

Ref: CM/45/23



**INFORMATION
REGULATOR
(SOUTH AFRICA)**

*Ensuring protection of your personal information
and effective access to information*

COMPLIANCE ASSESSMENT REPORT OF THE INFORMATION REGULATOR

(Targeted-Based Compliance Assessment)

Assessment Date: 30 August 2023

NAME OF BODY

Office of the Chief Justice

TYPE OF THE BODY

Public Body

Report Number: 52 of 2023/2024

Issued in terms of Regulation 14 (6) of Regulations relating to the Promotion of Access to
Information, 2021

1. BACKGROUND

- 1.1 This is an Assessment Report (“Report”) of the Information Regulator (“Regulator”) issued in terms of Regulation 14(6) of the Regulations relating to the Promotion of Access to Information, 2021 (“Regulations”).
- 1.2 The decision to conduct an assessment was taken in terms of section 77H(1) of the Promotion of Access to Information Act 2 of 2000 (PAIA), which empowers the Regulator to conduct own initiative assessment on whether a public or private body complies with the provisions of the PAIA insofar as its policies and implementation procedures are concerned.
- 1.3 The Regulator has, in terms of its Compliance, Monitoring, and Enforcement Framework, mechanisms to measure compliance by the public and private bodies and to assist public and private bodies foster a culture of compliance and commitment to the right of access to information and PAIA effectively.
- 1.4 The Regulator has decided to conduct its compliance and monitoring assessment for this financial year, through a targeted-based approach tool. A total of one hundred and eight (108) institutions have been identified, these being public and private bodies in a specific sector or industry.
- 1.5 The compliance assessment for the second quarter focused on the National Departments.

2. INTRODUCTION

- 2.1 The Information Officer of the public body is required, in terms of section 14(1) of PAIA, as amended, to compile a PAIA Manual in at least three (3) official languages. The PAIA Manual must provide details to the public on how they can get access to the records held by the body.
- 2.2 The Manual must be made available, as prescribed in section 14(3) of PAIA.
- 2.3 In terms of section 15 of PAIA, the Information Officer of the national department must develop and make available the notice of records that are automatically

available without the public having to make a formal request. Once the Notice has been compiled it must be made available in terms of Regulation 4(3).

2.4 The Information Officer has an obligation, in terms of section 17(1) of PAIA, to designate such number of persons as Deputy Information Officers as are necessary to render the public body accessible for requesters to access its records as envisaged in PAIA. The Information Officer may, in terms of section 17(3) of PAIA, delegate a power or duty conferred or imposed on that Information Officer by PAIA to a Deputy Information Officer of that public body.

2.5 The Information Officer must submit to the Regulator, an Annual Report in accordance with section 32 of PAIA.

2.6 The Information Officer must make available a copy of the PAIA Guide in accordance with PAIA Regulation 3(1).

3. TARGETED-BASED ASSESSMENT ON COMPLIANCE

3.1 This Report outlines the Regulator's detailed findings on whether: -

3.1.1 the body complies with section 14 of PAIA, as amended, in so far as it relates to the Information Officer's obligation to:

3.1.1.1 compile a PAIA Manual; and

3.1.1.2 make the PAIA Manual available-

a) In at least three (3) official languages;

b) on the website, if any, of the public body;

c) at the principal place of business of the public body for public inspection during normal business hours;

3.1.2 the Information Officer of a public body has designated or delegated a Deputy Information Officer(s), in terms of sections 17(1) and (3) of PAIA,

read with sections 56(a) and b) of the Protection of Personal Information Act 4 of 2013 (POPIA).

3.1.3 the Information Officer has developed a notice in terms of section 15 and made the notice available:

3.1.3.1 to the Information Regulator;

3.1.3.2 on the website of the public body, if any

3.1.3.3 at the principal place of business for inspection during normal business hours.

3.1.4 the Information Officer has submitted to the Regulator, its report in accordance with section 32 of PAIA, for the previous financial year; and

3.1.5 the Information Officer has made the PAIA Guide available-

3.1.5.1 on the website of the public body, if any

3.1.5.2 at the principal place of business for inspection during normal business hours.

4. COMPLIANCE ASSESSMENT QUESTIONNAIRE

The information officer was assessed on the following: -

ITEM	DESCRIPTION	STATUS	
		Compliance	Non-Compliance
PAIA MANUAL (Section 14 of PAIA)			
Has the Information Officer of the public body-			
	a) compiled a PAIA Manual	X	

ITEM	DESCRIPTION	STATUS	
		Compliance	Non-Compliance
Does the PAIA Manual contain-			
a)	a description of its structure and functions of the body?	X Pg 6,11	
b)	key contact details (the postal and street address, phone, and fax number, and, if available, electronic mail address) of the Information Officer of the body and of every deputy Information Officer of the body designated in terms of section 17 (1) of PAIA?	X Pg 7	
c)	a description of all remedies available in respect of an act or a failure to act by the body?		X
d)	a description of the PAIA Guide, as developed by the Regulator, and how to obtain access to the guide?		X
e)	a description of the subjects on which the body holds records and the categories of records held on each subject?		X
f)	The latest notice, if any, regarding the categories of records of the body that are available without a person having to request access in terms of PAIA?	X Para 8.3	
g)	A description of services available to members of the public and how to gain access to those services.		X
h)	a description of public involvement in the formulation of policy and the exercise of powers or performance of duties by the body?		X
PROCESSING OF PERSONAL INFORMATION			
a)	Purpose of Processing Personal Information- <i>Does the Manual describe the purpose or reasons for processing personal information in your organization?</i>		X

ITEM	DESCRIPTION	STATUS	
		Compliance	Non-Compliance
b)	Categories of Data Subjects and their Personal Information- <i>Does the Manual specify the categories of data subject in which the body process their personal information and the nature of the personal information being processed?</i>		X
c)	The recipients or categories of recipients to whom the personal information may be supplied- <i>Does the Manual specify the person or category of persons who the body may disseminate personal information to?</i>		X
d)	Planned transborder flows of personal information. <i>Does the Manual specify if the body has planned transborder flows of personal information?</i>		X
e)	General Description of Information Security Measures to be implemented by the responsible party to ensure the confidentiality, integrity, and availability of the information.: <i>Does the manual specify the nature of the security measures to ensure the suitable and optimum security, confidentiality, integrity, and availability of the personal information under the care of the body?</i>		X
AUTOMATIC AVAILABILITY OF CERTAIN RECORDS OF PUBLIC BODIES (Section 15 of PAIA)			
a)	Has the body compiled the latest notice of categories of records that are automatically available without a requester having to request access thereto?		X
b)	If a notice is compiled, has the latest notice of records that are automatically available made available.		

ITEM	DESCRIPTION	STATUS	
		Compliance	Non-Compliance
	<ul style="list-style-type: none"> ▪ to the Information Regulator; 		X
	<ul style="list-style-type: none"> ▪ on the website of the public body; and 		X
	<ul style="list-style-type: none"> ▪ at the head office of a public body, for inspection. 		X
DESIGNATION AND DELEGATION OF DEPUTY INFORMATION OFFICERS (Section 17(1) and (17(3) of PAIA)			
a)	Has the body designated or delegated Deputy Information Officer(s)?		X
	If yes, how many?	NONE	
AVAILABILITY OF PAIA MANUAL (Section 14(3)(a) and (b) of PAIA)			
Is the PAIA Manual available, as prescribed in section 14(3)(a) and (b) of PAIA?	in at least three (3) official languages?		X
	on the website of the body?		X
	at the principal place of business of the private body for public inspection during normal business hours.		X
ITEM	DESCRIPTION	STATUS	
		Compliance	Non-Compliance

ANNUAL REPORT IN TERMS OF SECTION 32 OF PAIA (2022/2023 Financial Year)			
a)	Has the Information Officer submitted its Annual Report to the Regulator, in the previous financial year?		X
AVAILABILITY OF A COPY OF THE PAIA GUIDE (PAIA Regulation 3(1))			
a)	Has the Information Officer made available a copy of the PAIA Guide, in at least two (2) of the official languages, at his or her registered head office, for public inspection during normal office hours? - PAIA Regulation 3(1),		X
	If yes, which official languages?	1. N/A	
		2. N/A	

5. FINDINGS

Having conducted and concluded the assessment on the issues identified in paragraph 4 above, the Regulator makes the following detailed findings and recommendations in terms of Regulations 14(6) -

5.1 Findings

5.1.1 Our compliance assessment has found that the Information Officer of the public body has compiled a PAIA Manual, however, the Manual was neither available in at least three (3) official languages nor it was available-

5.1.1.1 on the website of the public body; or

5.1.1.2 at the head office of the public body for public inspection during normal business hours.

5.1.2 The Manual of the body, referred to in paragraph 5.1.1 above, does not contain a description of -

5.1.2.1 all remedies available in respect of an act or failure to act by the body, as it only refers to the remedies relating to failure to act under the PAIA. The Manual does not include the available remedies in respect of an act or a failure to act by the body, in so far as it relates to the performance of its functions. Therefore, the Manual is non-compliant with section 14(1)(a)(iii) of PAIA.

5.1.2.2 any arrangement or provision for a person by consultation, making representations or otherwise, to participate in or influence the formulation of policy or the exercise of powers or performance of duties by the body. Therefore, the Manual is non-compliant with section 14(1)(b)(v) of PAIA.

5.1.3 Although the Manual contains a description of how to obtain access to the PAIA Guide, the Manual does contain a description of PAIA Guide, as developed by the Regulator. The Manual is therefore not fully compliant with section 14(1)(b)(i) of PAIA.

5.1.4 Although the Manual contains the categories of records held by the body, it does not contain a description of the subjects on which the body holds records. The Manual is therefore not fully compliant with section 14(1)(b)(ii) of PAIA.

5.1.5 Although the Manual contains the programme structure of the body, it does not contain a description of services available to the public from the body and how to gain access to those services. The Manual is therefore not fully compliant with section 14(1)(b)(iv) of PAIA.

5.1.6 Insofar as the Protection of Personal Information Act is concerned, the Manual of the body, referred to in paragraph 5.1.1 above, does not comply with section 14(1)(c) of PAIA, in that it does not specify-

5.1.6.1 the purpose of processing personal information by the body;

5.1.6.2 the categories of data subjects and their personal information processed by the body;

5.1.6.3 the recipients or categories of recipients to whom personal information may be supplied;

5.1.6.4 if the body has planned transborder flows of personal information;

5.1.6.5 general description of information security measures to be implemented by the responsible party to ensure the confidentiality, integrity, and availability of the information.

5.1.7 The Information Officer has failed to submit the Annual Report of the body, for 2022/2023 financial year, to the Regulator, as prescribed in section 32 of PAIA.

5.1.8 Although the Manual contains the categories of records automatically available, the Information Officer has failed to compile a separate Notice of categories of records automatically available, as prescribed in section 15 of PAIA and make it available as prescribed in PAIA regulation 3(1).

5.1.9 Although the names of the DIOs are contained in paragraph 5 of the Manual, the designation / delegation has not been done in writing, as prescribed in section 17(6) of PAIA, read with paragraph 7.7 of the Guidance Note on Information Officers and Deputy Information Officers. Therefore, the Information Officer has failed to designate or delegate Deputy Information Officers (“DIOs”), in accordance with section 17(6) of PAIA, read with paragraph 7.7 of the Guidance Note on Information Officers and Deputy Information Officers.

5.2 Recommendations

5.2.1 Having made the above-mentioned findings, the Regulator has in terms of regulations 14(5), considered the following circumstances of the body, in determining the appropriate recommendations –

5.2.1.1 The nature and the services provided by the body to the public;

5.2.1.2 the purpose of the information under assessment;

5.2.1.3 the likely effect of non-compliance, or of future or continued non-compliance with PAIA by the body;

5.2.1.4 whether such non-compliance has been committed before;

5.2.1.5 whether the body was previously made aware of its earlier or current non-compliance; and

5.2.1.6 the steps taken by the body to comply with the PAIA; and

5.2.1.7 the most effective solution in the public interest to remedy the non-compliance.

5.2.2 Accordingly, having made the above-mentioned findings, the Regulator recommends the following remedial actions –

5.2.2.1 The information officer must update the PAIA Manual of the Body, in accordance with section 14(2) of PAIA, and using the attached PAIA Manual template. The updated manual must contain all available remedies to the public, such as-

5.2.2.1.1 complaint process against the OCJ, Judges or Magistrates;

5.2.2.1.2 Appeal process under PAIA; and

5.2.2.1.3 Lodging a complaint with the Regulator.

5.2.2.2 The Manual must provide a description of services rendered by the body to the public, in line with its mandate and function, and how those services can be accessed by the public.

5.2.2.3 The reviewed or updated Manual, referred to in paragraph 5.2.2.1 above, must be made available-

- a) in at least three (3) official languages;
- b) on the website of the public body; and
- c) at the head office of the public body for public inspection during normal business hours.

5.2.2.4 The Information Officer must, in a separate notice, compile a notice of categories of records that are automatically available, and make such notice available, in accordance with PAIA Regulation 4, as follows:

- a) to the Information Regulator, by submitting the notice to PAIAcompliance@inforegulator.org.za;
- b) on the website of the public body; and
- c) for inspection purposes; at the registered head office of the public body, during normal office hours.

5.2.2.5 An Information Officer must make available, a PAIA Guide (same can be downloaded from <https://inforegulator.org.za/paia-guidelines/>), in at least two (2) of the official languages, and at his or her registered head office, for public inspection during normal office hours.

5.2.2.6 The Information Officer must, in writing, designate and/ or delegate such number of employees as Deputy Information Officers, as are necessary to render the public body as accessible as reasonably possible for requesters of its records. A template of designation or designation letter can be obtained from the Guidance Note on information officers and deputy information officers, available at the Regulator's website.

5.2.2.7 The Information Officer must, between April and June each year, submit the Annual Report of the body to the Regulator, in accordance with section 32 of PAIA.

5.2.2.8 The information officer must consider creating a dedicated email address for PAIA request, which email must be accessible to all DIOs.

5.2.2.9 The information officer must ensure that the PAIA Request form (Form 2) and Appeal Form (Form 4) are contained in the Manual and also uploaded at the website of the body.

6. MONITORING

6.1 The body is required to comply with the recommendations **within three (3) months** of receipt of this report.

6.2 A progress report on the implementation of the recommendations must be submitted to the Regulator monthly or before the 1st day of each month.

6.3 Should the body fail to comply with the recommendations contained herein, the Regulator may, in accordance with Regulator 14(7), refer this report to the Enforcement Committee and an Enforcement Notice may be issued in accordance with section 77J(1)(b) PAIA. In accordance with section 77K of PAIA, an information officer of a public body who refuses to comply with an enforcement notice referred to in section 77J, is guilty of an offence and liable upon conviction to fine or to imprisonment for a period not exceeding three years or to both such a fine and such imprisonment.



Mr Ntsumbedzeni Nemasisi

EXECUTIVE: PAIA

Date: 10 January 2024

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