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**PUBLIC SERVICE COMMISSION**

**PAIA MANUAL**

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Prepared in terms of section 14 of the  
Promotion of Access to Information Act 2 of  
2000 (as amended) And the Protection of  
Personal Information Act No. 4 of 2013

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## A. LIST OF ACRONYMS AND ABBREVIATIONS

<b>PAIA</b>	Promotion of Access to Information Act No. 2 of 2000 (as amended)
<b>POPIA</b>	Protection of Personal Information Act No. 4 of 2013
<b>PSC</b>	Public Service Commission
<b>OPSC</b>	Office of the Public Service Commission
<b>DIO</b>	Deputy Information Officer
<b>IO</b>	Information Officer
<b>PFMA</b>	Public Finance Management Act No.1 of 1999 as Amended.
<b>Regulator</b>	Information Regulator

## 1. PURPOSE OF PAIA MANUAL

This PAIA Manual is useful for the public to-

- 1.1 check the nature of the records which may already be available at Public Service Commission / Office of the Public Service Commission, without the need for submitting a formal PAIA request;
- 1.2 have an understanding of how to make a request for access to a record of the Public Service Commission / Office of the Public Service Commission;
- 1.3 access all the relevant contact details of the persons who will assist the public with the records they intend to access;
- 1.4 know all the remedies available from the Public Service Commission / Office of the Public Service Commission, regarding request for access to the records, before approaching the Regulator or the Courts;
- 1.5 the description of the services available to members of the public from the Public Service Commission / Office of the Public Service Commission, and how to gain access to those services;
- 1.6 a description of the guide on how to use PAIA, as updated by the Regulator and how to obtain access to it;
- 1.7 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;
- 1.8 know if the Public Service Commission / Office of the Public Service Commission, has planned to transfer or process personal information outside the Republic of South Africa and the recipients or categories of recipients to whom the personal information may be supplied; and
- 1.9 know whether the Public Service Commission / Office of the Public Service Commission, has appropriate security measures to ensure the confidentiality, integrity and availability of the personal information which is to be processed;
- 1.10 It provides guidelines on when the PSC will process personal information;
- 1.11 The purpose of processing of personal information and the description of the categories of data subjects and of the information or categories and the description

of the categories of data subjects and of the information or categories of information relating thereto;

1.12 The Public Service Commission is established in terms of Chapter 10 of the South Africa Constitution of 1996, section 195 and 196 to promote constitutional values and principles governing public administration and placed under the control of the Chairperson of the Public Service Commission and 13 Commissioners.

1.13 This manual is compiled in accordance with section 14 of Promotion of Access to Information Act (PAIA) and offers an outline of the Public Service Commission and Office of the Public Service Commission information, which is accessible to the public. These includes:

1.13.1 Mandate, Vision, Mission, and Objectives of the PSC/OPSC.

1.13.2 Contact details for the PSC.

1.13.3 Procedure for requesting information.

1.13.4 Information that is automatically available through the PSC/OPSC website.

1.13.5 Fees payable when requesting access to OPSC/PSC records.

1.14 The investigation and grievance reports of the PSC/OPSC are regarded as sensitive and confidential information and therefore can only be accessed in terms of the Access to Information Act by those that are not directly affected in the subject matter of the report. PAIA support the confidentiality of these reports and provides the information contained in a report which may only be released to persons to whom it relates or that person's authorised representative.

1.15 Section 9 of the PAIA Act recognises that the right to access to information is subject to certain justifiable limitations amongst others, such as:

1.15.1 The reasonable protection of privacy;

1.15.2 Commercial confidentiality; and

1.15.3 Effective, efficient, and good governance and hence this manual describes the

1.15.4 categories of data subject and of the information or categories of information relating thereto.

1.15.5 Describes the recipients and categories of recipients to whom the

personal information may be supplied.

1.15.6 The Protection of Personal Information Act No.4 of 2014 (POPIA) promotes the protection of personal information processed by public and private bodies, including conditions that establish minimum requirements for the processing of personal information.

1.15.7 To ensure that the PSC has appropriate security measures to ensure the confidentiality, integrity and availability of the personal information may be processed.

1.16 The POPIA amends certain provisions of PAIA, by balancing the need for access to information against the need to ensure the protection of personal information by providing for the establishment of an information Regulator to exercise certain powers and perform certain duties and function for the rights of persons electronic unsolicited electronic communications and automated decision making in order to regulate the flow of personal information and to provide for matters concerned therewith.

1.17 The PSC Access to Information Act manual describes the procedure for requesting access to PSC/OPSC records.

1.18 The PSC and OPSC subscribes to the principle of accountability, integrity, and responsibility to its stakeholders in line with the democratic values enshrined in section 195 of the Constitution.

## **2. ESTABLISHMENT OF THE PUBLIC SERVICE COMMISSION / OFFICE OF THE PUBLIC SERVICE COMMISSION**

2.1 The Public Service Commission is an independent constitutional institution established in terms of Chapter 10 of the Constitution. It derives its mandate from sections 195 and 196 of the Constitution, 1996, which sets out the values and principles governing public administration, which should be promoted by the PSC, as well as the powers and functions of the PSC. The PSC is required by the Constitution to exercise its powers and to perform its functions without fear, favour, or prejudice. The Constitution links the PSC's independence firmly with its impartiality and no organ of state may interfere with the functioning of the PSC.

2.2 The PSC is vested with the custodial oversight responsibilities for the Public Service and public administration. It monitors, evaluates, and investigates public administration practices. It also has the power to give directions aimed at ensuring that personnel procedures relating to recruitment, transfers, promotions, and dismissals comply with the values and principles in Section 195 of the Constitution. The PSC is accountable to the



National Assembly and must annually report to the National Assembly on its activities and performance, and to provincial legislatures on its activities in a province.

### **3. OBJECTIVES OF THE MANDATE OF THE PUBLIC SERVICE COMMISSION**

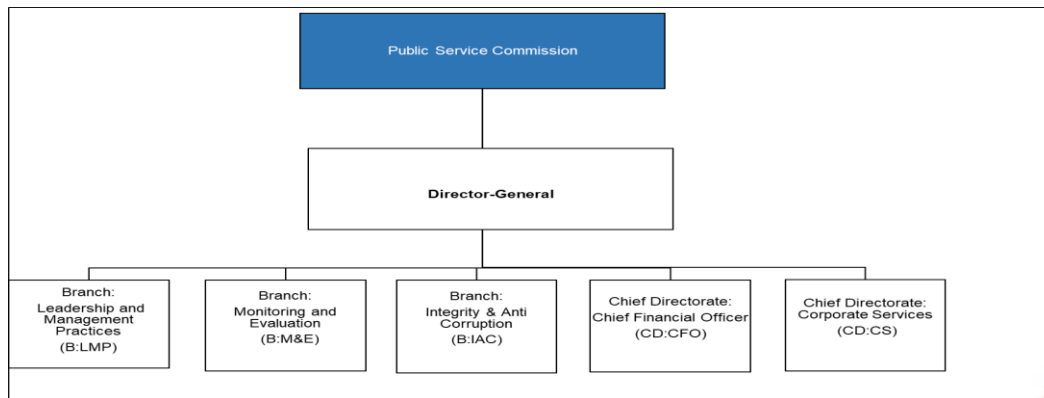
The functions and powers of the PSC are set out in Section 196 (4) of the Constitution of South Africa, 1996 as follows:

- 3.1 To promote the values and principles set out in Section 195, throughout the Public Service;
- 3.2 to investigate, monitor and evaluate the organisation and administration, and the personnel practices of the Public Service;
- 3.3 to propose measures to ensure effective and efficient performance within the Public Service;
- 3.4 to give directions aimed at ensuring that personnel procedures relating to recruitment, transfers, promotions and dismissals comply with the values and principles set out in section 195 of the Constitution of South Africa 1996;
  - a. “to report in respect of its activities and the performance of its functions, including any findings it may make and directions and advice it may give, and to provide an evaluation of the extent to which the values and principles set out in section 195 are complied with; either of its own accord, or on receipt of any complaint-
    - i. to investigate and evaluate the application of personnel and public administration practices and to report to the relevant executive authority and legislature;
    - ii. to investigate grievances of employees in the Public Service concerning official acts or omissions and to recommend appropriate remedies;
    - iii. to monitor and investigate adherence to applicable procedures in the Public Service; and
    - iv. to advise national and provincial organs of state regarding personnel practices in the Public Service, including those relating to the recruitment, appointment, transfer, discharge and other aspects of the careers of employees in the Public Service; and
  - b. To exercise or perform the additional powers or functions prescribed by an Act of Parliament”.

### **4. STRUCTURE OF THE PUBLIC SERVICE COMMISSION AND FUNCTIONS**

#### **4.1 Structure**

- 4.1.1 The organizational structure of the PSC/OPSC is designed according to its key performance areas and its activities are organized in the following programmes:



**Figure 1: OPSC organizational structure**

## 4.2 Members of the PSC

The President designates one Commissioner as Chairperson and another as Deputy Chairperson of the PSC. The following are the 14 Commissioners in the PSC:

- Prof Somadoda Fikeni (Chairperson)
- Ms Zukiswa Mqolomba (Commissioner, National Office: Deputy Chairperson)
- Prof Mandlenkosi Makhanya (Commissioner, National Office)
- Ms Nancy Ngwenya (Commissioner, National Office)
- Mr Errol Magerman (Commissioner, National Office)
- Mr Vuyani Mapolisa (Commissioner, Eastern Cape)
- Mr Vusumuzi Mshengu Mavuso (Commissioner, Gauteng)
- Mr Anele Gxoyiya (Commissioner, Northern Cape)
- Mr Magerule Sekonya (Commissioner, Limpopo)
- Ms. Yasmin Bacus (Commissioner, KwaZulu-Natal)
- Mr Bheki Zulu (Commissioner, Mpumalanga)
- Prof. Brian Nakedi (Commissioner, Free State)
- Mr Ashley Searle (Commissioner, Western Cape)
- Vacant- Prof Mandlenkosi Makhanya (Acting Resident Commissioner, North-West).

4.2.1 The PSC is supported by the Office of the Public Service Commission (OPSC), headed by the Director-General, (who is the Accounting Officer). The PSC with its administrative support has its Head Office in Pretoria. There is an Office of the PSC in each province. The PSC is one Constitutional Body made up of 14 Commissioner. The Director-General reports to the PSC and is responsible as the head of administration to provide administrative support to the entire PSC.

4.2.2 The Provincial Commissioners execute the mandate of the PSC in each province as part of one PSC. These offices serve as a base for the provincially based

Commissioners, and each has a provincial director, with a small staff complement.

4.2.3 The addresses for the PSC provincial offices in each province are as follows:

<b>Province names and Addresses</b>	<b>Contact details</b>
<p><b>1. Eastern Cape</b></p> <p>Physical address - 91 Alexandra Road, King Williams Town. PO Box 2167 King William's Town 5601</p>	<p>Tel: (043) 643-4704</p> <p><b>Commissioner:</b> Mr Vuyani Mapolisa</p> <p><b>Provincial Director:</b> Ms Phindiwe Ludwaba - Tyeda</p>
<p><b>2. Free State</b></p> <p>Physical Address - 62 Fedsure Building 3rd Floor, St Andrews Street Bloemfontein, 9301</p>	<p>Tel: (051) 448-8696</p> <p><b>Commissioner:</b> Prof. Brian Nakedi</p> <p><b>Provincial Director:</b> Mr Sisa Mlisana.</p>
<p><b>3. Gauteng</b></p> <p>Physical Address - Schreiner Chambers 6th Floor 94 Pritchard Street, Johannesburg Private Bag X8962, Johannesburg 2000</p>	<p>Tel: (011) 8335721</p> <p><b>Commissioner:</b> Mr Vusumuzi Mshengu Mavuso</p> <p><b>Provincial Director:</b> Ms Dorothy Nkwanyana</p>
<p><b>4. KwaZulu-Natal</b></p> <p>Physical Address -. Prestasi House, 1<sup>st</sup> Floor, 221 Pietermaritz Street, Pietermaritzburg, 3200. Private Bag X 9130, Pietermaritzburg, 3200</p>	<p>Tel: (033) 023 5957 / (033) 345 1533</p> <p><b>Commissioner:</b> Ms Yasmin E Bacus</p> <p><b>Provincial Director:</b> Ms Pumziwe Kwanini.</p>
<p><b>5. Limpopo</b></p> <p>Physical Address: Kirk Patrick Building, 40 Schoeman Street Polokwane,0699</p>	<p>Tel: (015) 0235900 / Tel: 015 291 4783\5\9</p> <p><b>Commissioner:</b> Mr Magerule Sekonya</p> <p><b>Provincial Director:</b> Ms Prudence Malope</p>

<p><b>6. Mpumalanga</b></p> <p><b>Physical Address:</b> 5<sup>th</sup> Floor Allied Building, 34 Brown Street, Mbombela Private Bag X11303, Mbombela, 1200.</p>	<p>Tel: (013) 4110107</p> <p><b>Commissioner:</b> Mr Bheki Zulu</p> <p><b>Provincial Director:</b> Mr Tshepo Matlhare</p>
<p><b>7. Northern Cape</b></p> <p><b>Physical Address:</b> 1<sup>st</sup> Floor, Woolworths Building, Corner Lennox &amp; Chapel Streets, Kimberly.</p> <p>Private Bag X5071, Kimberly, 8300</p>	<p>Tel: (053) 832 6222</p> <p><b>Commissioner:</b> Anele B. Gxoyiya</p> <p><b>Provincial Director:</b> Vacant C/) Contact: Ms Faith Coleridge</p>
<p><b>8. North - West</b></p> <p><b>Physical Address:</b> Shop No 112, Ground Floor, Megacity Shopping Centre, Cnr Sekame Street &amp; Dr James Moroka Drive, Mmabatho, 2735.</p> <p>Private Bag X2065, Mmabatho; 2735</p>	<p>Tel: (018) 3841000</p> <p><b>Acting Resident Commissioner:</b> Prof Mandlenkosi Makhanya.</p> <p><b>Provincial Director:</b> Mr Lebogang Mautlwa</p>
<p><b>9. Western Cape</b></p> <p><b>Physical Address:</b> Sanlam Golden Acre Building 21st Floor, Adderley Street PO Box 2078 Cape Town, 8001.</p>	<p>Tel: 021 4213980</p> <p><b>Commissioner:</b> Mr Ashley Searle</p> <p><b>Provincial Director:</b> Mr Mornay Pretorious.</p>

4.2.4. The Public Service Commission has nine provincial offices. They were established as part of a single constitutional institution as a base for provincially resident commissioners. Each province has a provincial director to assist with administration under the leadership of the OPSC National Office.

4.2.5. The work of the PSC is structured around the following four programmes based on the key performance areas:

- 4.2.5.1. Labour relations improvement, Leadership practices and human resource reviews.
- 4.2.5.2. Governance and support to the PSC.
- 4.2.5.3. Service delivery monitoring and evaluation.

### **4.3. Functions of the Public Service Commission**

- 4.3.4. The PSC is established in terms of Section 196 of the Constitution of the Republic of South Africa, 1996 (Constitution). The Constitution stipulates that there is a single PSC for the Republic, consisting of 14 Commissioners, five of which are appointed by the President on the recommendation of the National Assembly. One Commissioner is appointed from each of the nine provinces, after nomination by the Premier of the province on the recommendation of a committee of the Provincial Legislature.
- 4.3.5. Five of the Commissioners are based at the PSC's head office in Pretoria while the remaining nine are resident in their respective provinces. A Commissioner is appointed for a term of five years, which is renewable for one additional term. A Chairperson, who also serves as the Executive Authority for the Office of the Public Service Commission, heads the PSC. The Chairperson is appointed by the President from the nominated Commissioners.
- 4.3.6. The PSC is accountable to the National Assembly and must annually report to the National Assembly on its activities and performance, and to provincial legislatures on its activities in a province.
- 4.3.7. The Office of the Public Service Commission with its Head Office in Pretoria and provincial offices in each province supports the PSC. A Director-General, who also serves as the Accounting Officer, heads the OPSC. The staff members of the OPSC are appointed in terms of the Public Service Act of 1994.
- 4.3.8. The organizational structure and function of the PSC is designed in accordance with its key performance areas and its activities are organized in the following programmes:

#### **4.4. Programme 1: Administration**

The programme provides overall management of the PSC and centralised support services. The programme is divided into the following three sub-programmes:

- Public Service Commission.
- Office of the Director-General (includes PSC Support and Strategic Planning, Litigation and Legal Services.

- Corporate Services.
- Finance.
- Chief Directorate: Provincial Coordination

#### **4.5. Programme 2: Leadership and Management Practices**

The programme promotes sound public service leadership, human resource management, labour relations and labour practices. The programme is divided into the following two sub-programmes:

- Labour Relations Improvement.
- Leadership and Human Resource Reviews.

#### **4.6. Programme 3: Monitoring and Evaluation**

The programme is responsible for establishing a high standard of service delivery, monitoring and good governance in the Public Service. The programme is divided into the following two sub-programmes:

- Governance Monitoring.
- Service Delivery and Compliance Evaluations.

#### **4.7. Programme 4: Integrity and Anti-Corruption**

The programme is responsible for undertaking public administration investigations, promoting a high standard of professional and ethical conduct amongst public servants and contributing to the prevention and combating of corruption.

The programme is divided into the following two sub-programmes:

- Public Administration Investigations.
- Professional Ethics.

### **5. KEY CONTACT DETAILS FOR ACCESS TO INFORMATION OF THE PUBLIC SERVICE COMMISSION AND THE OFFICE OF THE PUBLIC SERVICE COMMISSION**

#### **5.1 Information Officer:**

**NAME: ADV. DINKIE P. DUBE**

The Director-General of the Office of the Public Service Commission and Accounting Officer of the Public Service Commission is Adv. Dinkie P. Dube. The Director-General is the Information Officer in terms of the Promotion of Access to Information Act (PAIA). Her contact details are as follows:

**Tel:** (012) 352 1025

**E-mail:** [DinkieD@opsc.gov.za](mailto:DinkieD@opsc.gov.za)

Section 17(1) of PAIA states that- For the purposes of PAIA, “each public body must, subject to legislation governing the employment of personnel of the public body concerned, designate such number of persons as deputy information officers as are necessary to render the public body as accessible as reasonably possible for requesters of its records”.

## **5.2 Deputy Information Officer designated in terms of section 17 (1) of PAIA)**

**Name:** Adv. Shukrat Makinde (Director: Litigation and Legal Services)

**Tel:** (012) 352 1188

**E-mail:** [ShukratM@opsc.gov.za](mailto:ShukratM@opsc.gov.za)

## **5.3 Access to information general contacts are as follows:**

**Mr Humphrey Ramafoko** (Deputy Information Officer in relation to media enquiry)

Director: Communication and Information Services

**Tel:** (012) 352 1196

**E-mail:** [humphreyr@opsc.gov.za](mailto:humphreyr@opsc.gov.za)

## **5.4 Mr Zweli Momeka**

Acting Chief Director: People Management Practices

**Tel:** (012) 352 1241

**E-mail:** [DianneM@opsc.gov.za](mailto:DianneM@opsc.gov.za)

## **5.5 Ms Irene Mathenjwa**

Deputy Director-General: Monitoring and Evaluation

**Tel:** (012) 352 1109

**Email:** [IreneM@opsc.gov.za](mailto:IreneM@opsc.gov.za)

## **5.6 Mr Matome Malatsi**

Deputy Director-General: Integrity and Anti-Corruption

**Tel:** (012) 352 1073

**Email:** [MatomeM@opsc.gov.za](mailto:MatomeM@opsc.gov.za)

## **5.7 Dr Kholofelo Sedibe**

Deputy Director General: Leadership and Management Practices

**Tel:** (012) 352 1206

**Email:** [KholofeloS@opsc.gov.za](mailto:KholofeloS@opsc.gov.za)

## **5.8 NATIONAL / HEAD OFFICE**

### **5.8.1 Information may be sourced from Public Service Commission as follows:**

**Physical Address (Head Office):**

Public Service Commission House, Office Park Block B  
536 Francis Baard Street, Arcadia

**PRETORIA**, 0001

**Tel:** (012) 352 1000.

**Website:** [www.psc.gov.za](http://www.psc.gov.za)

**Postal Address:**

Private Bag X121

**PRETORIA**, 0001

Email: c/o: [Complaints@opsc.gov.za](mailto:Complaints@opsc.gov.za) / [grievances@opsc.gov.za](mailto:grievances@opsc.gov.za)

## **6. DESCRIPTION OF ALL REMEDIES AVAILABLE IN RESPECT OF AN ACT OR A FAILURE TO ACT BY THE PUBLIC SERVICE COMMISSION / OFFICE OF THE PUBLIC SERVICE COMMISSION TO GRANT A REQUEST**

Should the requester not be satisfied with the decision of the Information Officer or Deputy Information Officer of the PSC, the following remedies are available:

### **6.1 INTERNAL APPEAL**

The requester may: File an internal appeal in writing with the Chairperson of the PSC who is the Appeal Authority for purposes of this Act in terms of sections 74 – 77 of PAIA. The requester must set out the grounds for the appeal in respect of each record sought.

6.1.2 An internally appeal may be lodged by the requester within 60 days of the receipt of the Deputy Information Officer or Information Officer's decision or of the date of the deemed refusal.

6.1.3 The appeal must be lodged in person or by email, facsimile or post with the Information Officer or Deputy Information Officer, whose particulars are detailed in this manual. The appeal may also be lodged at the complaints or grievances email address provided in this manual. The Information will be forwarded with the reasons for the decision appealed against to an appropriate authority in the PSC/OPSC for consideration and a decision.

#### **6.1.3.1 The process for filing a complaint with the information regulator or any regulatory body**

6.1.3.1.1 Should a request for private information be refused in terms of the POPIA by the Deputy Information Officer or Information Officer of the OPSC/PSC, the requester may approach the Information Regulator for application to grant an exemption for



the information to be provided in terms of section 35, 36, 37 and 38 of POPIA, where applicable.

#### **6.1.3.2 The process for approaching the court with jurisdiction for appropriate relief**

6.1.3.3 An Application may be lodged with a Court in terms of sections 78 – 82 of the Promotion of Access to Information Act, 2000. The requester may apply to court for relief. The said Application must be made within 180 days after the decision has been made by the Deputy Information Officer / Information Officer of the PSC /OPSC.

6.1.3.4 On hearing such an Application, the court may grant a just and equitable order, including:

6.1.3.4.1 Confirming, amending or setting aside the decision that is the subject of the Application.

6.1.3.4.2 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.

6.1.3.4.3 Granting an interdict, interim or specific relief, a declaratory order or compensation.

6.1.3.4.4 Cost order.

6.1.3.5 Such an Application to the Court may be made at the High Court of South Africa with jurisdiction to hear the matter.

6.1.3.6 The use of other legal remedies such as the institution of proceedings for the judicial review of an administrative action in terms of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

## **7. GUIDE ON HOW TO USE PAIA AND HOW TO OBTAIN ACCESS TO THE GUIDE**

7.1 The Regulator has, in terms of section 10(1) of PAIA, updated and made available the revised Guide on how to use PAIA (“Guide”), in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right contemplated in PAIA and POPIA.

7.2 The Guide is available in each of the official languages.

7.3 The aforesaid Guide contains the description of-

7.3.1 the objects of PAIA and POPIA;

7.3.2 the postal and street address, phone and fax number and, if available, electronic mail address of-

7.3.3 the Information Officer of every public body, and

7.3.4 every Deputy Information Officer of every public and private body designated in terms of section 17(1) of PAIA<sup>1</sup> and section 56 of POPIA<sup>2</sup>;

7.3.5 the manner and form of a request for-

7.3.6 access to a record of a public body contemplated in section 11<sup>3</sup>; and

7.3.7 access to a record of a private body contemplated in section 50<sup>4</sup>;

7.3.8 the assistance available from the Information Officer of a public body in terms of PAIA and POPIA;

7.3.9 the assistance available from the Regulator in terms of PAIA and POPIA;

7.3.10 all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by PAIA and POPIA, including the manner of lodging-

7.3.10.1 an internal appeal;

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<sup>1</sup> Section 17(1) of PAIA- *For the purposes of PAIA, each public body must, subject to legislation governing the employment of personnel of the public body concerned, designate such number of persons as deputy information officers as are necessary to render the public body as accessible as reasonably possible for requesters of its records.*

<sup>2</sup> Section 56(a) of POPIA- *Each public and private body must make provision, in the manner prescribed in section 17 of the Promotion of Access to Information Act, with the necessary changes, for the designation of such a number of persons, if any, as deputy information officers as is necessary to perform the duties and responsibilities as set out in section 55(1) of POPIA.*

<sup>3</sup> Section 11(1) of PAIA- *A requester must be given access to a record of a public body if that requester complies with all the procedural requirements in PAIA relating to a request for access to that record; and access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.*

<sup>4</sup> Section 50(1) of PAIA- *A requester must be given access to any record of a private body if-*

- a) *that record is required for the exercise or protection of any rights;*
- b) *that person complies with the procedural requirements in PAIA relating to a request for access to that record; and*
- c) *access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.*

- 7.3.10.2 a complaint to the Regulator; and
- 7.3.10.3 an application with a court against a decision by the information officer of a public body, a decision on internal appeal or a decision by the Regulator or a decision of the head of a private body;
- 7.3.11 the provisions of sections 14<sup>5</sup> and 51<sup>6</sup> requiring a public body and private body, respectively, to compile a manual, and how to obtain access to a manual;
- 7.3.12 the provisions of sections 15<sup>7</sup> and 52<sup>8</sup> providing for the voluntary disclosure of categories of records by a public body and private body, respectively;
- 7.3.13 the notices issued in terms of sections 22<sup>9</sup> and 54<sup>10</sup> regarding fees to be paid in relation to requests for access; and
- 7.3.14 the regulations made in terms of section 92<sup>11</sup>.
- 7.4 Members of the public can inspect or make copies of the Guide from the offices of the public or private bodies, including the office of the Regulator, during normal working hours.

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<sup>5</sup> Section 14(1) of PAIA- The information officer of a public body must, in at least three official languages, make available a manual containing information listed in paragraph 4 above.

<sup>6</sup> Section 51(1) of PAIA- The head of a private body must make available a manual containing the description of the information listed in paragraph 4 above.

<sup>7</sup> Section 15(1) of PAIA- The information officer of a public body, must make available in the prescribed manner a description of the categories of records of the public body that are automatically available without a person having to request access

<sup>8</sup> Section 52(1) of PAIA- The head of a private body may, on a voluntary basis, make available in the prescribed manner a description of the categories of records of the private body that are automatically available without a person having to request access

<sup>9</sup> Section 22(1) of PAIA- The information officer of a public body to whom a request for access is made, must by notice require the requester to pay the prescribed request fee (if any), before further processing the request.

<sup>10</sup> Section 54(1) of PAIA- The head of a private body to whom a request for access is made must by notice require the requester to pay the prescribed request fee (if any), before further processing the request.

<sup>11</sup> Section 92(1) of PAIA provides that – “The Minister may, by notice in the Gazette, make regulations regarding-

- (a) any matter which is required or permitted by this Act to be prescribed;
- (b) any matter relating to the fees contemplated in sections 22 and 54;
- (c) any notice required by this Act;
- (d) uniform criteria to be applied by the information officer of a public body when deciding which categories of records are to be made available in terms of section 15; and
- (e) any administrative or procedural matter necessary to give effect to the provisions of this Act.”

7.5 The Guide can also be obtained-

7.5.1 upon request to the Information Officer or head of the private body, using Form 1 available at <https://infoRegulator.org.za/paia-forms/>;

7.5.2 upon request, to the Information Regulator, by sending Form 1 (a request for a copy of the Guide) to- [PAIACompliance@infoRegulator.org.za](mailto:PAIACompliance@infoRegulator.org.za); and

7.5.3 from the website of the Regulator (<https://infoRegulator.org.za/paia-guidelines/>).

## 8. DESCRIPTION OF THE SUBJECTS ON WHICH THE BODY HOLDS RECORDS AND CATEGORIES OF RECORDS HELD BY THE PUBLIC SERVICE COMMISSION

8.1 The description of the subjects/ categories on which the PSC holds records are as follows:

Subjects on which the body holds records	Categories of records held on each subject
Strategic Documents, Plans, Proposals	<ul style="list-style-type: none"><li>- Annual Reports</li><li>- Strategic Plan</li><li>- Annual Performance Plan</li><li>- PSC Annual Reports to Citizens</li><li>- Policy and routine enquiries about Annual Reports</li></ul>
Legislation and Policy	<ul style="list-style-type: none"><li>- Drafting and amendments to the PSC Act.</li><li>- Policy manuals</li><li>- Business Case</li><li>- Legal Opinions</li><li>- Acts of Parliament</li><li>- Guidelines / Circulars</li><li>- PSC Rules</li><li>- Forms</li><li>- Governance Policies</li><li>- Regulations</li><li>- Litigation document</li><li>- Contracts and Service Level Agreements</li></ul>
People Management Practices Policies and Records	<ul style="list-style-type: none"><li>- HR policies and procedures</li><li>- Advertised posts</li></ul>

Subjects on which the body holds records	Categories of records held on each subject
	<ul style="list-style-type: none"> <li>- Learning and development e.g.: skills development and staff training plans, Training Manuals</li> <li>- Work plans</li> <li>- Employment equity plan and statistics. Employment Contracts</li> <li>- Medical Aids Records</li> <li>- Pension Fund Records</li> <li>- Disciplinary proceedings records</li> <li>- Salary records</li> <li>- Training records</li> <li>- Leave policy and/ or leave records</li> <li>- Recruitment and selection policy and records</li> <li>- Orientation Manual</li> <li>- Delegation of Powers and Duties by the Executive Authority of the PSC to Employees in the OPSC</li> <li>- Disability Policy</li> <li>- Employee Assistance Programme</li> <li>- PMDS Policy (Senior Management Services)</li> <li>- PMDS Policy level 2 to 12 (EPMIS Policy)</li> <li>- Grievance Resolution Policy</li> <li>- HIV and AIDS Policy and Implementation Plan</li> <li>- Human Resource Development Policy</li> <li>- Human Resource Plan</li> <li>- Internship Policy</li> <li>- Job Evaluation Policy</li> <li>- Learnership and Bursary Policy</li> <li>- Mentorship Policy</li> <li>- PERSAL User Account Manual</li> <li>- Policy on Bereavement</li> <li>- Policy on Health and Productivity Management</li> <li>- Policy on HIV &amp; AIDS in the Workplace</li> <li>- Policy on Internal and External Transfer</li> <li>- Policy on Management of Substance Abuse (Alcohol and Drugs) in the Workplace</li> </ul>

Subjects on which the body holds records	Categories of records held on each subject
	<ul style="list-style-type: none"> <li>- Policy on Gender</li> <li>- Policy on Recruitment and Selection</li> <li>- Policy on Special Awards and Recognition for Employees of the OPSC</li> <li>- Remunerated Overtime Policy</li> <li>- Resettlement Expenditure Policy</li> <li>- Retention Policy</li> <li>- Security Administration Policy</li> <li>- Service Delivery Charter</li> <li>- Sexual Harassment Policy</li> <li>- Smoking Policy</li> <li>- Records Management Policy</li> <li>- Termination of Service Policy</li> <li>- Wellness Management Policy.</li> <li>- General condition of service records and compliance.</li> <li>- Facilities and Fleet management policies</li> <li>- Filing system, records control and disposal of records policy and routine requests</li> <li>- Information security</li> <li>- Security clearance.</li> </ul>
Corporate Governance Records and Reports	<ul style="list-style-type: none"> <li>- Grievance investigation report;</li> <li>- Investigation report;</li> <li>- Report into public administration research and practices;</li> <li>- National Anti-Corruption Hotline case reports (NACH);</li> <li>- Governance Rules</li> <li>- Round table discussions and conferences report</li> <li>- Benchmark study and comparative analysis report. Presentations and published articles/ presented in a forum</li> <li>- Minutes of meetings</li> <li>- Records of workshops and conferences;</li> <li>- Memorandum of Understanding</li> </ul>

Subjects on which the body holds records	Categories of records held on each subject
	<ul style="list-style-type: none"> <li>- Guidelines and Protocol documents</li> <li>- Service charter and service delivery improvement plan.</li> </ul>
Communication and Publications	<ul style="list-style-type: none"> <li>-</li> <li>- internal newsletters;</li> <li>- External Newsletters and Magazines;</li> <li>-</li> </ul>
Finance Policies and Supply Chain Management records	<ul style="list-style-type: none"> <li>- Asset register, Budgets, Medium Term Expenditure Framework,</li> <li>- Agreements and Service Level Agreement with suppliers;</li> <li>- Advertised tender documents;</li> <li>- Gift management policy</li> <li>- Donation and Grant management policy</li> <li>- Cell phone and 3G Data Card Policy</li> <li>- Contract and tender administration</li> <li>- Code of Conduct for Supply Chain Management Practitioners and other Role Players - 2008</li> <li>- LOGIS Manual</li> <li>- Parking Policy</li> <li>- Postal Policy</li> <li>- Procedure for Sourcing Quotations</li> <li>- Supply Chain Management Policy</li> <li>- The Inventory Management Manual</li> <li>- Transport Policy</li> <li>- Travel Policy</li> <li>- SCM tender document advertised and other matters relating to the PSC</li> <li>- Uniform Policy</li> <li>- Asset Register</li> <li>- Procurement Policy</li> <li>- Records of procurement of systems and software</li> </ul>

Subjects on which the body holds records	Categories of records held on each subject
	<ul style="list-style-type: none"> <li>- Procurement management records and system documentation.</li> </ul>
Information Technology Records and policies	<ul style="list-style-type: none"> <li>- Information technology service agreements</li> <li>- Disaster Recovery Plan</li> <li>- Information Technology Procedure Manuals</li> <li>- Information Technology Governance Charter</li> <li>- Information Technology Security Policy.</li> <li>- Electronic Information Security Policy</li> <li>- System event and performance log</li> <li>- Quarterly operational IT report</li> <li>- ICT Policies and procedural manual</li> <li>- Network Maintenance</li> <li>- System development and lifecycle documents.</li> </ul>
Risk Management and Internal Audit	<ul style="list-style-type: none"> <li>- Risk Register</li> <li>- Audit Reports</li> <li>- Meetings, minutes, and agendas</li> <li>- Projects and special projects audits</li> <li>- Internal audit plan</li> <li>- Internal and external liaison</li> <li>- Anti-Corruption and Fraud Prevention Plan for Office of the Public Service Commission</li> <li>- OPSC Financial Disclosure Guide</li> <li>- Risk Management Framework</li> <li>- Risk Management Policy</li> <li>- Code of Conduct for the Public Service</li> <li>- Internal Audit Reports</li> <li>- Compliance reports</li> <li>- Operational risk management reports.</li> </ul>



## **9. THE LATEST NOTICE REGARDING CATEGORIES OF RECORDS OF THE PUBLIC SERVICE COMMISSION WHICH ARE AVAILABLE WITHOUT A PERSON HAVING TO REQUEST ACCESS**

- 9.1 The list of automatically available information is available in a notice that is published on the PSC website: [www.psc.gov.za](http://www.psc.gov.za).
- 9.2 A copy of the notice is also attached to this manual as an annexure.
- 9.3 The Notice on automatically available information is also made available to the Information Regulator.
- 9.4 Is available for inspection, at the Head Office of the Public Service Commission- Visitors Reception during working hours at Office Block B, 536 Francis Baard Street Arcadia, Pretoria.

## **10. SERVICES AVAILABLE TO MEMBERS OF THE PUBLIC FROM THE PUBLIC SERVICE COMMISSION AND HOW TO GAIN ACCESS TO THOSE SERVICES**

- 10.1 The Public Service Commission is created in terms of section 196 of the Constitution of South Africa 1996. The PSC is responsible for monitoring of personnel practices within the public services and public administration practices. section 196(4)(f)(1) read with section 196(2) confers a power and function on the PSC that encompasses the broader public administration and the public service. The same can be said about section 196(4)(a) to (c), and to section 196(4)(f)(ii), (iii) and (iv).
- 10.2 Section 196(1) to (6) of the Constitution provides as follows:
  - "(1) There is a single Public Service Commission for the Republic
  - (2) The Commission *is independent and must be impartial, and must exercise its powers and perform its functions without fear, favour or prejudice in the interest of the maintenance of effective and an efficient public administration and a high standard of professional ethics the public service. The Commission must be regulated by national legislation.*
  - (3) Other organs of state, through legislative and other measures, must assist and protect the Commission to ensure its independence, impartiality, dignity and effectiveness of the Commission. person or organ of state may interfere with the functioning of the Commission.

- (4) The powers and functions of the Commission are-
- (a) to promote the values and principles set out in section 195, throughout the public service;
  - (b) to investigate, monitor and evaluate the organisation, administration, and the personnel practices, of the public service;
  - (c) to propose measures to ensure effective and efficient performance within the public service;
  - (d) to give directions aimed at ensuring that personnel procedure relating to recruitment, transfers, promotions and dismissal comply with the values and principles set out in section 195;
  - (e) to report in respect of its activities and the performance of its function including any finding it may make and directions and advice it may give and to provide an evaluation of the extent to which the values principles set out in section 195 are complied with; and
  - (f) either of its own accord or on receipt of any complaint-
    - (i) to investigate and evaluate the application of personnel a public administration practices, and to report to the relevant executive authority and legislature;
    - (ii) to investigate grievances of employees in the public service concerning official acts or omissions, and recommend appropriate remedies;
    - (iii) to monitor and investigate adherence to applicable procedures in the public service; and
    - (iv) to advise national and provincial organs of state regarding personnel practices in the public service, including those relating to the recruitment, appointment, transfer, discharge and other aspects of the careers of employees in the public service; and
  - (g) to exercise or perform the additional powers or functions prescribed by an Act of Parliament

10.3 Section 8 of the Public Service Commission Act, 1997, provides that subject to the provisions of the Constitution, the Commission may exercise the power and shall perform the duties entrusted to the Commission by or under this Act, the Constitution or the Public Service Act.

10.4 Section 195 of the Constitution of the Republic sets out the basic values and principles governing the public service and public administration. The PSC monitors, evaluates and report to Parliament on the state of the Public Service and Public Administration.

## 11. REQUEST FOR ACCESS TO INFORMATION

### 11.1 Application of the Act

11.1.1 The PSC subscribes to the Protection of Personal Information Act, 2013 (POPIA), which is intended to give effect to the Constitutional right of access to information with respect to any information held by the State and to foster a culture of transparency and accountability.

11.1.2 A person protected includes a natural person and a juristic person. Personal information relating to an identifiable, living, natural person and where it is applicable, an identifiable existing juristic person is protected. This includes information relating to:

11.1.2.1 Information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;

11.1.2.2 Information relating to the education or the medical, financial, criminal, personnel record or employment history of the person;

11.1.2.3 Any identifying number, symbol, e-mail address, physical address, telephone number,

11.1.2.4 location information, online identifier or other particular assignment to the person;

11.1.2.5 The biometric information of the person;

11.1.2.6 The personal opinions, views or preferences of the person;

11.1.2.7 Correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;

11.1.2.8 The views or opinions of another individual about the person; and

11.1.2.9 The name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

## **11.2 Request for information with sensitive classification**

- 11.2.1 The investigation report and grievance report prepared by the PSC are sensitive and are not available for public use. (Information may be processed subject to a valid reason. Terms and conditions may be placed on the release of an information where it is necessary to protect part of the information in line with the protection provided in the POPIA and PAIA.
- 11.2.2 An investigation or grievance report is only available to be released where the investigation or grievance report is finalised and submitted to the relevant Executive Authority).
- 11.2.3 Special projects reports conducted by the PSC are also classified as sensitive information.
- 11.2.4 In relation information falling under chapter 6 of POPIA the PSC may obtain authorisation from the Information Regulator pertaining to the following:
- 11.2.4.1 Processing of any unique identifiers of data subjects:
- For a purpose other than the one for which the identifier was specifically intended at collection; and
  - With the aim of linking the information together with information processed by other responsible parties.
- 11.2.5 Processing of information on criminal behaviour or on unlawful or objectionable conduct on behalf of third parties.
- 11.2.6 Processing of information for the purposes of credit reporting; and
- 11.2.7 Transfer of special personal information or the personal information of children to a third party in a foreign country.

## **11.3 Granting or refusal of request for access to information**

11.3.1 A request for access to the information must be made by following the procedures outlined below:

11.3.2 The requester complies with all the procedural requirements in the PAIA relating to the request for access to that record; and

11.3.3 Access to the record is not refused on any ground of refusal mentioned in the PAIA.

## 12. HOW TO REQUEST INFORMATION FROM THE PUBLIC SERVICE COMMISSION

12.1 A requester must use the Form 2 – Request for Access to Record (**Regulation 7 of the promotion of Access to information Act**). **This is the request form for a public body.** A copy of this Form 2 is available on the PSC website: [www.psc.gov.za](http://www.psc.gov.za)

12.2 The request must be made in person or by email addressed to the Director-General, Public Service Commission (Alternatively, c/o Mr Devashan Moodley - Personal Secretary to the Director General. Email address: DevashanM@opsc.gov.za). If an acknowledgement of your request for access to information is not received within 14 working days, please contact the Office of the Director-General on 012 3521025, to ensure that the request has been received.

12.2.1 When completing the request for access to information form, please remember that:

12.2.1.1 Each section of the form contains instructions that should be followed to improve the likelihood of the request being granted with minimal delay being experienced.

12.2.1.2 Where a request is made for records on behalf of an organisation, the information officer of that organisation must authorise or support the request.

12.2.1.3 If records are requested on behalf of another person, please provide a copy of the mandate authorising you to act on behalf of another person, which must be submitted with the duly completed form and provide us with the individuals consent to avail you the requested information.

12.2.1.4 This is to ensure that we do not deny you access on the basis that the information is confidential and is protected in terms of the POPIA.

12.2.1.5 Please mention the format in which you want the record that you have requested, when making your request.

12.2.1.6 A detailed description of the records being requested must be provided to enable the Deputy Information Officer to identify it accurately.

12.2.1.7 A personal requester will not be required to pay a request fees but may in appropriate circumstances be required to pay for cost that is involved in obtaining copies in any form of the information requested.

12.2.1.8 A personal request may be considered where the personal information that does not have a negative impact on public interest; and may be processed in respect of information which includes but is not limited to:

12.2.8.1 Employee administration

12.2.8.2 Transactions with third parties

12.2.8.3 Maintaining records in respect of recruitment

12.2.8.4 General administration, or where compliance with legal and regulatory requirement compels the provision of such information.

12.2.8.5 Facilities management.

### **12.3 Disability and request for assistance**

12.3.8 Should difficulties be experienced in completing the request form or if a disability prevents the requester from completing it, please do not hesitate to contact the Deputy Information Officer of the PSC for assistance.

12.3.9 A person who cannot read or write can request access to information using the telephone numbers provided in this manual.

12.3.10 Should a requester be unemployed and requests access to information, which requires payment, the fees, may be waived.

### **12.4 Protection of information relating to a child**

12.4.1. The Information Officer or Deputy Information Officer may, subject to section 35 of the POPIA not process personal information concerning a child, except where:

12.4.1.1. The request is made with the prior consent of a competent person.

12.4.1.2. The information regarding the child is necessary to establish, exercise or in defence of a right or obligation in law.

- 12.4.1.3. For historical, statistical or research purposes to the extent that the information requested serves a public purpose or interest and the processing is necessary for the purpose concerned.
- 12.4.1.4. Where it appears impossible, and it would require a disproportionate effort to request consent and sufficient guarantees are provided to ensure that the processing of the information does not adversely affect the individual privacy of the child to a disproportionate extent. In such situation, sufficient guarantees need to be provided to protect the privacy of the child proportionately.
- 12.4.1.5. Where the adverse information has already been made public by the child with the consent of a competent person.

## **12.5 Form of request**

- 12.5.1. The requester must indicate if he/she wants a copy of the record or if he/she wants to visit the PSC offices to view the record. Alternatively, if the record is not a paper document, it can then be viewed in the requested format, where possible.
- 12.5.2. If a person asks for access in a particular format (e.g. a paper copy, electronic copy, and so forth) the requester should obtain access in that format, unless doing so would interfere unreasonably with the running of the public body concerned (PSC / OPSC), or damage the record, or infringe a copyright not owned by the state.
- 12.5.3. If for practical reasons access cannot be given in the required format but in another format, then the fee must be calculated according to the way that the requester first asked for it.
- 12.5.4. If, in addition to a written reply to the request for the record, the requester wants to be informed about the decision in any other way, for example by telephone, this must be indicated.

## **12.6 How long should a requester wait before receiving the information requested**

- 12.6.1. The Deputy Information Officer is requested to take a decision on the request within 30 days of receipt of the request, failing which the request is deemed to have been refused.
- 12.6.2. The Deputy Information Officer may extend the period for taking a decision to 60 days under the following circumstances:
  - 12.6.2.1. If 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 PSC.

- 12.6.2.2. If the requested records are not situated in the same town or city as the PSC Offices that the request cannot reasonably be completed within 30 days.
- 12.6.2.3. Where consultations among the Branches of the PSC or with another organisation is necessary or desirable to decide upon the request and which consultation cannot be reasonably completed within 30 days.
- 12.6.2.4. Where more than one of the circumstances contemplated above exist in respect of the request making compliance with the 30-day period not reasonably possible.
- 12.6.2.5. If the requester consents in writing to the extension.
- 12.6.2.6. Any other justifiable reasons.
- 12.6.3. Should the 30-day period be extended, the Deputy Information Officer or the Information Officer will notify the requester of the extension as well as provide the requester with the reasons for the extension.

### **13. HOW TO INFORM THE REQUESTER OF A PERSONAL REQUESTER OF THE OUTCOME OF THE REQUEST**

The requester will be notified by the Deputy Information Officer's or the Information Officers of the decision in the manner specified in the request form or by written letter.

#### **13.1 Successful request**

13.1.1 The requester will be given access to a record if all procedural requirements have been complied with according to PAIA requirements that is-

- 13.1.1.1 The request is properly documented on the prescribed form.
- 13.1.1.2 Proof of authority to act on another's behalf is furnished, if making the request on
- 13.1.1.3 another person's behalf.

13.1.2 The record that is requested is sufficiently described to enable the Deputy Information Officer to identify it, and



13.1.3 Payment of all required fees.

## **13.2 Access to records dealing with personal information.**

13.2.1 The requester will be given access to a record dealing with personal information or related matter if all procedural requirements have been complied with according to PAIA and POPIA requirements.

13.2.2 The requester must provide the reasons for requesting or gathering personal information. Such reasons must be explicitly defined and lawful as it relates to the function or activity of the requester.

13.2.3 It must be explicitly stated that the personal information is requested for a lawful purpose with defined parameters that will ensure that the processing of the personal information is only provided to the extent that it is relevant and not excessive, given the purpose for which the request is processed.

13.2.4 The information requester must indicate if the request is made voluntarily or as a mandatory request.

13.2.5 Should the information request be received via third party for further processing, such requester must provide the rationale for a third-party information request compatible with the purpose for which the data was initially collected. The requester must provide detailed identity of all third parties that the information requested will be shared with or has been shared with.

13.2.6 The record of the information requested must be submitted to the Deputy Information Officer or Information Officer.

13.2.7 The Deputy Information Officer / Information Officer will only release the requested personal information / information, where the request is clear, accurate, not misleading and up to date.

## **14. CIRCUMSTANCES FOR REFUSAL OF ACCESS TO INFORMATION**

14.1 Access to a record is refused on one or more grounds of refusal specified in PAIA which are as follows:

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

14.1.2 Mandatory protection of certain records of the PSC /OPSC.

- 14.1.3 Protection of opinion, advice, report, investigation report, or recommendation obtained or prepared by the PSC / OPSC.
- 14.1.4 Protection of information obtained through consultation, discussion or deliberation that occurred, including, but not limited to minutes of a meeting, for the purposes of or performance of a duty conferred or imposed by law.
- 14.1.5 Mandatory protection where the disclosure of the record could reasonably be expected to frustrate the deliberations process in a public body or between public bodies by inhibiting the:
  - 14.1.5.1. Communication of an opinion, advice report or recommendation obtained or prepared.
  - 14.1.5.2. Conduct of a consultant, discussion or deliberation that has occurred, including but not limited to minutes, of a meeting, for the purposes of assisting to formulate a policy or take a decision in the exercise of a power or performance of a duty conferred or imposed by law on the PSC.
  - 14.1.5.3. Mandatory protection where the disclosure of the record could be premature disclosure of a contemplated policy, reasonably expected to frustrate the success of that policy or engagement or a pending investigation.
  - 14.1.5.4. Protection of records in an investigation of the PSC which contains evaluative material, whether or not the person who supplied it is identified in the record, and the disclosure of a material would breach an express or implied promise which was made to a person who supplied the material.
  - 14.1.5.5. Protection of records, where the disclosure will prejudice future trust relationship between the institutions.
  - 14.1.5.6. Mandatory Protection of records, privileges and confidential information.
  - 14.1.5.7. Mandatory protection of personal information of a third party, confidential information and protection of certain other confidential information of a third party, including a deceased individual.
- 14.2 Mandatory protection of commercial information of a third party.
- 14.3 Mandatory protection of safety of individuals and protection of property.
- 14.4 Mandatory protection of records privileged from production in legal proceedings.

- 14.5 Protection of defence, security and international relations of the Republic.
- 14.6 Protection of economic interests and financial welfare of the republic and commercial activities of public bodies.
- 14.7 Mandatory protection of research information of a third party and protection of research information of a public body.
- 14.8 Operation of a public body.
- 14.9 Manifestly frivolous or vexatious request or substantial and unreasonable diversion of resources.
- 14.10 Mandatory protection on outcome of grievances where the disclosure of the outcome of the grievance will constitute a breach of confidentiality owed to all parties involved in an investigation of the grievance.
- 14.11 Protection of investigation report from parties that are not a party to the complaint, in situations where the disclosure will prejudice the privacy of a third party, or as may be determined by the Information Officer or Deputy Information Officer.
- 14.12 Protection of information where it may be reasonably expected to prejudice the future supply of information from parties.
- 14.13 Protection of other information that are protected in terms of Promotion of Access to Information Act 2 of 2000, (PAIA of 2000).
- 15. ACCESS TO A RECORD IS REFUSED ON ONE OR MORE GROUNDS OF REFUSAL SPECIFIED IN THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 (POPIA), AS FOLLOWS:**
- 15.1 Protection of mandatory records privileged and confidential information of the PSC / OPSC. - An Information Officer must refuse a request for access to a record if disclosure will amount to breach of a duty of confidence owed to a third party in terms of an agreement or contract.
- 15.2 Mandatory protection of privacy of a third party who is a natural person - An Information Officer is obliged to refuse access to a record if disclosure thereof involves the unreasonable disclosure of personal information about a third party, including “deceased individuals”. Given the broad definition of “personal information” in this Act as well as in the Protection of Personal Information (POPIA), balancing privacy with freedom of expression becomes very important.

- 15.3 Mandatory protection of confidential information, SARS information or commercial information or the trade secrets of the business of a third party. Financial, commercial, scientific or technical information of the business or a third party which, if disclosed, is likely to cause harm to the commercial or financial interest(s) of the body or third party; or Information supplied in confidence by a third party and where disclosure of such information could reasonably be expected to put the business at a disadvantage in contractual or other negotiations, or prejudice the business in commercial competitions.
- 15.4 Mandatory protection of safety of individuals and protection of property. The Information Officer must refuse to disclose information, if such disclosure could compromise the safety of an individual or property. This also relates to the POPIA, where information is seen as property.
- 15.5 Mandatory protection of records privilege from production in legal proceedings. With regard to other legislation relating to the management and disclosure of information, PAIA will supersede such legislation when the right to access is unjustifiably limited. For example, any record subject to the relationship between an attorney and their client is protected under this Act.
- 15.6 Mandatory protection of information relating to defence, security and international relations of the Republic and commercial activities of state institutions. An Information Officer may refuse a request for access to records if their disclosure could reasonably be expected to prejudice the defence, security or international relations of the Republic.

## **16. DEEMED REFUSAL OF A REQUEST**

- 16.1 If the Information Officer or Deputy Information Officer does not give the decision on a request for access to the requester within 30 days or within any extended period, then the Deputy Information Officer will be regarded as having refused the request.

## **17. EXCLUSION IN TERMS OF PROTECTION OF PERSONAL INFORMATION ACT, 2013. (POPIA)**

- 17.1 Section 12(1) of POPIA states that personal information must be collected directly from the data subject, except as otherwise provided for in subsection (2).
- 17.2 Section 12(2) states that it is not necessary to comply with subsection 1 if –
- (a) the information is contained in or derived from a public record or has deliberately been made public by the data subject. Section 12 (2)(d) states that, collection of information from another source would be necessary where-
    - (i) To avoid prejudice to the maintenance of the law by any public body, including the prevention, detection, investigation, prosecution and punishment of offences;

- (iii) For the conduct of proceedings in any court or tribunal that have commenced or are reasonably contemplated.
- (e) Compliance would prejudice a lawful purpose of the collection.
- (f) Compliance is not reasonably practicable in the circumstances of the Particular matter.

17.3 The OPSC / PSC privacy policy in line with POPIA, considers personal information as follows:

17.3.1 Personal information is defined as information which include, but is not limited to names; surname; contact details; physical and postal addresses; date of birth; identification number; passport number; tax number; tax related information; nationality; gender; age; disability; well-being; marital and pregnancy status; race; bank account details; biometric information; health information; confidential correspondence; Information relating to children; education and employment history.

17.3.2 Special personal information includes, but is not limited to, religious beliefs, political affiliations, race and ethnic origin, health, sex life and biometric information.

17.3.3 Processing of personal information includes any activity, automated or manual, concerning personal information. Such activity may include, but is not limited to, collection, receipt, recording, organisation, storage, collation, retrieval, alteration, updating, distribution, dissemination by means of transmission, erasure or destruction of personal information.

#### **17.4 Use of disclosure note**

17.4.1 Witnesses in an investigation conducted by the PSC /OPSC may be requested before they participate in an investigation, to provide an understanding or to sign an undertaking that the PSC / OPSC report may be considered in appropriate circumstances and be disclosed as legally allowed. Once finalised and the investigation report and tags may be made available as may be lawfully required and subject to withholding sensitive information.

17.4.2 Where OPSC/ PSC discloses personal information to a public body or any third party, the third party will be obliged to use that personal information only for the reasons and purposes it was disclosed for as stated in the approval to obtain the information.

17.4.3 Should the PSC / OPSC not want to reveal the names of a witness, the official title may be used, or a total severance of relevant information may be done.

17.4.4 It must be noted that in terms of PAIA, public interest overrides the statutory protection provision. The PIAI recognises that despite the fact that a ground of refusal may apply, the Information Officer must grant a request for access if the following conditions are met:

17.4.4.1. Does the information demonstrate a serious breach of law; or

17.4.4.2. Do the records contain information that poses an imminent and serious safety or environmental risk; and

17.4.4.3. Does the public interest in disclosing information clearly outweigh the potential harm to the individual.

## **18. PUBLIC INVOLVEMENT IN THE FORMULATION OF POLICY OR THE EXERCISE OF POWERS OR PERFORMANCE OF DUTIES BY PUBLIC SERVICE COMMISSION**

18.1 The mandate of the PSC is to monitor and evaluate Public Service programmes with the purpose of providing advice, conduct public administration investigations or grievance management investigations, to explore ways to improve service delivery in the Public Service and within public administration. To this extent, the PSC Bill 2023 was taken through a number of public consultation and inputs received were considered.

18.2 Although the PSC is not directly involved in policymaking, through its programmes around community consultation and performance assessment, it provides a platform for communities to have a direct say in how they want policies to be structured. The research conducted by the PSC is also used to inform policy and legislation making processes. The PSC sometimes conduct citizen's forum as part of community engagement in policy formulation as assessment.

18.3 The PSC also drafts Rules or Guidelines that are aimed at improving governance and/or service delivery within the Public Service and public administration. At times existing Rules, Guidelines or Policies are reviewed to fit in with the operational / structural changes within the Public Service.

## **19. PROCESSING OF PERSONAL INFORMATION**

19.1 The PSC in processing personal information is committed to implementing leading data security safeguards through its internal IT and Communication staff that monitors information on the PSC website or public space and who constantly review and improve the PSC measures to protect data subject's personal information from unauthorised access, accidental loss, disclosure or destruction.

19.2 If the PSC has a working relationship with another department or government institutions or a Memorandum of Understanding which requires the PSC to support the work of such

institution in collaboration and service delivery and a data subject personal information is requested, the PSC/OPSC will take steps to implement appropriate security measures and only process the information in the way the OPSC/PSC has authorised the release of such information. The institutions will not be entitled to use a data subject personal information for their own purposes. If necessary, the PSC/OPSC will check the information to make sure it meets the security standard set by the PSC / OPSC before the personal data information is released.

19.3 Communication over the internet and emails are not regarded as secured unless they have encryption. The PSC/OPSC will not accept responsibility for any unauthorised access or loss of personal information that is beyond the PSC / OPSC control.

#### **19.4 Description of the categories of Data Subjects and of the information or categories of information relating thereto**

19.4.1 The Constitution guarantees everyone the right of access to information held by the State. This means that whether you are a citizen of South Africa or a foreign national, you are entitled, subject to justifiable limitations to access state-held information.

19.4.2 *The categories of data subjects in respect of which the PSC body processes personal information and the nature or categories of the personal information being processed is based on whether the information requested is from a Requester or a Personal Requested:*

19.4.2.1 A requester is defined as any person making a request for access to a record of the PSC. This includes natural persons and juristic persons. Any functionary or institution of government may not request access to information through this means from the PSC / OPSC. Request from state institutions will be dealt with within the principle of cooperative governance.

19.4.2.2 A personal requester is a someone that wants access to personal information about him or herself. Personal information is defined as information relating to race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, wellbeing, disability, religion, conscience, belief, culture, language or birth. This also relates to information relating to your education, medical, criminal, or employment history, and any identifying number, symbol or other particular assigned to you and by which you may be identified.

19.4.2.3 Some of the categories of the data subjects and the description of the nature or categories of the personal information that may be processed is

further detailed in the table below, and the list can be more depending on each request and the merits.

Categories of Data Subjects	Personal Information that may be Processed
Natural Persons	Names and surname; contact details (contact number(s), fax number, email address); Residential, postal or business address; Unique Identifier/Identity Number and confidential correspondence
Juristic Persons	Names of contact persons; Name of legal entity; physical and postal address; contact details (contact number(s), fax number, email address); registration number; financial, commercial, scientific or technical information and trade secrets
Employees	Gender, pregnancy; marital status; Race age, language, educational information (qualifications); financial information; employment history; ID number; physical and postal address; contact details(contact number(s), fax number, email address); criminal behaviour; well-being and their relatives ( family members) race, medical, gender, sex, nationality, ethnic or social origin, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language, biometric information of the person

## 19.5 The recipients or categories of recipients to whom the personal information may be supplied

19.5.1 The PSC can only consider processing information that is in its possession and is lawful for it to release the information. If the information requested is more closely related to another public body such request may be declined or transferred to that other body within 14 days of receipt of your request. The Deputy information Office or the information Officer will inform you of the body to which the request has been transferred and the reason for the transfer and the timeframes within which the request must be dealt with by that body.



19.5.2 Some of the persons or categories of person to whom the PSC may disseminate personal information is listed in the table below. However, the list is not exhaustive.

Category of personal information	Recipients or Categories of Recipients
Identity number and names, for criminal checks	South African Police Services
Qualifications, for qualification verifications	South African Qualifications Authority
Credit and payment history, for credit information	Credit Bureaus

## 19.6 Planned trans-border flows of personal information

19.6.1 Where a user information contained in IT systems that are hosted outside South Africa may be sent trans-border. IT system data is replicated unto the cloud and is therefore information in the possession of the OPSC/PSC, which needs to be protected where it involves information of the Data subject.

19.6.2 Should the PSC/OPSC have to supply a data subject information, such must be done in compliance with the POPI Act. Such as if the PSC service providers are based outside of the country and the data subject utilised PSC services or product while on a visit outside of South Africa, the release of such data subject information will be done in line with the data protection law stated in the POPIA.

## 19.7 General description of information security measures to be implemented by the responsible party to ensure the confidentiality, integrity and availability of the information

19.7.1 As a security safeguard and in terms of POPIA, data must be processed for a specific purpose. The purpose for which data is processed by the PSC/OPSC will depend on the nature of the data and the particular subject. This purpose is required to be disclosed explicitly or implicitly at the time the data is requested to ensure that the confidentiality, integrity and availability of the information is well protected.

19.7.2 Personal information is generally processed for purposes of on boarding clients and suppliers, service of product delivery to the OPSC, without breaching the security, Health and Safety, employment rights and related matters.

*19.7.3 The Data Encryption; Anti-virus and Anti-malware Solutions of the PSC network may refuse a data transcription if necessary. In addition, personal information may also be deducted from a report or information provided by the PSC to a requester or personal requester, where necessary.*

## **20. AVAILABILITY OF THE MANUAL**

20.1 This Manual is made available in the following three official languages-

- 20.1.1 English.
- 20.1.2 IsiZulu.
- 20.1.3 Sepedi.

20.2 A copy of this Manual or the updated version thereof, is also available as follows-

- 20.2.1 on PSC website, [www.psc.gov.za](http://www.psc.gov.za) ;
- 20.2.2 at the head office of the Public Service Commission for public inspection during normal business hours;
- 20.2.3 to any person upon request and upon the payment of a reasonable prescribed fee; and
- 20.2.4 to the Information Regulator upon request.
- 20.2.5 A fee for a copy of the Manual, as contemplated in annexure B of the Regulations, shall be payable per each A4-size photocopy made.

## **21. UPDATING OF THE MANUAL**

21.1 The PSC / OPSC will, if necessary, update and publish its manual referred to in subsection (1) of Section 14, at intervals of not more than a year. Where changes are made, the updated revised Access to Information Act manual and date will be posted on the PSC website.

Issued by

**Advocate Dinkie P. Dube**

**Director-General and Information Officer for the PSC / OPSC**

**Date: 28 March 2025**