



PUBLIC PROTECTOR
SOUTH AFRICA

**MANUAL IN TERMS OF SECTION 14 OF THE PROMOTION OF
ACCESS TO INFORMATION ACT 2 of 2000**

March 2022

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1. INTRODUCTION

- 1.1 Established under chapter 9 of the Constitution, the Public Protector has the power under section 182 of the Constitution to strengthen and support constitutional democracy by:
 - a) investigating any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice;
 - b) to report on that conduct; and
 - c) to take appropriate remedial action.

- 1.2 The Public Protector Act 23 of 1994 (the PP Act) is the primary legislation to give effect to the constitutional mandate of the Public Protector is to strengthen constitutional democracy by investigating and redressing improper and prejudicial conduct, maladministration and abuse of power in all state affairs; resolving administrative disputes or rectifying any act or omission in administrative conduct through mediation, conciliation or negotiation; advising on appropriate remedies or employing any other expedient means.

- 1.3 The PP Act provides clear guidelines on matters relating to the management and access of confidential information. In cases where confidential information is requested, the PP Act together with the Promotion of Access to Information Act (PAIA) No 2 Of 2000 will be enforced to ensure that access is protected and provided in accordance with the provisions of each of these Acts of Parliament.

- 1.4 This manual will assist requesters to identify records held by the Public Protector and the manner of accessing them. It is also intended to give guidance on how PAIA can be used to gain access to these records.

2. PARTICULARS IN TERMS OF SECTION 14

2.1. The mandate of the Public Protector

2.1.1 The institution of the Public Protector was established in terms of Chapter 9 of the Constitution as one of a number of bodies that support constitutional Democracy. The operational requirements of the Public Protector are provided for by the Act.

2.1.2 Public Protector is a multiple mandate agency with the following mandate areas:

- a) Maladministration and appropriate resolution of dispute in terms of the PP Act. The maladministration jurisdiction transcends the classical public complaints investigation and includes investigating without a complaint and redressing public wrongs (Core);
- b) Enforcement of Executive ethics under by the Executive Members' Ethics Act of 1998(EMEA) and the Executive Ethics Code (Exclusive):
- c) Anti-corruption as conferred by the Prevention and Combating of Corrupt Activities Act 12 of 2004 (PCCAA) read with the PP Act (Shared);
- d) Whistle-blower protection under the Protected Disclosures Act 26 of 2000. (Shared with the Auditor General and to be named others); and
- e) Review of decisions of the Home Builders Registration Council under the Housing Protection Measures Act 95 of 1998.

2.1.3 The Transversal investigative powers of the Public Protector is acknowledged in sector specific legislation, including the following:

- a) Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000;
- b) National Energy Act 40 of 2004;
- c) Special Investigation Units and Special Tribunals Act 74 of 1996;
- d) National Environmental Management Act 108 of 1999;
- e) Gauteng Petitions Act.

2.2. The Function and objectives of the Public Protector

2.2.1 The core business of the Public Protector is:

a) To investigate any conduct in State affairs or in the public administration in any sphere of government that is alleged or suspected to be improper or to result in impropriety or prejudice.

b) To mediate, negotiate, conciliate, report and take remedial action.

3. CONTACT DETAILS (SECTION 14 (1) (B))

3.1 Information Officer

Name	Position	Tel No	E-mail
Ms T Sibanyoni	Chief Executive Officer	012 366 7134	Dipuom@pprotect.org

3.2 Deputy Information Officers

Name	Position	Tel No	E-mail
Adv N vd Merwe	Manager: Knowledge Management & Research	012-366 7051	neelsvdm@pprotect.org
Adv E de Waal	Senior Manager: Administrative Justice and Service Delivery	012-366 7012	Elsabed@pprotect.org
Mr K Mohanoe	Researcher: Knowledge Management & Research	012-3667051	KutlwanoM@pprotect.org

Physical Address:	175 Lunnon Street, Hillcrest Office Park Pretoria
Postal Address:	Private Bag X677 Pretoria 0001
Telephone Numbers:	(012) 366-7000/ 0800112040
Fax Numbers:	(012) 362-3473

4. THE SECTION 10 GUIDE ON HOW TO USE THE ACT. - SECTION 14(1)(C)

The South African Human Rights Commission (SAHRC) compiled a guide on the use of this Act in terms of Section 10 of the PAIA. This guide will be made available at the commission and our offices. Any queries relating to the guide should be directed to the commission at:

The South African Human Rights Commission
PAIA Unit
The Research and Documentation Department
Postal address: Private Bag 2700
Houghton, 2041
Telephone: (011) 484 8300
Fax: (011) 484 0582
Website: www.sahrc.org.za
E-mail: PAIA@sahrc.org.za

5. ACCESS TO RECORDS HELD BY THE PUBLIC PROTECTOR

5.1 Automatic access & disclosures – Section 15 (1) (a) Regulation 5 A

All information available on the Public Protector website <http://www.publicprotector.org> is voluntarily disclosed, including.

- Annual Reports
- Annual financial statements
- Report by the Auditor-General concerning the Office
- Documents relating to the policy and governance of the Public Protector, i.e. the PP Act as amended, Public Finance Management Act, Labour Relations Act, etc.
- Investigation Reports by the Public Protector

- Public Protector Strategic Plans
- Marketing & Corporate Communications
- Public Protector posters
- Media Briefings
- News clips about the Public Protector
- Booklets- Public Protector Brochures
- Newsletters
- Pamphlets

5.2 The following documents are not automatically available - Section 33

According to the PAIA these documents should be made available on request from members of the public following certain procedures required by the PAIA and at certain times disclosure may be refused-

5.2.1 Operational Information and Agreements relating to the following categories: -

- Public Protector Internal investigation files.
- Directives, resolutions and instructions of the Executive Committee of the Public Protector
- Agreements with any person, government or administration
- Rental agreements, title deeds mortgage bonds and notarial bonds relating to movable and immovable property
- Memorandums of Understanding

5.2.2 Finances and Accounting

Records relating to the following categories: -

- Bank account records
- Books of Account and financial statements
- Annual budget and corporate plan as provided for in the Public Finance Management Act 1 of 1999
- VAT, SITE and PAYE records

5.2.3 Human Resources records relating to the following categories: -

- Personnel files
- Contracts, conditions of service and other agreements
- Statutory employee records
- Pension fund records of the pension fund established
- Medical Scheme Records
- Budget and budget projections
- Banking details
- Employee payment and benefits
- Accounting records
- Asset registers
- Correspondence with internal and external parties
- Tender and bid documentation
- Supplier Service Level Agreements
- Minutes of Staff meetings, Management Committee (MANCO), Executive & Audit Committee.

5.3 Protection of Personal Information Act No. 4 of 2013 (POPIA)

5.3.1 Section 23 of POPIA provides a person to whom personal information relates with the right of access to personal information held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information.

5.3.2 This means that whilst access to a record containing personal information about a requester is excluded from PAIA in terms Section 11(2) thereof, a person to whom personal information relates may request-

- a) access to his/her personal information; and/or
- b) identity of all third parties, and/or categories of third parties, who have, or have had, access to the information;
- c) correction or deletion of personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
- d) the record of his/her personal information that the responsible party is no longer authorised to retain to be destroyed or deleted

5.3.3A responsible party may refuse to disclose any personal information requested, in accordance with the grounds for refusal of access to records, as set out in this Manual.

6. THE REQUEST PROCEDURES– SECTION 14 (1)(D)

6.1 Disclosure of records

A requester must be given access to a record of a public body if the requester complies with the following :

- a. The requester complies with all the procedural requirements in the PAIA relating to the request for access to that record; and
- b. Access to that record is not refused on any ground of refusal provided for in the PAIA.

6.2 Nature of the request

A requester must use the prescribed form, Form A, published in Government Notice R187 of 15 February 2002. (See Annexure A)

The requester must indicate whether the request is to obtain a copy of the record or whether inspection of the record at the offices of the Public Protector is requested. Alternatively, if the record is not a document, it can be viewed.

7. THE REMEDIES AVAILABLE IF THE PROVISIONS OF THE ACT ARE NOT COMPLIED WITH SECTION 14(1)(H)



- 7.1 Any person who is dissatisfied with a decision by the Deputy Information Officer, may escalate the matter to the level of the Information Officer.
- 7.2 The ultimate authority to approve the disclosure of investigation records and evidence obtained during an investigation, is vested with the Public Protector in terms of section 7(2) of the PP Act.
- 7.3 The Public Protector does not have an internal appeal procedure in place to facilitate appeals against decisions of the Information Officer.
- 7.4 An aggrieved party may by way of application apply to Court for appropriate relief. On hearing such application the Court may grant any order that is just and equitable including:
 - a. Confirming, amending or setting aside the decision that is the subject of the Application, or

- b. Requiring the Information Officer to take some action or to refrain from taking such action as the Court considers necessary within the period mentioned in the order.

8. PARTICULARS OF THE PUBLIC PROTECTOR'S PROVINCIAL & REGIONAL OFFICES:

A person wishing to lodge a complaint with the Public Protector can do so at the office nearest to him or her. The contact details are as follows:

Gauteng

Provincial Representative:	Ms Winnie Manyathela
Physical Address:	Lara's Place 187 Bree Street Corner Bree and Rissik Street Johannesburg 2000
Postal Address:	P O Box 32738 Braamfontein 2017
Telephone Numbers:	(011) 492 2807  (011) 492 2807 (011) 492 2493  (011) 492 2493 (011) 492 2821  (011) 492 2821 (011) 492 2825  (011) 492 2825 (011) 492 2801  (011) 492 2801 (011) 492 2806  (011) 492 2806
e-mail	winniem@pprotect.org
Fax:	(011) 492 2365

Mpumalanga

Provincial Representative:	Mr Botromia Sithole
Physical Address:	Pinnacle Building Suite 101 1 Parkin Street Nelspruit
Postal Address:	P O Box 3373 Nelspruit 1200
Tel:	(013) 752 8543  (013) 752 8543
e-mail	botromias@pprotect.org
Fax:	(013) 752 7883


North West

Provincial Representative:	Mr Sechele Keebine
Physical Address:	Public Protector's Chambers C/o Martin & Robinson Streets Mafikeng
Postal Address:	P O Box 512 Mafikeng 2745
Tel:	(018) 381 1060  (018) 381 1060/1/2
e-mail	sechelek@pprotect.org
Fax:	(018) 381 2066

Western Cape



Provincial Representative:	Mr. Mulao Lamula
Physical Address:	4th Floor 51 Wale Street/Bree Street Cape Town
Postal Address:	P.O. Box 712 Cape Town 8000
Tel:	(021) 423 8644  (021) 423 8644
e-mail	mulaol@pprotect.org
Fax:	(021) 423 8708

Kwa-Zulu Natal

Provincial Representative:	Adv Mlandeli Nkosi
Physical Address:	22nd Floor Suite 2114, Commercial City Building Durban
Postal Address:	P O Box 4267 Durban 4000
Tel:	(031) 307 5300  (031) 307 5300/5250/5251
e-mail	Mlandelin@pprotect.org
Fax:	(031) 307 2424

Limpopo


Provincial Representative:	Mr George Matimolane
Physical Address:	18 Landros Mare street Polokwane

Postal Address:	P O Box 4533 Polokwane 0070
Tel:	(015) 295 5712  (015) 295 5712 (015) 295 5699  (015) 295 5699 (015) 295 5956  (015) 295 5956
e-mail	mashabam@pprotect.org
Fax:	(015) 295 2870

Free State

Provincial Representative:	Ms. Vanessa Mundree
Physical Address:	Suit Office 2nd Floor Standard Bank House 15 West Burger Street Bloemfontein
Postal Address:	P O Box 383 Bloemfontein 9300
Tel:	(051) 448 6185  (051) 448 6185 (051) 448 6172  (051) 448 6172
e-mail	vanessam@pprotect.org
Fax:	(051) 448 6070

Northern Cape

Acting Provincial Representative:	Mr Mlungisi Khanya
Physical Address:	4 Sydney Street Pretmax Building 2nd & 3rd Floor Kimberley 8300
Postal Address:	P O Box 1505 Kimberley 8300
Tel:	(053) 831 7766  (053) 831 7766/8325381/2
e-mail	
Fax:	(053) 832 3404

Eastern Cape

Provincial Representative/ Executive Manager	Adv. Bruce Wessels
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Physical Address:	Unathi House Independent Avenue, Bisho Behind Pick'n Pay
Postal Address:	P O Box 1400 Bisho 5605
Tel:	(040) 635 1286  (040) 635 1286/7/1145/1126
e-mail	<u>brucew@pprotect.org</u>
Fax:	(040) 635 1291

REGIONAL OFFICES

George

Regional Manager:	Adv. Ridwan Haffajee
Physical Address:	1st Floor, South Wing Bataleur Park Cnr of Cathedral and Cradock Street GEORGE 6529
Postal Address:	P O Box 9481 GEORGE 6530
Tel:	(044) 874 2887  (044) 874 2887/904
e-mail	<u>ridwanh@pprotect.org</u>
Fax:	(044) 874 5922

Kuruman

Regional Manager:	Ms Tshiamo Segomoco
Physical Address:	1 Rose Avenue Shop 1 Kuruman 8460
Postal Address:	P O Box 79 Mothibistad 8474
Tel:	(053) 712 1762  (053) 712 1762/2347
e-mail	<u>tshiamos@pprotect.org</u>
Fax:	(040) 712 2417

Klerksdorp

Regional Manager:	Mr Ditlhake Motona
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Physical Address:	PC Pelsers Building 8th Floor Cnr Anderson and Voortrekker Street Klerksdorp 2571
Tel:	061 417 7640
e-mail	ditlhakem@pprotect.org

Mthatha

Regional Manager:	Mthwakazi Thomas
Physical Address:	No. 6 Knorf Street Fortgale Mthatha 5099
Postal Address:	PO Box 7208 Mthatha 5099
Tel:	(047) 531 3773  (047) 531 3773/4/5
e-mail	Mthwakazit@pprotect.org
Fax:	(047) 531 3776


Thohoyandou

Regional Manager:	Mr Makgale Levy Hiine
Physical Address:	Sibasa Embassy PTN 1 Farm Mphaphuli LT
Postal Address:	
Tel:	068 361 5485
e-mail	hiinem@pprotect.org
Fax:	


Pietermaritzburg

Regional Manager:	Mr. Thulani Mthethwa
Physical Address:	Assupol Building 1st Floor 221 Pietermaritz Street Pietermaritzburg
Tel:	(033) 346 0718
e-mail	Thulanim@pprotect.org
Fax:	(033) 346 0802



Rustenburg

Regional Manager:	Kleinbooim Matsetela
Physical Address:	Suite No 12 Old SARS Building 135 Klopper Streets Rustenburg
Postal Address:	P O Box 371 Tlhabane 0309
Tel:	(014) 592 9023  (014) 592 9023/6
e-mail	<u>kleinbooim@pprotect.org</u>
Fax:	(014) 592 9031

Upington

Regional Manager:	Ephraim Minnaar
Physical Address:	Umbra Building 55-59 Mark Street Upinton 8800
Tel:	(054) 338 5740  (054) 338 5740
e-mail	<u>ephraimm@pprotect.org</u>
Fax:	(053) 331 0036

Phuthaditjhaba

Regional Manager:	Qabang Mofokeng
Physical Address:	Mampoi Street Shop No 1 Naledi Mall PHUTHADITJHABA 9866
Postal Address:	P O Box 5677 PHUTHADITJHABA 9866
Tel:	(058) 713 2974  (058) 713 2974 (058) 713 2975  (058) 713 2975
e-mail	<u>ericm@pprotect.org</u>
Fax:	(058) 713 2976

9. INFORMATION OR RECORDS NOT FOUND

- 9.1 If all reasonable steps have been taken to find a record, and such a record cannot be found or if the records do not exist, then the Information Officer or the Deputy Information officer shall notify the requester, by way of an affidavit or affirmation, that it is not possible to give access to the requested record.
- 9.2 The affidavit or affirmation shall provide a full account of all the steps taken to find the record or to determine the existence thereof, including details of all communications by the head of the company or the request liaison officer with every person who conducted the search.
- 9.3 The notice shall be regarded as a decision to refuse a request for access to the record concerned for the purposes of the PAIA.
- 9.4 If the record in question should later be found, the requester shall be given access to the record in the manner stipulated by the requester in the prescribed form unless access is refused by the head of the company or the request liaison officer.
- 9.5 The attention of the requester is drawn to the provisions of Chapter 4 of Part 3 of PAIA in terms of which the company may refuse, on certain specified grounds, to provide information to a requester.

10. INFORMATION REQUESTED ABOUT A THIRD PARTY

- 10.1 Section 47 of PAIA makes provision for a request for information or records about a third party.
- 10.2 In considering such a request, the Public Protector will adhere to the provisions of sections 47 to 49 of PAIA.
- 10.3 The attention of the requester is drawn to the provisions of Chapter 5 of Part 3 of PAIA in terms of which the Public Protector is obliged, in certain circumstances, to advise third parties of requests lodged in respect of information applicable to or concerning such third parties. In addition, the provisions of Chapter 2 of Part 4 of PAIA entitle third parties to dispute the decisions of the Information Officer or the Deputy Information officer by referring the matter to the High Court.

ANNEXURE A

FORM A

REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

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

(Act No. 2 of 2000))

[Regulation 6]

FOR DEPARTMENTAL USE

Reference number: _____

Request received by _____

(state rank, name and surname of information officer/deputy information officer) on
_____ (date) at _____ (place).

Request fee (if any): R

Deposit fee (if any): R

Access fee: R

**SIGNATURE OF INFORMATION OFFICER/
DEPUTY INFORMATION OFFICER**

A. Particulars of public body

Information Officer

Name	Position	Tel No	E-mail
Ms T Sibanyoni	Chief Executive Officer	012 366 7134	Dipuom@pprotect.org

Deputy Information Officer

Name	Position	Tel No	E-mail
Adv N vd Merwe	Manager: Knowledge Management & Research	012 366 7051	neelsvdm@pprotect.org
Adv E de Waal	Senior Manager: Administrative Justice and Service Delivery	012-366 7012	Elsabed@pprotect.org
Mr K Mohanoe	Researcher: Knowledge Management & Research	012 366 7051	kutlwanom@pprotect.org

Physical Address:	175 Lunnon Street, Hillcrest Office Park Pretoria
Postal Address:	Private Bag X677 Pretoria 0001
Telephone Numbers:	(012) 366-7000/ 0800112040
Fax Numbers:	(012) 362-3473

B. Particulars of the 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:

Fax number:

Telephone number:

E-mail:

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 the record or relevant part of the record:
- 2) Reference number, if available:
- 3) Any further particulars of the 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 the 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 the exemption of the payment of any fee, please state the reason for exemption.*

Reason for the exemption from payment of fees:

F. Form of access to record

If you are prevented by disability to read, view of or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

Disability: Form in which record is required:

*Mark the appropriate box with an **X**.*

NOTES:

- (a) *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 the 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 the record consists of visual images-

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

- view the images
- copy of the images
- * transcription of the images*

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

- listen to the soundtrack (audio cassette)
- transcription of 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

*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 do 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 thereof in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

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

Signed at this day of

SIGNATURE OF REQUESTER / PERSON ON WHOSE BEHALF REQUEST IS MADE

ANNEXURE D

FEES IN RESPECT OF PUBLIC BODIES

1. The fee for a copy of the manual as contemplated in regulation 5(c) every photocopy of an A4-size page or part thereof.	R0,60
2. The fees for reproduction referred to in regulation 7(1) are as follows: R	
For every photocopy of an A4-size page or part thereof	R0,60
(a) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R0,40
(b) For a copy in a computer-readable form on - (i) stifty disc (ii) compact disc	5,00 40,00
(c) (i) For a transcription of visual images, for an A4-size page or part thereof (ii) For a copy of visual images	R 22,00 R 60,00
(d) (i) For a transcription of an audio record, for an A4-size page or part thereof (ii) For a copy of an audio record	R 12,00 R 17,00
3. The request fee payable by every requester, other than a personal requester, referred to in regulation 7(2).	R35,00
4. The access fees payable by a requester referred to in regulation 7(3) are as follows:	
(1) (a) For every photocopy of an A4-size page or part thereof	R 0,60
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine- readable form	R 0,40
(c) For a copy in a computer-readable form on - (i) stifty disc (ii) compact disc	R 5,00 R 40,00

(d) (i) For a transcription of visual images, for an A4-size page or part thereof (ii) For a copy of visual images	R 22,00 R 60,00
(e) (i) For a transcription of an audio record, for an A4-size page or part thereof (ii) For a copy of an audio record	12,00 R 17,00
(f) To search for and prepare the record for disclosure for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation.	R15,00 per hour
(2) For purposes of section 22(2) of the Act, the following applies: (a) Six hours as the hours to be exceeded before a deposit is payable; and (b) one third of the access fee is payable as a deposit by the requester. (3) The actual postage is payable when a copy of a record must be posted to a requester.	

Postage fees are as follows

Envelope Size	Ordinary mail	Fast mail	Registered mail
Small	R5,00	R7,00	R20,00
Medium	R7,30	R12,25	R23,00
Large	R11,00	R17,00	R27,00
cylinder rolled records	R18,00	R26,00	-