



**SECTION 14 MANUAL**  
**PROMOTION OF ACCESS TO INFORMATION**  
**(ACT 2 OF 2000)**

## DEFINITION OF CONCEPTS

**Court** – means the court to which a person can make an application for the matter to be resolved. The courts are:

The Constitutional Court acting in terms of section 167 (6) (a) of the Constitution or a High Court or another court of similar status or a Magistrate's Court either generally or in respect of a specified class of decisions in terms of this Act, designated by the Minister of Justice and Constitutional Development by notice in the Gazette and presided over by the magistrate or an additional magistrate designated in terms of section 91A within whose area of jurisdiction-

**Fees** – the amount of money paid for processing the request.

**Head** – of, or in relation to, a public body, means in case of a natural person, that natural person or any person duly authorised by that natural person

**Information Officer** – This is the officer to whom a request for access to information to a record / information has to be submitted in the Office.

**Internal Appeal** – an internal appeal refers to the process whereby a requester is dissatisfied with the decision of the information officer or in an instance where his request was ignored and no response given within 30 days / extended period of 30 days. An internal appeal has to be lodged with the relevant authority where such process is applicable.

**Personal Information** – means information about an identifiable individual including but not limited to information relating to race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health and birth of the individual; information relating to the individual or information relating to financial transactions in which the individual was involved.

**Personal requester** – means a requester seeking access to a record containing personal information about her / him.

**Public body** – means any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government or any other functionary or institution when exercising a power or performing a duty in terms of the Constitution or a provincial constitution or exercising a public power or performing a public function in terms of any legislation.

**Record** – means any recorded information regardless of its form or medium in the possession or under the control of the Office whether or not it was created by the Office.

**Relevant Authority** – this is the person to whom you lodge an internal appeal

## **1. INTRODUCTION**

Access to information is a right entrenched under section 32 of the Constitution of the Republic of South Africa. Section 32 of the Constitution provides that:

*“everyone has the right of access to any information held by the state; and any information held by another person and that is required for the exercise or protection of any rights” and*

*“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”.*

In order to fulfil the constitutional obligation, the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (“the Act”) was enacted by Parliament and came into operation on 9 March 2001.

## **2. COMPILATION OF A MANUAL IN TERMS OF SECTION 14 OF THE ACT**

The Information Officer of a public body is required, in section 14 of the Act, to compile a manual within six (6) months after the commencement of this section or the coming into existence of a public body. The manual containing the following information must be compiled in three official languages:

- (a) a description of a body’s structure and functions;
- (b) the contact details of every deputy information officer of the body appointed in terms of section 17(1) of the Act;
- (c) description of the guide compiled in terms of section 10 of the Act;
- (d) sufficient details to facilitate a request for access to a record of the body and a description of the subjects on which the body holds records and the categories of records held on each subject;
- (e) categories of records of the body which are available without a person having to request access in terms of the Act (section 15(2));
- (f) a description of the services available to members of the public from the body and how to gain access to those services;
- (g) a description of any arrangement or provision for a person, other than a public body referred to in the definition of ‘public body’, by consultation, making representations, to participate in or influence the formulation of policy or exercise of powers or performance of duties by a public body.
- (h) a description of all remedies available in respect of an act or a failure to act by the body; and

- (i) any other information as may be prescribed.

### **3. OBJECTIVES OF THE ACT**

- To give effect to the constitutional right of access to information balancing it with any other rights;
- To give effect to the constitutional obligations of the State of promoting a human rights culture and social justice;
- To establish voluntary and mandatory mechanisms of disclosing information; and
- To promote transparency, accountability and effective governance of all public and private bodies.

### **4. APPLICATION OF THE ACT**

#### **4.1 Application to records**

Promotion of Access to Information applies to both public and private bodies as defined in the Act.

#### **4.2 Exclusion of certain records**

3.2.1 The Act does not apply to a record of a public or private body if that record is requested for purposes of criminal or civil proceedings and after the commencement of such proceedings, and if the production or access to the record for purposes of criminal or civil proceedings is provided for in any other law (section 7(1)).

The Act does not apply to the records of cabinet, cabinet committees, judicial functions of a court or a special tribunal, a record of a judicial officer of a court or special tribunal or a record of an individual member of parliament or a provincial legislature in that capacity (section 12).

### **5. DELEGATION OF POWERS**

The Information Officer has delegated all powers and functions to the Deputy Information Officer as defined in the Act.

### **6. STRUCTURE AND FUNCTION**

The Department of Military Veterans (DMV) was established in terms of the Military Veterans Act 18, 2011 to provide socioeconomic benefits to military veterans and, in certain instances, their dependants. Section 5 (1) (a-k), read together with section 24(1), deals with the benefits applicable to military veterans

and the Regulations that the Minister may make prescribing the criteria to be met to qualify for benefits.

The organisational and functional Structure of the DMV, comprising 169 posts, was approved by the Minister in 2010. The budget programmes of the Department, as approved by National Treasury on 30 September 2011, have been aligned with the approved functional structure provided below.

## **7 CONTACT DETAILS OF THE INFORMATION OFFICER**

Postal Address: Department of Military Veterans  
Private Bag X943  
Pretoria  
0001

Street Address: 1052 Acardia Building  
Festival Street  
Hatfield  
Pretoria

Telephone: 012 765 9330

Fax Number: 012

Information Officer: Mr T.E. Motumi

E-mail Address: odg@dmv.gov.za

## **8. WHO CAN REQUEST INFORMATION?**

The Promotion of Access to Information Act provides that everyone has a right of access to information. Thus, a natural or juristic person (e.g. a company or a close corporation) can request access to information from the public body (Department of Roads and Transport).

A person who requests information is referred to as a requester. The Act distinguishes between two types of requesters, namely a '**requester**' and a '**personal requester**'.

### **Requester**

A requester, in relation to the Department, is defined as any person who makes a request for access to a record of the Office, on behalf of another. However, the definition excludes the following public bodies:

- a department of state or administration in the national, provincial or local sphere of government;
- any functionary or institution when exercising a power or executing a duty in terms of the Constitution or a provincial constitution; or
- any other functionary or institution when exercising a public power or performing a public function in terms of any legislation.

### **Personal requester**

A personal requester means a requester who is seeking access to a record containing personal information about the requester.

The definition of personal information excludes information about an individual who has been dead for more than 20 years.

A personal requester is, in the first instance, a requester, and, depending on the type of information requested, becomes a personal requester.

In the event where a person requests both personal records and any other records, such a person should, for purposes of payment of prescribed request fees, be regarded as a personal requester, and not be classified as a requester, if the records so requested are mainly for personal information.

Requests for access to information can also be made on behalf of another person. Whenever a request for information is on behalf of another, proof of capacity must be attached.

A person who is a guardian of a person under the age of 18; or of a person who is unable to understand the nature of the request can request information on his/her behalf. If the record is about a deceased person, proof of capacity as the next of kin of the deceased or that written consent from the deceased's next of kin to make the request was received must be attached.

In the case of those who cannot read or write, they may make an oral request which will be put in writing by the Information Officer.

Access to records held by the Department will be given if -

- Procedural requirements relating to a request for access to that record have been complied with; and
- Access to that record is not refused on any ground for refusal provided as contemplated in Chapter 4 of Part 2 of the Act. This includes a request for access to a record containing personal information about the requester.
- Right of access to a record is not affected by any reasons that have been given for requesting access or the Information Officer's belief as to what the reasons are for requesting access (section 11 (3)).

**9. FROM WHOM CAN INFORMATION OR A RECORD BE REQUESTED?**

Information or a record can be requested from the Information Officer / Deputy Information Officer.

**10. HOW TO MAKE A REQUEST FOR ACCESS TO A RECORD FROM THE OFFICE**

A request must be made in writing.

Form A must be completed for a request to the Information Officer/ Deputy Information Officer. If Form A is not completed, there is no compliance and thus reliance on PAIA for any relief in terms thereof is not possible.

The completed Form A has to be submitted to the Information Officer together with the payment of a request fee amounting to R35.00 Form A must be submitted to the Information Officer / Deputy Information Officer by hand at his/her physical address, or faxed or sent by electronic mail.

The Information Officer / Deputy Information Officer is obliged to assist people who, because of illiteracy or disability, are unable to complete forms when making requests. The Information Officer / Deputy Information Officer will reduce their oral requests in writing. The information officer or deputy information officer must render such reasonable assistance needed by a requester free of charge (section 19).

**11. REQUESTS NOT DEALT WITH WITHIN 30 DAYS**

After submission of Form A to the Information Officer / Deputy Information Officer and the payment of the request fee, the Information Officer / Deputy Information Officer should respond to the request within 30 days. The Information Officer / Deputy Information Officer can extend the 30-day period only for a further 30 days, after written notification, together with reasons for such extension.

Where the Information Officer decides to give a person access to a record, an indication of the payment of the access fee (if any) for the time spent searching for and preparing the record will be given, and must state the form in which access will be given.

In the case where access is refused, the Information Officer / Deputy Information Officer will give reasons for such a refusal and cite the specific section relied upon under the grounds for refusal in terms of PAIA.

**11. WHAT IF THERE IS NO RESPONSE TO YOUR REQUEST WITHIN 30 DAYS / THE EXTENDED PERIOD OF 30 DAYS OR YOU FEEL AGGRIEVED BY THE DECISION OF THE INFORMATION OFFICER / DEPUTY INFORMATION OFFICER?**

Where a request for access is simply ignored or the Information Officer / Deputy Information Officer fails to respond to the request within 30 days or within the extended period of a further 30 days, such non-response is deemed to be a refusal.

**12. TRANSFER OF RECORDS OR REQUESTS**

If a request for access is made to the information officer or deputy information officer and such record is not in the possession of or under the control of that body, but in the possession of another public body, the information officer to whom the request is made must, within a reasonable time, but within 14 days after the request is received, transfer the request to the information officer of the other public body.

**13. FEES**

13.1 The information officer or deputy information officer to whom a request for access is made must, by notice, require payment of the prescribed fee from the requester, other than a personal requester, before processing the request (section 22).

13.2 The prescribed request fee is R35.00 The requester may lodge an internal appeal or an application with a court against the tender or payment of the request fee.

13.3 A personal requester does not have to pay the request fee. It is only a requester, who is not a personal requester, who must pay a request fee. Therefore, requesters must be classified correctly.

13.4 The information officer of the public body must withhold a record until the requester has paid the applicable fees.

13.5 Any payment made in respect of a request for access which is refused must be repaid to the requester by the information officer or deputy information officer.

13.6 A requester whose request for access to a record of a public body has been granted must pay an access fee for reproduction, that is, the cost for making a copy of the record, known as reproduction fee, as follows:

<b>Form and kind of copy of a record</b>	<b>Amount R</b>
For every photocopy of an A4-size paper or part thereof	0.60



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
For a copy in a computer-readable form on – Stiffy disc	5.00
Compact disc	40.00
For a transcription of visual images, for an A4 size page or part thereof	22.00
for a copy of visual images	60.00
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

13.7 The actual postage fee is payable when a copy of a record is to be posted to a requester.

#### **14. DECISION IN RESPECT OF THE REQUEST**

The information officer or deputy information officer to whom a request for access is made or transferred must, subject to sections 26 (extension of period to deal with request), 47, 48 and 49 (third party notification and intervention] of the Act as soon as reasonably possible, but in any event within 30 days after the request is received decide if the request will be granted or refused.

The requester must be notified of the decision, in the manner in which the requester stated, as contemplated in section 18 (2)(e), that he or she wishes to be informed in any other manner which is reasonably possible.

If the request for access is refused, the information officer or deputy information officer must give adequate reasons for the refusal, including the provisions of the Act relied upon;

The requester may lodge an internal appeal or an application with a court against the refusal of the request, and the procedure (including the period) for lodging the internal appeal or application.

#### **14. Extension of period to deal with request**

14.1 The information officer or deputy information officer to whom a request for access has been made or transferred may extend the original period of 30 days once for a further period of not more than 30 days, if -

- (a) the request is for a large number of records or requires a search through a large number of records, and compliance with the original period would unreasonably interfere with the activities of the public body concerned;
- (b) the request requires a search for records in, or collection thereof from, an office of the public body not situated in the same town or city as the office of the information officer or deputy information officer that cannot reasonably be completed within the original period;

- (c) consultation among divisions of the public body or with another public body is necessary or desirable to decide upon the request that cannot reasonably be completed within the original period;
  - (d) more than one of the circumstances contemplated in sub-paragraphs (a), (b), or (c) herein above exists in respect of the request making compliance with the original period not reasonably possible; or
  - (e) The requester consents in writing to such extension.
- 14.2 Where a period is extended, the Information officer or deputy information officer is required to notify the requester of the extension within 30 days after the request is received or transferred.
- 14.3 Failure by the Information Officer or Deputy Information Officer to make a decision about a request for access within 30 days is, for the purpose of the Act, regarded as refusal of the request.
- 14.4 Any part of the record which may or must be refused in terms of any of the provisions of Chapter 4 of Part 2 of the Act can be severed from any part that contains information which must, despite any other provision of the Act, be disclosed.
- 14.5 If access to part of a record is granted and the other part is refused, the requester must comply with the requirements for a notice, in terms of section 25(2), where access is granted and comply with the requirements for a notice, in terms of section 25(3), where access is refused.

## **15. Records that cannot be found or do not exist**

The information officer or deputy information officer must notify the requester by way of affidavit or affirmation that it is not possible to give access to the record, after all reasonable steps to find it have been taken, and where there are reasonable grounds for believing that the record is in the public body's possession but cannot be found or does not exist.

The affidavit or affirmation to be made by the information officer or deputy information officer must give full account of all the steps taken to find the record in question or to determine whether the record exists, including all the communications with every person who conducted the search on his or her behalf.

The notice that the record cannot be found or does not exist will, for the purpose of the Act, be regarded as a decision to refuse a request for access to the record.

If the record in question is found afterwards, the requester must be given access to the record unless there is a ground for the refusal of access in terms of which such access is refused.

The record of all search instructions and reports must be kept for ease reference when making an affidavit or affirmation in compliance with the Act.

## **16. ACCESS AND FORMS OF ACCESS**

### **16.1 Access**

The requester must pay an access fee, if any is payable, upon receipt of the notice that his or her request for access has been granted, whereafter he or she will be given access immediately, in the applicable form as indicated in the request by the requester and in the language requested or available (section 29).

### **16.2 Forms of Access**

Access to a record for which a request for access has been granted may be given by -

- (a) supplying a copy of the record or by making arrangements for inspection of the record, if the record is in a written or printed form;
- (b) making arrangements to view the images or being supplied with copies or transcriptions by means of equipment which is ordinarily available to the public body, in the case of the record not being in written or printed form but in visual images or printed transcriptions of those images that are capable of being reproduced;
- (c) making arrangements to hear the sounds or by means of written or printed transcription of the sounds, in the case of a record in which words or information are recorded in such a manner that they are capable of being reproduced in the form of sound or written or printed transcription by using equipment which is ordinarily available to the public body;
- (d) means of a copy of a record in a computer readable form or any other case, in the case of a record held on computer or in electronic or machine-readable form, and from which the public body concerned is capable of reproducing a printed copy by using computer equipment and expertise ordinarily available to the public body;

## **17. Language of access**

Access to a record must be given in the language that the requester prefers, if it exists in such language, and if it does not exist in the preferred language, be given in any language that the record exists in.

## **18. GROUNDS FOR REFUSAL OF ACCESS TO RECORDS**

There are mandatory grounds for refusal, in terms of which access to a record must be refused in some instances. However, to avoid a blanket refusal, certain conditions exist. The information officer or deputy information officer must refuse a request for access to a record if such a record:

- a. contains unreasonable personal information about a third party including a deceased person;
  - b. request for information held by the South African Revenue Service if held for the purposes of enforcing legislation concerning the collection of revenue
  - c. contains:
    - i. trade secrets of a third party;
    - ii. financial, commercial, or technical information other than trade secrets likely to cause harm;
    - iii. constitutes breach of duty of confidence owed to the third party or supplied in confidence;
    - iv. information supplied by a third party in confidence likely to endanger life or the physical safety of an individual, security of a building, structure or system including computer or communication system, means of transport or any other property
  - d. is prohibited in terms of the Criminal Procedure Act 51, 1977;
  - e. privileged from production; and
  - f. contains information about research being conducted for a third party.
- (b) may refuse a request for access to a record as contemplated in sections 37 (1)(b), 38 (b), 39 (1)(b), 41 (1)(a) or (b), 42 (1) or (3), 43 (2), 44 (1) or (2) or 45, unless the provisions of section 46 apply.

## **19. THIRD PARTY NOTIFICATION AND INTERVENTION**

### **Notice to third parties**

All reasonable steps must be taken by the information or deputy information officer who considers a request for access to a record to inform a third party to whom the record relates of the request (section 47(1)).

The information officer or deputy information officer must inform a third party by the fastest means possible, as soon as is reasonably possible, but in any

event, within 21 days after the request is received or transferred.

The notification to the third party must –

state that the information officer or deputy information officer is considering a request for access to a record and must describe the content of the record;

- (a) furnish the name of the requester;
- (b) describe the type of record being requested
- (c) where the information officer or deputy information officer believes:
  - i. the disclosure of the record would reveal evidence of a substantial contravention of, or failure to comply with the law
  - ii. an imminent and serious public safety or environmental risk analysis and the public interest in the disclosure of the record clearly outweighs the harm contemplated in the provision in question.
- (d) state that the third party may, within 21 days after the third party is informed -
  - (i) make written or oral representations to the information officer or deputy information officer as to why the request for access should be refused; or
  - (ii) give written consent for the disclosure of the record to the requester.

If a third party is not informed orally of a request for access, the information officer or deputy information officer is required to give such third party a written notice stating the matters referred above.

## **20. REPRESENTATIONS AND CONSENT BY THIRD PARTIES (SECTION 48)**

A third party who has been informed of a request for access, in may, within 21 days after being informed, make written or oral representations to the information officer as to why the request should be refused or give written consent for the disclosure of the record to the requester.

A third party who obtains knowledge about a request for access without being informed by the information officer or deputy information may make written or oral representations to the information officer or deputy information officer as to why the request should be refused or give written consent for the disclosure of the record to the requester.

## **21. DECISION IN RESPECT OF REPRESENTATIONS FOR REFUSAL AND NOTICE THEREOF**

- 21.1 The information officer or deputy information officer must, within 30 days after the third parties concerned have been informed as provided for in section 47 -
- (a) decide, after giving due regard to any representations made by a third party in terms of section 48, whether to grant the request for access; and
  - (b) notify the third party so informed and a third party not, but that made representations, or is located before the decision is taken, of the decision.
- 21.2 If a third party is not informed of the request, after all reasonable steps have been taken, and the third party does not make any representations, any decision whether to grant the request for access must be made with due regard to the fact that the third party did not have the opportunity to make representations as to why the request should be refused.
- 21.3 The notice given upon granting request for access must state -
- (a) adequate reasons for granting the request, including the provisions of the Act relied upon;
  - (b) that the third party may lodge an internal appeal against the decision within 30 days after notice is given, and the procedure for lodging the internal appeal; and
  - (c) that the requester will be given access to the record after the expiry of the 30-day period, unless such internal appeal is lodged within that period.
- 21.4 The requester must be given access to the record, after the expiry of 30 days after the notice to the third party unless an internal appeal or an application to a court is lodged against the decision within that period.

## **22. AUTOMATICALLY AVAILABLE RECORDS**

In terms of section 14 (e), read together with section 15(2), the Department must provide the latest notice that can be obtained automatically without request. The following is a list in terms of this section:

- a. Military Veterans Act 18, 2011;
- b. Application forms for benefits and registration on the military veterans' database;
- c. Military Veterans' Strategic Plan 2012 – 2015; and
- d. The Department's Annual Performance Plans.

## **23. SERVICES AVAILABLE FROM THE DEPARTMENT OF MILITARY VETERANS**

### **Military Veterans' Benefits Regulations**

Section 24 (1) of the Act prescribes that the Executive Authority develop criteria that stipulate the means test for each of the benefits. In invoking this provision, the Department of Military Veterans has developed regulations providing the criteria to be met in order to qualify for benefits stipulated in section 5 of the Act.

The Military Veterans' Benefit Regulations cover the benefits listed below:-

- Housing
- Health care
- Dedicated counselling and treatment for mental illness and post-traumatic stress
- Facilitation of business opportunities
- Facilitation of employment placement
- Compensation for injury, trauma and disease
- Burial support
- Honouring and memorialising
- Transport

## **24 PARTICIPATION BY ANY PERSON (14 (1)(g))**

Section 14 (1)(g) deals with arrangements made by any person other than a public body as defined by the Act who, by consultation, may make representations that may influence the:

- (a) formulation of policy; or
- (b) exercise of powers or execution of duties, by the body.

What follows is how military veterans can participate by means of consultation to influence either formulation of policy or the exercise of powers or performance.

### **24.1 National Veterans' Association**

Section 7 (1) of the Military Veterans' Act stipulates that the Director-General must establish a Military Veterans' Association by publication in the Government Gazette. Furthermore, the DG and the MVA must create mechanisms to ensure that the MVA acts as an umbrella association representing military veterans' organisations.

The mechanisms must at least result in the Association:

- (a) representing military veterans' organisations in a fair manner;

- (b) conducting its business in a fair, transparent and accountable manner;
- (c) holding free, fair and regular elections; and
- (d) reporting to the Minister on its activities at least once a year.

The association must:

- (a) perform the functions provided for in this Act;
- (b) advise the Minister on such matters relating to legislation and policy affecting military veterans as the Minister may require; and
- (c) advise the Minister or the Director-General on any other matter relating to the affairs of military veterans that the Minister or the Director-General may require.

## **24.2 Advisory Council on Military Veterans**

Section 9 (1) of the Military Veterans' Act establishes an Advisory Council on military veterans responsible to the Minister that attends to the interests of military veterans and must:

- (a) perform the functions provided for in this Act;
- (b) advise the Minister on any matter relating to the policy applicable to military veterans; and
- (c) on its own initiative or at the request of the Minister, or of the Director-General, make recommendations to the Minister or the Director-General, as the case may be, and furnish advice on all matters pertaining to military veterans and their dependants.

Invitations for nominations were advertised in two national newspapers. Nominations must be in writing and directed to the Director-General. The Military Veterans' Association must nominate at least 3 persons for appointment.

## **24.3 Military Veterans' Appeal Board**

Section 19 of the Military Veterans' Act establishes the Military Veterans' Appeal Board. The Appeal Board must:

- (a) consider any appeal lodged with it by a military veteran against any decision taken by an official in terms of this Act which adversely affects the rights of that military veteran;
- (b) consider any question of law relating to military veterans referred to it by the Minister or the Director-General; and



- (c) advise the Minister or the Director-General regarding any legal matter relating to military veterans which the Minister or the Director-General refers to it.

And may:

- (a) confirm, set aside or vary a decision taken by an official;
- (b) substitute any other decision for the decision; or
- (c) provide the required legal advice.

## **25. APPEALS AGAINST DECISIONS**

### **25.1 Right of internal appeal to executing authority**

25.1.1 An internal appeal against a decision of the information officer or deputy information officer may be lodged with the executing authority, on any of the following grounds:

- (a) a refusal to grant access; or
- (b) a decision taken in terms of fees, access or extension of period to deal with requests.

25.1.2 A third party may lodge an internal appeal against a decision of the information officer or deputy information officer to grant a request for access.

### **25.2 Manner of internal appeal**

25.2.1 An internal appeal must –

- (a) be lodged in the prescribed Form B (attached hereto) within 60 days if notice to a third party as required by section 49 (1)(b) and within 30 days after a decision was taken or notice has been given to the appellant of the decision appealed against; and
- (b) be delivered or sent to the information officer or deputy information officer at his or her address, fax number or electronic mail address;

25.2.2 The relevant authorities who must make a decision in respect of the internal appeal are the following persons:

- (a) in the case of the Office of the Department of Roads and Transport, the Member of the Executive Council responsible for the department, or the person designated in writing by that Member

### **25.3 Notice to and representations by other interested persons**

25.3.1 The relevant authority must, when considering an internal appeal against the refusal of a request for access to a record, inform the third party to whom or which the record relates of the internal appeal, unless all necessary steps to locate the third party have been unsuccessful.

25.3.2 A third party must be informed within 30 days after the receipt of the internal appeal and by the fastest means reasonably possible.

### **25.4 Notice to a requester**

25.4.1 The relevant authority must, when considering an internal appeal against the granting of a request for access, give notice of the internal appeal to the requester.

- (a) The relevant authority must notify the requester – within 30 days after the receipt of the internal appeal; and
- (b) Stating in the notice that the third party may, within 21 days after notice is given, make written representations to that authority as to why that request should be granted.

25.4.2 A requester to whom notice is given may, within 21 days after that notice is given, make written representations to the relevant authority as to why the request for access should be granted.

## **26. APPLICATIONS TO COURT**

### **26.1 Applications regarding decisions of relevant authority**

26.1.1 A requester or third party may apply to a court for appropriate relief only after having exhausted the internal appeal procedure against a decision of the information officer or deputy information officer.

26.1.2 A requester whose internal appeal has been unsuccessful or is aggrieved by a decision of the relevant executing authority to disallow the late lodging of an internal appeal may, by way of an application, within 30 days, apply to a court for appropriate relief in terms of section 82.

26.1.3 The unsuccessful third party in an internal appeal to the relevant executing authority may, by way of an application, within 30 days apply to a court for appropriate relief in terms of section 82.

### **26.2 Procedure**

26.2.1 An application in terms of section 78 may be lodged only with a High Court or another court of a similar status.

26.2.2 The burden of establishing that the refusal of a request for access or any decision taken in terms of section 22, 26 (1) or 29 (3) complies with the provisions of the Act rests on the party claiming that it so complies.

### **26.3. Decision in respect of application**

The court hearing an application may grant any order that is just and equitable, including an order –

- (a) confirming, amending or setting aside the decision which is the subject of the application concerned;
- (b) requiring from the relevant executing authority to take such action or to refrain from taking such action as the court considers necessary within a period mentioned in the order;
- (c) granting an interdict, interim or specific relief, a declaratory order or compensation; or
- (d) as to costs.

## **27. LIABILITY**

No person is criminally or civilly liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power or duty in terms of the Act.

## **28. OFFENCES**

A person who, with intent to deny a right of access in terms of the Act, destroys, damages or alters, conceals, falsifies or makes a false record commits an offence and is liable on conviction to a fine or imprisonment for a period not exceeding two years.

## **29. REVIEW OF THE MANUAL**

This guideline shall be reviewed as and when the need arises.

30. PAIA PROCESS FLOW CHART



