



MAKANA

MUNICIPALITY | EASTERN CAPE

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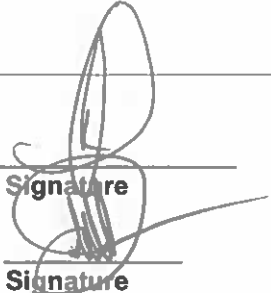
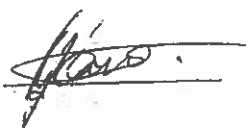
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MAKANA LOCAL MUNICIPALITY PAIA MANUAL

Prepared in terms of section 14 of the Promotion of Access to Information Act 2 of 2000 (as amended)

Version Control and Change History

CERTIFICATION OF DUE PROCESS:					
Prepared by: Candice April		 Signature		31 July 2025	
Name				Date	
Certified by: Pumelelo Maxwell Kate		 Signature		31 July 2025	
Name				Date	
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1. LIST OF ACRONYMS AND ABBREVIATIONS

- 1.1 **"Access fee"** means a fee prescribed for the purpose of reproduction and for search and reparation, and for time reasonably required in excess of the hours prescribed to search for and to prepare the record for disclosure;
- 1.2 **"Act"** means the Promotion of Access to Information Act 2 of 2000, as amended from time to time;
- 1.3 **"MLM"** means Makana Local Municipality
- 1.4 **"Information Officer"** means the Municipal Manager, head or equivalent officer respectively, being the person acting on behalf of the MLM and discharging the duties and responsibilities assigned to such person by the Act. The information Officer is duly authorized to act as such;
- 1.5 **"Manual"** means this manual compiled in compliance section 14 of the Act;
- 1.6 **"Personal Requester"** means a Requester seeking access to a record containing personal information about the Requester;
- 1.7 **"Personnel"** means any person who works for or provide services to or on behalf of the MLM Municipality and receives or is entitled to receive any remuneration. This includes, without limitations, all permanent, temporary and part-time staff as well as contract workers;
- 1.8 **"Record"** means any recorded information, regardless of form or medium, which is in the possession or under the control of the MLM , irrespective of whether it was created by the MLM or not;
- 1.9 **"Request"** means a request for access to a record of the MLM
- 1.1. **"Requester"** means any person (other than certain public bodies or an official thereof)making a request for access to a record of the MLM and includes any person acting on behalf of that person or requester;
- 1.2. **"POPIA"** Protection of Personal Information Act No.4 of 2013
- 1.3. **"SAHRC"** means the South African Human Rights Commission.
- 1.4. **"Third Party"** means any natural or juristic person who is not the requester of the information, nor the body to whom the information request is made.
- 1.5. **"MM"** means Municipal Manager
- 1.6. **"DIO"** means Deputy Information Officer;
- 1.7. **"IO"** means Information Officer;
- 1.8. **"Minister"** means Minister of Justice and Correctional Services;
- 1.9. **"Regulator"** means Information Regulator.

2. PURPOSE OF PAIA MANUAL

This PAIA Manual is useful for the public to-

- 2.1 check the nature of the records which may already be available at Makana Local Municipality, without the need for submitting a formal PAIA request;
- 2.2 have an understanding of how to make a request for access to a record of the Makana Local Municipality;
- 2.3 access all the relevant contact details of the persons who will assist the public with the records they intend to access;
- 2.4 know all the remedies available from the Makana Local Municipality regarding request for access to the records, before approaching the Regulator or the Courts;
- 2.5 the description of the services available to members of the public from the Makana Local Municipality, and how to gain access to those services;
- 2.6 a description of the guide on how to use PAIA, as updated by the Regulator and how to obtain access to it;
- 2.7 if the body will process personal information, the purpose of processing of personal information and the description of the categories of data subjects and of the information or categories of information relating thereto;
- 2.8 know whether the Makana Local Municipality has appropriate security measures to ensure the confidentiality, integrity and availability of the personal information which is to be processed.

3. ESTABLISHMENT OF THE MAKANA LOCAL MUNICIPALITY

- 3.1. Makana Local Municipality is defined in the Act as a public body, which definition encompasses any department of state or administration in the national sphere of government or any municipality in the local sphere of government.
- 3.2. The Makana Municipality is located in Makhanda in the Eastern Cape Province on the southeastern seaboard of South Africa and in the western part of the Eastern Cape Province falling under the Sarah Baartman District Municipality.
- 3.3. Makana's area is bordered in the North-East by Amathole District Municipality, North-West by Blue Crane Route Local Municipality, in the South by Ndlambe Local Municipality and in the South-West by the Sundays River Valley Local Municipality, with the cities of Port Elizabeth 120km to the West and East London 180 km East. It is the home of the

National Arts Festival and the seat of Rhodes University and other prominent and internationally acclaimed primary and high schools which are found in Makhanda.

- 3.4. When the Demarcation Act of 2000 created a wall to wall municipalities, that integrated Local Councils with their rural communities. The new transformed organization commenced its operations on the 1 January 2000 under a fulltime Executive Mayor supported by a committee known as the Mayoral Committee.
- 3.5. MLM has six (6) local towns and areas under its jurisdiction. MLM concentrates its energy on supporting and assisting the local communities to be viable, well managed and successful entities. MLM also concentrate on high level strategic functions such as strategic planning, infrastructure development, tourism and economic development.
- 3.6. MLM supports the constitutional right of access to information and is committed to provide any requester access to its records in accordance with the provisions of the Act.

DESCRIPTION OF MUNICIPAL STRUCTURE AND FUNCTIONS

The Administration of MLM compromises the following directorates:

- a) Office of the Municipal Manager
 - b) Directorate : Corporate & Shared Services
 - c) Directorate: Budget & Treasury
 - d) Directorate: Local Economic Development & Planning
 - e) Directorate: Engineering & Infrastructure Services
 - f) Directorate: Public Safety & Community Services
- 3.7. The Municipality has legislative authority and is empowered to govern, on its own initiative, the local governmental affairs of its community, subject to national and provincial legislation, as provided for in the Constitution and other relevant legislation.
- 3.8. The Municipality operates within a legislative framework which consists of various statutes, which include:
- The Constitution of the Republic of South Africa (Act 108 of 1996);
 - The Local Government: Transitional Act (Act 209 of 1993);
 - The Local Government: Municipal Structures Act (Act 117 of 1998);
 - The Local Government: Municipal Systems Act (Act 32 of 2000); and

- The Local Government: Municipal Finance Management Act (Act 56 of 2003)

Other Statutes which impacts on the governance of the Municipality include (the list is not exhaustive):

- The Water Services Act (Act 108 of 1997);
- The National Water Act (Act 36 of 1998);
- The Electoral Act, 1998 (Act 73 of 1998);
- The Promotion of Local Government Affairs Act (Act 91 of 1983);
- The Electricity Act (Act 41 of 1987);
- The Promotion of Access to Information Act (Act 2 of 2000);
- The Promotion of Administrative Justice Act (Act 3 of 2000);
- The National Health Act (Act 61 of 2003);
- The Occupational Health and Safety Act (Act 85 of 1993);
- The Labour Relations Act (Act 66 of 1995);
- The Basic Conditions of Employment Act (Act 75 of 1997);
- The Employment Equity Act (Act 55 of 1998);
- The Skills Development Act (Act 97 of 1998);
- The Unemployment Insurance Act (Act 63 of 2001);
- The Pension Funds Act (Act 24 of 1956);
- The Housing Act (Act 107 of 1997);
- The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act (Act 19 of 1998);
- The Removal of Restrictions Act (Act 84 of 1967);
- The Expropriation Act (Act 63 Of 1975);
- The Limitation of Legal Proceedings (Provincial and Local Authorities) Act (Act 94 of 1970);
- The Arbitration Act (Act 42 of 1965);
- The Public Audit Act (Act 25 of 2004); and
- The National Road Traffic Act (Act 93 of 1996).

3.9. The Municipality's function is to carry out its constitutional mandate, by striving within its financial and administrative capacity to achieve the objects of local government, viz:

- To provide democratic and accountable government for local communities;
- To ensure the provision of services to communities in a sustainable manner;
- To promote social and economic development

- To promote a safe and healthy environment; and
- To encourage the involvement of communities and community organisations in the matters of local government.

In terms of the aforesaid statutes the powers and functions of Makana Local Municipality include, inter alia:

- a) Ensuring integrated development planning;
- b) Provision of potable water supply systems;
- c) Bulk supply of electricity, which includes for the purposes of such supply, the
- d) transmission, distribution and the generation of electricity ;
- e) Provision of bulk sewage purification works and main sewage disposal systems;
- f) Solid waste disposal sites, insofar as it relates to:
 - i. the determination of a waste disposal strategy;
 - ii. the regulation of waste disposal;
 - iii. the establishment, operation and control of waste disposal sites, bulk waste transfer facilities and waste disposal facilities;
- g) Municipal roads which form an integral part of a road transport system;
- h) Development of Municipal airports;
- i) Provision of firefighting services, which includes:
 - i. planning, coordination and regulation of fire services;
 - ii. specialized firefighting services such as mountain, veld and chemical fire services;
 - iii. coordination of the standardization of infrastructure, vehicles, equipment and procedures;
 - iv. training of the fire officers.
- j) The establishment, conduct and control of cemeteries and crematoria;
- k) Promotion of local tourism;
- l) Provision of Municipal public works relating to any of the above functions or any other functions assigned to the municipality;
- m) The receipt, allocation and distribution of grants made to the municipality;
- n) The imposition and collection of taxes, levies and duties as related to the above functions or as may be assigned in terms of national legislation

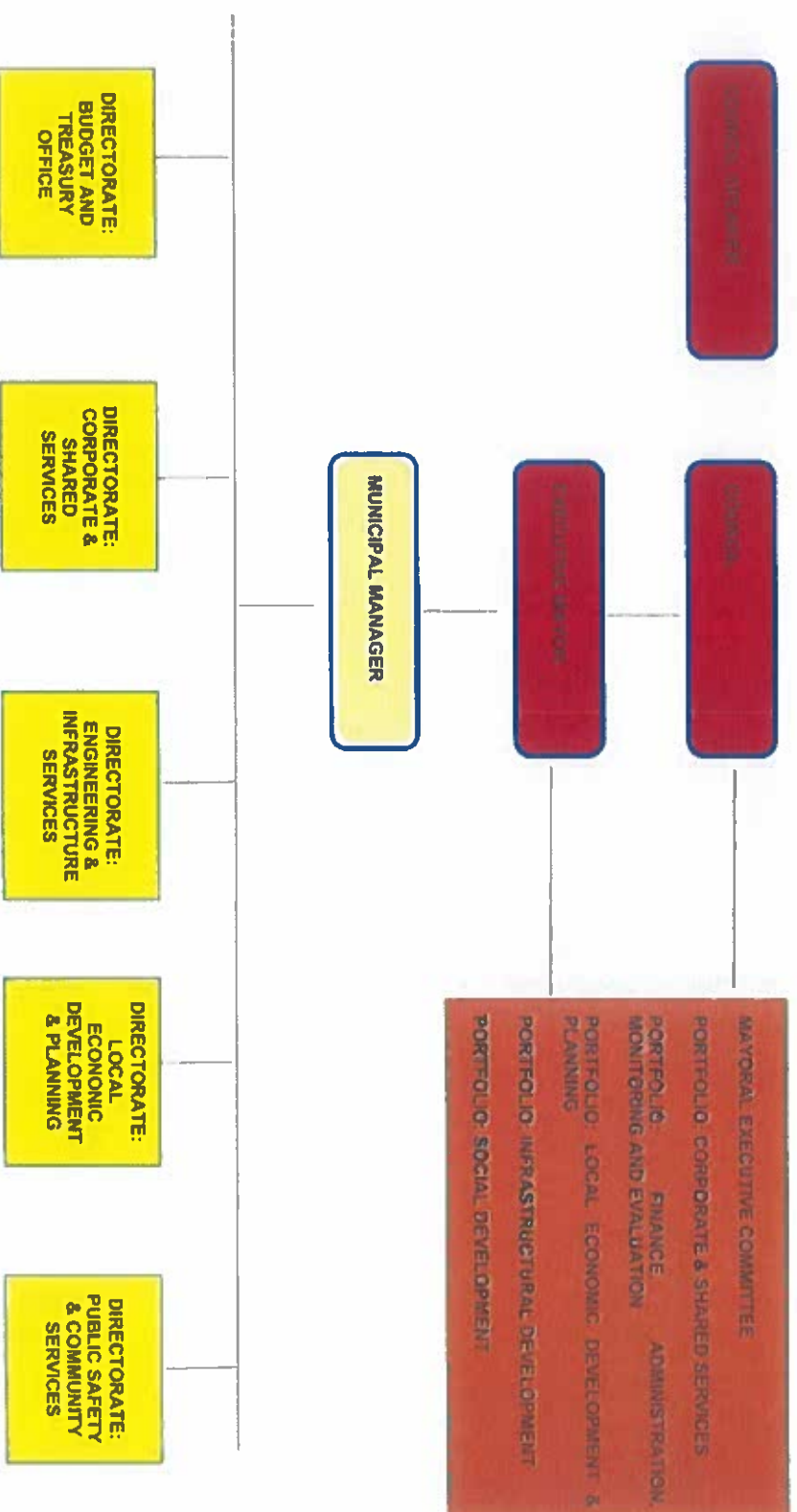
Vision

Making Makana Local Municipality a "Great place to be" by 2030

Vision Statement

"Makana Municipality strives to ensure sustainable, affordable, equitable and quality services in a just, friendly, secure and healthy environment, which promotes social and economic growth for all".

4. STRUCTURE OF THE MAKANA LOCAL MUNICIPALITY



5. AVAILABILITY OF THIS MANUAL

This manual is available in English.

A copy of this Manual or updated version thereof is available as follows"-

- ✓ The Municipality's website www.makana.gov.za.
- ✓ At the Municipal Office at 86 High Street, City Hall, Square, Makhanda, during for public inspection during normal business hours;
- ✓ to any person upon request and upon the payment of a reasonable prescribed fee; and;
- ✓ to the Information Regulator upon request.

A fee for a copy of the Manual, as contemplated in Annexure "A3", shall be payable per each A4-size photocopy made.

6. CONTACT DETAILS

Kindly address all queries or requests relating to the provisions of the Act to the Information Officer or Deputy Information Officer at the contact details listed below:

Name of the Public Body	Makana Local Municipality
Information Officer	Mr. Pumelelo Maxell Kate
Email address of Information Officer	PAIA@makana.gov.za

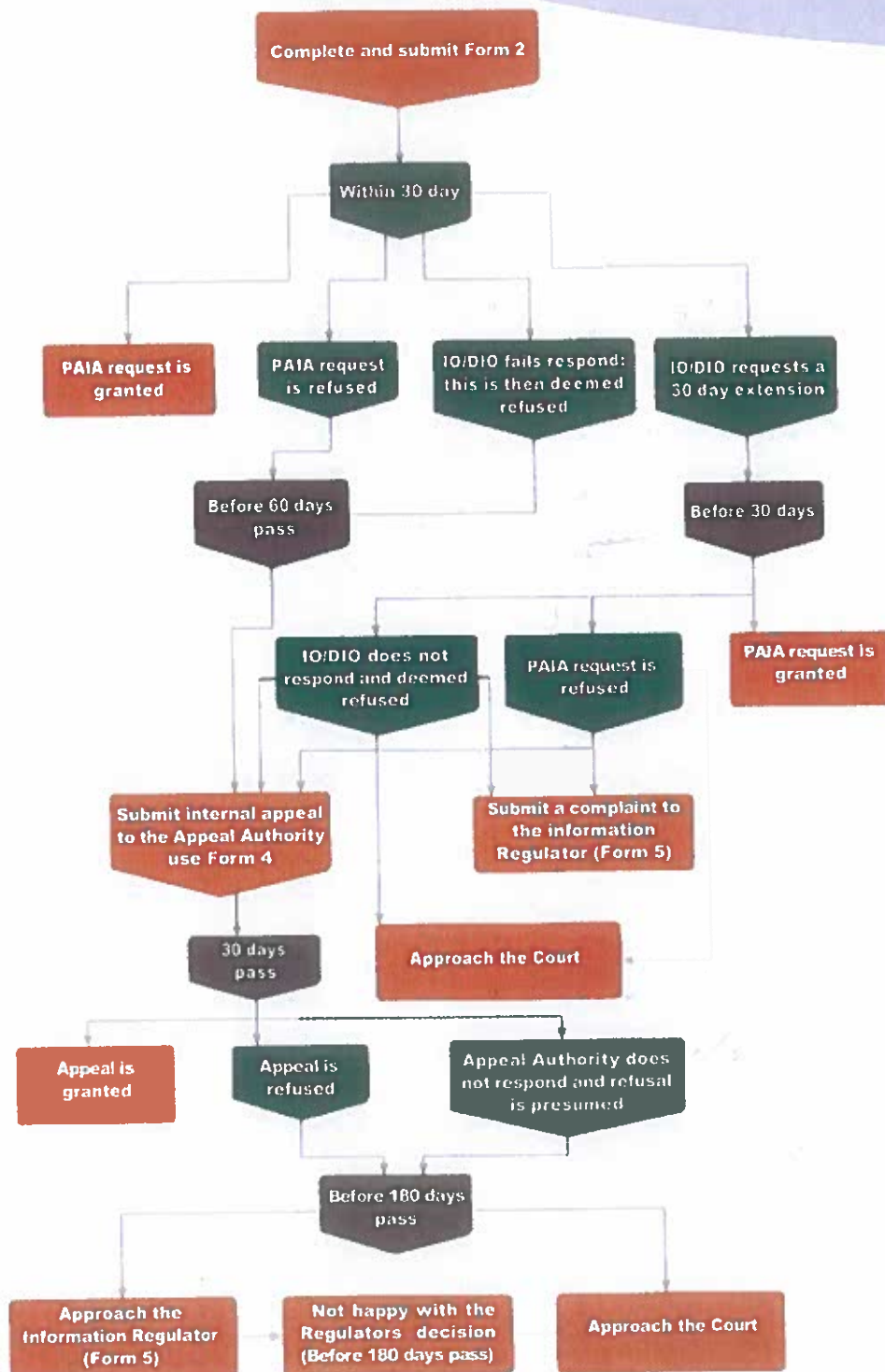
Kindly address all queries or requests relating to the provisions of the Act to the Deputy Information Officer and / or Administrator at the contact details listed below.

DIRECTOR: CORPORATE & SHARED SERVICES	
Name of Public Body	Makana Local Municipality
Designated Deputy Information Officer	Mr. Xolela Kalashe
Email address of Deputy Information Officer	xkalashe@makana.gov.za / PAIA@makana.gov.za
Street Address	86 High Street, City Hall, High Street, Makhanda
Telephone Number	046 603 6103

LEGAL SERVICES	
Name of Public Body	Makana Local Municipality
Administrator	Ms. Candice April
Email address of Deputy Information Officer	Capril@makana.gov.za / PAIA@makana.gov.za
Street Address	86 High Street, City Hall, High Street, Makhanda
Telephone Number	046 603 6099

7. GUIDE ON HOW TO REQUEST INFORMATION FROM MAKANA LOCAL MUNICIPALITY

7.1. Below is the step-by step process chart flow, on how to request access to the records.



8. DESCRIPTION OF ALL REMEDIES AVAILABLE IN RESPECT OF AN ACT OR A FAILURE TO ACT BY THE MAKANA LOCAL MUNICIPALITY

8.1. Right of Internal appeal (section 74)

A requester may lodge an internal appeal with the municipality against a decision of the Information Officer or Deputy Information Officer, if:

- A request for access is refused;
- The fees charged are unacceptable;

The period within which a decision with regard to access to a record must be made, is extended; and Access to a record is not provided in the requested form; and

A third party may lodge an internal appeal with the municipality against a decision by the Information Officer, Deputy Information Officer to disclose information relating to that third party.

8.2. Appeal procedure and fees (section 75)

An internal appeal must be lodged on the prescribed form (Form B), which is attached as Annexure "A7", within the following periods:

- A period of 60 (sixty) days;
- If notice to a third party is required i.t.o. Section 49 (1)(b), within 30 (thirty) days after notice is given to the appellant of the decision appealed against or, if notice to the appellant is not required, after the decision was taken.

8.3. The internal appeal

An internal appeal must:

- be delivered, posted, faxed or sent electronically to the Information Officer or Deputy Information Officer;
- state the manner in which the applicant wishes to be informed of the decision on the internal appeal, in addition to a written reply;
- identify the subject of the internal appeal and give reasons for the appeal;
- if applicable, be accompanied by the prescribed appeal fee(s); and
- Specify a postal address, fax number or e-mail address.

The Information Officer or Deputy Information Officer must, within ten (10) working days after the receipt of an internal appeal, submit it, together with his/her reasons for the decision, to the Relevant Authority, namely the Mayor/Speaker or any other person designated by the Municipal Council in writing, for consideration.

If an internal appeal is considered against the refusal of a request for access to a record of a third party, the third party to whom or which the record relates, must be informed of the internal appeal and he/she may, within 21 days after being so informed, make written representations why the request for access should not be granted or give written consent for the disclosure of the record to the requester concerned.

Late appeals may be allowed, if good cause can be shown.

Decision on internal appeal and notice thereof (section 77)

When deciding on the internal appeal the Relevant Authority may confirm the decision appealed against or substitute a new decision for it, within 30 days after the internal appeal is received by the Information Officer/Deputy Information Officer.

The Relevant Authority will immediately after the decision on an internal appeal give notice of the decision to the appellant and any relevant third party, state adequate reasons for the decision, and that the appellant, third party or requester, as the case may be, may lodge an application with a court against the decision on internal appeal within 60 days; or, if notice to a third party is required, within 30 days after notice is given, and also state the procedure for lodging the application.

If the Relevant Authority fails to give notice of the decision on an internal appeal to the appellant within the periods indicated here above, it is regarded as having dismissed the internal appeal.

8.4. Applications to Court (Part 4, Chapter 2 Of The Act)

A requester or third party may make an application to a Court regarding the decisions of the Information Officer/Deputy Information Officer, but only after the internal appeal process has been exhausted.

A requester may make an application to a Court, if he/she is:

- Aggrieved by the decision of the Information Officer or Deputy Information Officer to disallow the late lodging of an internal appeal;
- Aggrieved by the decision of an Information Officer or Deputy Information Officer of a public body, other than the Information Officer of a national department, provincial administration or municipality to refuse a request for access;
- Aggrieved by the decision of an Information Officer or Deputy Information Officer relating to fees required to be paid, the extension of the period within which to deal with the request or the form of access in which the information will be furnished.
- Apply to a Court by way of an application for appropriate relief i.t.o. Section 82, within 30 days.

9. MANDATORY GROUNDS OF REFUSAL (GROUNDS OF EXEMPTION)

With mandatory grounds, the Information Officer or Deputy Information Officer must refuse a request because they apply to the record.

There are more mandatory grounds than discretionary grounds. The following are the mandatory grounds of refusal, and the Information Officer or Deputy Information Officer must refuse a request because they apply to the record –

9.1. Mandatory protection of privacy of third party who is a natural person;

The Information Officer of a public or private body must not allow a requester access to the personal information of another person if it amounts to 'an unreasonable disclosure'. The sections themselves indicate a few reasons when this does not apply, like when records are already in the public knowledge, or where a person has given consent. The consent issue is particularly important as it connects to another part of the process the requester should be aware of, which relates to third party notifications, in terms of chapter 5 of PAIA.

9.2. Mandatory protection of certain records of the South African Revenue Service;

The Information Officer of SARS must not allow a requester access to records obtained, or held, by SARS for its revenue collection purposes. However, records obtained or held by SARS may not be refused if a request is done by personal requester or the person on whose behalf the request is made.

9.3. Mandatory protection of commercial information of third party;

The Information Officer of a body must not allow a requester access to the commercial information of another person (in other words, who is not the requester or requestee. This would include information like trade secrets, or that might threaten that third party's commercial interests.

9.4. Mandatory protection of certain confidential information, and protection of certain other confidential information, of a third party;

The Information Officers of both a public and private body must not allow a requester access to a record if its release would amount to a breach of a duty of confidence owed to a third party in terms of an agreement or contract.

9.5. Mandatory protection of safety of individuals, and protection of property;

The Information Officer of both a public or private body must not allow a requester access to a record if its release could reasonably be expected to compromise the safety of an individual. In the same sections, it also states that the Information Officer of a body may refuse access if it would be likely to impair the security of a building or property.

9.6. Mandatory protection of police dockets in bail proceedings, and protection of law enforcement and legal proceedings;

The Information Officer of a public body must not allow a requester access to records like bail proceeding records that are already protected by section 60 of the Criminal Procedure Act. In the same section, it also states that an Information Officer of a public body may refuse access to records of law enforcement that reveal its methods, techniques, procedures for prevention of crimes, or prosecution of crimes, as well as certain other records relevant to legal proceedings that are happening.

9.7. Mandatory protection of records privileged from production in legal proceedings;

The Information Officer of a private body must not allow a requester access to a record if the record is privileged from production in legal proceedings, unless the person entitled to the privilege has waived the privilege.

9.8. Mandatory protection of research information of third party, and protection of research information of public or private body.

The Information Officer of a body must not allow a requester access to a record if the record relates to research that is, or will be, undertaken by the body in question and its release would be likely to expose the researcher, the third party or the matter under research to a serious disadvantage.

Please note that the above mandatory grounds for refusal of access to records are somewhat the same for public and private bodies, except for the mandatory protection of certain records of South African Revenue Service, of police dockets in bail proceedings, of law enforcement and of legal proceedings, which are only applicable to public bodies.

If only part of the record is linked to an exemption ground, the Information Officer or Deputy Information Officer of both a public or private body is under an obligation to consider whether partial disclosure of information is possible whenever they determine that full disclosure is not possible and they should take reasonable steps to sever or redact that part that cannot be released to the requester and grant access to the rest of the record.

10. DEEMED REFUSAL OF REQUEST IN TERMS OF SECTION 27 AND 58 OF PAIA

A failure to respond properly to a request within the correct timeframe is considered to be a 'deemed refusal'. This is important, because PAIA allows the requester to challenge a decision when no decision has been made and the request has been ignored. The requester would merely state in the internal appeal that no response was received.

Request for access to records is deemed to be a refusal after the expiry of 30 days or any extended period and the public or private body fails to respond.

11. DISCRETIONARY GROUNDS OF REFUSAL

With discretionary grounds, an Information Officer or Deputy Information Officer may consider whether or not to refuse a request because the grounds apply to the record requested. Because it is a discretion, the Information Officer must apply his/her mind objectively when considering the different grounds, which are:

11.1. South Africa's defence, security and international relations:

The Information Officer may refuse access if the release of the information could reasonably be expected to threaten the defence or security of the country. This could also apply where the release of the information might harm South Africa's relations with another country, such as revealing records supplied in confidence.

11.2. Economic, financial and commercial interests:

The Information Officer may refuse access if its release will be harmful to the economic and financial status of the Republic;

11.3. Operations of public bodies:

The Information Officer of a public body may refuse access if the release of the information could reasonably hamper operations, for example if it is trying to formulate policy, or deliberate on an issue;

11.4. Manifestly frivolous or vexatious requests:

The Information Officers may refuse a request for information if they are of the opinion that processing requests will be unreasonably time consuming and lead to a waste of resources. In addition, they may refuse access to a record if the request is seen to be made by a requester to unnecessarily annoy or provoke.

12. UPDATING OF THE MANUAL

The Makana Local Municipality will, if necessary, update and publish this Manual annually.

Issued by

Mr. Pumelelo Maxwell Kate
Municipal Manager

ANNEXURES

A1. SUBJECTS AND CATEGORIES OF RECORDS HELD BY THE MUNICIPALITY WHICH ARE AVAILABLE WITHOUT REQUEST FEE

The records as set out here are automatically available without a person having to request access in terms of the Act, but where appropriate, remain subject to review by the Information Officer or Deputy Information Officer in terms of Section 15 (4) of the Act.]. All other records must be formally requested as provided for in this manual. The only fee payable, if any, for access to these records is the prescribed fee for reproduction. (See Tariff list)

Records that are available on the municipal website : <http://www.makana.org.za/>

It is the information that the requestor can have access to without submitting a formal request.

A2. STANDARD FORM TO BE COMPLETED 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 6]



J750

REPUBLIC OF SOUTH AFRICA

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 6]

FOR DEPARTMENTAL USE	
	Reference number:
Request received by	(state rank, name and surname of information officer/deputy information officer) on
at	(date)
	(place)
Request fee (if any): R	
Deposit (if any): R	
Access fee: R	
SIGNATURE OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER	

A. Particulars of public body

The Information Officer/Deputy Information Officer

FORM A: REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

B. Particulars of person requesting access to the record

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

Full names and surname:

Identity number:

--	--	--	--	--	--	--	--	--	--	--	--	--

Postal address:

Telephone number: (.....) Fax number: (.....)

E-mail address:

Capacity in which request is made, when made on behalf of another person:

C. Particulars of person on whose behalf request is made

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

Full names and surname:

Identity number:

--	--	--	--	--	--	--	--	--	--	--	--	--

D. Particulars of record

- (a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.
 (b) If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

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

.....

FORM A: REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

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 below, 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) Compliance with your request for access in the specified form may depend on the form in which the record is available.
 (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.
 (c) The fee payable for access 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		
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*

FORM A: REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

3 If record consists of recorded words or information which can be reproduced in sound					
	listen to the soundtrack (audio cassette)		transcription of soundtrack* (written or printed document)		
4 If record is held on computer or in an electronic or machine-readable form					
	printed copy of record*		printed copy of information derived from the record*		copy in computer readable form* (stiffy or compact disc)
*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.				YES	NO
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. Notice of decision regarding request for access

You will be notified in writing whether your request has been approved / denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

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

.....

Signed at this day of year

.....
SIGNATURE OF REQUESTER /
PERSON ON WHOSE BEHALF REQUEST IS MADE

A3. TARIFF STRUCTURE // FEES PAYABLE

The Act provides for two types of fees:

- A request fee, which is a standard fee and
- An access fee, which must be calculated by taking into account reproduction costs, search and preparation time and cost as well as postal costs

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Physical Address
33 Hoofdstad Street
Braamfontein 2001
2105

Postal Address
Private Bag X 7700
Houghton
2041

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NOTICE IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000 RE: FEES ASSOCIATED WITH PAIA REQUESTS ARE DETERMINED BY THE REGULATIONS ONLY AND NOT THROUGH OTHER APPLICABLE LAWS OR POLICIES

This Notice serves to state that the South African Human Rights Commission (the Commission) hereby confirms that the costs associated with all requests made under the Promotion of Access to Information Act 2 of 2000 (PAIA) are determined by the Regulations relating to PAIA only and not by any other laws or regulations. Therefore, any demands made by a public or private body for the payment of additional fees with respect to PAIA requests are invalid.

The Commission is an independent public body currently mandated under PAIA to monitor the implementation of the Act. In accordance with its responsibilities to ensure compliance with PAIA, the Commission issues this notice to bring clarity to all interested parties that it is only the Minister of Justice and Constitutional Development who has the power to make decisions regarding fees associated with PAIA requests. The Commission further confirms that Value-Added Tax (VAT) is only payable by institutions who have registered as VAT vendors.

1. The Promotion of Access to Information Act (PAIA) gives effect to the constitutional right to access of information as provided for under section 32 of the Constitution. Although responding to requests and reproducing records in an accurate and orderly manner takes time and resources, section 9 of the Act specifically calls for the establishment of mandatory mechanisms and procedures to ensure that access to records of both public and private bodies is "as swift, inexpensive and effortlessly as reasonably possible" (emphasis added). Furthermore, section 92 of the Act grants the Minister of Justice and Constitutional Development the power to make regulations pertaining to fees associated with requests made to both public and private bodies.

2. Regulations to PAIA
In February 2002, the Minister of Justice and Constitutional Development published a schedule of fees for PAIA requests in the Gazette, which provided for the following:

Fees for Reproducing Records

Requesters are required to pay a fee for requesting access to records from both public and private bodies. The fee for requesting records from a public body is R35, while the fee for requesting records from a private body is R50. It is important to note that people who are requesting access to their personal information are exempt from paying a fee. Furthermore, people who earn less than R14 712 per annum (if single) and R27 192 per annum (if married or have a life partner) are also exempt from paying the request fees.

Fees for Accessing Records

Requesters are also required to pay fees for accessing the records of public and private bodies, which include fees associated with the search for, preparation of, and reproduction of documents. The breakdown of fees for requests to both public and private bodies are as follows:

Public Bodies:

- Copy per A4 page – 40 cents
- Printing per A4 page – 40 cents
- Copy on a CD – R40
- Transcription of visual images per A4 page – R32
- Copy of a visual image – R60
- Transcription of an audio recording per A4 page – R12
- Copy of an audio recording – R17
- Search and preparation of the record for disclosure – R15 per hour or part thereof, excluding the first hour reasonably required for the search and preparation
- Actual postage fee

Private Bodies:

- Copy per A4 page – R40
- Printing per A4 page – 45 cents
- Copy on a CD – R70
- Transcription of visual images per A4 page – R40
- Copy of a visual image – R60
- Transcription of an audio recording per A4 page – R30
- Copy of an audio recording – R30
- Search and preparation of the record for disclosure – R30 per hour or part thereof, excluding the first hour reasonably required for the search and preparation
- Actual postage fee

3. Registered VAT Vendors

The Commission further confirms that Value-Added Tax (VAT) is only payable by institutions who have registered as VAT vendors, as required under section 23 of the Value-Added Tax Act of 1994.

Sincerely,



ADVOCATE M. MUTHWANI

Chair of the South African Human Rights Commission

Transforming society. Securing future. Respecting rights.

Chairperson: M. Muthwani, Deputy Chairperson: P. Govender, Commissioners: L. Molefe, B. Maseko, J. Love, D. D. S. Chibwe, Executive Officer: K. Nkomo

A4. PERSONS EXEMPTED FROM PAYING THE FEES FOR REQUESTED INFORMATION

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Database	Government Gazettes
Gazette No	28107
Notice No	891
Regulation	8326
Gazette No	
Gazette	GOV
Date	20051014

Government Notice

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
 No. R 991 14 October 2005
 PROMOTION OF ACCESS TO INFORMATION ACT, 2000 EXEMPTIONS AND
 DETERMINATIONS FOR PURPOSES OF SECTION 22(8)

I, Brigitte Sylvia Mabandla, Minister for Justice and Constitutional Development, acting under section 22(8) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) hereby:

- (a) exempt the following persons from paying the access fee contemplated section 22 (6) of the Act:
 - (i) A single person whose annual income, after permissible deductions referred to in the Schedule to this notice are made, does not exceed R14 714 00 per annum; and
 - (ii) married persons or a person and his or her life partner whose annual income, after permissible deductions referred to in the Schedule to this notice are made, does not exceed R27 192 00 per annum and
- (b) determined that: -
 - (i) where the cost of collecting any fee contemplated in section 22 of the Act, exceeds the amount charged, such fee does not apply;
 - (ii) the access fee contemplated in section 22(6) of the Act does not apply to the personal record of a requester; and
 - (iii) the request fee contemplated in section 22(1) of the Act and the access fee contemplated in section 22(6) of the Act do not apply to a record requested by a maintenance investigation or inquiry in terms of the provisions of the Maintenance Act 1998 (Act No. 99 of 1998) or the regulations made under section 44 of that Act.

SCHEDULE

1. For purposes of paragraph (a) (i) and (ii) of the notice the following deductions are permissible:
 - (a) Employees' tax in terms of paragraph 2 of Part II of the Fourth Schedule of the Income Tax Act, 1962 (Act No. 58 of 1962);
 - (b) contributions in terms of section 5 of the Unemployment Insurance Contributions Act, 2002 (Act No 4 of 2002);
 - (c) compulsory contributions to a Group Insurance Fund in terms of a court order or in terms of a contract between an employer and his or her employee;

- (d) contributions to any medical scheme registered under the provisions of the Medical Schemes Act, 1998 (Act No. 131 of 1998), and allowed to be deducted in terms of section 18 (1) (a) of the Income Tax Act, 1962 (Act No. 58 of 1962);
- (e) contributions to pension funds in terms of section 13A of the Pension Funds Act, 1956 (Act No. 24 of 1956),
- (f) rent or mortgage instalments to the maximum of R12 000.00 per annum,
- (g) maintenance paid in terms of a court order; and
- (h) school fees, except school fees paid to a private school.

B.S. MABANDLA,MP
Minister for Justice and Constitutional Development

A5. RECORDS THAT MAY BE REFUSED ACCESS TO

Section 9 (b)(ii) recognises that the right to access to information must be given effect to in a manner which balances the right with any other rights, including such rights contained in the Bill of Rights in the Constitution. The Information Officer/Deputy Information Officer may refuse access to certain records under the circumstances as provided for in sections 33 to 46 in Chapter 4 of the Act.

The Information Officer/Deputy Information Officers may refuse access to records under the circumstances as provided for in Part 2, Chapter 4 of the Act.

A6. INTERNAL APPEAL FORM

(Section 76 of the Promotion of Access to Information Act 2000 (Act No. 2 of 2000))
(Regulation 8)

STATE YOUR REFERENCE NUMBER: _____

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 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 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
☐	Decision in terms of section 29(3) of the Act to refuse access in the form requested by
☐	Decision to grant request for access

E. Grounds for appeal

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

State the grounds on which the internal appeal is based:

State any other information that may be relevant in considering the appeal:

F. Notice of decision on appeal

You will be notified in writing of the decision on 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 20

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 NEW DECISION:

DATE:

RELEVANT AUTHORITY:

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