

MANUAL
FOR
THE DEPARTMENT OF PUBLIC SERVICE AND
ADMINISTRATION

*in terms of section 14 of
the Promotion of Access to Information Act, 2000
(Act No. 2 of 2000)*

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1. AIM OF THIS MANUAL

Section 32(1)(a) of the Constitution of the Republic of South Africa, 1996 provides that everyone has a right of access to any information held by the state and any information held by another person that is required for the exercise or protection of any rights. The Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (hereinafter referred to as “PAIA”) is the national legislation which was enacted to give effect to the constitutional right of access to information.

PAIA gives all South Africans the right to have access to records held by the state, government institutions and private bodies. The following are the objectives which PAIA seeks to achieve:

- To ensure that the State takes part in promoting a human rights culture and social justice;
- To encourage openness and to establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner as reasonably possible; and
- To promote transparency, accountability and effective governance of all public and private bodies, by empowering and educating everyone to understand their rights in terms of PAIA so that they are able to exercise their rights in relation to public and private bodies, to understand the functions and operation of public bodies, and to effectively scrutinise, and participate in decision making by public bodies that affects their rights.

PAIA, however, recognises that such a right of access to information is subject to justifiable limitations and seeks to balance the requester’s constitutional right to information against the information officer’s right to refuse access to information on any of the grounds mentioned in Part 2, Chapter 4 of PAIA.

In terms of section 14 of PAIA, all public bodies must have information manuals to assist any person wanting to access records of public bodies. The aim of this Manual is to provide information contained herein to assist and ensure that all requests for access to information are dealt with efficiently and effectively, and thereby promote the objectives and spirit of PAIA.

2. FUNCTIONS OF DEPARTMENT OF PUBLIC SERVICE AND ADMINISTRATION (DPSA)

The DPSA advises the Minister for the Public Service and Administration (MPSA) on policy matters relating to the public service in terms of constitutional and other legislative mandates. In addition, DPSA supports the Minister in exercising oversight of the Centre for Public Service Innovation (CPSI).

Constitutional and other legislative mandates: Chapter 10 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), arranges matters of public administration. Section 197 contains specific requirements for the public service,

including requirements for

- a public service which must function, and be structured, in terms of national legislation;
- terms and conditions of employment in the public service to be regulated by national legislation; and
- a framework of uniform norms and standards within which provincial governments must exercise responsibilities towards its public service employees.

The national legislation and framework of norms and standards envisaged in the Constitution have been established through the Public Service Act, 1994 (promulgated under Proclamation 103 of 1994). This Act arranges the powers and duties of the Minister for the Public Service and Administration. In short, the Act entrusts the Minister with the powers and duties to-

- make policy on matters of functions, organisational arrangements, employment practices, salaries and other conditions of service, labour relations, information management, information technology, transformation and reform;
- establish a framework of norms and standards to give effect to policy;
- allocate functions to departments;
- to advise the President and executive authorities on matters related to the public service as well as bodies which obtain their funding from state revenue; and
- make regulations.

3. DEFINITIONS

In this manual any word or expression to which a meaning has been assigned in the Promotion of Access to Information Act, 2000, shall bear the meaning so assigned, and unless the context otherwise indicates -

“Department” means the Department of Public Service and Administration;
“information officer” means the Director-General of the Department Public Service and Administration;
“Manual” means this manual compiled in terms of section 14 of the Act;
“personal requester” means the person requesting access to a record containing personal information about the requester;
“personnel” means any person who works for, or provides services, to or on behalf of, the Department and receives or is entitled to receive any remuneration, including all permanent, temporary and part-time staff as well as contract workers;
“record” means any recorded information, regardless of form or medium, which is in the process or under the control of the Department, irrespective of whether it was created by the Department or not;
“relevant authority” means the Minister for the Public Service and Administration;
“request” means a request for access to a record of the Department;
“requester” means any person making a request for access to a record of the Department and includes any person acting on behalf of that person or requester; and
“SAHRC” means the South African Human Rights Commission.

4. STRUCTURE OF DPSA

The DPSA is structured to fulfil the mandate outlined above. There are seven main divisions or branches in the Department: Labour, Policy, Governance, Service Delivery, Government Chief Information Officer, Research and Analysis; Legal Services and Corporate Services.

Labour consists of the following components: Labour Relations, Negotiations and Discipline Management; Remuneration and Job Grading (Macro and General); Employee Benefits; Workplace Environment Management; Human Resources Planning, Employment Practices and Performance Management; and Human Resources Development.

Policy consists of the following components: Policy Oversight and Development and Knowledge Management; Macro Policy Costing (Modelling and Forecasting); Integrated Public Sector Reform; and Transformation Policies and Programmes.

Governance consists of the following components: Ethics and Integrated Management; Inter-Governmental Relations and Government Interventions; Organisational Design and Macro-Organisations of the Public Service; Human Resources Management Information Systems; and Public Service Leadership Management.

Service Delivery consists of the following components: Operations Management; Service Delivery Support Programmes and Service Centres (Thusong); Complaints and Change Management (Batho Pele); Public Participation and Social Dialogue; and Community Development and Citizen Relations.

The Government Chief Information Officer (GCIO) consists of the following components: Stakeholder Management; Public Service Information Technology Risk Management; Public Service Information Technology e-Enablement; and Public

Service Information Technology Service Management.

Research and Analysis consists of the following components: Performance Monitoring and Evaluation and Capacity Assessment; Research Methodology and Analytics; and Productivity and Efficiency Studies.

Legal Services consists of the following components: Litigation Management; Legislation Management; and Public Service Contract Management and Advisory Services.

Corporate Services consists of the following components: Office of the Director-General Strategic Management and Support; Public Service International Co-operation Programmes; Corporate Communications and Information Communication Technology Management; Financial Management Services (Chief Financial Officer); and Internal Human Resources and Facilities Management.

In addition to the eight main divisions, there are Ministerial support (Office of the Minister and Office of the Deputy Minister); support to the Office of the Director-General; and Internal Audit and Risk Management. The Internal Audit component also reports to the Director-General.

5. CONTACT DETAILS OF INFORMATION OFFICER

The Director-General of DPSA is its Information Officer in terms of the Promotion of Access to Information Act. The deputy information officer of the DPSA is the Chief Director: Legal Services.

Postal address: Private Bag X916
PRETORIA
0001

Street address: Batho Pele House
116 Johannes Ramakhoase Street
PRETORIA

Telephone: 012-336-1218/1010
Fax: 086 613 8589

Email address: Nthabiseng.Bokaba@dpsa.gov.za or daniem@dpsa.gov.za

6. GUIDE OF SOUTH AFRICAN HUMAN RIGHTS COMMISSION ON HOW TO USE THE ACT

The guide on how to use the Promotion of Access to Information Act, 2000, is available from the South African Human Rights Commission. Queries can be made at:

South African Human Rights Commission:

Postal address: Private Bag 2700
Houghton
2041

Telephone: 011 877 3622; 011 877 3803; 011 877 3600

Fax: 011 877

Website: www.sahrc.org.za

e-mail: lidlamini@sahrc.org.za

General information: info@sahrc.org.za

Complaints: complaints@sahrc.org.za

7. RECORDS

7.1 DESCRIPTION OF SUBJECTS ON WHICH DPSA HOLDS RECORDS AND CATEGORIES OF RECORDS HELD ON EACH SUBJECT

For purposes of facilitating a request in terms of the Act, the subjects on which the DPSA holds records and the categories of records held on each subject are as follows:

- A. Labour
 - a. Labour Relations, Negotiations and Discipline Management
 - b. Remuneration and Job Grading (Macro and General)
 - c. Employee Benefits; Workplace Environment Management
 - d. Human Resources Planning, Employment Practices and Performance Management
 - e. Human Resources Development
- B. Policy
 - a. Policy Oversight and Development and Knowledge Management
 - b. Macro Policy Costing (Modelling and Forecasting)
 - c. Integrated Public Sector Reform; and Transformation Policies and Programmes
- C. Governance
 - a. Ethics and Integrated Management
 - b. Inter-Governmental Relations and Government Interventions
 - c. Organisational Design and Macro-Organisations of the Public Service
 - d. Human Resources Management Information Systems
 - e. Public Service Leadership Management
- D. Service Delivery
 - a. Operations Management
 - b. Service Delivery Support Programmes and Service Centres (Thusong)
 - c. Complaints and Change Management (Batho Pele)
 - d. Public Participation and Social Dialogue

- e. Community Development and Citizen Relations
- E. The Government Chief Information Officer (GCIO)
 - a. Stakeholder Management
 - b. Public Service Information Technology Risk Management
 - c. Public Service Information Technology e-Enablement
 - d. Public Service Information Technology Service Management
- F. Research and Analysis
 - a. Performance Monitoring and Evaluation and Capacity Assessment
 - b. Research Methodology and Analytics
 - c. Productivity and Efficiency Studies
- G. Legal Services
 - a. Litigation Management
 - b. Legislation Management
 - c. Public Service Contract Management and Advisory Services
- H. Corporate Services
 - a. Office of the Director-General Strategic Management and Support
 - b. Public Service International Co-operation Programmes
 - c. Corporate Communications and Information Communication Technology Management
 - d. Financial Management Services (Chief Financial Officer)
 - e. Internal Human Resources and Facilities Management

7.2 RECORDS AUTOMATICALLY AVAILABLE

No notice has been published regarding the categories of records of the DPSA which are available without a person having to request access in terms of the procedures in the Promotion of Access to Information Act. However, the records on the website of DPSA, www.dpsa.gov.za, are available for viewing or downloading without a person having to make such a request in terms of the said Act.

7.2.1 In terms of section 14(1)(e) of the Act, the Department has the following categories of the records that are automatically available for copying and inspection without a person having to request access in terms of PAIA:

- (a) Acts, Bills and Regulations published by the Department;
- (b) published policies and guidelines;
- (c) application forms;
- (d) contact directory;
- (e) e-publications;
- (f) published booklets and brochures;
- (g) published marketing material, including departmental marketing brochures;
- (h) published newsletters;
- (i) published posters and pamphlets;
- (j) published reports;
- (k) strategic plan;

- (l) annual performance plans;
- (m) annual reports;
- (n) budget speeches;
- (o) vacancy circulars; and
- (p) collective bargaining agreements.

7.2.2 The DPSA website at www.dpsa.gov.za contains most of the information indicated in paragraph 7.1 above, and is directly accessible from the internet. Please refer and use the website before submitting requests as it would be an easier way of accessing DPSA records. You may also contact the DPSA to determine if information requiring access is automatically available or if the access to information procedure should be followed to acquire access to such documents. The other information that is not posted on the DPSA website may be requested from the DPSA without submitting an access to information request.

7.2.3 No request form for access has to be completed for all records automatically available in terms of this section. However a fee for copying shall be levied, where applicable.

7.3 REQUEST PROCEDURE

- (a) *Granting or refusal of request:* A requester must be given access to a record of a public body if the requester complies with the following:
 - The requester complies with all the procedural requirements in the Act relating to the request for access to that record; and
 - Access to that record is not refused on any ground of refusal mentioned in the Act.
- (b) *How do I request access to a record?*
 - A requester must use the form (Form A) that was printed in the Government Gazette (Government Notice R187 of 15 February 2002).
 - The requester must also indicate if the requester wants a copy of the record or if the requester wants to come in and look at the record at the offices of the public body. Alternatively if the record is not a paper document it can then be viewed in the requested form, where possible.
 - If a person asks for access in a particular form (e.g.: a paper copy, electronic copy, etc) then the requester should get access in that form. This is unless doing so would interfere unreasonably with the running of the public body concerned, or damage the record, or infringe a copyright not owned by the state. If for practical reasons access cannot be given in the required form but in another form, then the fee must be calculated according to the way that the requester first asked for it.
 - If, in addition to a written reply to their request for the record, the requester wants to be told about the decision in any other way, e.g. telephone, this must be indicated.
 - If a requester is asking for the information on behalf of somebody else, the capacity in which the request is being made must be indicated.

- If a requester is unable to read or write, or has a disability, then the request can be made orally. The information officer must then fill in the form on behalf of such a requester and give them a copy of the completed form.

(c) *Fees payable for a request and notification of decision on access*

- A requester who seeks access to a record containing personal information about that requester is not required to pay the request fee. Every other requester must pay the request fee of R35.
- The information officer must notify the requester (other than a personal requester) by notice, requiring the requester to pay the prescribed request fee (if any) and deposit (if any) before further processing the request.
- The requester may lodge an internal appeal, where appropriate, or an application to the court against the tender or payment of a fee.
- After the information officer has made a decision on the request the requester must be notified of such a decision in the way in which the requester wanted to be notified in.
- If the request is granted then a further access fee must be paid for the reproduction and for search and preparation for any time required in excess of stipulated hours to search and prepare the record for disclosure.
- Access to a record will be withheld until all the applicable fees have been paid.

8. PUBLIC HUMAN RESOURCE DATA AND INFORMATION

Summarized or anonymized Human Resource data on Public Servants in the National and Provincial sphere of the Public Service can be requested from the Transversal Systems and Data Integrity Directorate in the DPSA. It would be preferred if a formal request from an institution be accompanied by a formal letter on the letter head of the institution and signed by a duly authorized person on behalf of that institution.

Contact details are as follows: HRinfo@dpsa.gov.za

9. SERVICES AVAILABLE TO PUBLIC

The functions of the DPSA, as set out in paragraph 21, are such that its clients are other government departments and it does not deliver any services which are available to the public. However, certain demographical information about the public service (for example the size of the public service and number of employees per department) can be requested.

10. ARRANGEMENT ALLOWING INVOLVEMENT IN FORMULATION OF POLICY AND PERFORMANCE OF FUNCTIONS

Policy and legislation: When the DPSA proposes new policy or legislation it undertakes consultation with all stakeholders through inviting comment on published

papers and/or workshops/conferences. The process of participation differs according to the kind of project and is usually made known before the start of the project or thereafter.

Administrative action: In cases where an administrative action materially and adversely affects-

- the rights or legitimate expectations of any person; or
- the rights of the public,

the prescripts for a procedurally fair administrative action set out in the provisions of the Promotion of the Administrative Justice Act, 2000 (Act No. 3 of 2000), will be adhered to (sections 4 and 5 in particular).

Conditions of service of public service employees: The conditions of service and other matters of mutual interest of public service employees are negotiated at bargaining councils created in terms of the Labour Relations Act, 1995 (Act No 66 of 1995). Trade unions representing a stipulated number of public service employees may become a party to such a bargaining council. The Public Service Co-ordinating Bargaining Council is the body at which inter alia all conditions of service applying to all public service employees uniformly are negotiated. The following Sectoral Bargaining Councils exist:

- General Public Service Sectoral Bargaining Council
- Education Labour Relations Council
- Public Health and Welfare Sectoral Bargaining Council
- Safety and Security Sectoral Bargaining Council

11. REMEDIES AVAILABLE IN RESPECT OF ACTS OR FAILURES TO ACT

The following procedures exist for persons to report or remedy alleged irregular, improper or unlawful official acts or omissions by the DPSA or any of its employees:

- (a) *Procedures for reporting or remedying:*
- (i) Remedies in respect of acts or failures to act in terms of the Promotion of Access to Information Act: The internal appeal authority for purposes of this Act is the Minister for the Public Service and Administration (sections 74 – 77). After exhausting the internal appeal remedy an application may be lodge with a court (sections 78 – 82).
 - (ii) A public service employee may lodge a grievance or complaint for investigation by the Public Service Commission concerning an official act or omission (section 35 of the Public Service Act, 1994).
 - (iii) A person may use labour remedies regarding official acts or omissions of a labour nature, namely disputes of rights (the Public Service Act, 1994, and Labour Relations Act, 1995);
 - (iv) A person may lodge a complaint with a labour inspector concerning any alleged contravention of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997 - section 78(1)(a)), or the Employment Equity Act, 1998 (Act No. 55 of 1998 - section 34(e)).

- (v) A person may lodge a complaint with the Public Protector concerning a suspected unlawful or improper official act or omission (the Constitution and the Public Protector Act, 1994 (Act No. 23 of 1994)).
 - (vi) A person may lodge a complaint with the South African Human Rights Commission concerning an official act or omission that is suspected to constitute a violation of or threat to any fundamental right (Human Rights Commission Act, 1994 (Act No. 54 of 1994)).
 - (vii) In order to be protected from reprisals because of a disclosure regarding unlawful or irregular conduct by an employer or a fellow employee, the person in question may follow the disclosure procedures in the Protected Disclosures Act, 2000 (Act No. 26 of 2000).
 - (viii) The use of other legal remedies such as the institution of proceedings for the judicial review of an administrative action in terms of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).
- (b) *Other supportive remedies:*
- (i) A person may request reasons for an administrative action in terms of the Promotion of Administrative Justice Act, 2000 (section 5).
 - (ii) A person may request access to records of a government department or other public body in terms of the Promotion of Access to Information Act, 2000 (section 11).
- (c) *Duty to report:*
- (i) A public service employee, in the course of his or her official duties, is obliged in terms of the Code of Conduct for public service employees to report to the appropriate authorities, fraud, corruption, nepotism, mal-administration and any other act which constitutes an offence or which is prejudicial to the public interest. An employee who fails to comply with this is guilty of misconduct. (Regulation B.3 and C.4.10 of Chapter 2 of the Public Service Regulations, 2001).
 - (ii) The responsibility of every employer and employee to disclose criminal and any other irregular conduct in the workplace also underpins the Protected Disclosures Act, 2000 (Preamble).

12. OTHER INFORMATION PRESCRIBED IN TERMS OF SECTION 14(1)(i) OF THE ACT.

Any other information in terms of section 14(1)(i) of the PAIA will be made available as and when prescribed by the Minister of Justice and Constitutional Development.

13. UPDATING AND AVAILABILITY OF THIS MANUAL AS CONTEMPLATED IN SECTION 14(2) OF THE ACT.

In terms of Section 14(2) of the Act this Manual must, if necessary, be updated annually and shall be posted on the DPSA's official website, www.dpsa.gov.za. Copies of the Manual may also be requested from the Information Officer at the contact details provided above in paragraph 5.