



KWAZULU-NATAL PROVINCE

HUMAN SETTLEMENTS
REPUBLIC OF SOUTH AFRICA

MANUAL FOR THE DEPARTMENT OF HUMAN SETTLEMENTS: KWAZULU-NATAL PROVINCE

*In terms of
Section 14 of
The Promotion of Access of Information Act, 2000
(Act No.2 Of 2000)*

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1. Introduction

The Constitution of the Republic of South Africa, 1996 is the supreme law of the land. Section 32(1) (a) of the constitution states everyone has a right of access to any information held by the State. The KwaZulu-Natal Department of Human Settlements falls under the provincial sphere of government, thus bound by the provision of section 32 as far as it relates to the state.

Section 32(2) of the Constitution provides for the enactment of national legislation to give effect to a right to access information, as a result Promotion of Access to Information Act, No. 2 of 2000 (PAIA) was enacted.

Section 9 of PAIA recognises that the right of access to information is subject to certain justifiable limitations aimed at, amongst others:

- (a) the reasonable protection of privacy;
- (b) commercial confidentiality; and
- (c) effective, efficient and good governance.

2. Purpose

Purpose of this manual is to ensure realization of a constitutional right to access information any information held by the State, to give effect to that right subject to justifiable limitations aimed at the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance, and to ensure protection of personal information as envisaged in the Protection of Personal Information Act whilst promoting right to access to information.

This manual is made as a compliance product in terms of section 14 of PAIA.

3. Overview

3.1. Vision

Together breaking new ground to achieve decent, integrated and sustainable human settlements.

3.2. Mission statement

To deliver suitably located housing opportunities and security of tenure over the next five years through collaborative partners, legislative planning processes and empowerment of women and youth in construction.

3.3. Strategic Objectives

- Ensure financial viability of the Department
- Provision of skilled resources
- Implement projects that ensure spatial, social and economic integration
- Accelerate the delivery of slums clearance projects and Outcome 8 Projects
- Accelerate the creation of rental housing opportunities, and implement projects that ensure spatial, social and economic integration
- To fast-track the transfer of the title deeds to promote home ownership

3.4. Core Functions

The following core functions have identified as key for the attainment of the strategic objectives:

- To promote the provision of housing development;
- To promote the provision of affordable housing and essential services;
- To manage, control and maintain the immovable assets of the department;
- To administer and manage housing subsidies of targeted groups;
- To research, establish, monitor and implement policies within the National Housing Policy Framework;
- To formulate a Provincial Housing Development Plan for the province;
- To facilitate and create housing institutions;
- To provide legal advice on land and environment issues;
- To administer and co-ordinate the CRU programme;
- To administer the clearance of slums in KZN; and
- To capacitate housing stakeholders

3.5. Legislative mandates

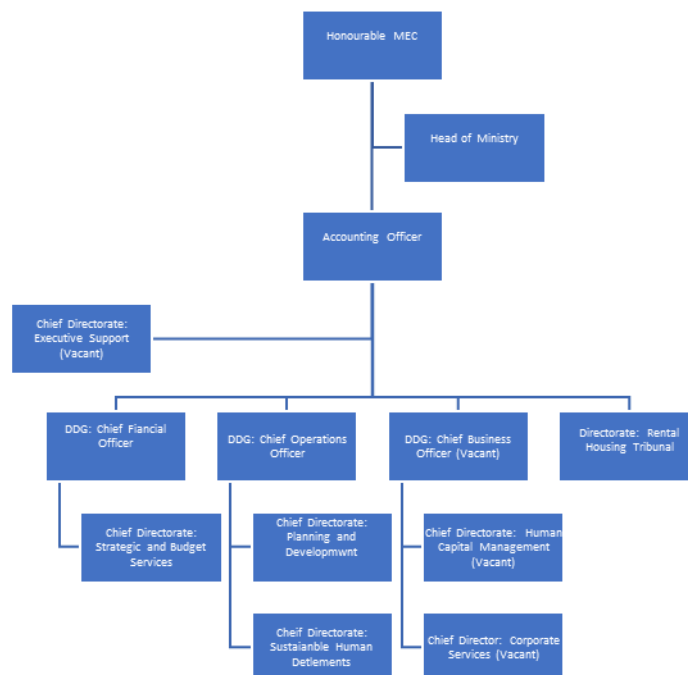
The principal legislative mandates governing the operations of the department are: -

- Constitution of the Republic of South Africa, 1996
- Housing Act, 1997, as amended
- Housing Consumers Protection Measures Act, 1998, as amended
- Rental Housing Act, 1999
- Sectional Titles Act, 1986
- Abolition of Certain Title Conditions Act, 1999
- Prevention of Illegal Eviction and Unlawful Occupation of Land Act, 1998
- Home Loan and Mortgage Disclosure Act, 2000
- Disestablishment of South African Trust Limited Act, 2000
- Constitution Court judgment, 2000, on the enforceability of social and economic rights
- KwaZulu-Natal Housing Act, 1998, as amended.
- Housing Development Schemes for Retired Persons Act, 1998, as Amended
- National Building Regulations and Building Standards Act, 1977
- Construction Industry Development Board Act, 2000
- Preferential Procurement Policy Framework Act, 2000
- Public Finance Management Act, 1999, as amended, and Treasury Regulations
- Broad Based Black Economic Empowerment Act 2003

- National Environment Management Act, 1998, as amended
- Communal Property Associations Act, 1996
- Deeds Registries Act, 1937
- Extension of Security of Tenure Act, 1997
- Land Administration Act, 1995
- Reconstruction and Development Programme Fund Act, 1994
- Municipal Finance Management Act, 2003
- Corruption Act, 1994, as amended
- National Heritage Resource Act, 1999
- State Land Disposal Act, 1999
- Standards Act, 1993
- The KZN Traditional Leadership and Governance Act, 2005
- Social Housing Act, 2008
- Housing Development Agency Act, 2008
- Elimination and Prevention of the Re-emergence of Slums Act, 2007
- Promotion of Access to Information Act, 2000
- Protection of Personal Information Act, 2013

3.6. Structure of the KwaZulu-Natal Department of Human Settlements

The structure of the department is as follows:



4. Duties of the Information Officer / Deputy Information Officers

Duties of Information Officer can be delegated to the Deputy Information Officers. Thus, duties applicable to Information Officers also apply to Deputy Information Officers. The duties of the Information Officer/ Deputy Information Officers are as prescribed under section 6 of the Guidance Note on Information Officers and Deputy Information Officers issued by the Information Regulator (South Africa).

5. Contact Details of Information Officer and Deputy Information Officers

(a) The Information Officer

The Information Officer	Mr Sihle Maxwell Mbili
Postal Address	Private Bag X9157, Pietermaritzburg, 3200
Physical Address	203 Church Street, Pietermaritzburg, 3200 03 Church Street
Phone	033-392 6434
Email	Informationofficer@kzndhs.gov.za

(b) Deputy Information Officers

The Information Officer has delegated his duties and responsibilities in terms of the Promotion of Access to Information Act (PAIA), No.2 of 2000 and Protection of Personal Information Act (POPIA), No.4 of 2013 to the Deputy Information Officers with the below details:

Initial and Surname	Phone	Email
Ms Odette Anderson	033-392 6146	odette.anderson@kzndhs.gov.za
Mr Mduduzi Nhlozi	033-392 6470	Mduduzi.Nhlozi@kzndhs.gov.za
Mrs Shirmala Pillay	033-392 6429	Shirmala.Pillay@kzndhs.gov.za
Mr Lindani Khoza	031-336 5278	Lindani.Khoza@kzndhs.gov.za
Mr Sandile Sibiya	033-392 6412	Sandile.Sibiya@kzndhs.gov.za
Ms. Nonhlanhla Mungwe	031-336 5410	Nonhlanhla.Mungwe@kzndhs.gov.za
Mr Khehla Dlamini	031 3721825	khehla.dlamini@kzndhs.gov.za
Postal Address: Private Bag X9157, Pietermaritzburg, 3200		
Physical Address: 203 Church Street, Pietermaritzburg, 3200		

6. PAIA Guidelines on how to use the Act

In terms of section 10(1) of PAIA, the Information Regulator is required to update and make available its Guide. The purpose of the aforesaid Guide is to provide information that is needed by any person who wishes to exercise any right contemplated in PAIA and POPIA. Queries on how to use the Guide can be directed to the following contact details of the Information Regulator:

Postal Address: P. O. Box 31533
Braamfontein
2017

Business Address: JD House
27 Stiemens Street
Braamfontein
Johannesburg
2001

Email: Enquiries@inforegulator.org.za alternatively
PAIACompliance@inforegulator.org.za

Website: inforegulator.org.za

7. Records

7.1. The information and categories of records we hold

For purpose of facilitating a request in terms of the Act, the subjects on which the DHS KZN holds records and the categories of records held on each subject are as follows:

(a) Human Resources

- Matters Concerning All Components/Employees i.e., Personnel Files.
- Senior Management Service
- Skills Development/Capacity Building
- Training Strategy
- Conditions of Service
- Remuneration Policy and Compensation Management
- Job Evaluation
- Negotiations
- Labour Relations
- Records of Disciplinary Proceedings

(b) Service Delivery Information (Project Management)

- Projects approved by the Executive
- Matters recommended at the Housing Evaluation and Assessment Committee.
- Reports on project status and expenditure.
- Contracts concluded by the Department
- Beneficiary and Subsidy information
- Policies applicable in the Department

(c) Support Services Information

- For matters related to Finance
- Matters related to Supply Chain Management and Procurement Procedures
- Matters related to Anti-Communication risk and Audit Cases
- Matters related to transport DOHS – KZN and logistics
- Matters related to Legal Services

7.2. Automatically Available

No notice has been published yet regarding the categories of records of which are available without a person having to request access in terms of the procedure in the Promotion of Access to Information Act. However, the records on the website of the department www.kzndhs.gov.za are available for viewing or downloading without a person having to make such a request in terms of the said Act.

8. Protection of Personal Information

Personal Information is any information relating to an individual or an identifiable, existing juristic person. We collect and use personal information to provide our services, and to deliver on the mandate of our Department. You can find more information about how we use personal information in our Privacy Statement available on our website <https://www.kzndhs.gov.za>.

8.1. Purpose of processing of personal information of data subjects by the Department

The Department process personal information of data subjects under its care in the following ways:

- Fulfilling or executing its statutory obligations relating to its mandate and the Constitution of the Republic of South Africa.
- Internal administrative, monitoring and reporting processes pertaining to the various activities of the Department.
- Facilitation of support to beneficiaries.
- Conduct vetting of employees and service providers.
- To facilitate participation of community members in the Departmental programmes.
- Management and administration of activities relating to community engagement initiatives or projects.
- Management and administration of activities relating to stakeholder engagement initiatives, events or projects.
- For the purposes of complying with various lawful obligations under the South African legislation.
- To process visitors' access to our offices.
- Administering court processes, claims, correspondence.

8.2. Categories of Data Subjects and their Personal Information

A description of the categories of data subjects whose information we process as well as the details of such personal information is provided below:

Categories of Data Subjects	Personal Information that may be process
Employees	Names, gender, marital status; race, age, language, education information (qualifications), financial information, employment history, ID numbers, physical and postal address, contact details (contact number(s), fax number, email address), criminal record, family members, medical, nationality, ethnic or social origin, physical or mental health, disability, biometric information of the person,

Categories of Data Subjects	Personal Information that may be process
	employment history, professional affiliation and references.
Service Providers	Names of contact persons; name of entity; name of directors and shareholders, physical and postal address and contact details (contact number(s), fax number, email address), financial information, registration number, founding documents, tax related information, authorised signatories, broad-based black economic empowerment (B-BBEE) status, affiliates entities, and business strategies.
Beneficiaries	Names, ID numbers, physical and postal address, contact details (contact number(s), fax number, email address).
Community Members	Names and contact details.
Governance Structures Members	Names, gender, marital status; race, age, language, education information (qualifications), financial information, employment history, ID numbers, physical and postal address, contact details (contact number(s), fax number, email address), criminal record, family members, medical, nationality, ethnic or social origin, physical or mental health, disability, biometric information of the person, employment history, professional affiliation and references.
Stakeholder Participants	Names contact numbers and email addresses.

8.3. Who receives personal information

We share personal information with:

- Third party suppliers, where we outsource our processing operations to suppliers that process personal information on our behalf. These processing operations shall remain under our control and will be carried out in accordance with our security standards and strict instructions;
- Law enforcement bodies, where necessary to facilitate the prevention or detection of crime or the apprehension or prosecution of offenders; and
- Public authorities, regulators, and government bodies, where necessary for us to comply with our legal and regulatory obligations.

8.4. Cross-border flows of information

- Historically, we have not been placed in a position that required any transborder flow of personal information and we do not anticipate such exchanges in the future.
- Should however there be a need to do so, we may need to transfer your personal information to another country for processing or storage. We will ensure that anyone to whom we pass your personal information agrees to treat your information with similar protection as provided for in POPIA.
- We may transfer your information to other countries which do not have similar protection as provided for in POPIA, with your consent.

8.5. Information security measures

- We take appropriate and reasonable technical and organisational measures to prevent any unauthorised or unlawful access, loss of, damage to or unauthorised destruction of personal information.
- We have implemented various policies, procedures and IT systems to safeguard personal information.
- We regularly verify that the safeguards are effectively implemented and ensure that they are continually updated.

9. Request Procedure

a) Granting or refusal of request:

A requester must be given access to a record of public body within 30 days of receiving the request, if the requester complies with the following:

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

b) How do I request access to a record?

- A requester must use the form (Form 2) that was published on the Information Regulator (South Africa).
- The requester must also indicate if the requester wants a copy of the record or if the requester wants to come in and look at the record at the offices of the public body. Alternatively, if the record is not a paper document it can then be viewed in the requested form, where possible.
- If a person asks for access in a particular form (e.g.: a paper copy, electronic copy, etc.) then the requester should get access in that form. This is unless doing so would interfere unreasonably with the running of the public body concerned, or damage the record, or infringe a copyright not owned by the state. If for practical reasons access cannot be given in the required form but in another form, then the fee must be calculated according to the way that the requester first asked for it.
- If, in addition to a written reply to their request for the record, the requester wants to be told about the decision in any other way, e.g., telephone, this must be indicated.
- If a requester is asking for the information on behalf of somebody else, the capacity in which the request is being made must be indicated.
- If a requester is unable to read or write, or has a disability, then the request can be made orally. The information officer must then fill in the form on behalf of such a requester and gave them a copy of the completed form.

c) Fees Payable for a request and notification of decision on access

- Requester who seeks access to a record containing personal information about that requester is not required to pay the request fee. Every other requester must pay the request fee of R35.
- The information officer must notify the requester (other than a personal requester) by notice, requiring the requester to pay prescribed request fee (if any) and deposit (if any) before further processing the request.
- The requester may lodge and internal appeal, where appropriate, or an application to the court against the tender or payment fee.
- After the information officer has made a decision on the request the requester must be notified of such a decision in the way in which the requester wanted to be notified in.
- If the request is granted, then a further access fee must be paid for the reproduction and for search and preparation for any time required in excess of stipulated hours to search and prepare the record for disclosure.
- Access to a record will be withheld until all the applicable fees have been paid.

10. Service available to Public

The Department relies on the assistance of municipalities in the process of delivery of housing and the creation of Sustainable Human Settlements. However, the applicable subsidies and policies are available to the public.

11. Arrangement allowing involvement in Formulation of Policy and Performance of Functions

11.1. Policy and legislation

When the Department processes new policy or legislation it undertakes consultation with all stakeholders through inviting comment on published papers and/or workshops/conferences. The process of participating differs according to the kind of project and is usually made known before the start of the project or thereafter.

11.2. Administrative action

In cases where an administrative action materially and adversely affects the rights or legitimate expectations of any person; or the rights of the public, the prescripts for a procedurally fair administrative action set out in the provisions of the Promotion of the Administrative Justice Act, 2000 (Act No. 3 of 2000), will be adhered to (sections 4 and 5 in particular).

11.3. Conditions of service of public service employees

The conditions of service and other matters of mutual interest of public service employees are negotiated at bargaining councils created in terms of the Labour Relations Act, 1995 (Act No 66 of 1995). Trade unions representing a stipulated number of public service employees may become a party to such a bargaining council. The Public Service Coordinating Bargaining Council is the body at which inter alia all conditions of service applying to all public service employees uniformly are negotiated. The following Sectoral Bargaining Councils exist:

- General Public Service Sectoral Bargaining Council
- Education Labour Relations Council
- Public Health and Welfare Sectoral Bargaining Council
- Safety and Security Sectoral Bargaining Council

12. Remedies available in respect of Acts or failures to act

The following procedures exist for persons to report or remedy alleged irregular, improper or unlawful officials acts or omissions by DHS – KZN

(a) Procedures for reporting or remedying:

- (i) Remedies in respect of acts or failures to act in terms of the Promotion of Access Information Act: The internal appeal authority for purpose of this Act is the member of executive committee responsible for Human Settlements. After exhausting the internal appeal remedy an application may be lodge with a court (section 78 – 82).
- (ii) A public service employee may lodge a grievance or complaint for investigation by the Public Service Commission concerning an official act or omission (section 35 of the Public Service Act, 1994).
- (iii) A person may use labour remedies regarding official acts or omissions of a labour nature, namely disputes of rights (the Public Service Act, 1994, and Labour Relations Act, 1995);
- (iv) A person may lodge a complaint with a labour inspector concerning any alleged contravention of the Basic Conditions of Employment Equity Act, 1998 (Act No. 55 of 1998 – section 34(e).
- (v) A person may lodge a complaint with the Public Protector concerning a suspected unlawful or improper official act or omission (the Constitution and the Public Protector Act, 1994 (Act No. 23 of 1994)).
- (vi) A person may lodge a complaint with the Information Regulator concerning an official act or omission that is suspected to constitute a violation of or threat to any fundamental right arising from this document.
- (vii) In order to be protected from reprisals because of a disclosure regarding unlawful or irregular conduct by an employer or a fellow employee, the person in question may follow the disclosure procedures in the Protected Disclosures Act, 2000 (Act No. 26 of 2000).
- (viii) 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 Ac, 2000 (Act No. 3 of 2000)

(b) *Other supportive remedies:*

- (i) A person may request reasons for the administrative action in terms of the promotion of Administrative Justice Act, 2000(Section 5).
- (ii) A person may request access to records of a government department or other public body in terms of the Promotion of Access to Information Act, 2000(Section 5).

(c) *Duty to report:*

- (i) A public service employee, in the course of his or her official duties, is obliged in terms of the Code of Conduct for public service employees to report to the appropriate authorities, fraud, corruption, nepotism, mal-administration and any other act which constitutes an offence or which is prejudicial to the public interest. An employee who fails to comply with this, is guilty of misconduct. (Regulation B.3 and C.4.10 of Chapter 2 of the Public Service Regulations, 2001).
- (ii) The responsibility of every employer and employee to disclose criminal and any other irregular conduct in the workplace also underpins the Protected Disclosures Act, 2000 Preamble).
- (iii) Lodge a complaint with the Information Regulator in terms of Section 77A of the Act after a person has exhausted all other remedies available and before approaching the Courts.

13. Updating and availability of Manual

13.1. The manual shall be updated within twelve months after publication of this first manual

The KwaZulu-Natal Department of Human Settlements shall also consider increasing the number of languages in which the manual is published until the legislative aim of publishing in all official languages is achieved.

13.2. Availability of the manual

The manual shall be available in places prescribed by the Legal Deposit Act, and at the offices of the Information Regulator as well as on our website (www.kzndhs.gov.za).

14. Fees for Records of Public as stipulated by the Current Regulations to the Act

The fee for reproduction, referred to in section 15(3) of the Act, is as follows:

- | | | |
|------|---|------|
| (a) | For every photocopy of an A4-size page or part thereof. | 0-60 |
| (b) | For every print copy of an A4-size page or part thereof | 0-40 |
| (c) | Held on a computer or in electronic or machine-readable form for a copy in a computer-readable form on- | |
| (i) | Stiffy disc | 5-00 |
| (ii) | Compact disc | 40- |

(d)	(i)	for transcription of visual images, for an A4-size or part thereof	22-00
	(ii)	For a copy of visual images	60-00
(e)	(i)	For a transcription of an audio record, for an A4-size page or part thereof	12-00
	(ii)	For a copy of an audio record	17-00

The request fee payable by every requester, other than a personal request referred to in section 22(1) of the Act, is 35-00

The access fees payable by a requester referred to in section 22(7) of the Act, unless exempted under section 22(8) of the Act, are as follows: -

(a)	For every photocopy of an A4-size page or part thereof	0-60
(b)	For every printed copy of an A4-size page or part thereof held in a computer or in electronic or machine-readable format	0-40
(i)	Stiffy	5-00
(ii)	Compact disc	40-00
(c)	(i) For a transcription of visual images, for an A4-size page or part thereof	22-00
	(ii) For a copy of visual images	60-00
(d)	(i) For a transcription of an audio record, for an A4-size page or part thereof	12-00
	(ii) For a copy of an audio record	17-00

To search for the record for disclosure R15.00 for each hour or part of an hour, excluding the first hour, reasonable required for such search.

The actual postal fee is payable when a copy of a record must be posted to a requester.

For the purpose of section 22(2) of the Act, the following applies:

- 3.2 Six hours as the hours to be exceeded before a deposit is payable: and
- 3.3 One third of the access fee is payable as a deposit by the requester.

15. Form of Request

The following are PAIA Forms prescribed by the Informational Regulator (South Africa) for use:

- Form 01: [Request for a Guide from the Regulator](#) [Regulation 2]
- Form 01: [Request for a Copy of the Guide from an Information Officer](#) [Regulations 3]
- Form 02: [Request for Access to Record](#) [Regulation 7]
- Form 03: [Outcome of request and of fees payable](#) [Regulation 8]
- Form 04: [Internal Appeal Form](#) [Regulation 9]
- Form 05: [Complaint Form](#) [Regulation 10]
- Form 13: [PAIA Request for Compliance Assessment Form](#) [Regulation 14(1)]