy of the letter and proof of payment for your records.
<b>DOD</b> – Department of Defence	Send cheque and original form A (and attachments) in the mail (preferably registered post). Make a photocopy of the cheque, the completed form A & attachments for your records. Follow up with phone call immediately to advise that you are submitting a PAIA request.
<b>DOE</b> – Department of Education	Submit PAIA request. DOE will contact you regarding payment of request fee. You will need to respond by paying request fee and providing DOE with a copy of the proof of payment. Keep a copy of the letter and proof of payment for your records.
<b>DOH</b> – Department of Health	Submit PAIA request. DOH will contact you regarding payment of request fee. You will need to respond by paying request fee and providing DOH with a copy of the proof of payment. Keep a copy of the letter and proof of payment for your records.
<b>DOJ</b> – Department of Justice and Constitutional Development	Pay request fee by purchasing Revenue Stamps at the Post Office and sending to DOJ in the postal mail. Provide DOJ with a letter and the Revenue Stamps. Photocopy the letter and revenue stamps before you send them in the mail. Ensure you refer to PAIA request reference number in all correspondence.
<b>DOL</b> – Department of Labour - 012 309 4345 to speak with PA to A/DG (Mr L Kettleidas)	Send cheque and original form A (and attachments) in the mail (preferably registered post). Make a photocopy of the cheque, the completed form A & attachments for your records. Follow up with phone call immediately to advise that you are submitting a PAIA request.

Name of Public/private body	Procedure for Payment of request fees
<b>DOS</b> – Department of Social Development	Submit PAIA request. DSD will contact you regarding payment of request fee. You will need to respond by paying request fee and providing DSD with a copy of the proof of payment. Keep a copy of the letter and proof of payment for your records.
<b>DOT</b> – Department of Transport	Submit PAIA request. DOT will contact you regarding payment of request fee. You will need to respond by paying request fee and providing DOT with a copy of the proof of payment. Keep a copy of the letter and proof of payment for your records.
<b>DPE</b> – Department of Public Enterprises	Send cheque and original form A (and attachments) in the mail (preferably registered post). Make a photocopy of the cheque, the completed form A & attachments for your records. Follow up with phone call immediately to advise DIO that you are submitting a PAIA request. For further details re: payment contact Mr Phahlani - 012 431 1090. DPE also accept payment in cash.
<b>DPLG</b> – Department of Provincial and Local Government	Submit PAIA request. DPLG will contact you regarding payment of request fee. You will need to respond by paying request fee and providing DPLG with a copy of the proof of payment. Keep a copy of the letter and proof of payment for your records.
<b>DPW</b> – Department of Public Works	Submit PAIA request. DPW will contact you regarding payment of request fee. You will need to respond by paying request fee and providing DPW with a copy of the proof of payment. Keep a copy of the letter and proof of payment for your records.
<b>DST</b> – Department of Science and Technology	Submit PAIA request. DST will contact you regarding payment of request fee. You will need to respond by paying request fee and providing DST with a copy of the proof of payment. Keep a copy of the letter and proof of payment for your records.
<b>DWAF</b> – Department of Water Affairs and Forestry	Submit PAIA request. DWAF will contact you regarding payment of request fee. You will need to respond by paying request fee and providing DWAF with a copy of the proof of payment. Keep a copy of the letter and proof of payment for your records.
<b>NAR</b> – National Archives of South Africa	Pay request fee when collecting copy of records (will also need to pay access fee at this stage).
<b>NAT</b> – National Treasury	Send cheque and original form A (and attachments) in the mail (preferably registered post). Make a photocopy of the cheque, the completed form A & attachments for your records. Follow up with phone call immediately to advise that you are submitting a PAIA request.
<b>NIA</b> – National Intelligence Agency	NIA prefers for you to call first to advise that you are submitting a PAIA request. Most of NIA records are on Microfilm.
<b>PRE</b> – Department of the Presidency	Send cheque and original form A (and attachments) in the mail (preferably registered post). Make a photocopy of the cheque, the completed form A & attachments for your records. Follow up with phone call immediately to advise that you are submitting a PAIA request.
<b>PSA</b> – Department of Public Service and Administration	Submit PAIA request. PSA will contact you regarding payment of request fee. You will need to respond by paying request fee and providing PSA with a copy of the proof of payment. Keep a copy of the letter and proof of payment for your records. - Donnie Maree, Legal Services - 012 336 1218
<b>PSC</b> – Public Service Commission	Submit PAIA request. PSC will contact you regarding payment of request fee. You will need to respond by paying request fee and providing PSC with a copy of the proof of payment. Keep a copy of the letter and proof of payment for your records.
<b>SAPS</b> – South African Police Service	Submit PAIA request (can call to check that Request was received). SAPS will then provide you with an invoice for the request fee. Pay by cash at a SAPS Police Station. They will issue you a receipt - this is your proof of payment. Fax proof of payment together with Cover Letter which details the PAIA request reference number to SAPS.
<b>SASS</b> – South African Secret Service	Send cheque and original form A (and attachments) in the mail (preferably registered post). Make a photocopy of the cheque, the completed form A & attachments for your records. Follow up with phone call immediately to advise that you are submitting a PAIA request.

\*NB: Each government department may change their procedure for payment of request fees. In order to ensure that you are cooperating with their standard procedure it is advisable to phone and ask the department Directly.

- **All Private Bodies.** Contact the relevant individual dealing with PAIA requests and ask them directly for their procedure for payment of request fees.

# APPENDIX E

## FORM A

### REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

(Section 18 (1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))

#### [Regulation 2]

#### FOR DEPARTMENTAL USE

Reference number: \_\_\_\_\_

Request received by: \_\_\_\_\_

(state rank, name and surname of information officer/deputy information officer)

on \_\_\_\_\_ (date) at \_\_\_\_\_ (place).

Request fee (if any): R \_\_\_\_\_

Deposit fee (if any): R \_\_\_\_\_

Access fee: R \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF INFORMATION  
OFFICER/DEPUTY INFORMATION OFFICER

#### A. Particulars of public body

The information officer/deputy information officer: Ms Marilyn Raswiswi, Deputy  
information officer, Department of Justice and Constitutional Development, Private  
Bag X8, PRETORIA 0001

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

- (a) The particulars of the person who requests access to the record must be recorded below.  
(b) Furnish an address and/or fax number in the Republic to which information must be sent.  
(c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname: CHARLOTTE YOUNG

Identity/passport number: 730012713 (British)

Postal address: PO BOX 31719, Braamfontein, 2017

Fax number: (011) 717 1964

Telephone number: (011) 717 1941

E-mail address: foip@saha.org.za

## EXAMPLE OF A COMPLETED FORM A (PAGE 2 OF 4)

### AND

Full names and surname: FREEDOM NGUBONDE

Identity/passport number: 7508015478089

Postal address: PO BOX 31719, Braamfontein, 2017

Fax number: (011) 403 0878

Telephone number: (011) 339 5031

E-mail address: freedom@khulumani.net

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/passport 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 (pages).**

1. Description of record or relevant part of the record: Records concerning the work of the Truth and Reconciliation Commission (TRC) Unit, including:

(i) Working plans regarding the work of the TRC Unit;

(ii) Records concerning victims and survivors from the apartheid-era that the TRC Unit has assisted to date, detailing:

a) the number of victims and survivors; and

b) the town and/or province where they reside.

NB: In view of section 34 we request that you do not disclose details that would violate third party confidentiality. Please provide a record only of (a) the number of victims and survivors and (b) the town and/or province where they reside.

(iii) Records detailing the annual budget allocated to the TRC Unit from its inception to the current financial year (2008).

(iv) Annual reports of the TRC Unit from its inception to 2008.

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: _____ _____
----------------------------	--

Mark the appropriate box with an "X".

NOTES:

- (a) Your indication as to the required form of access depends 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 to the record, if any, will be determined partly by the form in which access is requested.

## EXAMPLE OF A COMPLETED FORM A (PAGE 3 OF 4)

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

<b>X</b>	Copy of record*		Inspection of record
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**2. If record consists of visual images:**

(This includes photographs, slides, video recordings, computer-generated images, sketches, etc.).

	View the images	<b>X</b>	Copy of the images*		Transcription of the images*
--	-----------------	----------	---------------------	--	------------------------------

**3. If record consists of recorded words or information which can be reproduced in sound:**

	Listen to the soundtrack (audio cassette)	<b>X</b>	Transcription of the soundtrack* (written or printed document)
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**4. If record is held on computer or in an electronic or machine-readable form:**

	Printed copy of the record*		Printed copy derived from the record*	<b>X</b>	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?

YES

NO

**X**

**A postal fee is payable.**

*Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available.*

**In which language would you prefer the record?** *English*

How would you prefer to be informed of the decision regarding your request for access to the record? *Please write and phone*

---

Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ .

\_\_\_\_\_  
SIGNATURE OF REQUESTER

## APPENDIX F

### PAIA REQUEST OVERVIEW

Request Number:

Who submitted this:	
Date of submission of original submission:	
Which information officer was it submitted to:	
information officer contact details:	
What is the subject of the request:	
Was it to a public or private body:	
When a response is due:	
Was the appeal transferred and when:	
If transferred, to which information officer:	
What was the response:	
If it was refused, on what grounds was this done:	
Date of submission of appeal:	
Subject of appeal – on what grounds was the appeal by you submitted:	
When a response to the appeal is due:	
Were the records provided: Yes/No/Only in part:	
Where the records are kept:	
Number of pages of record:	
Date file closed:	

**NOTES SECTION:**





## FORD FOUNDATION

*The Freedom of Information Project: Capacity Building in the Community-based Sector commenced in April 2008.  
For further information please contact:*

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