

PAIA

Promotion of Access to Information Act

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Roles, terms and definitions related to the Act [Chapter 1 Definitions and Interpretations]

Roles & Terms	Definition/Description
Information Officer	<p>In the case of the National Department of Settlements it is the Director General.</p> <p>The Information Officer of the National Department of Human Settlements may delegate a power or duty conferred or imposed on that Information Officer by this Act to a deputy Information Officer of this department.</p> <p>Any delegation:</p> <ul style="list-style-type: none"> · must be in writing; · does not prohibit the person who made the delegation from exercising the power concerned or performing the duty concerned himself or herself; and · may at any time be withdrawn or amended in writing by that person.
Deputy Information Officer(s)	<p>The Director General of Human Settlements must designate such number of persons as Deputy Information Officers as necessary to render the National Department of Human Settlements as accessible as reasonably possible for requesters of its records.</p> <p>The Information Officer of the National Department of Human Settlements has direction and control over every deputy information officer of this department.</p>
Personal Requester	<p>A requester seeking access to a record containing personal information about the requester.</p> <p>'Personal information' means information about an identifiable individual, including, but not limited to:</p> <ul style="list-style-type: none"> · information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the individual; · information relating to the education or the medical, criminal or employment history of the individual, or information relating to financial transactions in which the individual has been involved; · any identifying number, symbol or other particular assigned to the individual; · the address, fingerprints or blood type of the individual; · the personal opinions, views or preferences of the individual, except where they are about another individual or about a proposal for a grant, an award or a

	<p>prize to be made to another individual;</p> <ul style="list-style-type: none"> · correspondence sent by the individual that is implicitly or explicitly of a private or confidential nature, or further correspondence that would reveal the contents of the original correspondence; · the views or opinions of another individual about the individual; · the views or opinions of another individual about a proposal for a grant, an award or a prize to be made to the individual, but excluding the name of the other individual where it appears with the views or opinions of the other individual; and · the name of the individual where it appears with other personal information relating to the individual, or where the disclosure of the name itself would reveal information about the individual, but excluding information about an individual who has been dead for more than 20 years.
Requester	<ul style="list-style-type: none"> · Any person making a request for access to a record of the National Department of Human Settlements; or · only those public bodies that are exercising a public power or performing a public function in terms of legislation.
Third Party	<p>In relation to a request for access to a record of the National Department of Human Settlements, a third party means:</p> <ul style="list-style-type: none"> · any person (including, but not limited to, the government of a foreign state, an international organisation or an organ of that government or organisation) other than: <ul style="list-style-type: none"> o the requester concerned; and o the National Department of Human Settlements; <p>but for the purposes of sections 34 of the Act, the reference to 'person' in paragraphs (a) and (b) must be construed as a reference to a 'natural person'.</p>
Relevant Authority	<p>In relation to The National Department of Human Settlements, the Relevant Authority means the Minister responsible for the National Department of Human Settlements or the person designated in writing by that Minister.</p>
Human Rights Commission	<p>Means the South African Human Rights Commission referred to in section 181 (1) (b) of the Constitution.</p>
Record	<p>In relation to the National Department of Human Settlements, a record means any recorded information:</p> <ul style="list-style-type: none"> · regardless of form or medium; · in the possession or under the control of that public body; and · whether or not it was created by that public body.
Days	<p>"When any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be</p>

	reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every Sunday or public holiday"
	Interpretation Act, (Act No 33 of 1957. Section 4 "Reckoning of number of days"
Working Days	Means any days other than Saturdays, Sundays or public Holidays, as defined in section 1 of the Public Holidays Act, 1994 (Act No 36 of 1994)

1. Introduction

The Promotion of Access to Information Act (PAIA), Act 2 of 2000 (hereafter also called the Act) came into effect on 9 March 2001, underlining the importance of access to information for an open, democratic, transparent society. The Act gives legislative form to section 32 of the Bill of Rights of the Constitution and should be interpreted as legislation giving effect to a constitutional right. This right states:

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 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.

The objectives of PAIA are thus:

- to give effect to the constitutional right of access to any information as stated above;
- to set out justifiable limitations on the right of access to information aimed at protecting people's privacy, confidential commercial information and ensuring effective, efficient and good governance;
- to balance the right of access to information with all the other rights in the constitution;
- to promote a culture of human rights and social justice;
- to establish mechanisms and procedures to enable persons to obtain access to records as swiftly, inexpensively and effortlessly as is

reasonably possible;

- to promote transparency, accountability and effective governance;
- to empower and educate everyone to:
 - o understand their rights in terms of the Act;
 - o understand the functions and operation of public bodies; and
 - o effectively scrutinise and participate in decision-making by public bodies that affects their rights.

This act overrides any other Acts or Regulations restricting access to records, except in the following cases (Section 5, 6, 12):

- Act 107 of 1998, National Environmental Management Act, 1998 [Section 31(1) and 31(2)];
- All records of the Cabinet and its committees, judicial functions of a court, special tribunal, or judicial officer or an individual member of Parliament or Provincial Legislature.

2. **Human Rights Commission Guide on how to use the Act [Section 14(1)(c)]**

NOTE: The manual does not replace the Act and must be read in conjunction with the Act and Regulations.
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It is the responsibility of the South African Human Rights Commission to compile a guide, in an easily comprehensible form and manner, as may be required by a person who wishes to exercise any right contemplated in the Act.

This guide will be made available in all the official languages and be available from the South African Human Rights Commission by not later than August 2003.

Any enquiries regarding this guide should be directed to:

The South African Human Rights Commission	
Telephone Nr:	+27 11 877 3600

Fax Nr:	
E-Mail Address:	PAIA@sahrc.org.za
Postal Address:	PAIA Unit: The Research and Documentation Department Private Bag 2700 Houghton 2041
Street Address:	PAIA Unit: The Research and Documentation Department Boundary Road, Isle of Houghton, Wilds View, Entrance 1 Houghton JOHANNESBURG
Website:	www.sahrc.org.za

3. National Department of Human Settlements Manual

The purpose of this manual is to inform a person how to obtain access to records held by the National Department of Human Settlements, giving effect to Section 14 of the Act.

NOTE: This manual represents only the National Department of Human Settlements and does not include information and or records of the various Provincial Departments.

4. Information Officer, Deputy Information Officers [Section 14(1)(b)]

In terms of the Act the Director General of the National Department of Human Settlements is the Information Officer and she delegated her power and duties by designating the following personnel to act as the Information Officer and Deputy Information Officers respectively:

Deputy Information Officers: Department of Human Settlements	Mr Victor Rajkumar Legal Representative
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All PAIA issues will be dealt with by the PAIA Centre.

PAIA Centre: Department of Human Settlements - Contact Detail	
Telephone:	+27 12 421 1744
Cell:	
Fax:	+27 86 613 8022
E-Mail address:	victor.rajkumar@dhs.gov.za
Postal Address:	The Deputy Information Officer: PAIA Centre National Department of Human Settlements Private Bag x644 PRETORIA Republic of South Africa 0001
Street Address:	The Deputy Information Officer: PAIA Centre Govan Mbeki House 240 Walker Street

	PRETORIA
Office Hours:	07:30 - 09:30 09:45 - 12:15 13:00 - 14:30 14:45 - 16:00
Cashier Hours:	10:00 - 11:00 14:00 - 14:30
Website:	http://www.dhs.gov.za

5. Structure and functions of the National Department of Human Settlements [Section 14(1)(f)]

5.2 Functions of the National Department of Human Settlements

5.2.1 The vision and mission of the National Department of Human Settlements

Vision	A nation housed in sustainable human settlements
Mission	To facilitate the creation of sustainable human Settlements and improved quality of household life
Goals	<p>The Department of Human Settlements has since its existence attempted to capture the mandate to build functioning communities and respond to the national dynamics/challenges by drafting a human settlements strategy which aims at creating sustainable human settlements and improving the quality of household life.</p> <p>Following the national and provincial elections in 2009, government adopted a Medium Term Strategic Framework (MTSF) and included the priority of "building cohesive and sustainable communities", which directly informs the strategic objective of the department. The adoption of Outcome 8 as the development outcome the department must achieve, builds on the priority set in the MTSF by Cabinet in July 2009.</p> <p>The strategic outcome identified for the department to realise is "Sustainable Human Settlements and Improved Quality of Household Life". The following are the</p>

Departmental Strategic outcome oriented goals referred to as outputs of outcome 8 elsewhere in this Departmental Strategic Plan:

Strategic Outcome Oriented Goal 1	Accelerated delivery of housing opportunities
Goal Statement	<ul style="list-style-type: none"> · Achieving the target of 400 000 households by 2014, the securing of some form of land tenure for these families so they have a real asset and access to universal services. · Up scaling the development of affordable Rental Housing Stock

Strategic Outcome Oriented Goal 1	Accelerated delivery of housing opportunities
Technical Indicator	<ul style="list-style-type: none"> · To upgrade informal settlements and proper services and land tenure to 400 000 house by 2014. · To increase the rate of affordable rental housing delivery to 20 000 units per year towards 2014. · To provide support for accelerated delivery of 80 000 affordable rental units by 2014. · Develop comprehensive profile of informal settlements. · Actively participate in and oversee project choice by provinces and municipalities. · Undertake a National Human Settlements Sector Capacity Audit. · Determine and implement incentives for private sector investment in our target market. · Facilitate the implementation of "Each-One-Settle-One" campaign.
Strategic Outcome Oriented Goal 2	Improve access to basic service
Goal Statement	This outcome is the primary responsibility of the Department of Cooperative Governance and Traditional Affairs, and the Department of Human Settlements will play a supportive role in access to basic services; Water from 92% to 100%; Sanitation from 69% to 100%; Refuse removal from 64% to 75% and Electricity from 81% to 92%.
Technical Indicator	<ul style="list-style-type: none"> · To accelerate the provision and upgrade of infrastructure networks to prioritised settlements by 2014 through establishment of a consolidated infrastructure (community and bulk) funding · Facilitate stronger alignment between MIG and Human Settlements Development.
Strategic Outcome Oriented Goal 3	More efficient land utilization
Goal Statement	More efficient utilisation of the land to enhance urban agglomeration and improve access to social amenities and job opportunities. Urban sprawl and low densities contribute to unproductive and

	inefficient cities as poor households continue to be marginalised by distance and transportation costs and the lack of agglomeration in many urban centres undermines economic development and efficiency. The release of well located land and properties owned and held by the State in the National spheres of Government for purpose of housing and human settlements development
Technical Indicator	To assemble and acquire 6250 hectares of State Owned Land which will be well located for low income and affordable housing. Determine and oversee implementation of higher densities. Acquire Tribunal Land
Strategic Outcome Oriented Goal 4	Improved property market
Goal Statement	The target is to facilitate with the private sector, related dfi's and spheres of government, the improvement of financing of 600 000 housing opportunities within the gap market for people earning between R3 500 and R12 800.
Technical Indicator	<ul style="list-style-type: none"> · The establishment of a Mortgage Default Insurance Programme to accommodate people whose salaries are too high to get government subsidies, but who earn too little to qualify for a normal bank mortgage. · Supply of affordable housing finance to 600 000 households

The adoption of outcome based performance has resulted in the focusing of priorities for the department and key areas of development which the department must focus on to achieve goals and outcomes. The failure in the recent past has been to have a plethora of outcomes and goals to be achieved and limited impact.

It is important that based on the current state of overall national development goals that the department focuses on the key national development strategic outcomes and goals which are eradication of poverty, inequality and redressing of social and economic underdevelopment.

5.2.2 The roles and functions of the National Department of Human Settlements

The primary role of national government is to **"establish and facilitate a sustainable housing development process"** after consultation with the nine MECs for Human Settlements, and the national organisation representing municipalities (South African Local Government Association, SALGA).

a. Broad Functions described in the Housing Code

"In order to facilitate and establish a sustainable national housing development process, national government, acting through the Minister of Human Settlements, must carry out a number of key

functions. These functions are as follows:

1. **Policy:** Determines national policy, including norms and standards, in respect of housing development;
2. **Goals:** Sets broad national housing delivery goals; facilitates the setting of provincial housing delivery goals; and, where appropriate, facilitates the setting of housing delivery goals of a municipality;
3. **Performance monitoring:** Monitors the performance of the housing sector against housing delivery goals and performance indicators, in co-operation with every MEC;
4. **Capacity support:**
 - a. Assists provinces to develop their administrative capacity;
 - b. Supports and strengthens the capacity of municipalities to manage their own affairs to exercise their powers and perform their duties in respect of housing development;
5. **Consultation:** Promotes consultation on matters regarding housing development between national government and representatives of civil society, the sectors and subsectors supplying or financing housing goods and services, provincial government and municipalities and any other stakeholder in housing development;
6. **Communication:** Promotes effective communication in respect of housing development."

b. Functions

In addition to the above broad functions and in support thereof, the Minister of Housing undertakes the following:

- To establish a national institutional and funding framework for housing development;
- To negotiate the apportionment of the State budget for housing development purposes;
- To allocate funds for national housing programmes to provincial governments;
- To prepare and maintain a multi-year housing development plan;
- To establish and finance national institutions for purposes of housing development;
- To evaluate the performance of the housing sector; and
- To take steps reasonably necessary to create an environment conducive to enable all role players and individuals to achieve their respective goals in respect of housing development.

5.3 National Department of Human Settlements services available to members of the public [Section 14(1)(f)]

5.3.1 Nature of services

The primary service that the department provides is the establishment and maintenance of a policy and legislative framework required for the facilitation of a sustainable national housing development process. This

objective culminated in the introduction of the Housing Act, 1997 (Act No. 107 of 1997), the facilitation of a focussed institutional framework and the National Housing Programmes that direct and govern the Government's housing assistance and support programmes. The department also facilitates the apportionment of the annual housing allocation to the nine provincial governments for the execution and funding of the National Housing Programmes and Provincial Housing Programmes that are consistent with National Housing Policy.

Housing development realises within a structured and planned regime and is executed by provincial governments and municipalities. The decision-making power regarding National Housing Programmes vests in the members of the Executive Councils responsible for housing of the nine provincial governments.

Municipalities may also apply to the MEC for accreditation to administer National Housing Programmes and, if successful, it will assume the decision-making power in respect of the National Housing Programmes.

In addition to the role provincial governments and municipalities play in regard to housing development, government has established the following national institutions to facilitate the specific housing and housing-related needs of the market:

- **The National Home Builders Registration Council (NHBRC)**

The NHBRC is responsible for the protection of housing consumers by providing a warranty protection against defects in new houses. It furthermore regulates the building industry by facilitating the registration of builders with the NHBRC and by governing the technical norms and standards for house construction with the objective to improve quality in the interests of consumers. All houses to be constructed must be registered at the NHBRC, and the council will in return provide specific services to the industry and consumers.

- **The National Urban and Reconstruction Agency (NURCHA)**

NURCHA is primarily responsible for the provision of bridging-finance guarantees to contractors, end-user finance guarantees to assist people in the lowest income categories to access housing credit, and capacity-building grants to communities to facilitate community development. The institution is also responsible for a national savings scheme that assists low-income persons to save towards the goal of gearing their housing-subsidy funding.

- **The National Housing Finance Corporation (NHFC)**

This institution is a development-finance institution with the main goal of providing housing credit on a sustainable manner to low-income earners. To this end the NHFC undertakes to fund intermediaries to promote broader access to housing, to build adequate and sustainable capacity within the organisations it funds, and to enter into partnership

to pioneer new finance-delivery approaches.

The institution focuses on debt finance where it makes loans available to established housing institutions, non-bank lenders and banks for lending to poor households. It also undertakes equity finance through the provision of financial-gearing capacity to social housing institutions and non-banks. The capacity-building objective is realised through assistance to emerging and new institutions to enable them to fully participate in the market.

The Social Housing Foundation (SHF)

The SHF focuses on support for the social housing-institution market. This is achieved by providing training, advice and technical support to emerging and established social-housing institutions. It also assists the Minister in the development of appropriate policy and strategy in respect of the social-housing dimension. The SHF also facilitates access to donor funding for the social-housing initiative.

SERVCON Housing Solutions (Pty) Ltd

This institution was established as part of the joint venture between the banks and the government to deal with specific non-performing loans and properties in possession of banks due to defaulting loans, and the abnormality of the South African housing-credit market that existed in 1994. SERVCON assists identified defaulting beneficiaries with the rescheduling of their existing loans, or where affordability dictates to relocate to alternative affordable housing opportunities. Linked to this initiative, a separate delivery institution was created referred to as Thubelisha Homes that undertakes the construction of right-sized housing units.

5.3.2 How to gain access to services

To gain access to the services at the National Department of Human Settlements, requests must be made to the Director General of this Department

Postal Address:	The Director General National Department of Human Settlements Private Bag x644 PRETORIA Republic of South Africa 0001
Street Address:	The Director General Govan Mbeki House 240 Walker Street PRETORIA

5.4 Arrangements/provisions allowing for a person to be involved in the formulation of policy and/or the exercise of powers of the National Department of Human Settlements [Section 14(1)(g)]

National housing policy and strategy formulation and approval takes place within a structured process. In this regard the principle of consultation is made obligatory through the provision of the Housing Act, 1997. The Minister is primarily responsible for the development of national housing policy and strategy. This is undertaken through the consultation process facilitated by the Housing: MINMEC structure. Housing: MINMEC comprises the Minister of Human Settlements, the nine members of the Executive Councils responsible for housing of the nine provincial governments and the South African Local Government Association (SALGA).

The department does, from time to time, consult on a broad basis on policy and strategy issues and such initiatives normally take the form of consultation workshops and national housing summits.

The fundamental principle remains that everyone in the country has access to the decision-making structures through the democratic political dispensation of the Republic. Notwithstanding this fact, the department is committed to consult as widely as practically possible regarding future housing policy and strategy.

6. National Department of Human Settlements Records [Section 14(1)(d-e)]

6.1.1 Automatic disclosure of records [Section 14(1)(e)] [Section 15(2)]

The records listed here are automatically available without a person having to request access in terms of the Act. These have not yet been gazetted as prescribed in the Act.

The Deputy Information Officer can be contacted to get access to these records:

- available for inspection in terms of legislation other than this Act
- available for purchase
- available for copying. There is a fee payable for the copies. (See par 6.2)
- available free of charge in certain instances, e.g. via the National Department of Human Settlements website: <http://www.dhs.gov.za>.

Table 1: Records automatically available from the National Department of Human Settlements

DESCRIPTION OF CATEGORY OF

RECORDS AUTOMATICALLY AVAILABLE IN TERMS OF SECTION 15(1)(a) OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000	MANNER OF ACCESS TO RECORDS (e.g. website) SECTION 15(1)(b)
AVAILABLE FREE OF CHARGE IN TERMS OF SECTION 15(1)(a)(iii)	
1. ANNUAL REPORT OF THE DEPT	WEBSITE
2. RURAL HOUSING SUBSIDY PROGRAMME	WEBSITE
3. SANITATION POLICY DOCUMENT	CALL/EMAIL TO RECEIVE OR COLLECT
4. ECONOMIC TRENDS ANALYSIS/MARKETS	WEBSITE
5. RESOURCE MOBILIZATION STRATEGY	CALL/EMAIL TO RECEIVE OR COLLECT
6. HUMAN SETTLEMENTS PROGRAMMES and SUBSIDIES	WEBSITE
7. ECONOMIC OPPORTUNITIES CREATED BY HUMAN SETTLEMENTS	WEBSITE
8. HUMAN SETTLEMENTS CONTACTS BOOK	WEBSITE
9. BUILDING THE NATION MAGAZINE	WEBSITE
10. CONTACTS BOOKLET	WEBSITE
11. CD – GENERIC PUBLICATIONS	WEBSITE
12. PEOPLE’S HOUSING PROCESS POLICY	WEBSITE
13. UPGRADING OF INFORMAL SETTLEMENTS	WEBSITE
14. SOCIAL RENTAL HOUSING CD AND BOOKLET	WEBSITE
15. SANITATION FLYER- DIARRHEA	CALL/EMAIL TO RECEIVE OR COLLECT
16. SANITATION – HYGIENE EDUCATION	CALL/EMAIL TO RECEIVE OR COLLECT
17. SANITATION – MANUAL TO OPERATE VENTILATED IMPROVED PIT (VIP) TOILETS	CALL/EMAIL TO RECEIVE OR COLLECT
18. COMMUNITY RESIDENTIAL PROGRAMME (CRU)	WEBSITE
19. HUMAN SETTLEMENTS PROFILE PUBLICATION	WEBSITE
20. BUILDING SUSTAINABLE HUMAN SETTLEMENTS-IMPLEMENTATION, SYSTEMS AND POLICY	WEBSITE
21. HUMAN SETTLEMENTS PROGRAMMES and SUBSIDIES	WEBSITE
22. ECONOMIC OPPORTUNITIES CREATED BY HUMAN SETTLEMENTS	WEBSITE
23. HUMAN SETTLEMENTS CONTACTS BOOK	WEBSITE
24. HUMAN SETTLEMENTS HOUSING CODE	WEBSITE
25. WORLD TOILET DAY	WEBSITE
26. HAND-WASHING SAVES LIVES	WEBSITE
27. WASH YOUR HANDS BEFORE AND AFTER.....	WEBSITE
28. SUSTAINABLE COMMUNITY HOUSING WORKBOOK	WEBSITE

6.1.2 Categories of records available for inspection in terms of other legislation

- The Housing Act 1997 (No 107 of 1997).
- The Labour Relations Act 1995 (No 66 of 1995 as amended)
- The Legal Deposit Act 1997 (No 54 of 1997)
- The National Archives of South Africa Act 1996 (No 43 of 1996)
- The Home Loan and Mortgage Disclose Act 2000 (No 63 of 2000)

NOTE: The provisions of section 5 of the of the Act make very clear that PAIA applies to the **exclusion** of any provision of any other legislation that prohibits or restricts the disclosure and which is materially inconsistent with the object or specific provision of PAIA. [Section 5(5)]

6.1.3 Categories of records available that may be requested via PAIA [Section 14 (1)(d)]

Access to the records listed here are those that have to be requested in terms of the Act. These records can be requested from the National Department of Human Settlements Deputy Information Officers according to the request procedures as described in the paragraph below.

Table 2: Records that can be requested via the Promotion of Access to Information Act, Act 2 of 2000

Subject	Sub-Subject
Agendas & Minutes	
Agreements	Agreements Bilateral
Agreements	Agreements International
Contracts	Contracts
Finance	Departmental Budget
Finance	Fund Cash Flow
Finance	Fund Expenditure
Finance	Institutional Funds Report
Finance	Provincial Fund Cash Flow
Finance	Provincial Fund Expenditure
Finance	Public Company Funds
Mandates	Mandates
Personnel Records	Advertisements
Personnel Records	Appointments
Personnel Records	Housing Records
Personnel Records	Injury on Duty

Personnel Records	Leave Records
Personnel Records	Pensions
Personnel Records	Performance Appraisals Records
Personnel Records	Personnel Selection
Personnel Records	Promotions
Personnel Records	Records provided by personnel
Personnel Records	Remuneration Records
Personnel Records	Salary Scales
Personnel Records	Transfers
Plans	Business Plans
Plans	Business Plans: Housing Institutional
Plans	Housing Strategic Plan
Plans	Human Resource Plans
Plans	Human Resource Programme Plans
Policies	Frameworks: Institutional
Policies	Frameworks: Legal
Policies	Frameworks: Policies
Policies	Housing Educational Policy
Policies	Housing Policy
Policies	Monitoring Criteria
Policies	Policy Implementation Status
Policies	Special Housing Needs: Disabled
Policies	Special Housing Needs: HIV/AIDS
Policies	Special Housing Needs: Needs: Elderly
Policies	Special Housing Needs: Needs: Orphan
Policies	Special Housing Needs: Needs: Street Children
Policies	Special Housing Needs: Needs: Youth
Programmes	AA Programme
Programmes	Employee Assistance Programme
Programmes	Empowerment Programmes
Programmes	HIV/AIDS Programme
Programmes	Housing Programme Goals: Local Authorities
Programmes	Housing Programme Goals: National
Programmes	Housing Programme Goals: Provincial
Programmes	Housing Programmes
Programmes	Housing Programmes Plans
Programmes	Human Rights Programmes
Programmes	Skills Development

Reports	Annual Report
Reports	Audit Reports
Reports	Committee Meeting Reports
Reports	Housing Programme Reports
Reports	Human Resource Programme Plan Reports
Reports	ODI Funds Report
Reports	Policy Implementation Reports
Reports	Policy Performance Reports
Reports	Quarterly Reports
Reports	Special Programmes Reports
Strategies	Delivery Goals: Local Authorities
Strategies	Delivery Goals: National
Strategies	Delivery Goals: Provincial
Strategies	Strategy and guidelines on Capacity Building
Strategies	Guidance on Land Usage
Strategies	Housing Educational Strategy
Strategies	Housing Land Policy
Strategies	Housing Land Strategy Rural
Strategies	Housing Land Strategy Urban
Strategies	Housing Strategies
Strategies	Internal Communications Strategy
Strategies	Media Communications Strategy

7. Request procedure

English will be the formal communication language with regard to this Act.

7.1 Steps to be taken by the Requester

The requester must comply with all the procedural requirements as prescribed in the Act (summarised hereafter), i.e. all requests, complying with the procedures as set out below, will be considered and processed.

Access to a record may only be refused on the grounds of refusal mentioned in the Act. (See par 6.3)

It is recommended that the requester determine what kind of requester he/she is, because it has the following implications.

Type of Requester	Description/Definition	Implication
Personal Requester	Seeking access to a record containing personal information about the requester	No Request fee and no deposit on access fee(s) payable
Requester	Any person making a request for access to a record of the National Department of Human Settlements. or Only those public bodies that are	Request fee payable and deposit on access fee(s) payable

	exercising a public power or performing a public function in terms of legislation	
Requester on behalf of someone	A person acting on behalf of another person and making a request on behalf of that person	Proof of the capacity in which the requester is acting on behalf of the other person must be provided Request fee payable

A request for access must be made by completing the prescribed National Department of Human Settlements request form, paying the request fee and sending it to the Deputy Information Officer.

- The request form is available:
 - o As Annex A to this manual (for completion by hand);
 - o Downloadable from the National Department of Human Settlements website (<http://www.dhs.gov.za>) as part of the National Department of Human Settlements PAIA Manual;
 - o By requesting it to be forwarded via fax, letter, phone or e-mail from the Deputy Information Officer;
 - o By collecting the form at the National Department of Human Settlements reception or PAIA Centre.
- The request form can be completed by hand or electronically when it is downloaded from the website.
- A requester with reading/ writing or other disabilities may make the request verbally. The verbal request will be written on the prescribed form and the requester will be provided with a copy thereof.
- The form must be signed by the requester.
- The requester must sign all additional pages of documentation added to the request form.
- The personnel from the PAIA Centre can also be contacted and will assist in making the request.

To cut down on administration it is recommended that the payment of the Request fee of R35.00, with the exception of a Personal Requester, be attached or included with the request. The National Department of Human Settlements will accept payment by means of cash, postal orders, revenue stamps, credit card and not-transferable cheques (cheques and postal orders must be made payable to **THE DEPARTMENT OF HUMAN SETTLEMENTS** and a clearing period of 10 working days must be allowed for cheques). (See par 6.2)

Dispatch the completed request form to the Deputy Information Officer of the National Department of Human Settlements, by:

- posting it to the postal address provided;
- delivering it to the PAIA Centre at the physical address; or
- faxing it (only if **no** request fees are applicable).

It is recommended that the requester keep a copy of the request for his/his own records.

The National Department of Human Settlements Deputy Information Officer:

- will only process the request for access once both the:
 - o the request form has been correctly completed, and

NOTE: The Deputy Information Officer may not refuse a request for access if the prescribed request form has not been completed correctly or completely,

§ unless the requester has been notified (PAIA-REQ-01) of the intention to refuse the request stating the reasons for the contemplated refusal, and

§ he/ she volunteers to assist the requester in order to make the request in a form that would remove the grounds for refusal. [Section 19 (2)]

- o the request fee (where applicable) has been paid;
- has 30 days (where applicable) **to make a decision**. An additional 30 days may be added to the original period to make the decision. The requester will be informed in writing by post, within 30 days, of the decision to extend the period; (PAIA-REQ-12)
- can decide and notify the requester on the following:
 - o to **grant** the request (PAIA-REQ-08 or PAIA-REQ-09);
 - o To **partially grant/refuse** the request (PAIA-REQ-11)
 - o notice of **fees payable** (if applicable). The record(s) will only be made available if the Deputy Information Officer has received the applicable fees; (PAIA-REQ-03)
 - o to **refuse** the request (PAIA-REQ-10);

NOTE: If a Deputy Information Officer fails to respond within 60 days (including the extended period) to the request it should be regarded as a refusal and the requester may lodge an Internal Appeal. [Section 27]

- o to **transfer/forward** the request to the applicable public body or other government department (PAIA-REQ-02);
- o that a **third party/parties** must first be consulted (PAIA-REQ-13);
- o that the **record(s) cannot be found** (PAIA-REQ-06); and

- o that access is **deferred**, i.e. where the record(s) is to be published within 90 days (The Heading and nr of Letter). (PAIA-REQ-07)

7.2 Prescribed Fees (Public Bodies)

In terms of the Act there are two types of fees payable, i.e.:

- The **request fee**, which is a standard once-off fee. The prescribed fee is R35,00. This fee must be paid before a request can be processed and the Deputy Information Officer must notify the requester (in writing) that this fee is payable.

NOTE: The request fee is not applicable in the case of a personal requester. [Section 22(1)]

- The **access fees** include reproduction, search, preparation and postal costs where applicable.

NOTE: If the search and preparation time exceed six hours, a **deposit of one third of the access fee** would be payable by the requester, excluding a personal requester. The Deputy Information Officer will notify the requester in writing of the deposit payable. Should the request for access be refused the Deputy Information Officer must refund/repay the deposit to the requester. [Section 22(2)(b)]

The prescribed fees are summarised in accordance with Part II of the Government Notice (R187) published in the Government Gazette on 15 February 2002.

FEE DESCRIPTION	RAND value
Request Fees [Section 22(8)]	
1. The request fee payable by every requester, other than a personal requester, referred to in regulation 7 (2).	35,00
Reproduction Fees [Section 15(3)] (apply to the reproduction of records that are disclosed voluntarily or that are made available automatically)	
2. The fee for a copy of the manual as contemplated in regulation 5(c) is R0,60 for every photocopy of an A4-size page or part thereof.	0,60 per page
3. The fees for reproduction referred to in regulation 7(1) are as follows:	
a. For every photocopy of an A4-size page or part thereof	0,60
b. For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	0,40
c. For a copy in a computer-readable form on:	
· stiffy disc	5,00
· compact disc	40,00
d. For a transcription of visual images:	
· for an A4-size page or part thereof	22,00
· for a copy of visual images	60,00
e. For a transcription of an audio record:	

	· for an A4- size page or part thereof	12,00
	· for a copy of an audio record	17,00
Access Fees (apply to records requested by means of the PAIA request form)		
4.	(1)The access fees payable by a requester referred to in regulation 7(3) are as follows:	
a.	For every photocopy of an A4-size page or part thereof	0,60
b.	For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	0,40
c.	For a copy in a computer-readable form on:	
	· stifty disc	5,00
	· compact disc	40,00
d.	For a transcription of visual images	
	· for an A4-size page or part thereof	22,00
	· for a copy of visual images	60,00
e.	For a transcription of an audio record	
	· for an A4- size page or part thereof	12,00
	· for a copy of an audio record	17,00
Search and Preparation Fees		
f.	To search for and prepare the record for disclosure, R15,00 for each hour or part of an hour, excluding the first hour, reasonably required for such search an preparation	15,00 per hour exl 1 st hour
Deposit Required [Section 22(2)]		
4.	(2) For purposes of section 22(2) of the Act, the following apply:	
a.	six hours as the hours to be exceeded before a deposit is payable; and	
b.	one third of the access fee is payable as a deposit by the requester	
Postal Fees		
4	(3) The actual postal fee is payable when a copy of a record must be posted to a requester	

The National Department of Human Settlements will accept payment by means of the following methods.

- Cash.
- Postal orders. Postal Orders must be made payable to **THE DEPARTMENT OF HUMAN SETTLEMENTS**
- Revenue stamps.
- Not-transferable cheques (a clearing period of 10 days must be allowed). Cheques must be made payable to **THE DEPARTMENT OF**

HUMAN SETTLEMENTS.

The National Department of Human Settlements will, in the case of cash, postal orders and revenue stamps, issue a receipt. In the case of cheques an interim acknowledgement will be issued until such time that the cheque has been cleared, after which a receipt will be issued.

A requester may lodge an Internal Appeal against, or an application with a court, on the payment of fees. (See par 6.4)

7.3 Grounds for refusal of access to a record(s) [Chapter 4 of the Act]

Since the Act does not apply to the following, any requests thereof will be refused:

- The requested record is a Cabinet record.
- The requested record is a Cabinet committee record.
- The requested record is a record of judicial functions of a court
- The requested record is a record of a special tribunal.
- The requested record is a record of a judicial officer
- The requested record is a record of an individual member of Parliament or Provincial Legislature.

A request may be refused if the requester hasn't complied with all procedural requirements after he/she has been notified of the intention to refuse the request by the Deputy Information Officer.

The Act provides for grounds where access to a record **MUST** or **MAY** be refused.

NOTE: In addition to what must or may be refused, the Act also stipulates:

- when access to a record(s) **MAY NOT** be refused; and
- when the disclosure of a record(s) is **MANDATORY** in the interest of the public. [Section 46]

For the purpose of this manual, only the grounds on which access to a record **MUST BE REFUSED** will be highlighted here.

The Deputy Information Officer **MUST**, subject to certain provisions, refuse a request for access on the following grounds:

- **Mandatory protection of privacy of a third party who is a natural person**, i.e. if its disclosure would involve the unreasonable disclosure of personal information about a third party, including a deceased individual [Section 34(1)].
- **Mandatory protection of certain records of the South**

African Revenue Service (SARS), i.e. the Information Officer of SARS must refuse a request to a record of SARS if it contains information that was obtained or is held by SARS for the purposes of enforcing legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act 34 of 1997) [Section 35(1)].

- **Mandatory protection of commercial information of third party**, i.e. the Deputy Information Officer must refuse a request if the record contains [Section 36(1)]:
 - o trade secrets of a third party;
 - o financial, commercial, scientific or technical information other than trade secrets of a third party, of which the disclosure could likely cause harm to the commercial or financial interests of that third party; or
 - o information supplied in confidence by a third party and the disclosure could put that third party at a disadvantage in contractual or other negotiations, or prejudice that third party in commercial competition.
- **Mandatory protection of certain confidential information of a third party**, i.e. the Deputy Information Officer must refuse a request if the disclosure of the record would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement [Section 37(1)(a)].
- **Mandatory protection of safety of individuals, and protection of property**, i.e. the Deputy Information Officer must refuse a request if its disclosure could reasonably be expected to endanger the life or physical safety of an individual [Section 38(a)].
- **Mandatory protection of police dockets in bail proceedings, and protection of law enforcement and legal proceedings**, i.e. the Deputy Information Officer must refuse a request if access to that record is prohibited in terms of section 60 (14) of the Criminal Procedure Act, 1977 (Act 51 of 1977) [Section 39(1)(a)].
- **Mandatory protection of records privileged from production in legal proceedings**, i.e. the Deputy Information Officer must refuse a request if the record is privileged from production in legal proceedings unless the person entitled to the privilege has waived the privilege [Section 40].
- **Mandatory protection of research information of third party, and protection of research information of public body**, i.e. the Deputy Information Officer must refuse a request if the record contains information about research being or to be carried out by or on behalf of a third party, the disclosure of which would be likely to expose [Section 43(1)]:
 - o the third party;

- o a person that is or will be carrying out the research on behalf of the third party; or
 - o the subject matter of the research;
- to serious disadvantage.

8. Remedies available against decisions of the Information Officer [Section 14(1)(h)]

8.1.1 Internal Appeals and Applications to Court [Sections 74-82]

The remedies available against decisions of the Information Officer or Deputy Information Officer on a request for access are:

- an Internal Appeal, [Section 74 - 77] or
- an application to court [Section 78 - 82].

NOTE: Applications to/with a court may only be done after a requester, personal requester or third party has exhausted the Internal Appeal procedures. [Section 78 (1)]

'Internal appeal' means an Internal Appeal to the 'Relevant Authority' in terms of section 74 of the Act. In the case of the National Department of Human Settlements, the 'Relevant Authority' is the Minister of Human Settlements or the person designated in writing by the Minister of Human Settlements.

Internal appeal procedures are subject to such a mechanism actually being in place within a public body to facilitate such an Internal Appeal.

A requester, personal requester or third party may lodge an Internal Appeal if he/she is not satisfied with the decision made by the Information Officer or Deputy Information Officer about a request for access.

- A **requester**, i.e. personal requester, requester, requester on behalf of someone, may lodge an Internal Appeal against, or an application with a court on the decision(s) of the Information Officer or Deputy Information Officer, re:
 - o the extension of the period to deal with a request [Section 2 (3)(c)]; or
 - o the refusal to grant access [Section 25(3)(c)]; or
 - o the payment of fees, i.e.:
 - § a request fee [Section 22]; or
 - § an access fee;
 - § a deposit on access fees [Section 22]; or
 - o the form of access granted [Section 25 (2)(c)].

- A **third party/parties** may only lodge an Internal Appeal against, or an application with a court on the decision(s) of the Information Officer or Deputy Information Officer to:
 - o grant a request for access. [Section 49(3)(b)]

NOTE: In this case access to the record may be given only when the decision to grant the request is finally confirmed [Section 29(9)].

For an Internal Appeal to be lodged, a requester, personal requester or third party should/must lodge it within a specific time frame after being notified/informed of the decision of the Deputy Information Officer. The time frames are as follows

- A **requester** (i.e. personal requester, requester, requester on behalf of someone), within 60 days that the requester has been informed of a decision.
- A **third party/parties**, within 30 days after the third party has been notified that access has been granted.

NOTE: The lodging of a late Internal Appeal may be allowed if a good reason as to why it is late is provided. If disallowed, the person lodging the request will receive notification of the decision [Section 75(2)(a)(b)].

Currently no fees are applicable with regard to Internal Appeals.

8.1.2 Internal Appeal Procedures [Section 74-77]

To lodge an Internal Appeal the requester or third party needs to complete the prescribed National Department of Human Settlements "Notice of Internal Appeal" form.

- The Internal Appeal form is available:
 - o As Annex B to this manual (for completion by hand);
 - o Downloadable from the National Department of Human Settlements website (<http://www.dhs.gov.za>) as part of the National Department of Human Settlements PAIA Manual;
 - o By requesting it to be forwarded via fax, letter, phone or e-mail from the Deputy Information Officer;
 - o By collecting the form at National Department of Human Settlements reception or from the PAIA Centre.
- The Internal Appeal form can be completed by hand or electronically when it is downloaded from the website.
- The form must be signed by the appellant.
- All additional pages of documentation added to the Internal Appeal form must be signed by the appellant.

The completed Internal Appeal form is to be dispatched to the Deputy Information Officer of the National Department of Human Settlements, by:

- posting it to the postal address provided;
- delivering it to the PAIA Centre at the physical address; or
- by faxing it.

It is recommended that the requester keep a copy of the Internal Appeal for his/her own records.

The following actions will result from an Internal Appeal:

- The Deputy Information Officer must submit the Internal Appeal to the Relevant Authority within 10 working days.
 - The Relevant Authority must inform third party/parties involved as soon as possible, but definitely within 30 days, by the fastest means possible, after receipt of an Internal Appeal lodged by the requester against the refusal to grant access. (PAIA-APP-02)
 - The Relevant Authority must inform the requester involved as soon as possible, but definitely within 30 days, by the fastest means possible, after receipt of an Internal Appeal lodged by the third party/parties against the granting of access. (PAIA-APP-03)
 - The Relevant Authority must decide on the Internal Appeal as soon as possible, but definitely:
 - o within 30 days after receiving it from the Deputy Information Officer;
 - o within 30 days after a third party or requester has been informed of an Internal Appeal; or
- NOTE:** The third party or requester may, within 21 days after being informed, make written representations to the Relevant Authority on why a request should either not be granted or be granted. [Section 76 (51)]
- o within 5 working days after a requester has made written representations on the Internal Appeal by a third party/parties.
 - If knowledge about an Internal Appeal has been obtained by other means than by the Relevant Authority, written or verbal representations should be made to the Relevant Authority on why the request for access should be refused.
 - The Relevant Authority may decide to:
 - o confirm the decision appealed against, or
 - o to substitute a new decision for it.
 - Immediately after the decision on the Internal Appeal has been

made, written notification of the decision will be given to:

- o the appellant; (PAIA-APP-04 or PAIA-APP-06)
- o every third party (if not the appellant); (PAIA-APP-05)
- o the requester (if not the appellant) (PAIA-APP-05).

NOTE: If the Relevant Authority fails to give notice of a decision on the appeal within 30 days it should be regarded as that the Internal Appeal has been dismissed, and the requester may then apply to a court. [Section 77 (7)]

8.1.3 Application to Court Procedures [Section 78-82]

An application may only be lodged with:

- the Constitutional Court;
- a High Court or another court of similar status; or
- a Magistrate's Court presided over by a magistrate designated in writing by the Minister of Justice.

NOTE: [Section 79]

- The Rules Board for Courts of Law must make and implement the rules of procedure for court and these rules have to be approved by Parliament before the publication thereof in the Gazette.
- Until the rules of procedure have been made, applications must be made to the High Court or another court of similar status.
- Proceedings on application in terms of section 78 of the Act are civil proceedings, and the rules of evidence applicable in civil proceedings apply to this Act.

A requester, personal requester or third party may only apply to a court after he/she has exhausted the Internal Appeal procedures.

A requester, personal requester or third party may, within 30 days, by way of an application, apply to a court for appropriate relief.

A **requester or personal requester** may apply to a court on the following grounds:

- being unsuccessful in an Internal Appeal to the Relevant Authority, including Internal Appeals where the Relevant Authority failed to give notice within the stipulated time period;
- the decision of the Relevant Authority to disallow the lodging of late Internal Appeal;
- the decision of the Deputy Information Officer to refuse a request for access;
- the decision taken regarding the payment of a request fee, an access fee, or a deposit on an access fee; or

- the decision taken regarding access being granted in a different form than requested.

A **third party** may apply to a court on the following grounds:

- being unsuccessful in an Internal Appeal to the Relevant Authority, including Internal Appeals where the Relevant Authority failed to give notice within the stipulated time period;
- the decision of the Deputy Information Officer to grant a request for access;
- the decision of the Deputy Information Officer to refuse a request for access;
- the decision taken regarding the payment of a request fee, an access fee, or a deposit on an access fee; or
- the decision taken regarding access being granted in a different form than requested.

The court may grant any order that is just and equitable, including orders:

- to confirm, amend or set aside the decision of the Internal Appeal;
- that the Information Officer, Deputy Information Officer or Relevant Authority take action or refrain from taking action within a period mentioned in the order;
- to grant an interdict;
- to grant an interim or specific relief;
- to grant a declaratory order compensation;
- as to costs.

8.1.4 Complaints to the Public Protector [Section 91]

In terms of section 6(4)(d) of the Public Protector Act, as amended, the Public Protector is competent to investigate on his or her initiative or on receipt of a complaint or on request relating to the operation or administration of PAIA, endeavour, in his /her sole discretion, to resolve a dispute by mediation, conciliation or negotiation, and advising any complainant on appropriate remedies or by any other means.

9. Other information as prescribed in terms of the Act

9.1 Updating of the Manual [Section 14(2)]

The National Department of Human Settlements manual will be updated once a year in March, except in the case of major changes.

9.2 Availability and Language of the Manual [Section 14(1) and (3)]

9.2.1 Language

In terms of Regulation No R. 187 of 15 February 2002, section 4 (1), the National Department of Human Settlements manual is available in the following languages, to be published in the Government Gazette:

- English.
- The other two languages still to be decided.

9.2.2 Availability

In terms of Regulation No R. 187 of 15 February 2002, section 4 (1), the National Department of Human Settlements manual is available with:

- **The National Department of Human Settlements**

A copy of the manual in the official English is available at the National Department of Human Settlements (PAIA Centre) for public inspection during office hours. No fees will be charged for the public inspection of the manual, but for a copy or part thereof the fees as described in the paragraph on fees, will be charged.

Telephone Nr:	+27 12 421 1744
Fax Nr:	+27 86 613 8022
E-Mail address:	victor.rajkumar@dhs.gov.za
Postal Address:	The Deputy Information Officer: PAIA Centre National Department of Human Settlements Private Bag x644 PRETORIA Republic of South Africa 0001
Street Address:	The Deputy Information Officer: PAIA Centre Govan Mbeki House 240 Walker Street PRETORIA
Office Hours:	07:30 - 09:30 09:45 - 12:15 13:00 - 14:30 14:45 - 16:00

- **The National Department of Human Settlements website:**
<http://www.dhs.gov.za>

Places of legal deposit:

o Bloemfontein Public Library

Telephone Nr:	+27 51 405 8242
Fax Nr:	+27 51 405 8604
E-Mail Address:	bib19@civic.bfncouncil.co.za
Postal Address:	The Head PO Box 1029 BLOEMFONTEIN 9300
Street Address:	The Head cnr Charles and West Burger Streets, BLOEMFONTEIN

o Library of Parliament, Cape Town

Telephone Nr:	+27 21 403 2140
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E-Mail Address:	parlib@iafrica.com
Postal Address:	The Head PO Box 18 CAPE TOWN 8000
Street Address:	The Head Library of Parliament Parliament Street CAPE TOWN

o Natal Society Library, Pietermaritzburg

Telephone Nr:	+27 33 345 2383
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The Human Rights Commission

The South African Human Rights Commission	
Telephone Nr:	+27 11 877 3600
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E-Mail Address:	PAIA@sahrc.org.za
Postal Address:	PAIA Unit: The Research and Documentation Department Private Bag 2700 Houghton 2041
Street Address:	PAIA Unit: The Research and Documentation Department Boundary Road, Isle of Houghton, Wilds View, Entrance 1 Houghton JOHANNESBURG
Website:	www.sahrc.org.za

Government Gazette

Once the South African Human Rights Commission has approved the PAIA manual of the National Department of Human Settlements, it will be submitted for printing in the Government Gazette. This paragraph will then be updated with the applicable Government Gazette reference

9.3 Request to the Minister of Justice and Constitutional Development for the compilation of one Manual [Section 14(4)]

This section is not applicable to the National Department of Human Settlements.

9.4 Exemption by the Minister of Justice and Constitutional Development [Section 14(5)]

No exemption from any provision of section 14, for a determined period, has been obtained by the Minister of Justice and Constitutional Development.

10. References and Acknowledgements

This manual has been drafted in accordance with:

- The guidelines as provided in the *Blueprint for public bodies for the manual in terms of section 14* drafted by the South African Human Rights Commission
- The Promotion of Access to Information Act, Act 2 of 2000.
- The Regulations regarding the Promotion of Access to Information, No R 187, 15 February 2002.
- The Resource Manual: Promotion of Access to Information Act 2 of 2000. Prepared by the Open Democracy Advice Centre (ODAC) and the Research Unit for Law and Administration (RULA) for the South African Human Rights Commission.
- Wessels, J.H. Promotion of Access to Information Act 2 of 2000. Pretoria: Justice College. February 2002.
- National Department of Human Settlements documentation.
- National Department of Human Settlements website.
www.dhs.gov.za.

A special word of thanks goes to Advocate J.H. Wessels from the Department of Justice and Ms Wlodarski from the South African Human Rights Commission for their support in providing input to compile this Manual.

Manual Last Updated: 13 December 2011