



VHEMBE DISTRICT MUNICIPALITY PAIA MANUAL

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

Compilation Date: 20 May 2023

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1. List of Abbreviations and Acronyms

MM	Municipal Manager
CFO	Chief Financial Officer
Constitution	Constitution of the Republic of South Africa Act 108 of 1996
DIO	Deputy Information Officer
IO	Information Officer
Members	Members of Council (Vhembe District Municipality)
EM	Executive Mayor of Vhembe District Municipality
PAIA	Promotion of Access to Information Act 2 of 2000
PAJA	Promotion of Administrative Justice Act 3 of 2000
MFMA	Municipal Finance Management Act 56 of 2003
POPIA	Protection of Personal Information Act 4 of 2013
Regulator	Information Regulator
SAHRC	South African Human Rights Commission

2. Some useful terms

Access fee: Means a fee paid by the requester to the body from which you are requesting the information, to cover the costs of finding and copying the records you require. Any charges are prescribed by the regulation.

Administrator: Means any organ of state or any natural or juristic person discharging a particular administrative action.

Authorised person: Means any person authorised by the requester to do so in writing

Automatically Available Records: Means records that a public or private institution will provide to a requester without them needing to file a request. These records are listed in a 'voluntary disclosure notice', which should be made public.

Days: Means number of days in a calendar month or year. Unless specified as a 'working day' in a section in **PAIA**, a day is considered to be a calendar day. To

calculate time period, the day on which the request is received is excluded, and every day thereafter is included including weekends and public holidays until the final day is counted. If the final day for responding to a request falls on a Sunday or public holiday, the next day is counted as the final day.

Deemed refusal: A response is not received to a request within the prescribed time, this is defined as a 'deemed refusal'.

Deputy Information Officer: Means the person designed or delegated by the Information Officer of a public body to assist the requester with their information request, and to whom the Information Officer can delegate other **PAIA** powers to.

Form 2: This form is prescribed by the regulation and should be used to request access to information held by a public or private institution.

Form 4: This form is prescribed by regulation and should be used when appealing a decision made by a public body in relation to a request for access to information.

Guide: Means this guide, made in terms of section 10 of **Promotion of Access to Information Act**, as amended which seeks to assist a person who wishes to exercise any right contemplated in **PAIA** and the Protection of Personal Information Act, 2013.

Information Officer: Means a person authorised to handle all requests in terms of **PAIA**

Internal Appeal: Means the process for challenging a decision made in terms of a **PAIA** request to a public institution, which must be completed before a challenge can be made to the Regulator or to a court having jurisdiction.

Private Institution: Means a company or other kind of juristic entity that carries on trade, business or profession, including a political party.

Public Institution: Means a government department or other functionary or institution, which is performing a public function. However, with regard to internal appeal, any reference to “public institution” has been changed to “Government”, in order to avoid confusion in respect of public bodies in which appeal is not applicable.

Record: Means any recorded information regardless of the form, including, for example, written documents, audio, digital and video materials. A record requested from a public or private body refers to a record that is in that body’s possession regardless of whether that body created the record.

3. Foreword by the Municipal Manager

The Constitution of the Republic of South Africa, 1996 (“Constitution”) states that South Africa is a sovereign and democratic state that is founded on the advancement of human rights and an accountable, responsive and transparent system of governance as part of its values. Before South Africa became a constitutional democracy with an enforceable Bill of Rights, the system of Government in South Africa amongst others, resulted in a secretive and unresponsive culture in both public and private bodies which often led to the abuse of power and human rights violations. It is in this regard that section 32(1) of the Bill of Rights in the Constitution, provides for the right of access to information held by the state; and any information held by another person that is required for the exercise or protection of any rights. Section 32(2) of the Constitution in turn provides for the enactment of national legislation that will give effect to this right, by respecting, protecting, promoting and fulfilling this right.

The **Promotion of Access to Information Act**, sole purpose is to instil transparency and accountability in both public and private institutions. This is done by giving effect to the right of access to information and actively promoting a society in which the people of South Africa have equal access to information to enable them to more fully exercise and protect all of their rights and also to realise South Africa’s goals of an open and participatory democracy.

The Guide is designed to be a guiding, user-friendly and accessible tool for any person who wishes to exercise any right contemplated in **PAIA** and the Protection of Personal Information Act, 2013.

4. Background

Vhembe District Municipality is a Category C Municipality, as described in Section 155(1)(b) of the Constitution of the Republic of South Africa Act 108 Of 1996, established in the year 2000 in terms of Local Government Municipal Structures Act No. 117 of 1998. It is a municipality with a Mayoral Executive System, which allow for the exercise of executive authority through an Executive Mayor in whom the executive leadership of the municipality is vested and who is assisted by a mayoral committee. It consists of four local municipalities: Thulamela, Makhado, Musina and Collins Chabane, which are category B municipalities.

The functions of the municipality are as described in Section 156 of the Constitution.

The district is located in the Northern part of Limpopo Province and shares borders with Capricorn, Mopani District municipalities in the eastern and western directions respectively. The sharing of borders extends to Zimbabwe and Botswana in the North West and Mozambique in the south east through the Kruger National Park respectively.

5. Purpose of PAIA

The purpose of this Guide is to provide information that is needed by any person who wishes to exercise any right contemplated in the Promotion of Access to Information Act of 2000 (**PAIA**) and Protection of Personal Information Act, 2013 ("**POPIA**"). Any person, irrespective of citizenship, can apply for access to information under PAIA.

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

Section 56(a) of POPIA- Each public and private institution 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.

Section 11(1) of PAIA- A requester must be given access to a record of a public institution 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.

Section 50(1) of PAIA- A requester must be given access to any record of a private institution 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.

The promulgation of both these pieces of legislation ushered a new dispensation in the history of record keeping in South Africa. Not only did we learn that records are not kept for the company or any public or private institution use, but rather are kept also for public consumption and usage. Of course, there are certain records that cannot be published due to the nature and sensitivity. In **Mani v The Information Officer Mintek (26728/2019) Gauteng Local Division, Johannesburg**, Mani made a request to the Information Officer of Mintek in terms of PAIA to determine the source of an email containing defamatory information about her. The court ordered Mintek to provide Mani with the identity of the employee who sent out the offensive email. The court ordered that Mani be provided with the employee's IP address. In **Tiso Blackstar v Steinhoff (18706/2019) Western Cape Division, Cape Town**, two media houses won their court bid for access to Steinhoff's accounting records. The judgment marks

another victory for the media because it upholds the media's right to information by considering their right to freedom of expression. The court rejected Steinhoff's claim that the records were protected by legal privilege. In **Minister of State Security v Makwaka (64148/2021) Northern Gauteng, Pretoria**, the court prevented Makwaka from publishing a classified intelligence report on any medium or platform. The court took the so called "judicial peek" at the report titled "US interest in ANC party dynamics". The judge ruled that the Minister was justified in preventing the media from publishing the report due to the contents of the report. In **Smuts v Department of Economic Development, The Landmark Foundation Trust (1199/2021) Eastern Cape Division, Makhanda** won the right to access the department's records. The court ordered the department to hand over all records of applications and permits issued to individuals allowing them to trap, kill, hunt or translocate any leopards. The judgment is seen as a huge victory for the foundation because the department had sealed these records since 2017.

It is however clear that this guide will specifically assist a person, also called a data subject, on how to access his/her personal information, or prevent a person from accessing privileged information in terms of POPIA. Under POPIA, person or data subject has the right to -

- request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about them, and request from a responsible party the record or a description of the personal information about the data subject 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; request a responsible party to - understanding PAIA, its benefits and background; learning the step-by-step process by which to make a request and additional tips for making that process easier; learning the types of information which can be requested using PAIA; understanding the process by which a requester can challenge a decision taken in relation to their request; (a) (b) correct or delete 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 destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain

6. Information Officers

In terms of Section 1 of the Act (PAIA), the Chief Executive Officer, is the Information Officer. Vhembe District Municipality's Municipal Manager Mr Kutama ZN is the Information Officer in this regard. Requests for information will be attended to by the Deputy Information Officer, Acting General Manager Corporate Services, Ms Muofhe TG in terms of section 17(1) of the Act.

7. Contact Details of Information Officers

7.1. Information Officer

Name: Kutama ZN

Telephone: 015 960 2009

Email:kutamaz@vhembe.gov.za

7.2. Deputy-Information Officer

Name: Muofhe TG

Telephone: 015 960 2000

Email:rasiphit@vhembe.gov.za

8. Records available in the Municipality

The records of the municipality are kept in electronic format and are accessed via a software programme. Hard copies of records are kept in terms of the Archives Act as amended under the following main directories.

8.1. Legislation Drafting and Amendments

8.2. Organisation and Control Policy

Delegation of authority
Work planning and procedure
Records control
Departmental organisation

8.3. Council Matters

Policy
General elections
Emblems of the Municipality
Revision
Municipal elections
Council meetings and committees

8.4. Staff Policy

Departments
Determination of conditions of service
Labour relations
Posts control
Productivity
Risk assessment
Routine enquiries
Salaries and allowances
Staff control
Staff evaluation
Staff returns and statistics
Termination of service
Training and qualifications
Vacancies and appointments

8.5. Finance

Budget Policy
Valuations

Board Tax
Loans (external and long term)
Tariffs
Subsidies
Deposits
Grants and funds
Investments
Claims
Settlement of accounts
Payment of grants
Collection of Monies
Insurance
Accounting Responsibility
Financial assistance
Losses
Bank account
Financial reports
Credit control

8.6. Domestic Supplies and Services

Domestic supplies
Acquisition and maintenance
Domestic services
Communication

8.7. Municipal Buildings and Grounds Policy

Municipal buildings
Municipal grounds/erven

8.8. Tenders, Quotations, Contracts and Consultants

Tenders and quotations
Specific tenders

Contracts

8.9. Reports and Returns Policy

Reports

Monthly returns

8.10. Publicity and Information

Own publicity and information

Enquiries

Emblems of the Municipality

Publicity by other bodies

8.11. Festivals and Social Matters

Policy

Annual Marula Festivals

8.12. Composition and meetings of bodies

Policy

Minutes and reports

Institutes/institutions

Associations: national and provincial

Committees

8.13. Legal Services

Policy

Legal matters and court decisions

Claims

Contracts

8.14. Licenses

Policy

Routine enquiries

Licences

8.15. Economic Development and Planning

Policy

Local Economic Development

Spatial Planning

Agricultural Development

Tourism

SMMEs

8.16. Essential Services

Water supply

Water sources

Treatment works, pump stations, main pipelines and reservoirs

Networks: planning, layout, maintenance and operations

Sanitation

8.17. Community Services

Health

Awareness Campaigns

Prevention and combating

Inspections

9. Information readily available without request

9.1 Any by-law framed by Council

9.2 Any tariff charged by Council

- 9.3 Annual reports
- 9.4 Brochures and maps
- 9.5 Information available on website
- 9.6 Geographic Information System
- 9.7 Framework plans
- 9.8 Scheme maps
- 9.9 Lease area plans
- 9.10 Budget including adjustment budget
- 9.11 Budget related policies
- 9.12 Performance agreements
- 9.13 Service delivery agreements
- 9.14 Long term borrowing contracts
- 9.15 Contracts/information/public partnership agreements as prescribed in section 75 of the Municipal Financial Management Act
- 9.16 Orders & remittances
- 9.17 Investment register
- 9.18 Loan register
- 9.19 Asset register
- 9.20 Financial statements
- 9.21 Debtors history
- 9.22 Minutes of open council and open executive committee

10. Political Structure

The Executive Mayor, who is the Chairperson of the Mayoral Committee, is the political head of the Council that comprises of members elected by the voters of the municipality. The Mayoral Committee consists of members appointed by the elected councillors from its members. Various portfolio committees are also appointed from the members of the elected councillors.

11. Functional Structures

The functional structure consists of a municipal manager who is the Chief Accounting Officer with 7 Departments whose heads report directly to the Chief Account Officer:

11.1. Office of the Municipal Manager

- Communications, performance management, integrated development, audit and business analysis

11.2. Office of the Executive Mayor

- Special Programmes (Older Persons, Moral Regeneration, Youth, Disability, Women, HIV Aids, Sports and Recreation)
- Batho Pele

11.3. Corporate Services

- Administration of Council and its committees
- Legal Services
- Records management
- Management services
- Information technology
- Personnel administration

11.4. Technical Services

- Water and Sanitation

11.5. Budget and Treasury

- All financial procedures and processes

11.6. Community Services

- Disaster services, health, fire

11.7. Economic Development and Planning

- Local Economic Development
- Spatial Planning
- Agricultural Development
- Tourism
- SMMEs

Services rendered by the Council are as described in Section 84 of the Municipal Structures Act no 117 of 1998 and includes the provision of the traditional municipal services such as water, services, electricity, refuse removal, primary health services and recreational facilities. The Council further has legal jurisdiction within its boundaries for matters falling under municipal control and acts as agent for Vhembe District Municipality in terms of the Business Act No 71 of 1991.

12. Legal remedies available against a decision

Vhembe District Municipality does not have an internal appeal procedure in place to facilitate appeals against decisions of the Information Officer or Deputy Information Officer.

An aggrieved party may by way of an application, apply to Court for appropriate relief. On hearing such application the Court may grant any order that is just and equitable including:

- Confirming, amending or setting aside the decision that is the subject of the application;
- 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;
- Granting an interdict, interim or specific relief, a declaratory order or compensation; or costs.

13. Fees payable per request

No	Description	Amount
1.	For every printed copy of an A4-size page or part thereof held in a computer or in a machine readable form or in an electronic form	0.40
2.	For every photocopy of an A4 size page or part thereof	0.60
3.	For a copy in a computer readable form on: <ul style="list-style-type: none"> • Compact disc • USB (Memory Stick) 	40 20
4	For a transcription of visual images for an A4 size page or part thereof	22
5.	For a copy of visual images	60
6.	For a transcription of an audio record, for an A4 size page or part thereof	12
7.	For a copy of an audio record	17
8.	To search for and prepare record for disclosure	15.00 for each hour or part of an hour, excluding the first hour reasonably required for such search

		and preparation
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14. Availability of the guide

The guide will be made available to the public domain in any three (3) of the following languages:

- Tshivenda
- Xitsonga
- Sepedi
- English
- Afrikaans

15. Updating of the guide

Vhembe District Municipality will, if necessary, update and publish the said document annually.

Issued by

Kutama ZN
Municipal Manager

Date