



Promotion of Access to Information Act (PAIA)
Annual Report
2020/2021

LIST OF ABBREVIATIONS

CC Coordinating Committee

DIO Deputy Information Officer

DG Director General

DDG Deputy Director General

DOJCD Department of Justice and Constitutional Development

IO Information Officer

IR Information Regulator (SA)

IDUAI International Day for Universal Access to Information

MOC Memorandum of Cooperation

NIOF National Information Officers Forum

PAIA Promotion of Access to Information Act, 2 of 2000

POPIA Protection of Personal Information Act, 4 of 2013

POA Plan of Action

PIOF Provincial Information Officers Forum

PCC Provincial Coordinating Committee

SALGA South African Local Government Authority

SIU Special Investigative Unit

SAHRC South African Human Rights Commission

SAPS South African Police Services

WHO World Health Organization

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1. FOREWORD BY CHIEF EXECUTIVE OFFICER

This report is a reflection on the work of the South African Human Rights (SAHRC or Commission) under the obligation of the Promotion of Access to Information Act 2 of 2000 (PAIA). The report draws on work reported on annually by the Commission, spanning a period of 20 years of PAIA, together with compliance monitoring information for the period ending September 2020. The Commission is appreciative of the opportunity to have championed the right to access information, a responsibility bestowed upon it through the Constitution of the Republic of South Africa, 1996; and through the PAIA. This milestone Annual Report marks the final report by the SAHRC in respect of the work undertaken in respect of PAIA.

PAIA had a deep and long-lasting impact to its users, civil society, political parties but most importantly for ordinary people who have in the past visited the SAHRC offices, called the SAHRC, or interacted with the Commission regarding the basic right to access information. The interactions also flourished through other platforms provided in the form of training sessions and community law clinics. The SAHRC has defended patients who needed their health records from their local clinics, mining workers who demanded social labour plans and records relating to mining activities in their communities. PAIA has also been used by civil society seeking to hold government to account, ordinary people demanding social justice and other socio-economic rights including the vulnerable wishing to access various types of benefits including their social grants.

Resources entrusted to the SAHRC by government were used to conduct community law clinics, engagements with community leaders and organs of state from local government to state owned entities to promote the right to access information, and advocate for its uptake. A number of efforts were made to motivate political buy-in to embrace the spirit of the PAIA in the work of public

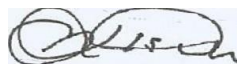
bodies. Over a period of time, community based workshops on the use of PAIA to support rights assertion were undertaken, and a rich body of awareness material produced, together with a multitude of training sessions and audits of public bodies. The SAHRC's reach in promoting observance of the right to access information has involved multiple stakeholder meetings, valuable collaborations, and interventions that contributed to the development of a model law on access to information adopted at the African regional level. Although a number of potential violations were resolved outside of the courts, use of the SAHRC statutory powers allowed for the assertion of rights without the significant costs attendant on litigation. The SAHRC also conducted extensive research on access to information matters and used this information to issue recommendations to the Department of Justice and Constitutional Development (DOJCD) for the reform of PAIA. To support widespread monitoring and compliance with the PAIA, key government departments were audited for PAIA compliance and recommendations issued to them, in addition and in response to low compliance rates, the SAHRC developed messaging and notification systems together with tools to assist organs of state comply with PAIA.

The SAHRC journey with PAIA has been a rich one and the long-awaited full operationalisation of the Protection of Personal Information Act 4 of 2013 (POPIA) together with its expanded enforcement powers granted to the Information Regulator (IR) in terms of PAIA is much welcomed. These reforms must continue to be supported to ensure the gold standard accorded to the PAIA by comparative jurisdictions is made a reality for the public. The SAHRC and the IR have signed a memorandum of cooperation signalling their commitment to continue working together. An important part of the collective efforts to strengthen freedom of information and transparency however, resides with the Parliament of the Republic of South Africa. In this regard a fervent call by the SAHRC is for the adoption of stronger measures to hold public institutions to account for non-compliance with PAIA obligations. Such efforts will play an important role in, among others, significantly supporting efforts to eradicate corruption in South Africa by promoting transparency, accountability and meaningful public participation.

As this report demonstrates, 20 years after the passage of PAIA, an unacceptable majority of public bodies remain non-compliant with PAIA. Non-compliance by public bodies is worryingly most consistent and most pronounced at the level of local government. This report highlights some of the trends and challenges encountered and observed by the SAHRC in monitoring compliance and assessing PAIA implementation over the years.

In conclusion, the foundation and basis of any political and constitutional system is the protection and sovereignty of the individual, the building block of any family, society, country and nation as a whole. Individual basic rights are therefore to be accorded the widest possible protection with minimal recourse to unjustified limitations. Refusals and rejections of requests for information should therefore be exceptional and not the norm. More importantly not only should non-responsiveness and refusals be discouraged, but heightened efforts need to be made to embrace a culture of proactive sharing of information that is accessible and timely by both public and private bodies in South Africa.

The SAHRC shall continue to actively advocate for the full realisation of the right to access information in South Africa in the course of its work, and to provide support to the IR in the execution of the PAIA mandate.



Chantal Kisoona
Acting Chief Executive Officer
SAHRC

2. PREFACE

In terms of Sections 83 and 84 of PAIA, the SAHRC is empowered to fulfil various statutory functions. One of these functions is the tabling of an annual report to the National Assembly. The SAHRC recognises that for PAIA to be fully realised every support must be provided to the IR and for this purpose has made known its intention to support the work of the IR. This is the final PAIA report to Parliament by the SAHRC, and the report reflects through a broad lens on the journey embarked upon by the SAHRC in fulfilling its PAIA mandate. The report reflects on compliance over the years, matters relating to legislative developments, the advocacy, education and awareness efforts by the SAHRC, litigation, some of the complaints to the Commission. Key actions involving the handover of the PAIA mandate to the IR during the transition period until final handover is completed is referenced in addition to the activity-based report.

3. INTRODUCTION

In terms of Sections 83 and 84 PAIA, the SAHRC is required to fulfil a number of duties. Amongst these is the tabling of a report to the National Assembly. The PAIA annual report for the financial year 2020/2021 is the last PAIA report from the SAHRC as the Commissions PAIA remit concludes during the 2020/21 financial year. The SAHRC has handed over its functions to the office of the IR as per the promulgation by the State President, Mr Cyril Ramaphosa on the 22 June 2020.

This report provides broad reflections on the 20 years of PAIA and how the SAHRC as the sole custodian of access to information has responded to its mandate to protect, monitor and promote this fundamental right enshrined in the South African Constitution

(Constitution). Some attention is paid to the levels of compliance by public bodies with the PAIA, together with observations in respect of the role of private bodies in respecting this right and the attendant obligations that come with it.

In reflecting on its 20-year journey, the Commission has posed a number of critical questions, central to its own assessment of whether it has successfully realised the PAIA objectives. Some of these questions sought to explore and assess whether members of the public have been satisfied with how the SAHRC has assisted them with their complaints, enquiries, training and law clinics. The questions have also looked at whether DIOs from the various public bodies across the board are fully equipped to deal with the right of access to information following training sessions. Furthermore, the question has been asked whether members of the public fully comprehend what their rights are in respect of access to information and whether they know how to enforce these rights and what recourse is available to them when their rights are violated.

PAIA has been in effect since 2001 but whether it has achieved its purpose remains to be seen. For example, have communities been wholly successful in enforcing the right to access to information? The case of *Brümmer v Minister of Social Development and Others*¹ aptly captures the significance of the right to access information within the South African context. An extract from the judgement reads, “the public must have access to information held by both the State and private sector. Indeed one of the basic values and principles governing public administration is transparency. The Constitution demands that transparency must be fostered by providing the public with timely, accessible and accurate information”.

In a society plagued by lack of transparency, accountability and high levels of corruption, the right of access to information is of paramount importance to counter such deficiencies in South Africa’s democratic dispensation. The right of access to information forms the bedrock of the realisation of a number of rights, and more importantly for a government ‘in the sun’, by limiting secrecy and

¹ <http://www.saflii.org/za/cases/ZACC/2009/21.pdf>

strengthening the means through which the public may both meaningfully participate in decision-making, and to hold government accountable.

First, the report discusses the mandate of the SAHRC in respect to access to information and how this mandate has been carried out since inception of PAIA. Second, it looks at how the SAHRC has carried out its monitoring work followed by the steps taken by the Commission to address low levels of compliance in both the public and private sector. The report thereafter reflects information about complaints to the Commission relating to both public and private body information holders. PAIA complaints received in the current year and key trends are reflected. The handover process embarked upon between the SAHRC and the IR is reported together with reference to the action planning implemented during the period of transition until full handover of the PAIA function to the IR. Lastly, the report dedicates some attention to monitoring and compliance obligations. In particular compliance trends are documented, together with Section 32 report statistics, and information reflecting on the responses to PAIA requests reported by public bodies in the financial year. The Commission has also provided tabular information disaggregating Section 32 report information in respect of each submission it has received.

4. THE PAIA MANDATE OF THE SAHRC

The PAIA mandate is threefold and involves the protection, promotion and monitoring of the right to access information. This statutory mandate aligns with both the constitutional, and the statutory mandate of the SAHRC accorded in terms of the South African Human Rights Commission Act 40 of 2013. The SAHRC responded to the PAIA mandate by adopting a multipronged approach which saw all elements of the mandate integrated and reflected within its wider human rights mandate and with its responsibilities as a national

human rights institution. The remit in terms of PAIA was executed in accordance with legislation applicable to organs of state, policies and procedures of the Commission, and overseen by a Commissioner dedicated to PAIA as an area of focus.

The mandate conferred on the IR, reflects similarly on the 3 broad pillars of the PAIA mandate previously within the remit of the SAHRC.

4.1 The promotion mandate

One of the important roles of the SAHRC as contained in Section 83 of PAIA is to promote the right of access to information. The SAHRC has responded to this element of the mandate through various means, for instance, through the production of pamphlets, toolkits, community guides and other forms of promotional material; using television, radio interviews, and social media to enhance messaging. Conventional outreach promotion, advocacy and awareness took the form of law clinics, workshops, training of DIOs, seminars and hosting key events such as the International Right To Know Day. These interventions were conducted through a dedicated PAIA Unit within the Commission and through the SAHRC's provincial offices.

The SAHRC promotion objectives evolved over a period of time. The early years of promotion work was directed largely at demystifying PAIA and popularising the legislation. Information obtained through monitoring uptake and compliance however, influenced a shift in the approach adopted to promote the rights to access information. In this later phase, far greater attention was paid to capacity building of specially targeted audiences, and to building both collaborative and strategic stakeholder networks. The latter was a direct response to reach a wide a number of users while championing commitments to operational readiness by information holders to deliver on requests for access to information and meet compliance obligations. These efforts were additionally informed by the very real need to increase reach in the absence of many resources.

The promotional work conducted by the SAHRC broadly aims to advance the right of access to information whilst educating the public and private bodies including members of the public at large. We use the Section 10 Guide not only as a directory to all public body contact information but the go to document to provide simplistic basic information about the when and how to access information. In terms of Section 10 of PAIA, the SAHRC is required to compile a Guide to assist both implementers and users of PAIA to comply with and properly apply the legislation. The Guide contains key contact information for organs of state including the contacts of deputy information officers to facilitate ease of access for users seeking to access information. The Guide has been updated over time and is available on the SAHRC website and hard copies are available to further facilitate accessibility.²

Private and public body training has over the years comprised the majority of the work undertaken in promoting PAIA, particularly in the light of low compliance rates with the legislation. The need to demystify the law for implementers and provide support in interpreting its provisions remained high throughout the period. A number of factors were attributable to this continued need, amongst which was the level of attrition of deputy information officers; lack of dedicated officials and poor orientation within entities to effectively comply with the PAIA requirements. Training interventions were provided on request or based on identified needs in particular organs of state. Training content and the conduct of training was made freely available to requestors. Attention was paid to the training of both public and private bodies about the objectives of PAIA. Focus was also on the duty of these bodies to implement and comply with PAIA in their respective institutions and to encourage them to operate in a transparent manner through making information easily available to members of the public.

² <https://www.sahrc.org.za/home/21/files/SAHRC%20PAIA%20Section%2010%20Guide%202020%20FINAL%20WEB.pdf>

4.1.1 Training of Deputy Information Officers (DIOs)

The obligations of the SAHRC with respect to advancing the right of access to information as set out in Section 83 of PAIA, specifically included training of IOs and DIOs of public bodies. Training interventions were geared towards encouraging compliance with PAIA which was perceived by both implementers (DIOs) and users alike, as complex law. The training interventions provided additional benefits within public bodies that included information sharing, trouble shooting and sharing of best practise. In the first 12 years of training a wide network of stakeholders and implementers was built through the training and interactions with DIO's. The SAHRC disbanded the PAIA Unit in 2016 on account of financial constraints and training interventions could therefore no longer be conducted.

During 2014/15 approximately 600³ public officials from various public bodies at national, provincial, local, and all other state entities were trained, including personnel from the Departments of Correctional Services, Environmental Affairs, Communications, as well as Eskom, the Services Sector Education and Training Authority (SETA) and others. These training interventions were vastly reduced in the later years following the disbandment of the PAIA unit within the Commission.

4.1.2 Community law clinics

The SAHRC developed the PAIA Law Clinic pilot project in 2013/2014. The project involved South African universities, and sought to provide students and community members with substantive knowledge to facilitate the use of PAIA to access information. The pilot

³ <https://www.sahrc.org.za/home/21/files/Final%20annual-report%20.pdf>

project was seen as a mutually beneficial initiative for both the students and the targeted communities as it allowed community members to access free legal advice and also sensitised students about PAIA. Objectives of the law clinics included the following:

1. To enhance understanding of PAIA by university students with the intention of increasing interest in the right of access to information and inspiring mainstream use of PAIA;
2. To bolster monitoring of PAIA by using university students to assess how PAIA is being implemented and understood by both public and private bodies;
3. To recruit university students to participate in the promotion of the right of access to information;
4. To increase community members' understanding of how to use PAIA and to empower them to use PAIA in their individual capacities to gain access to information required for the protection or exercise of their human rights;
5. To foster working relationships with tertiary institutions; and
6. To raise awareness amongst lecturers, students and community-based organisations on issues of access to information, open democracy and good governance as a means of achieving improved service delivery.

The project ran for 3 financial years and could no longer be sustained post 2016. However, over 30 law clinics were conducted which helped build solid and lasting relationships and an awareness with students who would take forward the principles underpinning PAIA forward both in their communities and professions. The SAHRC did, however, continue training communities on access to information and PAIA through public outreach engagements conducted through the various SAHRC provincial offices.

4.1.3 National Coordinating Committee (NCC)

The National Coordinating Committee (NCC) comprised of DIOs from all spheres of government with the SAHRC as the secretariat to the NCC. The structure was created to empower implementers through a body of peers, address systemic challenges in the implementation of PAIA, widen the community of implementers and incentivise best practise. Committee members were selected bi-annually at the National Information Officers Forum (NIOF). The members each served a two-year term. The NCC provided rich information which informed and shaped interventions by the SAHRC particularly in respect of interpretation of the law and the development of support content for implementers. The SAHRC and the NCC proceeded to thereafter successfully host the National Information Officers Forum annually. The event drew widespread attention by the media and was ultimately expanded in partnership with the Open Democracy Advice Centre to award the Golden Key to the most PAIA compliant individuals in organs of state and the media. The Golden Key Awards came to be widely acclaimed. The project was recognised as best practise both regionally and internationally and has since been replicated outside of South Africa in countries like Mexico.

4.1.4 International Day for Universal Access to Information (IDUAI)

The SAHRC has since 2003, annually hosted the NIOF in celebration of the international 'Right to Know' Day which is celebrated on the 28 of September each year (the date is now formally designated by the United Nations Educational Scientific and Cultural Organisation (UNESCO) as the International Day for Universal Access to Information (IDUAI). The SAHRC maintained this tradition more recently in collaboration with the IR in 2018, 2019 and 2020 together with other stakeholders to commemorate this important date.

The event is aimed at creating a discussion platform for implementers of PAIA across all spheres of government. Other key players such as academics and civil society organisations involved in access to information are also invited to take part in the event. Key objectives of the NIOF include creating opportunities for information sharing and networking, raising awareness of the right of access to information and developments in respect thereof and identifying challenges faced by implementers in complying with the legislation.

Some key challenges identified by stakeholders in these forums with regards to the implementation of PAIA included the following:

- Limited capacity to deliver on mandates;
- Lack of political will from those in power;
- Uncertainty as to which department the PAIA functionary should be placed in; and
- Lack of awareness and insufficient training on PAIA and records management.

The SAHRC is heartened to note that the traditional commemoration of the event is being upheld by the IR and continues to support it.

4.2 Monitoring mandate

The constitutional monitoring mandate of the Commission finds expression in section 83 of the PAIA, which provides that the Commission may monitor implementation of the PAIA. The monitoring work conducted in terms of PAIA is informed largely by monitoring levels of compliance with statutory compliance reporting requirement, compliance with sections 14 and 51 of PAIA which requires the publication of information manual, monitoring trends in information, litigation and comparative developments. Monitoring of compliance relies heavily on primary information in the form of compliance reports, and conducting research. The outcomes of

monitoring activities inform submissions on legislative developments, and recommendations for reform in addition to reports to Parliament and treaty bodies. Best practice examples from Africa and globally are also considered by the Commission so as to develop meaningful recommendations in respect of PAIA modernisation and reform.

Sections 83(3)(a) and 84 of PAIA requires the SAHRC to make recommendations for the development, improvement, modernisation, reform or amendment of PAIA or other legislation or common law having a bearing on access to information held by public and private bodies. These recommendations are intended to strengthen PAIA, and advance the realisation of the right of access to information. Much of the work done in the past continues to be conducted in regular consultations with key stakeholders, and those who use access to information laws on a day-to-day basis. These consultations provided invaluable insights which inform recommendations for reform ultimately resulting in reforms which remove practical impediments such as provisions requiring the submission of manuals in terms of Section 14 of PAIA by public bodies to the DOJCD.

In addition to interventions directed at strengthening reforms the Commission has engaged with Parliament through the various consultative process in the development of the POPIA. In addition, comprehensive submissions were made in response to the draft Bill on the Protection of State Information and other draft legislation impacting on the right to access information.

The interventions by the Commission to advance access to information has not been confined to domestic needs within South Africa. The African Commission on Human and Peoples' Rights (ACHPR) committed through Resolution 167 (XLVII) to secure the effective realization of access to information in Africa. In response to this need the SAHRC formed part of a group of expert drafters who supported the work of the ACHPR in developing a model law on access to information as a part of this process. The model was intended to assist other states develop and implement a statutory regime which would give life to their obligations under the African Charter and regional instruments. The model law was subsequently adopted on 23 of February 2013 and launched during the 54th session of the ACHPR on 12 of April 2013. The SAHRC thereafter provided support to the ACHPR Special Rapporteur on missions

to states such as Mozambique, Botswana and the Seychelles; advocating uptake of the model law, and achieving a rapid uptake by African states of access to information. The number of states in Africa with access to information laws is now reportedly 26 in total.⁴ Since its adoption, the model law has come to be recognised as a landmark soft law for the ACHPR, paving the way for the development of other key model laws.

The SAHRC more recently again provided support to the ACHPR in its efforts to strengthen proactive disclosure of information during elections. Through the special rapporteur on freedom of expression and access to information, Commissioner Lawrence Mute, a publication reflecting on key areas for proactive disclosure during elections was issued following the 2019 general election. The SAHRC evaluated and made recommendations in the chapter on enhanced proactive disclosure by law enforcement based on the African Commission Guidelines for Proactive Disclosure during Elections.⁵

4.2.1 Legislative development and case law

The SAHRC reported on and was admitted as *amicus* in one of the first matters involving litigation on PAIA in the matter of *Brümmer v Minister for Social Development and Others*.⁶ Since the enactment of PAIA both civil society and other interest groups have resorted to the courts to advance this fundamental right and litigation based on PAIA has notably increased over the years, however, litigation trends continue to reflect that the cases before the courts are largely brought by media and sophisticated litigants.

⁴ Presentation by Commissioner Jamesina King of the ACPHR and available at: <https://www.youtube.com/watch?v=NjPUahIQINI>

⁵ <https://www.achpr.org/legalinstruments/detail?id=61> See also https://www.sahrc.org.za/home/21/files/Proactive_Disclosure_of_Information_and_Elections_in_South_Africa.pdf

⁶ <http://www.saflii.org/za/cases/ZACC/2009/21.html>

Such cases serve as a means of not only advancing the right of access to information, but also assists in clarifying how PAIA must be interpreted and applied, resulting in important judicial precedent. For example, in *Manuel v Sahara Computers (Pty) Ltd and Another*,⁷ the High Court reiterated that a requester only needs to demonstrate that information is reasonably required for the exercise or protection of any right (beyond constitutional rights) when requesting information held by a private body.

The Court in the *Manuel* matter furthermore set out the requirements for affidavits deposed to by public (Section 23) or private (Section 55) bodies where records cannot be found or do not exist. A response commonly encountered in respect of records held by public bodies. In light of the fact that the SARHC has observed over-reliance on these provisions, in addition to inadequate affidavits being provided, as a basis to refuse requests for information, further judicial clarity in this regard is a welcome development. Some of the noteworthy cases pronounced on by the courts are listed below.

Brümmer v Minister for Social Development and Others (CCT 25/09) [2009]

The Brummer matter saw a unanimous judgment by the Constitutional Court which ruled that the 30-day time limit in Section 78(2) of PAIA is unconstitutional as it does not allow an adequate and fair opportunity to challenge a refusal of access to information. The Court further declared that access to information is crucial to the right of freedom of expression, and that the public must have access to information held by the state.

As relief, the Court ordered Parliament to enact legislation that prescribes a time limit consistent with the Constitution, bearing in mind the right of access to court as well as the right of access to information. The Court further ordered that, until the enactment of such legislation, a person who wished to challenge a refusal of information should apply to court within 180 days of being notified of an adverse internal appeal; but also advised courts to be flexible where the interest of justice requires. In a more recent judgment dealing with the refusal of records by public bodies namely the *South African History Archive Trust v South African Reserve Bank and Another*

⁷ *Manuel v Sahara Computers (Pty) Ltd and Another* (38562/2017) [2018] ZAGPPHC 864; [2019] 2 All SA 417 (GP) (12 December 2018).

(17/19),⁸ it was stated that the default position is that access to records must be granted unless chapter 4 of PAIA provides one or more grounds for a refusal. Put another way, 'the disclosure of information is the rule and exemption from disclosure is the exception'. It has been held by the Constitutional Court that, 'when access is sought to information in the possession of the State, then it must be readily available'.

My Vote Counts NPC v Minister of Justice and Correctional Services and Another (CCT249/17) [2018] ZACC 17; 2018 (8) BCLR 893 (CC); 2018 (5) SA 380 (CC) (21 June 2018)

In the case of *My Vote Counts NPC v Speaker of the National Assembly and Others*⁹. The issue before the Constitutional Court was whether Parliament failed to fulfil an obligation imposed by Section 32 of the Constitution for a law to be passed to give effect to the right of access to information.

The specific question before the court was whether information regarding the private funding of political parties constitutes information that is required to effectively exercise the right to vote. If the right to vote was interpreted as the right to cast an informed vote, the further question that arose was whether Parliament had fulfilled its obligation to pass legislation that gives comprehensive effect to the right of access to this type of information. If the Court found that Parliament had failed to give full effect to its Constitutional obligations to legislate in terms of Section 32(2) of the Constitution, the applicant requested the Court to require Parliament to remedy the breach. The majority judgment of the Court declined to grant this order primarily because of the doctrine of separation of powers and the failure of the applicants to challenge the constitutional validity of PAIA.

⁸ <http://www.saflii.org/za/cases/ZASCA/2020/56.html>

⁹ <http://www.saflii.org/za/cases/ZACC/2018/17.html>

Political funding Act 6 of 2018

President Ramaphosa signed a Proclamation on the Commencement of the Political Party Funding Act, 2018 (Political Party Funding Act), which regulates public and private funding of political parties. The Political Party Funding Act establishes funds to provide political parties represented in Parliament and legislatures with funding to undertake their work.

The Political Party Funding Act also requires that donations be disclosed by parties and donors to the Independent Electoral Commission (IEC)¹⁰. The Political Party Funding Act prohibits donations to parties by foreign governments or agencies, foreign persons or entities, organs of state or state-owned enterprises. Parties may, however, receive funding from foreign entities for training, skills development or policy development. No member of a political party may receive a donation other than for political party purposes. This followed a Constitutional Court judgment where it declared parts of the PAIA Act unconstitutional in that it did not allow for political parties to clear their funding, the court ordered Parliament to amend the PAIA and "take any other measures it deems appropriate" to provide for this within 18 months.

¹⁰ <http://www.thepresidency.gov.za/press-statements/president-ramaphosa-signs-political-party-funding-act-operation>

4.2.2 Compliance monitoring

The promotional mandate of the SAHRC in respect of PAIA extends to the private sector. As one of the few information regimes in the world which created a right to privately held information, navigating access to information held by private bodies represented unfamiliar territory at the time of the enactment of PAIA in 2000.

The PAIA created a higher threshold for the access to information held by private bodies. In this context a requestor is required to provide an explanation of the rights which are sought to be protected relating to the information requested, and together with the absence of an internal appeal mechanism for PAIA requests refused by private bodies - the framework poses serious limitations on the public right to access information in respect of information held by private bodies.

With the aim of improving compliance within the private sector, the SAHRC hosted seminars and undertook other initiatives under the theme “Business and Human Rights”. These training sessions were conducted during the years 2014/15 and 2015/16 with focus being particularly on the mining sector. The SAHRC for instance hosted a seminar aimed at creating a platform for discussion around transparency within the mining sector to discuss potential human rights violations by the mining sector.

The SAHRC also wished to interrogate the levels of commitment and understanding within the mining industry with regards to transparency and access to information, and to discuss the potential of developing a minimum set of transparency standards for the sector. Unfortunately, the intervention did not enjoy the desired uptake from key sector stakeholders such as the Chamber of Mines and key government stakeholders. This is an area of cross cutting concern for the SAHRC in the context of both socio-economic and civil and political rights and vulnerable mining affected Communities. More attention is intended to be brought to bear on this area of focus in the future.

On both local and international platforms, various initiatives have been developed by the SAHRC to foster greater transparency in the private sectors as a means through which stakeholders can hold powerful private actors to account. However, notwithstanding clear advantages of transparency and accountability insofar as good business practice is concerned, challenges continue to exist within the mining sector around how to adequately translate the issues of human rights, transparency, open data and generally, access to information. Against this background, the SAHRC hosted a seminar aimed at creating a platform for discussion around transparency within the mining sector due to the key role extractive industries play in the South African economy and its potential to affect the human rights of large groups of people. The SAHRC also wished to interrogate the levels of commitment and understanding within the mining industry with regards to transparency and access to information and to discuss the potential of developing a minimum set of transparency standards for the sector.

A more detailed analysis of compliance within the public sector is provided in the discussion on statistical compliance monitored in terms of section 32 of PAIA.

4.2.3 Section 14 compliance monitoring

Section 14 of PAIA places a mandatory obligation on all public bodies to compile information manuals. The main objective of Section 14 is to ensure that information about public bodies is made available to enquirers. PAIA prescribes the information to be contained in the manual which must set out the procedures for accessing information held by the public body, a description of records held by that body, and other information as prescribed. The Section 14 manual is an important tool that creates an information sharing platform between the public body and the public at large. Section 14 manuals should therefore be as user friendly as possible and easily accessible. The manuals are meant to ensure transparency from public bodies, to empower members of the public with information and to prescribe ways in which they could access information from public bodies. Compliance with Section 14 has remained inconsistent over the past

years. In the previous financial year only nine manuals were received. This is a major decrease from the financial year 2017/18 where 58 manuals were submitted. Ultimately, compliance with Section 14 across the three spheres of government remains very low. Only six Section 14 manuals were received, which is a decrease from the number of submissions received the previous year.¹¹ In the year under review the following institutions submitted their manuals in terms of Section 14:

- Commission for Conciliation, Mediation and Arbitration (CCMA)
- Department of International Relations and Cooperation (DIRCO)
- Public Service and Commission (PSC)
- Department of Corporative Governance (COGTA)
- The Independent Regulatory Board for Auditors (IRBA)
- Tshwane University of Technology Pension Fund

Another challenge observed by the Commission is that certain public institutions do not regularly update their Section 14 manuals. Outdated manuals are of little use and lead to the frustration of requesters who are unable to submit a PAIA request. This included Chapter 9 and 10 bodies, the majority of them are without these manuals, The Commission becomes inundated with inquiries from members of the public as a direct result of outdated manuals or the lack of any manual as required by Section 14. The majority of national departments for instance have Section 14 manuals when compared to provincial and local or local levels. The reasons provided for non-compliance with Section 14 is lack of political will, lack of resources to compile and translate the manuals and the

¹¹ In the financial year 19/20 the SAHRC received Section 14 manuals from the University of Free State, SARIA, Free state Human Settlements, Free state Department Treasury, Free state Social Development, Public Service Commission, Free State Departments of Roads, Police and Transport, Overstrand Municipality and Frances Baard Municipality

fact that there is no dedicated DIO within the various institutions, making it difficult to implement these obligatory requirements. The SAHRC has done some work over the years to increase compliance, this has included trainings of persons in public bodies at national, provincial or local levels. It has become clear that training efforts must be sustained to improve awareness, compliance and support a shift from a culture of secrecy to openness and accountability.

4.2.4 Section 51 compliance: Private Bodies

In terms of Section 51 of PAIA the head of a private body must, amongst others, compile a Section 51 manual. The provision is similar to the requirements set out in section 14 applicable to public bodies and must include the procedures for accessing information of the body. The manual must be made available and submitted to the SAHRC at its head office. PAIA request forms must also be made available on the website of the entity. In 2001 a moratorium was granted by the DOJCD exempting certain types of private bodies from complying with Section of PAIA. The moratorium was a response to the level of burden visited on small businesses to secure compliance. In 2015 the moratorium was extended at the request of the SAHRC, and the request repeated and granted over a period of time since 2015. In December 2020 another exemption was granted for the 6 months to enable the handing over of the PAIA functions to the IR.

With the imminent handing over of the PAIA functions to the IR, the SAHRC experienced the largest number of Section 51 submissions and enquiries since the inception of PAIA. Between January and March 2021, the SAHRC received over 3000 private body manuals. It is noteworthy that private bodies which submitted Section 51 Manuals were entities which in the majority were exempted from having to comply with Section 51 in the first instance. This trend may be attributable to concerns by private bodies about compliance and penalties for non-compliance as such fines are permitted in the POPIA. In addition, the trend indicates a clear

need for public awareness campaigns to provide clarity and certainty about the application of POPIA and exemptions from compliance.

Larger corporate entities are however obliged to submit Section 51 Manuals but did not do. Basic audits of their websites indicate that their manuals have similarly not been placed on their websites, whilst others had uploaded seemingly outdated manuals created in terms of section 51 of the PAIA. This is a concerning trend which lends itself to many interpretations including one that suggests the penalty provisions in law do not serve any deterrent effect to such powerful actors.

4.3 The protection mandate

The protection aspect of the SAHRC mandate is replicated in Section 83 of PAIA. It entails providing assistance to individuals exercise and assert their right of access to information through the use of PAIA. The protection mandate is triggered primarily through the handling of complaints lodged with the SAHRC. These complaints are dealt with in terms of the SAHRC Act 40 of 2013 (SAHRC Act), together with the SAHRC's Complaints Handling Procedures (CHP), PAIA and other applicable processes within the SAHRC. Following the disbandment of the PAIA Unit, a strategic decision was made to decentralise all the PAIA complaints across all the SAHRC provincial offices and head office.

The individual complaints dealt with by the SAHRC provide an opportunity to identify key trends in the application and implementation of PAIA, both from the perspective of the user as well as implementers of the legislation. Over a period of four years, complaints to the SAHRC have decreased. A total of 150 PAIA related complaints were received in the 2015/16 period, increasing in 2016/17 to 171 complaints and declining to 97 complaints in the 2019/20 period. The complaint statistics are not reflective of all other cases in which PAIA is an element of the wider violation/s complained about to the Commission.

In line with Section 83(3) (c) of PAIA, due to its own resource constraints, the SAHRC has had limited active engagement with litigation, but has used its powers to actively address and issue findings requiring commitments to access information, and public participation in a number of reports arising from investigations by the Commission.¹²

4.3.1 Complaints relating to public bodies

When one considers that municipalities are meant to be the points of call and the most direct link to the public in respect of service delivery, the number of complaints against municipalities and low PAIA compliance levels at local government level are of concern. The SAHRC received numerous complaints related to municipalities including complaints against Thembisile Hani Local Municipality, Dr Beyers Naudé Local Municipality, AbaQulisi Municipality and Umsunduzi Municipality, indicating that the complaints are not isolated to any specific geographical areas or municipalities, but are in fact widespread and include both local, district and metros. Complaints were for example received against provincial governments and these included the Mpumalanga Department of Health, Mpumalanga Department of Agriculture, Gauteng Department of Social Development, Departments in the Free States, and in the Eastern Cape these included the Department of Police, Department of Roads and Transport.

The SAHRC's provincial offices recorded 102 PAIA complaints and of these 20 were resolved and 51 were still under investigation during the period under review. One of reasons for the large number of outstanding PAIA complaints is related to the introduction of the National State of Disaster Regulations (Regulations) in response to the Covid-19 pandemic. The Regulations impacted on levels of responsiveness to requests by information holders. Non-responsiveness by some government entities to requests for information

¹² <https://www.sahrc.org.za/index.php/sahrc-publications/findings>

despite the SAHRC's intervention have also continued to feature as a recurrent factor impacting the timely resolution of complaints and requests for assistance.

4.3.2 Complaints relating to private bodies

Twenty-one (21) complaints were received relating to private bodies, these included complaints against corporate entities such as the MTN group, Vodacom, Woolworths, and Alexander Forbes. The complaints referred to above related mainly to non-responsiveness by the private bodies and refusal of access to records. None of the complaints during the period related to the Covid-19 pandemic and access to information. Complaints trends also show that many private bodies lack awareness of the constitutional right of access to information or the legislation that seeks to give effect thereto. The Commission however does not have adequate data to establish whether the levels of refusals and deemed refusals by private bodies mirror to any degree the levels of refusals by public bodies to requests for information.

It is likely that more sophisticated information management regimes will be implemented by middle and large businesses in South Africa, following on the obligations created in POPIA, and shifts in the operations of businesses to remote platforms on account of the COVID-19 pandemic. These factors, together with the general embracing of 4IR are likely to result in more effective information management, but it difficult to predict the exact impacts to requesters seeking access to information.

5. HANDOVER OF PAIA FUNCTIONS FROM SAHRC TO IR

In June 2020 the President of the Republic of South Africa gave effect to the constitutional protections of the right to privacy¹³ entrenched in Section 14 of the Bill of Rights of the Constitution in the form of the POPIA legislation. Since June 2020, much work has been done to give effect to the commencement of protective actions regarding privacy. Parts of the POPIA were operationalised at different times. The first provisions effected were Sections 2 to 38; Sections 55 to 109; and Section 111 together with Sections 114 (1), (2) and (3) which were operationalised on 1 July 2020. Lastly Sections 110 and 114(4) commenced on 30 June 2021. Many of the remaining provisions of PAIA were put on hold only be operationalised at a later stage as they required a state of operational readiness for the IR to give effect to the responsibilities conferred through these remaining provisions.

The SAHRC and IR have engaged in multiple meetings since the appointment of the members of the IR in preparation for the handover of PAIA functions. In 2020, further discussions were held between the two institutions to develop action plans for the handover and to determine other matters including the duration of the transition period, the roles and responsibilities of the parties, messaging to stakeholders and the handling of complaints.

A memorandum of cooperation (MoC), was concluded between the SAHRC and the IR, regulating the handover, and continued cooperation between the institutions¹⁴. In terms of the plan of action and MoC, a transitional period for the handover was agreed and

¹³ https://www.concourt.org.za/images/phocadownload/the_text/english-2013.pdf

¹⁴ The Plan of Action together with the MoC were signed by the CEO of the SAHRC and the Acting CEO of the IR on the 7 May 2021.

a period of five (5) months, commencing 1 May 2021 was agreed. The POPIA is now fully operational and the handover processes of PAIA from the SAHRC to the IR has commenced.

As envisaged in the MoC, the SAHRC will continue to collaborate with the IR on a needs basis. To date both organisations have held joint quarterly meetings since 2019 to facilitate the handover. Updates registers of PAIA complaints to the SAHRC have been provided to the IR. The complaints register includes the date on which the complaint was received, the name of the complainant, the nature of the complaint, the status of the complaint, and remarks regarding resolution of the complaint.

The SAHRC will continue handling complaints already before it until they are finalised. All complaints to the Commission received after the end of June 2021 involving access to information or privacy will, however, be referred by the SAHRC to the IR in accordance with the Complaints Handling Procedures of the SAHRC.

The SAHRC and the IR also undertook to jointly inform the public about the mandate of the IR and complaints process of the IR. Material developed by the SAHRC such as the PAIA Guide contemplated in Section 10 of PAIA, toolkits, templates, guides and notices; and promotional material developed by the SAHRC has been shared with the IR.

The SAHRC is obliged, during the transitional period, to continue to collate the Section 32 Reports from public bodies for 2020/2021 financial year, and to submit the PAIA annual report to National Parliament, as contemplated in Section 84 of PAIA. The transitional period will be concluded at the end of September 2021, once the Annual PAIA Report for 2020/2021 is tabled with the NA as contemplated in Section 84 of PAIA.

6. REPORTING IN TERMS OF SECTION 84 – An overview of reports in terms of Section 32 of PAIA

Section 84 of PAIA obliges the SAHRC to submit to the Parliament an annual report setting out certain particulars which is in line with the data annually submitted by public bodies to the SAHRC in terms of Section 32(a) to (h) of PAIA:

- i. Number of requests for access received;
- ii. Number of requests for access granted in full;
- iii. Number of requests for access granted in terms of section 46;
- iv. Number of requests for access refused in full and refused partially and the number of times each provision of PAIA was relied on to refuse access in full or partially;
- v. Number of cases in which the periods stipulated in Section 25(20) of PAIA were extended in terms of section 26(1);
- vi. Number of internal appeals lodged with the relevant authority and the number of cases in which, as a result of an internal appeal, access was given to a record or a part thereof;
- vii. Number of internal appeals which were lodged on the ground that a request for access was regarded as having been refused in terms of Section 27;
- viii. Number of applications made to every court and the outcome thereof and the number of decisions of every court appealed against and the outcome thereof;

- ix. Number of applications to every court which were lodged on the ground that an internal appeal was regarded as having been dismissed in terms of Section 77(7);
- x. Number of complaints lodged with the Public Protector in respect of a right conferred or duty imposed by PAIA and the nature and outcome thereof; and
- xi. Such other matters as may be prescribed.

6.1 Analysis of the reports received from public bodies in terms of Section 32 of PAIA in the 2020/2021 financial year

The Commission has consistently reported previously on the unacceptably low levels of compliance with section 32 of PAIA over the years. Historically low compliance rates declined even further in the past financial year. An obvious reason for the decline may be attributable to the impact of the Covid-19 related lockdown restrictions on the work and capacity within public bodies. Additionally, despite messaging by the Commission, it is possible that public bodies were unclear about the submission of their reports, noting that local government year-end periods differ from the financial year end periods adopted by national organs of state. The local government year-end in June coincided with the operationalisation of the PAIA mandate in the IR.

Below, the information received from public bodies, and which constitutes the SAHRC's report to the Parliament, is elaborated.¹⁵

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6.1.1 National Departments

NATIONAL DEPARTMENTS	
YEAR	NUMBER OF COMPLIANT DEPARTMENTS
2002/2003	13
2003/2004	15
2004/2005	13
2005/2006	13
2006/2007	18
2007/2008	22
2008/2009	22
2009/2010	18
2010/2011	18
2011/2012	30
2012/2013	28
2013/2014	26
2014/2015	30
2015/2016	29
2017/2018	27

2019/2020	20
2020/2021	25

In the financial year under review 25 reports from national departments were submitted to the SAHRC, an increase from financial year 2019/2021 where 20 reports were received. The submission deadline was 31 May 2020, and the deadline was extended further to 30 June 2020 to accommodate municipalities. Despite the extension granted, most departments were late in submitting their reports. Based on enquiries to the Commission, it appeared departments were unclear about the institution to which it should submit the reports. The confusion arose despite the issuing of notices providing this information as early as March 2020. Change in leadership, retirements and Covid-19 infections and no proper handover processes followed in the departments were some of the reasons provided for the late submission.

The Department of Social Development received 7 PAIA requests, of which 5 were granted in full. Two requests were transferred to the Department of Trade and Industry and SASSA respectively. The Office of the Presidency received 20 requests, and granted 8 in full. 3 requests were refused entirely and 3 refused partially. The Office of the Presidency requested extensions of 30 days in respect of 4 requests. The requests related to government's response to the Covid-19 pandemic and included issues such as the expenditure of the R500 billion in funds used to fight the Covid-19 pandemic, a copy of the pandemic guidance that the Presidency received from the World Health Organisation (WHO). A detailed annexure was included in the report from the Office of the Presidency reflecting dates, transfers and summaries of the requested records.

The Department of Education received 15 PAIA requests and granted 5 of these in full and 10 were transferred. Regrettably, the report lacked detail and could not be closely analysed.

The South African Police Services (SAPS) received a high number of requests totalling 12 706. Despite this comparatively high number, the requests during the period declined significantly from the 21125 requests received in the previous year. SAPS consistently receives a significant number of requests annually, followed by the Departments of Health and Correctional Services. The SAPS granted 10704 requests in full, and 95 were granted despite there being a ground for refusal. 307 were completely refused and an extension of 30 days applied to 889 remaining requests. SAPS stated in their very detailed report that there are 1300 DIOs nationwide who perform PAIA functions over and above their administrative functions, a national DIO was also appointed to oversee the requests received. Interestingly, a majority of the requests received at the national level related to investigations on corruption followed by requests relating to government's efforts to fight the spread of the Covid-19.

6.1.2 Provincial Departments

YEAR	NUMBER OF COMPLIANT DEPARTMENTS
2002/2003	26
2003/2004	8
2004/2005	4
2005/2006	11

2006/2007	14
2007/2008	13
2008/2009	33
2009/2010	22
2010/2011	56
2011/2012	63
2012/2013	69
2013/2014	56
2014/2015	90
2015/2016	86
2017/2018	51
2019/2020	40
2020/2021	53

Compliance by provincial departments increased from 40 in the previous financial year to 53 in the reporting period. General trends are distinguishable in respect of provincial compliance. Limpopo (11) Free State (12) and the Western Cape (13) have consistently had the highest number of departments complying with reporting obligations. The Eastern Cape had a number of departments which

consistently previously complied for a period of 3-4 consecutive years, but compliance levels sharply declined in 2020. During the period no reports were received from any provincial department in the Eastern Cape.

Despite its size, only 8 provincial departments in KwaZulu-Natal submitted reports. Gauteng departments submitted only 2 reports, one each from Gauteng Treasury and the Department of Agriculture. Gauteng Treasury noted in their report that like most departments they had worked remotely and that most PAIA requests were submitted electronically. The arrangement appeared not to have addressed the needs of persons seeking information and who did not have the means to make electronic submissions of their requests, as such persons would likely not have been able to physically hand in their request. A high number of requests were reported by KwaZulu-Natal's Department of Health. 5253 requests were report of which 4750 requests granted in full which was encouraging. 533 requests were granted in the public interest. Despite the increase, in compliance rates, the overall total required numbers of departments complying with reporting remain unacceptably low.

The North West, Northern Cape and Mpumalanga remain the least complaint provinces seen over time, with very few departments within those provinces complying with reporting obligations.

Despite reports alerting Parliament to the low levels of compliance with PAIA, no significant shift upward has been noted in compliance rates. The CEO of the SAHRC who is the SAHRC Information officer in terms of PAIA appeared before the Justice Portfolio Committee (the Committee) to express the concerns of the Commission regarding compliance by public bodies. The Committee requested that the Commission submit a list of departments and municipalities that were not compliant with PAIA over the period 2017-18 to 2020 to it. The Commission submitted the list in October 2020 but has yet to be advised of the steps taken by Parliament to hold non-compliant organs of state to account for disregard of PAIA.

6.1.3 Municipalities

LOCAL GOVERNMENT	
YEAR	NUMBER OF COMPLIANT MUNICIPALITIES
2002/2003	3
2003/2004	4
2004/2005	6
2005/2006	8
2006/2007	11
2007/2008	48
2008/2009	33
2009/2010	25
2010/2011	20
2011/2012	69
2012/2013	37
2013/2014	25
2014/2015	51

2015/2016	48
2017/2018	39
2018/2019	31
2020/2021	37

Compliance at local government level remains unacceptably low despite the increase in the number of municipalities which submitted Section 32 reports. This increase to 37 from 31 in the previous year is a marginal increase given the total 278 municipalities in the country. The compliance rates remain far from the highest rate of a mere 69 recorded in 2011/2012. Overall, the level compliance at local government has consistently remained the lowest amongst all spheres of government with only 17% of municipalities complying with Section 32 of PAIA in the current reporting period. Tellingly at no point during the last 15 years, the rate of compliance by municipalities has remained well under 50%.

Western Cape municipalities submitted the highest number of reports achieving almost 80% compliance rates for local municipalities (7 of the 9 local municipalities). In Gauteng only the City of Johannesburg submitted its report. The City of Johannesburg reported that it had received a total 130 requests, 37 of which were refused due to unavailability of records in terms of Section 23(1) (a) and (b) of PAIA. These requests related in the main, to development planning, and outdoor advertising. 16 requests were transferred to the City of Johannesburg's owned Entities and Provincial Health Department, in terms of Section 20 of PAIA. Three (3) requests were withdrawn as they had been abandoned by the requesters.

The SAHRC in efforts to increase compliance previously engaged with South African Local Government Agency (SALGA) to strengthen its reach and support the work of SALGA. SALGA officials were trained, and following that engagement, in 2014-2016

SALGA distributed a circular to all municipalities requesting compliance with Section 32 and emphasising the mandatory nature of the compliance obligation. The 2-year period following these interventions saw only slight improvements to reporting rates which subsequently again declined. Due to the level of PAIA non-compliance, particularly in local government, the SAHRC took a resolution to disseminate communiques to the political heads of relevant municipalities requesting reasons for non-compliance, with a deadline by which a response explaining non-compliance was sought.

The possibility of subpoena as a consequence of non-response to the request was noted in the communication. 6 municipalities of a total 201 responded, and from this number only 3 municipalities provided reasons for non-compliance. These efforts therefore did little to bring positive shifts to compliance rates.

Training of Municipal Managers and officials within municipalities had previously yielded some positive results but proved difficult to sustain on account of sparse resources. The Commission has also noted that the number of requests for training from the national, provincial and local spheres of government has markedly decreased.

Lessons learnt over the period indicate the need for sustained awareness, support from strategic stakeholders such as the Auditor General, SALGA and provincial parliaments are required to achieve optimal compliance by local government. The enforcement powers of the IR is likely to further incentivise compliance. However, given the bill of health achieved by local government over the last 3 years, the high number of municipalities under administration, maladministration and complaints from communities relating to service delivery, it would be well advised that all stakeholders intensify efforts to secure full implementation and compliance of the PAIA at the local sphere of government.

6.1.4 Chapter 9 and 10 institutions

CHAPTER 9 & 10 INSTITUTIONS	
YEAR	NUMBER OF COMPLIANT CHAPTER 9 & 10 INSTITUTIONS
2002/2003	5
2003/2004	3
2004/2005	2
2005/2006	5
2006/2007	4
2007/2008	3
2008/2009	4
2009/2010	4
2010/2011	1
2011/2012	3
2012/2013	4
2013/2014	4
2014/2015	3
2015/2016	4
2017/2018	3
2018/2019	3

2020/2021	3
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With the exception of the Auditor-General, the IEC and the SAHRC, generally, institutions supporting democracy (ISDs) were not fully compliant with PAIA. The track record of the Chapter bodies has therefore not been exemplary in so far as reporting is concerned and much more needs to be done by way of standard setting.

The ISDs have been invited to stakeholder engagements and events relating to PAIA over time, and in January 2020 letters seeking reasons for noncompliance were directed to heads of the Chapter bodies. Only 2 institutions responded to the requests. The poor levels of responsiveness weakened attempts to better understand reasons for non-compliance and to effectively establish provide support for compliance with a legal obligation fundamental to the work of the Chapter bodies.

The SAHRC recommends that the Office on Institutions Supporting Democracy take steps to engage with these institutions to encourage compliance with PAIA, to the same extent that the Chapter bodies are required to hold others to account for breaches of constitutional principles and responsibilities. The SAHRC will however also continue to advocate for compliance with PAIA by the Chapter bodies through the Forum for Institutions Supporting Democracy (FISD).

6.1.5 Other Bodies

In the financial year under review, 42 state owned entities (SOEs) submitted Section 32 reports. A slight decrease in submissions was noted relative to submission rates in the previous 2 financial years, when the SAHRC received 50 reports in 2019/2020, and 49

reports in the year 2018/20. Overall compliance rates by SOEs were satisfactory. Legal Aid South Africa (LASA) received 3 PAIA requests, 2 of which were granted in full, and 1 refused as the requested information could not be located.

The SAHRC has previously reported on the ongoing matter between LASA and Adv Anthony Brink, which was again reflected in the Section 32 report from LASA. The report indicated that 5 pending court applications instituted in previous years bearing case numbers case numbers, 257/14; 258/14; 259/14; 1005/15 and 1432/15 respectively, in the Eshowe Magistrates court, sought to compel LASA to provide records/information access to which had been refused or was inadequate. The report indicates that an application for the transfer of these matters to the Pietermaritzburg High Court has been issued and served on the applicant by agreement. Key SOEs which notably did not submit Section 32 reports were, Denel and Eskom.

Only three institutions of Higher Learning, Wits University, University of KwaZulu-Natal and Stellenbosch University submitted reports in terms of Section 32. The Road Accident Fund received 7560 requests for information, 6357 of which were granted in full; 1463 requests were subject to extensions for time on account of the lockdown regulations and staff rotation.

The South African Revenue Services received a total 37 requests, 13 of were granted in full, and 10 were refused in full, no reasons were provided for the refusals or grounds for refusal relied upon for the refusals.

7. CHALLENGES

Over the years, a number of challenges were identified, most notably in respect of implementation and compliance with reporting obligations by both public and private bodies. Most commonly occurring challenges have been cited as including interpretational issues, inadequate operational readiness to effectively implement PAIA, and a culture of secrecy which perceives the provision of information as increasing the risk of vulnerability. Other challenges pertain to the legislation itself which until current amendments carried no deterrent penalties, leaving enforcement to the highest oversight authority in the form of Parliament. In addition, the practical consequence of PAIA on small business resulted in an exemption on compliance and moratoriums on compliance. Through the evolution of the statute clear amendments would have been preferred to bring certainty to the sector. In addition, requirements relating to a number of report based obligations could benefit from streamlining reporting obligations.

As stated above, it is hoped that the powers conferred on the IR will address the deficiencies noted in the absence of enforcement powers.

Below are some of the more systemic challenges observed by the SAHRC over the years. Detail around the challenges is available in the previous PAIA annual reports submitted to Parliament and the challenges below are a mere extract of the wider challenges identified.

- The limited nature of the information required from public bodies in terms of Section 32 of PAIA prevents a substantive analysis of the levels of compliance with the legislation. The statistical data is useful but lends only to a superficial assessment of the handling of requests for information in terms of the PAIA by public bodies, thereby limiting the value of such analysis to reform efforts;

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- The SAHRC's limited resources had serious implications for the extent and reach of work on PAIA. In addition, inadequate resources prevented adequate verification measures to be applied for assurance of the Section 32 report contents. The concerns around adequacy of resources will hopefully be addressed for the successful operation of the IR;
 - The absence of policies pertinent to the implementation of the PAIA in public bodies is also with concern. Consultations with some institutions revealed that no records management policies are in place, and that no records manager had been appointed. Most institutions have not designated DIOs, which affects accountability and effectiveness for compliance and implementation of PAIA;
 - In refusing requests, public bodies do not consistently rely on grounds for refusal set out in the PAIA. This constitutes an incorrect application of the Act, especially in the light of the fact that the grounds for refusal must be narrowly construed so that disclosure is the rule, and exemption from disclosure is the exception;
 - One of the greatest challenges observed by the SAHRC through monitoring implementation of the PAIA over the course of almost two decades, is the continued failure of local government to ostensibly make any attempts to comply with the PAIA;
 - As mentioned above the public SAHRC's lack of resources required to conduct PAIA training and law clinics across the local government sector has always been a challenge post 2016. It is necessary for Parliament to intervene in an effort to improve PAIA compliance amongst municipalities by allocating adequate resources to the IR;
 - The SAHRC's lack of enforcement powers in respect of PAIA notably hindered effective enforcement and the amendment empowering the IR to enforce compliance is welcomed. In this regard, the strategy for enforcement by the IR will be important in demonstrating the non-negotiable responsibility by organs of state to comply with PAIA at least at the level of reporting;
 - Audits of readiness and orientation of public and private bodies are necessary to assess whether compliance and delivery on the PAIA obligations are adequate. Public institutions have often used inadequate financial resources as a major factor for

poor implementation of the PAIA. While resource constraints do influence implementation, they do not justify a complete disregard of the PAIA. Adequate resourcing and accountability for PAIA performance is urgently required and recommended in respect of all organs of state. It is recommended that such an exercise is commenced at local government level as a priority.

8. SECTION 32 REPORTING INFORMATION

Each year, the SAHRC issues Section 32 reporting templates to public bodies. Despite the PAIA having been in operation for close to two decades, public bodies either do not comply with Section 32 reporting obligations, or often submit such reports to the SAHRC late. Whereas the deadline for Section 32 reports is the 31 May, reports are not infrequently received by the SAHRC as late as September of that year. The levels of compliance and timely submission of reports lend to negative inferences about the timely handling of actual requests for access to information from the public.

The reports received from multiple levels of government in terms of Section 32 of PAIA in the reporting are provided below.

COLOUR KEY



	HAS COMPLIED WITH SECTION 32 REPORTING
	HAS NOT COMPLIED WITH SECTION 32 REPORTING

8.1 National departments

NATIONAL DEPARTMENTS	Number of requests received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of requests refused in full	Number of requests refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision	Other information relating to implementation

(section 77(3))

The Presidency	20	8	0	3	0	3	4	3	1	0	0	
Department of Planning Monitoring and Evaluation												
Parliament of the Republic of South Africa	1	0	0	0	0	0	0	0	0	0	0	
Department of International Relations and Cooperation	9	0	0	5	1	6	0	0	0	0	0	
Department of Communications												
Department of Trade and Industry	35	8	0	4	10	11	8	2	0	0	0	
Department of Justice & Constitutional Development	159	25	0	7	9	16	19	0	0	0	0	

Public Administration Leadership and Management Academy/ National School of Government												
Department of Economic Development	6	5	0	1	0	0	2	0	0	0	0	
Department of Science and innovation												
Department of Defence												
Department of Energy												
Department of Mineral Resources												
Department of Cooperative Governance	9	2	0	2	2	4	5	1	0	1	0	
Department of Correctional Services	121	89	0	7	2	2	7	7	0	1	1	
Department of Environmental Affairs	68	27	0	0	8	8	15	5	1	1	0	
Department of Agriculture, Forestry and Fisheries	50	18	0	5	6	11	33	1	1	1	5	
Department of Basic Education	15	5	0	0	0	0	0	0	0	0	0	
Department of Social Development	6	5	0	0	0	0	3	0	0	0	0	

National Treasury	24	9	0	5	3	8	8	4	3	0	0	
South African Police Service	12706	10704	95	307	108	415	889	298	111	298	162	
Department of Rural Development and Land Reform												
Department of Public Service and Administration	2	0	0	1	1	2	0	0	0	0	1	
Department of Labour	12	3	0	0	0	0	0	1	0	0	0	
Department of Health												
Department of Small Business Enterprise	4	3	0	0	1	1	0	1	0	0	0	
Department of Human Settlements	12	3	0	0	0	0	0	1	0	0	0	
Department of Government Communications and Information Systems												
Department of Tourism	1	0	0	0	0	0	0	0	0	0	0	
Department of Roads Transport												
Department of Arts and Culture, archives and records services of South Africa												
Department of Military Veterans												

Civilian Secretariat of Police													
Department of Public Works													
Department of State Security													
Department of Traditional Affairs	2	0	0	0	0	0	0	0	0	0	0	0	
Department Sports and Recreation South Africa													
Statistics South Africa													
Department of Women	0	0	0	0	0	0	0	0	0	0	0	0	
Department of Home Affairs													
Department of Public Enterprises	2	0	0	0	1	1	1	0	0	0	0	1	
Department of Water and Sanitation													
Department of Higher Education and Training	8	6	0	0	0	2	0	2	0	0	0	2	
Department of Small Business Development	1	1	0	0	0	0	5	0	0	0	0	0	
Department of Infrastructure Development													

Department of Telecommunications and Postal Services												
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8.2 Provincial departments

8.2.1 Eastern Cape

PROVINCIAL DEPARTMENTS	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation

EASTERN CAPE												
Office of the Premier												
Provincial Treasury												
Department of Safety and Liaison												
Department of Health												
Department of Local Government and Traditional Affairs												
Department of Transport												
Department of Roads and Public Works												
Department of Human Settlements												
Department of Social Development												
Department of Sport, Recreation, Arts and Culture												
Department of Economic Development, Environmental Affairs and Tourism												
Department of Rural Development and Agrarian Reform												

Department of Education												
Department of Finance												

8.2.2 Free State

	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
FREE STATE												
Office of the Premier	16	10	0	0	0	0	0	0	0	0	0	
Department of Sports, Arts and	2	2	0	0	0	0	0	0	0	0	0	

Culture and Recreation												
Department of Cooperative Governance, Traditional Affairs	1	0	0	1	0	0	0	0	0	0	0	
Department of Economic Development	9	5	0	4	0	3	0	0	0	0	0	
Human settlements	2	0	0	1	1	0	1	0	0	0	0	
Department of Education	4	0	0	0	0	1	0	1	1	0	1	
Department of Police, Roads and Transport	0	0	0	0	0	0	0	0	0	0	0	
Department of Social Development	0	0	0	0	0	0	0	0	0	0	0	
Department of Agriculture and Rural Development	2	2	1	0	0	0	1	0	0	0	1	
Department of Small Business Development, Tourism and Environmental Affairs												
Department of Public Works	9	2	0	0	0	0	1	0	0	1	1	
Department of Health	85	16	0	0	0	0	0	17	0	0	17	
Provincial Treasury	6	5	0	0	1	1	1	0	0	0	0	

8.2.3 Gauteng

PROVINCIAL DEPARTMENTS	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
GAUTENG												
Office of the Premier												
Department of Agriculture and Rural Development	46	46	0	0	0	0	0	0	0	0	0	
Department of Economic Development												

Department of Social Development												
Department of Health												
Department of Finance												
Department of Community Safety												
Provincial Treasury	1	0	0	0	0	0	0	0	0	0	0	
Department of Education												
Department of Roads and Transport												
Department of Sports, Culture and Recreation												
Department of Human Settlements, Co-operative Governance and Traditional Affairs												
Department of Infrastructure Developments												

8.2.4 KwaZulu-Natal

PROVINCIAL DEPARTMENTS	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
KWAZULU NATAL												
Office of the Premier	3	1	0	0	1	0	1	0	0	0	0	
Provincial Treasury	1	0	0	0	0	0	0	0	0	0	0	
Department of Agriculture and Rural Development	3	2	0	0	0	0	1	0	0	0	0	
Department of Transport	762	761	0	1	0	1	0	1	0	1	0	

Department of Social Development												
Department of Health	5253	4750	1	12	2	0	533	9	0	0	0	
Department of Community Safety and Liaison	2	1	0	1	0	1	0	0	0	0	0	
Department of Sports and Recreation												
Department of Human Settlements	5	3	0	1	1	1	0	1	0	0	0	
Department of Public Works	4	4	0	1	1	2	8	0	0	1	0	
Department of Economic Development, Tourism and Environmental Affairs												
Department of Arts and Culture												
Department of Co-operative Governance and Traditional Affairs												
Department of Education												

8.2.5 Limpopo

PROVINCIAL DEPARTMENTS	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
LIMPOPO												
Office of the Premier	3	3	0	0	0	0	0	0	0	0	0	
Department of Cooperative Governance, Human Settlement and Traditional Affairs	92	78	0	0	0	0	0	0	0	0	0	
Department of Agriculture	5	4	0	0	1	1	5	0	0	0	0	

Department of Social Development	5	2	0	0	3	0	0	0	0	0	0	
Department of Health	4458	4457	0	2	0	2	0	3	0	3	0	
Department of Economic Development, Environment and Tourism	22	17	0	5	0	5	6	1	1	0	0	
Department of Transport	20	14	0	0	0	0	0	0	0	0	0	
Department of Public works, Roads and Infrastructure	6	3	0	2	1	2	0	0	0	0	0	
Department of Safety Security and Liaison	20	14	0	0	0	0	0	0	0	0	0	
Department of Sports, Arts and Culture	0	0	0	0	0	0	0	0	0	0	0	
Department of Education	14	4	0	0	0	0	2	0	0	2	0	
Provincial Treasury	10	10	0	0	0	0	0	0	0	0	0	

8.2.6 Mpumalanga

PROVINCIAL GOVERNMENT	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
MPUMALANGA												
Office of the Premier												
Department of Treasury	4	4	0	0	0	0	0	0	0	0	0	
Department of Public Works	0	0	0	0	0	0	0	0	0	0	0	
Department of Cooperative Governance and Traditional Affairs												

Department of Culture, Sport and Recreation												
Department of Social Development												
Department of Education												
Department of Health												
Department of Human Settlements												
Department of Agriculture, Rural Development and Land Administration												
Department of Community Safety, Security and Liaison												
Department of Economic Development and Tourism.												

8.2.7 Northern Cape

PROVINCIAL GOVERNMENT	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
NORTHERN CAPE												
Office of the Premier												
Department of Co-operative Governance, Human Settlements and Traditional Affairs												
Department of Agriculture, Land Reform and Rural Development												

Department of Education	1	1	0	0	0	0	0	0	0	0	0	
Department of Environment and Nature Conservation												
Department of Social Development												
Provincial Treasury												
Department of Sports, Arts and Culture												
Department of Roads and Public Works												
Department of Economic Development and Tourism.												
Department of Health												
Department of Transport, Safety and Liaison												

8.2.8 North West

North West PROVINCIAL GOVERNMENT	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
NORTH WEST												
Office of the Premier												
Department of Public Works, Roads and Transport.												
Department of Treasury	2	2	0	0	0	0	0	0	0	0	0	
Department of Sports, Arts and Culture												

Department of Human Settlements, Public Safety and Liaison												
Department of Women, Children and People with Disabilities.												
Department of Rural Environment and Agricultural Development												
Department of Education												
Department of Local Government and Traditional Affairs												
Department of Health												
Department of Social Development												

8.2.9 Western Cape

POVINCIAL GOVERNMENT	Number of requests received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
WESTERN CAPE												
Office of the Premier	13	10	0	0	2	0	3	0	0	0	0	
Provincial Parliament												
Department of Economic Development and Tourism	0	0	0	0	0	0	0	0	0	0	0	
Department of Environmental Affairs and Planning	52	32	0	3	0	3	3	0	0	0	0	

Department of Health	835	606	0	2	3	44	0	2	25	25	25	
Department of Human Settlements	4	4	0	0	0	0	2	0	0	0	0	
Department of local government	1	1	0	0	0	0	0	0	0	0	0	
Provincial Treasury	2	1	0	0	0	1	0	0	0	0	0	
Department of Agriculture	3	3	0	0	0	0	1	0	0	0	0	
Department of Transport and Public Works	20	12	0	0	0	0	13	1	0	0	0	
Department of Education	22	18	0	0	0	0	3	3	3		0	
Department of Cultural Affairs and Sport	0	0	0	0	0	0	0	0	0	0	0	
Department of Community Safety	0	0	0	0	0	0	0	0	0	0	0	
Department of Social Development	1	1	0	0	0	0	0	0	0	0	0	

8.3 Municipalities

Non-compliant Municipalities			
Eastern Cape Province	Chris Hani District	Mlhontlo Local Municipality	Ngwathe Local Municipality
Buffalo City Metropolitan	Emalahleni Local Municipality	Nyandeni Local Municipality	Lejelweputswa District
Alfred Nzo District	Engcobo Local Municipality	Port St Johns Local Municipality	Masilonyana Local Municipality
Matatiele Local Municipality	Inkwanca Local Municipality	Sarah Baartman District	Matjhabeng Local Municipality
Mbizana Local Municipality	Intsika Yethu Local Municipality	Bavivaans Local Municipality	Nala Local Municipality
Ntabankulu Local Municipality	Inxuba Yethemba Local Municipality	Blue Crane Route Local Municipality	Thabo Mofutsanyana District
Umzivubu Local Municipality	Lukhanji Local Municipality	Camdeboo Local Municipality	Dihlabeng Local Municipality
Amathole District	Sakhisizwe Local Municipality	Ikwezi Local Municipality	Maluti-A-Phofung Local Municipality
Amahlathi Local Municipality	Tsolwana Local Municipality	Kou-Kamma Local Municipality	Mantsopa Local Municipality
Great Kei Local Municipality	Gariiep Local Municipality	Kouga Local Municipality	Nketoana Local Municipality
Mbhashe Local Municipality	Maletswai Local Municipality	Makana Local Municipality	Phumelela Local Municipality
Mnquma Local Municipality	OR Tambo District	Ndlambe Local Municipality	Kopanong Local Municipality
Nxuba Local Municipality	Ingquza Hill Local Municipality	Sunday River Valley Local Municipality	Imbabazane Local Municipality
Ngqushwa Local Municipality	Greater Kokstad Local Municipality	Metsimaholo Local Municipality	Nkandla Local Municipality
Nkonkobe Local Municipality	Ingwe Local Municipality	Moqhaka Local Municipality	Ntambanana Local Municipality
Letsemeng Local Municipality	Ubuhlebezwe Local Municipality	Richmond Local Municipality	Zululand District Municipality
Mohokare Local Municipality	uMzimkhulu Local Municipality	Msunduzi Local Municipality	AbaQulusi Local Municipality

Naledi Local Municipality	Ilembe District Municipality	uMngeni Local Municipality	eDumbe Local Municipality
Emfuleni Municipality	KwaDukuza Local Municipality	uMshwathi Local Municipality	Nongoma Local Municipality
Lesedi Local Municipality	Maphumulo Local Municipality	Tswelopele Local municipality	Ulundi Local Municipality
West Rand District	Ndwedwe Local Municipality	Mafube Municipality	uPhongolo Local Municipality
Merafong City Local Municipality	Ezinqoleni Local Municipality	Xhariep Local Municipality	Aganang Local Municipality
Randfontein Local Municipality	Umdoni Local Municipality	Tokologo Local Municipality	Blouberg Local Municipality
Westonaria Local Municipality	Umuziwabantu Local Municipality	Fezile Dhabu Municipality	Molemole Local Municipality
Amajuba District Municipality	Umzumbe Local Municipality	uMkhanyakude Local Municipality	Mopani District Municipality
Umsinga Local Municipality	Vulamehlo Local Municipality	Hlabisa Local Municipality	Ba-Phalaborwa Local Municipality
eMadlangeni Local Municipality	uMgungundlovu Local Municipality	Jozini Local Municipality	Greater Giyani Local Municipality
Newcastle Local Municipality	Impendle Local Municipality	Mtubatuba Local Municipality	Greater Tzaneen Local Municipality
Harry Gwala District Municipality	Mkhambathini Local Municipality	uMhlabuyalingana Local Municipality	Richtersveld Local Municipality
Maruleng Local Municipality	Mpofana Local Municipality	uMzinyathi District Municipality	Renosterberg Local Municipality
Sekhukhune District Municipality	Mookgophong Local Municipality	Umvoti Local Municipality	Siyancuma Local Municipality
Elias Mostoaledi Local Municipality	Thabazimbi Local Municipality	uThukela District Municipality	Siyathemba Local Municipality
Ephraim Local Municipality	Ehlanzeni District Municipality	Indaka Local Municipality	Thembelihle Local Municipality
Fetakgomo Local Municipality	Bushbuckridge Local Municipality	uMtshezi Local Municipality	Ubuntu Local Municipality
Greater Tubatse Local Municipality	Mbombela Local Municipality	uThungulu District Municipality	Umsobomvu Local Municipality
Makhuduthamaqa Local Municipality	Nkomazi Local Municipality	uMlalazi Local Municipality	ZF Mgcawu District
Big 5 Hlabisa municipality	Thaba Chewu Local Municipality	Steve Tshwete Local Municipality	Lekwa Local Municipality
Nquthu local municipality	Dipaleseng Local Municipality	Victor Khanye Local Municipality	Mkhondo Local Municipality

Kwa-Sani local municipality	Witzenberg Local Municipality	Dikgatlong Local Municipality	Msukaligwa Local Municipality
Sibonelo local municipality	Beaufort West Local Municipality	Magareng Local Municipality	Nkangala District Municipality
Emduneni local municipality	Prince Albert Local Municipality	Phokwane Local Municipality	Dr JS Moroka Local Municipality
Okkhahlamba Municipality	Eden District Municipality	Sol Plaatje Local Municipality	Emakhazeni Local Municipality
Hibiscus Municipality	Bitou Local Municipality	John Taolo Gaetsewe District	Emalaheni Local Municipality
Vhembe District Municipality	Kannaland Local Municipality	Ga-Segonyana Local Municipality	Ditsobotla Local Municipality
Makhado Local Municipality	Knysna Local Municipality	Gamagara Local Municipality	Mahikeng Local Municipality
Musina Local Municipality	Oudtshoorn Local Municipality	Joe Morolong Local Municipality	Ramotshere Moiloa Local Municipality
Mutale Local Municipality	Khai-Ma Local Municipality	Namakwa District	Ratlou Local Municipality
Thulamela Local Municipality	Nama Khoi Local Municipality	Hantam Local Municipality	Bojanala Platinum District
Waterberg District Municipality	Overstrand Local Municipality	Kamiesberg Local Municipality	Kgetlengrivier Local Municipality
Bela-Bela Local Municipality	Bergrivier Local Municipality	Karoo Hoogland Local Municipality	Dr Ruth Segomotsi Mompati Local Municipality
Lephalale Local Municipality	Cederberg Local Municipality	Tswaing Local Municipality	Greater Taung Local Municipality
Modimolle Local Municipality	Matzikama Local Municipality	Madibeng Local Municipality	Kagisano-Molopo Local Municipality
Mogalakwena Local Municipality	Kheis Local Municipality	Moretele Local Municipality	Lekwa-Teemane Local Municipality
Mamusa Local Municipality	Khara Hais Local Municipality	Moses Kotane Local Municipality	
Naledi Local Municipality	Kai Garib Local Municipality	Rustenburg Local Municipality	
Ngaka Modiri Molema District	Kgatelopele Local Municipality	Dr Kenneth Kuanda District	
	Mier Local Municipality	Maquassi Hills Local Municipality	
	Tsantsabane Local Municipality	Ventersdorp Local Municipality	

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Compliant Municipalities

LOCAL GOVERNMENT	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
EASTERN CAPE												
Nelson Mandela Bay Municipality	35	22	2	5	8	3	5	4	1	3	1	
Joe Gqabi Municipality	1	1	0	0	0	0	0	0	0	0	0	
Senqu Local Municipality	1	1	0	0	0	0	0	0	0	0	0	
GAUTENG												
Tshwane Municipality	65	41	0	4	4	5	1	0	0	0	0	

Mogale City Municipality	2	2	0	0	0	0	0	0	0	0	0	
City of Johannesburg Municipality	130	74	0	2	6	1	17	3	2	1	0	
Ekurhuleni Municipality	31	20	0	4	3	5	1	0	1	0	0	
Midvaal Local Municipality	37	37	0	0	0	0	0	0	0	0	0	
Sedibeng Municipality	2	1	1	0	1	0	0	0	0	0	0	
FREE STATE												
Setsoto Local Municipality	7	4	0	0	0	0	0	2	0	0	0	
KWAZULU-NATAL												
Umhlatuze Municipality	29	24	1	0	0	1	1	2	0	0	0	
King Cetshwayo Municipality	3	3	0	0	0	0	0	0	0	0	0	
Ethekwini Municipality	65	38	0	5	2	7	26	4	0	1	0	
Danhauser Municipality	0	0	0	0	0	0	0	0	0	0	0	
Umfolazi Municipality	1	0	0	0	1	0	0	0	0	0	0	
Ugu	0	0	0	0	0	0	0	0	0	0	0	

Municipality												
Mthonjeni Municipality	0	0	0	0	0	0	1	0	0	0	0	
NORTHERN CAPE												
Frances Baard District Municipality	0	0	0	0	0	0	0	0	0	0	0	
Kareeberg Municipality	0	0	0	0	0	0	0	0	0	0	0	
Pixley Ka Seme Municipality	0	0	0	0	0	0	0	0	0	0	0	
NORTH WEST												
MPUMALANGA												
Govan Mbeki Municipality	3	3	0	0	0	0	0	0	0	0	0	
Polokwane municipality	21	10	2	1	9	0	0	0	0	0	0	
Lepelle Nkumpi Municipality	1	0	0	0	0	9	0	0	0	0	0	
Pixley Ka Seme Municipality	0	0	0	0	0	0	0	0	0	0		
LIMPOPO												
Capricorn District Municipality	2	2	0	0	0	0	0	0	0	0	0	

WESTERN CAPE												
Theewaterskloof Local Municipality	12	10	0	0	2	2	0	0	0	0	0	
Cape Winelands Municipality	0	0	0	0	0	0	0	0	0	0	0	
City of Cape Town	618	240	0	204	81	117	50	20	80	0	0	
Drakenstein Municipality	13	9	0	0	2	2	0	0	0	0	0	
Langesberg Local Municipality	4	4	0	0	0	0	0	0	0	0	0	
Oudsthoorn Municipality	8	6	0	2	0	0	0	0	0	0	0	
George Municipality	97	76	0	21	0	0	0	0	0	0	0	
Swellendam Municipality	0	0	0	0	0	0	0	0	0	0	0	
West Coast District Municipality	19	19	0	0	0	0	0	0	0	0	0	
Swartland Municipality	3	3	0	0	0	0	0	0	0	0	0	
Saldana Bay Municipality	15	10	0	4	1	5	4	0	0	0	0	
Overstrand Municipality	70	19	0	47	3	48	1	2	0	2	0	

Cape Agulhus Municipality	5	4	0	0	0	0	0	0	0	0	0	
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8.4 Chapter 9 and 10 institutions

Chapter 9 and 10 Institutions	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
The Office of the Public Protector												
The South African Human Rights Commission	2	0	0	0	2	2	1	0	0	0	0	
The Commission for the Promotion and Protection of the Rights of Cultural,												

Religious and Linguistic Communities												
The Auditor General of South Africa	8	2	0	3	0	3	6	0	0	0	1	
The Commission for Gender Equality												
The Electoral Commission	1	1	0	0	0	0	0	0	0	0	0	
Independent Communications Authority of South Africa												
Public Service Commission												
Financial and Fiscal Commission												

8.5 Other Public Bodies

OTHER BODIES	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in	Number of instances in which the periods stipulated in section 25(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a	Number of applications to court on grounds that an internal appeal	Other information relating to implementation
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						full or partial	were extended in terms of section 26(1)			deemed refusal	was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	
Council for Medical Schemes												
Eastern Cape Gambling Board	0	0	0	0	0	0	0	0	0	0	0	
Road Accident Fund	7560	6357	0	1203	0	1203	1463	0	0	0	0	
Accounting Standards Board	0	0	0	0	0	0	0	0	0	0	0	
Air Traffic and Navigation Services SOC												
Broadcasting Complaints Commission of South Africa												
Blind South Africa												
Culture, Art, Tourism, Hospitality, and Sport Sector Education and	0	0	0	0	0	0	0	0	0	0	0	

Training Authority													
Compensation Fund	43	25	5	0	0	0	6	9	0	0	0		
CCMA	1	1	0	0	0	0	1	0	0	0	0		
Companies and Intellectual Property Commission													
Dube Trade Port	0	0	0	0	0	0	0	0	0	0	0		
Development Bank of South Africa	3	3	0	0	0	0	1	0	0	0	0		
East London Industrial development zone	3	2	0	0	1	1	1	1	1	0	0		
Eastern Cape liquor Board	1	1	0	0	0	0	1	0	0	0	0		
Eastern Cape Development Corporation	3	3	0	0	0	0	0	0	0	0	0		
Financial and Fiscals Commission	0	0	0	0	0	0	0	0	0	0	0		
Financial Sector Conduct Authority	21	15	0	4	0	4	7	0	0	1	0		
Denel													
Alexor SOC													
Market Theatre Foundation													

South African National Biodiversity Institute	8	2	0	1	5	5	1	0	1	0	0	
ESKOM												
Land and Agricultural Development Bank of South Africa												
Ithala Development Finance Corporation	2	2	0	0	0	0	0	0	0	0	0	
Independent Regulatory Board for Auditors (South Africa)	3	0	0	2	1	1	1	0	0	0	0	
Independent Communications Authority of South Africa	3	1	0	1	1	1	0	1	1	0	0	
Independent Regulatory Board	3	0	0	0	2	1	1	0	0	0	0	
Gauteng Gambling Board	3	2	0	0	0	0	0	1	0	0	0	
National Urban Reconstruction and Housing Agency												
National Housing Finance Corporation												

National School of Governance												
National Credit Regulator	3	0	0	3	0	3	0	0	0	0	0	
Nelson Mandela University												
Airports Company South Africa												
Land Bank	0	0	0	0	0	0	0	0	0	0	0	
Legal Aid South Africa	3	2	0	0	0	1	2	0	0	0	0	
National Nuclear Regulator	1	0	0	1	0	1	0	0	0	0	0	
National student Financial Aid Scheme	7	7	7	0	0	0	0	0	0	0	0	
National Lotteries	4	1	0	0	2	0	0	0	0	0	0	
National Energy Regulator of South Africa	8	8	0	0	0	0	2	0	0	0	0	
Export Credit Insurance Corporation of South Africa												
South African Reserve Bank	8	2	0	2	3	6	1	0	0	0	0	

SA Express Airways SOC Limited													
National Prosecuting Authority													
Information Regulator of South Africa													
KZN Growth Fund Trust													
Windybrow Theatre													
Legal Services Department													
Public Service Commission	0	0	0	0	0	0	0	0	0	0	0	0	
PSG Konsult limited	0	0	0	0	0	0	0	0	0	0	0	0	
North West University	77	50	0	22	4	3	1	0	0	0	0	0	
University of the Witwatersrand	4	0	0	0	4	4	1	2	0	0	0	0	
University of Kwa-Zulu Natal	12	6	0	3	3	5	5	0	0	0	0	0	
Unemployment Insurance Fund	12	5	0	6	1	1	1	0	0	5	0	0	
Western Cape Gambling Board	0	0	0	0	0	0	0	0	0	0	0	0	

ZA Domain Ltd	0	0	0	0	0	0	0	0	0	0	0	
Nkoka Training cc												
Council of Scientific and Industrial Research												
Mining Qualifications Authority												
South African Qualifications Authority												
South African Revenue Services	37	13	0	10	1	10	6	3	1	0	0	
Freedom Park	7	7	0	0	0	0	0	0	0	0	0	
Film and Publication Board												
Office of the Chief Justice												
Public Investment Corporation												
Potato Certification Service												

South African Veterinary Council												
South African Forestry Company SOC	0	0	0	0	0	0	0	0	0	0	0	
South African Pharmacy Council												
SASRIA SOC	0	0	0	0	0	0	0	0	0	0	0	
South African Social Security Agency												
Small Enterprise Finance Agency												
Services Seta												
Stellenbosch University	4	1	0	0	3	3	1	0	0	0	0	
Free State Development Corporation												
East London Industrial Development Zone SOC Ltd												
University of Free State												

Telkom	8	4	0	4	0	4	0	1	1	0	0	
Transnet												
Rand Water	12	10	0	2	0	2	0	1	0	0	0	