

PAIA MANUAL

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

May 2025

	HOUSING DEVELOPMENT AGENCY HDA PAIA/POPIA MANUAL	NUMBER 6/4/6
SUBJECT: HDA PAIA/POPIA MANUAL		EFFECTIVE DATE 29 May 2025

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DEPARTMENT:	SIGNATURE:
OFFICE OF THE CEO	CHAIRPERSON OF EXCO

1. LIST OF ABBREVIATIONS AND DEFINITIONS

1.1 ACT	shall mean the Promotion of Access to Information Act 2 of 2000
1.2 AGENCY	shall mean the Housing Development Agency
1.3 BOARD	shall mean the board of directors of the HDA
1.4 DIO	shall mean the Deputy Information Officer
1.5 HDA	shall mean the Housing Development Agency (HDA)
1.6 IO	shall mean the Information Officer
1.7 MANUAL	shall mean this Manual together with the relevant annexures
1.8 RECORD	shall mean a record in terms of section 1 of the Act
1.9 CEO	shall mean Chief Executive Officer of the HDA
1.10 DIO	shall mean the Deputy Information Officer
1.11 INFORMATION	shall mean Information and records held by the HDA
1.12 IO	shall mean Information Officer
1.13 MINISTER	shall mean Minister of Justice and Correctional Services
1.14 PAIA	shall mean Promotion of Access to Information Act No. 2 of 2000
1.15 REGULATOR	shall mean the Information Regulator
1.16 PFMA	shall mean Public Finance Management Act No.1 of 1999
1.17 POPIA	shall mean Protection of Personal Information Act No.4 of 2013

2. BACKGROUND

2.1 The Protection of Personal Information Act, 4 of 2013 ***"(POPIA)"*** gives effect to the right to privacy in terms of section 14 of the Constitution. POPIA promotes the protection of Personal Information processed by private and public bodies, outlines conditions that organizations must follow when processing personal data and regulates how personal data is processed, including how it's collected, used, disclosed, retained, and destroyed.

2.2 Section 14 of the Act as amended by POPIA requires public and private bodies to compile a manual that would assist a person or organization to obtain access to information held by the public body and stipulates minimum requirements which a manual must comply with.

2.3 Section 17 of the POPIA provides that a responsible party must maintain the documentation of all processing operations under its responsibility as referred to in section 14 or 51 of the Promotion of Access to Information Act.

2.4 The Promotion of Access of Information Act, 2 OF 2000 ***"(PAIA")*** gives effect to the right of access to information as provided for in section 32 of the Constitution.

2.5 The intention of PAIA is to promote transparency, accountability, and effective governance, ensure that people can access information they need to exercise or protect their rights, helps people to scrutinize and participate in decisions that affect them, promotes a culture of openness and social justice, requires public and private bodies to compile manuals that explain how to access their records.

2.6 The Housing Development Agency (HDA) is committed to the provisions of POPIA and PAIA which cater for the protection of personal information and give effect to the rights of all to access information. The designated Information Officer and the Deputy Information Officer of the HDA are registered with the Information Regulator.

3. PURPOSE OF THE PAIA MANUAL

3.1 The purpose of this PAIA manual is to provide guidelines to facilitate public access to information or records in the HDA`s possession, regulate the flow of personal information, monitor and protect personal information.

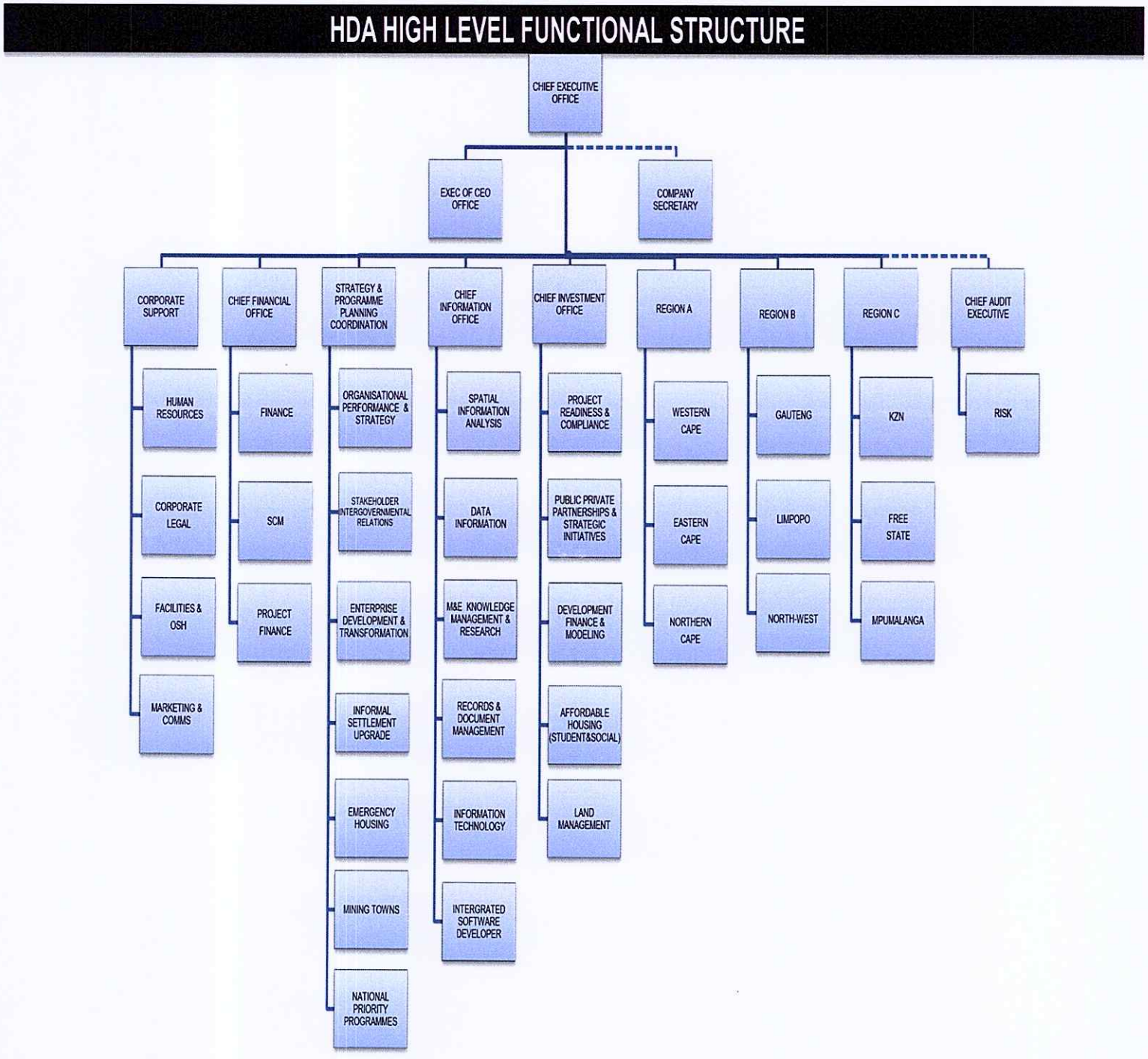
3.2 Anyone in South Africa can request information, and the right to access information can be limited to protect privacy, commercial confidentiality, and good governance.

4. ESTABLISHMENT OF THE HOUSING DEVELOPMENT AGENCY

4.1 The Housing Development Agency (HDA) is a national public sector development agency that acquires and prepares land as well as develops the land and projects manage the development of housing and human settlements.

4.2 We carry out our activities in partnership with a range of stakeholders including national, provincial and local government and municipalities, as well as with communities, developers, financiers and other affected parties. Established in 2009, the Agency was established by an Act of Parliament in 2008 and is accountable through its board to the Minister of Human Settlements.

5. STRUCTURE OF THE HOUSING DEVELOPMENT AGENCY



6. Functions of the HDA

6.1 Section 7 (1) of the HDA Act outlines the HDA's functions. It stipulates that the HDA must:

6.1.1 Develop a development plan to be approved by the Minister in consultation with the relevant authorities in the provinces and municipalities.

6.1.2 Develop strategic plans regarding the identification and acquisition of state, privately and communally owned land that is suitable for residential and community development.

6.1.3 Prepare necessary documentation for consideration and approval by the relevant authorities as may be required in terms of any other applicable law.

6.1.4 Monitor progress of the development of land and landed property acquired for the purposes of creating sustainable human settlements.

6.1.5 Enhance the capacity of organs of state, including skills transfer, to enable them to meet the demand for housing delivery.

6.1.6 Ensure that there is collaboration and intergovernmental and integrated alignment for housing development services.

6.1.7 Identify, acquire, hold, develop and release state, private and communal land for residential and community development.

6.1.8 Undertake such project management services as may be necessary, including assistance relating to approvals required for housing development.

6.1.9 Contract with any organ of state for the purpose of acquiring available land for residential housing and community development for the creation of sustainable human settlement.

6.1.10 Assist organs of state in dealing with housing developments that have not been completed within the anticipated project period.

6.1.11 Assist organs of state with the upgrading of informal settlements.

6.1.12 Assist organs of state in respect of emergency housing solutions.

7. SCOPE OF APPLICATION

The manual is applicable to all employees of the HDA and all members of the public who may request information from the HDA in terms of PAIA.

8. KEY CONTACT DETAILS FOR ACCESS TO INFORMATION OF THE (HDA)

8.1. Chief Information Officer

Name	**Chief Executive Officer**
Tel	+27 11 544 1000
Email:	legalhelpdesk@thehda.co.za
Fax Number:	+27 11 544 1007

8.2 Deputy Information Officer

Name	**Corporate Legal Manager**
Tel	+27 11 544 1000
Email:	legalhelpdesk@thehda.co.za
Fax Number:	+27 11 544 1007

8.3 **Requests for access to records** relating to file content of claims must be submitted to the DIO at legalhelpdesk@thehda.co.za.

8.4 General access: Physical address

Physical Address:	**04 Kikuyu Road, Sunninghill, Johannesburg, 2157**
Telephone:	+27 (0) 11 544 1000
Email:	communication@thehda.co.za
Website:	http://www.thehda.co.za/
Postal Address:	P O Box 3209, Houghton, 2041.

9. RECORDS AVAILABLE ON REQUEST TO ACCESS IN TERMS OF SECTION 14(1)(b)(ii)

Categories of Records	Record held by the HDA
1. Office of the CEO	❖ Parliamentary Questions and Answers ❖ CEO's Presentations to different Forums Company Secretary ❖ Minutes of Board and sub-Committee meetings ❖ Resolutions from the Board Meetings ❖ Declaration of interest registers – as meetings are virtual, declarations are recorded in the minutes of the day. ❖ Board members' declarations of financial interest are submitted annually to the Department of Human Settlements ❖ Terms of reference for Board sub-committees ❖ ARC and Board Charters ❖ Delegation of Authority ❖ Appointment of Board Members – Board members are appointed by the Shareholder and the office of the Company Secretary receives copies of the appointment letters for information. ❖ Shareholder Compact ❖ Board Remuneration Policy ❖ Meeting Packs Board and subcommittees Audit and Risk ❖ IA Three Year Rolling Plan and Internal Audit Annual Plan Internal ❖ Audit Charter ❖ Internal Audit Reports ❖ Integrated combined assurance framework ❖ Compliance Management framework ❖ Compliance Callender ❖ Compliance Management policy ❖ Risk Management policy ❖ Risk Management Framework
2. Corporate Support	Human Resources ❖ Employment contracts ❖ Structure of the organization

	❖ Job Evaluation guide ❖ Leave Records ❖ HR policies ❖ Personnel Information. ❖ Policies and procedures ❖ Employment Equity plan of the HDA ❖ Career development records ❖ Employment policy ❖ Job Profile Corporate Legal ❖ Court documents ❖ Information of Panel of attorneys ❖ Investigation Reports ❖ Labour Relations Matters ❖ Legal Frameworks and policies ❖ Legal Opinions ❖ Legal Reports ❖ Terms of reference for committees Marketing and Communications ❖ Marketing Policy ❖ Marketing Brochures ❖ Communication Strategies ❖ Brand plan ❖ Stakeholders ❖ Media Monitoring Reports ❖ Internal communiques ❖ Media list ❖ Content updates for website and intranet ❖ Communication Strategies ❖ Brand plan ❖ Stakeholders ❖ Media Monitoring Reports ❖ Internal communiques ❖ Media list ❖ Content updates for website and intranet Facilities ❖ Health and Safety policy ❖ Risk and assessment reports ❖ Employee Health and safety training records ❖ Evacuation plans and Drills reports ❖ Vendor and contract management records. ❖ Security Services records and reports

3. Office of the Chief Financial Officer	Finance ❖ Financial statements ❖ Invoices ❖ Travel documents ❖ Estimates on income and revenue ❖ Bank reconciliations ❖ SARS returns ❖ Tax records and returns ❖ Receipts and Various payments ❖ Tender documents ❖ Management reports ❖ Records of the budget ❖ Quotations ❖ Basic accounting systems ❖ Accounting records ❖ Banking records ❖ Orders ❖ Database of suppliers Supply Chain Management ❖ Tender documents ❖ Disposal policy ❖ Bid Committee's terms of reference ❖ Fixed Assets registers ❖ Controls register ❖ Procurement plans ❖ Supply Chain Management Policy
4. Office of the Chief Information Officer	Information Technology ❖ IT policies ❖ IT Guidelines and procedures ❖ Contracts ❖ Equipment/Assets registers
5. Land Assembly Department	❖ Land acquisition policy and SOPs ❖ Property Management Policy ❖ Tittle Deeds in the name of HDA
6. Strategy and Programme Planning Coordination Department	❖ Quarterly and performance reports ❖ Performance Management policy ❖ Portfolio of evidence ❖ Annual Reports. ❖ Strategic Plan. ❖ Annual Performance Plan. ❖ Operational Plans.

10. AUTOMATICALLY AVAILABLE RECORDS BY THE HDA, SECTION 15(2) OF THE ACT

10.1 Annual reports

10.2 Annual Performance Plan

10.3 Media releases and Briefings

10.4 Brochures

10.5 HDA Act

10.6 Newsletters

10.7 Tender advertisements and awards

10.8 In cases where the HDA is not the custodian of the requested information or record, the requester shall be advised by the DIO of the HDA to direct such request from the relevant authority or custodian.

10.9 All the above listed documents that are of a public nature and available on the above HDA website, can be accessed without the formal application request.

For ease of reference, please note that the copy of the automatically available records by HDA as per Section 15 of the Act is attached herein and also available with the Manual at your disposal.

11. PUBLIC INVOLVEMENT IN THE FORMULATION OF POLICY OR THE EXERCISE OF POWERS OR PERFORMANCE OF DUTIES BY THE HDA

11.1 The Annual reports and other reports are available to the public for commentary and reviewing.

11.2 The Amendment of the enabling legislation is published in the government Gazette for review and comments in parliament.

11.3 The Information Regulator (SA) promotes and monitors the implementation of the Promotion of Access to Information Act . PAIA is a national law that gives people the right

to access information held by public and private bodies. The Information Regulator (SA) also assists people in requesting information and following up on complaints about denied access.

12. HOW TO REQUEST INFORMATION FROM THE HDA

Any person who wishes to access any kind of information from the Agency must follow the procedure that is stated in this manual. Failure to comply with the procedure will result in automatic disqualification of the request to access the information.

12.1 Request for access to record

12.1.1 A request for access to information must be made in writing or typed by completing the **Annexure 1 - Form 1** (request for access to information) attached hereto.

12.1.2 All sections of the form must be filled out and signed by the requester.

12.1.3 If some sections of the form do not apply to the requester, it must be indicated by Not Applicable (N/A).

12.1.4 The form must be filled in block letters or typed.

12.1.5 All the supporting documents must accompany the application form.

12.1.6 The requester must indicate the language that he wants the Manual to be provided.

12.1.7 Payment of the request fee must be included in the application form, proof of payment must be included upon submission of the request.

12.1.8 Identity documents are required to authenticate the identity of the requester, it must be accompanying the application form.

12.2 Submission of Request

The request for information from the HDA can be made through registered mail, email or delivered in person to the offices of the Agency. **Refer to paragraphs 8.3 and 8.4.**

12.3 Decision

12.3.1 The DIO and Corporate Legal department are responsible for handling all the requests for information.

12.3.2 The IO may accept or decline to furnish the requestor with the information.

12.3.3 The IO must furnish the requestor with reasons for refusal to furnish the information.

12.3.4 The IO must revert to the requester within 30 days after the receipt of the request, failure to provide a decision within 30 days shall be deemed to be a refusal.

12.4. Records that cannot be found or do not exist

In cases where the record that is supposed to be with the Agency, but the IO does not find it because it is lost, stolen or damaged, the IO must write a letter to the requester advising about the lost or unknown record.

12.5. Granting access

12.5.1 The requestor must provide the Agency with a valid certified copy of the Identification document, although the Agency may hold Personal Information about him or her.

12.5.2 All the requests must be directed to the DIO (legalhelpdesk@thehda.co.za) of the HDA.

12.6. Payment method

The requester must pay a required fee into the HDA`s bank account. The Banking details of the Agency are as follows:

Bank:	**First National Bank**
Account name:	**Housing Development Agency**
Account number:	**6221 576 8477**
Branch code:	**250 655**

13. REMEDIES AVAILABLE TO A REQUESTER

13.1 A complaint can be lodged with the information regulator

13.1.1 A complaint must be sent via prescribed Annexure **2 – Form 2** (Information Regulator Form) to the Information Regulator.

13.1.2 A complaint must be sent within 180 days of the decision of the IO or the Appeal Committee.

13.1.3 A complaint must be sent to the offices of the Information Regulator or via email; POPIAComplaints@inforegulator.org.za. The contact details of the information Regulator can be found on their website at https://www.justice.gov.za/inforeg/.

13.2 The requester has the right to bring an application to Court for an appropriate relief if he/she is not satisfied with the outcome of the appeal process.

13.2.1 The requester may approach the court for appropriate relief within 30 days of receipt of notice of the decision of the appeal process with the Information Regulator.

14. PAYMENT OF PRESCRIBED FEES

14.1 The PAIA provides two types of fees namely;

(i) Request fee, and

(ii) Access fee

14.2. **Request fee**

14.2.1. The fees must be paid in advance to the HDA bank account for the request to be attended by the DIO.

14.2.2. Section 22 PAIA provides that the IO or the DIO must request the requester to pay the reasonable fee, before further processing the information.

14.2.3. Section 22(7) or 22(8) of the PAIA provides for the payment of the access fee, unless exempted under section 22(8).

14.2.4. Section 22(8) of the PAIA provides that A single person whose annual income after permissible deductions does not exceed R14 712. 00 per annual income or married persons or life partners whose combined annual income after permissible deductions does not exceed R27 192. 00 per annum.

14.3. **Access fees**

Item	Description	Amount
1.	Request fee payable by every requester	R50
2.	Photocopy of A4-size page	R2.00 per page or part thereof
3.	Printed copy of A4-size page	R2.00 per page or part thereof
4	For a copy in a computer-readable form on: (i) Flash drive (to be provided by requestor) (ii) Compact disc: • If provided by requester • If provided to the requestor	 R40.00 R40.00 R60.00
5	For a transcription of visual images per A4-size page	Service to be outsourced. Will depend on quotation from 6. Copy of visual images Service provider

6	Copy of visual images	Service provider to be outsourced, will dependent on the quotation.
7	Transcription of an audio record, per A4-size page	R24.00
8	Copy of an audio record on: (i) Flash drive (to be provided by requestor) (ii) Compact disc • If provided by the requestor • If provided to the requestor	 R40.00 R40.00 R60.00
9	To search for and prepare the record for disclosure for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation To not exceed the total cost of	R100 R300
10	Deposit: If search exceeds 6 hours	One third of the amount per request calculated in terms of items 2 to 8.
11	Postage, e-mail or any other electronic transfer	Actual expense, if any.

PART B

15. PROCESSING OF PERSONAL INFORMATION: PURPOSE OF PROCESSING

15.1 In terms of the POPIA, the processing of personal information must be for a specific purpose. The HDA collects and processes the information for, among others, the following purposes-

15.1.1 Identify, acquire, hold, develop and release state, private and communal land for residential and community development.

15.1.2 Assist organs of state in dealing with housing developments that have not been completed within the anticipated project period.

15.1.3 Assist organs of state with the upgrading of informal settlements.

15.1.4 Assist organs of state in respect of emergency housing solutions.

15.1.5 Undertake such project management services as may be necessary, including assistance relating to approvals required for housing development.

15.1.6 Contract with any organ of state for the purpose of acquiring available land for residential housing and community development for the creation of sustainable human settlement.

15.2 Description of the categories of Data Subjects and Personal Information.

Categories of Data Subjects	**Personal Information that may be Processed**
Service providers and third parties	• Name and contact details • Identity information • Company and Directors Information • Banking Information and Financial Information • References • Tax Status • Commercial, scientific or technical information and trade secrets
Employees	• Name and contact information • Identity number and passport information • Pregnancy • Marital status • Employment and Educational history • Banking and Financial details • Employment contracts • Employment Equity plans • Deductions • Medical aid records • Remuneration records • Performance appraisals • Disciplinary records • Training and assessments records. etc.

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

Category of personal information	Recipients or Categories of Recipients
Identity number and names, for criminal checks	South African Police Services
Qualifications, for qualification verifications	South African Qualifications Authority
Banking Details	Banks used by the HDA
Tax numbers, ID and Account numbers	South African Revenue Services

15.4 Planned transborder flows of personal information:

The HDA does not share or transfer personal information to parties outside the Republic of South Africa, unless the data subject consent or there is a legislation that permits such.

15.5 Security Measures implemented by the HDA to ensure confidentiality, integrity and availability of the information.

15.5.1 The HDA has reasonable, up to date technology to ensure the confidentiality, integrity and availability of personal information in their possession.

15.5.2 The HDA continuously monitors technical and organizational security to ensure protection of personal information under their possession.

15.5.3 The Agency shall take legal steps against those who interfere with personal information illegally.

16. AVAILABILITY OF THE MANUAL

16.1 This Manual is made available in English and will be translated in Zulu and Sesotho.

16.2 A copy of this Manual is made available in the HDA Head office.

16.2.1 This Manual is available on the HDA website **(http://www.thehda.co.za/),** and will be made available on the Information Regulator website (**http://www.inforegulator.org.za**).

17 UPDATING OF THE MANUAL

The PAIA manual will be reviewed every three years or as and when required.

18 PAIA GUIDE MANUALS

Copies of the PAIA Guide Manuals from Information Regulator are hereby attached as **Annexure 3** in three (3) South African Official Languages: English, Sesotho and Zulu.

19. ANNEXURES

Annexure 1 - Request for access to information

Annexure 2 - Information Regulatory Compliant Form

Annexure 3 - PAIA Guide Manual from Information Regulator in three (3) SA official languages: English, Sesotho and Zulu

AUTOMATICALLY AVAILABLE RECORDS IN TERMS OF SECTION 15(2)

HDA
HOUSING DEVELOPMENT AGENCY
an agency of the Department of Human Settlements

AUTOMATICALLY AVAILABLE RECORDS BY THE HDA, SECTION 15(2) OF THE ACT

Annual reports

Annual Performance Plan

Media releases and Briefings

Brochures

HDA Act

Newsletters

Tender advertisements and awards

In cases where the HDA is not the custodian of the requested information or record, the requester shall be advised by the DIO of the HDA to direct such request from the relevant authority or custodian.

All the above listed documents that are of a public nature and available on the above HDA website, can be accessed without the formal application request.

ANNEXURE 1

FORM 1: REQUEST FOR ACCESS TO RECORDS

ANNEXURE 1: FORM 1

REQUEST FOR ACCESS TO RECORD
[Regulation 7]

NOTE:

1. Proof of identity must be attached by the requester.
2. If requests made on behalf of another person, proof of such authorisation, must be attached to this form.

TO: The Information Officer

(Address)

E-mail address:

Fax number:

Mark with an "X"

Housing Development Agency

☐ Request is made in my own name ☐ Request is made on behalf of another person.

PERSONAL INFORMATION				
Full Names				
Identity Number				
Capacity in which request is made *(when made on behalf of another person)*				
Postal Address				
Street Address				
E-mail Address				
Contact Numbers	Tel. (B):		Facsimile:	
	Cellular:			
Full names of person on whose behalf request is made *(if applicable)*:				
Identity Number				
Postal Address				

Street Address				
E-mail Address				
Contact Numbers	Tel. (B)		Facsimile	
	Cellular			
PARTICULARS OF RECORD REQUESTED Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located. (If the provided space is inadequate, please continue on a separate page and attach it to this form. All additional pages must be signed.)				
Description of record or relevant part of the record:				

Reference number, if available	
Any further particulars of record	

TYPE OF RECORD
(Mark the applicable box with an "X")

Record is in written or printed form	
Record comprises virtual images (this includes photographs, slides, video recordings, computer-generated images, sketches, etc)	
Record consists of recorded words or information which can be reproduced in sound	
Record is held on a computer or in an electronic, or machine-readable form	

FORM OF ACCESS
(Mark the applicable box with an "X")

Printed copy of record *(including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form)*	
Written or printed transcription of virtual images *(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)*	

MANNER OF ACCESS (Mark the applicable box with an "X")	
Personal inspection of record at registered address of public/private body (including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form)	
Postal services to postal address	
Postal services to street address	
Courier service to street address	
Facsimile of information in written or printed format (including transcriptions)	
E-mail of information (including soundtracks if possible)	
Cloud share/file transfer	
Preferred language (Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available)	
Transcription of soundtrack ***(written or printed document)***	
Copy of record on flash drive ***(including virtual images and soundtracks)***	
Copy of record on compact disc drive*(including virtual images and soundtracks)*	
Copy of record saved on cloud storage server	

FEES	
a) A request fee must be paid before the request will be considered. b) You will be notified of the amount of the access fee to be paid. c) The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record. d) If you qualify for exemption of the payment of any fee, please state the reason for exemption	
Reason	

You will be notified in writing whether your request has been approved or denied and if approved the costs relating to your request, if any. Please indicate your preferred manner of correspondence:

Postal address	Facsimile	Electronic communication (Please specify)

Signed at _____ this _____ day of _____ 20 _____

_____

Signature of Requester / person on whose behalf request is made

---

FOR OFFICIAL USE

Reference number:	
Request received by: (State Rank, Name And Surname of Information Officer)	
Date received:	
Access fees:	
Deposit (if any):	

_____

Signature of Information Officer

ANNEXURE 2

FORM 2: INFORMATION REGULATOR

COMPLAINT FORM

ANNEXURE 2: FORM 2

Box 31533

INFORMATION REGULATOR (SOUTH AFRICA)

Ensuring protection of your personal information and effective access to information

Address: JD House, 27 Stiemens Street Braamfontein, Johannesburg, 2001 P.O.

Braamfontein, Johannesburg, 2017

Tel: 010 023 5200

Email:PAIAComplaints@infoRegulator.org.za

COMPLAINT FORM
[Regulation 10] NOTE:

1. This form is designed to assist the Requester or Third Party (hereinafter referred to as "the Complainant") in requesting a review of a Public or Private Body's response or non-response to a request for access to records under the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) ("PAIA"). Please fill out this form and send it to the following email address: PAIAComplaints@infoRegulator.org.za or complete online complaint form available at https://www.justice.gov.za/inforeg/.
2. PAIA gives a member of the public a right to file a complaint with the Information Regulator about any of the nature of complaints detailed in part F of this complaint form.
3. It is the policy of the Information Regulator to defer investigating or to reject a complaint if the Complainant has not first given the public or private body (herein after referred to as "the Body") an opportunity to respond to and attempt to resolve the issue. To help the Body address your concerns prior to approaching the Information Regulator, you are required to complete the prescribed PAIA Form 2 and submit it to the Body.
4. A copy of this Form will be provided to the Body that is the subject of your complaint. The information you provide on this form, attached to this form or that you supply later, will only be used to attempt to resolve your dispute, unless otherwise stated herein.
5. The Information Regulator will only accept your complaint once you confirm having complied with the prerequisites below.
6. Please attach copies of the following documents, if you have them:
   a. Copy of the form to the Body requesting access to records;
   b. The Body's response to your complaint or access request;
   c. Any other correspondence between you and the Body regarding your request;
   d. Copy of the appeal form, if your compliant relate to a public body;
   e. The Body's response to your appeal;
   f. Any other correspondence between you and the Body regarding your appeal;
   g. Documentation authorizing you to act on behalf of another person (if applicable);
   h. Court Order or Court documents relevant to your complaint, if any.
7. If the space provided for in this Form is inadequate, submit information as an Annexure to this Form and sign each page.

CAPACITY OF PERSON/PARTY LODGING A COMPLAINT
(Mark with an "X")

☐ Complainant Personally

☐ Representative of Complainant

☐ Third Party

PREREQUISITES				
Did you submit request (PAIA form) for access to record of a public/private body?	Yes		No	
Has 30 days lapsed from the date on which you submitted your PAIA form?	Yes		No	
Did you exhaust all the internal appeal procedure against a decision of the Information officer of a public body?	Yes		No	
Have you applied to Court for appropriate relief regarding this matter?	Yes		No	

FOR INFORMATION REGULATOR'S USE ONLY				
Received by: (Full names)				
Position				
Signature				
Complaint accepted	Yes		No	
Reference Number				
Date stamp				

Postal address	Facsimile	Other electronic communication (Please specify)

PART A PERSONAL INFORMATION OF COMPLAINANT				
Full Names				
Identity Number				
Postal Address				
Street Address				
E-Mail Address				
Contact numbers	Tel. (B)		Facsimile	
	Cellular			

PART B REPRESENTATIVE INFORMATION (Complete only if you will be represented. A Power of Attorney must be attached if complainant is represented, failing which the complaint will be rejected)

Full Names of Representative				
Nature of representation				
Identity Number / Registration Number				
Postal Address				
Street Address				
E-mail Address				
Contact Numbers	Tel. (B)		Facsimile	
	Cellular			

PART C THIRD PARTY INFORMATION (Please attach letter of authorisation)				
Type of Body	Private		Public	
Name of Public / Private Body				
Registration Number (if any)				
Name, Surname and Title of person authorised to lodge a complaint				
Postal Address				
Street Address				
E-mail Address				

Contact Numbers	Tel. (B):		Facsimile	
	Cellular			

PART D BODY AGAINST WHICH THE COMPLAINT IS LODGED				
Type of body	Private		Public	
Name of public / private body				
Registration number (if any)				
Name, surname and title of person you dealt with at the public or private body to try to resolve your complaint or request for access to information				
Postal Address				
Street Address				

E-mail Address				
Contact Numbers	Tel. (B):		Facsimile	
	Cellular			
Reference Number given (if any)				

PART E

COMPLAINT

Tell us about the steps you have taken to try to resolve your complaint (Complaints should first be submitted directly to the public or private body for response and possible resolution)

Date on which request for access to records submitted.				
Please specify the nature of the right(s) to be exercised or protected, if a compliant is against a private body.				
Have you attempted to resolve the matter with the organisation?	Yes		No	
If yes, when did you receive it? (Please attach the letter to this application.)				
Did you appeal against a decision of the information officer of the public body?	Yes		No	
If yes, when did you lodge an appeal?				
Have you applied to Court for appropriate relief regarding this matter?	Yes		No	
If yes, please indicate when was the matter adjudicated by the Court? Please attach Court Order, if there is any.				

PART F

DETAILED TYPE OF ACCESS TO RECORDS

(Please select one or more of the following to describe your complaint to the Information Regulator)

Unsuccessful appeal (Section 77A(2)(a) or section 77A(3)(a) of PAIA)	I have appealed against the decision of the public body and the appeal is unsuccessful.	
Unsuccessful application for condonation (Sections 77A(2)(b) and 75(2) of PAIA)	I filed my appeal against the decision of the public body late and applied for condonation. The condonation application was dismissed.	
Refusal of a request for access (Section 77A(2)(c)(i) or 77A(2)(d)(i) or 77A(3)(b) of PAIA)	I requested access to information held by a body and that request was refused or partially refused.	
The body requires me to pay a fee and I feel it is excessive (Sections 22 or 54 of PAIA)	Tender or payment of the prescribed fee.	
	The tender or payment of deposit	
Repayment of the deposit (Section 22(4) of PAIA)	The information officer refused to repay a deposit paid in respect of a request for access which is refused.	

Disagree with time extension (Sections 26 or 57 of PAIA)	The body decided to extend the time limit for responding to my request, and I disagree with the requested time limit extension or a time extension taken to respond to my access request.	
Form of access denied (Section 29(3) or 60(a) of PAIA)	I requested access in a particular and reasonable form and such form of access was refused.	
Deemed refusal (Section 27 or 58 of PAIA)	It is more than 30 days since I made my request and I have not received a decision.	
	Extension period has expired and no response was received.	
Inappropriate disclosure of a record (Mandatory grounds for refusal of access to record)	Records (that are subject to the grounds for refusal of access) have inappropriately/unreasonable been disclosed.	
No adequate reasons for the refusal of access (Section 56(3)(a) of PAIA)	My request for access is refused, and no valid or adequate reasons for the refusal, were given, including the provisions of this Act which were relied upon for the refusal.	
Partial access to record (Section 28(2) or 59(2) of PAIA)	Access to only a part of the requested records was granted and I believe that more of the records should have been disclosed.	
Fee waiver (Section 22(8) or 54(8) of PAIA)	I am exempt from paying any fee and my request to waive the fees was refused.	
Records that cannot be found or do not exist (Section 23 or 55 of PAIA)	The Body indicated that some or all of the requested records do not exist and I believe that more records do exist.	
Failure to disclose records	The body decided the grant me access to the requested records, but I have not received them.	
No jurisdiction (exercise or protection of any rights) (Section 50(1)(a) of PAIA)	The Body indicated that the requested records are excluded from PAIA and I disagree.	
Frivolous or vexatious request (Section 45 of PAIA)	The Body indicated that my request is manifestly frivolous or vexatious and I disagree.	
Other (Please explain)		

PART G

EXPECTED OUTCOME

How do you think the Informa on Regulator can assist you? Describe the result or outcome that you seek.

PART H AGREEMENTS

The legal basis for the following agreements is explained in the Privacy Notice on how to file your complaint document. In order for the Information Regulator to process your complaint, you need to check each one of the checkboxes below to show your agreement:

☐ I agree that the Information Regulator may use the information provided in my complaint to assist it in researching issues relating to the promotion of the right of access to information as well as the protection of the right to privacy in South Africa. I understand that the Information Regulator will never include my personal or other identifying information in any public report, and that my personal information is still protected by the Protection of Personal Information Act, 2013 (Act No. 4 of 2013). I understand that if I do not agree, the Information Regulator will still process my complaint.

☐ The information in this Complaint Form is true to the best of my knowledge and belief.

☐ I authorize the Information Regulator to collect my personal complaint information (such as the information about me in this complaint form) and use it to process my human rights complaint relating to the right of access to information and / or the protection of the right to privacy.

☐ I authorise anyone (such as an employer, service provider, witness) who has information needed to process my complaint to share it with the Information Regulator. The Information Regulator can obtain this information by talking to witnesses or asking for written records. Depending on the nature of the complaint, these records could include personnel files or employer data, medical or hospital records, and financial or taxpayer information.

☐ If any of my contact information changes during the complaint process, it is my responsibility to inform the Information Regulator; otherwise my complaint could experience a delay or even be closed.

Signed at _____ this _____ day of _____ 20 _____

_____ Complainant/Representative/Authorised person of Third party

ANNEXURE 3

INFORMATION REGULATOR

PAIA GUIDE MANUAL; ENGLISH,

INFORMATION REGULATOR (SOUTH AFRICA)

Ensuring protection of your personal information and effective access to information



GUIDE

ON HOW TO USE THE PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000, AS AMENDED

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PAIA GUIDE

FOREWORD BY THE CHAIRPERSON

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

The Promotion of Access to Information Act, No. 2 of 2000 (hereinafter referred to as "**PAIA**", or "the Act" interchangeably), as amended, is the national legislation which was enacted in accordance with the above-mentioned section 32(2) of the constitution.

The aim of **PAIA**, is to foster a culture of transparency and accountability in public and private bodies. It does that by giving effect to the right of access to information and actively promoting a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect all of their rights and also to realise South Africa's goals of an open and participatory democracy.

This **PAIA** Guide has been developed in fulfilment of the Information Regulator's ("Regulator") obligation under Section 10 of the **PAIA**, which requires the Regulator to update and make available the existing Guide that has been compiled by the South African Human Rights Commission.

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



Adv Pansy Tlakula
CHAIRPERSON OF THE INFORMATION REGULATOR

[1] *Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)*

DISCLAIMER

*This Guide does not relieve the user from the responsibility to exercise their own skill and care in relation to the requirement or obligations imposed by any legislation. Furthermore, this Guide does not provide legal advice and is not intended to replace **PAIA** or Regulations issued under **PAIA**. The Regulator accepts no liability for any loss that may be suffered as a result of reliance on this Guide.*

1. LIST OF ACRONYMS AND ABBREVIATIONS

CEO	Chief Executive Officer
CFO	Chief Financial Officer
Constitution	Constitution of the Republic of South Africa, Act No. 108 of 1996
DIO	Deputy Information Officer
DoJ & CD	Department of Justice and Constitutional Development
IO	Information Officer
Members	Members of the Information Regulator
Minister	Minister of Justice and Correctional Services
PAIA	Promotion of Administrative Justice Act, 2000
PFMA	Public Finance Management Act No. 1 of 1999 as amended
POPIA	Protection of Personal Information Act No. 4 of 2013
Regulator	Information Regulator
SAHRC	South African Human Rights Commission

2. USEFUL TERMS EXPLAINED IN AN EASILY COMPREHENSIBLE FORM AND MANNER

Term	Description
Access Fee	This access fee is paid by the requester to the body from which you are requesting the information, to cover the costs of finding and copying the records you require. What can be charged is prescribed by regulation.
Administrator	Is an organ of state or any natural or juristic person taking administrative action.

Term	Description
Administrative Action	Is any decision taken, or any failure to take a decision, by (a) an organ of state, when: (i) exercising a power in terms of the Constitution or a provincial constitution; or (ii) exercising a public power or performing a public function in terms of any legislation; or (b) a natural or juristic person, other than an organ of state, when exercising a public power of performing a public function in terms of an empowering provision. which adversely affects the rights of any person and which has a direct, external legal effect.
Authorised Person	The authorised person is the person who is making a request on behalf of someone else, and who has been properly authorised in writing to do so.
Automatically Available Records	These are records that a public or private body will provide to a requester without them needing to file a request. These records are listed in a 'voluntary disclosure notice', which should be made public.
Data Subject	Is the person to whom personal information relates.
Days	Unless specified as a 'working day' in a section in **PAIA**, a day is considered to be a calender day. To calculate time period, the day on which the request is received is excluded, and every day thereafter is included including weekends and public holidays until the final day is counted. If the final day for responding to a request falls on a Sunday or public holiday, the next day is counted as the final day.
Deemed Refusal	If not response is received to a request within the prescribed time, this is defined as a 'deemed refusal'.
Form 2	This form is prescribed by regulation and should be used to request access to information held by a public or private body.
Form 4	This form is prescribed by regulation and should be used when appealing a decision made by a public body in relation to a request for access to information.

Term	Description
Guide	This Guide, made in pursuance of section 10 of **PAIA**, as amended which seeks to assist a person who wishes to exercise any right contemplated in **PAIA** and the Protection of Personal Information Act, 2013.
Information Officer	The information Officer is the person authorised to handle **PAIA** requests. The following are categories of Information Officers per specific Body -

Public Body or Organ of State (as defined in section 239 of the Constitution)	National Department	Director-General or the person who is acting as such.
	Provincial Administration	Head of Department or the person who is acting as such.
	Municipality	Municipal Manager or the person who is acting as such.
	Public Institutions listed in PFMA Schedule 1, 2, 3A, 3B, 3C & 3D	Chief Executive Officer or the person who is acting as such.
Private Body	Natural Person	Sole proprietor who carries on any trade business or profession, but only in such capacity and not in his personal capacity.
	Partnership	Any partner of the partnership or any person duly authorised by the partnership.
	Political Party	Leader of the political party or any person duly authorised by that leader.

Term	Description
Information Officer	<table><tr><td>**Private Body**</td><td>Juristic Person</td><td>Chief Executive Officer or the Managing Director or equivalent officer of the juristic person or any person duly authorised by the leader. **NB:** The Chief Executive Officer or equivalent officer may authorise any natural person as information Officer of a Private Body.</td></tr></table>
Deputy Information Officer	The Deputy Information Officer is the person designed or delegated by the Information Officer of a public body to assist the requester with their information request, and to whom the Information Officer can delegate other **PAIA** powers to. **NB:** Whilst only a public body can designate or delegate a Deputy Information Officer(s), in terms of Section 17(1) of **PAIA**, the Protection of Personal Information Act 2013 ("**POPIA**") extends the power to designate a Deputy Information Officer to the private body in terms of section 56(1) thereof.
Information Regulator	The Office of the Information Regulator has been established, in terms of section 39 of **POPIA**, to monitor and enforce compliance with both **POPIA** and **PAIA**. In this Guide the Office of the Information Regulator or the information Regulator is referred to as the Regulator.
Internal Appeal	An internal appeal is the process for challenging a decision made in terms of a **PAIA** request to a public body, which must be completed before a challenge can be made to the Regulator or to a court having jurisdiction.
Private Body	A private body is a person, company or other kind of juristic entity that carries on trade, business or profession, including a political party.

Term	Description
Public Body	A private body means a government department or other functionary or institution, which is performing a public function. However, with regard to internal appeal, any reference to "public body" has been changed to "Government", in order to avoid confusion in respect of public bodies in which appeal is not applicable.
Record	A record is any recorded information regardless of the from, including, for example, written documents, audio, digital and video materials. A record requested from a public or private body refers to a record that is in that body's possession regardless of whether that body created the record.
Regulations	**PAIA** allows the Minister to issue regulations that supplement the Act, which must be published in the Government Gazette, and covers issues like the forms to be used and fees that may be charged for certain processes.
Relevant Authority	**PAIA** uses the term the 'relevant authority' to define the person within a National, Provincial and Local Government to whom an internal appeal must be lodged, which is generally the political head of the body concerned (this function can be officially delegated).

3. CONTACT DETAILS OF THE REGULATOR

Information Officer
Chief Executive Officer: Mr. Mosalanyane Mosala
Contact Person: Ms. Pfano Nenweli
Email: PNenweli@justice.gov.za

Deputy Information Officer: Ms. Varsha Sewlal
Email: VarSewlal@justice.gov.za

Physical Address:
JD House, 27 Stiemens Street
Braamfontein
Johannesburg
2001

Postal Address:
P.O. Box 31533
Braamfontein
Johannesburg
2017

Telephone:
010 023 5200

4. PURPOSE OF THIS PAIA GUIDE

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

4.2 This Guide will specifically assist a person, also called a data subject, on how to access his/her personal information in terms of section 23 of **POPIA**. Under **POPIA**, person or data subject has the right to -

4.2.1 request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about them, and

4.2.2 request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information;

4.2.3 request a responsible party to -

(a) correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or

(b) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain.

4.3 This guide will also assist any person on how to request access to records under **PAIA**. The Guide will also assist requesters in:

4.3.1 understanding **PAIA**, its benefits and background;

4.3.2 learning the step-by-step process by which to make a request and additional tips for making that process easier;

4.3.3 learning the types of information which can be requested using **PAIA**;

4.3.4 understanding the process by which a requester can challenge a decision taken in relation to their request;

4.3.5 being introduced to the changes that will occur to **PAIA** once **POPIA** is fully operational.

4.4 This guide will also assist people in understanding how to challenge the granting of access to their records or how to participate in the process of accessing their records.

5. ABOUT PAIA

5.1 The right to access to information is "one of the most effective ways of upholding the constitutional values of *transparency, openness, participation and accountability*[2]. The above-mentioned constitutional values cannot be attained if the government has a monopoly on the information that informs its actions and decisions. Therefore, access to information is not only fundamental to a properly functioning participatory democracy, but it also increases public confidence in government and enhances its legitimacy. Other benefits of the right to access to information are for instance, that it discourages fraud and corruption, uncertainty and other improper governmental conduct.

5.2 When the South African Constitution was being drafted in the period following the fall of Apartheid in the 1990s, various organisations and individuals campaigned for the inclusion of a right of access to information. It was hoped that the inclusion of this right in the Bill of Rights would ensure that atrocities such as Apartheid could never again take place, as the state and private corporations would be obliged to act in an accountable and transparent manner by providing access to information, and therefore, would be unable to hide behind the veil of secrecy. It was seen as a necessary step for helping to create a culture of justification that would lead to fairer relations between people, and those in power. In one of the earliest cases[3] to deal with the question whether an accused person is entitled to access to all the information contained in the police docket. Jones J acknowledged its importance in these terms:

"The purpose ... is to exclude the perpetuation of the old system of administration, a system in which it was possible for government to escape accountability by refusing to disclose information even if it had bearing upon the exercise or protection of rights of the individual. This is the mischief it is designed to prevent [....] Demonstrable fairness and openness promotes public confidence in the administration of public affairs generally. This confidence is one of the characteristics of the democratically governed society for which the Constitution strives".

[2] *Hoexter Administrative Law 94*
[3] *1994 (1) SACR 635 (E)*

5.3 Section 32 of the Constitution enshrines the right of access to information held by both public and private bodies. Section 32 also states that legislation must be enacted to give effect to the right of access to information by detailing the ways in which information from public and private bodies can be accessed, and by providing grounds on which a public and private body could refuse access to information.

5.4 **PAIA** was enacted in response to the above-mentioned constitutional mandate, and came into force in large part in March 2001. Its preamble acknowledges the "secretive and unresponsive culture" of the pre-democratic era, and asserts that one of the objects of **PAIA** is to "foster a culture of transparency and accountability in public and private bodies."

5.5 **PAIA** is meant to give effect to a person's rights of access to information and accountability. It is designed to empower people to use the law, and so helps to facilitate requesting access to information in different ways. One does not need a lawyer to make a request for access to information in terms of **PAIA**.

6. THE OBJECTS OF PAIA

6.1 The objects of **PAIA** are not to replace the constitutional right, but to give effect to the right in section 32 subject to justifiable limitations, and in a way which helps balance all the other rights contained in the Constitution. It hopes to promote a human rights culture and social justice for people, the public sector and the private sector. **PAIA** seeks to promote transparency, accountability and effective governance of all institutions (both public and private) by empowering people to understand their access to information rights, act on them, and both scrutinise, and engage with, decision-making that affects them.

6.2 The right of access to information is a very powerful constitutional right, as it helps people realise other rights. A person can use it to help monitor and assess the delivery of government services, or to access historical records that might be of interest.

6.3 The objectives of **PAIA** are -

6.3.1 to give effect to the constitutional right of access to

6.3.1.1 any information held by the State; and

6.3.1.2 any information that is held by another person and that is required for the exercise or protection of any rights.

- The requirement relating to the protection of rights is confined to information held in private hands. Private bodies are thus subjected to a less stringent standard of transparency than public bodies. The private sector, in other words, is entitled to keep its information to itself, unless that information is needed to protect rights.
- **PAIA** recognises, in terms of Section 8(1) thereof, that a body may be "public" or "private" for the purposes of the Act depending on whether the record in question "relates to the exercise of a power or the performance of a function as a public body or as a private body."

6.3.2 to give effect to that right -

6.3.2.1 subject to justifiable limitations, including, but not limited to, limitations aimed at the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance; and

6.3.2.2 in a manner which balances that right with any other rights, including the rights in the Bill of Rights in Chapter 2 of the Constitution;

6.3.3 to give effect to the constitutional obligations of the State in promoting a human rights culture and social justice, by including public bodies in the definition of 'requester', and allowing them, amongst others, to access information from private bodies upon compliance with the four requirements in this Act, including an additional obligation for certain public bodies in certain instances to act in the public interest;

6.3.4 to establish voluntary and mandatory mechanisms or procedures to give effect to that right in a manner which enables persons to obtain access to records of public and private bodies as swiftly, inexpensively and effortlessly as reasonably possible; and

6.3.5 generally, to promote transparency, accountability and effective governance of all public and private bodies by, including but not limited to, empowering and educating everyone -

6.3.5.1 to understand their rights in terms of this Act in order to exercise their rights in relation to public and private bodies;

6.3.5.2 to understand the functions and operation of public bodies; and

6.3.5.3 to effectively scrutinise, and participate in, decision-making by public bodies that affects their rights.

6.4 The Promotion of Access to Information Amendment Act, 2019

6.4.1 In the matter of ***My Vote Counts NPC v Minister of Justice and Correctional Services and Another*** **[2018] ZACC 17**, the constitutional court held that *"the State is under an obligation that flows from a proper reading of sections 32, 19 and 7(2) of the Constitution to do everything reasonably possible to give practical and meaningful expression to the right of access to information and the right to vote. The majority further contended that this is so because the exercise of the right to vote must be an informed choice, and there is a vital connection between the proper exercise of the right to vote and the right of access to information. And "without access to information, the ability of citizens to make responsible political decisions and participate meaningfully in public life is undermined".* The Constitutional Court confirmed the order of constitutional invalidity and ordered Parliament to amend **PAIA** and take any other measure it deems appropriate to provide for the recordal, preservation and facilitation of reasonable access to information on the private funding of political parties and independent candidates within a period of 18 months.

6.4.2 In accordance with the above-mentioned constitutional court judgment, the President has, on 3rd June 2019, assented to the Promotion of Access to Information Amendment Act, 2019 (**PAIA amendment Act 2019**)[4]. The **PAIA** amendment Act 2019 includes a political party in the definition of a private body, which effectively means that the leader of the political party or any person duly authorised by that leader is an information officer or head. The **PAIA** amendment Act 2019 now extends the right of access to any records of the political party.

6.4.3 The amendment Act provides for information on the private funding of political parties and independent candidates to be recorded, preserved and made available.

6.4.4 In terms of section 52A of the **PAIA** amendment Act 2019, the head of a political party must create and keep records of any donation exceeding the prescribed threshold, of **R100 000.00**, that has been made to that political party in any given financial year and the identity of the persons or entities who made such donations. The head of a political party is also required to make the records available on a quarterly basis, as prescribed; and keep the records for a period of at least five years after the records concerned have been created.

[4] *Promotion of Access to Information Amendment Act, No. 31 of 2019*

6.4.5 This means that whilst the Political Party Funding Act makes provision for mandatory disclosure to the Electoral Commission, the **PAIA** amendment Act 2019 now extends the right of access, to the records of any donation exceeding **R100 000.00**, to any person, that has been made to that political party.

6.5 Other legislation that protects the right of access to information

PAIA also exists within a whole legal environment, which is designed to create a "culture of justification". In recognition of this, **PAIA** states that any other law that gives a person an avenue for accessing information that is less onerous than **PAIA**, can be used instead[5].

6.5.1 Companies Act 71 of 2008

6.5.1.1 Section 26(1) of the Companies Act provides a person who holds or has a beneficial interest in any securities issued by a profit company, or who is a member of a non-profit company, has a right to inspect and copy, without any charge for any such inspection or upon payment of no more than the prescribed maximum charge for any such copy, the information contained in the records of the company.

6.5.1.2 In terms of section 26(7)(b) of the Companies Act, "the rights of access to information set out in this section are in addition to, and not in substitution for, any rights a person may have to access information in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)".

6.5.2 The Political Party Funding Act, 2018 (Act No. 6 of 2018)

6.5.2.1 The Political Funding introduces a strict regulatory framework for the private funding of all registered political parties, whether represented in the national and provincial legislatures or not. This includes setting limits for the source, size and use of donated funds by political parties.

6.5.2.2 To ensure transparency and accountability, political parties are required to disclose all donations received above the disclosure threshold of **R100 000.00** to the Electoral Commission regularly every three months (as well as ahead of general elections).

[5] *Section 2(1) of PAIA*

6.5.2.3 Any person or organisation making a donation to a political party which individually or cumulatively exceeds **R100 000.00** per year must report that donation to the Electoral Commission within 30 days of making the donation or within 30 days of when the cumulative donations exceeded **R100 000.00**.

6.5.2.4 Lastly, the Political Party Funding Act places an obligation on the Electoral Commission to make public every three months the donations reported by political parties and to report annually to Parliament on all donations made to political parties during the year.

6.5.3 Protection of Personal Information Act, 2013 (Act No. 4 of 2013)

6.5.3.1 Section 23 of **POPIA** provides the data subject with the right of access to personal information held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information.

6.5.3.2 This means that whilst access to a record containing personal information about a requester is excluded from **PAIA** in terms Section 11(2) thereof, data subject can request –

6.5.3.2.1 access to his/her personal information; and/or

6.5.3.2.2 identity of all third parties, and/or categories of third parties, who have, or have had, access to the information.

6.5.3.2.3 correction or deletion of personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or

6.5.3.2.4 the record of his/her personal information that the responsible party is no longer authorised to retain to be destroyed or deleted.

6.5.3.3 A responsible party may refuse to disclose any personal information requested, in accordance with the grounds for refusal of access to records, as set out in paragraph 19.4 below.

6.5.4 The Promotion of Administrative Justice Act 3 of 2000

6.5.4.1 Another important law to remember when considering access to information is the Promotion of Administrative Justice Act (**PAJA**). **PAJA** gives effect to the right to administrative action that is lawful, reasonable and procedurally fair and to the right to written reasons for administrative action as contemplated in section 33(2) of the Constitution[6].

6.5.4.2 In terms of section 5(1) of **PAJA**, any person whose rights have been materially and adversely affected by administrative action and who has not been given reasons for the action may, within 90 days after the date on which that person became aware of the action or might reasonably have been expected to have become aware of the action, request that the administrator concerned to furnish written reasons for the action. The administrator to whom the request is made must, within 90 days after receiving the request, give that person adequate reason in writing for the administrative action.

7. ESTABLISHMENT OF THE INFORMATION REGULATOR

7.1 To ensure the promotion and enhancement of the **PAIA** objectives, which are to give effect to that right of access to information in a manner which enables persons to obtain access to records of public and private bodies as swiftly and inexpensively as reasonably possible, the Information Regulator ("the Regulator") was established in terms of section 39 of **POPIA**.

7.2 In order to ensure that uncomplicated and inexpensive administrative procedures follow when a request for access to information is made, complaints to the Regulator and court applications should be the exception rather than the rule.

7.3 **POPIA** amends the role of the **SAHRC** in relation to the **PAIA** mandate. Effective from 30 June 2021, all the functions of the **SAHRC**, as enumerated in **PAIA**, will be handled by the Regulator, which also has additional enforcement powers.

7.4 Whilst the **SAHRC** will still maintain its broader constitutional obligations to promote, protect and monitor the rights enshrined in the Bill of Rights, the **SAHRC** and the Regulator will work closely alongside one another.

[6] *Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.*

8. THE ROLE OF THE INFORMATION REGULATOR

8.1 The Regulator has a very important role in relation to **PAIA**. The Regulator is mandated by **PAIA**, under Part 4, Chapter 1A and Part 5 and other sections, to:

8.1.1 promote the right of access to information and assist the public in using **PAIA** where reasonably possible to do so,

8.1.2 monitor and further the implementation of **PAIA** by public and private bodies (which includes promoting effective ways to make information timeously available),

8.1.3 make recommendations to strengthen **PAIA**, and

8.1.4 report annually to Parliament.

8.2 Section 77C (1) and (2) of **PAIA** makes provision for the following powers, duties and functions of the Regulator, to -

8.2.1 investigate a complaint made to the Regulator in the prescribed manner;

8.2.2 refer the complaint to the Enforcement Committee established in terms of section 50 of the **POPIA**; or

8.2.3 decide, in accordance with section 77D, to take no action on the complaint or, as the case may be, require no further action in respect of the complaint; and

8.2.4 act, where appropriate, as conciliator in relation to such complaint in the prescribed manner.

8.3 The Regulator may, in terms of section 77H(1) of **PAIA**, and on its own initiative, or at the request by or on behalf of information officer or head of a private body or any other person conduct as an assessment whether a public or private body generally complies with the provisions of **PAIA**, insofar as its policies and implementation procedures are concerned.

8.4 The Regulator is empowered, in term of section 77F of **PAIA**, to use its best endeavours to secure a settlement of a complaint, if it appears from the complaint, or any written response made in relation thereto that it may be possible to settle the complaint. This means that the Regulator can only try to assist parties to settle their disputes, if there is a complaint lodged with the Regulator, unless it has decided, on its own initiative, to conduct an assessment, as stipulated in paragraph 8.3 above.

9. MAKING A REQUEST FOR A RECORD

Please refer to the step-by step process chart flow in paragraph 27 below, on how to request access to the records.

9.1 Getting started: **PAIA Manuals**

9.1.1 While this Guide has been published to assist the public from all walks of life to uphold their constitutional right to access to information, there are other sources of information that can also assist a person in making a request to access to records. **PAIA** requires that all public bodies, and private bodies, compile and make available a **PAIA** manual[7].

9.1.2 Before any person takes steps to access the information or records of a particular body, the **PAIA** Manual is the first tool to read.

9.1.3 At its most basic, the **PAIA** manual is useful for a person to:

9.1.3.1 check the nature of the records which may already be available without the need for submitting a formal **PAIA** request;

9.1.3.2 have an understanding of how to make a request for access to information held by a particular body;

9.1.3.3 access all the relevant contact details of the person who will assist the public with the records any person intends accessing;

9.1.3.4 know all the remedies available from the body to which access to the records is being requested, before approaching the Regulator or the Courts;

9.1.3.5 know the description of the services available to members of the public from the body and how to gain access to those services;

9.1.3.6 know if the body will process personal information, the purpose of processing of personal information and the description of the categories of data subjects and of the information or categories of information relating thereto;

9.1.3.7 know if the body has planned to transfer or process a person's personal information outside the Republic of South Africa; and

[7] *Section 14 and section 51 of PAIA*

9.1.3.8 know whether the body has appropriate security measures to ensure the confidentiality, integrity and availability of the information which is to be processed.

9.2 Where to find PAIA manuals?

9.2.1 **PAIA** Manual of public bodies

9.2.1.1 All public bodies must make the **PAIA** Manual easily available in at least three official languages[8].

9.2.1.2 At the very least, they are required to make a copy of a **PAIA** Manual freely available, except if a printed hard copy is requested

9.2.1.2.1 on the web site of the public body;

9.2.1.2.2 at the head office of the public body for public inspection during normal business hours;

9.2.1.2.3 if a person wants a hard copy, the public body must make a copy, but it may request payment of a reasonable fee for the provision of a hard copy; and

9.2.1.3.4 to the Regulator upon request.

9.2.2 **PAIA** Manual of private bodies

9.2.2.1 Private bodies are also required to compile a **PAIA** manual[9], but there is no requirement to compile it in more than one language or in a specific language, although it is recommended that the **PAIA** Manuals of private bodies should be at least in English. If a specific body is providing services to majority of people without formal education, the Regulator recommends that the manual of that body may also be in any other official language.

9.2.2.2 At the very least, the private bodies are required to make a copy of a **PAIA** Manual freely available[10], except if a printed hard copy is requested -

9.2.2.2.1 on the web site of the private body;

9.2.2.2.2 at the principal place of business of the private body for public inspection during normal business hours;

[8] *Section 14(1) of PAIA*
[9] *in terms of section 51 of PAIA*
[10] *Section 51(3) of PAIA*

9.2.2.2.3 if a person wants a hard copy, the private body must make a copy, but it may request the payment of a reasonable fee for the provision of the hard copy; and

9.2.2.2.4 to the Regulator upon request.

9.2.3 The Minister of Justice and Correctional Services has powers to exempt[11] certain private bodies or category of private bodies from the obligation to compile a manual. Currently, and until 31 December 2021, the Minister has exempted[12] all private bodies, except any company which -

(a) (is not a private company as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008); and

(b) is a private company as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008) which operates within any of the sectors mentioned in column one of the schedule to this Notice and –

(i) has 50 or more employees in their employment; or

(ii) has a total annual turnover that is equal to or more than the applicable amount mentioned in column 2 of below table,

from compiling the manual contemplated in section 51(1) of the first mentioned Act for a period of six (6) month from **1 July 2021** to **31 December 2021**: -

Sector	Annual Turnover
Agriculture	R 6 million
Mining and Quarrying	R 22.5 million
Manufacturing	R 30 million
Electricity, Gas and Water	R 30 million
Construction	R 15 million
Retail and Motor Trade and Repair Services	R 45 million
Wholesale Trade, Commercial Agents and Allied Services	R 75 million
Catering, Accommodation and other Trade	R 15 million
Transport, Storage and Communications	R 30 million
Finance and Business Services	R 30 million
Community, Special and Personal Services	R 15 million

[11] *Section 51(4) of PAIA*
[12] *Government Gazette no: 39504, 11 December 2015*

9.2.4 Due to the significance of the legislative requirement for compiling the **PAIA** Manual, especially the amendment[13] of section 51 of **PAIA** (which come into operation on 30 June 2021), in terms of which the scope of the information that the manual must cover has been widened to include matters relating **POPIA**, private bodies will no longer be exempted from the obligation to compile **PAIA** manual. Therefore, from, 1st January 2022, every private and public body will be required to have their **PAIA** Manual available, as prescribed in paragraph 9.2.2.2 above.

9.2.5 The exemption of private companies from the obligation to compile **PAIA** manual does not exempt those private companies from compliance with **PAIA**. This means that any person can still submit a request for access to information to exempted private body. The exemption just means that those private companies don't have to compile a **PAIA** manual.

9.2.6 Remember too, that not all private bodies are companies, as the definition of private body includes natural person, sole proprietor and partnership. However, it may still be worthwhile checking their website, as some Companies create a **PAIA** manual regardless of the number of their employees or their annual turnover.

9.3 Voluntary disclosure and automatic availability of certain records

9.3.1 Automatically available records are those that a public or private body will provide without the need for a requester to submit a **PAIA** request (in other words, a person can just request it without completing the **PAIA** Form 2).

9.3.2 The Information Officer of a public body is required, in terms of section 15(1) of **PAIA**, to make available a list or categories of records that are automatically available, as prescribed in paragraph 9.3.4 below.

9.3.3 Automatically available records of a private body may also be made available, in terms of section 52(1) of **PAIA**, but on a voluntary basis in accordance with paragraph 9.3.4 below.

9.3.4 A description of the categories of automatically available records must be made available -

(a) to the Information Regulator;

(b) on the website of a body; and

(c) for inspection, at the offices of a body concerned during normal office hours.

[13] *Section 110 of POPIA*

9.3.5 Please note that the Regulator will upload the description of automatically available records of a public body on its website.

9.3.6 This list includes records that might be required to be made available by other laws, and any other records that a body chooses to include. In order to avoid the formality of complying with the **PAIA** request process, a requester is advised to check the **PAIA** Manual of the public or private body concerned. Should a person wish to access records that fall within the body's list of automatically available records, that person may merely request access to them without needing to complete **PAIA** Form 2.

9.3.7 Political Party Funding Act 6 of 2018 introduces some changes through **PAIA**, in terms of which the heads of political parties are required to record and preserve records of private donations, which will need to be made public without a person having to file a **PAIA** request.

10. CONTACT DETAILS OF INFORMATION OFFICERS

10.1 Although the contact details of the Information Officers of every public body are required to be published in every telephone directory, in terms of section 16 of **PAIA**, the Regulator has specific contact details of all Information Officers (including Deputy Information Officers, designated in terms of section 17 and 56 of **PAIA** and **POPIA** respectively) registered with it in terms of section 55(2) of **POPIA**.

10.2 Whilst getting the correct contact details may often be a very challenging part of making a **PAIA** request, as roles change frequently in the public sector and **PAIA** manual may not necessarily be up-to-date, the first place to find contact details should be the body's **PAIA** Manual. However, if a requester cannot find the manual, calling the switchboard of the body to ask for the relevant details may also assist.

10.3 For Municipalities, the South African Local Government Association (**SALGA**) places the contact details for all Municipalities at this link: http://www.salga.org.za/Municipalities%20MCD.html

10.4 Government communication also provides national and provincial contacts as well as the contact details of State-Owned Enterprises under this link: https://www.gov.za/about-government/contact-directory. Always remember that the definition of the Information Officer helps to identify whose contact details are needed to identify the Information Officer.

11. PROCESS FOR MAKING A REQUEST FOR INFORMATION

11.1 The forms of request

11.1.1 A request for access to information can be made to both public and private bodies.

11.1.2 **PAIA** requires that if you want to make such a request, you have to submit the request on the required form (these forms are prescribed by Regulations). There are two forms that can be used in pursuing the right to access to information

Form 2	Form 4
This form can only be used if you want to request access to the records of a public or private body.	This form can only be used if you want to submit an internal appeal against the decisions of the Information Officers or that of the Deputy Information Officers of a National, Provincial or Local Sphere of Government to which an internal appeal is applicable.

11.1.3 These forms can be obtained on the Regulator's website at https://www.justice.gov.za/inforeg/

11.2 Deciding whether a request relates to information held by a private or public body

11.2.1 A public body performs a public function, such as providing electricity or water to the public. So, a public body is not just a National, Provincial or Local Government Department– it would include state-owned enterprises or Organs of State such as the Regulator, **Eskom**, or **PRASA**, however, a distinction must be made regarding a public body for purpose of internal appeal, which only refers to National, Provincial or Local Government.

11.2.2 A private body performs a private function. Such a body (which can be a person) carries on a trade, business or profession. It is very important to note that when submitting a **PAIA** request to a private body a person must state which right he is protecting or exercising by asking for this information. With regard to any information that is held by another person, Streicher JA summed up the position as follows, in **Cape Metropolitan Council v Metro Inspection Services (Western Cape) CC and Others**[14],

[14] ***2001 (3) SA 1013*** *(SCA) para 28 at 1026F–G*

"Information can only be required for the exercise or protection of a right if it will be of assistance in the exercise or protection of the right. It follows that, in order to make out a case for access to information in terms of section 32, an applicant has to state what the right is that he wishes to exercise or protect, what the information is which is required and how that information would assist him in exercising or protecting that right".

11.2.3 Sometimes the question of whether a record is a public or private record can be complicated and the public are advised to seek legal advice. For example, if a public body appoints a private body to render certain services on its behalf, such as installation of water metres in certain communities, access to the numbers of installed metres, even if such information is held by such private body, will be treated as information of a public body.

11.3 How does a person explain the right he is hoping to exercise or protect?

11.3.1 When explaining which right one is hoping to exercise when making a request to a private body, one cannot refer to the right of access to information. One has to explain how the record one is asking for is reasonably required for one to protect, or exercise, another right. This could include rights that are not just constitutional rights.

11.3.2 One may for example require the master plans from a company that has the potential to impact the pollution levels in a community, in order to help protect one's right to the environment through monitoring its activities. Or one may require records, which will help one determine if one has the right to file a civil claim against an entity. One therefore needs to:

11.3.2.1 Specifically identify the right one hopes to protect or exercise, and then

11.3.2.2 Explain clearly why the *record* one is asking for is reasonably required to help one with that right.

11.3.3 In contrast, when submitting a **PAIA** request to a public body, one does not have to have a reason for requesting the information.

12. WHO CAN MAKE A PAIA REQUEST?

12.1 Any person, whether South African or non-South African, is allowed to make a request under **PAIA**. The requester can be a natural person or juristic person.

12.2 A public body is considered a juristic person and may make a request for access to records held by private bodies, but only if the public body is -

12.2.1 acting in the interests of the public, and

12.2.2 if the records are required to fulfil or protect any rights other than those of the public body.

12.3 Under **PAIA** a requester cannot request access to a record, of the public body, containing personal information about the requester from the public body[15], however the requester or data subject can, in terms of section 23(1)(b) of **POPIA**, request from a responsible party the record or a description of the personal information about the data subject held by the responsible party. This means that any person can now request access to their personal information held by the public or private body upon production of adequate proof of identity. The personal information that a requester may request from the responsible body may include information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information.

12.4 In terms of section 50(1) of **POPIA**, any person can request access to a record, of a private body, containing personal information about the requester or the person on whose behalf the request is made.

13. TO WHOM CAN A REQUEST BE MADE TO?

13.1 The Information Officer of a public body is required to designate a Deputy Information Officer(s), who must ensure that access to the records of the public body is as reasonably accessible as possible. Although this was not a requirement with regard to the private body under **PAIA**, a private body may designate the above-mentioned Deputy Information Officer, in terms of section 56 of **POPIA**.

13.2 The request for access to information, although it may be directed to the Information Officer, can be submitted to the Deputy Information Officer. Particulars of Deputy Information Officer(s) can be obtained in the **PAIA** manual of that particular body or from the Regulator.

14. COMPLETING THE FORM

14.1 Form 2 - request for access to a record of a public or private body:

14.1.1 In order to complete the **PAIA** form, a person needs to provide sufficient detail to allow the Information Officer or Deputy Information Officer to identify the records the requester seeks.

[15] *Section 11(2) of PAIA*

14.1.2 **PAIA** Regulations specify the form to be used, which must be sent to the Information Officer, or Deputy Information Officer of the body.

14.1.3 Requesters who are unable to read or write can make verbal requests to the Information Officer or Deputy Information Officer of a public body, who is then responsible for completing the form 2 on behalf of the requester. The current form will require you to complete the following sections:

Information Required	Description
Particulars of public private body	This section should contain the relevant email and fax number of the Information Officer and/or Deputy Information Officer.
Particulars of person requesting access to records	This should contain enough information about the requester to make the requester reasonably easy to identify, including the contact details of the requester: postal address, email address, fax and/or telephone number in South Africa. It also asks for your identity number to authenticate your identity. If you are requesting the information on behalf of someone else, proof of the capacity in which you are making the request must be provided (as the 'authorised person').
Particulars of record requested	Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located. (If the provided space is inadequate, please continue on a separate page and attach it to the form. All additional pages must be signed.
Type of record	This should contain enough information about the record to make it reasonably easy to identify. If the information required cannot fit in the space provided in the form, additional typed or handwritten page may be used to give more detail of the request, as long as each additional page is signed

Information Required	Description
	and attached to the request form. You might, for example, include an extract from a report or news story that references the record you are looking for. It allows you to include a reference number for the record, if is this applicable.
Fees	The body, to which a requester intends submitting a request for access to a record, including record containing personal information about his or herself, may request that you pay request fee (access fee) or deposit fee, but that amount must not be excessive, as the fees must be for the reasonable time required to search for and prepare a record. The Minister may by notice in the Gazette exempt the payment of fees as listed on paragraph 51.1 below. A space is provided for the requester to indicate why he believes he or she should be exempted from paying any fees. The reason may include, for example, that he or she is unemployed.
Form of access to record	This section allows you to note with an "X" your preferences for the form of access to the record may be provided in a printed copy of record and/or flash drive and/or compact disc drive.
Manner of access	Under this section you are required to note your preference in relation to which language the record should be in (this may not be possible in relation to all records, but you should still indicate your preference). The manner of access of the record may contribute to a refusal of access due to higher fees. For example, if a requester wants document in your preferred language,

Information Required	Description
	fees for changing the documents to your preferred language may become payable. However, if the record is not available in the language you prefer, access may be granted in the language in which the record is available. The manner of access to record may include personal inspection of record, record sent by email, or fax or courier or postal.
Notice of decision regarding request for access	A space is provided for the requester to describe the manner in which he wishes to be informed about the decision to grant or deny the request. The requester can specify for instance that he would prefer to be contacted by email or by telephone or the response can be posted or couriered to him.
Particulars of right to be exercised or protected	When requesting information from a private body a requester is required to describe the "particulars of right to be exercised or protected". Here he must state the right he is relying on (such as his right to a healthy environment) and how the record he is requesting will help you either exercise, or protect, that right. He must show a connection between the record he wants, and the exercise or protection of the right. Unfortunately, unlike the request for access to record of a public body, he cannot access a record of the private body unless he specifies the right(s) he intends protecting or exercising should access for information be granted. This can include the fact that after he gains access to records, he will then exercise his right to equal protection and benefit of the law[16] by suing that body for damages that he may have suffered.

[16] *Section 9(1) of the constitution of the Republic of South Africa, Act 108 of 1996*

14.1.4 If for any reasons his request does not comply with the requirements listed above, the Information Officer may not just refuse his request, unless he notified the requester that he intends to refuse the request and the reasons are provided. The Information Officer must also notify that he will assist the requester or give him an opportunity to correct the error.

15. THE FEES INVOLVED

15.1 Generally, fees need to be paid both for making a request, but also to cover the cost of providing access to records in terms of a request. There are, however, some exceptions. If the requester is granted access to the records he or she requested and he or she is not exempted from paying any fees, as indicated in paragraph 15.2 below, the Information Officer or Deputy Information Officer of a public or private body can charge the prescribed fees relating to the following categories -

NB: The fee structure in respect of fees payable to the Public and Private Bodies can be accessed on the Regulator's website.

Item	Description
1	The request fee payable by every requester
2	Photocopy of A4 size page
3	Printed copy of A4 size page
4	For a copy in a computer-readable form on: (i) Flash drive (to be provided by requestor) (ii) Compact disc • If provided by requestor • If provided to the requestor
5	For a transcription of visual images per A4 size page
6	Copy of visual images
7	Transcription of an audio record, per A4 size page
8	Copy of an audio record on: (i) Flash drive (to be provided by requestor) (ii) Compact disc • If provided by requestor • If provided to the requestor
9	To search for and prepare the record for disclosure for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation. To not exceed a total cost of the prescribed maximum amount
10	Deposit: If search exceeds 6 hours
11	Postage, e-mail or any other electronic transfer

15.2 The requester does not need to pay an access fee[17] to a public body if:-

15.2.1 He is a single person whose annual income, after permissible deductions, such as **PAYE** and **UIF**, is less than **R14 712.00** a year, or

15.2.2 He is married and the joint income with his partner, after permissible deductions, such as **PAYE** and **UIF**, is less than **R27 192.00** per year.

15.3 Please note that the public or private body can request, in Form 4 to the Regulations, a deposit from the requester, but only if they believe that the information or records requested will take more than six (6) hours to search, but the deposit amount cannot be more than one-third of the prescribed fee.

16. WILL THE INFORMATION OFFICER HELP THE REQUESTER MAKE A PAIA REQUEST?

16.1 The role of the Information Officers and/or Deputy Information Officers of both public and private bodies is to, in so far as it relates to the processing of requests for access to records:

16.1.1 receive the **PAIA** or **POPIA** request;

16.1.2 coordinate the processing of the request within the body;

16.1.3 make a decision as to whether to grant or refuse access to the records being requested;

16.1.4 liaise with the requester (e.g. they may need to ask the requester for more details or they may need to request an extension of time to deal with the request, etc.);

16.1.5 Advice the requester of the outcome of their **PAIA** request, which advice must be given as soon as is reasonably possible but within 30 days after receiving the request. The initial period of 30 days may be extended once for a further period of not more than 30 days, if for example, the requester has agreed to the extension or the request requires a search for records that cannot reasonably be completed within the original period;

16.1.6 provide the requester with reasons for the decision to refuse access. It is very important that the reasons given for a refusal are clear and detailed and must include reference to the specific sections of **PAIA** (see paragraph 19.4 below, regarding the grounds for refusal of access to records[18]);

[17] *as per Government Notice R991 of 14 October 2005*
[18] *Section 33 to 46 of PAIA*

16.1.7 inform relevant third parties through the third-party notification process, in terms of section 47 of **PAIA**; and

16.1.8 if access to the records is granted, provide the requester with a copy of the record.

16.2 When notifying the requester about the decision, also outline the forms of recourse available and the relevant time-lines (the recourse available is different for public and private bodies).

16.3 The additional role and responsibilities of the Information Officers and/or Deputy Information Officers are those detailed in the Guidance Note on Information Officers and Deputy Information Officers which Guidance Note is available at https://www.justice.gov.za/inforeg/docs.html

16.4 Because the role of the Information Officers and/or Deputy Information Officers is to facilitate the request for access to information, this also means they have a variety of duties to those making a request.

16.5 The Information Officers and/or Deputy Information Officers must provide the assistance for free.

16.6 The Information Officers and/or Deputy Information Officers of a public body have the following special tasks:

Duties of Information Officers	Description
Assist with completing the form	The Information Officer must provide reasonable assistance to the requester in completing their **PAIA** form, and may not refuse to accept a form that is not properly completed unless they have either given that help, or offered that help and the assistance or help has been refused.
Provide relevant information	If it is reasonably possible, the Information Officer must provide the requester with any other information that may be relevant, even if not specifically requested.
Transfer the request	This is a very important duty. When a **PAIA** request is made to the wrong public body, the Information Officer must transfer the

Duties of Information Officers	Description
	request to the correct public body within **14 days** of receiving the request and must inform the requester in writing of having done so. Once transferred, the correct Information Officer must then respond with a decision within **30 days**.
Deferral of release	The Information Officer may decide to defer the release of a record to a requester if that record will be published within **90 days** or if the record is required by law to be published but is yet to be.

16.7 With both public and private bodies, the Information Officer must, if they are unable to find the particular records requested or believe that the records do not exist, submit a detailed affidavit or affirmation[19] to the requester giving notice that the records in question do not exist or cannot be found, but also outline the steps they took to locate them.

17. ASSISTANCE AVAILABLE FROM THE INFORMATION REGULATOR IN TERMS OF PAIA AND POPIA

17.1 The Information Officer of a public body has an obligation to render such reasonable assistance[20], free of charge, as is necessary to enable that requester or data subject to comply with the manner of access as contemplated in sections 18 of the **PAIA** and section 23 of **POPIA**.

17.2 However, should the Information Officer fail to comply with his/her duty, referred in paragraph 17.1 above, a requester or a data subject can may lodge a complaint with the Regulator and the Regulator may, upon investigation, issue an Enforcement Notice directing the Information Officer to provide the reasonable assistance.

17.3 The Regulator may, if reasonably possible, on request, assist any person wishing to exercise any right contemplated in **PAIA** and **POPIA**[21], and this includes providing reasonable assistance, free of charge, as is necessary to enable that requester or data subject to comply with the manner of access as contemplated in sections 18 and 53 of the **PAIA** and section 23 of **POPIA**.

17.4 The above includes providing guidance on how to complete a request for access form or completing a form on behalf of an illiterate or blind person.

[19] *Section 23(1) and 51(1) of PAIA*
[20] *Section 19(1) of PAIA*
[21] *Section 83(3)(c) of PAIA*

18. CAN THE INFORMATION OFFICER EXTEND THE TIMELINES INVOLVED?

18.1 An outline of the process and the key time-lines involved are contained in the diagram of the **PAIA** request process, in paragraph 27 below. Having specific time-lines is an important part of **PAIA**, as it fosters the effective management of requests for access to records.

18.2 As a reminder, once you have submitted your request correctly the Information Officer or Deputy Information Officer, to whom the request is made or transferred, must respond to you as soon as is reasonably possible but in any event **within 30 days**[22]. However, the Information Officer of a public or private body can request a single **30 day extension**[23], but only if:

18.2.1 the request is for a large number of records or requires that a large number of records are searched and, without an extension, this search would interfere with the normal activities of the body concerned;

18.2.2 the request requires a search through records in an office of that body not situated in the same city or town and could thus not be completed **within the 30 days**; and/or

18.2.3 it requires a level of consultation in order to act on the request, which cannot reasonably be completed **within just 30 days**.

18.3 The Information Officer must notify the requester of his or her intention to extend the initial time period, and indicate the period of extension, the reason for the extension, and notify the requester of his or her or its right to -

18.3.1 Appeal to the relevant authority;

18.3.2 complain to the Regulator; or

18.2.3 launch proceedings in court against the extension as the case may be.

18.4 The Information Officer must also inform the requester of the process for each of the above-mentioned rights in the notice[24].

19. RESPONSES TO A REQUEST FOR INFORMATION

19.1 **PAIA** has provided the public with the right to request access to records from any public or private body. It is often described as the law that keeps citizens in the know about their government. Public bodies are required to disclose any information requested under the **PAIA** unless it falls under one of **twelve (12)**

[22] *Section 25(1) of PAIA*
[23] *Section 26(1) of PAIA*
[24] *Section 26(3) of PAIA - the extension notice must state that the requester may lodge an internal appeal, complaint to the Information Regulator or an application with a court, as the case may be, against the extension, and the procedure (including the period) for lodging the internal appeal, complaint to the Information Regulator or application, as the case may be.*

exemptions or reasons why access to records of a public body may or must not be granted[25] and seven (7) exemptions or reasons why access to records of private body may or must not be granted[26]. The nineteen (19) exemptions provided for in **PAIA** are intended to protect interests such as personal privacy, national security, and law enforcement.

19.2 The guiding principle underlying the administration of **PAIA** is the presumption of openness. This means that any reason for limiting this openness must be justifiable. Public bodies should also consider whether partial disclosure of information is possible whenever they determine that full disclosure is not possible and they must sever or redact the information that cannot be disclosed and disclose the rest.

19.3 Types of responses to requests

19.3.1 When a request for access to a record is made, the Information Officer or Deputy Information Officer must, if a request for access to a record is granted or refused, inform the requester of -

(a) his or her decision; and
(b) the fees payable, if any,

on a form that corresponds substantially with **Form 3** of Annexure A to the Regulations:

19.3.2 However, **PAIA** provides a list of reasons or grounds (exemptions) (see paragraphs 19.4 and 19.6 below) why the request may or must be refused. This is important, as the request can only be refused on the basis of one of these listed grounds for refusal of access to records.

19.3.3 Despite the above-mentioned reasons for refusal of access to records, the Information Officer of a public body must grant a request for access to a record of the body if the public interest in the disclosure of the record clearly outweighs the harm contemplated in the listed reasons for refusal[27]. This means the requester can rely on public interest whenever any of the grounds of refusal of access to records is being invoked.

19.3.4 In short, the reasons behind why information cannot be disclosed relate to whether the disclosure of the information would cause more harm than non-disclosure would. There are two different types of listed grounds for refusal for access to records of a body:

[25] *Chapter 4 of PAIA- grounds for refusal of access to records (section 34-45 of PAIA)*
[26] *Chapter 4 of PAIA -grounds for refusal of access to records (section 63-69 of PAIA)*
[27] *Section 46 of PAIA*

19.4 Mandatory grounds of refusal (grounds of exemption)

19.4.1 With mandatory grounds, the Information Officer or Deputy Information Officer must refuse a request because they apply to the record.

19.4.2 There are more mandatory grounds than discretionary grounds. The following are the mandatory grounds of refusal, and the Information Officer or Deputy Information Officer must refuse a request because they apply to the record –

19.4.2.1 **Mandatory protection of privacy of third party who is a natural person;**

The Information Officer of a public or private body must not allow a requester access to the personal information of another person if it amounts to 'an unreasonable disclosure'. The sections themselves indicate a few reasons when this does not apply, like when records are already in the public knowledge, or where a person has given consent. The consent issue is particularly important as it connects to another part of the process the requester should be aware of, which relates to third party notifications, in terms of chapter 5 of **PAIA**.

19.4.2.2 **Mandatory protection of certain records of the South African Revenue Service;**

The Information Officer of **SARS** must not allow a requester access to records obtained, or held, by **SARS** for its revenue collection purposes. However, records obtained or held by **SARS** may not be refused if a request is done by personal requester or the person on whose behalf the request is made.

19.4.2.3 **Mandatory protection of commercial information of third party;**

The Information Officer of a body must not allow a requester access to the commercial information of another person (in other words, who is not the requester or requestee. This would include information like trade secrets, or that might threaten that third party's commercial interests. For example, **KFC** use certain recipes, including some ingredients manufactured by a third party, which are the trade secrets of that third party and its disclosure might threaten the commercial interests of that third party.

19.4.2.4 **Mandatory protection of certain confidential information, and protection of certain other confidential information, of a third party;**

The Information Officers of both a public and private body must not allow a requester access to a record if its release would amount to a breach of a duty of confidence owed to a third party in terms of an agreement or contract.

19.4.2.5 **Mandatory protection of safety of individuals, and protection of property;**

The Information Officer of both a public or private body must not allow a requester access to a record if its release could reasonably be expected to compromise the safety of an individual. In the same sections, it also states that the Information Officer of a body may refuse access if it would be likely to impair the security of a building or property.

19.4.2.6 **Mandatory protection of police dockets in bail proceedings, and protection of law enforcement and legal proceedings;**

The Information Officer of a public body must not allow a requester access to records like bail proceeding records that are already protected by section 60 of the Criminal Procedure Act. In the same section, it also states that an Information Officer of a public body may refuse access to records of law enforcement that reveal its methods, techniques, procedures for prevention of crimes, or prosecution of crimes, as well as certain other records relevant to legal proceedings that are happening.

19.4.2.7 **Mandatory protection of records privileged from production in legal proceedings;**

The Information Officer of a private body must not allow a requester access to a record if the record is privileged from production in legal proceedings, unless the person entitled to the privilege has waived the privilege.

19.4.2.8 **Mandatory protection of research information of third party, and protection of research information of public or private body.**

The Information Officer of a body must not allow a requester access to a record if the record relates to research that is, or will be, undertaken by the body in question and its release would be likely to expose the researcher, the third party or the matter under research to a serious disadvantage.

19.4.3 Please note that the above mandatory grounds for refusal of access to records are somewhat the same for public and private bodies, except for the mandatory protection of certain records of South African Revenue Service, of police dockets in bail proceedings, of law enforcement and of legal proceedings, which are only applicable to public bodies.

19.4.4 If only part of the record is linked to an exemption ground, the Information Officer or Deputy Information Officer of both a public or private body is under an obligation to consider whether partial disclosure of information is possible whenever they determine that full disclosure is not possible and they should take reasonable steps to sever or redact that part that cannot be released to the requester and grant access to the rest of the record.

19.5 Deemed refusal of request[28]

19.5.1 A failure to respond properly to a request within the correct timeframe is considered to be a 'deemed refusal'. This is important, because **PAIA** allows the requester to challenge a decision when no decision has been made and the request has been ignored. The requester would merely state in the internal appeal that no response was received.

19.5.2 Request for access to records is deemed to be a refusal after the expiry of 30 days or any extended period and the public or private body fails to respond.

19.6 Discretionary grounds of refusal

19.6.1 With discretionary grounds, an Information Officer or Deputy Information Officer may consider whether or not to refuse a request because the grounds apply to the record requested. Because it is a discretion, the Information Officer must apply his/her mind objectively when considering the different grounds, which are:

19.6.1.1 **South Africa's defence, security and international relations:** The Information Officer may refuse access if the release of the information could reasonably be expected to threaten the defence or security of the country. This could also apply where the release of the information might harm South Africa's relations with another country, such as revealing records supplied in confidence.

19.6.1.2 **Economic, financial and commercial interests:** The Information Officer may refuse access if its release will be harmful to the economic and financial status of the Republic;

[28] *Section 27 and 58 of PAIA*

19.6.1.3 **Operations of public bodies:** The Information Officer of a public body may refuse access if the release of the information could reasonably hamper operations, for example if it is trying to formulate policy, or deliberate on an issue;

19.6.1.4 **Manifestly frivolous or vexatious requests:** The Information Officers may refuse a request for information if they are of the opinion that processing requests will be unreasonably time consuming and lead to a waste of resources. In addition, they may refuse access to a record if the request is seen to be made by a requester to unnecessarily annoy or provoke.

20. MANDATORY DISCLOSURE OF RECORDS IN THE PUBLIC INTEREST

20.1 Even if a discretionary or mandatory ground for refusal exists in relation to a request for access to records of public or private bodies, there is always the possibility that the public interest in the disclosure of the record is more important than the harm created by the release of the record.

20.2 Where the importance of the public interest exists as stated above and the disclosure of the record would reveal evidence of a substantial contravention of, or failure to comply with, the law; or an imminent and serious public safety or environmental risk, then the Information Officer of a body must grant a request for access to a record despite the existence of the exemption grounds listed above.

21. THIRD PARTY NOTIFICATION PROCESS[29]

21.1 An Information Officer or Deputy Information Officer of a body is required, in terms of sections 47 and 71 of **PAIA**, to take all reasonable steps to inform a third party about a request for his or records that might be a record that contains either personal information,

21.1.1 a SARS record;

21.1.2 trade secrets;

21.1.3 Information the release of which could constitute grounds for an action for breach of a duty of confidence; or research information that could expose someone or the subject matter to serious damage.

21.2 The notice to the third party whose records or Information are subject of request should invite the third party to -

[29] *Section 47 and 71 of PAIA*

21.2.1 make written or oral representations to the Information Officer why the request for access should be refused; or

21.2.2 give written consent for the disclosure of the record to the requester.

21.3 Importantly for the requester, **PAIA** says that the written notices to the third party must be sent to the third party within 21 days of the request being received, and that the Information Officer or Deputy Information Officer must inform the requester that a notice has been sent to the third party.

21.4 Once that notification has been sent, the Information Officer or Deputy Information Officer must then make a final decision on whether or not to release the records **within 30 days** of that notice being sent.

21.5 The third party must be notified about the decision taken and adequate reasons for granting the request must also be provided. The third party must also be informed about the right and the procedure to challenge the decision as indicated in paragraph 22 below.

22. LEGAL REMEDIES AVAILABLE AGAINST A DECISIONS OR FAILURE TO TAKE A DECISION BY THE INFORMATION OFFICER OR DEPUTY INFORMATION OFFICER

22.1 Action to take once a decision is made on a request

22.1.1 A requester can make a follow-up action in writing, on the pending decision of an Information Officer or Deputy Information Officer. It is encouraged that all correspondence between a requester and the Information Officer or Deputy Information Officer must be in writing for future reference purposes.

22.1.2 There are different processes for public and private bodies, especially regarding internal appeals. For instance, with regard to a request for access to a record of a public body, the requester must first submit an internal appeal before approaching the Regulator or Court. However, there is no internal appeal against a decision (whether granting or refusal to grant access to records) or deemed refusal of access to records of a private body.

22.1.3 This section will explain the legal remedies available to requesters who wish to challenge such decisions, which include internal appeals, lodging a compliant to the Regulator and applications to Court. See also diagram of **PAIA** request process flow, in paragraph 27 below.

22.1.4 A requester may, amongst others, challenge the following decision of a private and/or public body -

22.1.4.1 the tender or payment of the request fee;

22.1.4.2 the tender or payment of a deposit;

22.1.4.3 the access fee to be paid is too excessive;

22.1.4.4 the form of access granted;

22.1.4.5 the refusal of the request;

22.1.4.6 the procedure (including the period) for lodging the internal appeal;

22.1.4.7 inappropriate time extension taken to respond to a request for access;

22.1.4.8 failure to disclose records;

22.1.4.9 the granting of a request for access to a record;

22.1.4.10 refusal to grant request to waive the fees;

22.2 Internal remedies

22.2.1 How does a requester appeal internally against a public body's decision?

22.2.1.1 An internal appeal can only be lodged, in terms of section 74 of **PAIA**, with the relevant authority of the national or provincial sphere of government or any municipality in the local sphere of government as the case may be[30].

22.2.1.2 So for example, the City of Johannesburg is an example of a local sphere of government against which an internal appeal can be submitted. The Road Accident Fund or the Regulator is an example of a public body which is not part of the national, provincial or local sphere of government as it is set up by legislation, and therefore an internal appeal may not be lodged against it.

[30] *Section 74(1) of PAIA*

22.2.1.3 When a requester or a third party is unhappy with a decision made by the Information Officer or Deputy Information Officer of a national, provincial or local sphere of government, the requester or a third party has the right to file an internal appeal, in terms of section 74(1) or (2) of **PAIA**. The process for lodging an appeal is prescribed in the **PAIA** manual of that particular body and the manner for lodging an internal appeal is also detailed herein below.

22.2.1.4 If the response from the national, provincial or local sphere of government is a deemed refusal, in another words, it has failed to respond to a request within 30 days or any extended period, the requester may file an internal appeal, as per the processes outlined herein, before the requester may approach the Regulator or a Court.

22.3 **Preservation of records until final decision on request has been finally determined**

22.3.1 The Information Officer of a National, Provincial or Local sphere of government to which an internal appeal is applicable is required, in terms of section 21 of **PAIA**, to take appropriate steps that are reasonably necessary to preserve the record and cannot delete or destroy any re-quested record, until such time as all or any proceedings in an internal appeal or a complaint to the Regulator or an application to court, as the case may be, are finally determined.

22.3.2 This means that the information officer cannot delete or destroy any information requested, pending any process prescribed in paragraph 22.3.1. above.

22.4 **To whom should the internal appeal be directed to?**

22.4.1 Although the appeal will be considered by the relevant authority, an internal appeal must be delivered or sent to the Information Officer of the National, Provincial or Local Sphere of Government, as the case may be, at his address, fax number or electronic mail address[31], the contact details of which can be found in the **PAIA** manual or as may be obtained from the Regulator.

22.4.2 The Information Officer of the national, provincial or local sphere of government, as the case may be, has a specific obligation, in terms of section 75(4) of **PAIA**, to submit the appeal to the

[31] *Section 75(1)(b) of PAIA*

appeal authority, together with his reasons for the decision under appeal. The submission of the appeal to the relevant authority must be done within 10 working days after receipt of the appeal.

22.5 **Who is the relevant authority?**

22.5.1 The relevant authority, herein referred to as "appeal authority" is generally the political head of the body concerned (although this function can be officially delegated) and specifically refers to the following person.

Public body ("Government")	Relevant Authority ("Appeal Authority")
Office of the Presidency	The person designated in writing by the President, if any, otherwise the President is the appeal authority.
National Department	Minister responsible for that department or the person designated in writing by that Minister.
Office of a Premier	The person designated in writing by the Premier.
Provincial Department	Member of the Executive Council (MEC) responsible for that Provincial Department or the person designated in writing by the MEC;
Municipality	The Mayor, the Speaker or any other person designated in writing by the Municipal Council of that municipality;

22.5.2 Any other case, where it is not the office of the premier: the member of the executive who is responsible for that public body or the person designated in writing by that member.

22.5.3 If the appeal authority approves the Information Officers' decision, then the internal appeal is denied and the original

22.5.4 decision of the Information Officer stands. However, should the appeal authority disagree with the Information Officer's decision, then the appeal is granted and the original decision is overturned.

22.6 Who can lodge an internal appeal?

22.6.1 Any requester whose **PAIA** request for access to the records of National, Provincial or Local sphere of Government, as the case may be, has been refused, and believes that one of the appeal grounds listed in paragraph 22.2.4 above is applicable to their request, has the right to file an internal appeal.

22.6.2 Third parties can also file internal appeals against the decision made by an Information Officer to grant access to a record that concerns them. If the internal appeal involves a third party, the appeal authority who received the internal appeal is required to notify those third parties (so the responsibility shifts from the Information Officer to the appeal authority).

22.7 Period within which to lodge an appeal

22.7.1 An internal appeal must be lodged-

22.7.1.1 within **60 days**[32] after the decision was taken;

22.7.1.2 within **30 days**[33] after notice is given to the third party of the decision appealed against

22.7.2 Lodging an internal appeal after the above-mentioned period (late) may not be allowed, unless a valid reason for being late is provided to the appeal authority. An example, such as being hospitalised for more than 60 days may be accepted as valid reasons for being late.

22.7.3 If the appeal authority does not accept the late lodging of an internal appeal, it must provide you with reasons for rejecting the appeal and provide guidance of any additional information, if any, required in order to accept the appeal. The appeal authority must also advise you about the process to lodge a complaint against their decision with the Regulator or a court.

[32] *Section 75(1)(a)(i) of PAIA*
[33] *Section 75(1)(a)(ii) of PAIA*

22.7.4 As indicated above, your appeal must be submitted by the Information Officer to the appeal authority within 10 working days after receipt of an internal appeal[34].

22.8 **Notice of appeal by appeal authority to the requester or third party**

22.8.1 The appeal authority must, as soon as is reasonably possible but in any event within **30 days** after the receipt of the internal appeal[35], notify -

22.8.1.1 the third party to whom or which the record under appeal belongs, or

22.8.1.2 the requester about the internal appeal against the granting of a request for access.

22.8.2 A requester or a third party to whom or which notice is given, may within **21 days** after that notice is given, make written representations to the appeal authority why the request for access should or should not be granted.

22.9 **Decision on internal appeal and notice thereof[36]**

22.9.1 The appeal authority must decide the internal appeal as soon as reasonably possible but in any event within 30 days:

22.9.1.1 after the internal appeal is received by the Information Officer of a body;

22.9.1.2 after a third party is informed, as indicated in paragraph 22.8.1 above.

22.9.2 The decision of the appeal authority must be communicated to the appellant, third party and the requester. The decision of the appeal authority must be accompanied by adequate reasons for the decision, including the provision of **PAIA** or **POPIA** relied upon.

22.9.3 If the appeal authority fails to give notice of the decision on an internal appeal to the appellant within 30 days, the appeal is deemed to have been dismissed and the requester can proceed to lodge a complaint to the Regulator or approach the Court for appropriate relief[37].

[34] *Section 75(4) of PAIA*
[35] *Section 76(2)(a) of PAIA*
[36] *Section 77 of PAIA*
[37] *Section 77(7) of PAIA*

22.10 Completing the internal appeal - Form 4

22.10.1 In order to appeal against any decision by a National, Provincial or Local sphere of Government, the requester must lodge his internal appeal by completing Form 4. Form 4 must be submitted to the Information Officer of the sphere of government concerned, who is then required to forward it to the appeal authority, as stated above.

22.10.2 Form 4 is available on the Regulator's website, https://www.justice.gov.za/inforeg/, as well as in the website of the sphere of Government concerned.

22.10.3 The Information Officer or Deputy Information Officer of the sphere of Government concerned is not under an express obligation to help the requester complete the internal appeal form; however, the requester may still request the Information Officer to assist him in this regard.

22.10.4 Below is the step-by-step process to complete the internal appeal form -

Information Required	Description
Particulars of public body	This section should contain the name of the National, Provincial for Local sphere of Government concerned, and the name and surname of the Information Officer.
Particulars of appellant who lodges the internal appeal	This section should be completed by the appellant, whether in representative capacity or not. The full names and surname, identity number and the capacity, in which an internal appeal is lodged on behalf of another person, if relevant, must be provided. If the appeal is being in a personal capacity, such capacity must be recorded. Additional information required includes the contact details of the requester:

Information Required	Description
	postal address, email address, fax and/or telephone number. This information should be the same as in the original request. If the person filling in the form is the representative of the requester, proof of the capacity in which appeal is lodged must be attached to this form.
Particulars of person on whose behalf request is made (If lodged by a third party)	This section only needs to be completed by a person who is requesting information for another person. If the person submitting the internal appeal is not the person who originally requested the information, the particulars of the requester must be provided herein. If the request is in one's personal capacity this section need not be completed.
The decision against which the internal appeal is lodged	The form provides space for the requester to indicate with an "x", which of the listed appeal grounds applies to the appeal.
Grounds for appeal	Under this section, the requester is required to describe in detail why he thinks the appeal grounds apply. He is required to provide reasons(s) why he thinks the decision of the Information Officer is incorrect. He also needs to attach any documents which support the appeal. The list of reasons supplies in support of the appeal can be outlined in greater detail on a separate page, if the space provided in the form is not sufficient. The additional pages submitted should be signed.

Information Required	Description
	There must be sufficient reasons and supporting information to enable the appeal authority makes an informed decision. Therefore, one must also include an outline of everything that has happened in the run-up to the internal appeal. On the separate page, one can refer to specific sections of **PAIA** as a basis for the appeal.
Notice of decision on appeal	A space is provided for a description of the manner in which the decision must be sent, for example by post, couriered or facsimile or e-mail. Please select the preferred manner of notification.

22.10.5 Whilst there is no prohibition against getting a lawyer to assist at any stage of the request for information, the various **PAIA** processes are meant to be user-friendly removing the need for a lawyer and for legal fees to be incurred.

23. COMPLAINT TO THE INFORMATION REGULATOR

23.1 A requester or third party may only submit a complaint to the Regulator after that requester or third party has exhausted the internal appeal procedure against a decision of the Information Officer of a national, provincial or local sphere of government. This means that one can only submit one's complaint, against a particular sphere of government to the Regulator if one is not happy with the decision of the appeal authority. The Regulator will reject the complaint if an appeal process to the relevant sphere of government has not been completed.

23.2 However, with regard to a public body (in respect of which an internal appeal is not applicable) and a private body, a requester or third party may submit a complaint to the Regulator, if not satisfied by the decision of the body concerned.

23.3 A complaint to the Regulator by a requester or third party must be lodged within 180 days of receipt of the decision from the body.

23.4 A requester may lodge a complaint with the Regulator, if not happy with -

23.4.1 the outcome of an internal appeal to the appeal authority of any sphere of government;

23.4.2 a decision of the appeal authority to disallow the late lodging of an internal appeal;

23.4.3 a decision of the Information Officer of a public body that is not part of any sphere of government to –

23.4.3.1 refuse a request for access; or

23.4.3.2 extend the period to deal with request; or

23.4.3.3 grant access in a particular form.

23.4.4 a decision of the head of a private body to -

23.4.4.1 refuse a request for access; or

23.4.4.2 demand payment of the request fee, or a deposit of the access fee; or

23.4.4.3 extend a period to deal with request; or

23.4.4.4 grant access in a particular form.

23.5 A third party may lodge a complaint with the Regulator, if not happy with -

23.5.1 the outcome of an internal appeal to the appeal authority of the relevant sphere of government;

23.5.2 a decision of the Information Officer of a public body that is not part of any sphere of government to grant a request for access; or

23.5.3 a decision of the head of a private body to grant a request for access to a record of that body,

23.6 **How does one complain to Regulator?**

23.6.1 complaint to the Regulator must be made in writing and a complaint form must be completed, either manually or online. A complaint form, Form 5, can be downloaded from the Regulator's website, https://www.justice.gov.za/inforeg/

23.6.2 This means that the Regulator will not accept a complaint telephonically; however, the Regulator is required to provide reasonable assistance to any person who wishes to make a complaint and this includes assistance regarding completing a complaint form.

23.6.3 If one is challenging the decision of the Information Officer of a private body, one must provide sufficient evidence to prove that the record requested is required for the exercise or protection of any other right(s). Access to the records of a private body can only be granted if one can prove that one intends exercising or protecting any other right(s) with the record requested.

23.7 **What happens after receipt of the complaint?**

23.7.1 Upon receipt of one's complaint, the Regulator must -

23.7.1.1 investigate the complaint and refer its findings to the Enforcement Committee for a decision; or

23.7.1.2 take no action on the complaint due to the fact that -

23.7.1.2.1 The complaint has not been submitted within the period of 180 days and there are no reasonable grounds to condone the late submission of a complaint;

23.7.1.2.2 the complaint is frivolous or vexatious or not made in good faith; or

23.7.1.2.3 having regard to all the circumstances of the case, any further action is unnecessary or inappropriate. For example, the information requested has been made publicly available.

23.7.1.3 Where appropriate conciliate or use its best endeavours to secure such a settlement or assist the parties to settle their dispute(s); and

23.7.1.4 Advise the complainant and the Information Officer, to whom the complaint relates, of the course of action to be undertaken.

23.8 **Regulator's first communication to the complainant and Information Officer regarding the complaint lodged**

23.8.1 If the Regulator decides not to take any further action on the complaint, the Regulator will inform the requester of that decision and the reasons for not taking further action on the complaint.

23.8.2 If the Regulator decides to investigate a complaint, the requester will receive a letter advising him that the Regulator has decided to conduct an investigation.

23.8.3 Upon receipt of a compliant, the Regulator will forward the details of the complaint to the Information Officer of the relevant body, and request him to submit to the Regulator, a written response to the complaint.

23.9 **Investigative powers of the Regulator**

23.9.1 The Regulator has powers, in terms of section 77G(2) of **PAIA**, to -

23.9.1.1 use its best endeavours to secure such a settlement;

23.9.1.2 summon and enforce the appearance of persons before the Regulator;

23.9.1.3 compel them to give oral or written evidence on oath and to produce any records;

23.9.1.4 receive and accept any evidence and other information, whether on oath, by affidavit;

23.9.1.5 enter and search any premises occupied by a responsible party;

23.9.1.6 conduct a private interview with any person in any premises entered; and

23.9.1.7 carry out in those premises any inquiries that the Regulator deems fit.

23.10 Assessment of compliance with the provisions of PAIA

23.10.1 The Regulator may conduct an assessment on whether a public or private body generally complies with the provisions of this **PAIA**.

23.10.2 The Regulator may randomly conduct a compliance assessment on a body, of its own volition, however, the Regulator can also conduct the compliance assessment upon request by or on behalf of the Information Officer of a body or any other person. This means that any person may request the Regulator to conduct compliance assessment on a body. A person can also submit an anonymous request to conduct a compliance assessment, by indicating that he or she request to remain anonymous.

23.10.3 The Regulator will provide the person who requested the assessment with the assessment report and a recommendation of action to be undertaken, if any.

23.11 Information Notice

The Regulator may serve the Information Officer of a body with an Information Notice requiring said party to furnish the Regulator with information specified in the notice. For example, if a complaint lodged with the Regulator relates to a refusal of access based on any of the exempted grounds, the Regulator may request, in an Information Notice, copies of the records to which access has been refused in order to determine if the reasons for refusal are valid or not.

23.12 Establishment of Enforcement Committee

23.12.1 The Regulator is required to establish an Enforcement Committee[38], which has powers to -

23.12.1.1 consider all matters referred to it by the Regulator in terms PAIA and make a finding in respect thereof; and

23.12.1.1 make any recommendation to the Regulator regarding any action that should be taken against the Information Officer of a body.

23.13 Enforcement Notice

23.13.1 The Regulator may, after having considered the recommendations of the Enforcement Committee, serve the Information Officer of a body with an Enforcement Notice -

[38] *Section 50 of POPIA*

23.13.1.1 confirming, amending or setting aside the decision which is the subject of the complaint; or

23.13.1.2 Requiring the Information Officer to take such action or to refrain from taking such action as the Information Regulator has specified in the notice.

23.14 What are consequences for non-compliance with Enforcement Notices?

23.14.1 An Information Officer of a body who refuses to comply with an enforcement notice is guilty of an offence and liable upon conviction to a fine or to imprisonment for a period not exceeding three years or to both such a fine and such imprisonment.

23.14.2 Section 77K of **PAIA** signifies the importance of the right of access to Information or records. This section also strengthens the importance of the Regulator in so far as promotion of right of access to information is concerned.

24. APPLICATION TO COURT

24.1 Who can file an application to court against a decision?

24.1.1 requester or third party may only apply to a court for appropriate relief in terms of section 82 in the following circumstances:

24.1.1.1 After that requester or third party has exhausted the internal appeal process referred to in paragraph **22.3** above; or

24.1.1.2 After that requester or third party has exhausted the complaints procedure referred to in section 77A.

24.1.2 In terms of section 78(1) of **PAIA**, a requester or a third party has two options, either to refer a decision, listed in paragraphs 22.2.4, 23.4 and 23.5 above, to the Regulator or the Court. Whilst one is not compelled to approach the Regulator before approaching the Court, it is advisable that one should consider approaching the Regulator, as the Regulator has extensive and quick dispute resolution mechanisms, as opposed to the Court.

24.1.3 However, for the Court to have jurisdiction to adjudicate the matter, a requester or a third party must -

24.1.3.1 be aggrieved by either of the decisions, listed in paragraph 22.2.4, 23.4 or 23.5 above; or

24.1.3.2 have exhausted the complaints procedure with the Regulator or withdraw the complaint to the Regulator. This means that one cannot approach the Court if one's compliant is still pending with the Regulator.

24.1.4 If one is challenging the decision of an Information Officer of a private body, one needs to provide sufficient evidence to prove that the record requested is required for the exercise or protection of any other right(s).

24.2 When can one file an application to Court against a decision of a body or Regulator?

24.2.1 An application to Court by a requester or third party, who is either unsuccessful in an internal appeal to the appeal authority of the relevant sphere of government or aggrieved by a decision of the Information Officer of a body (listed in 22.2.4, 23.4 or 23.5 above) or that of the Regulator must be filed within 180 days from the date of the applicable event.

24.2.2 The Information Officer of a body or appeal authority of a Government, as the case may be, aggrieved by a decision of the Regulator may apply to a court for appropriate relief in terms of section 82, within 180 days[39].

24.2.3 A requester, third party, or a body, may apply to court to have any of the decisions they are aggrieved by reviewed by the Court.

24.2.4 An application to Court under **PAIA** is done through civil proceedings, and should be used as a last resort.

24.2.5 Cases for access to information can be heard before the Magistrate's Courts, as a court of first instance[40], and the High Court having jurisdiction.

24.2.6 Failing to bring the application within a period of 180 days may be condoned by the Court if one shows that the interests of justice so require. This means that the court may accept the late application if the issue to be adjudicated is found to be in the interests of justice.

[39] *Section 78(4) of PAIA*
[40] *Section 91A of PAIA and Promotion of access to information Rules, 2019*

If the records to which access is requested will assist one in applying for an appeal against imprisonment or assist one in getting further medical attention, for example, the court is likely to grant condonation in this regard.

24.2.7 An application may be brought in accordance with the procedure set out in rule 53 of the High Court Rules or in terms of rule 55 of the Magistrates' Court Rules if no records have or an incomplete record has been furnished by the administrator.

24.2.8 If the record has already been furnished, the application shall be brought in terms of rule 55 Magistrates' Court Rules, provided that where there is reason for the applicant to believe that the full record of proceedings may not have been provided by the administrator, the applicant may proceed in accordance with the procedure set out in Rule 53 of the High Court Rules, at its election, but shall indicate in its founding affidavit why there is reason to believe that the full record has not been provided[41].

24.3 What is the legal status of the Regulator's decision pending the decision of the Court?

The Regulator's powers are mainly sourced from the Constitution, **POPIA** and **PAIA**. As a result, the enforcement notice issued by the Regulator has legal consequences and is therefore binding until such time as the court of law has decided otherwise. The Regulator's decisions are therefore effective and enforceable unless directed otherwise by the relevant Court.

24.4 What are orders the Court hearing an application may grant?

24.4.1 The court (either Magistrates' or High Court) hearing an application may make the following orders -

24.4.4.1 confirm, amend or set aside the decision of either the Information Officer, or Appeal Authority or Information Regulator;

24.4.4.2 require the Information Officer or Appeal Authority to take such action or to refrain from taking such action as the Court considers necessary within a period mentioned in the order;

24.4.4.3 grant an interdict, interim or specific relief, a declaratory order or an order for compensation;

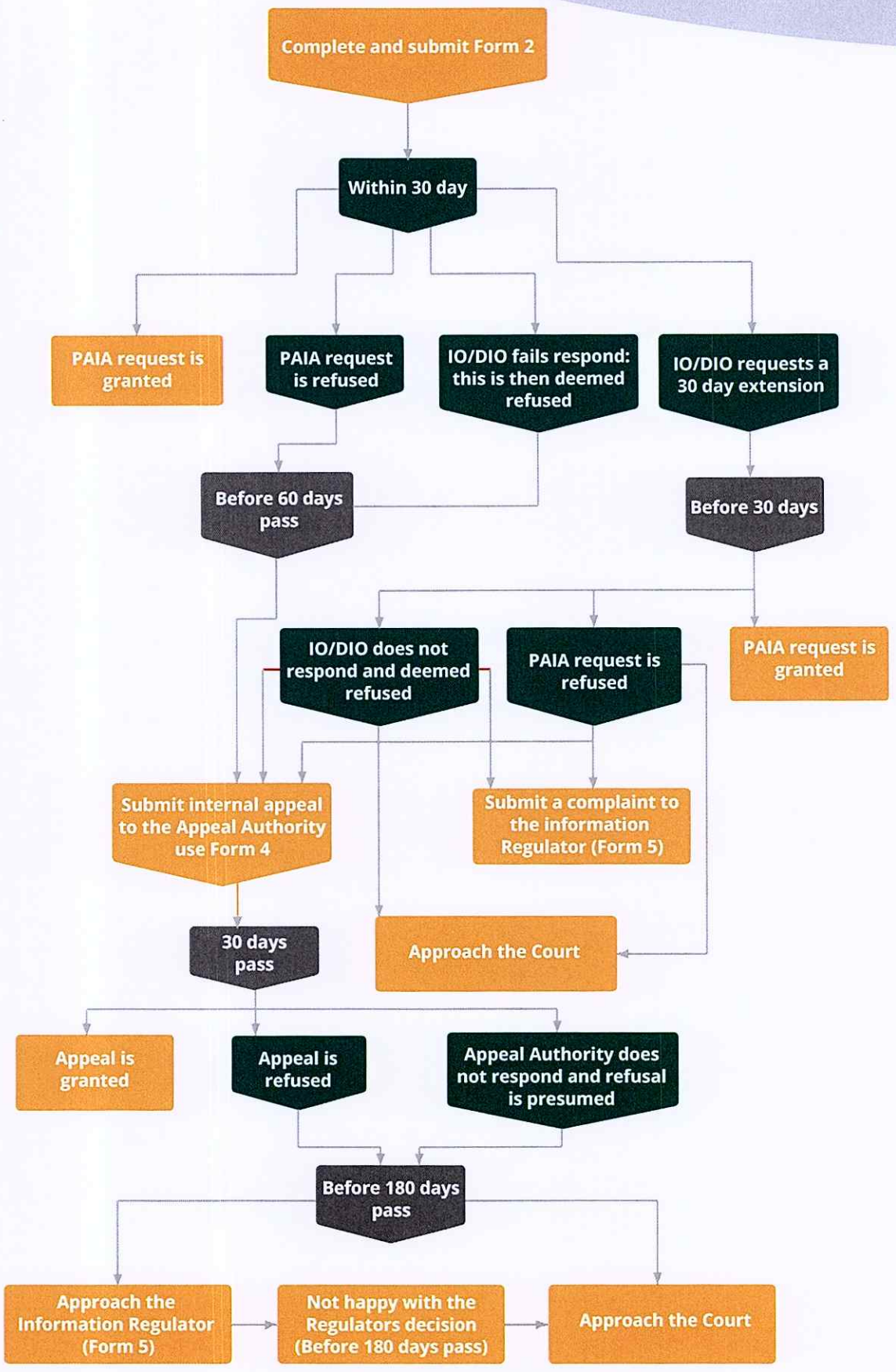
[41] *Rule 4 Promotion of access to information Rules, 2019*

24.4.4.4 make an order of costs against any party;

24.4.4.5 in the interests of justice, condone non-compliance with the 180-day period within which to bring an application. As indicated above, sufficient grounds for failure to adhere to the prescribed period must be explained in detail in the accompanying application for condonation.

25. DIAGRAM OF PAIA REQUEST PROCESS

Please refer to the step-by step process chart flow, on the processes to be followed when exercise the right of access to information.


Complete and submit Form 2
Within 30 day
PAIA request is granted
PAIA request is refused
IO/DIO fails respond: this is then deemed refused
IO/DIO requests a 30 day extension
Before 60 days pass
Before 30 days
IO/DIO does not respond and deemed refused
PAIA request is refused
PAIA request is granted
Submit internal appeal to the Appeal Authority use Form 4
Submit a complaint to the information Regulator (Form 5)
30 days pass
Approach the Court
Appeal is granted
Appeal is refused
Appeal Authority does not respond and refusal is presumed
Before 180 days pass
Approach the Information Regulator (Form 5)
Not happy with the Regulators decision (Before 180 days pass)
Approach the Court

26. REGULATIONS MADE IN TERMS OF SECTION 92 OF PAIA

26.1 In accordance with section 92(1) and 92(4) of **PAIA**, Minister made Regulations relating to the Promotion of Access to Information, covering the following matters

26.1.1 Obligations of Information Regulator **(Regulation 2)**

26.1.2 Obligations of information officer **(Regulation 3)**

26.1.3 Automatic availability of certain records of public body **(Regulation 4)**

26.1.4 Voluntary disclosure and automatic availability of certain records of

26.1.5 Availability of records of political parties **(Regulation 6)**

26.1.6 Request for access to information **(Regulation 7)**

26.1.7 Outcome of request and fees payable **(Regulation 8)**

26.1.8 Internal appeal against decision of information officer of public body **(Regulation 9)**

26.1.9 Lodging of complaints **(Regulation 10)**

26.1.10 Procedure regarding investigation of complaints **(Regulation 11)**

26.1.11 Settlement of matter **(Regulation 12)**

26.1.12 Conciliation of matter **(Regulation 13)**

26.1.13 Assessment **(Regulation 14)**

26.1.14 Electronic communication **(Regulation 15)**

26.1.15 Offences and penalties **(Regulation 16)**

26.2 In accordance with section 79(1) of **PAIA**, the Rules Board for Courts of Law, with the approval of the Minister, made rules of procedure for -

26.2.1 a court in respect of applications in terms of section 78 of **PAIA**; and

26.2.2 a court to receive representations ex parte referred to in section 80(3)(a)

27. KEY LEGISLATIONS, REGULATIONS, NOTICES AND ACKNOWLEDGEMENT

Legislations, As May Be Amended From Time To Time
Promotion of Access to Information Act, Act 2 of 2000
Promotion of Administrative Justice Act, Act 3 of 2000
Promotion of Access to Information Amendment Act, Act 54 of 2002
Protection of Personal Information Act, Act 4 of 2013
Promotion of Access to Information Amendment Act, Act 31 of 2019
Political Party Funding Act, Act 6 of 2018

Regulations and Notices		
Government Notice	**Date of Publications**	**Subject and Description**
Government Notice R.757 in GG No 45057	27 August 2021	Regulations relating to the Promotion of Access to Information, 2021
Government Notice R.991 in GG 28107	14 October 2005	Regulations that prescribe the grounds under which a person is exempt from having to pay fees.
Government Notice 397 in GG No. 44785	30 June 2021	Exemption of certain private bodies from compiling **PAIA** Manual.
Government Notice 1217 in GG 42717	19 September 2019	Designation of Magistrate Courts as having the capacity to hear **PAIA** matters.
Government Notice R.1284 in GG 42740	4 October 2019	Rules of procedure for applications to be made in terms of **PAIA** before High Court or Magistrates Court.

ACKNOWLEDGEMENT

This updated Guide on how to use **PAIA** was originally compiled by the South African Human Rights Commission (**SAHRC**) and the Regulator hereby acknowledges the original work of the **SAHRC**, including all its sources.

Issued by

INFORMATION REGULATOR

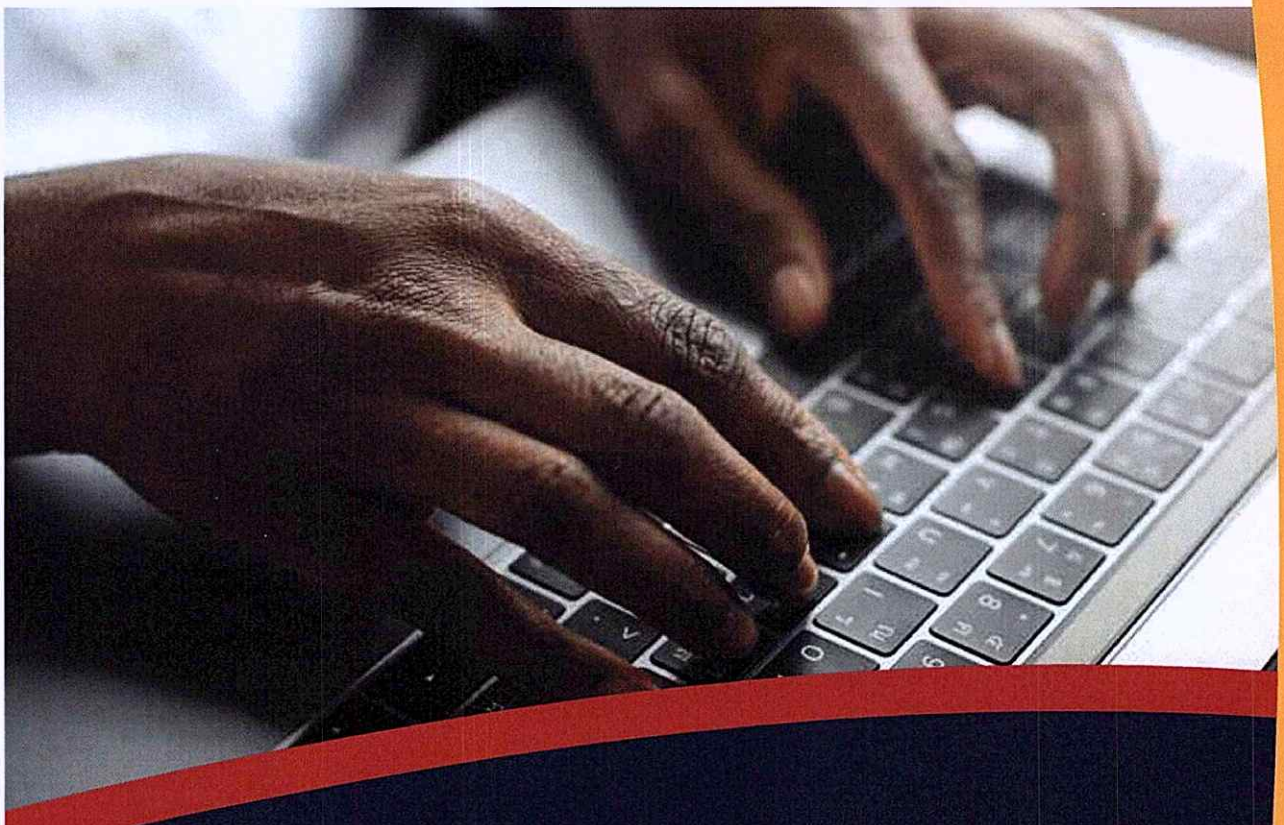
ANNEXURE 3

INFORMATION REGULATOR

PAIA GUIDE MANUAL; SESOTHO

INFORMATION REGULATOR (SOUTH AFRICA)

Ensuring protection of your personal information and effective access to information



TATAISO

YA MOKGWA WA HO SEBEDISA MOLAO WA KGOTHALETSO YA PHUMANTSHO YA LESEDI WA BO-2 WA 2000, JWALOKA HA O HLOMATHISITSWE

SESOTHO

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PAIA TATAISO

DITABA TSE ETELETSENG PELE TSA MODULASETULO

Molaotheo wa Riphabliki ya Afrika Borwa, 1996[1] ("Molaotheo") o re Afrika Borwa ke puso e ipusang le ya demokerasi e thehilweng hodima ntshetsopele ya ditokelo tsa botho mme ke mokgwa o ikarabellang, o arabelang wa taolo jwaloka karolo ya dikateng tsa boleng ba yona. Pele Afrika Borwa e ba le molaotheo wa demokerasi ka Bili ya Ditokelo e tlamang, mokgwa wa Mmuso wa Afrika Borwa hara e meng, o ile wa baka tlwaelo e nang le sephiri le e sa arabeleng ho ka bobedi makala a mmuso le a poraefete e leng seo hangata se ileng sa lebisa tshebedisong e mpe ya matla le kgatikelo ya ditokelo tsa botho. Ke lebakeng lena moo karolo 32(1) ya Bili ya Ditokelo ka hara Molaotheo, e fanang ka tokelo ya phumantsho ya lesedi le tshwerweng ke motho e mong le batlehang bakeng sa ho sebedisa kapa ho sireletsa ditokelo leha e le dife. Karolo 32(2) ya Molaotheo ka ho le leng e fana ka tshebediso ya molao wa naha o tla fana ka matla tokelong ena, ka ho hlompha, ho sireletsa, ho kgothaletsa le ho phethahatsa tokelo ena.

Molao wa Kgothaletso ya Phumantsho ya Lesedi, No. 2 wa 2000 (kamora mona o tla bitswa "**PAIA**", kapa "Molao" ka ho fapanyetsana), jwaloka ha o hlomathisitswe, ke molao wa naha o ileng wa sebediswa ho ya ka karolo 32(2) ya molaotheo.

Sepheo sa **PAIA**, ke ho qobella tlwaelo ya ponaletso le boikarabelo makaleng a mmuso le a poraefete. E etsa jwalo ka ho fana ka matla ho tokelo ya phumantsho ya lesedi le ho kgothaletsa ka matla setjhaba moo batho ba Afrika Borwa ba nang le phumantsho e hlwahlwa ya lesedi ho ba thusa ho sebedisa le ho sireletsa ka botlalo ditokelo tsa bona tsohle le hape ho fihlella merero ya Afrika Borwa ya demokerasi e bulehileng moo bohle ba nkang karolo.

Tataiso ena ya **PAIA** e hlahisitswe bakeng sa ho phethahatsa mosebetsi wa Bolaodi ba Lesedi ("Regulator") tlasa Karolo 10 ya **PAIA**, e reng Bolaodi bo ntlafatse le ho fana ka Tataiso e teng e hlophisitsweng ke Khomishene ya Ditokelo tsa Botho ya Afrika Borwa.

Tataiso ena e raletswe ho ba sesebediswa se tataisang, se bonolo ho sebediswa le ho fihlellwa ke motho leha e le ofe ya ratang ho sebedisa tokelo leha e le efe e lohothwang ho **PAIA** le ho Molao wa Tshireletso ya Lesedi la Bo Mong, 2013.

Adv Pansy Tlakula
MODULASETULO WA BOLAODI BA LESEDI

[1] *Molaotheo wa Riphabliki ya Afrika Borwa, 1996 (Molao No. 108 wa 1996)*

BOITSHWASOLLO

*Tataiso ena ha e imolle boikarabelo ba mosebedisi ba hore a sebedise maitsebelo a hae le kelohloko mabapi le tlhokeho kapa mesebetsi tse behwang ke molao leha e le ofe. Ho feta moo, Tataiso ena ha e fane ka keletso ya semolao mme ha e ya rerelwa ho nka sebaka sa **PAIA** kapa Melawana e ntshitsweng tlasa **PAIA**. Bolaodi ha bo amohele boikarabelo bakeng sa tahlehelo leha e ka ba efe e ka bang teng ka lebaka la ho itshetleha hodima Tataiso ena.*

1. LENANE LA DIAKRONIMI LE DIKGAOLETSO

CEO	Mohlanka e Moholo wa Phethahatso
CFO	Mohlanka e Moholo wa Ditjhelete
Molaotheo	Molaotheo wa Riphabliki ya Afrika Borwa, Molao No. 108 wa 1996
DIO	Motlatsi wa Mohlanka wa Lesedi
DoJ & CD	Lefapha la Toka le Ntshetsopele ya Molaotheo
IO	Mohlanka wa Lesedi
Ditho	Ditho tsa Bolaodi ba Lesedi
Letona	Minister of Justice and Correctional Services
PAIA	Molao wa Kgothaletso ya Phumantsho ya Lesedi, Molao No. 2 wa 2000, jwaloka ha o hlomathisitswe;
PAJA	Molao wa Kgothaletso ya Toka ya Tsamaiso, 2000
PFMA	Molao wa Bolaodi ba Ditjhelete tsa Mmuso, No.1 wa 1999, jwaloka ha o hlomathisitswe
POPIA	Molao wa Tshireletso ya Lesedi la Bo Mong No.4 wa 2013
Bolaodi	Bolaodi ba Lesedi
SAHRC	Khomishene ya Ditokelo tsa Botho ya Afrika Borwa

2. MAREO A BOHLOKWA A HLALOSWA KA SEBOPEHO LE MOKGWA O UTLWISISEHANG HA BOBEBE

Lereo	Tlhaloso
Tefello ya Phumantsho	Tefello ena e lefuwa ke mokopi ho lekala leo o kopang lesedi ho lona, ho lefella ditjeo tsa ho batla le ho etsa dikhopi tsa direkoto tseo a di batlang. Se ka lefiswang se laelwa ke molawana.
Motsamaisi	Ke lekala la mmuso kapa motho leha e le ofe ya tlwaelehileng kapa ya ikemetseng semolao ya nkang kgato ya tsamaiso.

Lereo	Tlhaloso
Mohato wa Tsamaiso	Ke qeto leha e le efe e nkuweng, kapa ho hloleha leha e le hofe ha ho nka qeto, ke (a) lekala la mmuso, ha: (i) le sebedisa matla ho ya ka Molaotheo kapa molaotheo wa provense; kapa (ii) ho sebedisa matla a mmuso kapa ho etsa mosebetsi wa mmuso ho ya ka molao leha e le ofe; kapa (b) motho ya tlwaelehileng kapa ya ikemetseng ka semolao, ntle le lekala la puso, ha a sebedisa matla a mmuso kapa a etsa mosebetsi wa mmuso ho ya ka pehelo e mo nehang matla. e amang hampe ditokelo tsa motho leha e le ofe mme e na kgahlamelo e otlolohileng, ya ka ntle ya semolao.
Motho ya Dumelletsweng	Motho ya dumelletsweng ke motho ya etsang kopo lebitsong la e mong, mme a dumelletswe ka lengolo ho etsa jwalo.
Direkoto tse Fumanehang ka ho Iketsahalla	Tsena ke direkoto tseo lekala la mmuso kapa la poraefete le tla di neha mokopi ntle le hore a kenye kopo. Direkoto tsena di boletswe 'tsebisong ya pepeso ya boithaopo', e lokelang ho tsebiswa setjhaba.
Monga Lesedi	Ke motho eo lesedi la boyena le mo amang.
Matsatsi	Ntle leha le boletswe e le 'letsatsi la tshebetso' karolong ya **PAIA**, letsatsi le nkuwa e le letsatsi la khalendara. Ho sebetsa bolelele ba nako, letsatsi leo kopo e amohetsweng ka lona ha le ballwe, mme letsatsi ka leng kamora moo le a kenyeletswa ho kenyeletsa mafelo a beke le matsatsi a phomolo ho fihlela ho balwa letsatsi la ho qetela. Haeba letsatsi la ho qetela la ho arabela e le Sontaha kapa letsatsi la phomolo, letsatsi le latelang le nkuwa e le letsatsi la ho qetela.
Se nkuwang e le Kganyetso	Haeba kopo e sa arabelwe hara nako e behilweng, sena se 'nkuwa e le kganyetso'.
Foromo 2	Foromo ena e laetswe ka molawana mme e lokela ho sebediswa ho kopa phumantsho ya lesedi le tshwerweng ke lekala la mmuso kapa la poraefete.
Foromo 4	Foromo ena e laetswe ka molawana mme e lokela ho sebediswa ha motho a ipiletsa ka qeto e entsweng ke lekala la mmuso mabapi le kopo ya ho fumantshwa lesedi.

Lereo	Tlhaloso
Tataiso	Tataiso ena, e entsweng ho latela karolo 10 ya **PAIA**, jwaloka ha e hlomathisitswe, e reretsweng ho thusa motho ya batlang ho sebedisa tokelo leha e le efe e lohothwang ho **PAIA** le ho Molao wa Tshireletso ya Lesedi la Bo Mong, 2013.
Mohlanka wa Lesedi	Mohlanka wa Lesedi ke motho ya fuweng matla a ho sebetsana le dikopo tsa **PAIA**. Tse latelang ke mekgahlelo ya Bahlanka ba Lesedi bakeng sa Lekala le itseng -

Lefapha la Mmuso kapa Lekala la (jwaloka ha ho hlalositswe ho karolo 239 ya Molaotheo)	Lefapha la Naha	Motsamaisi-Kakaretso kapa motho ya tshwereng mokobobo
	Tsamaiso ya Provense	Hlooho ya Lefapha kapa motho ya tshwereng mokobobo.
	Masepala	Molaodi wa Masepala kapa motho ya tshwereng mokobobo.
	Ditheo tsa Mmuso tse boletsweng ho Sekejule 1, 2, 3A, 3B, 3C LE 3D sa PFMA	Mohlanka e Moholo wa Phethahatso kapa motho ya Tshwereng Mokobobo.
Lekala la Poraefete	Motho ya tlwaelehileng	Monga thepa ka bo mong ya tsamaisang kgwebisano, kgwebo kapa profeshene leha e le efe, empa boemong bono feela mme e se boemong ba hae ka boyena
	Semphato	Mphato leha e le ofe wa semphato kapa motho leha e le ofe ya fuweng matla ke semphato.
	Mokga wa Dipolotiki	Moetapele wa mokga wa dipolotiki kapa motho leha e le ofe ya fuweng matla ke moetapele eo.

Lereo	Tlhaloso		
Mohlanka wa Lesedi		Motho ya Ikemetseng ka Semolao	Mohlanka e Moholo wa Phethahatso kapa Motsamaisi kapa mohlanka ya maemong a tshwanang le ao a motho ya ikemetseng semolao kapa motho leha e le ofe ya fuweng matla ke mohlanka eo. **TEMOSO:** CEO kapa mohlanka ya maemong a tshwanang le ao a ka neha motho leha e le ofe ya tlwaelehileng matla a ho ba Mohlanka wa Lesedi wa Lekala la Poraefete.
Motlatsi wa Mohlanka wa Lesedi	Motlatsi wa Mohlanka wa Lesedi ke motho behilweng kapa ya kgethilweng ke Mohlanka wa Lesedi wa lekala la mmuso ho thusa mokopi ka kopo ya lesedi, le eo Mohlanka wa Lesedi a ka mo nehang matla a mang a **PAIA**. **TEMOSO:** Leha e le feela lekala la mmuso le kang le ka behang le ho kgetha Mo(ba)hlanka wa Lesedi, ho ya ka karolo 17(1) ya **PAIA**, Molao wa Tshireletso ya Lesedi la Bo Mong, 2013 ("**POPIA**") o atolosa matla a ho kgetha Motlatsi wa Mohlanka wa Lesedi lekaleng la poraefete, ho ya ka karolo 56(1) ya ona.		
Bolaodi ba Lesedi	Ofisi ya Bolaodi ba Lesedi e thehilweng, ho ya ka karolo 39 ya **POPIA**, ho beha leihlo le ho qobella boimatahanyo le ka bobedi **POPIA** le **PAIA**. Tataisong ena Ofisi ya Bolaodi ba Lesedi kapa Molaodi wa Lesedi o tsejwa e le Molaodi.		
Boipiletso ba ka hare	Boipiletso ba ka hare ke motjha wa ho phephetsa qeto e entsweng ho ya ka kopo ya **PAIA** lekaleng la mmuso, o lokelang ho phethelwa pele ho ka etswa phephetso ho Bolaodi lekgotleng le nang le tokelo ya tsamaiso.		
Lekala la Poraefete	Lekala la poraefete ke motho, khamphani kapa setheo sa semolao se tsamaisang kgwebisano, kgwebo kapa profeshene, ho kenyeletsa mokga wa dipolotiki.		

Lereo	Tlhaloso
Lekala la Mmuso	Lekala la mmuso le bolela lefapha la mmuso ka setsi kapa setheo se seng, se etsang mosebetsi wa setjhaba. Leha ho le jwalo, mabapi le boipiletso ba ka hare, hohle ha ho buuwa ka "lekala la mmuso" ho se ho fetohetswe ho "Mmuso", bakeng sa ho qoba pherekano mabapi le makala a mmuso moo boipiletso bo sa sebetseng ho ona.
Rekoto	Rekoto ke lesedi leha e le le lefe le rekotuweng ho sa nantswe sebopeho, ho kenyeletswa, ka mohlala, ditokomane tse ngotsweng, tse mamelwang, thepa ya dijithale le ya vidiyo. Rekoto e kopuweng lekaleng la mmuso kapa la poraefete ho bolelwa rekotong e tshwerweng ke lekala leo ho sa natswe le haeba lekala leo ke lona le hlahisitseng rekoto eno.
Melawana	**PAIA** e dumella Letona ho ntsha melawana e tlatseletsang Molao, e lokelang ho phatlalatswa Koranteng ya Mmuso, le ho akaretsa dintlha tse kang diforomo tse lokelang ho sebediswa le ditjhelete tse ka lefuwang bakeng sa metjha e itseng.
Bolaodi bo Amehang	**PAIA** e sebedisa lereo 'Bolaodi bo amehang' ho hlalosa motho ya ka hara Mmuso wa Naha, Provense le wa Lehae eo boipiletso bo lokelang ho lebiswa ho yena, e leng ka kakaretso hlooho ya sepolotiki ya lekala le amehang (mosebetsi ona o ka fuwa moemedi wa semmuso).

3. DINTLHA TSA HO ITEANYA LE BOLAODI

Mohlanka wa Lesedi
CEO: Mr. Mosalanyane Mosala
Lehokela: Mofumahadi Ntombizodwa Harrieth Rikhotso
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Mohala:
010 023 4200

4. SEPHEO SA TATAISO ENA YA PAIA

4.1 Sepheo sa Tataiso ena ke ho fana ka lesedi le hlokwang ke motho leha e le ofe ya batlang ho sebedisa tokelo leha e le efe e lohothwang ho Molao wa Kgothaletso ya Phumantsho ya Lesedi wa 2000 (**PAIA**) le Tshireletso ya Lesedi la Bo Mong, 2013 ("**POPIA**"). Mang kapa mang, ho sa natswe boahi, a ka kopa ho fumantshwa lesedi tlasa **PAIA**.

4.2 Tataiso ena e tla thusa ka kotlololoho motho, eo hape a bitswang monga lesedi, ka mokgwa wa ho fihlella lesedi la hae ho ya ka karolo 23 ya **POPIA**. Tlasa **POPIA**, motho kapa monga lesedi o na le tokelo ya ho -

4.2.1 kopa mokga o ikarabellang ho netefatsa, mahala, haeba ke nnete kapa tjhe mokga o ikarabellang o na le lesedi la bo mong ka yena, le

4.2.2 ho kopa ho mokga o ikarabellang rekoto kapa tlhaloso ya lesedi la bo mong ka monga lesedi le tshwerweng ke mokga o ikarabellang, ho kenyeletswa lesedi ka boitsebiso ba mekga ya boraro kaofela, kapa mekgahlelo ya mekga ya boraro, e ileng, kapa e bileng, le phumantsho ya lesedi leo;

4.2.3 kopa mokga o ikarabellang ho -

(a) lokisa kapa ho hlakola lesedi la bo mong la monga lesedi leo a nang le lona kapa le ka tlasa taolo ya ona le fosahetseng, le sa tsamaelaneng, le phophomang, le fetuweng ke nako, le sa fellang, le lahlehisang kapa le fumanweng ka mokunyata; kapa

(b) ho senya kapa ho hlakola rekoto ya lesedi la bo mong ka monga lesedi leo mokga o ikarabellang o seng o se na matla a ho le boloka

4.3 Tataiso ena e tla boela e thusa motho leha e le ofe kamoo a ka kopang phumantsho ya direkoto tlasa **PAIA**. Tataiso e tla boela e thuse bakopi ka:

4.3.1 ho utlwisisa **PAIA**, melemo ya yona le nalane;

4.3.2 ho ithuta mohato-ka-mohato motjha wa ho etsa kopo le mawa a tlatsetso a ho etsa hore motjha o be bobebe;

4.3.3 ho ithuta mefuta ya lesedi le ka koptjwang ka tshebediso ya **PAIA**;

4.3.4 ho utlwisisa motjha oo ka ona mokopi a ka phephetsang qeto e entsweng mabapi le kopo ya hae;

4.3.5 ho tsebiswa diphethoho tse tla ba teng ho **PAIA** hang ha **POPIA** e se e sebetsa ka botlalo.

4.4 Tataiso ena e tla boela e thuse batho ho utlwisisa mokgwa wa phano ya phumantsho ya direkoto tsa bona kapa kamoo ba ka nkang karolo motjheng wa ho fihlella direkoto tsa bona.

5. DINTLHA KA PAIA

5.1 Tokelo ya phumantsho ya lesedi ke "e nngwe ya ditsela tse hlwahlwa ka ho fetisisa tsa ho baballa dintle tsa molaotheo tsa ponaletso, ho buleha, bonkakarolo le boikarabelo[2]. Dintle tse ka hodimo mona tsa molaotheo di keke tsa fihlellwa haeba mmuso e le ona feela o nang le lesedi le buang ka diketso le diqeto tsa ona. Kahoo, phumantsho ya lesedi ha se feela motheo wa demokerasi e sebetsang hantle ya bonkakarolo, empa e boetse e eketsa tshepo ya setjhaba mmusong le ho matlafatsa boteng ba ona. Melemo e meng ya tokelo ya ho fihlella lesedi ke hore, e fedisa boqhekanyetsi le bobodu, ho hloka botsitso le boitshwaro bo bong bo sa lokang ba mmuso.

5.2 Ha Molaotheo wa Afrika Borwa o ne o ralwa nakong e latelang ho fela ha Kgethollo ka bo-1990, mekgatlo e fapafapaneng le batho ka bo mong ba ile ba lwanela ho kenyeletswa ho tokelo ya phumantsho ya lesedi. Ho ne ho tshepuwe hore kenyeletso ya tokelo ena ho Bili ya Ditokelo ho tla netefatsa hore bohanyapetsi bo kang Kgethollo bo keke ba hlola bo ba teng hape, kaha puso le dikgwebo tsa poraefete di ne di tla tlameha ho sebetsa ka mokgwa o nang le boikarabelo le ponaletso ka ho fana ka phumantsho ya lesedi, mme kahoo, di ne di sa tlo kgona ho ipata kamora kobo ya lekunutu. E ile ya bonwa e le mohato o hlokehang bakeng sa ho thusa ho bopa tlwaelo ya toka e tla lebisa tabeng ya dikamano tse hlokang leeme pakeng tsa batho, le ba ka pusong. Ho e nngwe ya dinyewe tsa pele[3] tsa ho sebetsana le taba ya hore na motho ya qoswang o na le tokelo ya ho fumantshwa lesedi kaofela le teng ka hara dokete ya sepolesa. Jones J o ile a ananela bohlokwa ba yona ka tsela ena:

"Morero ... ke ho fedisa ho latella mokgwa wa kgale wa tsamaiso, mokgwa oo ho ona ho neng ho kgoneha hore mmuso o balehe boikarabelo ka ho hana ho pepesa lesedi leha e ne e ba le na le kameho hodima tshebediso kapa tshireletso ya ditokelo tsa motho. Bona ke bosawana boo e reretsweng ho bo fedisa [....] Ho hloka leeme ho bonahalang le ponaletso di kgothaletsa tshepo ya setjhaba tsamaisong ya merero ya setjhaba ka kakaretso. Tshepo ena ke e nngwe ya matshwao a setjhaba se buswang ka demokerasi eo Molaotheo o e hahamallang".

[2] *Hoexter Administrative Law 94*
[3] *1994 (1) SACR 635 (E)*

5.3 Karolo 32 ya Molaotheo e fupere tokelo ya phumantsho ya lesedi le tshwerweng ka bobedi ke makala a mmuso le a poraefete. Karolo 32 e boetse e bolela hore ho lokela ho ba le molao o tla fana ka matla ho tokelo ya phumantsho ya lesedi ka ho hlakisa ditsela tseo ho ka fihlellwang lesedi le tswang makaleng a mmuso le a poraefete, le ka ho fana mabaka ao ka ona lekala la mmuso le la poraefete le ka hanang ka phumantsho ya lesedi.

5.4 **PAIA** e ile ya laelwa bakeng sa ho arabela thomo ya molaotheo e boletsweng ka hodimo mona, le ho qala ho sebetsa haholo ka Tlhakubele 2001. Selelekela sa yona se ananela "tlwaelo ya sephiri le e sa arabeleng" ya nako ya pele ho demokerasi, le ho tiisa hore o mong wa merero ya **PAIA** ke ho "qobella tlwaelo ya ponaletso le boikarabelo makaleng a mmuso le a poraefete."

5.5 **PAIA** e reretswe ho fana ka matla ho ditokelo tsa motho tsa phumantsho ya lesedi le boikarabelo. E reretswe ho matlafatsa hore ba sebedise molao, mme kahoo e thusa ka ho kopa lesedi ka ditsela tse fapaneng. Motho ha a hloke leqwetha hore a etse kopo ya phumantsho ya lesedi ho ya ka **PAIA**.

6. MERERO YA PAIA

6.1 Merero ya **PAIA** ha se ho tlosa tokelo ya molaotheo, empa ke ho fana ka matla ho karolo 32 mabapi le dithibelo tse lokileng, mme ka mokgwa o mong e thusa ho lekalekanya ditokelo tse ding kaofela ho Molaotheo. E lakatsa ho kgothaletsa tlwaelo ya ditokelo tsa botho le toka ya kahisano bakeng sa batho, lekala la mmuso le lekala la poraefete. **PAIA** e rerile ho kgothaletsa ponaletso, boikarabelo le taolo e hlwahlwa ya ditheo kaofela (ka bobedi tsa mmuso le tsa poraefete) ka ho matlafatsa batho hore ba utlwisise ditokelo tsa bona tsa ho fumantshwa lesedi, ho sebetsa ka tsona, mme ka bobedi ba shebisise, le ho sebetsana le, ho nka diqeto tse ba amang.

6.2 Tokelo ya ho fumantshwa lesedi ke tokelo ya molaotheo e matla haholo, kaha e thusa batho ho lemoha ditokelo tsa bona. Motho a ka e sebedisa ho thusa ho beha leihlo le ho lekola phano ya ditshebeletso tsa mmuso, kapa ho fihlella direkoto tsa nalane tse ka bang molemo.

6.3 Merero ya **PAIA** ke -

6.3.1 ho fana ka matla ho tokelo ya molaotheo ya ho fihlella -

6.3.1.1 lesedi leha e le lefe le tshwerweng ke Puso; le

6.3.1.2 lesedi leha e le lefe le tshwerweng ke motho e mong mme le batleha bakeng sa tshebediso kapa tshireletso ya ditokelo leha e le dife.

- Tlhokeho e amanang le tshireletso ya ditokelo e lekanyeditswe ho lesedi le matsohong a poraefete. Kahoo makala a poraefete a ka tlasa dithibelo tse seng matla haholo tsa ponaletso ho feta makala a mmuso. Lekala la poraefete, ka mantswe a mang, le na le tokelo ya ho ithuela lesedi, ntle le haeba lesedi leo le batleha bakeng sa ho sireletsa ditokelo.

- **PAIA** e ananela, ho ya ka Karolo 8(1) ya yona, hore lekala e ka ba la "mmuso" kapa la "poraefete" ka merero ya Molao ho itshetlehilwe hodima haeba rekoto eo ho buuwang ka yona "e amana le tshebediso ya matla ka ho nka bohato jwaloka lekala la mmuso kapa jwaloka lekala la poraefete."

6.3.2 ho fana ka matla tokelong eo -

6.3.2.1 ho itshetlehilwe hodima dithibelo tsa toka, ho kenyeletswa, empa ho sa fellwe ka dithibelo tse reretsweng tshireletso e utlwahalang ya sephiri, lekunutu la kgwebo le taolo e ntle le e hlwahlwa; le

6.3.2.2 ka mokgwa o lekalekanyang tokelo eo le ditokelo leha e le dife tse ding, ho kenyeletswa le ditokelo tse ka hara Bili ya Ditokelo ho Kgaolo 2 ya Molaotheo;

6.3.3 ho fana ka matla ho ditshwanelo tsa molaotheo tsa Puso tse mabapi le ho kgothaletsa tlwaelo ya ditokelo tsa botho le toka ya kahisano, ka ho kenyeletsa makala a mmuso tlhalosong ya 'mokopi', le ho mo dumella, hara tse ding, ho fumantshwa lesedi ho tswa makaleng a poraefete kamora ho imatahanya le ditlhokeho tse nne Molaong ona, ho kenyeletswa tshwanelo ya tlatsetso bakeng sa makala a mmuso mabakeng a itseng bakeng sa ho sebetsa molemong wa setjhaba;

6.3.4 ho theha ditsela tsa boithaopo le tsa setlamo kapa metjha ya ho fana ka matla tokelong eo ka mokgwa o kgontshang batho ho fumantshwa direkoto tsa makala a mmuso kapa a poraefete ka potlako, ntle le ditjeo le ntle le mekutu ka toka kamoo ho ka kgonehang; le

6.3.5 ka kakaretso, ho kgothaletsa ponaletso, boikarabelo le taolo e hlwahlwa ya makala ohle a mmuso le a poraefete ka, ho kenyeletswa empa ho sa fellwe ka, ho matlafatsa le ho ruta bohle -

6.3.5.1 ho utlwisisa ditokelo tsa bona ho ya ka Molao ona bakeng sa ho sebedisa ditokelo tsa bona mabapi le makala a mmuso le a poraefete;

6.3.5.2 ho utlwisisa mesebetsi le tshebetso ya makala a mmuso; le

6.3.5.3 ho hlahlobisisa ka bokgabane, le ho nka karolo, tabeng ya ho nka diqeto ke makala a mmuso tse amang ditokelo tsa bona.

6.4 Sehlomathiso sa Molao wa Kgothaletso ya Phumantsho ya Lesedi, 2019

6.4.1 Nyeweng ya ***My Vote Counts NPC kgahlanong le Letona la Toka le Ditshebeletso tsa Tlhabollo ya Batshwaruwa le e Mong*** **[2018] ZACC 17,** lekgotla la molaotheo le ile la bolela hore "Puso e tlasa tshwanelo e tlohang ho balweng ho nepahetseng ha dikarolo 32, 19 le 7(2) tsa Molaotheo ho etsa sohle se kgonehang ho fana ka pehelo e utlwahalang le e nang le moelelo bakeng sa tokelo ya phumantsho ya lesedi le tokelo ya ho vouta. Bongata bo ile ba tswella ho dumela hore sena se jwalo hobane tshebediso ya tokelo ya ho vouta e lokela ho ba kgetho e nang le tsebo, le hore ho na le momahano pakeng tsa tshebediso e nepahetseng ya tokelo ya ho vouta le tokelo ya phumantsho ya lesedi. Mme "ntle le phumantsho ya lesedi, bokgoni ba baahi ho etsa diqeto tse nang le boikarabelo tsa sepolotiki le ho nka karolo ka ho nepahala bophelong ba setjhaba bo a hatikelwa". Lekgotla la Molaotheo le netefaditse hore taelo e hloka motheo ho ya ka molaotheo mme la laela Palamente ho fetola **PAIA** le ho nka mohato leha e le ofe o mong oo e bonang o tshwaneleha ho fana ka thuso ya phumantsho ya lesedi le rekotuweng le le bolokuweng mabapi le dithuso tsa ditjhelete tsa poraefete tsa mekga ya dipolotiki le baiketi ba ikemetseng nakong ya dikgwedi tse 18.

6.4.2 Ho ya ka kahlolo e ka hodimo mona ya lekgotla la molaotheo, Moporesidente o, ka la 3 Phuptjane 2019, ile a dumella Sehlomathiso sa Molao wa Kgothaletso ya Phumantsho ya Lesedi, 2019 (Sehlomathiso sa Molao wa **PAIA** 2019)[4]. Sehlomathiso sa Molao wa **PAIA** 2019 se kenyeletsa mokgatlo wa dipolotiki tlhalosong ya lekala la poraefete, e leng hantlentle se bolelang hore moetapele wa mokga wa dipolotiki kapa motho leha e le ofe ya fuweng matla ke moetapele eo ke mohlanka wa lesedi kapa hlooho. Sehlomathiso sa Molao wa **PAIA** 2019 jwale se atolosa tokelo ya phumantsho ya direkoto leha e le dife tsa mokga wa dipolotiki.

6.4.3 Sehlomathiso sena sa Molao se fana ka lesedi la thuso ya matlole ya poraefete bakeng sa mekgatlo ya dipolotiki le baiketi ba ikemetseng hore le rekotuwe, le baballwe le ho fumaneha.

6.4.4 Ho ya ka karolo 52A ya sehlomathiso sa Molao wa **PAIA** 2019, hlooho ya mokgatlo wa dipolotiki e lokela ho bopa le ho boloka direkoto tsa nyehelo leha e le efe e fetang sekepele se behilweng, sa **R100 000.00**, e entsweng ho mokgatlo oo wa dipolotiki selemong leha e le sefe sa ditjhelete le boitsebiso ba batho kapa ditheo tse entseng dinyehelo tseo. Hlooho ya mokga wa dipolotiki e boetse e lokela ho fana ka direkoto tseo kotara ka nngwe, jwaloka ha ho laetswe; le ho boloka direkoto bakeng sa bonyane dilemo tse hlano kamora hoba direkoto tseo di etswe.

[4] *Sehlomathiso sa Molao wa Kgothaletso ya Phumantsho ya Lesedi, No. 31 wa 2019*

6.4.5 Sena se bolela hore leha Molao wa Dithuso tsa Ditjhelete tsa Mekgatlo ya Dipolotiki o etsa hore e be setlamo bakeng sa ho pepesetsa Khomishene ya Dikgetho, sehlomatiso sa Molao wa **PAIA** 2019 jwale se atolosa tokelo ya phumantsho, ya direkoto tsa nyehelo leha e le efe e fetang **R100 000.00**, ho motho leha e le ofe, e entsweng ho mokgatlo oo wa dipolotiki.

6.5 Molao o mong o sireletsang tokelo ya phumantsho ya lesedi

PAIA e boetse e teng ka hara tikoloho yohle ya semolao, e reretsweng ho hlahisa "tlwaelo ya tokafatso". Ho ananela sena, **PAIA** e re molao o mong leha e le ofe o nehang motho lepatlelo la ho fihlella lesedi le seng boima ho feta **PAIA**, ho ka nna ha sebediswa ho lona[5].

6.5.1 Molao wa Dikhamphani wa bo-71 wa 2008

6.5.1.1 Karolo 26(1) ya Molao wa Dikhamphani o thusa motho eo e leng setho kapa ya nang le kgahlehelo thepeng leha e le efe e ntshuwang ke khamphani ya phaello, kapa eo e leng setho sa khamphani e sa etseng phaello, o na le tokelo ya ho hlahloba le ho etsa khopi, ntle le tefo bakeng sa tlhahlobo e kang eo kapa kamora tefo e sa feteng tjhelete e laetsweng bakeng sa khopi leha efe e jwalo, bakeng sa lesedi le teng direkotong tsa khamphani.

6.5.1.2 Ho ya ka karolo 26(7)(b) ya Molao wa Dikhamphani, "ditokelo tsa phumantsho ya lesedi tse tekilweng karolong ena ke tlatsetso ya, mme e se ho fetola, ditokelo leha e le dife tseo motho a ka bang le tsona tsa phumantsho ya lesedi ho ya ka Molao wa Kgothaletso ya Phumantsho ya Lesedi, 2000 (Molao No. 2 wa 2000)".

6.5.2 Molao wa Dithuso tsa Ditjhelete wa Mekga ya Dipolotiki, 2018 (Molao No. 6 wa 2018)

6.5.2.1 Dithuso tsa Ditjhelete tsa Mekga ya Dipolotiki di tsebahatsa meralo e matla ya bolaodi bakeng sa matlole a mekga kaofela ya dipolotiki e ngodisitsweng, e bang e na le boemedi makgotleng a ketsamolao a naha kapa a provense kapa tjhe. Sena se kenyeletsa ho teka dithibelo bakeng sa mohlodi, boholo le tshebediso ya matlole a nyehetsweng ke mekga ya dipolotiki.

6.5.2.2 Ho netefatsa ponaletso le boikarabelo, mekgatlo ya dipolotiki e lokela ho pepesa dinyehelo kaofela tse amohetsweng tse fetang sekepele sa **R100 000.00** ho Khomishene ya Dikgetho kgafetsa dikgwedi ka nngwe tse tharo (hammoho le pele ho dikgetho tse akaretsang)

[5] *Karolo 2(1) ya PAIA*

6.5.2.3 Motho leha e le ofe kapa mokgatlo o etsang nyehelo mokgatlong wa dipolotiki oo ka bonngwe kapa ka mmoho e fetang **R100 000** ka selemo o lokela ho tlaleha nyehelo eo ho Khomishene ya Dikgetho nakong ya matsatsi a 30 a ho etsa nyehelo kapa nakong ya matsatsi a 30 a ha dinyehelo ka mmoho di ne di feta **R100 000**.

6.5.2.4 Qetellong, Molao wa Dithuso tsa Ditjhelete tsa Mekgatlo ya Dipolotiki o beha tshwanelo hodima Khomishene ya Dikgetho ho phatlalatsa dinyehelo tse tlalehilweng ke mekga ya dipolotiki dikgwedi ka ding tse tharo le ho tlalehela Palamente ka selemo mabapi le dinyehelo kaofela tse entsweng bakeng sa mekga ya dipolotiki nakong ya selemo.

6.5.3 Molao wa Tshireletso ya Lesedi la bo Mong, 2013 (Molao No. 4 wa 2013)

6.5.3.1 Karolo 23 ya **POPIA** e neha beng ba lesedi tokelo ya ho fumantshwa lesedi la bo Mong le tshwerweng ke mokga o ikarabellang, ho kenyeletswa lesedi ka boitsebiso ba mekga kaofela ya boraro, e nang, kapa e bileng, le phihlello ya lesedi.

6.5.3.2 Sena se bolela hore leha phumantsho ya rekoto e nang le lesedi la bo mong ka mokopi ha e kenyeletswe ho **PAIA** ho ya ka Karolo 11(2) ya ona, monga lesedi a ka kopa –

6.5.3.2.1 phumantsho ya lesedi la boyena; le/kapa

6.5.3.2.2 boitsebiso ba mekga kaofela ya boraro, le/kapa mekgahlelo ya mekga ya boraro, e nang, kapa e bileng, le phihlello ya lesedi.

6.5.3.2.3 tokiso kapa ho hlakolwa ha lesedi la bo mong la monga lesedi leo o le tshwereng kapa oo le o laolang le sa nepahalang, le sa tsamaelaneng, le phophomang, le felletsweng ke nako, le sa fellang, le lahlehisang kapa le fumanweng ka mokunyata; kapa

6.5.3.2.4 rekoto ya lesedi la boyena leo mokga o ikarabellang o seng o se na tokelo ya ho le boloka e lokela ho senngwa kapa e hlakolwe.

6.5.3.3 Mokga o ikarabellang o ka hana ho pepesa lesedi leha e le lefe la bo mong le koptjwang, ho ya ka mabaka a ho hana ka phumantsho ya direkoto, jwaloka ha ho tekilwe ho serapa 19.4 ka tlase mona.

6.5.4 Molao wa Kgothaletso ya Toka ya Tsamaiso 3 wa 2000

6.5.4.1 Molao o mong o lokelang ho hopolwa ha o lohotha ho fihlella lesedi ke Molao wa Kgothaletso ya Toka ya Tsamaiso (**PAJA**). **PAJA** e fana ka matla ho tokelo ya tshebetso ya tsamaiso e molaong, e utlwahalang le ho latela metjha ka ho hloka leeme le ho tokelo ya mabaka a ngotsweng bakeng sa tshebetso ya tsamaiso jwaloka ka ha e lohothwa ho karolo 33(2) ya Molaotheo[6].

6.5.4.2 Ho ya ka karolo 5(1) ya **PAJA**, motho leha e le ofe eo ditokelo tsa hae di ileng tsa angwa ha bohloko le hampe ke tshebetso ya tsamaiso mme a sa nehwa mabaka bakeng sa ketso eo a ka, nakong ya matsatsi a 90 kamora letsatsi leo motho a lemohileng ketso eo kapa a ka be a lebeletse ho lemoha ketso eo, kopa motsamaisi ya amehang ho fana ka mabaka a ngotsweng a ketso eno. Motsamaisi eo kopo e lebisitsweng ho yena o lokela, nakong ya matsatsi a 90 kamora ho thola kopo, ho neha motho eo lebaka le utlwahalang le ngotsweng la mohato wa tsamaiso.

7. HO THEHWA HA BOLAODI BA LESEDI

7.1 Ho netefatsa kgothaletso le matlafatso ya merero ya **PAIA**, e tla fana ka matla ho tokelo eno ya phumantsho ya lesedi ka mokgwa o thusang batho ho fumana phihlello ya direkoto tsa makala a mmuso le a poraefete ka potlako le ka mokgwa o sa bitseng kahohle kamoo ho kgonehang, Bolaodi ba Lesedi ("Bolaodi") bo thehilwe ho ya ka karolo 39 ya **POPIA**.

7.2 Mabapi le ho netefatsa hore metjha ya tsamaiso e sa rarahanang le e sa bitseng e ya latelwa ha ho etswa ha kopo ya phumantsho ya lesedi, ditletlebo ho Bolaodi le dikopo tsa lekgotleng la dinyewe di lokela ho ba mokgelo ho feta hore e be molao.

7.3 **POPIA** e fetola mosebetsi wa **SAHRC** mabapi le thomo ya **PAIA**. Ho tloha ka la 30 Phuptjane 2021, mesebetsi kaofela ya **SAHRC**, jwaloka ha e balwa ho **PAIA**, e tla sebetswa ke Bolaodi, boo hape bo nang le qobello ya matla ya tlatsetso.

7.4 Leha **SAHRC** e tla dula e na le ditshwanelo tsa molaotheo tse bataletseng tseo e lokelang ho di kgothaletsa, ho di sireletsa le ho beha leihlo ditokelo tse fuperweng ke Bili ya Ditokelo,

7.5 **SAHRC** le Bolaodi ba tla sebetsa mmoho ba bapile.

[6] *Bohle bao ditokelo tsa bona di anngweng hampe ke ketso ya tsamaiso ba na le tokelo ya ho fuwa mabaka a ngotsweng*

8. MOSEBETSI WA BOLAODI WA LESEDI

8.1 Bolaodi o na le mosebetsi wa bohlokwa mabapi le **PAIA**. Bolaodi o laelwa ke **PAIA**, tlasa Karolo 4, Kgaolo 1A le Karolo 5 le dikarolo tse ding, ho:

8.1.1 kgothaletsa phumantsho ya lesedi le ho thusa setjhaba mabapi le ho sebedisa **PAIA** moo ho kgonehang ho etsa jwalo,

8.1.2 beha leihlo le ho tswella ka ho kenya tshebetsong **PAIA** ke makala a mmuso le a poraefete (ho kenyeletsang ho kgothaletsa ditsela tse hlwahlwa tsa ho etsa hore lesedi le fumanehe ka nako),

8.1.3 etsa dikgothaletso tsa ho matlafatsa **PAIA**, le

8.1.4 ho tlalehela Palamente selemo ka seng.

8.2 Karolo 77C (1) le (2) ya **PAIA** e betla tsela ya matla a latelang, mesebetsi le mehato tsa Bolaodi, ho -

8.2.1 batlisisa tletlebo e entsweng ho Bolaodi ka tsela e laetsweng;

8.2.2 fetisetsa tletlebo ho Komiti ya Qobello e thehilweng ho ya ka Karolo 50 ya **POPIA**; kapa

8.2.3 ho etsa qeto, ho ya ka karolo 77D, ho nka mohato hodima tletlebo kapa, ho ya kamoo maemo a leng kateng, ho batla ho nka mehato e meng mabapi le tletlebo; le

8.2.4 ho nka mohato, moo ho tshwanetseng, jwaloka monamodi mabapi le tletlebo e jwalo ka tsela e laetsweng.

8.3 Molaodi a ka, ho ya ka karolo 77H(1) ya **PAIA**, mme ka boikitlaetso ba yona, kapa ka kopo ya kapa lebitsong la mohlanka wa lesedi kapa hlooho ya lekala la poraefete kapa motho leha e le ofe ho etsa tekolo ya haeba lekala la mmuso kapa la poraefete ka kakaretso le imatahanya le dipehelo tsa **PAIA**, ho ya kamoo maano a yona le ho kenngwa tshebetsong ho emeng kateng.

8.4 Bolaodi bo na le matla, ho ya ka karolo 77F ya **PAIA**, ho sebedisa maiteko a bona a hlwahlwa ka ho fetisisa a ho fihlella tharollo ya tletlebo, ha ho hlahella tletlebong, kapa ho karabelo leha e le efe e entsweng ho bona ya hore ho ka nna ha kgonahala ho rarolla tletlebo. Sena se bolela hore Bolaodi bo ka leka feela ho thusa mekga ho rarolla diqaka tsa yona, haeba ho na le tletlebo e kentsweng ho Bolaodi, ntle le ha ho na le qeto, ka boikitlaetso ba yona, ho etsa tekolo, jwaloka ha ho tekilwe serapeng sa 8.3 ka hodimo mona.

9. HO ETSA KOPO YA REKOTO

O koptjwa ho sheba ho motjha wa mohato-ka-mohato tjhateng e serapeng sa 27 ka tlase mona, mabapi le mokgwa wa ho fumantshwa direkoto.

9.1 Ha re qala: **Dibukana tsa PAIA**

9.1.1 Leha Tataiso ena e phatlaladitswe ho thusa setjhaba ka makgalo ohle bakeng sa ho baballa ditokelo tsa sona tsa molaotheo tsa ho fihlella lesedi, ho na le mehlodi e meng ya lesedi eo le yona e ka thusang motho ho etsa kopo ya ho fihlella direkoto. **PAIA** e batla hore makala kaofela a mmuso, le a poraefete, a hlophise le ho fana ka bukana ya **PAIA**[7].

9.1.2 Pele motho leha e le ofe a nka mehato ya ho fumantshwa lesedi kapa direkoto tsa lekala le itseng, Bukana ya **PAIA** ke ntho ya pele eo a lokelang ho e bala.

9.1.3 Ka motheo wa yona o tebileng, bukana ya **PAIA** e bohlokwa ho motho bakeng sa:

9.1.3.1 ho lekola mofuta wa direkoto tseo e ka bang di se di le teng ntle le hore motho a kenye kopo ya semmuso ya **PAIA**;

9.1.3.2 ho ba le kutlwisiso ya kamoo kopo ya phumantsho ya lesedi le tshwereng ke lekala le itseng e ka etswang;

9.1.3.3 ho fihlella dintlha kaofela tsa boiteanyo tsa motho ya tla thusa setjhaba ka direkoto tseo motho a batlang ho di fihlella;

9.1.3.4 ho tseba ditokiso tse teng kaofela ho tswa lekaleng leo ho lona ho koptjwang direkoto, pele motho a leba ho Bolaodi kapa Makgotleng a Dinyewe;

9.1.3.5 ho tseba tlhaloso ya ditshebeletso tse teng bakeng sa ditho tsa setjhaba ho tswa ho lekala leo le kamoo motho a ka fihlellang ditshebeletso tseo;

9.1.3.6 ho tseba haeba lekala le tla tswellisa lesedi la bo mong, sepheo sa ho tswellisa lesedi la bo mong le tlhaloso ya mekgahlelo ya beng ba lesedi le ya lesedi kapa mekgahlelo ya lesedi e amanang le seo;

9.1.3.7 ho tseba haeba lekala le rerile ho fetisetsa kapa ho tswellisa lesedi la bo mong ka ntle ho meedi ya Afrika Borwa; le

[7] *Karolo 14 le karolo 51 tsa PAIA*

9.1.3.8 ho tseba haeba lekala le na le mehato ya tshireletso ya ho netefatsa sephiri, seriti le boteng ba lesedi le lokelang ho tswelliswa.

9.2 O ka fumana dibukana tsa PAIA hokae?

9.2.1 Bukana ya **PAIA** ya makala a mmuso

9.2.1.1 Makala a mmuso kaofela a lokela ho etsa hore Bukana ya **PAIA** e fumaneha ha bobebe ka bonyane dipuo tse tharo tsa semmuso[8].

9.2.1.2 Bonyane, a lebeletswe ho etsa hore khopi ya Bukana ya **PAIA** e fumaneha mahala, ntle le haeba ho koptjwa khopi e hatisitsweng

9.2.1.2.1 websaeteng ya lekala la mmuso;

9.2.1.2.2 ntlokgolo ya lekala la mmuso bakeng sa tlhahlobo ya setjhaba nakong ya dihora tsa tshebetso tse tlwaelehileng;

9.2.1.2.3 haeba motho a batla khopi e hatisitsweng, lekala la mmuso le lokela ho etsa khopi, empa e ka nna ya qosa tefo ya tjhelete e amohelehang bakeng sa phano ya khopi e hatisitsweng; le

9.2.1.3.4 ho Bolaodi ha ho etswa kopo.

9.2.2 Dibukana tsa **PAIA** tsa makala a poraefete

9.2.2.1 Makala a poraefete a boetse a lebeletswe ho hlophisa bukana ya **PAIA**[9], empa ha ho tlhokeho ya hore a e hlophise ka dipuo tse fetang e le nngwe kapa ka puo e itseng, leha ho kgothaletswa hore Dibukana tsa **PAIA** tsa makala a poraefete di be bonyane ka Senyesemane. Haeba lekala le itseng le fana ka ditshebeletso ho batho ba sa kenang sekolo, Bolaodi bo kgothaletsa hore bukana ya lekala leo e ka nna ya ba ka puo leha e le efe ya semmuso.

9.2.2.2 Bonyane, makala a poraefete a lebeletswe ho etsa hore khopi ya Bukana ya **PAIA** e fumaneha mahala[10], ntle le haeba ho koptjwa khopi e hatisitsweng -

9.2.2.2.1 websaeteng ya lekala la poraefete;

9.2.2.2.2 sebakeng sa sehlooho sa kgwebo ya lekala la poraefete bakeng sa tlhahlobo ya setjhaba nakong ya dihora tse tlwaelehileng tsa tshebetso;

[8] *Karolo 14(1) ya PAIA*
[9] *ho ya ka karolo 51 ya PAIA*
[10] *Karolo 51(3) ya PAIA*

9.2.2.2.3 haeba motho a batla khopi e hatisitsweng, lekala la poraefete le lokela ho etsa khopi, empa e ka nna ya qosa tefo ya tjhelete e amohelehang bakeng sa phano ya khopi e hatisitsweng le

9.2.2.2.4 ho Bolaodi ha ho etswa kopo.

9.2.3 Letona la Toka le Ditshebeletso tsa Tlhabollo ya Batshwaruwa le na le matla a ho kotela[11] makala a itseng a poraefete kapa mokgahlelo wa makala a poraefete tabeng ya ho hlophisa bukana. Hajwale, le ho fihlela ka la 31 Tshitwe 2021, Letona le kotetse[12] makala ohle a poraefete, ntle le khamphani leha e le efe eo -

(a) e seng khamphani ya poraefete jwaloka ha ho hlalositswe ho karolo 1 ya Molao wa Dikhamphani, 2008 (Molao No. 71 wa 2008); le

(b) ho ba khamphani ya poraefete jwaloka ha ho hlalositswe ho karolo 1 ya Molao wa Dikhamphani, 2008 (Molao No. 71 wa 2008) e sebetsang ka hara makala leha e le afe a boletsweng ho kholomo ya pele ya sekejule sa Tsebiso ena le

(i) ho ba le basebeletsi ba fetang 50 khirong ya bona; kapa

(ii) e na le tlhahiso yohle e lekanang le kapa ho feta tjhelete e sebetsang e boletsweng ho kholomo 2 ya theibole e ka tlase mona,

tabeng ya ho hlophisa bukana e lohothwang ho karolo 51(1) ya Molao o boletsweng pele bakeng sa nako ya dikgwedi tse tsheletseng (6) ho tloha ka la 1 Phupu 2021 ho isa ka la 31 Tshitwe 2021: -

Lekala	Annual Turnover
Temo	R6 milione
Merafo le Dikwari	R22.5 milione
Tlhahiso	R30 milione
Motlakase, Kgase le Metsi	R30 mllione
Kaho	R15 milione
Mabenkele le Kgwebo ya Makoloi le Ditshebeletso tsa Tokiso	R45 milione
Dikgwebo tsa Dihoulseile, Diakgente tsa Kgwebo le Ditshebeletso tse Tsamaelanang	R75 milione
Phepo, Bodulo le Kgwebo e nngwe	R15 milione
Dipalangwang, Distoro le Dikgokahanyo	R30 milione
Ditshebeletso tsa Ditjhelete le Kgwebo	R30 milione
Ditshebeletso tsa Badudi, tse Ikgethang le tsa Bowena	R15 milione

[11] *Karolo 51(4) ya PAIA*
[12] *Government Gazette no: 39504, 11 Tshitwe 2015*

9.2.4 Ka lebaka la bohlokwa ba tlhokeho ya ketsamolao bakeng sa ho hlophisa Bukana ya **PAIA**, ka ho qolleha sehlomathiso[13] sa karolo 51 sa **PAIA** (se tla sebetsa ka la 30 Phuptjane 2021), ho ya ka mothamo wa lesedi oo bukana e lokelang ho o o akaretsa o bataladitswe bakeng sa ho kenyeletsa dintlha tse amanang le **POPIA**, makala a poraefete ha a sa tla hlola a kotelwa tshwanelong ya ho hlophisa bukana ya **PAIA**. Kahoo ho tloha ka la, 1 Pherekgong 2022, lekala le leng le le leng la poraefete le la mmuso le tla lokela ho etsa hore le be le Bukana ya **PAIA** ya lona, jwaloka ha ho laetswe ho serapa 9.2.2.2 ka hodimo mona.

9.2.5 Kotelo ya dikhamphani tsa poraefete tshwanelong ya ho hlophisa bukana ya **PAIA** ha e kotele dikhamphani tseo tsa poraefete tabeng ya ho imatahanya le **PAIA**. Sena se bolela hore motho leha e le ofe a ka nna a kenya kopo ya phumantsho ya lesedi ho lekala le kotetsweng la poraefete. Kotelo e bolela feela hore dikhamphani tseo tsa porafete ha di a lokela ho hlophisa bukana ya **PAIA**.

9.2.6 Hopola hape, hore ha se makala a poraefete kaofela ao e leng dikhamphani, jwaloka ha tlhaloso ya lekala la poraefete e kenyeletsa motho ya tlwaelehileng, rakgwebo a le mong le semphato. Leha ho le jwalo, ho ka nna ha ba bohlokwa ho lekola websaete ya bona, kaha Dikhamphani tse ding di hlophisa bukana ya **PAIA** ho sa natswe palo ya basebeletsi ba tsona kapa tlhahiso ya tsona ya selemo.

9.3 Pepeso ka boithaopo kapa boteng ba direkoto tse itseng ka ho iketsahalla

9.3.1 Direkoto tse teng ka ho iketsahalla ke tseo lekala la mmuso kapa la poraefete le ka fanang ka tsona ntle le hore mokopi a etse kopo ya **PAIA** (ka mantswe a mang, motho a ka nna a le kopa feela ntle le ho tlatsa Forom 2 ya **PAIA**).

9.3.2 Mohlanka wa Lesedi wa lekala la mmuso o lebeletswe, ho ya ka karolo 15(1) ya **PAIA**, ho fana ka lenane kapa mekgahlelo ya direkoto tse teng ka ho iketsahalla feela, jwaloka ha ho laetswe ho serapa 9.3.4 ka tlase mona.

9.3.3 Direkoto tse fumanehang ka ho iketsahalla feela tsa lekala la poraefete di ka nna tsa fumaneha, ho ya ka karolo 52(1) ya **PAIA**, empa boemong ba boithaopo ho ya ka serapa 9.3.4 ka tlase mona.

9.3.4 Tlhaloso ya mekgahlelo ya direkoto tse fumanehang ka ho iketsahalla di lokela ho ba teng -

(a) bakeng sa Bolaodi ba Lesedi;

(b) websaeteng ya lekala; le

(c) bakeng sa tlhahlobo, diofising tsa lekala le amehang nakong ya dihora tse tlwaelehileng tsa tshebetso.

[13] *Karolo 110 ya POPIA*

9.3.5 O koptjwa ho lemoha hore Bolaodi bo tla laetjha tlhaloso ya direkoto tse fumanehang ka ho iketsahalla feela tsa lekala la mmuso websaeteng ya bona.

9.3.6 Lenane lena le kenyeletsa direkoto tse ka lokelang hore di fumanehe ho ya ka melao e meng, mme direkoto leha e le dife tse ding tseo lekala le kgethang ho di kenyeletsa. Bakeng sa ho qoba melawana ya ho imatahanya le motjha wa kopo ya **PAIA**, mokopi o eletswa ho lekola Bukana ya **PAIA** ya lekala la mmuso kapa la poraefete le amehang. Haeba motho a lakatsa ho fumantshwa direkoto tse welang tlasa lenane la lekala leo la direkoto tse fumanehang ka ho iketshalla feela, motho eo a ka di kopa feela ntle le ho lokela ho tlatsa Foromo 2 ya **PAIA**.

9.3.7 Molao wa Dithuso tsa Ditjhelete tsa Mekga ya Dipolotiki, Molao 6 wa 2018 o tsebahatsa diphethoho tse itseng ka **PAIA**, oo ka ona dihlooho tsa mekga ya dipolotiki di lebeletsweng ho rekota le ho boloka direkoto tsa dinyehelo tsa poraefete, tse tla lokela ho phatlalatswa ntle le hore motho a etse kopo ya **PAIA**.

10. DINTLHA TSA HO ITEANYA LE BAHLANKA BA LESEDI

10.1 Leha dintlha tsa ho iteanya le Bahlanka ba Lesedi ba lekala la mmuso leha e le lefe di lebeletswe ho phatlalatswa bukeng e nngwe le e nngwe ya mehala, ho ya ka karolo 16 ya **PAIA**, Bolaodi bo na le dintlha tsa mohala tse tobileng tsa Bahlanka ba Lesedi kaofela (ho kenyeletswa Batlatsi ba Bahlanka ba Lesedi, ba thontsweng ho ya ka karolo 17 le 56 ya **PAIA** le **POPIA** ka tatelano) tse ngodisitsweng ho ya ka karolo 55(2) ya **POPIA**.

10.2 Leha ho thola dinomoro tse nepahetseng tsa mohala hangata e ba karolo e nang le mathata ya ho etsa kopo ya **PAIA**, kaha mesebetsi e fetofetoha kgafetsa lekaleng la mmuso le bukana ya **PAIA** e ka nna ya ba ha e kgeme le maemo, tulo ya pele moo o ka tholang dintlha tsa boiteanyo e lokela ho ba Bukana ya **PAIA** ya lekala. Leha ho le jwalo, haeba mokopi a sa fumane bukana, ho letsetsa setsha sa mehala sa lekala bakeng sa ho kopa dintlha tse batlehang le hona ho ka thusa.

10.3 Bakeng sa Bomasepala, Mokgatlo wa Afrika Borwa wa Mebuso ya Lehae (**SALGA**) o maneha dintlha tsa boiteanyo tsa Bomasepala kaofela linking ena: http://www.salga.org.za/Municipalities%20MCD.html

10.4 Tsamaiso ya dikgokahanyo tsa Mmuso le yona e fana ka dintlha tsa boiteanyo tsa naha le tsa diprovense hammoho le tsa Dikgwebo tsa Mmuso tlasa linki ena: https://www.gov.za/about-government/contact-directory. Dula o hopola hore tlhaloso ya Mohlanka wa Lesedi e thusa ho hlwaya hore ho batlwa dintlha tsa boiteanyo tsa mang bakeng sa ho tseba Mohlanka wa Lesedi.

11. MOTJHA WA HO ETSA KOPO YA LESEDI

11.1 Diforomo tsa kopo

11.1.1 Kopo ya phumantsho ya lesedi e ka etswa ho ka bobedi makala a mmuso le a poraefete.

11.1.2 **PAIA** e re haeba o batla ho etsa kopo e jwalo, o lokela ho etsa kopo foromong e batlehang (diforomo tsena di laetswe ka Melawana). Ho na le diforomo tse pedi tse ka sebediswang bakeng sa ho latela tokelo ya phumantsho ya lesedi:

Foromo 2	Foromo 4
Foromo ena e ka sebediswa feela ha o batla ho kopa direkoto tsa lekala la mmuso kapa la poraefete.	Foromo ena e ka sebediswa feela ha o batla ho etsa boipiletso ba ka hare kgahlanong le diqeto tsa Bahlanka ba Lesedi kapa tsa Batlatsi ba bona ba boemong ba Mmuso wa Naha, Provense kapa wa Lehae moo boipiletso bo lebisitsweng teng.

11.1.3 Diforomo tsena di ka fumaneha websaeteng ya Bolaodi ho https://www.justice.gov.za/inforeg/

11.2 Ho etsa qeto ya haeba kopo e amana le lesedi le bolokuweng ke lekala la mmuso kapa la poraefete

11.2.1 Lekala la mmuso le etsa mosebetsi wa mmuso, o kang ho fana ka motlakase kapa metsi setjhabeng. Kahoo, lekala la mmuso ha se feela Lefapha la Naha, Provense kapa la Mmuso wa Lehae– le tla kenyeletsa dikgwebo tsa mmuso Ditheo tsa Puso tse kang Bolaodi, Eskom, kapa PRASA, leha ho le jwalo, ho lokelwa ho etswa phapang mabapi le lekala la mmuso ka morero wa boipiletso ba ka hare, bo buang feela ka Mmuso wa Naha, Provense kapa wa Lehae.

11.2.2 Lekala la poraefete le etsa mosebetsi wa poraefete. Lekala le jwalo (leo e ka bang motho) le tsamaisa kgwebisano, kgwebo kapa profeshene. Ho bohlokwa haholo ho lemoha hore ha o etsa kopo ya **PAIA** lekaleng la poraefete motho o lokela ho bolela hore ke tokelo efe eo a e sireletsang kapa eo a e sebedisang ka ho kopa lesedi lena. Mabapi le lesedi leha e le lefe le bolokuweng ke motho e mong, Streicher JA o kgutsufaditse taba ena tjena, **Lekgotleng la Cape Metropolitan kgahlanong le Metro Inspection Services (Western Cape) CC le ba Bang**[14],

[14] ***2001 (3) SA 1013*** *(SCA) serapa 28 ho 1026F–G*

"Lesedi le ka batleha feela bakeng sa tshebediso kapa tshireletso ya tokelo haeba le ka thusa tshebedisong kapa tshireletsong ya tokelo. Ho bolela hore, bakeng sa ho kenya nyewe bakeng sa phumantsho ya lesedi ho ya ka karolo 32, moikopedi o lokela ho bolela hore ke tokelo efe eo a lakatsang ho e sebedisa kapa ho e sireletsa, ke lesedi lefe le batluwang le kamoo lesedi le tla mo thusa mabapi le ho sebedisa kapa ho sireletsa tokelo eo".

11.2.3 Ka nako e nngwe taba ya hore haeba rekoto ke ya mmuso kapa ya poraefete e ka ba e rarahaneng mme setjhaba se eletswa ho batla keletso ya semolao. Ka mohlala, haeba lekala la mmuso le thonya lekala la poraefete ho fana ka ditshebeletso tse itseng lebitsong la ona, jwaloka ho hokela dimithara tsa metsi metseng e itseng, phumantsho ya palo ya dimithara tse hoketsweng, le ha e ka ba lesedi le jwalo le tshwerwe ke lekala la poraefete, le tla nkuwa e le lesedi la lekala la mmuso.

11.3 Motho o hlalosa jwang tokelo eo a rerileng ho e sebedisa kapa ho e sireletsa?

11.3.1 Ha o hlalosa hore ke tokelo efe eo motho a rerileng ho e sebedisa ha a etsa kopo ho lekala la poraefete, motho a keke a bua ka tokelo ya ho fumantshwa lesedi. Motho o lokela ho hlalosa kamoo rekoto eo a e kopang e batlehang ka tsela e utlwahalang bakeng sa hore motho a sireletse, kapa a sebedise, tokelo e nngwe. Sena se ka kenyeletsa ditokelo tseo e seng feela ditokelo tsa molaotheo.

11.3.2 Motho ho tea ka mohlala a ka kopa melao ya sehlooho ho khamphani e nang le bokgoni ba ho hahlamela maemo a tshilafatso ka hara motse, bakeng sa ho thusa ho sireletsa tokelo ya motho ya tikoloho ka ho beha leihlo mesebetsi ya yona. Kapa motho a ka batla direkoto, tse tla thusa motho ho sheba haeba motho o na le tokelo ya ho etsa tseko ya badudi kgahlanong le setheo. Kahoo motho o lokela ho:

11.3.2.1 ka kotloloho a hlwaye tokelo eo motho a rerileng ho e sireletsa kapa ho e sebedisa, mme ebe

11.3.2.2 hlalosa ka ho hlaka hobaneng rekoto eo a e kopang e batleha bakeng sa ho mo thusa ka tokelo eno.

11.3.3 Ka nqa e nngwe, ha o etsa kopo ya **PAIA** ho lekala la mmuso, ha o a lokela ho ba le lebaka la ho kopa lesedi leo.

12. KE MANG YA KA ETSANG KOPO YA PAIA?

12.1 Motho leha e le ofe, e ka ba moAfrika Borwa kapa tjhe, o dumeletswe ho etsa kopo tlasa **PAIA**. Motho e ka ba ya tlwaelehileng kapa ya ikemetseng semolao.

12.2 Lekala la mmuso le nkuwa e le motho ya ikemetseng semolao mme le ka etsa kopo ya phumantsho ya direkoto tse tshwerweng ke makala a poraefete, empa feela haeba lekala la mmuso le -

12.2.1 sebetsa molemong wa setjhaba, mme

12.2.2 haeba direkoto di batleha bakeng sa ho phethisa kapa ho sireletsa ditokelo leha e le dife ho e na le tseo tsa lekala la mmuso.

12.3 Tlasa **PAIA** mokopi a keke a fumantshwa rekoto, ya lekala la mmuso, e nang le lesedi la bo mong la mokopi ho tswa lekaleng la setjhaba[15], leha ho le jwalo mokopi kapa monga lesedi a ka, ho ya ka karolo 23(1)(b) ya **POPIA**, kopa mokga o ikarabellang rekoto kapa tlhaloso ya lesedi la bo mong la monga lesedi le tshwerweng ke mokga o ikarabellang. Sena se bolela hore motho leha e le ofe jwale a ka kopa phumantsho ya lesedi la bo mong le tshwerweng ke lekala la mmuso kapa la poraefete kamora ho hlahisa bopaki bo nepahetseng ba boitsebiso. Lesedi la bo mong leo mokopi a ka le kopang ho mokgatlo o ikarabellang le ka kenyeletsa lesedi la boitsebiso ba mekga kaofela ya boraro, kapa mekgahlelo ya mekga ya boraro, ba nang, kapa ba bileng, le phumantsho ya lesedi.

12.4 Ho ya ka karolo 50(1) ya **POPIA**, motho leha e le ofe a ka kopa phumantso ya rekoto, ya lekala la poraefete, e nang le lesedi la bo mong la mokopi kapa motho eo ho etswang kopo lebitsong la hae.

13. KOPO E KA ETSWA HO MANG?

13.1 Mohlanka wa Lesedi wa lekala la mmuso o lebeletswe ho kgetha Mo/batlatsi ba Mohlanka wa Lesedi, ya lokelang ho netefatsa hore phumantsho ya direkoto tsa lekala la mmuso di fumaneha ha bonolo kamoo ho ka kgonehang. Leha sena e ne e se tlhokeho mabapi le lekala la poraefete tlasa **PAIA**, lekala la poraefete le ka kgetha Motlatsi wa Mohlanka wa Lesedi ya boletsweng ka hodimo mona, ho ya ka karolo 56 ya **POPIA**.

13.2 Kopo ya phumantsho ya lesedi, leha e ka lebiswa ho Mohlanka wa Lesedi, e ka etswa ho Motlatsi wa Mohlanka wa Lesedi. Dintlha tsa Mo/bahlanka ba lesedi di ka fumaneha bukaneng ya **PAIA** ya lekala leo kapa ho Bolaodi.

14. HO TLATSA FOROMO

14.1 Foromo 2 – kopo ya phumantsho ya rekoto ya lekala la mmuso kapa la poraefete:

14.1.1 Melawana ya **PAIA** e toba foromo e lokelang ho sebediswa, e lokelang ho romelwa ho Mohlanka wa Lesedi kapa Motlatsi wa hae wa lekala leo.

[15] *Karolo 11(2) ya PAIA*

14.1.2 Melawana ya **PAIA** e toba foromo e lokelang ho sebediswa, e lokelang ho romelwa ho Mohlanka wa Lesedi kapa Motlatsi wa hae wa lekala leo.

14.1.3 Bakopi ba sa tsebeng ho bala kapa ho ngola ba ka etsa dikopo ka molomo ho Mohlanka wa Lesedi kapa Motlatsi wa hae wa lekala la mmuso, eo ebe o tla ikarabella bakeng sa ho tlatsa foromo 2 lebitsong la mokopi. Foromo ya hajwale e tla batla hore o tlatse dikarolo tse latelang:

Lesedi le batlwang	Tlhaloso
Dintlha tsa lekala la mmuso / la poraefete	Karolo ena e lokela ho ba le imeile le fekse tsa Mohlanka wa Lesedi le/kapa la Motlatsi wa hae.
Dintlha tsa motho ya kopang phumantsho ya direkoto	Sena se lokela ho ba le lesedi le lekaneng la mokopi ho etsa hore ho be bobebe ho hlwaya mokopi, ho kenyeletswa dintlha tsa boiteanyo tsa mokopi: aterese ya poso, aterese ya imeile, nomoro ya fekse le/kapa ya mohala ka hara Afrika Borwa. E boetse e batla nomoro ya hao ya boitsebiso ho netefatsa boitsebiso ba hao. Haeba o kopa lesedi lebitsong la motho e mong, o lokela ho fana ka boemo boo o etsang kopo ka bona (jwaloka 'motho ya dumelletsweng').
Dintlha tse rekoto e koptjwang	Fana ka dintlha ka botlalo tsa rekoto eo o batlang ho e fumantshwa, ho kenyeletswa nomoro ya tshupiso haeba o e tseba, ho etsa hore rekoto e fumanehe. (Haeba karolo ya foromo e sa lekane, ka kopo tswella leqepheng le ka thoko mme o le kenyeletse foromong. Maqephe ohle a tlatsetso a lokela ho saenwa.
Mofuta wa rekoto	Sena se lokela ho ba le lesedi le lekaneng la rekoto ho etsa hore ho be bobebe ho e fumana. Haeba lesedi le batlwang le sa lekane karolong ya foromo, o ka sebedisa leqephe la tlatsetso le tlantsweng ka motjhini kapa le ngotsweng ho fana ka dintlha tse ding tsa kopo, ha feela leqephe ka leng la tlatsetso le saennwe le ho a kenyeletsa le foromo ya kopo. O ka nna, ka

Lesedi le batlwang	Tlhaloso
	mohlala, kenyeletsa qotso e tswang tlalehong kapa ditabeng tsa dikoranta tse buang ka rekoto eo o e batlang. E o dumella ho kenyeletsa nomoro ya tshupiso ya rekoto, haeba e le teng.
Ditefello	Lekala, leo mokopi a ikemiseditseng ho etsa kopo ya phumantsho ya rekoto ho lona, ho kenyeletswa rekoto e nang le lesedi la bo mong ka yena, le ka o kopa ho lefa tefo ya kopo (tefo ya phumantsho) ka tjhelete ya dipositi, empa tjhelete eo ha e ya lokela ho ba ngata ho feta tekano, kaha ditefo di lokela ho ba tsa nako e utlwahalang e batlehang bakeng sa ho batlana le ho hlophisa rekoto. Letona ka tsebiso Koranteng ya Mmuso le ka thibela tefo ya ditjhelete jwaloka ha ho tekilwe ho serapa 51.1 ka tlase mona. Ho na le karolo e fanweng bakeng sa mokopi ho bontsha hore hobaneng a dumela hore o lokela ho kotelwa tabeng ya ditefo leha e le dife. Lebaka e ka nna ya ba la hore, ka mohlala, ha a sebetse.
Foromo ya phumantsho ya rekoto	Karolo ena e o dumella ho tshwaya ka "X" dintho tseo o di batlang bakeng sa foromo ya ho fumantshwa rekoto e ka nna ya fanwa ka khopi e hatisitsweng ya rekoto le/kapa flash drive le/kapa diski.
Mokgwa wa phumantsho	Tlasa karolo ena o lebeletswe ho teka seo o se batlang mabapi le puo eo o batlang hore rekoto e be ka yona (sena se ka nna sa se kgonahale mabapi le direkoto kaofela, empa o lokela ho bua hore o e batla ka puo efe). Mokgwa wa phumantsho ya rekoto o ka nyehela tabeng ya kganyetso ya phumantsho ka lebaka la ditefo tse hodimo. Ka mohlala, haeba mokopi a batla tokomane ka

	puo eo a e ratang, ditefo bakeng sa ho fetolela ditokomane puong eo o e ratang di ka batleha. Leha ho le jwalo, haeba rekoto e le siyo ka puo eo o e ratang, phumantsho e ka fanwa ka puo eo rekoto e leng teng ka yona. Mokgwa wa ho fumantshwa rekoto o ka kenyeletsa tlhahlobo ya rekoto ka bowena, kapa e romelwe ka imeile, kapa fekse kapa khoria kapa poso.
Tsebiso ya qeto mabapi le kopo ya phumantsho	Ho na le karolo e fanweng bakeng sa mokopi ho hlalosa mokgwa oo a batlang ho tsebiswa ka qeto ya ho dumela kapa ho hanyetsa kopo. Mokopi a ka hlakisa hore mohlomong o tla batla ho tsebiswa ka imeile kapa mohala kapa karabo e ka romelwa ka poso kapa khoria.
Dintlha tsa tokelo e lokelang ho sebediswa kapa ho sireletswa	Ha a kopa lesedi lekaleng la poraefete mokopi o lebeletswe ho hlalosa "dintlha tsa tokelo e lokelang ho sebediswa kapa ho sireletswa". Mona o lokela ho bolela tokelo eo a e tshepetseng (e kang tokelo ya hae ya tikoloho e itekanetseng) le kamoo rekoto eo a e kopang e tla thusa ho sebedisa kapa ho sireletsa tokelo eo. O lokela ho bontsha kamano pakeng tsa rekoto eo a e batlang, le tshebediso kapa tshireletso ya tokelo. Ka bomadimabe, ho fapana le kopo ya phumantsho ya rekoto ya lekala la mmuso, a keke a fihella rekoto ya lekala la poraefete ntle le ha a ka hlakisa to/ditokelo tseo a ikemiseditseng ho di sireletsa kapa ho di sebedisa haeba phumantsho ya lesedi e ka dumellwa. Sena se ka kenyeletsa taba ya hore kamora ho fumantshwa direkoto, ebe ke moo a tla sebedisa tokelo ya hae ya tshireletso e lekalekanang le molemo wa molao[16] ka ho qosa lekala leo bakeng sa ditshenyehelo tseo e ka bang di mo amme.

[16] *Karolo 9(1) .ya molaotheo wa Riphabliki ya Afrika Borwa, Molao bo-108 wa 1996*

14.1.4 Haeba ka mabaka leha e le afe kopo ya hae ha e imatahanye le ditlhokeho tse tekilweng ka hodimo mona, Mohlanka wa Lesedi a ka nna a se hanyetse feela kopo ya hae, ntle le ha a tsebisitse mokopi hore o ikemiseditse ho hanyetsa kopo le ho fana ka mabaka. Mohlanka wa Lesedi o boetse o lokela ho tsebisa hore o tla thusa mokopi kapa a mo nehe monyetla wa ho lokisa phoso eo.

15. DITEFELLO TSE KENYELETSWANG

15.1 Ka kakaretso, ditefello di lokela ho etswa bakeng sa ka bobedi ho etsa kopo, empa hape le ho lefella ditjeo tsa ho fana ka phumantsho ya direkoto ho ya ka kopo. Ho na le, leha ho le jwalo, mekgelo e itseng. Haeba mokopi a fuwa phumantsho ya direkoto tseo a di kopileng ha a ya kotelwa tabeng ya ho lefa ditefo leha e le dife, jwaloka ha ho tekilwe serapeng 15.2 ka tlase mona, Mohlanka wa Lesedi kapa Motlatsi wa hae wa lekala la mmuso kapa la poraefete a ka lefisa ditjhelete tse laetsweng tse latelang -

TEMOSO: Sebopeho sa ditefello tse lefuwang ho Makala a Mmuso kapa a Poraefete di a fumaneha websaeteng ya Bolaodi.

Thepa	Tlhaloso
1	Tjhelete ya tefello e lefuwang ke mokopi e mong le e mong
2	Fotokhopi ya leqephe la A4
3	Khopi e hatisitsweng ya leqephe la A4
4	Bakeng sa khopi e balehang ka khompyuta ka: (i) Flash drive (e tla fanwa ke mokopi) (ii) Diski • Haeba e fanwa ke mokopi • Haeba e fuwa mokopi
5	Bakeng sa rekoto e kopisitsweng ya ditshwantsho leqephe ka leng la A4
6	Khopi ya Ditshwantsho
7	Phetolo ya lentswe ya rekoto e mamelwang, leqephe ka leng la A4
8	Khopi ya rekoto e mamelwang ho: (i) Flash drive (e tla fanwa ke mokopi) (ii) Diski • Haeba e fanwa ke mokopi • Haeba e fuwa mokopi
9	Ho batlana le rekoto le ho e hlophisa bakeng sa pepeso hora ka nngwe kapa karolo ya hora, ho sa kenyeletswe hora ya pele, e batlehang bakeng sa ho batla hoo le ho e hlophisa. Ha ho a lokela ho feta ditjeo tsa
10	Dipositi: Haeba ho batla ho feta dihora tse 6
11	Tefello ya poso, imeile kapa mokgwa leha e le ofe wa tsamaiso ya elektroniki

15.2 Mokopi ha a ya lokela ho lefa tjhelete ya phumantsho[17] lekaleng la mmuso haeba:-

15.2.1 Ke motho ya sa nyalang eo lekeno la hae la selemo, kamora ho hulwa ha ditjhelete tsa semmuso, tse kang **PAYE** le **UIF**, le leng ka tlase ho **R14 712.00** ka selemo, kapa

15.2.2 O nyetse mme lekeno le kopanetsweng le molekane, kamora ho hulwa ha ditjhelete tsa semmuso, tse kang **PAYE** le **UIF**, le leng ka tlase ho **R27 192.00** ka selemo.

15.3 O koptjwa ho hlokomela hore lekala la mmuso kapa la poraefete le ka kopa, ho Foromo 4 ya Melawana, dipositi ho mokopi, empa feela haeba ba kgolwa hore lesedi kapa direkoto tse kopuweng di tla nka ho feta dihora tse tsheletseng (6) ho di batla, empa dipositi e keke ya ba ka hodimo ho feta nngwe tharong ya tjhelete e laetsweng.

16. NA MOHLANKA WA LESEDI O TLA THUSA MOKOPI HO ETSA KOPO YA PAIA?

16.1 Mosebetsi wa Bahlanka ba Lesedi le/kapa Batlatsi ba bona ba ka bobedi makala a mmuso le a poraefete ke ho, ho ya kamoo o amanang le ho tswellisa dikopo tsa phumantsho ya direkoto:

16.1.1 amohela dikopo tsa **PAIA** kapa tsa **POPIA**;

16.1.2 hokahanya tswelliso ya kopo ka hara lekala;

16.1.3 etsa qeto ya haeba ho ka dumellwa kapa ho hanyetswa ha direkoto tse koptjwang;

16.1.4 hokahana le mokopi (mohl. ba ka lokela ho kopa mokopi dintlha tse batsi kapa ba ka hloka ho kopa katoloso ya nako ya ho sebetsana le kopo, jj.);

16.1.5 Eletsa mokopi ka sephetho sa kopo ya hae ya **PAIA**, e leng keletso e lokelang ho fanwa kapele kamoo ho ka kgonehang empa e be nakong ya matsatsi a 30 kamora ho fumana kopo. Nako ya maqalong ya matsatsi a 30 e ka eketswa bakeng sa nako e nngwe hang bakeng sa matsatsi a sa feteng a 30, haeba ka mohlala, mokopi a dumetse tabeng ya katoloso eo kapa ho lokelwa ho batlana le rekoto e kekeng ya fumanwa ka nako e behilweng ya sethathong;

16.1.6 fana ka mabaka ho mokopi bakeng sa kganyetso ya phumantsho ya rekoto. Ho bohlokwa haholo hore mabaka a kganyetso e ba a hlakileng le a tebileng mme a lokela ho kenyeletsa tshupiso ho dikarolo tse itseng tsa **PAIA** (sheba serapa 19.4 ka tlase mona, mabapi le mabaka a kganyetso ya ho fumantshwa direkoto[18]);

[17] Ho ya ka Tsebiso ya Mmuso R991 ya 14 Mphalane 2005
[18] Karolo 33 ho 46 ya PAIA

16.1.7 tsebisa mekga ya boraro e amehang ka motjha wa tsebiso wa mokga wa boraro, ho ya ka karolo 47 ya **PAIA**; mme

16.1.8 haeba phumantsho ya direkoto e dumellwa, neha mokopi khopi ya rekoto

16.2 Ha o tsebisa mokopi ka qeto eo, o lokela hape ho mo tekela mekgwa ya ho tletleba e teng le dinako tse amehang (mekgwa e teng e fapane bakeng sa makala a mmuso le a poraefete).

16.3 Mesebetsi ya tlatsetso le maikarabelo a Bahlanka ba Lesedi le/kapa Batlatsi ba bona e tekilweng ka botlalo ho Lengolo la Tataiso la Bahlanka ba Lesedi le Batlatsi ba bona e leng Tataiso e ka fumanehang ka ho etela https://www.justice.gov.za/inforeg/docs.html

16.4 Hobane mosebetsi wa Bahlanka ba Lesedi le/kapa Batlatsi ba bona ke ho thusa ka phumantsho ya lesedi, sena hape se bolela hore ba na le mesebetsi e fapafapaneng ho ba etsang kopo.

16.5 Bahlanka ba Lesedi le/kapa Batlatsi ba bona ba lokela ho fana ka thuso mahala.

16.6 Bahlanka ba Lesedi le/kapa Batlatsi ba bona ba lekala la mmuso ba na le mesebetsi e ikgethileng e latelang:

Mesebetsi ya Bahlanka ba Lesedi	Tlhaloso
Ho thusa ka ho tlatsa foromo	Mohlanka wa Lesedi o lokela ho fana ka thuso e utlwahalang ho mokopi ho tlatsa foromo ya hae ya **PAIA**, mme a keke a amohela foromo e sa tlatswang ka nepo ntle le haeba a fane ka thuso eo, kapa thuso eo a neng a fana ka yona e hanyeditswe.
Ho fana ka lesedi le amehang	Haeba ho kgoneha, Mohlanka wa Lesedi o lokela ho neha mokopi lesedi le hae e le lefe le leng le ka bang le a ameha, le haeba e se le kopilweng ka ho toba.
Ho fetisa kopo	Ona ke mosebetsi wa bohlokwa haholo. Haeba kopo ya **PAIA** e entswe lekaleng la mmuso le fosahetseng, Mohlanka wa Lesedi o lokela ho fetisetsa kopo lekaleng la mmuso le nepahetseng nakong ya matsatsi a 14

Mesebetsi ya Bahlanka ba Lesedi	Tlhaloso
	ya ho amohela kopo le ho tsebisa mokopi ka lengolo bakeng sa ho etsa seo. Hang ha e se e fetisitswe, Mohlanka wa Lesedi ya nepahetseng o lokela ebe o arabela ka qeto nakong ya matsatsi a 30.
Kemiso ya tokollo	Mohlanka wa Lesedi a ka etsa qeto ya ho emisa ka tokollo ya rekoto ho mokopi haeba rekoto eo e tla phatlalatswa nakong ya matsatsi a 90 kapa haeba rekoto e batleha ka molao hore e phatlalatswe empa e le hona e tla phatlalatswa.

16.7 Mabapi le ka bobedi makala a mmuso le a poraefete, Mohlanka wa Lesedi o lokela ho, haeba ba sa kgone ho fumana direkoto tseo tse kopuweng kapa ba dumela hore ha di fumanehe, ho fana ka afidavite e tebileng kapa tiisetso[19] ho mokopi a fana ka tsebiso ya hore direkoto tse batlehang ha di yo kapa ha di tholahale, empa hape a teke mehato eo ba e nkileng ho batlana le tsona.

17. THUSO E FUMANEHANG HO BOLAODI BA LESEDI HO YA KA PAIA LE POPIA

17.1 Mohlanka wa Lesedi wa lekala la mmuso o tshwanela ho fana ka thuso[20] e jwalo, mahala, kamoo ho hlokehang ho thusa mokopi eo kapa monga lesedi ho imatahanya le mokgwa wa phumantsho jwaloka ha ho lohothuwe ho karolo 18 ya **PAIA** le karolo 23 ya **POPIA**.

17.2 Leha ho le jwalo, ha Mohlanka wa Lesedi a hloleha ho imatahanya le mosebetsi wa hae, o boletsweng serapeng 17.1 ka hodimo mona, mokopi kapa monga lesedi a ka kenya tletlebo ho Bolaodi mme Bolaodi bo ka, kamora dipatlisiso, ntsha Tsebiso ya Qobello e laelang Mohlanka wa Lesedi ho fana ka thuso e amohelehang.

17.3 Bolaodi bo ka, haeba ho kgoneha, ha bo koptjwa, thusa motho leha e le ofe ya lakatsang ho sebedisa tokelo leha e le efe e lohothuwang ho **PAIA** le **POPIA**[21], mme sena se kenyeletsa ho fana ka thuso e utlwahalang, mahala, kamoo ho hlokehang ho thusa mokopi eo kapa monga lesedi ho imatahanya le mokgwa wa phumantsho jwaloka ha ho lohothuwe ho dikarolo 18 le 53 tsa **PAIA** le karolo 23 ya **POPIA**.

17.4 Se ka hodimo mona se kenyeletsa phano ya tataiso ya mokgwa wa ho tlatsa foromo ya kopo ya phumantsho kapa ho tlatsa foromo lebitsong la motho ya sa tsebeng ho ngola kapa ya foufetseng.

[19] *Karolo 23(1) le 51(1) ya PAIA*
[20] *Karolo 19(1) ya PAIA*
[21] *Karolo 83(3)(c) ya PAIA*

18. NA MOHLANKA WA LESEDI A KA EKETSA DINAKO TSE AMEHANG?

18.1 Moralo wa motjha le dinako tsa bohlokwa tse amehang di teng ka hara setshwantsho sa motjha wa kopo ya **PAIA**, serapeng 27 ka tlase mona. Ho ba le dinako tse tobileng ke karolo ya bohlokwa ya **PAIA**, kaha e qobella botsamaisi bo hlwahlwa ba dikopo tsa phumantsho ya direkoto.

18.2 Ho o hopotsa, hang ha o entse kopo ka nepo Mohlanka wa Lesedi kapa Motlatsi wa hae, eo kopo e entsweng kapa e fetiseditsweng ho yena, o lokela ho arabela kapele kamoo ho kgonehang mabakeng ohle **nakong ya matsatsi**[22] **a 30**. Leha ho le jwalo, Mohlanka wa Lesedi wa lekala la mmuso kapa la poraefete a ka kopa katoloso e le nngwe **ya matsatsi a 30**[23], empa feela haeba:

18.2.1 kopo ke ya direkoto tsa palo e kgolo kapa ho batleha hore ho tsomanwe le palo e kgolo ya direkoto mme, ntle le katoloso, ho batla hona ho tla sitisa mesebetsi e tlwaelehileng ya lekala le amehang;

18.2.2 Kopo e batla ho batlanwe le direkoto ofising ya lekala leo le seng motseng kapa toropong e le nngwe mme kahoo ho tsoma ho sa kgone ho phethelwa nakong **ya matsatsi a 30**; le/kapa

18.2.3 e batla boemo ba ditherisano bakeng sa ho sebetsana le kopo, e kekeng ya phethelwa nakong ya matsatsi a 30 feela.

18.3 Mohlanka wa Lesedi o lokela ho tsebisa mokopi ka maikemisetso a hae a ho eketsa nako, le ho bolela hore katoloso e tla ba ya nako e kae, lebaka la katoloso, le ho tsebisa mokopi ka tokelo ya hae ya ho -

18.3.1 ipiletsa bolaoding bo amehang;

18.3.2 tletleba ho Bolaodi; kapa

18.2.3 ritela nyewe kgahlanong le katoloso ho ya kamoo maemo a leng kateng.

18.4 Mohlanka wa Lesedi hape o lokela ho tsebisa mokopi ka motjha wa ditokelo ka ding tse boletsweng ka hodimo tsebisong[24].

19. DIKARABELO TSA KOPO YA LESEDI

19.1 **PAIA** e file setjhaba tokelo ya ho kopa ho fumantshwa direkoto ho lekala leha e le lefe la mmuso kapa la poraefete. Hangata e hlaloswa e le molao o etsang hore baahi ba dule ba tseba ka mmuso wa bona. Makala a mmuso a lebeletswe ho pepesa lesedi leha e le lefe le koptjwang tlasa **PAIA** ntle le haeba le wela

[22] *Karolo 25(1) ya PAIA*
[23] *Karolo 26(1) ya PAIA*
[24] *Karolo 26(3) ya PAIA - tsebiso ya katoloso e lokela ho supa hore mokopi a ka etsa boipiletso ba ka hare, tletlebo ho Bolaodi ba Lesedi kapa kopo Kgotla, ho ya kamoo maemo a leng kateng, kgahlanong le katoloso, le tsamaiso (ho kenyeletswa le nako) ya ho etsa boipiletso ba ka hare, tletlebo ho Bolaodi ba Lesedi kapa kopo, ho ya kamoo maemo a leng kateng.*

4. INHLOSO YALO MHLAHLANDLELA WE-PAIA

4.1 Inhloso yalo Mhlahlandlela iwukuhlinzeka ngolwazi oludingwa yinoma imuphi umuntu ofisa ukusebenzisa noma yiliphi ilungelo eliseMthethweni Ka-2000 Wokugqugquzela Ukutholakala Kolwazi (**PAIA**) kanye noMthetho Ka-2013 Wokuvikelwa Kwemininingwane Yomuntu ("**POPIA**"). Noma yimuphi umuntu, kungakhathalekile ubuzwe bakhe, angafaka isicelo sokuthola ulwazi ngaphansi kwe-**PAIA**.

4.2 Lo Mhlahlandlela uzosiza ngokukhethekile umuntu, obizwa nangokuthi umninilwazi, ukuthi angayithola kanjani imininingwane yakhe siqu ngokwesigaba 23 se-**POPIA**. Ngaphansi kwe-**POPIA**, umuntu noma umninilwazi unelungelo -

4.2.1 lokucela enhlanganweni ethintekayo ukuqinisekiswa, mahhala, ukuthi ingabe yiyo yini egcine leyo minininingwane ephathelene naye noma cha, kanye

4.2.2 nokucela enhlanganweni ethintekayo irekhodi noma incazelo yemininingwane yomuntu siqu emaqondana nomninilwazi egcinwe yinhlangano ethintekayo, okubandakanya imininingwane yobunikazi babo bonke abantu besithathu, noma izigaba zabantu besithathu, abake noma abaye baluthola leyo minininingwane;

4.2.3 ukucela enhlanganweni ethintekayo -

(a) ukulungisa noma ukucima imininingwane yomuntu siqu ephathelene nomninilwazi esezandleni noma engaphansi kwayo leyo nhlangano enganembile, engasebenzi, eyeqisayo, ephelelwe yisikhathi, engaphelele, edukisayo noma etholwe ngokungemthetho; noma

(b) ashabalalise acime irekhodi lemininingwane yomuntu siqu ephathelene nomninilwazi leyo inhlangano ethintekayo engasavunyelwe ukuyigcina

4.3 Lo mhlahlandlela uzosiza nanoma yimuphi umuntu ekutheni angacela kanjani ukuthola amarekhodi ngaphansi kwe-**PAIA**. Lo Mhlahlandlela uzobuye usize abaceli:

4.3.1 ukuqonda i-**PAIA**, izinzuzo nomsuka wayo;

4.3.2 ukufunda inqubo yesinyathelo ngasinye ekwenzeni isicelo namacebiso engeziwe okwenza leyo nqubo ibe lula;

4.3.3 ukufunda izinhlobo zolwazi olungacelwa kusetshenziswa i-**PAIA**;

4.3.4 ukuqonda inqubo umceli angasiphikisa ngayo isinqumo esithathiwe maqondana nesicelo sakhe;

tlasa e nngwe ya **dikotelo tse leshome le metso e mmedi (12)** kapa mabaka a hore hobaneng phumantsho ya direkoto tsa lekala la mmuso e sa dumellwe[25] le dikotelo tse supa (7) kapa mabaka a hore hobaneng phumantsho ya direkoto tsa lekala la poraefete e kekeng ya dumellwa[26]. Dikotelo tse leshome le metso e robong (19) tse fanweng bakeng sa **PAIA** di reretswe ho sireletsa ditabatabelo tse kang sephiri sa bo mong, polokeho ya naha, le qobello ya molao.

19.2 Pehelo e tataisang tsamaiso ya **PAIA** ke mohopolo wa ponaletso. Sena se bolela hore lebaka leha e le lefe le kginang ponaletso ena le lokela ho utlwahala. Makala a mmuso le ona a lokela ho sheba haeba pepeso e sa fellang ya lesedi e ya kgoneha neng le neng ha ba tiisa hore ho pepeswa ho phethahetseng ha ho kgonehe mme ba lokela ho ngotla kapa ho thibela lesedi le kekeng la pepeswa le ho pepesa le leng kaofela.

19.3 Mefuta ya dikarabelo tsa dikopo

19.3.1 Ha kopo ya phumantsho ya rekoto e entswe, Mohlanka wa Lesedi kapa Motlatsi wa hae o lokela, haeba phumantsho ya rekoto e dumelwa kapa e hanyetswa, ho tsebisa mokopi ka -

(a) qeto ya hae; le
(b) ditefo tse batlehang, haeba di le teng,

foromong e tsamaelanang haholo le **Foromo 3** ya Tlatsetso A ya Melawana:

19.3.2 Leha ho le jwalo, **PAIA** e fana ka lenane la mabaka kapa dikotelo (sheba dirapa 19.4 le 19.6 ka tlase mona) tsa hore hobaneng kopo e ka hanyetswa kapa tjhe. Sena se bohlokwa, kaha kopo e ka hanyetswa feela ho itshetlehilwe hodima mabaka ana a boletsweng a kganyetso ya phumantsho ya direkoto.

19.3.3 Ho sa natswe mabaka a boletsweng ka hodimo mona a kganyetso ya phumantso ya direkoto, Mohlanka wa Lesedi wa lekala la mmuso o lokela ho dumela ka kopo ya phumantsho ya rekoto ya lekala haeba tabatabelo ya setjhaba ya pepeso ya rekoto e le pepeneneng hore e molemo ho feta kotsi e lohothwang mabakeng a boletsweng a kganyetso[27]. Sena se bolela hore mokopi a ka tshepela ho tabatabelo ya setjhaba neng le neng ha le leng la mabaka a kganyetso ya phumantsho ya direkoto a sebediswa.

19.3.4 Ka bokgutshwane, mabaka a hore hobaneng lesedi le keke la pepeswa a amana le haeba lesedi leo le ka baka kotsi ho feta leha le ne le sa pepeswa. Ho na le mefuta e mmedi ya mabaka a boletsweng a kganyetso ya phumantsho ya direkoto tsa lekala:

[25] *Kgaolo 4 ya PAIA - mabaka a kganyetso ya phumantsho ya direkoto (karolo 34-45 ya PAIA)*
[26] *Kgaolo 4 ya PAIA - mabaka kganyetso ya phumantsho ya direkoto (karolo 63-69 ya PAIA*
[27] *karolo 46 ya PAIA*

19.4 Mabaka a tlamang a kganyetso (mabaka a kotelo)

19.4.1 Mabapi le mabaka a tlamang, Mohlanka wa Lesedi kapa Motlatsi wa hae o lokela ho hanyetsa kopo hobane a ama rekoto eo.

19.4.2 Ho na le mabaka a mangata a tlamang ho feta a boikgethelo. A latelang ke mabaka a tlamang a kganyetso, mme Mohlanka wa Lesedi kapa Motlatsi wa hae o lokela ho hanyetsa kopo hobane a ama rekoto -

19.4.2.1 **Tshireletso e tlamang ya sephiri ya mokga wa boraro oo e leng motho ya tlwaelehileng;**
Mohlanka wa Lesedi wa lekala la mmuso kapa la poraefete ha a ya lokela ho dumella mokopi phumantsho ya lesedi la bo mong la motho e mong haeba seo se bolela 'pepeso e hlokang boikarabelo'. Dikarolo ka bo tsona di bontsha mabaka a mmalwa a ha sena se sa sebetse, mohlomong haeba direkoto di se di tsejwa ke setjhaba, ka moo motho a fanneng ka tumello. Taba ya tumello e bohlokwa ka ho qolleha kaha e amana le karolo e nngwe ya motjha oo mokopi a lokelang ho o lemoha, o amanang le ditsebiso tsa mokga wa boraro, ho ya ka kgaolo 5 ya **PAIA**.

19.4.2.2 **Tshireletso e tlamang ya direkoto tse itseng tsa Tshebeletso ya Lekgetho ya Afrika Borwa;**
Mohlanka wa Lesedi wa **SARS** ha a lokela ho dumella mokopi ho fumantshwa direkoto tse fumanweng, kapa tse tshwerweng, ke **SARS** bakeng sa merero ya pokeletso ya lekeno. Leha ho le jwalo, direkoto tse fumanweng kapa tse tshwerweng ke **SARS** di ka nna tsa se hanyetswe haeba kopo e etswa ke mokopi ya amehang ka boyena kapa motho eo ho etswang kopo lebitsong la hae.

19.4.2.3 **Tshireletso e tlamang ya lesedi la kgwebo la mokga wa boraro;**
Mohlanka wa Lesedi wa lekala ha a lokela ho dumella mokopi ho fumantshwa lesedi la kgwebo la motho e mong (ka mantswe a mang, eo e seng mokopi kapa mokopuwa). Sena se tla kenyeletsa lesedi le kang makunutu a kgwebo, kapa a ka tshosetsang ditabatabelo tsa kgwebo tsa motho eo wa boraro. Ka mohlala, KFC e sebedisa diresepe tse itseng, ho kenyeletswa le metswako e itseng e entsweng ke mokga wa boraro, e leng makunutu a kgwebo a mokga oo wa boraro mme ho pepeswa ha ona ho ka tshosetsa ditabatabelo tsa kgwebo tsa mokga oo wa boraro.

19.4.2.4 **Tshireletso e tlamang ya lesedi le itseng la sephiri, le tshireletso ya lesedi le leng le itseng la sephiri, la mokga wa boraro;**
Bahlanka ba Lesedi ba ka bobedi lekala la mmuso le la poraefete ha ba a lokela ho dumella mokopi phumantsho ya rekoto haeba ho lokollwa ha yona ho tla thunthetsa mosebetsi wa sephiri o tshwanelang mokga wa boraro ho ya ka tumellano kapa konteraka.

19.4.2.5 **Tshireletso e tlamang ya polokeho ya batho ka bo mong, le tshireletso ya thepa;**
Mohlanka wa Lesedi wa ka bobedi lekala la mmuso kapa la poraefete ha a lokela ho dumella mokopi ho fumantshwa rekoto haeba ho lokollwa ha yona ho ka baka ho beha polokeho ya motho kotsing. Dikarolong tsona tseo, e bolela hape hore Mohlanka wa Lesedi wa lekala a ka hanyetsa phumantsho haeba e tla sitisa tshireletso ya moaho kapa thepa.

19.4.2.6 **Tshireletso e tlamang ya didokete tsa sepolesa ditsamaisong tsa beile, le tshireletso ya ditsamaiso tsa qobello ya molao le tsa semolao;**
Mohlanka wa Lesedi wa lekala la mmuso ha a lokela ho dumella mokopi ho fumantshwa direkoto tse kang tsa ditsamaiso tsa beile tse seng di sireleditswe ke karolo 60 ya Molao wa Tsamaiso ya Ditlolo tsa Molao. Karolong yona eo, e boetse e bolela hore Mohlanka wa Lesedi wa lekala la mmuso a ka hanyetsa phumantsho ya direkoto tsa qobello ya molao tse utullang mekgwa ya ona ya tshebetso, ditekginiki, ditsamaiso tsa thibelo ya botlokotsebe, kapa botjhutjhisi ba botlokotsebe, hammoho le direkoto tse ding tse itseng tse amanang le ditsamaiso tsa semolao tse etsahalang.

19.4.2.7 **Tshireletso e tlamang ya direkoto tse nang le monyetla wa ho se hlahiswe ditsamaisong tsa semolao;**
Mohlanka wa Lesedi wa lekala la poraefete ha a lokela ho dumella mokopi ho fumantshwa rekoto haeba rekoto e na le monyetla wa ho se hlahiswe ditsamaisong tsa semolao, ntle le ha motho ya nang le tshwanelo ya monyetla a nyahladitse monyetla oo.

19.4.2.8 **Tshireletso e tlamang ya lesedi la diphuputso la mokga wa boraro, le tshireletso ya lesedi la diphuputso la lekala la mmuso kapa la poraefete.**
Mohlanka wa Lesedi wa lekala ha a lokela ho dumella mokopi ho fumantshwa rekoto haeba e amana le diphuputso tse, kapa tse tla, etswa ke lekala le amehang mme ho lokollwa ha tsona ho ka nna ha pepesa mofuputsi, mokga wa boraro kapa taba e tlasa diphuputso boemong bo bobe.

19.4.3 O koptjwa ho lemoha hore mabaka a ka hodimo mona a tlamang bakeng sa kganyetso ya phumantsho ya direkoto a batla a tshwana le a makala a mmuso kapa a poraefete, ntle le bakeng sa tshireletso e tlamang ya direkoto tse itseng tsa Tshebeletso ya Lekgetho ya Afrika Borwa, didokete tsa sepolesa ditsamaisong tsa beile, tsa qobello ya molao le tsa ditsamaiso tsa semolao, tse sebetsang feela makaleng a mmuso.

19.4.4 Haeba ke karolo feela ya rekoto e amanang le lebaka la ho kotelwa, Mohlanka wa Lesedi kapa Motlatsi wa hae wa ka bobedi lekala la mmuso kapa la poraefete o ka tlasa tshwanelo ya ho sekaseka haeba pepeso e sa fellang ya lesedi e ya kgoneha neng le neng ha ba tiisa hore pepeso ka botlalo ha e kgonehe mme ba lokela ho nka mehato e utlwahalang ya ho ngotla kapa ho thibela karolo eo e kekeng ya lokollelwa mokopi le ho dumella phumantsho ya rekoto e nngwe kaofela.

19.5 Se nkuwang e le kganyetso ya kopo[28]

19.5.1 Ho hloleha ho arabela kopo ka nepo nakong ya nako e nepahetseng ho tla 'nkuwa e le kganyetso'. Sena se bohlokwa, hobane **PAIA** e dumella mokopi ho phephetsa qeto ha ho se na qeto e entsweng mme le kopo e iphapantswe. Mokopi o tla teka feela boipiletso ba ka hare ba hore ha ho karabo eo a ileng a e fumana.

19.5.2 Kopo ya phumantsho ya direkoto e nkuwa e le kganyetso kamora ho feta ha matsatsi a 30 kapa nako leha e le efe e atolositsweng mme lekala la poraefete le hloleha ho arabela.

19.6 Mabaka a boikgethelo a kganyetso

19.6.1 Mabapi le mabaka a boikgethelo, Mohlanka wa Lesedi kapa Motlatsi wa hae a ka sheba haeba a ka hanyetsa kopo kapa tjhe hobane ho na le mabaka a amang rekoto e koptjwang. Hobane ke boikgethelo, Mohlanka wa Lesedi o lokela ho sebedisa monahano wa hae ka boikarabelo ha a sekaseka mabaka a fapaneng, e leng:

19.6.1.1 **Tshireletso ya Afrika Borwa, polokeho le dikamano tsa matjhaba:** Mohlanka wa Lesedi a ka hanyetsa phumantsho haeba ho lokollwa ha lesedi ho ka lebellwa hore ho tshosetse tshireletso le polokeho ya naha. Sena se ka boela sa sebetsa moo ho lokollwa ha lesedi ho ka lematsang dikamano tsa Afrika Borwa le naha e nngwe, jwaloka ho utulla direkoto tse fannweng ka lekunutu.

19.6.1.2 **Ditabatabelo tsa Moruo, ditjhelete le kgwebo:** Mohlanka wa Lesedi a ka hanyetsa ho lokollwa ha lona haeba ho lokollwa ha lona ho tla ba kotsi boemong ba moruo le ditjhelete tsa Riphabliki;

[28] *Karolo 27 le 58 ya PAIA*

19.6.1.3 **Ditshebetso tsa makala a mmuso:** Mohlanka wa Lesedi wa lekala la mmuso a ka hanyetsa phumantsho haeba ho lokollwa ha lesedi ho ka sitisa ditshebetso, ka mohlala, haeba e leka ho bopa leano, kapa ho tshohla taba e itseng;

19.6.1.4 **Dikopo tse sa hlokahaleng kapa tse tenang:** Bahlanka ba Lesedi ba ka hanyetsa kopo ya lesedi haeba ba na le mohopolo wa hore ho tswellisa dikopo ho tla senya nako ho sa hlokahale le ho bapala ka mehlodi. Hodima moo, ba ka hanyetsa phumantsho haeba kopo e bonahala eka e entswe ke mokopi ho halefisa kapa ho qala leqhoko ho sa hlokahale.

20. PEPESO E TLAMANG YA DIREKOTO MOLEMONG WA SETJHABA

20.1 Leha e ba lebaka la boikgethelo kapa le tlamang la kganyetso le le teng mabapi le kopo ya phumantsho ya direkoto tsa makala a mmuso kapa a poraefete, ho dula ho na le kgonahalo ya hore tabatabelo ya setjhaba mabapi le pepeso ya rekoto e molemo ho feta tshenyo e entsweng ke ho pepeswa ha rekoto.

20.2 Moo bohlokwa ba tabatabelo ya setjhaba bo leng teng jwaloka ha ho boletswe ka hodimo mona le ho pepeswa ha rekoto ho ka utullang bopaki ba tlolo e mpe ya, kapa ho hloleha ha ho imatahanya le molao; kapa kotsi e matla ya polokeho ya setjhaba kapa ya tikoloho e ka bonahalang, ebe ke moo Mohlanka wa Lesedi a lokelang ho dumella phumantsho ya rekoto ho sa natswe boteng ba mabaka a kotelo a boletsweng ka hodimo mona.

21. MOTJHA[29] WA TSEBISO YA MOKGA WA BORARO

21.1 Mohlanka wa Lesedi kapa Motlatsi wa hae wa lekala o lebeletswe, ho ya ka dikarolo 47 le 71 tsa **PAIA**, ho nka mehato e utlwahalang ho tsebisa mokga wa boraro ka kopo ya rekoto kapa direkoto tsa hae tse nang le lesedi la bo mong le kang,

21.1.1 rekoto ya **SARS**;

21.1.2 makunutu a kgwebo;

21.1.3 lesedi leo e leng hore ha le ka lokollwa le ka hlahisa mabaka bakeng sa thunthetso ya mosebetsi wa lekunutu; kapa lesedi la diphuputso le ka pepesang motho e mong kapa le fupere taba e ka bakang tshenyo e kgolo.

21.2 Tsebiso ho mokga wa boraro eo direkoto kapa lesedi la hae le amanang le ditaba tsa hae o lokela ho mema mokga wa boraro ho -

[29] *Karolo 47 le 71 ya PAIA*

21.2.1 etsa kopo ka lengolo kapa ka molomo ho Mohlanka wa Lesedi hore hobaneng kopo ya phumantsho e lokela ho hanyetswa; kapa

21.2.2 fana ka tumello e ngotsweng bakeng sa pepeso ya rekoto ho mokopi.

21.3 Se bohlokwa bakeng sa mokopi, **PAIA** e re ditsebiso tse ngotsweng ho mokga wa boraro di lokela ho romelwa ho mokga wa boraro nakong ya matsatsi a 21 a ho amohelwa ha kopo, le hore Mohlanka wa Lesedi kapa Motlatsi wa hae o lokela ho tsebisa mokopi hore tsebiso e rometswe ho mokga wa boraro.

21.4 Hang ha tsebiso eo e se e rometswe, Mohlanka wa Lesedi kapa Motlatsi wa hae o lokela hore ebe o etsa qeto ya ho qetela ya haeba o tla lokolla direkoto kapa tjhe **nakong ya matsatsi a 30** kamora hoba tsebiso e romelwe.

21.5 Mokga wa boraro o lokela ho tsebiswa ka qeto e nkuweng le mabaka a utlwahalang bakeng sa ho dumella kopo le ona a lokela ho fanwa. Mokga wa boraro o boetse o lokela ho tsebiswa ka tokelo le motjha wa ho phephetsa qeto jwaloka ha ho boletswe serapeng 22 ka tlase mona.

22. DITOKISO TSA SEMOLAO TSE TENG KGAHLANONG LE DIQETO KAPA HO HLOLEHA HO NKA QETO KE MOHLANKA WA LESEDI KAPA MOTLATSI WA HAE

22.1 **Mohato o lokelang ho nkuwa hang ha qeto e se e entswe mabapi le kopo**

22.1.1 Mokopi a ka nka mohato wa tshalomorao ka lengolo, mabapi le qeto e salletseng morao ya Mohlanka wa Lesedi kapa Motlatsi wa hae. Ho kgothaletswa hore ngollano yohle pakeng tsa mokopi le Mohlanka wa Lesedi kapa Motlatsi wa hae e lokela ho ba ka lengolo bakeng sa merero ya tshupiso ya kamoso.

22.1.2 Ho na le metjha e fapaneng bakeng sa makala a mmuso le a poraefete, ka ho qolleha mabapi le maipiletso a ka hare. Ka mohlala, mabapi le kopo ya phumantsho ya rekoto ya lekala la mmuso, mokopi o lokela ho qala ka ho kenya boipiletso ba ka hare pele a leba ho Bolaodi kapa Kgotla. Leha ho le jwalo, ha ho boipiletso ba ka hare kgahlanong le qeto (e ka ba ya ho dumela kapa ho hanyetsa phumantsho ya direkoto) kapa phumantsho e nkuwang e hanyeditswe ya direkoto tsa lekala la poraefete.

22.1.3 Karolo ena e tla hlalosa ditokiso tsa semolao tse teng bakeng sa bakopi ba lakatsang ho phephetsa diqeto tse jwalo, tse kenyeletsang maipiletso a ka hare, ho kenya tletlebo ho Bolaodi kapa Kgotla. Sheba hape daekeramo ya motjha wa kopo ya **PAIA**, serapeng 27 ka tlase mona.

22.1.4 Mokopi a ka, hara tse ding, phephetsa qeto e latelang ya lekala la poraefete le/kapa la mmuso -

22.1.4.1 thendara kapa tefo ya tjhelete ya kopo;

22.1.4.2 thendara kapa tefo ya dipositi;

22.1.4.3 tefo ya phumantsho e lokelang ho lefuwa e le hodimo ho feta tekano;

22.1.4.4 ho fanwe ka foromo ya phumantsho;

22.1.4.5 kganyetso ya kopo;

22.1.4.6 motjha (ho kenyeletswa le nako) ya ho kenya boipiletso ba ka hare;

22.1.4.7 nako e sa nepahalang e nkuweng bakeng sa ho arabela kopo ya phumantsho;

22.1.4.8 ho hloleha ho pepesa direkoto;

22.1.4.9 ho dumellwa ho fumantshwa rekoto;

22.1.4.10 kganyetso ya ho dumella kopo bakeng sa ho nyahlatsa ditefo;

22.2 Ditokiso tsa ka hare

22.2.1 Mokopi o etsa boipiletso ba ka hare ka mokgwa ofe kgahlanong le qeto ya lekala la mmuso?

22.2.1.1 Boipiletso ba ka hare bo ka etswa feela, ho ya ka karolo 74 ya **PAIA**, le bolaodi bo amehang ba lefapha la naha kapa la mmuso wa provense kapa masepala leha e le ofe ho ya kamoo maemo a leng kateng.[30]

22.2.1.2 Kahoo ka mohlala, Motsemoholo wa Johannesburg ke mohlala wa lefapha la lehae la mmuso leo ho etswang kopo ya boipiletso ba ka hare ho lona. Letlole la Dikotsi tsa Mebileng kapa Bolaodi ke mohlala wa lekala la mmuso leo e seng karolo ya lefapha la mmuso wa naha, provense kapa wa lehae kaha le theilwe ka ketsamolao, mme kahoo ho keke ha etswa boipiletso ba ka hare kgahlanong le lona.

[30] *Karolo 74(1) ya PAIA*

22.2.1.3 Ha mokopi kapa mokga wa boraro o sa thabela qeto e nkuweng ke Mohlanka wa Lesedi kapa Motlatsi wa hae wa lefapha la mmuso la naha, provense kapa wa lehae, mokopi kapa mokga wa boraro o na le tokelo ya ho kenya boipiletso ba ka hare, ho ya ka karolo 74(1) kapa (2) ya **PAIA**. Motjha wa ho kenya boipiletso o laetswe bukaneng ya **PAIA** ya lekala leo le mokgwa wa ho kenya boipiletso ba ka hara le ona o hlakisitswe ka tlase mona.

22.2.1.4 Haeba karabelo ya lefapha la mmuso la naha, provense kapa la masepala e nkuwa e le kganyetso, ka mantswe a mang, le hlolehile ho arabela kopo nakong ya matsatsi a 30 kapa nako leha e le efe atolositsweng, mokopi a ka kenya boipiletso ba ka hare, ho ya ka ditsamaiso tse tekilweng mona, pele mokopi a ka leba ho Bolaodi kapa Kgotla.

22.3 Paballo ya direkoto ho fihlela qeto ya ho qetela mabapi le kopo e phethetswe qetellong

22.3.1 Mohlanka wa Lesedi wa lefapha la mmuso la Naha, Provense kapa la Lehae moo boipiletso bo kentsweng ho lona o lebeletswe, ho ya ka karolo 21 ya **PAIA**, ho nka mehato e loketseng e hlokehang bakeng sa ho baballa rekoto mme a keke a hlakola kapa ho senya rekoto leha e le efe e kopuweng, ho fihlela nakong eo ditsamaisso kaofela tsa boipiletso ba ka hare kapa tletlebo ho Bolaodi kapa kopo ho Kgotla, ho ya kamoo maemo a leng kateng, di phethetswe qetellong.

22.3.2 Sena se bolela hore mohlanka wa lesedi a keke a hlakola kapa ho senya lesedi leha e le lefe le kopuweng, ha ho sa emetswe motjha o laetsweng serapeng 22.3.1.1 ka hodimo mona.

22.4 Boipiletso ba ka hare bo lokela ho lebiswa ho mang?

22.4.1 Leha boipiletso bo tla sekasekwa ke bolaodi bo amehang, boipiletso ba ka hare bo lokela ho romelwa kapa ho lebiswa ho Mohlanka wa Lesedi wa Lefapha la Mmuso la Naha, Provense kapa la Lehae, ho ya kamoo maemo a leng kateng, atereseng ya hae, nomorong ya fekse kapa atereseng ya imeile[31], dintlha tsa boiteanyo di ka fumaneha bukaneng ya **PAIA** kapa leha di ka fumaneha ho Bolaodi.

22.4.2 Mohlanka wa Lesedi wa lefapha la mmuso la naha, provense kapa la lehae, ho ya kamoo maemo a leng kateng, o na le tshwanelo e tobileng, ho ya ka karolo 75(4) ya **PAIA**, ho kenya boipiletso ho bolaodi ba maipiletso,

[31] *Karolo 75(1)(b) ya PAIA*

hammoho le mabaka a hae bakeng sa qeto eo ho ipiletswang ka yona. Ho kenngwa ha boipiletso bolaoding bo amehang bo lokela ho etswa nakong ya matsatsi a 10 a tshebetso kamora ho amohela boipiletso.

22.5 **Molaodi ya amaheng ke ofe?**

22.5.1 Bolaodi bo amehang, boo mona bo bitswang "bolaodi ba boipiletso" ka kakaretso e leng hlooho ya sepolotiki ya lekala le ikarabellang (leha mosebetsi ona o ka fuwa moemedi ba semmuso) mme ka ho toba e bolelang motho ya latelang -

Lekala la Mmuso ("Mmuso")	Bolaodi bo Amehang ("Bolaodi ba Maipiletso")
Ofisi ya Boporesidente	Motho ya thontsweng ka lengolo ke Moporesidente, haeba a le teng, ho seng jwalo Moporesidente ke bolaodi ba maipiletso
Lefapha la Naha	Letona le ikarabellang ho lefapha leo kapa motho ya thontsweng ka lengolo ke Letona leo
Ofisi ya Tonakgolo	Motho ya thontsweng ka lengolo ke Tonakgolo.
Lefapha la Provense	Setho sa Lekgotla la Phethahatso (MEC) se ikarabellang ho Lefapha leo la Provense kapa motho ya thontsweng ka lengolo ke MEC;
Masepala	Meyara, Sepikara kapa motho leha e le ofe ya thontsweng ka lengolo ke Lekgotla la Masepala la masepala oo;

22.5.2 Nyewe e nngwe leha e le efe, moo e seng ofisi ya tonakgolo: setho sa phethahatso se ikarabellang sa lekala leo la mmuso kapa motho ya thontsweng ka lengolo ke setho seo.

22.5.3 Haeba bolaodi ba maipiletso bo tjhaella monwana qeto ya Mohlanka wa Lesedi, ebe ke moo boipiletso ba ka hare bo hanyetswang mme qeto ya sethathong ya Mohlanka wa Lesedi ha e fetohe.

22.5.4 Leha ho le jwalo, haeba bolaodi ba maipiletso bo sa dumellane le qeto ya Mohlanka wa Lesedi, ebe ke moo ho dumellwang boipiletso mme qeto ya sethathong e ya qhalwa.

22.6 Ke mang ya ka kenyang boipiletso ba ka hare?

22.6.1 Mokopi leha e le ofe eo kopo ya hae ya **PAIA** ya phumantsho ya direkoto tsa lefapha la mmuso la Naha, Provense kapa la Lehae, ho ya kamoo maemo a leng kateng, e hanyeditsweng, mme a dumela hore le leng la mabaka a boipiletso serapeng sa 22.2.4 ka hodimo mona le a sebetsa kopong ya hae, o na le tokelo ya kenya boipiletso ba ka hare.

22.6.2 Mekga ya boraro le yona e ka kenya maipiletso a ka hare kgahlanong le qeto e entsweng ke Mohlanka wa Lesedi ya ho dumela ka phumantsho ya rekoto e ba amang. Haeba boipiletso ba ka hare bo kenyeletsa mokga wa boraro, bolaodi ba maipiletso bo amohetseng boipiletso ba ka hare bo lokela ho tsebisa mekga eo ya boraro (kaha boikarabelo bo se bo tloha ho Mohlanka wa Lesedi ho leba ho bolaodi ba maipiletso).

22.7 Nako e o ho lokelwang ho kenya boipiletso ka yona

22.7.1 Boipiletso ba ka hare bo lokela ho etswa -

22.7.1.1 nakong ya **matsatsi a 60**[32] kamora ho nkuwa ha qeto;

22.7.1.2 nakong ya **matsatsi a 30**[33] kamora hoba ho fanwe ka tsebiso ya qeto eo ho ipiletswang kgahlanong le yona ho mokga wa boraro

22.7.2 Ho kenngwa ha boipiletso ba ka hare kamora nako e boletsweng ka hodimo mona ho keke ha dumellwa , ntle le ho fana ka lebaka le utlwahalang la ho ba morao ho nako ho bolaodi ba maipiletso. Mohlala, jwaloka ho ba sepetlele bakeng sa matsatsi a fetang a 60 le ka amohelwa e le lebaka le utlwahalang la ho ba morao ho nako.

22.7.3 Haeba bolaodi ba maipiletso bo sa amohele ho kenngwa morao ho nako ha boipiletso ba ka hare, bo lokela ho o neha mabaka a ho qhelela boipiletso ka thoko le ho fana ka tataiso ya lesedi leha e le efe la tlatsetso, haeba le le teng, le batlehang bakeng sa ho amohela boipiletso. Bolaodi ba boipiletso bo lokela hape ho o eletsa ka motjha wa ho kenya tletlebo kgahlanong le qeto ya bona ho Bolaodi kapa Kgotla.

[32] *Karolo 75(1)(a)(i) ya PAIA*
[33] *Karolo 75(1)(a)(ii) ya PAIA*

22.7.4 Jwaloka ha ho boletswe ka hodimo mona, boipiletso ba hao bo lokela ho kenngwa ke Mohlanka wa Lesedi bolaoding ba maipiletso nakong ya matsatsi a 10 a tshebetso kamora ho amohela boipiletso ba ka hare[34].

22.8 **Tsebiso ya boipiletso ka bolaodi ba maipiletso ho mokopi kapa mokga wa boraro**

22.8.1 Bolaodi ba maipiletso bo lokela, kapele kamoo ho ka kgonehang feela leha ho le jwang **nakong ya matsatsi a 30** kamora ho amohela boipiletso ba ka hare[35], ho tsebisa -

22.8.1.1 Mokga wa boraro oo rekoto e ka tlasa boipiletso e leng ya ona, kapa

22.8.1.2 mokopi ka boipiletso ba ka hare kgahlanong le ho dumellwa ha kopo ya phumantsho.

22.8.2 Mokopi kapa mokga wa boraro o fuweng tsebiso, **nakong ya matsatsi a 21** kamora ho fumana tsebiso, o ka etsa ditsebiso tse ngotsweng ho bolaodi ba maipiletso ba hore hobaneng kopo ya phumantsho e lokela ho dumellwa kapa tjhe.

22.9 **Qeto mabapi le boipiletso ba ka hare le tsebiso ya teng[36]**

22.9.1 Bolaodi ba maipiletso bo lokela ho etsa qeto ka boipiletso ba ka hare kapele kamoo ho ka kgonehang feela leha ho le jwang nakong ya matsatsi a 30:

22.9.1.1 kamora hoba boipiletso ba ka hare bo amohelwe ke Mohlanka wa Lesedi wa lekala;

22.9.1.2 kamora ho ba mokga wa boraro o tsebiswe, jwaloka ha ho boletswe serapeng 22.3.6.1 ka hodimo mona.

22.9.2 Qeto ya bolaodi ba maipiletso e lokela ho tsebiswa moipiletsi, mokga wa boraro le mokopi. Qeto ya bolaodi ba maipiletso e lokela ho tsamaya le mabaka a utlwahalang a qeto, ho kenyeletswa le pehelo ya **PAIA** kapa **POPIA** eo ho itshetlehilweng hodima yona.

22.9.3 Haeba bolaodi ba boipiletso bo hloleha ho fana ka tsebiso ya qeto mabapi le boipiletso ba ka hare ho moipiletsi nakong ya matsatsi a 30, boipiletso bo nkuwa bo qhaduwe mme mokopi a ka nna a tswella ho kenya tletlebo ho Bolaodi kapa a lebe Kgotla bakeng sa thuso[37] e nepahetseng.

[34] *Karolo 75(4) ya PAIA*
[35] *Karolo 76(2)(a) ya PAIA*
[36] *Karolo 77 ya PAIA*
[37] *Karolo 77(7) ya PAIA*

22.10 Ho tlatsa boipiletso ba ka hare- Foromo 4

22.10.1 Hore motho a ipiletse kgahlanong le qeto leha e le efe ya Lefapha la Mmuso la Naha, Provense kapa la Lehae, mokopi o lokela ho kenya kopo ya boipiletso ba ka hare ka ho tlatsa Foromo 4. Foromo 4 e lokela ho kenngwa ho Mohlanka wa Lesedi wa lefapha la mmuso le amehang, eo ebe o lebeletswe ho bo fetisetsa ho bolaodi ba maipiletso, jwaloka ha ho boletswe ka hodimo mona.

22.10.2 Foromo 4 e a fumaneha websaeteng ya Bolaodi, https://www.justice.gov.za/inforeg/, hammoho le websaeteng ya lefapha la Mmuso le amehang.

22.10.3 Mohlanka wa Lesedi kapa Motlatsi wa hae wa lefapha la Mmuso le amehang ha a ka tlasa kgatelo e kaalo ya ho thusa mokopi ho tlatsa foromo ya boipiletso ba ka hare; leha ho le jwalo, mokopi a ka nna a kopa Mohlanka wa Lesedi ho thusa tabeng ena.

22.10.4 Ka tlase mona ke motjha wa mohato-ka-mohato wa ho tlatsa foromo ya boipiletso ba ka hare -

Lesedi le batlwang	Tlhaloso
Dintlha tsa lekala la mmuso	Karolo ena e lokela ho ba lebitso la lefapha la Mmuso la Naha, Provense kapa la Lehae le amehang, le lebitso le sefane tsa Mohlanka wa Lesedi.
Dintlha tsa moipiletsi wa boipiletso ba ka hare	Karolo ena e lokela ho tlatswa ke moipiletsi, e ke ba boemong ba boemedi kapa tjhe. Mabitso ka botlalo le sefane, nomoro ya boitsebiso le boemo, moo boipiletso ba ka hare bo etswang lebitsong la motho e mong, haeba e tsamaelana, bo lokela ho fanwa. Haeba boipiletso bo etswa boemong ba motho ka boyena, boemo boo bo lokela ho rekotwa. Lesedi la tlatsetso le batlehang le kenyeletsa dintlha tsa boiteanyo tsa mokopi:

Lesedi le batlwang	Tlhaloso
	aterese ya poso, aterese ya imeile, nomoro ya fekse le/kapa ya mohala. Lesedi lena le lokela ho tshwana le le kopong ya sethathong. Haeba motho ya tlatsang foromo e le moemedi wa mokopi, bopaki ba boemo boo boipiletso bo etswang ka bona bo lokela ho tsamaiswa le foromo eo.
Dintlha tsa motho eo ho etswang kopo lebitsong la hae (haeba e kentswe ke mokga wa boraro)	Karolo ena feela e lokela ho tlatswa ke motho ya kopang lesedi bakeng sa motho e mong. Haeba motho ya kenyang boipiletso ba ka hare ha se motho ya kopileng lesedi sethathong, dintlha tsa mokopi di lokela ho fanwa mona. Haeba kopo e le boemong ba motho ka boyena karolo ena ha e a lokela ho tlatswa.
Qeto eo boipiletso ba ka hare bo kentsweng kgahlanong le yona	Foromo ena e fana ka karolo ya hore mokopi a bontshe ka "x", dintlha tse fanweng tsa mabaka a sebetsang boipiletsong boo.
Mabaka a boipiletso	Tlasa karolo ena, mokopi o lebeletswe ho hlalosa ka botlalo hore hobaneng a nahana hore mabaka a boipiletso a ya sebetsa. O lebeletswe ho fana ka le/mabaka a hore hobaneng ha a nahana hore qeto ya Mohlanka wa Lesedi e fosahetse. O loketse hape ho kenyeletsa ditokomane leha e le dife tse tshehetsang boipiletso. Lenane la mabaka a fannweng mabapi le ho tshehetsa boipiletso a ka tekwa ka botlalo leqepheng le ka thoko, haeba karolo e fanweng foromong e sa lekane. Maqephe a tlatsetso a lokela ho saenwa. Ho lokela hore ho be le mabaka a lekaneng le lesedi le

	tshehetsang ho kgontsha bolaodi ba boipiletso ho etsa qeto e amohelehang. Ha ho le jwalo motho o lokela hape ho kenyeletsa ho teka tsohle tse etsahetseng tseleng e lebisang ho boipiletso ba ka hare. Leqepheng le ka thoko, motho a ka supa dikarolo tse tobileng tsa **PAIA** jwaloka motheo wa boipiletso.
Tsebiso ya qeto mabapi le boipiletso	Ho na le sebaka se fanweng bakeng sa tlhaloso ya tsela eo qeto e lokelang ho romelwa ka yona, mohlala ka poso, khoria kapa fekse kapa imeile. O koptjwa ho kgetha tsela eo o e ratang ya ho tsebiswa.

22.10.5 Leha ho se na thibelo kgahlanong le ho batla leqwetha mohatong leha e le ofe wa kopo ya lesedi, metjha e fapafapaneng ya **PAIA** e reretswe ho ba e bobebe e tlosang tlhokeho ya leqwetha le ho tlosa ditjeo tsa semolao.

23. TLETLEBO HO BOLAODI BA LESEDI

23.1 Mokopi kapa mokga wa boraro o ka kenya tletlebo feela ho Bolaodi haeba mokopi kapa mokga wa boraro o lekile tsohle mabapi le boipiletso ba ka hare ntle le katleho ditsamaisong tse kgahlanong le qeto ya Mohlanka wa Lesedi wa lefapha la mmuso la naha, provense kapa mmuso wa lehae. Sena se bolela hore motho a ka kenya tletlebo ya hae feela, kgahlanong le lekala le itseng la mmuso ho Bolaodi haeba motho a sa thabela qeto ya bolaodi ba maipiletso. Bolaodi bo tla qhala tletlebo haeba motjha wa boipiletso lefapheng le amehang la mmuso o sa phethahatswa.

23.2 Leha ho le jwalo, mabapi le lekala la mmuso (moo boipiletso ba ka hare bo sa sebetseng) le lekala la poraefete, mokopi kapa mokga wa boraro o ka kenya tletlebo ho Bolaodi, haeba ba sa kgotsofala ke qeto ya lekala le amehang.

23.3 Tletlebo ho Bolaodi ka mokopi kapa mokga wa boraro e lokela ho etswa nakong ya matsatsi a 180 a ho amohela qeto ya lekala.

23.4 Mokopi a ka kenya tletlebo ho Bolaodi, haeba a sa thabela -

23.4.1 sephetho sa boipiletso ba ka hare ho bolaodi ba maipiletso ba lefapha leha e le lefe la mmuso;

23.4.2 qeto ya bolaodi ba maipiletso ba ho hanyetsa ho etswa ha boipiletso ba ka hare morao ho nako;

23.4.3 qeto ya Mohlanka wa Lesedi wa lekala la mmuso leo e seng karolo ya lefapha leha e le lefe la mmuso ya ho –

23.4.3.1 hanyetsa kopo ya phumantsho; kapa

23.4.3.2 atolosa nako ya ho sebetsana le kopo; kapa

23.4.3.3 ho dumella phumantsho ka sebopeho se itseng.

23.4.4 qeto ya hlooho ya lekala la poraefete ya ho -

23.4.4.1 hanyetsa kopo ya phumantsho; kapa

23.4.4.2 ho tseka tefo ya tjhelete ya kopo, kapa dipositi ya tjhelete ya kopo; kapa

23.4.4.3 ho atolosa nako ya ho sebetsana le kopo; kapa

23.4.4.4 ho dumella phumantsho ka sebopeho se itseng.

23.5 Mokga wa boraro o ka kenya tletlebo ho Bolaodi, haeba o sa thabela -

23.5.1 sephetho sa boipiletso ba ka hare ho bolaodi ba maipiletso ba lefapha le amehang la mmuso;

23.5.2 qeto ya Mohlanka wa Lesedi wa lekala la mmuso leo e seng karolo ya lefapha leha e le lefe la mmuso ya ho dumella kopo ya phumantsho; kapa

23.5.3 qeto ya hlooho ya lekala la poraefete ho dumella phumantsho ya rekoto ya lekala leo,

23.6 Motho o tletleba jwang ho Bolaodi?

23.6.1 Tletlebo ho Bolaodi e lokela ho etswa ka lengolo mme ho tlatswe foromo ya tletlebo, ka ho ikisetsa kapa ka inthanete. Foromo ya tletlebo, Foromo 5, e ka hulwa websaeteng ya Bolaodi, https://www.justice.gov.za/inforeg/

23.6.2 Sena se bolela hore Bolaodi bo keke ba amohela tletlebo ka mohala; leha ho le jwalo, Bolaodi bo lebeletswe ho fana ka thuso e utlwahalang ho motho leha e le ofe ya batlang ho kenya tletlebo mme sena se kenyeletsa thuso mabapi le ho tlatsa foromo ya tletlebo.

23.6.3 Haeba motho a phephetsa qeto ya Mohlanka wa Lesedi wa lekala la poraefete, motho o lokela ho fana ka bopaki bo lekaneng ho bontsha hore rekoto e koptjwang e batleha bakeng sa tshebediso kapa tshireletso ya to/ditokelo leha e le dife. Phumantsho ya direkoto tsa lekala la poraefete e ka dumellwa feela haeba motho a ka bontsha hore o ikemiseditse ho sebedisa kapa ho sireletsa to/ditokelo leha e le dife ka rekoto e koptjwang.

23.7 Ho etsahalang kamora ho amohelwa ha tletlebo?

23.7.1 Kamora ho amohela tletlebo, Bolaodi bo lokela -

23.7.1.1 ho batlisisa tletlebo le ho fetisetsa sephetho sa bona ho Komiti ya Qobello bakeng sa ho nka qeto; kapa

23.7.1.2 ho se nke mohato mabapi le tletlebo ka lebaka la hore -

23.7.1.2.1 tletlebo ha e ya kenngwa nakong ya matsatsi a 180 le hore ha ho na mabaka a utlwahalang a ho amohela ho kenngwa morao ho nako ha tletlebo;

23.7.1.2.2 tletlebo ha e hlokahale le ho tena kapa ha e ya etswa ka moya o motle; kapa

23.7.1.2.3 ha ho shejwa maemo kaofela a nyewe, ketso leha e le efe ho ya pele ha e hlokahale kapa ha e a loka. Ka mohlala, lesedi le koptjwang le se le tsebahala setjhabeng.

23.7.1.3 moo ho hlokahalang bo namole kapa bo sebedise maiteko a bona ho fihlella tumellano e jwalo kapa ho thusa mahlakore ho rarolla kgang kapa dikgang tsa bona; le

23.7.1.4 ho eletsa motletlebi le Mohlanka wa Lesedi, eo tletlebo e mo amang, le mohato o lokelang ho nkuwa.

23.8 Puisano ya Bolaodi le motletlebi le Mohlanka wa Lesedi mabapi le tletlebo e kentsweng

23.8.1 Haeba Bolaodi bo etsa qeto ya ho se nke bohato ho ya pele ka tletlebo, Bolaodi bo tla tsebisa mokopi ka qeto le mabaka a ho se nke bohato ho ya pele ka tletlebo.

23.8.2 Haeba Bolaodi bo etsa qeto ya ho batlisisa tletlebo, mokopi o tla thola lengolo le mo tsebisang hore Bolaodi bo entse qeto ya ho etsa dipatlisiso.

23.8.3 Kamora ho fumana tletlebo, Bolaodi bo tla fetisetsa dintlha tsa tletlebo ho Mohlanka wa Lesedi wa lekala le amehang, le ho mo kopa ho e lebisa ho Bolaodi, ka karabo e ngotsweng ho motletlebi.

23.9 Matla a dipatlisiso a Bolaodi

23.9.1 Bolaodi bo na le matla, ho ya ka karolo 77G(2) ya **PAIA**, ho -

23.9.1.1 sebedisa maiteko a hlwahlwa ka ho fetisisa a ho etsa tokiso e jwalo;

23.9.1.2 ho bitsa le ho qobella ho hlahella ha batho ka pela Bolaodi;

23.9.1.3 ho ba qobella ho fana ka bopaki bo ngotsweng tlasa kano le ho hlahisa direkoto leha e le dife;

23.9.1.4 ho amohela bopaki leha e le bofe le lesedi le leng, e ka ba tlasa kano, ka afidavite;

23.9.1.5 ho kena le ho phenyekolla meaho leha e le efe moo ho dulang lehlakore le ikarabellang;

23.9.1.6 ho hlophisa puisano ya sephiri le motho leha e le ofe meahong leha e le efe eo ho kenweng ho yona; le

23.9.1.7 ho etsa dipatlisiso leha e le dife meahong eno le dipatlisiso leha e le dife tseo bolaodi bo bonang di hlokeha.

23.10 Tekolo ya boimatahanyo le dipehelo tsa PAIA

23.10.1 Bolaodi bo ka hlophisa tekolo ya haeba lekala la mmuso kapa la poraefete ka kakaretso le imatahanya le dipehelo tsa **PAIA** ena.

23.10.2 Bolaodi bo ka etsa tekolo ya boimatahanyo neng le neng feela lekaleng, ka boikgethelo ba bona, leha ho le jwalo, Bolaodi hape bo ka etsa diteko tsa boimatahanyo ha bo koptjwa ke kapa lebitsong la Mohlanka wa Lesedi wa lekala kapa motho leha e le ofe e mong. Sena se bolela hore mang le mang a ka kopa Bolaodi ho etsa tekolo ya boimatahanyo lekaleng. Motho hape a ka nna a kenya kopo ya pinyane ya ho etsa tekolo ya boimatahanyo, ka ho bontsha hore o batla kopo e dule e le pinyane.

23.10.3 Bolaodi bo tla neha motho ya kopileng tekolo tlaleho ya tekolo le mohato o lokelang ho nkuwa, haeba o le teng.

23.11 Tsebiso ya Lesedi

Bolaodi bo ka kata Mohlanka wa Lesedi ka Tsebiso ya Lesedi e batlang hore lehlakore le amehang le nehe Bolaodi lesedi le tekilweng tsebisong. Ka mohlala, haeba tletlebo e kentsweng ho Bolaodi e amana le kganyetso ya phumantsho ho itshetlehilwe hodima leha e le afe a mabaka a kotetsweng, Bolaodi bo ka kopa, ho Tsebiso ya Lesedi, dikhopi tsa direkoto tseo ho hanyeditsweng phumantsho ya tsona bakeng sa ho sheba haeba mabaka a kganyetso a ya utlwahala kapa tjhe.

23.12 Ho thehwa ha Komiti ya Qobello

23.12.1 Bolaodi bo lebeletswe ho theha Komiti ya Qobello[38], e nang le matla a ho -

23.12.1.1 sekaseka ditaba kaofela tse fetiseditsweng ho yona ke Bolaodi ho ya ka **PAIA** le ho etsa dipatlisiso mabapi le tsona; le

23.12.1.1 ho etsa kgothaletso leha e le efe ho Bolaodi mabapi le mohato leha e le ofe o lokelang ho nkuwa kgahlanong le Mohlanka wa Lesedi wa lekala.

23.13 Tsebiso ya Qobello

23.13.1 Bolaodi bo ka, kamora ho sekaseka dikgothaletso tsa Komiti ya Qobello, kata Mohlanka wa Lesedi wa lekala ka Tsebiso ya Qobello -

[38] *Karolo 50 ya POPIA*

23.13.1.1 ho netefatsa, ho fetola kapa ho qhala qeto eo e leng motso wa tletlebo; kapa

23.13.1.2 e batlang hore Mohlanka wa Lesedi ho nka mohato o jwalo kapa ho emisa ho nka mohato o jwalo oo Bolaodi ba Lesedi bo bo tekileng tsebisong.

23.14 **Ditlamorao tsa ho se imatahanye le Ditsebiso tsa Qobello ke dife?**

23.14.1 Mohlanka wa Lesedi wa lekala ya hanang ho imatahanya le tsebiso ya qobello o molato wa tlolo ya molao mme a ka tshwanelwa ke kahlolo ya faene kapa ho kena tjhankaneng bakeng sa nako e sa feteng dilemo tse tharo kapa dikotlo ka bobedi e leng faene le ho kena tjhankaneng.

23.14.2 Karolo 77K ya **PAIA** e supa bohlokwa ba tokelo ya phumantsho ya lesedi kapa direkoto. Karolo ena e boetse e matlafatsa bohlokwa ba Bolaodi ho ya kamoo tokelo ya phumantsho ya lesedi e tsamayang kateng.

24. KOPO LEKGOTLENG LA DINYEWE

24.1 **Ke mang ya ka kenyang kopo lekgotleng kgahlanong le qeto?**

24.1.1 Mokopi kapa mokga wa boraro o ka etsa kopo feela bakeng sa ditokiso ho ya ka karolo 82 maemong a latelang

24.1.1.1 kamora hore mokopi kapa mokga wa boraro o entse tsohle tsa motjha wa boipiletso ba ka hare o boletsweng serapeng 22.3 ka hodimo mona; kapa

24.1.1.2 kamora hore mokopi kapa mokga wa boraro o etse tsohle tsa ditsamaiso tsa ditletlebo tse boletsweng ho karolo 77A.

24.1.2 Ho ya ka karolo 78(1) ya **PAIA**, mokopi kapa mokga wa boraro o na le dikgetho tse pedi, ho ka fetisetsa qeto, e boletsweng dirapeng 22.2.4, 23.4 le 23.5 ka hodimo mona, ho Bolaodi kapa Kgotla. Leha motho a sa qobellwa ho leba ho Bolaodi pele a leba Kgotla, ho molemo hore motho a sekaseke ho leba ho Bolaodi, kaha Bolaodi bo na le mekgwa e tebileng le ya kapele ya ho rarolla dikgang, ho feta Lekgotla.

24.1.3 Leha ho le jwalo, hore Lekgotla le be le matla a ho ahlolela taba, mokopi kapa mokga wa boraro o lokela ho -

24.1.3.1 thefulwa maikutlo ke diqeto ka bobedi, tse boletsweng serapeng 22.2.4, 23.4 kapa 23.5 ka hodimo mona; kapa

24.1.3.2 o entse tsohle tsa ditsamaiso tsa ditletlebo ho Bolaodi kapa ho hula tletlebo ho Bolaodi. Sena se bolela hore motho a keke a leba Kgotla haeba tletlebo ya hae e ntse e salletse morao ho Bolaodi.

24.1.4 Haeba motho a phephetsa qeto ya Mohlanka wa Lesedi wa lekala la poraefete, o lokela ho fana ka bopaki bo lekaneng ba ho bontsha hore rekoto e koptjwang e batleha bakeng sa ho sebedisa kapa ho sireletsa to/ditokelo tse ding leha e le dife.

24.2 **Ke neng moo motho a ka etsang kopo Kgotla kgahlanong le qeto ya lekala kapa Bolaodi?**

24.2.1 Kopo ya Kgotla ya mokopi kapa mokga wa boraro, o sa atlehang boipiletsong ba ka hare ho bolaodi ba maipiletso ba lefapha le amehang la mmuso kapa a thefutswe maikutlo ke qeto ya Mohlanka wa Lesedi wa lekala (le boletsweng ho 22.2.4, 23.4 kapa 23.5 ka hodimo mona) kapa ya Bolaodi e lokela ho kenngwa nakong ya matsatsi a 180 ho tloha ka letsatsi la nyewe e amehang.

24.2.2 Mohlanka wa Lesedi kapa bolaodi ba maipiletso ba Mmuso, ho ya kamoo maemo a leng kateng, ya thefutsweng maikutlo ke qeto ya Bolaodi a ka etsa kopo kgotla bakeng sa ditokiso ho ya ka karolo 82, nakong ya matsatsi a 180[39].

24.2.3 Mokopi, mokga wa boraro, kapa lekala, le ka etsa kopo kgotla hore diqeto leha e le dife tse sa ba thabisang di shejwe botjha ke Lekgotla.

24.2.4 Kopo Kgotla ka tlasa PAIA e etswa ka ditsamaiso tsa setjhaba ka kakaretso, mme e ka sebediswa e le motjha wa ho qetela.

24.2.5 Dinyewe tsa phumantsho ya lesedi di ka mamelwa ka pela Makgotla a Bomastrata, kaha lekgotla tabeng ya pele[40], le Lekgotla le Phahameng a na le matla.

24.2.6 Ho hloleha ho tlisa kopo nakong ya matsatsi a 180 ho ka nna ha dumellwa ke Lekgotla haeba motho a bontsha hore ditabatabelo tsa toka di batla jwalo. Sena se bolela hore lekgotla le ka amohela kopo ya kamorao ho nako haeba taba e lokelang ho ahlolelwa e

[39] *Karolo 78(4) ya PAIA*
[40] *Karolo 91A y PAIA le Melawana ya Kgothaletso ya Phumantsho ya Lesedi, 2019*

molemong wa toka. Haeba direkoto tseo ho koptjwang phumantsho ya tsona di tla thusa motho ho etsa kopo ya boipiletso kgahlanong le ho kwallwa tjhankaneng kapa ho o thusa ho tswella ho thola tlhokomelo ya kalafo, ka mohlala, lekgotla le ka nna la dumela tabeng ena.

24.2.7 Kopo e ka nna ya tliswa ho ya ka tsamaiso e tekilweng ho molawana 53 wa Melawana ya Lekgotla le Phahameng kapa ho ya ka molawana 55 wa Melawana ya Makgotla a Bomastrata haeba ha ho direkoto tse fanweng ke motsamaisi kapa direkoto ha di a fella.

24.2.8 Haeba rekoto e se e fanwe, kopo e tla tliswa Lekgotleng la Masetrata ho ya ka molawana 55 wa Melawana ya Makgotla a Bomasetrata, haeba moo ho na le lebaka la moikopedi la ho dumela hore rekoto e felletseng ya ditsamaiso e ka nna ya ba ha e a fanwa ke motsamaisi, moikopedi a ka nna a tswella ho ya ka tsamaiso e tekilweng ho Molawana 53 wa Melawana ya Lekgotla le Phahameng, ka boikgethelo ba lona, empa le tla bontsha afidavite ya lona ya mantlha ya hore hobaneng ho na le lebaka la ho dumela hore ha ho a fanwa ka rekoto e felletseng[41].

24.3 Boemo ba semolao ba qeto ya Bolaodi ha ho ntse ho emetswe qeto ya Lekgotla ke Bofe?

Matla a Bolaodi a nkuwa haholo ho tswa ho Molaotheo, **POPIA** le **PAIA**. Ka lebaka leo, tsebiso ya qobello e ntshitsweng ke Bolaodi e na le ditlamorao tsa semolao mme kahoo e ya tlama ho fihlela ka nako eo lekgotla la molao le tla beng le qetile ka mokgwa o mong. Kahoo diqeto tsa Bolaodi di hlwahlwa le ho qobellwa ntle le ha ho ka laelwa ka mokgwa o fapaneng ke Lekgotla le amehang.

24.4 Ke ditaelo dife tseo Lekgotla le mametseng kopo le ka fanang ka tsona?

24.4.1 Lekgotla (la Masterata kapa le Phahameng) le mametseng kopo le ka tla ka ditaelo tse latelang -

24.4.1.1 ho netefata, fetola kapa ho qhala qeto ya Mohlanka wa Lesedi, kapa Bolaodi ba Maipiletso kapa Bolaodi ba Lesedi;

24.4.1.2 ho lebeletswe Mohlanka wa Lesedi kapa Bolaodi ba Maipiletso ho nka mohato o jwalo kapa ho emisa ho nka mohato o jwaloka ha Lekgotla le nka ho hlokeha ka hara nako e boletsweng taelong eo;

24.4.1.3 ho fana ka thibelo, kimollo ya nakwana kapa e tobileng, taelo ya tsebahatso kapa taelo ya ditlhapiso;

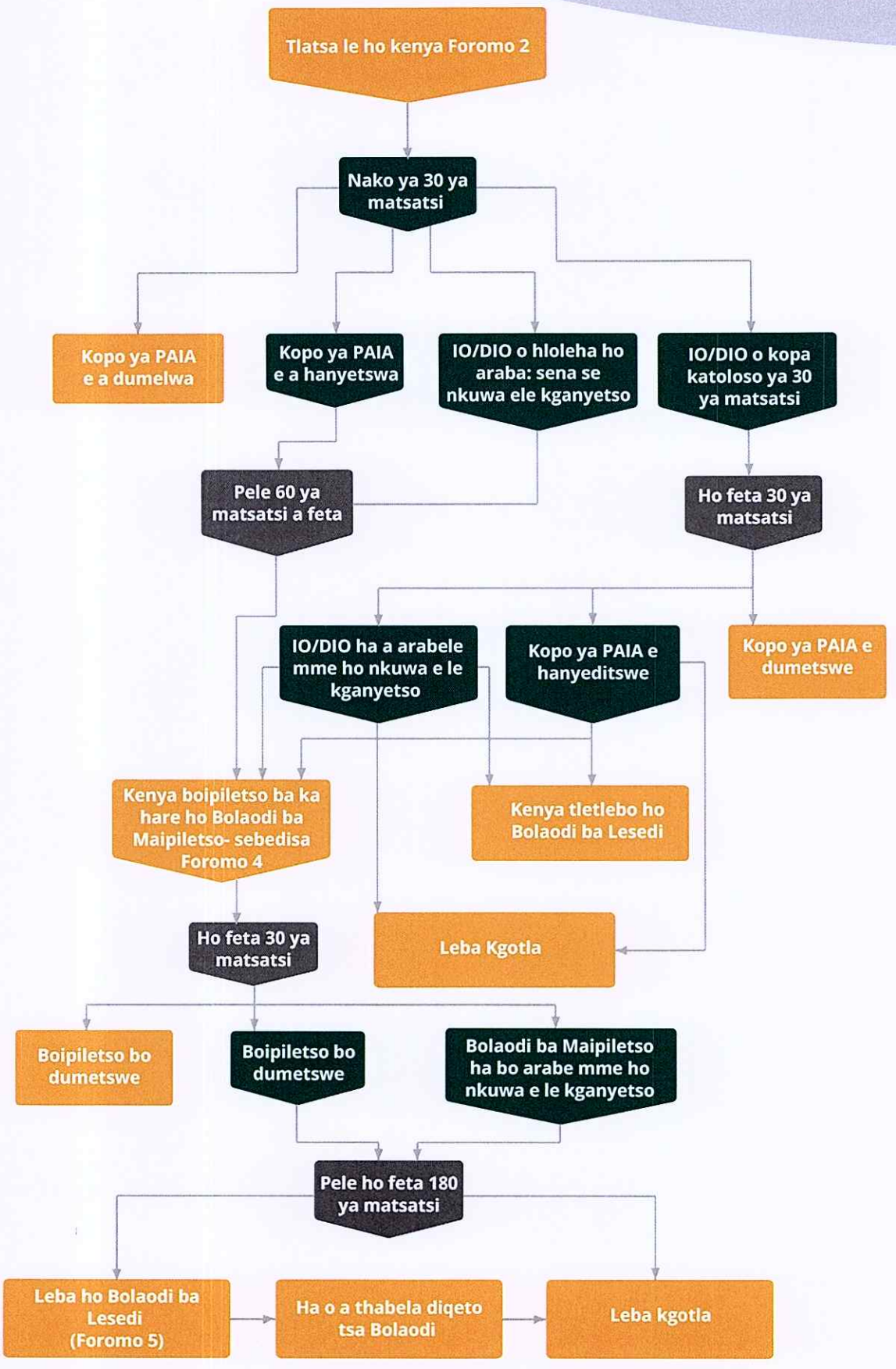
[41] *Molawana 4 Melawana ya Kgothaletso ya Phumantsho ya Lesedi, 2019*

24.4.1.4 ho etsa taelo ya ditjeo kgahlanong le lehlakole leha e le lefe;

24.4.1.5 molemong wa toka, ho amohela ho se ikamahanye le nako ya matsatsi a 180 ya ho kenya kopo. Jwaloka ha ho boletswe ka hodimo mona, mabaka a lekaneng bakeng sa ho hloleha ho ikobela nako e laetsweng a lokela ho hlaloswa ka botlalo kopong e kenyeleditsweng ya kamohelo.

25. DAEKERAMO YA MOTJHA WA KOPO YA PAIA

O koptjwa ho sheba motjha wa mohato-ka-mohato, o mabapi le ditsamaiso tse lokelang ho latelwa ha o sebedisa tokelo ya phumantsho ya lesedi.


Tlatsa le ho kenya Foromo 2
Nako ya 30 ya matsatsi
Kopo ya PAIA e a dumelwa
Kopo ya PAIA e a hanyetswa
IO/DIO o hloleha ho araba: sena se nkuwa ele kganyetso
IO/DIO o kopa katoloso ya 30 ya matsatsi
Pele 60 ya matsatsi a feta
Ho feta 30 ya matsatsi
IO/DIO ha a arabele mme ho nkuwa e le kganyetso
Kopo ya PAIA e hanyeditswe
Kopo ya PAIA e dumetswe
Kenya boipiletso ba ka hare ho Bolaodi ba Maipiletso- sebedisa Foromo 4
Kenya tletlebo ho Bolaodi ba Lesedi
Ho feta 30 ya matsatsi
Leba Kgotla
Boipiletso bo dumetswe
Boipiletso bo dumetswe
Bolaodi ba Maipiletso ha bo arabe mme ho nkuwa e le kganyetso
Pele ho feta 180 ya matsatsi
Leba ho Bolaodi ba Lesedi (Foromo 5)
Ha o a thabela diqeto tsa Bolaodi
Leba kgotla

26. MELAWANA E ENTSWENG HO YA KA KAROLO 92 YA PAIA

26.1 Ho ya ka karolo 92(1) le 92(4) ya **PAIA**, Letona le entse Melawana e amanang le Kgothaletso ya Phumantsho ya Lesedi, o akaretsang dintlha tse latelang

26.1.1 Ditshwanelo tsa Bolaodi ba Lesedi **(molawana 2)**

26.1.2 Ditshwanelo tsa Mohlanka wa Lesedi **(molawana 3)**

26.1.3 Boteng ka ho iketsahalla feela ha direkoto tse itseng tsa makala a mmuso **(molawana 4)**

26.1.4 Pepeso ya boithaopo le boteng ka ho iketsahalla feela ya direkoto tse itseng tsa makala a poraefete **(molawana 5)**

26.1.5 Boteng ba direkoto tsa mekga ya dipolotiki **(molawana 6)**

26.1.6 Kopo ya phumantsho ya lesedi **(molawana 7)**

26.1.7 Sephetho sa kopo le tjhelete e lefuwang **(molawana 8)**

26.1.8 Boipiletso ba ka hare kgahlanong le qeto ya mohlanka wa lesedi wa lekala la mmuso **(molawana 9)**

26.1.9 Ho kenngwa ha ditletlebo **(molawana 10)**

26.1.10 Tsamaiso mabapi le dipatlisiso tsa ditletlebo **(molawana 11)**

26.1.11 Ho phethelwa ha nyewe **(molawana 12)**

26.1.12 Bonamodi ba nyewe **(molawana 13)**

26.1.13 Tekolo **(molawana 14)**

26.1.14 Dikgokahanyo tsa Elektroniki **(molawana 15)**

26.1.15 Ditlolo tsa molao le dikotlo **(molawana 16)**

26.2 Ho ya ka karolo 79(1) ya **PAIA**, Boto ya Melawana ya Makgotla a Molao, ka ho tjhaellwa monwana ke Letona, e entse ditsamaiso tsa melawana bakeng sa -

26.2.1 lekgotla mabapi le dikopo ho ya ka karolo 78 ya **PAIA**; le

26.2.2 hore lekgotla le thole dintlha ka ntle le lehlakore le boletsweng ho karolo 80(3)(a)

27. MELAO, MELAWANA, DITSEBISO LE KANANELO TSE KA SEHLOOHONG

Melao, jwaloka ha e ka hlomathiswa nako le nako
Molao wa Kgothaletso ya Phumantsho ya Lesedi, Molao wa bo-2 wa 2000
Molao wa Kgothaletso ya Toka ya Tsamaiso, Molao 3 wa 2000
Sehlomathiso sa Molao wa Kgothaletso ya Phumantsho ya Lesedi, Molao wa bo-54 wa 2002
Molao wa Lesedi la Bo Mong, Molao wa bo-4 wa 2013
Sehlomathiso sa Molao wa Kgothaletso ya Phumantsho ya Lesedi, Molao wa bo-31 wa 2019
Molao wa Dithuso tsa Ditjhelete tsa Mekgatlo ya Dipolotiki, Molao wa bo-6 wa 2018

Melawana le Ditsebiso		
Tsebiso ya Mmuso	**Letsatsi la diphatlalatso**	**Sehlooho le tlhaloso**
Tsebiso ya Mmuso R. 757 ho GG No 45057	27 Phato 2021	Melawana e amanang le Kgothaletso ya Phumantsho ya Lesedi, 2021
Tsebiso ya Mmuso R.991 ho GG 28107	14 Mphalane 2005	Melawana e laelang mabaka ao ka ona motho a ka kotelwang bakeng sa ho lefa ditefo.
Tsebiso ya Mmuso Notice 397 ho GG No. 44785	30 Phuptjane 2021	Kotelo ya makala a mang a poraefete mabapi le ho hlophisa Bukana ya **PAIA**.
Tsebiso ya Mmuso 1217 ho GG 42717	19 Lwetse 2019	Thonyo ya Makgotla a Bomasetrata a nkuwang a na le bokgoni ba ho mamela dinyewe tsa **PAIA**.
Tsebiso ya Mmuso R. 1284 ho GG 42740	4 Mphalane 2019	Melawana ya tsamaiso bakeng sa dikopo tse tla etswa ho ya ka **PAIA** ka pela Lekgotla le Phahameng la Dinyewe kapa Lekgotla la Masetrata.

KANANELO

Tataiso ena e behilweng sehlohlolong ho ya ka maemo a jwale mabapi le mokgwa wa ho sebedisa **PAIA** sethathong e ne e hlophisitswe ke Khomishene ya Ditokelo tsa Botho ya Afrika Borwa (**SAHRC**) mme Bolaodi ka sena bo ananela mosebetsi wa sethathong wa **SAHRC**, ho kenyeletswa mehlodi ya yona kaofela.

E ntshitswe ke
BOLAODI BA LESEDI

ANNEXURE 3

INFORMATION REGULATOR

PAIA GUIDE MANUAL; ISIZULU

INFORMATION REGULATOR (SOUTH AFRICA)

Ensuring protection of your personal information and effective access to information



UMHLAHLANDLELA

WOKUSEBENZISA UMTHETHO 2 KA-2000 WOKUGQUGQUZELA UKUTHOLAKALA KOLWAZI, NJENGOBA UCHITSHIYELWE

ISIZULU

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PAIA GUIDE

ISANDULELO ESIBUYA KUSIHLALO

UMthethosisekelo WeRiphabhuliki YaseNingizimu Afrika, Ka-1996[1] ("uMthethosisekelo") uthi iNingizimu Afrika ingumbuso ozimele, ongowentando yeningi osekelwe ekuthuthukisweni kwamalungelo abantu nasohlelweni lokuphatha oluqotho, olusabelayo nolusobala njengengxenye yezimiso zayo. Ngaphambi kokuba iNingizimu Afrika ibe yizwe lentando yeningi elawulwa umthethosisekelo noMthethosivivinywa Wamalungelo ophoqelelekayo, uhlelo lukaHulumeni eNingizimu Afrika phakathi kokunye, lwaphumela kusiko lokuba nemfihlo nokungasabeli ezinhlanganweni zomphakathi nezizimele okwakuvame ukuholela ekusetshenzisweni kabi kwamandla nasekwephulweni kwamalungelo abantu. Kungalesi sizathu isigaba 32(1) soMthethosivivinywa Wamalungelo kuMthethosisekelo, sihlinzekela ilungelo lokutholakala kolwazi olugcinwe umbuso; kanye nanoma yiluphi ulwazi olugcinwe ngomunye umuntu oludingekayo ukuze kusetshenziswe noma kuvikelwe noma yimaphi amalungelo. Isigaba 32(2) soMthethosisekelo sona sihlinzeka ngokushaywa komthetho kazwelonke ozokwenza ukuba leli lungelo lisebenze, ngokuhlonipha, ukuvikela, ukugqugquzela nokufeza leli lungelo.

UMthetho Wokugqugquzela Ukutholakala Kolwazi, onguNombolo 2 ka-2000 (kusukela lapha ozobizwa nge-"**PAIA**", noma "uMthetho" ngokushintshana), njengoba uchitshiyelwe, ungumthetho kazwelonke owashaywa ngokwesigaba 32(2) somthethosisekelo oshiwo ngenhla.

Inhloso ye-**PAIA**, iwukukhuthaza isiko lokubeka izinto obala nobuqotho ezinhlanganweni zomphakathi nezizimele. Ikwenza lokho ngokwenza lisebenze ilungelo lokutholakala kolwazi futhi ikhuthaze ngenkuthalo ukuba nomphakathi lapho abantu baseNingizimu Afrika bekwazi khona ngempumelelo ukuthola ulwazi oluzobenza bakwazi ngokugcwele ukusebenzisa nokuvikela wonke amalungelo abo kanye nokufeza izinhloso zeNingizimu Afrika zentando yeningi evulekile nehlanganyelwa izakhamuzi.

Lo Mhlahlandlela We-**PAIA** wenzelwe ukufeza isibopho soMlawuli Wezolwazi ("uMlawuli") ngaphansi kweSigaba 10 se-**PAIA**, esidinga ukuba uMlawuli abuyekeze futhi enze utholakale uMhlahlandlela okhona ohlanganiswe yiKhomishini Yamalungelo Abantu YaseNingizimu Afrika.

Lo Mhlahlandlela wenzelwe ukuba ube yithuluzi eliqondisayo, elisebenziseka kalula futhi elitholakalayo kunoma yimuphi umuntu ofisa ukusebenzisa noma yiliphi ilungelo elikwi-**PAIA** nakuMthetho Wokuvikelwa Kwemininingwane Yomuntu, Ka-2013.

Ummeli Pansy Tlakula
USIHLALO WOMLAWULI WEZOLWAZI

[1] *UMthethosisekelo WeRiphabhuliki YaseNingizimu Afrika, Ka-1996 (UMthetho Nombolo 108 Ka-1996)*

ISITATIMENDE SOKUZIHLANGULA

*Lo Mhlahlandlela awukhululi umuntu owusebenzisayo emthwalweni wokusebenzisa amakhono akhe nokunakekela kwakhe maqondana nemfuneko noma izibopho ezibekwe yinoma yimuphi umthetho. Ngaphezu kwalokho, lo Mhlahlandlela awuhlinzeki ngezeluleko zezomthetho futhi awuhloselwe ukungena esikhundleni se-**PAIA** noma iMithethonqubo ekhishwe ngaphansi kwe-**PAIA**. UMlawuli akavumi cala nganoma yikuphi ukulahlekelwa okungase kubangelwe ukuncika kulo Mhlahlandlela.*

1. UHLU LWAMAGAMA NEZIFINYEZO

CEO	UMqondisi Omkhulu
CFO	Umqondisi Wezezimali
UMthethosisekelo	UMthethosisekelo WeRiphabhuliki YaseNingizimu Afrika, UMthetho Nombolo 108 Ka-1996
DIO	ISekela LeSikhulu Sezolwazi
DoJ & CD	UMnyango Wezobulungiswa Nokuthuthukiswa KoMthethosisekelo
IO	ISikhulu Sezolwazi
Members	Amalungu OMlawuli Wezolwazi
Minister	UNgqongqoshe WezoBulungiswa Nezinkonzo Zokuqondiswa Kwezigwegwe
PAIA	UMthetho Nombolo 2 Ka-2000 Wokugqugquzela Ukutholakala Kolwazi, njengoba uchitshiyelwe
PAJA	UMthetho Wezobulungiswa Bokuphatha, Ka-2000
PFMA	UMthetho Nombolo 1 Ka-1999 Wokuphathwa Kwezimali Zomphakathi, njengoba uchitshiyelwe
POPIA	UMthetho Nombolo 4 Ka-2013 Wokuvikelwa Kwemininingwane Yomuntu
Regulator	UMlawuli Wezolwazi
SAHRC	IKhomishini Yamalungelo Abantu YaseNingizimu Afrika

2. AMAGAMA AWUSIZO ACHAZWA NGENDLELA ECACILE NEQONDAKALA KALULA

Igama	Incazelo
Inkokhiso Yokuthola Ulwazi	Le nkokhiso yokuthola ulwazi ikhokhwa ngumceli enhlanganweni acela kuyo ulwazi, ukukhokhela izindleko zokufuna nokukopisha amarekhodi awadingayo. Izinto ongazikhokhiselwa zinqunywa ngumthethonqubo.
Umphathi	Wuphiko lukahulumeni noma yimuphi umuntu wemvelo noma ongokomthetho owenza isenzo sokuphatha.

Igama	Incazelo
Isenzo sokuphatha	Yinoma yisiphi isinqumo esithathiwe, noma ukwehluleka ukuthatha isinqumo (a) yinhlangano kahulumeni, lapho: (i) isebenzisa amandla ngokoMthethosisekelo noma ngokomthethosisekelo wesifundazwe; noma (ii) isebenzisa amandla omphakathi noma yenza umsebenzi womphakathi ngokwanoma yimuphi umthetho; noma (b) umuntu wemvelo noma ongokomthetho, ngaphandle kwenhlangano kahulumeni, lapho esebenzisa amandla omphakathi noma enza umsebenzi womphakathi ngokwezinhlinzeko zokufukuba abantu. esithinta kabi amalungelo anoma yimuphi umuntu futhi esinomthelela oqondile emalungelweni omuntu.
Umuntu Ogunyaziwe	Umuntu ogunyaziwe ngumuntu owenza isicelo esenzela omunye umuntu, futhi ogunyazwe ngokufanelekile ngento ebhalwe phansi ukuba enze lokho.
Amarekhodi Atholakala Ngokuzenzekelayo	Lawa ngamarekhodi lawo inhlangano yomphakathi noma ezimele ezowahlinzeka umceli ngaphandle kokuba kudingeke afake isicelo. Lawa marekhodi afakwe 'kwisaziso sokudalula ngokuzithandela', okufanele sikhishelwe umphakathi.
Umninilwazi	Ngumuntu lowo imininingwane emayelana naye.
Izinsuku	Ngaphandle kwalapho kucaciswe 'njengosuku lokusebenza' esigabeni se-**PAIA**, usuku luthathwa njengosuku lwekhalenda. Ukubala isikhathi, usuku esamukelwe ngalo isicelo alubalwa, futhi zonke izinsuku ngemuva kwalokho ziyabalwa, kuhlangene nezimpelasonto namaholide omphakathi kuze kube yilapho kubalwa usuku lokugcina. Uma usuku lokugcina lokuphendula isicelo lungeSonto noma ngeholide lomphakathi, usuku olulandelayo yilo olubalwa njengosuku lokugcina.
Kubhekwa Njengokwenqatshwa	Uma kungatholakali mpendulo esicelweni phakathi nesikhathi esinqunyiwe, lokhu kuchazwa ngokuthi 'kubhekwa njengokwenqatshwa'.
IFomu 2	Leli fomu linqokomthethonqubo futhi kufanele lisetshenziselwe ukucela ukuthola ulwazi olugcinwe inhlangano yomphakathi noma ezimele.
IFomu 4	Leli fomu linqokomthethonqubo futhi kufanele lisetshenziswe lapho kufakwa isikhalazo ngesinqumo esenziwe yinhlangano yomphakathi maqondana nesicelo sokuthola ulwazi.

Igama	Incazelo
UMhlahlandlela	Lo Mhlahlandlela, owenziwe ngokulandela isigaba 10 se-**PAIA**, njengoba ichitshiyelwe, ohlose ukusiza umuntu ofisa ukusebenzisa noma yiliphi ilungelo elikwi-**PAIA** nakuMthetho Ka-2013 Wokuvikelwa Kwemininingwane Yomuntu.
ISikhulu Sezolwazi	ISikhulu Sezolwazi ngumuntu ogunyaziwe ukusingatha izicelo ze-**PAIA**. Lokhu okulandelayo yizinhlu zeZikhulu Zezolwazi enhlangweni ethile -

Inhlangano Yomphakathi noma Uphiko Lukahulumeni (njengoba kuchazwe esigabeni 239 so Mthethosisekelo)	UMnyango Kazwelonke	UMqondisi-Jikelele noma umuntu obambele
	UMnyango Wokuphatha ESifundazweni	INhloko Yomnyango noma umuntu obambele.
	UMasipala	UMphathi KaMasipala noma umuntu obambele.
	Izinhlangano Zikahulumeni ezishiwo kwi-PFMA Isheduli 1, 2, 3A, 3B, 3C no-3D	UMqondisi Omkhulu noma umuntu obambele.
Inhlangano Ezimele	Umuntu Wemvelo	Umnikazi ozimele yedwa owenza noma yikuphi ukuhweba, ibhizinisi noma umsebenzi, kodwa esebenza ngaphansi kwalokho akwenzayo hhayi yena qobo.
	Umfelandawonye	Noma yimuphi umlingani womfelandawonye noma yimuphi umuntu ogunyazwe ngokufanele ngumfelandawonye
	Iqembu Lezepolitiki	Umholi weqembu lezepolitiki noma yimuphi umuntu ogunyazwe ngokufanele yilowo mholi.

Igama	Incazelo		
ISikhulu Sezolwazi		Umuntu Ongokomthetho	UMqondisi Omkhulu noma uMqondisi Ophethe noma isikhulu esilingana nomuntu ongokomthetho noma yimuphi umuntu ogunyazwe ngokufanele yileso sikhulu. **PHAWULA:** UMqondisi Omkhulu noma isikhulu esilingana naye singagunyaza noma yimuphi umuntu wemvelo abe yiSikhulu Sezolwazi eNhlanganweni Ezimele.
ISekela LeSikhulu Sezolwazi	ISekela LeSikhulu Sezolwazi ngumuntu oqokwe noma onikezwe amandla yiSikhulu Sezolwazi enhlanganweni yomphakathi ukuba asize umceli ngesicelo sakhe solwazi, futhi lowo iSikhulu Sezolwazi esingamnikeza amanye amandla e-**PAIA**. **PHAWULA:** Nakuba kuyinhlangano yomphakathi kuphela engaqoka noma idlulisele umsebeni kwiSekela LeSikhulu Sezolwazi, ngokwesigaba 17(1) se-**PAIA**, uMthetho Ka-2013 Wokuvikelwa Kwemininingwane Yomuntu (“**POPIA**”) unikeza amandla okuqoka iSekela LeSikhulu Sezolwazi enhlanganweni ezimele, ngokwesigaba 56(1) esikuwo.		
UMlawuli Wezolwazi	IHhovisi LoMlawuli Wezolwazi selisunguliwe, ngokwesigaba 39 se-**POPIA**, ukuqapha nokuphoqelela ukulandelwa kwe-**POPIA** ne-**PAIA**. Kulo Mhlahlandlela iHhovisi LoMlawuli Wezolwazi noma uMlawuli Wezolwazi ubizwa ngokuthi uMlawuli.		
Isikhalazo Sangaphakathi	Isikhalazo sangaphakathi yinqubo yokuphikisa isinqumo esithathiwe mayelana nesicelo se-**PAIA** enhlanganweni yomphakathi, okumele iphothulwe ngaphambi kokuba iskhalazo siyiswe kuMlawuli noma enkantolo efanele.		
Inhlangano Ezimele	Inhlangano ezimele ingumuntu, inkampani noma olunye uhlobo lwenhlangano engokomthetho eyenza uhwebo, ibhizinisi noma umsebenzi, ebandakanya neqembu lezepolitiki.		

Igama	Incazelo
Inhlangano Yomphakathi	Inhlangano yomphakathi isho umnyango kahulumeni noma omunye umkhakha noma isikhungo, esenza umsebenzi womphakathi. Kodwa-ke, maqondana nesikhalazo sangaphakathi, noma ikuphi ukubhekisela "kwinhlangano yomphakathi" kuye kwashintshelwa kwelithi "uHulumeni", ukuze kugwenywe ukudideka maqondana nezinhlangano zomphakathi lapho isikhalazo ngesinqumo singasebenzi khona.
Irekhodi	Irekhodi liwunoma yiluphi ulwazi olurekhodiwe kungakhathalekile ukuthi ngayiphi indlela, okubandakanya, mgokwesibonelo, amadokhumenti abhaliwe, izinto ezilalelwayo, izinto eziyidijithali nezevidiyo. Irekhodi elicelwe enhlanganweni yomphakathi noma ezimele libhekisela kwirekhodi elisezandleni zaleyo nhlangano kungakhathalekile ukuthi leyo nhlangano yiyo eyalenza lelo rekhodi noma cha.
Imithethonqubo	I-**PAIA** ivumela uNgqongqoshe ukuba akhiphe imithethonqubo elekelela lo Mthetho, okumele ishicilelwe kuSomqulu KaHulumeni, futhi ihlanganisa izindaba ezifana namafomu okufanele asetshenziswe nezimali ezingakhokhiselwa izinqubo ezithile.
Igunya Elifanele	I-**PAIA** isebenzisa igama elithi 'igunya elifanele' ukuchaza umuntu okuHulumeni Kazwelonke, Wesifundazwe noWasekhaya lowo isikhalo sangaphakathi okufanele sifakwe kuye, ngokuvamile okuba yinhloko yezepolitiki kuleyo nhlangano ethintekayo (lo msebenzi unganikwa omunye umuntu ngokusemthethweni).

3. IMININGWANE YOKUXHUMAA NOMLAWULI

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4.3.5 ukwethulwa ezinguqukweni ezizokwenzeka kwi-**PAIA** uma i-**POPIA** seyisebenza ngokugcwele

4.4 Lo mhlahlandlela uzosiza futhi abantu ekuqondeni ukuthi bangakuphikisa kanjani ukunikezwa kwemvume yokutholakala kwamarekhodi abo noma ukuthi bangalibamba kanjani iqhaza enqubweni yokuthola amarekhodi abo.

5. MAYELANA NE-PAIA

5.1 Ilungelo lokuthola Ulwazi "lingenye yezindlela eziphumelela kakhulu zokugcina izimiso zoMthethosisekelo eziwukuba *sobala, ukuvuleleka, ukubamba iqhaza nobuqotho* . Izimiso zomthethosisekelo ezishiwo ngenhla azinakufinyeleleka uma kunguhulumeni yedwa onolwazi oluqondisa izenzo nezinqumo zawo. Ngenxa yalokho, ukutholakala kolwazi akukhona nje kuphela ukuthi kuyisisekelo sentando yeningi esebenza kahle, kodwa futhi kwandisa ukuthembela komphakathi kuhulumeni futhi kuqinisa ukuba kwawo semthethweni. Ezinye izinzuzo zelungelo lokuthola ulwazi ziwukuthi, ngokwesibonelo, kuthunaza ukukhwabanisa nenkohlakalo, ukungaqiniseki nokunye ukuziphatha okungafanele kuhulumeni.

5.2 Ngenkathi kubhalwa uMthethosisekelo waseNingizimu Afrika ngemva kokuwa koBandlululo ngeminyaka yawo-1990, izinhlangano ezahlukahlukene nabantu babekhankasela ukufakwa kwelungelo lokuthola ulwazi. Kwakwethenjwa ukuthi ukufakwa kwaleli lungelo kuMqulu Wamalungelo kuzoqinisekisa ukuthi izenzo zonya ezinjengoBandlululo ngeke ziphinde zenzeke, njengoba uhulumeni nezinhlangano ezizimele zazizophoqeleka ukuba zenze izinto ngobuqotho nangendlela esobala ngokunikeza imvume yokuthola ulwazi, futhi ngenxa yalokho, zingeke zikwazi ukucasha kwesithupha sokugcina imfihlo. Kwakubonakala njengesinyathelo esidingekayo ekusizeni ukwakha isiko lokuthethelela elingaholela ebudlelwaneni obuhle phakathi kwabantu, nalabo abaphethe. Kwelinye lamacala okuqala ukubhekana nombuzo wokuthi ingabe umuntu obekwe icala unalo yini ilungelo lokuthola lonke ulwazi oluqukethwe edokodweni lamaphoyisa. UJones J wakuvuma ukubaluleka kwalo kule migomo:

"Inhloso... iwukuyeka ukuqhutshekiswa kohlelo oludala lokuphatha, uhlelo lapho uhulumeni wayekwazi khona ukuphunyuka ekulandiseni ngezenzo zawo ngokwenqaba ukudalula ulwazi ngisho noma kwakunomthelela ekusetshenziseni noma ekuvikelweni kwamalungelo omuntu. Lokhu kungububi obenzelwe ukuvimbela [....] ubulungiswa obungavezeka nokuvuleleka kugqugquzela ukwethemba komphakathi ekuphathweni kwezindaba zomphakathi. Leli themba lingelinye lezimpawu zomphakathi obuswa ngentando yeningi lowo uMthethosisekelo owuphokophelelayo".

[2] *Hoexter Administrative Law 94*
[3] *1994 (1) SACR 635 (E)*

5.3 Isigaba 32 soMthethosisekelo sivikela ilungelo lokutholakala kolwazi olugcinwe yizinhlangano zomphakathi nezizimele. Isigaba 32 siphinde sithi kufanele kushaywe umthetho ozolenza lisebenze ilungelo lokutholakala kolwazi ngokuchaza izindlela ulwazi olungatholwa ngayo ezinhlanganweni zomphakathi nezizimele, nangokuhlinzeka ngezizathu lapho inhlangano yomphakathi nezimele inganqaba khona nemvume yokuthola ulwazi.

5.4 I-**PAIA** yenziwa ngenxa yalokho okushiwo ngumthethosisekelo ngenhla, futhi yaqala ukusebenza kakhulu ngoMashi 2001. Amazwi ayo esingeniso ayavuma ukuthi "kwakunesiko lokugcina imfihlo nokungasabeli" esikhathini sangaphambi kwentando yeningi, futhi ayasho ukuthi enye yezinhloso ze-**PAIA** "ukukhuthaza isiko lokwenza izinto obala nokulandisa ngezenzo zezinhlangano zomphakathi nezizimele."

5.5 I-**PAIA** yenzelwe ukuwenza asebenze amalungelo omuntu okuthola ulwazi nokulandisa ngezenzo. Iklanyelwe ukunika abantu amandla okusebenzisa umthetho, futhi isiza ekwenzeni lula ukucela ukuthola ulwazi ngezindlela ezihlukahlukene. Umuntu akadingi ummeli ukuze enze isicelo sokuthola ulwazi ngokwemigomo ye-**PAIA**

6. IZINHLOSO ZE-PAIA

6.1 Izinhloso ze-**PAIA** akukhona ukuba ithathe isikhundla selungelo elingokomthethosisekelo, kodwa ukwenza lisebenze ilungelo elisesigabeni 32 kuye ngemikhawulo evumelekile, nangendlela esiza ukulinganisana kwawo wonke amanye amalungelo aqukethwe kuMthethosisekelo. Ithemba ukugqugquzela isiko lamalungelo abantu nobulungiswa bezenhlalo kubantu, ezinhlanganweni zomphakathi nasezinhlanganweni ezizimele. I-**PAIA** ifuna ukugqugquzela ukwenza izinto obala, ngokuqotho nokuphathwa ngendlela efanele kwazo zonke izinhlangano (zikahulumeni nezizimele) ngokunika abantu amandla okuqonda amalungelo abo okuthola ulwazi, bawasebenzise, futhi bahlolisise, futhi babe neqhaza, ekwenziweni kwezinqumo ezibathintayo.

6.2 Ilungelo lokuthola ulwazi liyilungelo elinamandla amakhulu elingokomthethosisekelo, njengoba lisiza abantu ukuba babone amanye amalungelo. Umuntu angalisebenzisa ukusiza ukuqapha nokuhlola ukulethwa kwezinsizakalo zikahulumeni, noma ukuthola amarekhodi omlando angase awadinge.

6.3 Izinhloso ze-**PAIA** yilezi -

6.3.1 ukwenza lisebenze ilungelo elingokomthethosisekelo lokuthola

6.3.1.1 noma yiluphi ulwazi olugcinwe uHulumeni; kanye

6.3.1.2 noma yiluphi ulwazi olugcinwe ngomunye umuntu futhi oludingekayo ekusetshenzisweni noma ekuvikelweni kwanoma imaphi amalungelo.

- Imfuneko ephathelene nokuvikelwa kwamalungelo igcinwe olwazini olusezandleni zenhlangano ezimele. Ngenxa yalokho, izinhlangano ezizimele azibophekile ngezinga eliqine kakhulu lokwenza izinto ngendlela esobala njengoba kunjalo ngezinhlangano zomphakathi. Izinhlangano ezizimele, ngamanye amazwi, zinelungelo lokugcina imininingwane yazo ikuzo kuphela, ngaphandle uma leyo minininingwane idingeka ekuvikeleni amalungelo.
- I-**PAIA** iyaqaphela, ngokweSigaba 8(1) sayo, ukuthi inhlangano ingase ibe "eyomphakathi" noma "ezimele" ngezinhloso zoMthetho kuye ngokuthi irekhodi elisegudwini "lithintene yini nokusetshenziswa kwamandla noma ukusebenza kwenhlangano yomphakathi noma kwenhlangano ezimele."

6.3.2 ukwenza lelo lungelo lisebenze -

6.3.2.1 kuncike emikhawulweni evumelekile, okubandakanya, kodwa kungagcini lapho, imikhawulo ehlose ukuvikela imfihlo ngendlela efanele, imfihlo yezebhizinisi nokuphatha ngendlela ephumelelayo, esebenzayo nekahle; futhi

6.3.2.2 ngendlela elinganisa lelo lungelo nanoma yimaphi amanye amalungelo, okubandakanya amalungelo akuMqulu Wamalungelo eSahlukweni 2 soMthethosisekelo;

6.3.3 ukwenza kusebenze izibopho ezingokoMthethosisekelo zikaHulumeni ekugqugquzeleni isiko lamalungelo abantu nobulungiswa kwezenhlalo, ngokubandakanya izinhlangano zomphakathi encazelweni 'yomceli', kanye nokuzivumela, phakathi kokunye, ukuthola ulwazi ezinhlanganweni ezizimele lapho zilandela izimfuneko ezine ezikulo Mthetho, okubandakanya isibopho esengeziwe sezinhlangano ezithile zomphakathi ezimweni ezithile zokwenza izinto ezizuzisa umphakathi;

6.3.4 ukusungula izindlela noma izinqubo zokuzithandela neziyimpoqo zokwenza lelo lungelo lisebenze ngendlela eyenza abantu bakwazi ukuthola amarekhodi ezinhlangano zomphakathi nezizimele ngokushesha okukhulu, okungabizi kakhulu nangendlela engakhandli kangangokunokwenzeka; futhi

6.3.5 ngokujwayelekile, ukugqugquzela ukwenza izinto obala, ukuba nesibopho nokuphatha ngempumelelo kuzo zonke izinhlangano zomphakathi nezizimele, ngokubandakanya kepha kungagcini lapho, ukunika amandla nokufundisa wonke umuntu -

6.3.5.1 ukuqonda amalungelo abo ngokwalo Mthetho ukuze basebenzise amalungelo abo maqondana nezinhlangano zomphakathi nezizimele;

6.3.5.2 ukuqonda imisebenzi nokusebenza kwezinnhlangano zomphakathi; kanye

6.3.5.3 nokuhlolisisa ngenkuthalo, futhi babe neqhaza, ekwenziweni kwezinqumo ezithinta amalungelo abo ezenzizwa yizinhlangano zomphakathi.

6.4 UMthetho Wokuchibiyela UMthetho Wokugqugquzela Ukutholakala Kolwazi, Ka-2019

6.4.1 Endabeni ***ye-My Vote Counts NPC v Minister of Justice and Correctional Services and Another*** **[2018] ZACC 17]**, inkantolo yomthethosisekelo yathi "uMbuso ungaphansi kwesibopho esivela ekufundweni okufanele kwezigaba 32, 19 no-7(2) zoMthethosisekelo ukwenza konke okusemandleni ukuze kunikezwe umbono osebenzayo nonengqondo ngelungelo lokuthola ulwazi nelungelo lokuvota. Iningi liphinde lathi lokhu kungenxa yokuthi ukusetshenziswa kwelungelo lokuvota kumele kube yinto umuntu ayenza enolwazi, futhi kunokuxhumana okubalulekile phakathi kokusebenzisa kahle ilungelo lokuvota nelungelo lokuthola ulwazi. Futhi "ngaphandle kokuthola ulwazi, ikhono lezakhamizi lokwenza izinqumo zepolitiki ezifanele nokubamba iqhaza elifanele empilweni yomphakathi licekeleka phansi". INkantolo YoMthethosisekelo ikuqinisekisile ukungasebenzi kwalokhu ngokomthethosisekelo futhi yayalela iPhalamende ukuba lichibiyele i-**PAIA** nokuba lithathe noma yisiphi esinye isinyathelo elisibona sifanele ukuhlinzekela ukuqoshwa, ukulondolozwa kanye nokwenza lula ukutholakala kolwazi olulingene ngezimali zokuxhasa ngasese amaqembu ezepolitiki kanye nabakhankasi abazimele phakathi nesikhathi sezinyanga eziyi-18.

6.4.2 Ngokuya ngesinqumo senkantolo yomthethosisekelo esishiwo ngenhla, uMongameli, mhla ka-3 kuJuni 2019, waphasisa uMthetho Ka-2019 Wokuchibiyela Umthetho Wokugqugquzela Ukutholakala Kolwazi, (uMthetho Ka-2019 Wokuchibiyela I-**PAIA**) .. UMthetho Ka-2019 wokuchitshiyelwa kwe-**PAIA** ubandakanya iqembu lezepolitiki encazelweni yenhlangano ezimele, okusho ukuthi umholi weqembu lezepolitiki noma omunye umuntu ogunyazwe ngokomthetho yilowo mholi uyisikhulu noma inhloko yezolwazi. Umthetho Ka-2019 wokuchibiyela i-**PAIA** manje welula ilungelo lokuthola noma yimaphi amarekhodi eqembu lezepolitiki.

6.4.3 UMthetho wokuchibiyela uhlinzekela ukuthi ulwazi oluphathelene nezimali zokuxhasa ngasese amaqembu ezepolitiki nabakhankasi abazimele, kumele lubhalwe phansi, lugcinwe futhi lwenziwe lutholakale.

6.4.4 Ngokwesigaba 52A soMthetho Ka-2019 Wokuchibiyela I-**PAIA**, inhloko yeqembu lezepolitiki kufanele isungule futhi igcine amarekhodi anoma imuphi umnikelo owedlula umkhawulo obekiwe, ka-**R100 000.00**, onikezwe lelo qembu lezepolitiki kunoma yimuphi unyaka wezimali nokuthi bangobani abantu noma izinhlangano ezenze leyo minikelo. Inhloko yeqembu lezepolitiki iphinde idingeke ukuba yenze amarekhodi atholakale njalo ngezinyanga ezintathu, njengoba kusho umthetho; futhi igcine amarekhodi isikhathi esiyiminyaka okungenani emihlanu ngemuva kokuba amarekhodi athintekayo enziwe.

[4] *UMthetho Wokuchibiyela UMthetho Wokutholakala Kolwazi, Nombolo 31 ka-2019*

6.4.5 Lokhu kusho ukuthi ngenkathi uMthetho Wokuxhaswa Ngezimali Kwamaqembu Ezepolitiki uphoqelela ukudalula kwiKhomishani Yezokhetho, uMthetho Ka-2019 wokuchibiyela i-**PAIA** manje welulela ilungelo lokuthola ulwazi, kumarekhodi anoma yimuphi umnikelo ongaphezu kuka-**R100 000.00**, kunoma yimuphi umuntu, eyenziwe kulelo qembu lezepolitiki.

6.5 Omunye umthetho ovikela ilungelo lokuthola ulwazi

I-**PAIA** ibuye ibe khona kuzo zonke izici zezomthetho, eklanyelwe ukwakha "isiko lokuthethelelana". Ngokuqaphela lokhu, i-**PAIA** ithi noma imuphi omunye umthetho onikeza umuntu indlela yokuthola ulwazi elula kune-**PAIA**, ungasetshenziswa esikhundleni sayo[5].

6.5.1 UMthetho 71 Ka-2008 Wezinkampani

6.5.1.1 Isigaba 26(1) soMthetho Wezinkampani sihlinzeka umuntu othola inzuzo kunoma yiziphi izibambiso ezikhishwe inkampani eyenza inzuzo, noma oyilungu lenkampani engenzi nzuzo, unelungelo lokuhlola nokukopisha, ngaphandle kwenkokhiso yanoma ikuphi ukuhlola okunjalo noma lapho kukhokhwa imali engengaphezulu kwenani elibekiwe lekhophi enjalo, ulwazi oluqukethwe kumarekhodi enkampani.

6.5.1.2 Ngokwesigaba 26(7)(b) soMthetho Wezinkampani, "amalungelo okuthola ulwazi abekwe kulesi sigaba ngaphezu, futhi hhayi esikhundleni, kwanoma yimaphi amalungelo umuntu okungenzeka unawo okuthola ulwazi ngokoMthetho Ka-2000 Wokugqugquzela Ukutholakala Kolwazi (uMthetho Nombolo 2 Ka-2000)".

6.5.2 UMthetho Ka-2018 Wokuxhaswa Ngezimali Kwamaqembu Ezepolitiki (UMthetho Nombolo 6 Ka-2018)

6.5.2.1 Ukuxhaswa Ngezimali Kwamaqembu Ezepolitiki kwethula uhlaka oluqinile lokulawula uxhaso lwangasese lwawo wonke amaqembu ezepolitiki abhalisiwe, kungakhathaleki amelelwe yini kuzishayamthetho zikazwelonke noma zezifundazwe noma cha. Lokhu kubandakanya ukubeka imingcele yomthombo, ubukhulu kanye nokusetshenziswa kwezimali ezinikelwe ngamaqembu ezepolitiki.

6.5.2.2 Ukuqinisekisa ukwenziwa kwezinto obala nobuqotho, amaqembu ezepolitiki kudingeka adalule yonke iminikelo etholiwe engaphezu komkhawulo wokudalula ongu-**R100 000.00** kwiKhomishani Yezokhetho njalo ezinyangeni ezintathu (kanye nangaphambi kokhetho lukazwelonke).

[5] *Isigaba 2(1) se-PAIA*

6.5.2.3 Noma yimuphi umuntu noma inhlangano eyenza umnikelo eqenjini lezepolitiki owodwa noma eminingana eba ngaphezu kuka - **R100 000.00** ngonyaka kufanele ibike lowo mnikelo kwiKhomishani Yezokhetho phakathi nezinsuku ezingu-30 yenze lowo mnikelo noma phakathi nezinsuku ezingu-30 kusukela iminikelo eminingana yeqe khona ku- **R100 000.00**.

6.5.2.4 Okokugcina, uMthetho Wokuxhaswa Ngezimali Kwamaqembu Ezepolitiki ubeka isibopho kwiKhomishani Yezokhetho ukwazisa umphakathi njalo ezinyangeni ezintathu ngeminikelo ebikwe amaqembu ezepolitiki nokubika minyaka yonke ePhalamende ngayo yonke iminikelo enikezwe amaqembu ezepolitiki phakathi nonyaka.

6.5.3 UMthetho Ka-2013 Wokuvikelwa Kwemininingwane Yomuntu (UMthetho Nombolo 4 Ka-2013)

6.5.3.1 Isigaba 23 se-**POPIA** sihlinzeka umninilwazi ngelungelo lokuthola imininingwane yomuntu siqu egcinwe yinhlangano ethintekayo, okubandakanya imininingwane yokuthi bangobani bonke abantu besithathu, noma izigaba zabantu besithathu, abaye, noma abake bathola leyo mininingwane.

6.5.3.2 Lokhu kusho ukuthi nakuba ukuthola irekhodi eliqukethe imininingwane yomuntu siqu ephathelene nomceli kungafakiwe kwi-**PAIA** ngokweSigaba 11(2) sayo, umninilwazi angacela –

6.5.3.2.1 ukuthola imininingwane yakhe siqu; kanye/noma

6.5.3.2.2 amagama abo bonke abantu besithathu, kanye/noma izigaba zabantu besithathu, abaye, noma abake bayithola leyo mininingwane.

6.5.3.2.3 ukulungisa noma ukucima imininingwane yomuntu siqu ephathelene nomninilwazi esezandleni zayo okuwukuthi ayinembile, ayisebenzi, iyeqisa, iphelelwe yisikhathi, ayiphelele, iyadukisa noma itholwe ngokungemthetho; noma

6.5.3.2.4 ukuba kushatshalaliswe noma kucinywe irekhodi lemininingwane yakhe okuwuthi inhlangano ethinyekayo ayisagunyaziwe ukuligcina.

6.5.3.3 Inhlangano ethintekayo ingenqaba ukudalula noma yimiphi imininingwane yomuntu siqu eceliwe, ngokwezizathu zokwenqatshwa kokutholakala kwamarekhodi, njengoba kubekiwe endimeni 19.4 ngezansi

6.5.4 UMthetho 3 Ka-2000 Wokugqugquzela Ubulungiswa Bokuphatha

6.5.4.1 Omunye umthetho obalulekile okufanele ukhunjulwe lapho ucabanga ngokuthola ulwazi nguMthetho Wokugqugquzela Ubulungiswa Bokuphatha (**PAJA**). I-**PAJA** inika ilungelo lokwenza isenzo sokuphatha esisemthethweni, esizwakalayo nenqubo efanelekile kanye nelungelo lezizathu ezibhaliwe zesenzo sokuphatha njengoba kushiwo esigabeni 33(2) soMthethosiseke[6].

6.5.4.2 Ngokwesigaba 5(1) se-**PAJA**, noma imuphi umuntu omalungelo akhe athinteke kakhulu nakabi ngenxa yesenzo sokuphatha futhi enganikwanga izizathu zaleso senzo, zingakapheli izinsuku ezingama-90 ngemuva kosuku lowo muntu azi ngalo ngaleso senzo noma usuku okulindeleke ukuba kube ukuthi useyazi ngalo ngaleso senzo, angacela kumphathi othintekayo izizathu ezibhaliwe zaleso senzo. Umphathi okucelwe kuye kumele, zingakapheli izinsuku ezingama-90 etholile isicelo, anikeze lowo muntu isizathu esanele sabhalwa phansi sesenzo sokuphatha.

7. UKUSUNGULWA KOMLAWULI WEZOLWAZI

7.1 Ukuqinisekisa ukugqugquzelwa nokuthuthukiswa kwezinhloso ze-**PAIA**, eziwukwenza lisebenze lelo lungelo lokuthola ulwazi ngendlela eyenza abantu bakwazi ukuthola amarekhodi ezinhlangano zomphakathi nezizimele ngokushesha okukhulu nengabizi ngangokunokwenzeka, kwasungulwa uMlawuli Wezolwazi ("uMlawuli") ngokwesigaba 39 se-**POPIA**.

7.2 Ukuze kuqinisekiswe ukuthi izinqubo zokuphatha ezingadidi nezingabizi kakhulu ziyalandelwa lapho kwenziwa isicelo sokuthola ulwazi, izikhalazo eziya kuMlawuli neziya enkantolo kufanele kube ngezikhetheke ngempela kunokuba zimane zenziwe nje ngoba umthetho uyavuma.

7.3 I-**POPIA** ichibiyela indima ye-**SAHRC** maqondana negunya le-**PAIA**. Kusukela mhla ka-30 Juni 2021, yonke imisebenzi ye-**SAHRC**, njengoba ibalulwe kwi-**PAIA**, izosingathwa nguMlawuli, onanamandla engeziwe okuphoqelela.

7.4 Nakuba i-**SAHRC** isazogcina izibopho zayo zomthethosisekelo ezibanzi zokugqugquzela, ukuvikela nokuqapha amalungelo abhalwe kuMthethosivivinywa Wamalungelo, i-**SAHRC** kanye noMlawuli bazosebenzisana eduze kakhulu.

[6] *Wonke umuntu omalungelo akhe athikanyezwe kabi yisenzo sokuphatha unelungelo lokunikwa izizathu ezibhaliwe.*

8. INDIMA YOMLAWULI WEZOLWAZI

8.1 UMlawuli unendima ebaluleke kakhulu maqondana ne-**PAIA**. UMlawuli ugunyazwe yi-**PAIA**, ngaphansi kweNgxenye 4, iSahluko 1A kanye neNgxenye 5 nezinye izigaba, ukuba:

8.1.1 agqugquzele ilungelo lokuthola ulwazi nokusiza umphakathi ekusebenziseni i-**PAIA** lapho kungenzeka khona ukwenza njalo,

8.1.2 ukuqapha nokuqhubekisela phambili ukusetshenziswa kwe-**PAIA** yizinhlangano zomphakathi nezizimele (okubandakanya ukukhuthaza izindlela ezisebenzayo zokwenza ulwazi lutholakale ngesikhathi)

8.1.3 enze izincomo zokuqinisa i-**PAIA**, nokuba

8.1.4 abike minyaka yonke ePhalamende.

8.2 Isigaba 77C(1) no-(2) se-**PAIA** sihlinzekela la mandla, imithwalo nemisebenzi elandelayo yoMlawuli, ukuze -

8.2.1 aphenye ngesikhalazo esenziwe kuMlawuli ngendlela enqunyiwe;

8.2.2 adlulisele isikhalazo kwiKomidi Lezokuphoqelela elasungulwa ngokwesigaba 50 se-P**OPIA**; noma

8.2.3 anqume, ngokuhambisana nesigaba 77D, ukungathathi sinyathelo ngesikhalazo noma, kuye ngesimo sesikhalazo, kungadingeki zinyathelo maqondana nesikhalazo; nokuba

8.2.4 lapho kufanele khona, abe njengomlamuli maqondana naleso sikhalazo ngendlela enqunyiwe

8.3 UMlawuli, ngokwesigaba 77H(1) se-**PAIA**, futhi ngokusuka kuye ngokwakhe, noma ngokucelwa noma ngokwenzela isikhulu sezolwazi noma inhloko yenhlangano ezimele noma omunye umuntu ahlole ukuthi inhlangano yomphakathi noma ezimele ngokuvamile iyazilandela yini izinhlinzeko ze-**PAIA**, maqondana nezinqubomgomo nezinqubo zayo zokuyisebenzisa.

8.4 UMlawuli unikwe amandla, ngokwesigaba 77F se-**PAIA**, ukusebenzisa konke anakho ukuze axazulule isikhalazo, uma kuvela esikhalazweni, noma kunoma iyiphi impendulo ebhaliwe eyenziwe maqondana naso ukuthi singaxazululeka leso sikhalazo. Lokhu kusho ukuthi uMlawuli angazama kuphela ukusiza abathintekayo ukuba baxazulule izingxabano zabo, uma kunesikhalazo esifakwe kuMlawuli, ngaphandle uma ethathe isinqumo, ngokusuka kuye, sokuhlola, njengoba kushiwo endimeni 8.3 ngenhla.

9. UKWENZA ISICELO SEREKHODI

Uyacelwa ukuthi ubheke ishadi elinesinyathelo ngasiye sale nqubo endimeni 27 ngezansi, sendlela yokucela ukuthola amarekhodi.

9.1 Ukuqalisa: **Amabhukwana E-PAIA**

9.1.1 Yize lo Mhlahlandlela ushicilelwe ukusiza umphakathi kuzo zonke izindawo ukuba ubambe ilungelo lawo elingokomthethosisekelo lokuthola ulwazi, kukhona neminye imithombo yolwazi nayo emngasiza umuntu ekwenzeni isicelo sokuthola amarekhodi. I-**PAIA** idinga ukuba zonke izinhlangano zomphakathi, nezinhlangano ezizimele, zihlanganise ibhukwana[7] le-**PAIA** futhi zilenze litholakale.

9.1.2 Ngaphambi kokuba noma ubani athathe izinyathelo zokuthola ulwazi noma amarekhodi enhlangano ethile, iBhukwana Le-**PAIA** liyithuluzi lokuqala lokufundwa.

9.1.3 Ngokuyinhloko, ibhukwana le-**PAIA** liwusizo kumuntu ukuba:

9.1.3.1 ahlole uhlobo lwamarekhodi okungenzeka asevele ayatholakala ngaphandle kwesidingo sokufaka isicelo se-**PAIA**;

9.1.3.2 aqonde indlela yokwenza isicelo sokuthola ulwazi olugcinwe yinhlangano ethile;

9.1.3.3 athole yonke imininingwane efanele yomuntu ozosiza umphakathi ngamarekhodi noma yimuphi umuntu ahlose ukuwathola;

9.1.3.4 azi zonke izixazululo ezitholakala kuleyo nhlangano okucelwa kuyo amarekhodi, ngaphambi kokuya kuMlawuli noma eziNkantolo;

9.1.3.5 azi incazelo yezinsizakalo ezitholakala kumalungu omphakathi zivela enhlanganweni nokuthi angazithola kanjani lezo zinsizakalo;

9.1.3.6 azi ukuthi ingabe inhlangano izoyicubungula yini imininingwane yomuntu siqu, inhloso yokucubungula imininingwane yomuntu siqu kanye nencazelo yezinhlu zabaninilwazi nezemininingwane nezinhlu zolwazi oluphathelene nalokho;

9.1.3.7 azi ukuthi ingabe inhlangano ihlele ukudlulisa noma ukucubungula imininingwane yomuntu siqu ngaphandle kwaseRiphabhuliki YaseNingizimu Afrika; nokuba

[7] *Isigaba 14 nesigaba 51 se-PAIA*

9.1.3.8 azi ukuthi ingabe inhlangano inazo yini izindlela ezifanele zokuphepha ukuqinisekisa ubumfihlo, ubuqotho nokutholakala kolwazi okumele lucutshungulwe.

9.2 Atholakala kuphi amabhukwana e-PAIA?

9.2.1 IBhukwana Le-**PAIA** lezinhlangano zomphakathi

9.2.1.1 Zonke izinhlangano zomphakathi kumele zenze ukuba iBhukwana Le-**PAIA** litholakale kalula okungenani ngezilimi ezintathu ezisemthethwen[8].

9.2.1.2 Okungenani, kudingeka ukuba zenze ikhophi eyodwa yeBhukwana Le-**PAIA** litholakale mahhala, ngaphandle uma kucelwa ikhophi eprintiwe

9.2.1.2.1 kuwebhusayithi yenhlangano yomphakathi;

9.2.1.2.2 enhlokohhovisi yenhlangano yomphakathi ukuze lihlolwe ngumphakathi ngezikhathi ezijwayelekile zokusebenza;

9.2.1.2.3 uma umuntu efuna ikhophi eprintiwe, inhlangano yomphakathi kufanele yenze ikhophi, kodwa ingacela inkokhelo efanele yokwenza ikhophi eprintiwe; kanye

9.2.1.3.4 nakuMlawuli uma ecelwa.

9.2.2 AmaBhukwana E-**PAIA** ezinhlangano ezizimele

9.2.2.1 Izinhlangano ezizimele nazo kudingeka ukuba zihlanganise ibhukwana[9] le-**PAIA**, kepha asikho isidingo sokuyihlanganisa ngezilimi ezingaphezu kolulodwa noma ngolimi oluthile, nakuba kunconywa ukuba amaBhukwana E-**PAIA** ezinhlangano ezizimele kufanele okungenani abe ngesiNgisi. Uma inhlangano ethile ihlinzeka ngezinsizakalo kubantu abaningi abangenayo imfundo efanele, uMlawuli uncoma ukuba ibhukwana laleyo nhlangano libe nangolunye ulimi olusemthethweni.

9.2.2.2 Okungenani, izinhlangano ezizimele kudingeka ukuba zenze ikhophi yeBhukwana Le-**PAIA** litholakale mahhala[10], ngaphandle uma kucelwa ikhophi eprintiwe

9.2.2.2.1 kuwebhusayithi yenhlangano ezimele

9.2.2.2.2 endaweni eyinhloko yebhizinisi lenhlangano ezimele ukuze lihlolwe ngumphakathi ngezikhathi zomsebenzi ezijwayelekile;

[8] *Isigaba 14(1) se-PAIA*
[9] *Ngokwesigaba 51 se-PAIA*
[10] *Isigaba 51(3) se-PAIA*

9.2.2.2.3 uma umuntu efuna ikhophi eprintiwe, inhlangano ezimele kumele yenze ikhophi, kepha ingacela inkokhiso efanele yokwenza leyo khophi eprintiwe; kanye

9.2.2.2.4 nakuMlawuli uma ecelwa.

9.2.3 UNgqongqoshe Wezobulungiswa Nezinsizakalo Zokuhlunyeleliswa Kwezimilo unamandla okukhulula[11] izinhlangano ezithile ezizimele noma isigaba esithile sezinhlangano ezizimele esibophweni sokwenza ibhukwana. Njengamanje, kuze kube ngumhla **ka-31 Disemba 2021**, uNgqongqoshe usezikhululile[12] zonke izinhlangano ezizimele, ngaphandle kwanoma iyiphi inkampani -

(a) engeyona inkampani ezimele njengoba kuchazwe esigabeni 1 soMthetho Wezinkampani, 2008 (uMthetho Nombolo 71 ka-2008);

(b) iyinkampani ezimele njengoba kuchazwe esigabeni 1 soMthetho Wezinkampani, 2008 (uMthetho Nombolo 71 ka-2008) osebenza kunoma yimiphi imikhakha eshiwo kukholamu 1 yesheduli kulesi Saziso futhi –

(i) inabasebenzi abangama-50 noma ngaphezulu ebaqashile; noma

(ii) inengqikithi yenzuzo yonyaka elingana noma engaphezu kwenani elisebenza kuyo elishiwo kukholomu 2 yethebula elingezansi,

ekuhlanganiseni ibhukwana elishiwo esigabeni 51(1) soMthetho oshiwo okokuqala isikhathi esiyizinyanga eziyisithupha (6) kusukela ngomhla **ka-1 Julayi 2021** kuya kumhla **ka-31 Disemba 2021**: -

Umkhakha	Inzuzo yonyaka
Wezolimo	R6 wezigidi
Wezezimayini Nezokumbiwaphansi	R22.5 wezigidi
Wezokukhiqiza	R30 wezigidi
Wezagesi, Igesi Namanzi	R30 wezigidi
Wezokwakha	R15 wezigidi
Wezokuthengisa Nokuhweba Ngezimoto Nokhanda	R45 wezigidi
Wezokuhweba Kuma-wholesale, Abathengisi Nemisebenzi Ehlanganyelwayo	R75 wezigidi
Wezokudla, Indawo Yokuhlala Nokunye Ukuhweba	R15 wezigidi
Ezokuthutha, Indawo Yokugcina Izinto Nezokuxhumana	R30 wezigidi
Ezezimali Nezamabhizinisi	R30 wezigidi
Izinsizakalo Zomphakathi, Ezikhethekile Nezomuntu Siqu	R15 wezigidi

[11] *Isigaba 51(4) se-PAIA*
[12] *USomqulu KaHulumeni nombolo: 39504, 11 Disemba 2015*

9.2.4 Ngenxa yokubaluleka kwesidingo somthetho sokuhlanganisa iBhukwana Le-**PAIA**, ikakhulukazi isichibiyelo[13] sesigaba 51 se-**PAIA** (ezoqala ukusebenza ngomhla ka-30 Juni 2021), maqondana nokuthi ubukhulu bolwazi okumele ibhukwana lelo libe nalo buye banwetshwa ukuze libhakandanye izindaba eziphathelene ne-**POPIA**, izinhlangano ezizimele ngeke zisakhululwa esibophweni sokuhlanganisa ibhukwana le-**PAIA**. Ngenxa yalokho, kusukela ngomhla ka-1 Januwari 2022, zonke izinhlangano ezizimele nezikahulumeni kuzodingeka ukuba zitholakale zinalo iBhukwana Le-**PAIA**, njengoba kushiwo endimeni 9.2.2.2 ngenhla.

9.2.5 Ukukhululwa kwezinkampani ezizimele esibophweni sokuhlanganisa ibhukwana le-**PAIA** akuzikhululi lezo zinkampani ezizimele ekuthobeleni i-**PAIA**. Lokhu kusho ukuthi noma yimuphi umuntu usengafaka isicelo sokuthola ulwazi enhlanganweni ezimele ekhululiwe. Ukukhululwa kumane kusho ukuthi lezo zinkampani ezizimele akudingeki zihlanganise ibhukwana le-**PAIA**.

9.2.6 Khumbula futhi, ukuthi akuzona zonke izinhlangano ezizimele eziyizinkampani, njengoba incazelo yenhlangano ezimele ibandakanya umuntu ongokwemvelo, umnikazi oyedwa kanye nomfelandawonye. Kodwa-ke, kusengakuhle ukuhlola iwebhusayithi yazo, njengoba ezinye iZinkampani zakha ibhukwana le-**PAIA** kungakhathalekile inani labasebenzi noma inzuzo yazo yonyaka.

9.3 Ukudalulwa ngokuzithandela kwamarekhodi athile nokuwenza atholakale ngokuzenzakalelayo

9.3.1 Amarekhodi atholakala ngokuzenzakalelayo yilawo inhlangano yomphakathi noma ezimele ezowahlinzeka ngaphandle kwesidingo sokuthi umceli afake isicelo se-**PAIA** (ngamanye amazwi, umuntu angavele alicele nje ngaphandle kokugcwalisa iFomu 2 Le-**PAIA**).

9.3.2 Isikhulu Sezolwazi enhlanganweni yomphakathi kudingeka, ngokwesigaba 15(1) se-**PAIA**, ukuba senze kutholakale uhlu noma imikhakha yamarekhodi atholakala ngokuzenzakalelayo, njengoba kushiwo endimeni 9.3.4 ngezansi.

9.3.3 Amarekhodi atholakala ngokuzenzekelayo enhlangano ezimele nawo angenziwa atholakale, ngokwesigaba 52(1) se-**PAIA**, kodwa ngokuzithandela ngokuya ngendima 9.3.4 ngezansi.

9.3.4 Incazelo yemikhakha yamarekhodi atholakala ngokuzenzakalelayo kufanele yenziwe itholakale

(a) kuMlawuli Wezolwazi;

(b) kuwebhusayithi yenhlangano; nokuba

(c) ihloleke, emahhovisi enhlangano ethintekayo ngezikhathi zomsebenzi ezijwayelekile.

[13] *Isigaba 110 se-POPIA*

9.3.5 Uyacelwa ukuba uqaphele ukuthi uMlawuli incazelo yamarekhodi enhlangano yomphakahti atholakala ngokuzenzakalelayo uzoyifaka kuwebhusayithi yayo.

9.3.6 Lolu hlu lubandakanya amarekhodi okungase kudingeke ukuba enziwe atholakale ngeminye imithetho, kanye namanye amarekhodi inhlangano ekhetha ukuwafaka. Ukuze kugwenywe inqubo yesicelo se-**PAIA**, umceli welulekwa ukuba ahlole iBhukwana Le-**PAIA** lenhlangano ethintekayo yomphakathi noma ezimele. Uma umuntu efisa ukuthola amarekhodi awela ngaphansi kohlu lwenhlangano lwamarekhodi atholakalayo ngokuzenzakalelayo, lowo muntu angavele acele ukuwathola ngaphandle kokugcwalisa iFomu 2 Le-**PAIA**.

9.3.7 UMthetho 6 Ka-2018 Wokuxhazwa Ngezimali Kwamaqembu Ezepolitiki uletha izinguquko ezithile nge-**PAIA**, lapho izinhloko zamaqembu ezepolitiki kudingeka ukuba zibhale futhi zigcine amarekhodi eminikelo yangasese, okuzodingeka ukuba enziwe abe sobala emphakathini ngaphandle kokuba umuntu afake isicelo se-**PAIA**.

10. IMININGWANE YOKUXHUMANA NEZIKHULU ZEZOLWAZI

10.1 Yize imininingwane yokuxhumana neZikhulu Zezolwazi kuzo zonke izinhlangano zomphakathi kudingeka ukuba ishicilelwe kuwo wonke amabhuku ocingo, ngokwesigaba 16 se-**PAIA**, uMlawuli unemininingwane eqondile yokuxhumana nazo zonke iZikhulu Zezolwazi (kubandakanya amaSekela Ezikhulu Zezolwazi, aqokwe ngokwemigomo yesigaba 17 no-56 se-**PAIA** ne-**POPIA** ngokulandelana kwazo) ababhaliswe ngayo ngokwesigaba 55(2) se-**POPIA**.

10.2 Nakuba ukuthola imininingwane efanele yokuxhumana kungase ngokuvamile kube yingxenye eyinselele kakhulu yokwenza isicelo se-**PAIA**, njengoba izindima zishintsha njalo emkhakheni womphakathi futhi ibhukwana le-**PAIA** lingase lingabi ngelamuva, indawo yokuqala yokuthola imininingwane yokuxhumana kusafanele kube yilo iBhukwana Le-**PAIA** lenhlangano. Kodwa-ke, uma umceli engalitholi ibhukwana, ukushayela ihhovisi lenhlangano acele imininingwane edingekayo, nakho kungasiza.

10.3 KoMasipala, iNhlangano YaseNingizimu Afrika Yohulumeni Basekhaya (i-**SALGA**) ibeka imininingwane yabo bonke oMasipala kule linki: http://www.salga.org.za/Municipalities%20MCD.html

10.4 Umnyango wezokuxhumana kaHulumeni nawo uyahlinzeka ngemininingwane yokuxhumana kazwelonke neyezifundazwe kanye nemininingwane yokuxhumana neziNkampani ZikaHulumeni ngaphansi kwale linki: https://www.gov.za/about-government/contact-directory. Khumbula njalo ukuthi incazelo yeSikhulu Sezolwazi iyasiza ukubona ukuthi imininingwane kabani yokuxhumana edingekayo ukuze ubone iSikhulu Sezolwazi

11. INQUBO YOKWENZA ISICELO SOLWAZI

11.1 Amafomu esicelo

11.1.1 Isicelo sokuthola ulwazi singenziwa kukho kokubili ezinhlanganweni zomphakathi nezizimele.

11.1.2 I-**PAIA** idinga ukuthi uma ufuna ukwenza leso sicelo, kufanele uthumele isicelo ngefomu elidingekayo (lawa mafomu anqunywe yiMithethonqubo). Kunezinhlobo ezimbili ezingasetshenziswa lapho usebenzisa ilungelo lokuthola ulwazi.

IFomu 2	IFomu 4
Leli fomu lingasetshenziswa kuphela uma ufuna ukucela ukuthola amarekhodi ezinhlangano zomphakathi noma ezizimele.	Leli fomu lingasetshenziswa kuphela uma ufuna ukufaka isikhalazo sangaphakathi esiphikisa izinqumo zeZikhulu Zezolwazi noma lezo zamaSekela Ezikhulu Zezolwazi zeMikhakha KaHulumeni Kazwelonke, Wezifundazwe noma Wendawo lapho kufanele siye khan isikhalazo sangaphakathi.

11.1.3 La mafomu angatholakala kuwebhusayithi yoMlawuli ku https://www.justice.gov.za/inforeg/

11.2 Ukunquma ukuthi isicelo ngesemininingwane egcinwe yinhlangano ezimele noma yomphakathi

11.2.1 Inhlangano yomphakathi yenza umsebenzi womphakathi, njengokuhlinzeka umphakathi ngogesi noma ngamanzi. Ngenxa yalokho, inhlangano yomphakathi ayiyona nje uMnyango kaHulumeni kaZwelonke, weZifundazwe noma waSekhaya – ibandakanya izinkampani zikahulumeni noma iZinhlangano ZoMbuso ezifana noMlawuli, i-Eskom, noma i-PRASA, kodwa-ke, kufanele kwenziwe umehluko maqondana nenhlangano yomphakathi ngenhloso yesikhalo sangaphakathi, okubhekiswe kuphela kuHulumeni kaZwelonke, weSifundazwe noma waSekhaya.

11.2.2 Inhlangano ezimele yenza umsebenzi wangasese. Inhlangano enjalo (okungaba ngumuntu) wenza uhwebo, ibhizinisi noma umsebenzi othile. Kubaluleke kakhulu ukuqaphela ukuthi lapho kufakwa isicelo se-**PAIA** enhlanganweni ezimele, umuntu kufanele asho ukuthi yiliphi ilungelo alivikelayo noma alisebenzisayo ngokucela lolu lwazi. Mayelana nanoma yiluphi ulwazi olugcinwe ngomunye umuntu, uStreicher JA wafingqa le ndaba ngendlela elandelayo, **eCape Metropolitan Council v Metro Inspection Services (Western Cape) CC nabanye**[14],

[14] ***2001 (3) SA 1013*** *(SCA) indinyana 28 kwi-1026F–G*

"Imininingwane ingadingeka kuphela ekusetshenzisweni noma ekuvikelweni kwelungelo uma lizoba usizo ekusetshenzisweni noma ekuvikelweni kwelungelo. Lokhu kulandela ukuthi, ukuze kuvulwe icala lokutholakala kolwazi ngokwesigaba 32, umceli kufanele asho ukuthi yiliphi ilungelo afisa ukulisebenzisa noma ukulivikela, ukuthi yiluphi ulwazi oludingekayo nokuthi lolo lwazi lungamsiza kanjani ekusebenziseni noma ekuvikeleni lelo lungelo".

11.2.3 Ngezinye izikhathi umbuzo wokuthi irekhodi liyirekhodi lomphakathi noma langasese yini ungaba nzima futhi umphakathi welulekwa ukuba ufune izeluleko zomthetho. Isibonelo, uma inhlangano yomphakathi iqoka inhlangano ezimele ukuba iyenzele imisebenzi ethile, njengokufakwa kwamamitha amanzi emiphakathini ethile, ukuthola inani lamamitha afakiwe, noma ngabe lolo lwazi lugcinwe yileyo nhlangano ezimele, luyobhekwa njengolwazi lwenhlangano yomphakathi.

11.3 Umuntu ulichaza kanjani ilungelo anethemba lokulisebenzisa noma ukulivikela?

11.3.1 Lapho umuntu echaza ukuthi yiliphi ilungelo anethemba lokulisebenzisa lapho enza isicelo enhlanganweni ezimele, akakwazi ukubhekisela kwilungelo lokuthola ulwazi. Umuntu kufanele achaze ukuthi irekhodi alicelayo lidingeka kanjani ngokunengqondo ukuze avikele, noma asebenzise elinye ilungelo. Lokhu kungabandakanya amalungelo okungewona amalungelo angokomthethosisekelo kuphela.

11.3.2 Umuntu, ngokwesibonelo, angase adinge amapulani ayinhloko avela enkampanini engase ibe nomthelela emazingeni okonakalisa imvelo emphakathini, ukuze amsize ekuvikeleni ilungelo lomuntu ngokuqondene nemvelo ngokuqapha imisebenzi yaleyo nkampani. Noma umuntu angadinga amarekhodi, azomsiza ekunqumeni ukuthi unalo yini ilungelo lokumangalela inkampani ethile. Ngenxa yalokho, umuntu kudingeka:

11.3.2.1 Alisho ngokuthe ngqo ilungelo anethemba lokulivikela noma lokulisebenzisa, bese

11.3.2.2 Echaza ngokucacile ukuthi kungani irekhodi alicelayo lidingeka ngokuzwakalayo ekumsizeni ngalelo lungelo

11.3.3 Ngokuphambene nalokho, lapho kufakwa isicelo se-**PAIA** enhlanganweni yomphakathi, akudingeki ukuthi umuntu abe nesizathu sokucela ulwazi.

12. UBANI ONGENZA ISICELO SE-PAIA?

12.1 Noma yimuphi umuntu, noma ngabe ungowaseNingizimu Afrika noma akayena owaseNingizimu Afrika, uvunyelwe ukwenza isicelo ngaphansi kwe-**PAIA**. Umceli angaba ngumuntu wemvelo noma umuntu ongokomthetho.

12.2 Inhlangano yomphakathi ibhekwa njengomuntu ongokomthetho futhi ingenza isicelo sokuthola amarekhodi agcinwe yizinhlangano ezizimele, kodwa kuphela uma inhlangano yomphakathi -

12.2.1 yenzela ukuzuzisa umphakathi, futhi

12.2.2 uma amarekhodi edingeka ukuze kufezwe noma kuvikelwe noma yimaphi amalungelo ngaphandle kwalawo enhlangano yomphakathi.

12.3 Ngaphansi kwe-**PAIA** umceli akakwazi ukucela ukuthola irekhodi, lenhlangano yomphakathi, eliqukethe imininingwane yangasese ephathelene nomceli enhlanganweni yomphakathi[15], kodwa noma kunjalo umceli noma umninilwazi, ngokwesigaba 23(1)(b) se-**POPIA**, angacela enhlanganweni ethintekayo irekhodi noma incazelo yemininingwane yomuntu siqu ephathelene nomninilwazi egcinwe yileyo nhlangano ethinyekayo. Lokhu kusho ukuthi noma yimuphi umuntu manje angacela ukuthola imininingwane yakhe siqu egcinwe yinhlangano yomphakathi noma ezimele lapho eveza ubufakazi obanele bokuthi ungubani. Imininingwane yomuntu siqu leyo umceli angayicela enhlanganweni ethintekayo, okubandakanya imininingwane mayelana nobunikazi babo bonke abantu besithathu, noma izigaba zabantu besithathu, abaye, noma abake bayithola leyo minininingwane.

12.4 Ngokwesigaba 50(1) se-**POPIA**, noma yimuphi umuntu angacela ukuthola irekhodi, lenhlangano ezimele, eliqukethe imininingwane yangasese emphathelene nomceli noma umuntu isicelo esenzelwa yena.

13. SINGENZIWA KOBANI ISICELO?

13.1 ISikhulu Sezolwazi enhlanganweni yomphakathi kudingeka ukuba siqoke iSekela LeSikhulu Sezolwazi, okufanele liqinisekise ukuthi amarekhodi enhlangano yomphakathi atholakala ngakho konke okusemandleni. Yize lokhu bekungeyona imfuneko maqondana nenhlangano ezimele ngaphansi kwe-**PAIA**, inhlangano ezimele ingakhetha iSekela LeSikhulu Sezolwazi esishiwo ngenhla, ngokwesigaba 56 se-**POPIA**.

13.2 Isicelo sokutholakala kolwazi, nakuba singase siyiswe eSikhulwini Sezolwazi, singathunyelwa kwiSekela LeSikhulu Sezolwazi. Imininingwane yeSekela LeSikhulu Sezolwazi ingatholakala ebhukwini le-**PAIA** yaleyo nhlangano noma kuMlawuli.

14. UKUGCWALISA IFOMU

14.1 IFomu 2 - isicelo sokuthola irekhodi lenhlangano yomphakathi noma ezimele:

14.1.1 Ukuze agcwalise ifomu le-**PAIA**, umuntu kudingeka anikeze imininingwane eyanele ukuze iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi bakwazi ukubona ukuthi yimaphi amarekhodi afunwa ngumceli.

[15] *Isigaba 11(2) se-PAIA*

14.1.2 IMithethonqubo Ye-**PAIA** iyalicacisa ifomu okufanele lisetshenziswe, okumele lithunyelwe eSikhulwini Sezolwazi, noma kwiSekela LeSikhulu Sezolwazi kuleyo nhlangano.

14.1.3 Abaceli abangakwazi ukufunda nokubhala bangenza izicelo zomlomo eSikhulwini Sezolwazi noma kwiSekela LeSikhulu Sezolwazi enhlanganweni yomphakathi, okuyiso okuyobe sekumele sigcwalisele lowo mceli ifomu 2. Ifomu lamanje lizodinga ukuba ugcwalise lezi zingxenye ezilandelayo:

Imininingwane edingekayo	Incazelo
Imininingwane yenhlangano yomphakathi / ezimele	Le ngxenye kufanele ibe ne-imeyili nenombolo yefeksi efanele yeSikhulu Sezolwazi kanye/noma iSekela LeSikhulu Sezolwazi.
Imininingwane yomuntu ocela ukuthola amarekhodi	Lokhu kufanele kube nemininingwane eyanele mayelana nomceli ukuze kube lula ukumazi umceli, okubandakanya imininingwane yokuxhumana nomceli: ikheli leposi, ikheli le-imeyili, inombolo yefeksi kanye/noma yocingo yaseNingizimu Afrika. Iphinde icele nenombolo yakho kamazisi ukuqinisekisa ubuwena. Uma ulwazi ulucelela omunye umuntu, kumele kuhlinzekwe ubufakazi besikhundla owenza ngaso leso sicelo ('njengomuntu ogunyaziwe').
Imininingwane yerekhodi elicelwayo	Nikeza imininingwane ephelele yerekhodi ocela ukulithola, okubandakanya inombolo yereferensi uma uyazi, ukuze lelo rekhodi litholakale. (Uma isikhala esinikeziwe singanele, sicela uqhubeke ekhasini elihlukile bese ulihlanganisa nefomu. Wonke amakhasi angeziwe kufanele asayinwe.
Uhlobo lwerekhodi	Lokhu kufanele kube nemininingwane eyanele mayelana nerekhodi ukuze kube lula ukulifuna. Uma imininingwane edingekayo ingeke yanele esikhaleni esinikezwe efomini, kungasetshenziswa elinye ikhasi elibhalwe ngomshini noma ngesandla ukunikeza imininingwane eyengeziwe yesicelo, inqobo nje uma ikhasi ngalinye

Imininingwane edingekayo	Incazelo
	elengeziwe lisayiniwe futhi lahlanganiswa nefomu lesicelo. Ungase, ngokwesibonelo, ufake nokuthile okukhiphe embikweni noma kwabezindaba okukhomba irekhodi olifunayo. Ikuvumela ukuba ufake inombolo yereferensi yerekhodi, uma ikhona.
Izinkokhiso	Inhlangano, leyo umceli ahlose ukusithumela kuyo isicelo sokuthola irekhodi, okubandakanya irekhodi eliqukethe imininingwane yakhe, ingakucela ukuba ukhokhe imali yesicelo (imali yokuthola ulwazi) noma imali yediphozithi, kepha leyo mali akumele yeqe ngokweqile, njengoba lezi zinkokhiso kufanele zibe ngezesikhathi esizwakalayo esidingekayo ukucinga nokulungisa irekhodi. UNgqongqoshe angase ngesaziso kuSomqulu akukhulule ekukhokheni lezi zimali njengoba kubhalwe esigabeni 51.1 ngezansi. Kunikezwa isikhala sokuba umceli abonise ukuthi kungani ekholwa ukuthi kufanele akhululwe ekukhokheni noma yiziphi izimali. Isizathu singabandakanya, ngokwesibonelo, ukuthi akasebenzi.
Indlela yokuthola irekhodi	Le ngxenye ikuvumela ukuba uphawule ngo-"X" izindlela ofisa ukulithola ngazo irekhodi, ngekhophi ephrintiwe yerekhodi kanye/noma i-flash drive kanye/noma i-compact disc drive.
Isimo sokuthola irekhodi	Ngaphansi kwale ngxenye kumele usho ulimi ofuna ukulithola ngalo irekhodi (lokhu kungase kungenzeki maqondana nawo wonke amarekhodi, kepha kusamele usho lokho okukhethayo). Isimo sokuthola irekhodi singaba nomthelela ekwenqatshelweni ngenxa yezinkokhelo eziphezulu. Isibonelo, uma umceli efuna idokhumenti ngolimi oluthile alukhethayo,

	kungase kudingeke ukuba akhokhele izindleko zokuguqulela lelo rekhodi olumini alufunayo. Kodwa-ke, uma irekhodi lingatholakali ngolimi olufunayo, ungavunyelwa ukulithola ngolimi lelo rekhodi elitholakala ngalo. Isimo sokuthola irekhodi singabandakanya ukuzihlolela wena irekhodi, ukuthunyelwa kwerekhodi nge-imeyili, noma ifeksi noma ikhuriya noma iposi.
Isaziso esiphathelene nesicelo sokuthola ulwazi	Kunikezwa isikhala sokuba umceli achaze indlela afisa ukwaziswa ngayo ngesinqumo sokuvunywa noma sokwenqatshwa kwesicelo. Umceli angacacisa ngokwesibonelo ukuthi angathanda ukuthintwa nge-imeyili noma ngocingo noma impendulo ingathunyelwa ngeposi noma ngekhuriya.
Imininingwane yelungelo elizosetshenziswa noma elizovikelwa	Lapho ecela ulwazi enhlanganweni ezimele umceli kudingeka ukuba achaze "imininingwane yelungelo okufanele lisetshenziswe noma livikelwe". Lapha kufanele asho ilungelo athembele kulo (njengelungelo lakhe lokuba sendaweni enempilo) nokuthi irekhodi alicelayo lizomsiza kanjani ekusebenziseni noma ekuvikeleni lelo lungelo. Kumele abonise ukuxhumana phakathi kwerekhodi alifunayo, nokusetshenziswa noma ukuvikelwa kwelungelo. Ngeshwa, ngokungafani nesicelo sokuthola irekhodi lenhlangano yomphakathi, akakwazi ukuthola irekhodi lenhlangano ezimele uma engachazanga ilungelo noma amalungelo ahlose ukuwavikela noma ukuwasebenzisa uma eyinikwa imvume. Lokhu kungabandakanya iqiniso lokuthi ngemuva kokuthola amarekhodi, uzobe esesebenzisa ilungelo lakhe lokuvikelwa nokuhlomula ngomthetho[16] ngokumangalela leyo nhlangano ngomonakalo okungenzeka uye wabhekana nawo.

[16] *Isigaba 9(1) somthethosisekelo weRiphabhuliki YaseNingizimu Afrika, uMthetho 108 ka-1996*

14.1.4 Uma ngasizathu simbe isicelo sakhe singahambisani nezimfuneko ezibalulwe ngenhla, iSikhulu Sezolwazi ngeke sivele sisenqabe nje isicelo sakhe, ngaphandle uma simazisa umceli ukuthi sihlose ukusenqaba isicelo, sinikeze nezizathu. ISikhulu Sezolwazi kumele simazise nokuthi sizomsiza umceli noma simnikeze ithuba lokulungisa iphutha.

15. IZINKOKHISO

15.1 Ngokuvamile, izinkokhiso kudingeka zikhokhelwe kokubili ukwenza isicelo, kodwa futhi ukhokhele nezindleko zokuthola amarekhodi ngokwesicelo. Nakuba kunjalo, zikhona izimo okungakhokhiswa kuzo. Uma umceli enikezwa imvume yokuthola amarekhodi awacelile futhi engakhululwanga ekukhokheni noma yiziphi izimali, njengoba kushiwo endimeni 15.2 ngezansi, iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi enhlanganweni yomphakathi noma ezimele lingamkhokhisa imali enqunyiwe maqondona nezinhlu ezilandelayo -

PHAWULA: Uhlaka lwezinkokhiso maqondana nezimali ezikhokhelwa iZinhlangano Zomphakathi NeZizimele lungatholakala kuwebhusayithi yoMlawuli Wezolwazi.

Isici	Incazelo
1	Inkokhiso yesicelo ekhokhwa yibo bonke abaceli
2	Ifothokhophi yekhasi eliyi-A4
3	Ikhophi eprintiwe yekhasi eliyi-A4
4	Ngokuqondene nekhophi efundeka kwikhompyutha: (i) I-Flash drive (kumele ilethwe umceli) (ii) I-Compact disc • Uma ilethwe umceli • Uma ihlinzekelwe umceli
5	Ukuguqulelwa emagameni kwerekhodi eliyizithombe ikhasi ngalinye eliyi-A4
6	Ikhophi yezithombe
7	Ukuguqulelwa emagameni kwerekhodi eliyinkulumo, ikhasi ngalinye eliyi-A4
8	Ikhophi yerekhodi eliyinkulumo: (i) I-Flash drive (kumele ilethwe umceli) (ii) I-Compact disc • Uma ilethwe umceli • Uma ihlinzekelwe umceli
9	Ukucinga irekhodi nokulilungiselela ukulikhipha ihora ngalinye noma ingxenye yehora, ngaphandle kwehora lokuqala, elidingeka ngokufanelekile kulokho kucinga nokulungiselela. Kungadluli ingqikithi yezindleko engu Postage, e-mail or any other electronic transfer
10	Idiphozithi: Uma ukucinga kweqa emahoreni ayi-6
11	Iposi, i-imeyli noma enye indlela yokuthumela ngezobuchwepheshe

15.2 Umceli akudingeki akhokhe imali yokuthola ulwazi[17] enhlanganweni yomphakathi uma:-

15.2.1 Engumuntu ongashadile umholo wakhe wonyaka, ngemuva kokudonswa okuvumelekile, njenge-**PAYE** ne-**UIF**, ungaphansi kuka-**R14712.00** ngonyaka, noma

15.2.2 Eshadile futhi umholo wakhe uhlangene nowakwakhe, ngemuva kokudonswa okuvumelekile, njenge-**PAYE** ne-**UIF**, ungaphansi kuka-**R27192.00** ngonyaka.

15.3 Sicela wazi ukuthi inhlangano yomphakathi noma ezimele ingacela, kwiFomu 4 kwiMithethonqubo, idiphozithi kumceli, kodwa kuphela uma ikholelwa ukuthi imininingwane noma amarekhodi aceliwe kuzothatha amahora angaphezu kwayisithupha (6) ukuwacinga, kepha inani lediphozithi alikwazi ukuba ngaphezu kwengxenye eyodwa kwezintathu zemali ebekiwe.

16. INGABE ISIKHULU SEZOLWAZI SIYOMSIZA UMCELI ENZE ISICELO SE-PAIA?

16.1 Indima yeZikhulu Zezolwazi kanye/noma amaSekela EZikhulu Zezolwazi kokubili ezinhlanganweni zomphakathi nezizimele, maqondana nokucutshungulwa kwezicelo zokuthola amarekhodi, kumele:

16.1.1 zithole isicelo se-**PAIA** noma se-**POPIA**;

16.1.2 ziqondise ukucutshungulwa kwesicelo enhlanganweni;

16.1.3 zithathe isinqumo sokuvumela noma ukwenqabela ukutholakala kwamarekhodi acelwayo;

16.1.4 zikuxhumane nomceli (isb. zingadinga ukucela eminye imininingwane kumceli noma zingadinga ukucela ukwelula isikhathi sokusingatha isicelo, njll);

16.1.5 zazise umceli ngomphumela wesicelo sakhe se-**PAIA**, isaziso okufanele sinikezwe ngokushesha ngangokunokwenzeka kodwa zingakapheli izinsuku ezingama-30 ngemuva kokuthola isicelo. Isikhathi sokuqala sezinsuku ezingama-30 singanwetshwa kube kanye isikhathi esingeqile kwezinye izinsuku ezingama-30, uma ngokwesibonelo, umceli evumelene nokwelulwa kwesikhathi noma uma ukucingwa kwamarekhodi aceliwe kungenakuphothulwa phakathi nesikhathi sokuqala.

16.1.6 zinikeze umceli izizathu zesinqumo sokunqabela ukutholakala kwamarekhodi. Kubaluleke kakhulu ukuthi izizathu zokwenqaba ezinikezwayo zicace bha, zenabe kahle futhi kufanele zibe nokuthile okuvela ezigabeni ezithile ze-**PAIA** (bheka indima 19.4 ngezansi, maqondana nezizathu zokwenqatshwa kokutholakala kwamarekhodi[18]);

[17] *ngokwesaziso sikaHulumeni R991 sika-14 Okthoba 2005*
[18] *Isigaba 33 kuya ku-46 se-PAIA*

16.1.7 zazise abantu besithathu abafanele ngenqubo yokwazisa abantu besithathu, ngokwesigaba 47 se-**PAIA**; futhi

16.1.8 uma ukutholakala kwamarekhodi kuvunywa, zinike umceli ikhophi yerekhodi.

16.2 Lapho kwaziswa umceli ngesinqumo, makushiwo nezindlela zokuthola usizo olukhona kanye nezikhathi ezifanele (usizo olutholakalayo luhlukile ezinhlanganweni zomphakathi nezizimele).

16.3 Indima nezibopho ezengeziwe zeZikhulu Zezolwazi kanye/noma amaSekela EZikhulu Zezolwazi zichazwe kabanzi kwiZiqondiso zeZikhulu Zezolwazi namaSekela EZikhulu Zezolwazi, uZiqondiso ezitholakala ku https://www.justice.gov.za/inforeg/docs.html

16.4 Ngenxa yokuthi umsebenzi weZikhulu Zezolwazi kanye/noma amaSekela EZikhulu Zezolwazi uwukwenza lula isicelo sokutholakala kolwazi, lokhu kusho nokuthi zinezibopho ezihlukahlukene kulabo abenza isicelo.

16.5 IZikhulu Zezolwazi kanye/noma amaSekela EZikhulu Zezolwazi kumele usizo zilunikeze mahhala.

16.6 IZikhulu Zezolwazi kanye/noma amaSekela EZikhulu Zezolwazi enhlanganweni yomphakathi zinale misebenzi ekhethekile elandelayo:

Imisebenzi YeZikhulu Zezolwazi	Incazelo
Ukusiza ekugcwaliseni ifomu	ISikhulu Sezolwazi kufanele sinikeze usizo olufanele kumceli ekugcwaliseni ifomu lakhe le-**PAIA**, futhi asinakwenqaba ukwamukela ifomu elingagcwaliswanga kahle ngaphandle kwalapho silunikezile lolo sizo, noma sicelile ukulekelela noma ukusiza kodwa umceli wenqaba.
Ukuhlinzeka ngemininingwane edingekayo	Uma kungenzeka, iSikhulu Sezolwazi kufanele sinikeze umceli noma yimiphi eminye imininingwane engase ibaluleke, ngisho noma ingacelwanga ngqo.
Ukudlulisela isicelo	Lokhu kungumsebenzi obaluleke kakhulu. Uma isicelo se-**PAIA** senziwa enhlanganweni yomphakathi engafanele, iSikhulu Sezolwazi kufanele sidlulisele isicelo ehlanganweni yomphakathi efanele zingakapheli **izinsuku**

	eziyi-14 sisitholile leso sicelo futhi kufanele sazise umceli ngokumbhalela ukuthi yilokho esikwenzile ngesicelo sakhe. Uma isicelo sesidlulisiwe, iSikhulu Sezolwazi esifanele kumele siphendule ngesinqumo zingakapheli **izinsuku ezingama-30.**
Ukuhlehliswa kokukhishwa kwamarekhodi	ISikhulu Sezolwazi singanquma ukuhlehlisa ukukhishwa kwerekhodi kumceli uma lelo rekhodi lizoshicilelwa zingakapheli izinsuku ezingama-90 noma uma lelo rekhodi lifunwa ngumthetho ukuba lishicilelwe kodwa kuwuthi yikhona lisazoshicilelwa.

16.7 Kukho kokubili izinhlangano zomphakathi nezizimele, iSikhulu Sezolwazi, uma singakwazi ukuthola amarekhodi athile aceliwe noma sikholelwa ukuthi lawo marekhodi awekho, kumele sithumele incwadi efungelwe enabile noma isiqinisekiso[19] kumceli sinimkeza isaziso sokuthi amarekhodi awacelile awekho noma awatholakali, kodwa futhi sichaze nezinyathelo esizithathile ukuwafuna.

17. USIZO OLUTHOLAKALA KUMLAWULI WEZOLWAZI NGOKWE-PAIA NE-POPIA

17.1 ISikhulu Sezolwazi enhlanganweni yomphakathi sinesibopho sokunikeza usizo olufanele[20], mahhala, lapho kudingeka ukuze lowo mceli noma umninilwazi ahambisane nendlela yokuthola ulwazi njengoba kushiwo esigabeni 18 se-**PAIA** nasesigabeni 23 se-I**POPIA**.

17.2 Kodwa-ke, uma iSikhulu Sezolwazi sihluleka ukufeza umsebenzi waso, okukhulunywe ngawo endimeni 17.1 ngenhla, umceli noma umninilwazi angafaka isikhalazo kuMlawuli futhi uMlawuli, lapho kuphenywa, angakhipha iSaziso Sokuphoqelela esiqondisa eSikhulwini Sezolwazi ukuba sinikeze usizo olufanele.

17.3 UMlawuli, uma kungenzeka, eceliwe, angasiza noma yimuphi umuntu ofisa ukusebenzisa noma yiliphi ilungelo elishiwo kwi-**PAIA** ne-**POPIA**[21], futhi lokhu kubandakanya ukunikeza usizo olufanele, mahhala, lapho kudingeka ukuze lowo mceli noma umninilwazi ahambisane nendlela yokuthola ulwazi njengoba kushiwo esigabeni 18 no-53 se-**PAIA** nasesigabeni 23 se-**POPIA**.

17.4 Lokhu okungenhla kubandakanya ukunikeza isiqondiso sendlela yokugcwalisa ifomu lokuthola ulwazi olufunwa umuntu ongakwazi ukubhala nokufunda nongaboni.

[19] *Isigaba 23(1) no-51(1) ze-PAIA*
[20] *Isigaba 19(1) se-PAIA*
[21] *Isigaba 83(3)(c) se-PAIA*

18. ISIKHULU SEZOLWAZI SINGAKWAZI YINI UKWELULA IZIKHATHI EZIDINGEKAYO?

18.1 Uhlaka lwenqubo nezikhathi ezibalulekile ezidingekayo ziqukethwe emdwebeni wenqubo yokufaka isicelo se-**PAIA**, endimeni 27 ngezansi. Ukuba nezikhathi ezibekiwe kuyingxenye ebalulekile ye-**PAIA**, njengoba kukhuthaza ukuphathwa ngendlela ephumelelayo kwezicelo zokuthola amarekhodi.

18.2 Ukukukhumbuza, uma ususithumele isicelo sakho kahle, iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi, okuyiso esithunyelelwe noma esidluliselelwe isicelo, kufanele sikuphendule ngokushesha ngangokunokwenzeka kodwa kunoma yikuphi **zingakapheli izinsuku ezingama-30**[22]. Kodwa-ke, iSikhulu Sezolwa enhlanganweni yomphakathi noma ezimele singacela ukwelulwa kube kanye **kwesikhathi sezinsuku ezingama-30**[23], kodwa kuphela uma:

18.2.1 isicelo sifuna inqwaba yamarekhodi noma sidinga ukuba kucingwe emarekhodini amaningi kakhulu futhi, ngaphandle kokwelulwa kwesikhathi, lokhu kucinga kungaphazamisa imisebenzi evamile yaleyo nhlangano ethintekayo;

18.2.2 isicelo sidinga ukuba kucingwe kumarekhodi asehhovisi aleyo nhlangano angekho edolobheni elifanayo futhi ngaleyo ndlela kungenakuphothulwa zingakapheli izinsuku ezingama-30; kanye/noma

18.2.3 kudingeka ukuba kuthintwe abathile ngezinga elithile ukuze kufezwe isicelo, okuyinto engenakuphothulwa zingakapheli izinsuku ezingama-30.

18.3 ISikhulu Sezolwazi kufanele sazise umceli ngenhloso yaso yokunweba ubude besikhathi sokuqala, futhi sisho ubude besikhathi esinwetshiwe, isizathu sokunwetshwa kwesikhathi, futhi simazise umceli ngelungelo lakhe -

18.3.1 lokukhalaza lolo daba kwiziphathimandla ezifanele;

18.3.2 lokukhalaza kuMlawuli; noma

18.2.3 lokufaka isikhalo enkantolo sokuphikisa ukwelulwa kwesikhathi lapho kudingeka.

18.4 ISikhulu Sezolwazi kufanele futhi sazise umcelio ngenqubo yelungelo ngalinye kulawa ashiwo ngenhla esazisweni[24].

19. IZIMPENDULO ZESICELO SOKUTHOLA ULWAZI

19.1 I-**PAIA** inikeze umphakathi ilungelo lokucela ukuthola amarekhodi kunoma iyiphi inhlangano yomphakathi noma ezimele. Kuvame ukuchazwa njengomthetho ogcina izakhamuzi zazi ngohulumeni wazo. Izinhlangano zomphakathi kudingeka zidalule noma yiluphi ulwazi olucelwe ngaphansi kwe-**PAIA** ngaphandle uma

[22] *Isigaba 25(1) se-PAIA*
[23] *Isigaba 26(1) se-PAIA*
[24] *Isigaba 26(3) se-PAIA - isaziso sokunweba isikhathi kumele sisho ukuthi umceli angakwazi ukufaka isikhalazo sangaphakathi, akhalaze kuMlawuli Wezolwazi, kuye ngezimo, ngokunwetshwa kwesikhathi, nangenqubo (okubandakanya ubude besikhathi) ukufaka isikhalazo sangaphakathi, ukukhalaza kuMlawuli Wezolwazi, kuye ngezimo.*

ingena ngaphansi kwesinye sezizathu **zokukhululwa eziyishumi nambili (12)** noma izizathu zokuthi kungani ukutholakala kwamarekhodi enhlangano yomphakathi kungase kungavunyelwa noma kungafanele kuvunyelwe[25] kanye nezizathu zokukhululwa **eziyisikhombisa (7)** noma izizathu zokuthi kungani ukuthola amarekhodi enhlangano ezimele kungase kungavunyelwa noma kungafanele kuvunyelwe[26]. Izizathu zokukhululwa eziyishumi nesishiyagalolunye (19) ezihlinzekwe kwi-**PAIA** zihloselwe ukuvikela izintshisekelo ezifana nobumfihlo bemininingwane yomuntu siqu, ukuphepha kwezwe, kanye nokugcinwa komthetho.

19.2 Isimiso esiyisisekelo sokusetshenziswa kwe-**PAIA** siwukukholelwa ekubekeni izinto obala. Lokhu kusho ukuthi noma yisiphi isizathu sokunciphisa lokhu kubekwa kwezinto obala kumele sizwakale. Izinhlangano zomphakathi kufanele nokuba zibheke ukuthi ingabe zingakwazi yini ukudalula ingxenye ethile yolwazi noma nini lapho zinquma ukuthi ukudalulwa kwalo lonke ulwazi akunakwenzeka futhi kufanele zikhiphe noma zihlele kabusha imininingwane engenakudalulwa bese ziyidalula yonke esele.

19.3 Izinhlobo zezimpendulo zezicelo

19.3.1 Lapho isicelo sokuthola irekhodi sesenziwe, iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi, uma isicelo sokuthola irekhodi sivunywa noma sinqatshwa, kumele sazise umceli-

(a) Ngesinqumo saso, kanye
(b) Nezinkokhiso ezifunekayo, uma zikhona,

efomini elihambisana kakhulu neFomu 3 leSithasiselo A kwiMithethonqubo.

19.3.2 Kodwa-ke, i-**PAIA** inikeza uhlu lwezizathu noma izisekelo (zokukhululwa) (bheka indima 19.4 no-19.6 ngezansi) zokuthi kungani isicelo singase senqatshwe noma kufanele senqatshwe. Lokhu kubalulekile, njengoba isicelo singenqatshwa kuphela ngesisekelo sesinye salezi zizathu ezisohlwini lokwenqabela ukuthola amarekhodi.

19.3.3 Naphezu kwezizathu ezibalulwe ngenhla zokwenqatshwa kokutholakala kwamarekhodi, iSikhulu Sezolwazi enhlanganweni yomphakathi kufanele sisivume isicelo sokuthola irekhodi lenhlangano uma intshisekelo yomphakathi ekudalweni kwerekhodi kusobala ukuthi idlula ubungozi obushiwo ezizathwini zokwenqaba ezisohlwini. Lokhu kusho ukuthi umceli angathembela kwintshisekelo yomphakathi noma nini lapho kusetshenziswa esinye sezizathu zokwenqabela ukutholakala kwamarekhodi.

19.3.4 Ngamafuphi, izizathu zokuthi kungani ulwazi lungenakudalulwa zihambisana nokuthi ukudalulwa kwalolo lwazi kungadala umonakalo omkhulu yini kunokungadalulwa kwalo. Kunezinhlobo ezimbili ezehlukene zezizathu zokwenqabela ukutholakala kwamarekhodi enhlangano:

[25] *Isahluko 4 se-PAIA- izizathu zokwenqabela ukutholakala kwamarekhodi (isigaba 34-45 se-PAIA)*
[26] *Isahluko 4 of PAIA - izizathu zokwenqabela ukutholakala kwamarekhodi (isigaba 63-69 se-PAIA)*
[27] *Isigaba 46 se-PAIA*

19.4 **Izizathu eziyimpoqo zokwenqaba (izizathu zokukhululwa)**

19.4.1 Ngenxa yezizathu eziyimpoqo, iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi kufanele sisenqabe isicelo ngoba ziyasebenza kulo rekhodi.

19.4.2 Kunezizathu eziyimpoqo eziningi kunezizathu ezingeyona impoqo. Lokhu okulandelayo kuyizizathu eziyimpoqo zokwenqaba, futhi iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi kumele sisenqabe isicelo ngoba ziyasebenza kulelo rekhodi –

19.4.2.1 **Ukuvikelwa okuyimpoqo kwemininingwane yangasese yomuntu wesithathu ongumuntu wemvelo;**
ISikhulu Sezolwazi enhlanganweni yomphakathi noma ezimele akufanele sivumele umceli ukuba athole imininingwane eyimfihlo yomunye umuntu uma lokho kuzoba 'ukudalula okungafanele'. Izigaba ngokwazo ziveza izizathu ezimbalwa lapho lokhu kungasebenzi khona, njengalapho amarekhodi esevele esesemphakathini, noma lapho umuntu eyinikezile imvume. Udaba lwemvume lubaluleke kakhulu njengoba luxhuma kwenye ingxenye yenqubo umceli okufanele ayazi, ephathelene nezaziso zokwazisa abantu besithathu, ngokwesigaba 5 se-**PAIA**.

19.4.2.2 **Ukuvikelwa okuyimpoqo kwamarekhodi athile oPhiko Lwezentela LwaseNingizimu Afrika;**
ISikhulu Sezolwazi Sakwa-**SARS** akufanele sivumele umceli ukuba athole amarekhodi atholwe, noma agcinwe ngu-**SARS** ngezinhloso zokuqoqa imali. Kodwa-ke, amarekhodi atholwe noma agcinwe yi-**SARS** awanakwenqatshelwa uma isicelo senziwa ngumceli ofuna amarekhodi akhe noma omuntu amcelelayo.

19.4.2.3 **Ukuvikelwa okuyimpoqo kolwazi lwezebhizinisi lomuntu wesithathu;**
ISikhulu Sezolwazi enhlanganweni akumele sivumele umceli ukuba athole ulwazi lwezebhizinisi lomunye umuntu (ngamanye amagama, okungeyena umceli noma ocelwayo). Lokhu kungabandakanya ulwazi olunjengezimfihlo zokuhweba, noma lokho okungasongela ibhizinisi lalowo muntu wesithathu. Isibonelo, i-**KFC** isebenzisa amaresiphi athile, okubandakanya nezithako ezithile ezenziwe umuntu wesithathu, okuyizimfihlo zokuhweba zalowo muntu wesithathu futhi ukuzidalula kungasongela ibhizinisi lalowo muntu wesithathu.

19.4.2.4 **Ukuvikelwa okuyimpoqo kolwazi oluthile oluyimfihlo, nokuvikelwa kolunye ulwazi oluyimfihlo, lomuntu wesithathu;**

IZikhulu Zezolwazi ezinhlanganweni zomphakathi nezizimele akumele zivumele umceli ukuba athole irekhodi uma ukukhishwa kwalo kuzofana nokwephula isivumelwano sokugcina imfihlo esenziwe nomuntu wesithathu.

19.4.2.5 **Ukuvikelwa okuyimpoqo kokuphepha kwabantu, nokuvikelwa kwempahla;**

ISikhulu Sezolwazi ezinhlanganweni somphakathi nezizimele akumele sivumele umceli ukuba athole irekhodi uma ukukhishwa kwalo kungalindeleka ukuba kubeke engcupheni ukuphepha komuntu. Ezigabeni ezifanayo, ibuye ithi iSikhulu Sezolwazi enhlanganweni singase sikwenqabele ukutholakala kwerekhodi uma kungenzeka kuthikameze ukuphepha kwesakhiwo noma kwempahla.

19.4.2.6 **Ukuvikelwa okuyimpoqo kwamadokhethi amaphoyisa lapho kwenziwa ibheyili, nokuvikelwa kokugcinwa komthetho kanye nezinqubo zomthetho;**

ISikhulu Sezolwazi enhlanganweni yomphakathi akumele sivumele umceli ukuba athole amarekhodi anjengamarekhodi ebheyili asevele evikelwe kakade yisigaba 60 soMthetho Wenqubo Yobugebengu. Kuso lesi sigaba, ibuye ithi iSikhulu Sezolwazi enhlanganweni yomphakathi singase sikwenqabele ukutholakala kwamarekhodi okuphoqelelwa komthetho aveza izindlela, amasu, izinqubo zokuvimbela ubugebengu, noma ukushushiswa kwezigebengu, kanye namanye amarekhodi ahlobene nezinqubo zomthetho ezenzekayo.

19.4.2.7 **Ukuvikelwa okuyimpoqo kwamarekhodi avinjelwe ukukhiqizwa ezinqubweni zomthetho;**

ISikhulu Sezolwazi enhlanganweni ezimele akumele sivumele umceli ukuba athole irekhodi uma lelo rekhodi livinjelwe ukukhiqizwa ezinqubweni zomthetho, ngaphandle kwalapho umuntu onelungelo lalelo rekhodi elisusa ilungelo lakhe.

19.4.2.8 **Ukuvikelwa okuyimpoqo kolwazi locwaningo lomuntu wesithathu, kanye nokuvikelwa kolwazi locwaningo lwenhlangano yomphakathi noma ezimele.**

ISikhulu Sezolwazi enhlanganweni akumele sivumele umceli ukuba athole irekhodi uma lelo rekhodi lithintene nocwaningo olwenziwa, noma oluzokwenziwa, yileyo nhlangano ethintekayo futhi ukukhishwa kwalo kungadalula umcwaningi, umuntu wesithathu noma udaba olucwaningwayo okungabangela izinkinga ezinkulu.

19.4.3 Uyacelwa ukuba uphawule ukuthi lezi zizathu ezingenhla eziyimpoqo zokwenqabela ukutholakala kwamarekhodi ziyafana ngadlelathile ezinhlanganweni zomphakathi nezizimele, ngaphandle kokuvikelwa okuyimpoqo kwamarekhodi athile oPhiko Lwezentela LwaseNingizimu Afrika, amadokhethi amaphoyisa lapho kwenziwa ibheyili, ukuphoqelelwa komthetho nawezinqubo zomthetho, ezisebenza kuphela ezinhlanganweni zomphakathi.

19.4.4 Uma kuyingxenye ethile kuphela yerekhodi ethintwa yizizathu zokwenqaba, iSikhulu Sezolwazi enhlanganweni yomphakathi noma ezimele singaphansi kwesibopho sokubheka ukuthi ukudalulwa kwengxenye ethile yolwazi kungenzeka yini noma nini lapho sinquma ukuthi ukudalulwa kwalo lonke ulwazi akunakwenzeka kufanele sithathe izinyathelo ezifanele zokukhipha noma ukuhlela kabusha leyo ngxenye engenakunikezwa umceli bese siyivumela yonke ingxenye esele yerekhodi

19.5 Kuthathwa ngokuthi isicelo senqatshiwe[28]

19.5.1 Ukwehluleka ukuphendula kahle isicelo singakapheli isikhathi esibekiwe kubhekwa ngokuthi 'kuthathwa ngokuthi isicelo senqatshiwe'. Lokhu kubalulekile, ngoba i-**PAIA** ivumela umceli ukuba aphikise isinqumo lapho kungekho sinqumo esenziwe nesicelo singanakangwa. Umceli angavele asho nje lapho efaka isikhalazo sangaphakathi ukuthi akatholanga mpendulo.

19.5.2 Isicelo sokuthola amarekhodi sithathwa njengesenqatshiwe ngemuva kokuphela kwezinsuku ezingama-30 noma kwesikhathi eseluliwe, inhlangano yomphakathi noma ezimele ingaphenduli.

19.6 Izizathu zokwenqaba ezingeyona impoqo

19.6.1 Ngenxa yezizathu ezingeyona impoqo, iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi singabheka ukuthi sisenqabe yini noma cha isicelo ngoba izizathu zisebenza kwirekhodi eliceliwe. Ngenxa yokuthi aziyona impoqo, iSikhulu Sezolwazi kufanele sisebenzise umqondo waso ngokufanele lapho sibheka izizathu ezihlukahlukene, okuyilezi:

19.6.1.1 **ezokuvikela zaseNingizimu Afrika, ezokuphepha kanye nobudlelwano bamazwe omhlaba:** ISikhulu Sezolwazi singakwenqabela ukutholakala kolwazi uma ukukhishwa kwalo kungalindeleka ukuba kusongele ezokuvikela noma ukuphepha kwezwe. Lokhu kungasebenza nalapho ukukhishwa kolwazi kungalimaza ubudlelwano beNingizimu Afrika nelinye izwe, njengokuveza amarekhodi ahlinzekwe ngokuyimfihlo.

19.6.1.2 **Ezomnotho, ezezimali nezebhizinisi:** ISikhulu Sezolwazi singase sikwenqabele ukutholakala kolwazi uma ukukhishwa kwalo kuzolimaza ezomnotho nezezimali zeRiphabhuliki;

[28] *Isigaba 27 no-58 ze-PAIA*

19.6.1.3 **Ukusebenza kwezinhlangano zomphakathi:** ISikhulu Sezolwazi enhlanganweni yomphakathi singakwenqabela ukutholakala kolwazi uma ukukhishwa kwalo kungaphazamisa imisebenzi, ngokwesibonelo uma izama ukwakha inqubomgomo, noma ibhunga ngodaba oluthile;

19.6.1.4 **Izicelo ezibonakala zingenasisekelo noma ezichukuluzayo:** IZikhulu Zezolwazi zingase sisenqabe isicelo solwazi uma zinombono wokuthi ukucubungula lezo zicelo kuzothatha isikhathi ngokungadingekile, kuholele ekuchithekeni kwezimali. Ngaphezu kwalokho, zingakwenqabela ukutholakala kwerekhodi uma kubonakala sengathi umceli wenzela ukucasula nokuchukuluza okungadingekile.

20. UKUDALULWA OKUYIMPOQO KWAMAREKHODI OKUZOZUZISA UMPHAKATHI

20.1 Ngisho noma sikhona isizathu esingeyona impoqo noma esiyimpoqo sokwenqaba isicelo sokuthola amarekhodi ezinhlangano zomphakathi noma ezizimele, kuhlale kunethuba lokuthi izidingo zomphakathi ekudalulweni kwerekhodi zibaluleke kakhulu kunokulimala okungase kubangelwe ukukhishwa kwerekhodi.

20.2 Lapho ukubaluleka kwezidingo zomphakathi kukhona njengoba kushiwo ngenhla futhi ukudalulwa kwerekhodi kuzoveza ubufakazi bokwephulwa okukhulu, noma ukwehluleka ukuthobela umthetho; noma ingozi yokuphepha komphakathi eseduze futhi ebucayi noma ukuba sengcupheni kwezemvelo, lapho-ke iSikhulu Sezolwazi enhlanganweni kufanele sisivume isicelo sokuthola irekhodi naphezu kokuba nezizathu zokwenqaba ezishiwo ngenhla.

21. INQUBO YOKWAZISA UMUNTU WESITHATHU[29]

21.1 ISikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi enhlanganweni, ngokwesigaba 47 no-71 se-**PAIA**, kudingeka sithathe zonke izinyathelo ezifanele zokwazisa umuntu wesithathu ngesicelo serekhodi lakhe noma amarekhodi angaba yirekhodi eliqukethe imininingwane yomuntu yangasese,

21.1.1 irekhodi lakwa-**SARS**;

21.1.2 izimfihlo zokuhweba

21.1.3 imininingwane ukudedelwa kwayo okungaba yizizathu zesenzo sokwephula isibopho sokugcina imfihlo; noma ulwazi locwaningo olungadalula othile noma udaba okungabangela umonakalo omkhulu.

21.2 Isaziso esiya kumuntu wesithathu lowo amarekhodi noma ulwazi lwakhe yilo oluceliwe kufanele simeme umuntu wesithathu ukuba -

[29] *Isigaba 47 no-71 ze-PAIA*

21.2.1 enze izethulo ezibhalwe phansi noma ezenziwa ngomlomo eSikhulwini Sezolwazi ukuthi kungani isicelo sokuthola ulwazi kufanele senqatshwe; noma

21.2.2 anikeze imvume ebhaliwe yokudalulwa kwerekhodi kumceli.

21.3 Okubalulekile kumceli, i-**PAIA** ithi izaziso ezibhaliwe eziya kumuntu wesithathu kufanele zithunyelwe kumuntu wesithathu **zingakapheli izinsuku ezingama-21** isicelo samukelwe, nokuthi iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi kufanele lazise umceli ukuthi isaziso sithunyelwe kumuntu wesithathu.

21.4 Uma leso saziso sesithunyelwe, iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi kufanele sibe sesithatha isinqumo esingujuqu sokuthi sizowadedela yini noma cha amarekhodi **zingakapheli izinsuku ezingama-30** leso saziso sithunyeliwe.

21.5 Umuntu wesithathu kufanele aziswe ngesinqumo esithathiwe futhi kufanele kunikezwe nezizathu ezanele zokuvunywa kwesicelo. Umuntu wesithathu kufanele futhi aziswe nangelungelo nenqubo yokuphikisa isinqumo njengoba kushiwo esigabeni 22 ngezansi.

22. USIZO LWEZOMTHETHO OLUTHOLAKALAYO EKUPHIKISENI IZINQUMO NOMA UKUNGATHATHI SINQUMO KWESIKHULU SEZOLWAZI NOMA ISEKELA LESIKHULU SEZOLWAZI

22.1 Isinyathelo ongasithatha lapho nje isinqumo sesicelo sesenziwe

22.1.1 Umceli angathatha isinyathelo sokulandelela ngokubhala, isinqumo esisalenga seSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi. Kukhuthazwa ukuthi konke ukuxhumana phakathi komceli neSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi kumele kubhalwe phansi ukuze kusetshenziswe esikhathini esizayo.

22.1.2 Kunezinqubo ezihlukahlukene zezinhlangano zomphakthi nezizimele, ikakhulukazi maqondana nezikhalazo zangaphakathi. Isibonelo, maqondana nesicelo sokuthola irekhodi lenhlangano yomphakathi, umceli kufanele aqale ngokufaka isikhalazo sangaphakathi ngaphambi kokuya kuMlawuli noma eNkantolo. Kodwa-ke, asikho isikhalazo sangaphakathi sokuphikisa isinqumo (noma ngabe kuvunyiwe noma kwenqatshiwe ukutholakala kwamarekhodi) noma lokho okuthathwa njengokwenqatshwa kokutholakala kwamarekhodi enkampani ezimele.

22.1.3 Lesi sigaba sizochaza usizo lwezomthetho olutholakalyo kubaceli abafisa ukuphonsela inselelo lezo zinqumo, okubandakanya ukufaka isikhalazo kwangaphakathi, ukufaka isikhalazo kuMlawuli nokuyisa isikhalazo eNkantolo. Bheka neshadi lokulandelana kwezinyathelo zenqubo yesicelo se-**PAIA**, esigabeni 27 ngezansi.

22.1.4 Umceli angase, phakathi kokunye, aphikise isinqumo esilandelayo senhlangano ezimele kanye/noma yomphakathi -

22.1.4.1 ithenda noma ukukhokhwa kwemali yesicelo;

22.1.4.2 ithenda noma ukukhokhwa kwediphozithi;

22.1.4.3 imali yokuthola ulwazi okumele ikhokhwe yeqe kakhulu;

22.1.4.4 indlela enikeziwe yokuthola irekhodi;

22.1.4.5 ukwenqatshwa kwesicelo;

22.1.4.6 inkambiso (okubandakanya nobude besikhathi) yokufaka isikhalazo sangaphakathi;

22.1.4.7 ukunwetshwa kwesikhathi okungafanele okwenzelwe ukuphendula isicelo sokuthola ulwazi;

22.1.4.8 ukwehluleka ukudalula amarekhodi;

22.1.4.9 ukuvunywa kwesicelo sokuthola irekhodi;

22.1.4.10 ukwenqatshwa kwesicelo sokungakhokhi;

22.2 **Usizo lwangaphakathi**

22.2.1 Umceli usifaka kanjani isikhalazo sangaphakathi sokuphikisa isinqumo senhlangano yomphakathi?

22.2.1.1 Isikhalazo sangaphakathi singafakwa kuphela, ngokwesigaba 74 se-**PAIA**, kuziphathimandla ezifanele zomkhakha kahulumeni kazwelonke noma wesifundazwe noma yimuphi umasipala emkhakheni kahulumeni wendawo kuye ngohlobo lwesikhalo.[30]

22.2.1.2 Ngokwesibonelo, iDolobha LaseGoli liyisibonelo somkhakha kahulumeni wendawo lapho isicelo sangaphakathi singafakwa khona. ISikhwama Sezingozi Zomgwaqo noma uMlawuli uyisibonelo senhlangano yomphakathi engeyona ingxenye kahulumeni kazwelonke, wesifundazwe noma wasekhaya njengoba emiswe ngumthetho, okusho ukuthi isikhalazo sangaphakathi asinakufakelwa zona.

[30] *Isigaba 74(1) se-PAIA*

22.2.1.3 Lapho umceli noma umuntu wesithathu engeneme ngesinqumo esenziwe yiSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi emkhakheni kahulumeni kazwelonke, wesifundazwe noma wasekhaya, umceli noma umuntu wesithathu unelungelo lokufaka isikhalazo sangaphakathi, ngokwesigaba 74(1) noma u-(2) kwi-**PAIA**. Inqubo yokufaka isikhalazo ibekiwe ebhukwaneni le-PAIA laleyo nhlangano futhi indlela yokufaka isikhalazo sangaphakathi ichaziwe nalapha ngezansi.

22.2.1.4 Uma impendulo evela emkhakheni kahulumeni kazwelonke, wesifundazwe noma wasekhaya ithathwa njengokwenqaba, ngamanye amazwi, wehlulekile ukuphendula isicelo ezinsukwini ezingama-30 noma kunoma yisiphi isikhathi eseluliwe, umceli angafaka isikhalazo sangaphakathi, ngokwenqubo echazwe lapha, ngaphambi kokuba umceli aye kuMlawuli noma eNkantolo.

22.3 Ukulondolozwa kwamarekhodi kuze kube yilapho sethithathiwe isinqumo sokugcina maqondana nesicelo

22.3.1 ISikhulu Sezolwazi somkhakha kahulumeni kaZwelonke, weSifundazwe noma waSekhaya lapho kufakwe khona isikhalazo sangaphakathi kuyadingeka, ngokwesigaba 21 se-**PAIA**, ukuba sithathe izinyathelo ezifanelekile ezidingekayo ukuze kugcinwe irekhodi futhi asinakucisha noma sishabalalise noma yiliphi irekhodi eliceliwe, kuze kube yilapho ekugcineni seziphothulwe zonke nanoma yiziphi izinqubo zesikhalazo sangaphakathi noma isikhalazo kuMlawuli noma isikhalazo enkantolo, kuye ngohlobo lwesikhalazo.

22.3.2 Lokhu kusho ukuthi isikhulu sezolwazi asikwazi ukucisha noma ukushabalalisa noma yiluphi ulwazi oluceliwe, kuyilapho kusalindwe inqubo eshiwo endimeni 22.3.1.1 ngenhla.

22.4 Isikhalazo sangaphakathi kufanele sibhekiswe kubani?

22.4.1 Nakuba isikhalazo sizobhekwa yisiphathimandla esifanele, isikhalazo sangaphakathi kufanele silethwe noma sithunyelwe eSikhulwini Sezolwazi soMkhakha KaHulumeni kaZwelonke, weSifundazwe noma waSekhaya, kuye ngohlobo lwesikhalazo, ekhelini lakhe, kwinombolo yefeksi noma ekhelini le-imeyili , imininingwane yaso etholakala ebhukwaneni le-**PAIA** noma kuMlawuli.

22.4.2 ISikhulu Sezolwazi emkhakheni kahulumeni kazwelonke, wesifundazwe noma wendawo, kuye ngohlobo lwesikhalazo, sinesibopho esiqondile, ngokwesigaba 75(4) se-**PAIA**, sokuletha isikhalazo kusiphathimandla

[31] *Isigaba 75(1)(b) se-PAIA*

sezikhalazo, kanye nezizathu zaso zesinqumo esiphikiswayo. Ukulethwa kwesikhalazo kuziphathimandla ezifanele kufanele kwenziwe zingakapheli izinsuku eziyi-10 zokusebenza ngemuva kokutholwa kwesikhalazo.

22.5 **Ubani oyisiphathimandla esifanele?**

22.5.1 Isiphathimandla esifanele, lapha esibizwa ngokuthi "yisiphathimandla sezikhalazo" ngokuvamile siyinhloko yezepolitiki enhlanganweni ethintekayo (nakuba lo msebenzi ungadluliselwa ngokusemthethweni komunye umuntu) futhi kusho ngqo abantu abandelayo

Inhlangano Yomphakathi ("UHulumeni")	Isiphathimandla Esifanele ("Isiphathimandla Sezikhalazo")
IHhovisi LikaMongameli	Umuntu oqokwe ngencwadi nguMongameli, uma ekhona, uma kungenjalo uMongameli uyisiphathimandla sezikhalazo.
UMnyango Kazwelonke	UNgqongqoshe owengamele lowo mnyango noma umuntu oqokwe ngencwadi ngulowo Ngqongqoshe
IHhovisi LikaNdunankulu	Umuntu oqokwe ngencwadi nguNdunankulu.
UMnyango Wesifundazwe	ILungu LoMkhandlu Ophethe (**MEC**) elengamele lowo Mnyango Wesifundazwe noma umuntu oqokwe ngencwadi ngu-**MEC**.
UMasipala	IMeya, uSomlomo noma omunye umuntu oqokwe ngencwadi nguMkhandlu KaMasipala walowo masipala.

22.5.2 Noma yisiphi isimo, lapho kungesilo ihhovisi likandunankulu: ilungu lesigungu esiphethe elengamele leyo nhlangano yomphakathi noma umuntu oqokwe ngencwadi yilelo lungu.

22.5.3 Uma isiphathimandla sezikhalazo sivumelana nesinqumo seSikhulu Sezolwazi, kuyosho ukuthi isikhalazo sangaphakathi siyenqatshwa futhi isinqumo sokuqala seSikhulu Sezolwazi siyasebenza. Kodwa-ke, uma isiphathimandla sezikhalazo singavumelani nesinqumo seSikhulu Sezolwazi, kuyosho ukuthi isikhalazo siyavunywa futhi isinqumo sokuqala siyachithwa.

22.5.4 isinqumo seSikhulu Sezolwazi siyaqhubeka sisebenza. Kodwa-ke, uma igunya lezikhalazo lingavumelani nesinqumo seSikhulu Sezolwazi, isikhalazo sizovunywa kuthi isinqumo sokuqala sichithwe.

22.6 Ubani ongafaka isikhalazo sangaphakathi?

22.6.1 Noma yimuphi umceli ofake isicelo se-**PAIA** sokuthola amarekhodi emkhakheni kaHulumeni kaZwelonke, weZifundazwe noma waSekhaya, kuye ngohlobo lwesicelo, sabe sesiyenqatsha, futhi ekholwa ukuthi esinye sezizathu zokufaka isikhalazo ezishiwo endimeni 22.2.4 ngenhla siyasebenza esicelweni sakhe, unelungelo lokufaka isikhalazo sangaphakathi.

22.6.2 Abantu besithathu nabo bangazifaka izikhalazo zangaphakathi eziphikisa isinqumo esenziwe iSikhulu Sezolwazi sokuvumela ukutholakala kwerekhodi elibathintayo. Uma isikhalazo sangaphakathi sithinta umuntu wesithathu, isiphathimandla sezikhalazo esithole isikhalazo sangaphakathi kudingeka sazise labo bantu besithathu (okusho ukuthi umthwalo uyasuka eSikhulwini Sezolwazi uye kusiphathimandla sezikhalazo).

22.7 Ubude besikhathi sokufaka isikhalazo

22.7.1 Isikhalo sangaphakathi kufanele sifakwe -

22.7.1.1 kungakapheli **izinsuku ezingama-60**[32] ngemuva kokuthathwa kwesinqumo;

22.7.1.2 zingakapheli **izinsuku ezingama-30**[33] ngemuva kokuba isaziso sinikezwe umuntu wesithathu mayelana nesinqumo esikhalazelwayo.

22.7.2 Ukufaka isikhalazo sangaphakathi ngemuva kwalesi sikhathi esishiwo ngenhla (sekwedlule isikhathi) akunakuvunyelwa, ngaphandle kwalapho isiphathimandla sezikhalazo sinikezwa isizathu esizwakalayo sokuza sekwephuzile. Isibonelo, njengokulaliswa esibhedlela ngaphezu kwezinsuku ezingama-60 kungamukelwa njengezizathu ezizwakalayo zokuphuza ukufika.

22.7.3 Uma isiphathimandla sezikhalazo singakwamukeli ukufakwa kwesikhalazo sangaphakathi sekwedlule isikhathi, kufanele sikunikeze izizathu zokwenqaba isikhalazo futhi sikunikeze umhlahlandlela wanoma yiluphi olunye ulwazi olwengeziwe, uma lukhona, oludingekayo ukuze samukele isikhalazo. Isiphathimandla sezolwazi kumele futhi sikweluleke ngenqubo yokufaka isikhalazo ngesinqumo saso kuMlawuli noma enkantolo.

[32] *Isigaba 75(1)(a)(i) se-PAIA*
[33] *Isigaba 75(1)(a)(ii) se-PAIA*

22.7.4 Njengoba kubonisiwe ngenhla, isikhalazo sakho kufanele silethwe yiSikhulu Sezolwazi kwisiphathimandla sezikhalazo zingakapheli izinsuku eziyi-10 zokusebenza ngemuva kokuthola isikhalazo sangaphakathi[34].

22.8 **Isaziso sesikhalazo esithunyelwa yisiphathimandla sesikhalazo kumceli noma kumuntu wesithathu**

22.8.1 Isiphathimandla sezikhalazo kufanele, ngokushesha okukhulu ngangokunokwenzeka kodwa kunoma yikuphi kungakapheli **izinsuku ezingama-30** ngemuva kokuthola isikhalazo sangaphakathi[35], sazise -

22.8.1.1 umuntu wesithathu ongumnikazi walelo rekhodi elikhalazelwayo, noma

22.8.1.2 umceli mayelana nesikhalazo sangaphakathi sokuphikisa ukuvunyelwa kwesicelo sokuthola irekhodi.

22.8.2 Umceli noma umuntu wesithathu onikezwa isaziso, zingakapheli **izinsuku ezingama-21** ngemuva kokuba esinikiwe leso saziso, angenza izethulo ezibhaliwe kusiphathimandla sezikhalazo ukuthi kungani isicelo sokuthola irekhodi kufanele sivunyelwe noma kungafanele sivunyelwe.

22.9 **Isinqumo ngesikhalazo sangaphakathi nesesaziso saso[36]**

22.9.1 Isiphathimandla sezikhalazo kufanele sinqume maqondana nesikhalazo sangaphakathi ngokushesha ngangokunokwenzeka kodwa kunoma yikuphi kungakapheli izinsuku ezingama-30:

22.9.1.1 ngemuva kokuthi isikhalazo sangaphakathi sifikile eSikhulwini Sezolwazi kuyo nhlangano;

22.9.1.2 ngemuva kokwaziswa komuntu wesithathu, njengoba kushiwo endimeni 22.3.6.1 ngenhla.

22.9.2 Isinqumo sesiphathimandla sezikhalazo kufanele siyiswe kumkhalazi, umuntu wesithathu nakumceli. Isinqumo sesiphathimandla sezikhalazo kufanele sihambisane nezizathu ezanele zesinqumo, okubandakanya izinhlinzeko ze-**PAIA** noma ze-**POPIA** okusekelwe kuzo isinqumo.

22.9.3 Uma isiphathimandla sezikhalazo sehluleka ukukhipha isaziso ngesinqumo sesikhalazo sangaphakathi sisinike umkhalazi kungakapheli izinsuku ezingama-30, isikhalazo sithathwa njengesichithiwe futhi umkhalazi angaqhubeka afake isikhalazo kuMlawuli noma aye eNkantolo ukuze athole usizo olufanele[37].

[34] *Isigaba 75(4) se-PAIA*
[35] *Isigaba 76(2)(a) se-PAIA*
[36] *Isigaba 77 se-PAIA*
[37] *Isigaba 77(7) se-PAIA*

22.10 Ukugcwalisa isikhalazo sangaphakathi - IFomu 4

22.10.1 Ukuze afake isikhalazo sangaphakathi sokuphikisa noma yisiphi isinqumo esenziwe umkhakha kaHulumeni kaZwelonke, weSifundazwe noma waSekhaya, umceli kumele afake isikhalazo sakhe sangaphakathi ngokugcwalisa iFomu 4. IFomu 4 kufanele lithunyelwe eSikhulwini Sezolwazi emkhakheni kahulumeni othintekayo, okuzobe-ke sona sekudingeka ukuba sisidlulisele kusiphathimandla sezikhalazo, njengoba kushiwo ngenhla.

22.10.2 IFomu 4 liyatholakala kwiwebhusayithi yoMlawuli, https://www.justice.gov.za/inforeg/, nakuwebhusayithi yomkhakha kaHulumeni othintekayo.

22.10.3 ISikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi emkhakheni kaHulumeni othintekayo asikho ngaphansi kwesibopho esiqondile sokusiza umceli agcwalise ifomu lesikhalazo sangaphakathi; kodwa-ke, umceli usengasicela iSikhulu Sezolwazi ukuba simsize kulokhu.

22.10.4 Ngezansi kunenqubo yesinyathelo ngasinye sokugcwalisa ifomu lesikhalo sangaphakathi

Imininingwane edingekayo	Incazelo
Imininingwane yenhlangano yomphakathi	Le ngxenye kufanele ibe negama lomkhakha othintekayo kaHulumeni kaZwelonke, weSifundazwe noma waSekhaya, negama nesibongo seSikhulu Sezolwazi.
Imininingwane somkhalazi ofake isikhalazo sangaphakathi	Le ngxenye kufanele igcwaliswe ngumkhalazi, kungaba umelele othile noma cha. Amagama aphelele nesibongo, inombolo kamazisi kanye nesikhundla akwenza ngaso lokhu, okubandakanya lapho isikhalazo sangaphakathi senzelwa omunye umuntu, uma kudingeka, kufanele konke kushiwo. Uma umuntu ezenzela yena isikhalazo, kufanele akusho lokho. Imininingwane eyengeziwe edingekayo ibandakanya imininingwane yokuxhumana nalowo mceli:

Imininingwane edingekayo	Incazelo
	ikheli leposi, ikheli le-imeyili, ifeksi kanye/noma inombolo yocingo. Le minininingwane kufanele ifane nesesicelweni sokuqala. Uma umuntu ogcwalisa ifomu engummeleli womceli, ubufakazi besikhundla asifaka ngaso isikhalazo kufanele buhlanganiswe naleli fomu.
Imininingwane yomuntu owenzelwa isicelo (Uma sifakwa ngumuntu wesikhathu)	Le ngxenye idinga ukugcwaliswa kuphela ngumuntu ulwazi alucelela omunye umuntu. Uma umuntu ofaka isikhalazo sangaphakathi kungeyena umuntu owayecele ulwazi ekuqaleni, imininingwane yalowo mceli kufanele ihlinzekwe lapha. Uma umuntu ezenzela yena isicelo, akudingeki ukuba le ngxenye igcwaliswe.
Isinqumo esifakelwe isikhalazo sangaphakathi	Ifomu linesikhala sokuba umceli abonise ngo-"x", ukuthi yisiphi ezizathwini zokukhalaza ezisohlwini esisebenza esikhalazweni sakhe.
Izizathu sokukhalaza	Ngaphansi kwale ngxenye, umceli kudingeka achaze kabanzi ukuthi kungani ecabanga ukuthi izizathu zokukhalaza ziyasebenza kuye. Kudingeka anikeze izizathu zokuthi kungani ecabanga ukuthi isinqumo seSikhulu Sezolwazi asilungile. Kudingena nokuba afake noma yimaphi amaphepha asekela isikhalazo. Uhlu lwezizathu ezisekela isikhalazo lungachazwa kabanzi ekhasini elihlukile, uma isikhala esisefomini singenele. Amakhasi angeziwe azothunyelwa kufanele asayinwe.

Imininingwane edingekayo	Incazelo
	Kufanele kube nezizathu ezanele nemininingwane esekelayo ukuze isiphathimandla sezikhalazo senze isinqumo sinolwazi. Lokho kusho ukuthi umuntu kufanele futhi afake uhlaka lwazo zonke izinto ezenzekile kuze kube yilapho efaka isikhalazo sangaphakathi. Ekhasini elihlukile, umuntu angakhomba izigaba ezithile ze-**PAIA** njengesisekelo sesikhalazo.
Isaziso sesinqumo sesikhalazo	Kunesikhala sokuchazwa kwendlela isinqumo okufanele sithunyelwe ngayo, ngokwesibonelo ngeposi, ngekhuriya noma ngefeksi noma nge-imeyili. Sicela ukhethe indlela oyithandayo yokuthola isaziso.

22.10.5 Nakuba kungekho lutho oluvimbela umuntu ukuba athole ummeli ozomsiza kunoma yiliphi iqophelo lesicelo solwazi, izinqubo ezehlukahlukene ze-**PAIA** zenzelwe ukwenza izinto zibe lula, okususa isidingo sommeli nezindleko zezomthetho okumele zikhokhwe.

23. ISIKHALAZO ESIYA KUMLAWULI WEZOLWAZI

23.1 Umceli noma umuntu wesithathu angathumela kuphela isikhalazo kuMlawuli ngemuva kokuba lowo mceli noma lowo muntu wesithathu eseyenze yonke inqubo yesikhalazo sangaphakathi sokuphikisa isinqumo seSikhulu Sezolwazi emkhakheni kahulumeni kazwelonke, wesifundazwe noma wasekhaya. Lokhu kusho ukuthi umuntu angaletha kuphela isikhalazo sakhe, sokukhalaza ngomkhakha othile kahulumeni kuMlawuli uma umuntu engathokozile ngesinqumo sesiphathimandla sesikhalazo. UMlawuli uzosenqaba isikhalazo uma inqubo yokukhalaza emkhakheni othintekayo kahulumeni ingakapheli.

23.2 Kodwa-ke, maqondana nenhlangano yomphakathi (lapho isikhalazo sangaphakathi singasebenzi) nenhlangano ezimele, umceli noma umuntu wesithathu angasithumela isikhalazo kuMlawuli, uma engagculisekile ngesinqumo senhlangano ethintekayo.

23.3 Isikhalazo somceli noma somuntu wesithathu esiya kuMlawuli kufanele sifakwe zingakapheli izinsuku eziyi-180 ngemuva kokuthola isinqumo senhlangano.

23.4 Umceli angafaka isikhalazo kuMlawuli, uma engajabulile -

23.4.1 ngomphumela wesikhalazo sangaphakathi kwisiphathimandla sezikhalalo kunoma yimuphi umkhakha kahulumeni;

23.4.2 ngesinqumo sesiphathimandla sezikhalo sokungavumeli ukufakwa kwesikhalazo sangaphakathi sekwedlule isikhathi;

23.4.3 ngesinqumo seSikhulu Sezolwazi enhlangaweni yomphakathi engeyona ingxenye yanoma yimuphi umkhakha kahulumeni –

23.4.3.1 sokwenqaba isicelo sokuthola ulwazi; noma

23.4.3.2 sokunweba isikhathi sokusingatha isicelo; noma

23.4.3.3 sokukhipha imvume ngendlela ethile.

23.4.4 ngesinqumo senhloko yenhlangano ezimele -

23.4.4.1 sokwenqaba isicelo sokuthola ulwazi; noma

23.4.4.2 sokufuna kukhokhwe imali yesicelo, noma idiphozithi yokuthola ulwazi; noma

23.4.4.3 sokwelula isikhathi sokusingatha isicelo; noma

23.4.4.4 sokukhipha imvume ngendlela ethile.

23.5 Umuntu wesithathu angafaka isikhalazo kuMlawuli, uma engajabule -

23.5.1 ngomphumela wesikhalazo sangaphakathi kwisiphathimandla sezikhalazo emkhakheni kahulumeni othintekayo;

23.5.2 ngesinqumo seSikhulu Sezolwazi enhlanganweni yomphakathi engeyona ingxenye yanoma yimuphi umkhakha kahulumeni sokuvuma isicelo sokuthola ulwazi; noma

23.5.3 ngesinqumo senhloko yenhlangano ezimele sokuvuma isicelo sokuthola irekhodi laleyo nhlangano

23.6 **Umuntu ukhalaza kanjani kuMlawuli?**

23.6.1 Isikhalazo kuMlawuli kufanele sibhalwe phansi futhi nefomu lesikhalazo kufanele ligcwaliswe, kungaba ngesandla noma kwi-inthanethi. Ifomu lesikhalazo, iFomu 5, lingadonswa kuwebhusayithi yoMlawuli, https://www.justice.gov.za/inforeg/

23.6.2 Lokhu kusho ukuthi uMlawuli ngeke asamukele isikhalazo ngocingo; kodwa-ke, uMlawuli kudingeka ukuba anikeze usizo olufanele kunoma yimuphi umuntu ofisa ukufaka isikhalazo futhi lokhu kubandakanya usizo maqondana nokugcwalisa ifomu lesikhalazo.

23.6.3 Uma umuntu ephikisa isinqumo seSikhulu Sezolwazi enhlanganweni ezimele, kufanele anikeze ubufakazi obanele bokufakazela ukuthi irekhodi eliceliwe liyadingeka ekusetshenzisweni noma ekuvikeleni noma yimaphi amanye amalungelo. Ukutholakala kwamarekhodi enhlangano ezimele kungavunyelwa kuphela uma umuntu efakazela ukuthi uhlose ukusebenzisa noma ukuvikela noma yimaphi amanye amalungelo ngalelo rekhodi eliceliwe.

23.7 **Kwenzekani ngemuva kokuthola isikhalazo?**

23.7.1 Lapho ethola isikhalazo somuntu, uMlawuli kufanele -

23.7.1.1 aphenye isikhalazo futhi adlulisele lokho akutholile eKomidini Lezokuphoqelela ukuze kuthathwe isinqumo; noma

23.7.1.2 angathathi sinyathelo ngesikhalazo ngenxa yokuthi -

23.7.1.2.1 isikhalazo asithunyelwanga esikhathini esiyizinsuku eziyi-180 futhi kungekho zizathu ezizwakalayo zokuthethelela ukulethwa kwesikhalazo sekwedlule isikhathi;

23.7.1.2.2 isikhalazo asinasisekelo noma siyachukuluza noma asenziwanga ngezinhloso ezinhle; noma

23.7.1.2.3 ngokubheka zonke izimo zesicelo, noma yisiphi esinye isenyathelo asidingekile noma asifanele. Isibonelo, imininingwane eceliwe isiyatholakala kakade emphakathini.

23.7.1.3 lapho ukuxolelana okufanele noma ukusebenzisa imizamo yakhe engcono kakhulu yokuthola leso sixazululo noma ukusiza izinhlangothi zixazulule izingxabano zazo; nokuba

23.7.1.4 eluleke umkhalazi kanye neSikhulu Sezolwazi, esithintwa yisikhalazo, ngesinyathelo okumele sithathwe.

23.8 Ukuxhumana kokuqala koMlawuli nomkhalazi neSikhulu Sezolwazi maqondana nesikhalazo esifakiwe

23.8.1 Uma uMlawuli ethatha isinqumo sokungasathathi zinyathelo ngesikhalazo, uMlawuli uzokwazisa umceli ngaleso sinqumo nezizathu zokungasasithathi esinye isinyathelo ngesikhalazo.

23.8.2 Uma uMlawuli enquma ukusiphenya isikhalazo, umceli uzothola incwadi emazisayo ukuthi uMlawuli unqume ukwenza uphenyo.

23.8.3 Lapho isikhalazo sifika, uMlawuli uzodlulisela imininingwane yesikhalazo eSikhulwini Sezolwazi enhlanganweni ethintekayo, bese esicela ukuba sithumele kuMlawuli, impendulo ebhaliwe maqondana nesikhalazo.

23.9 Amandla oMlawuli okuphenya

23.9.1 UMlawuli unamandla, ngokwesigaba 77G(2) se-**PAIA** -

23.9.1.1 ukusebenzisa yonke imizamo yakhe engcono ukufinyelela leso sixazululo;

23.9.1.2 ukubiza futhi aphoqelele ukuvela kwabantu phambi koMlawuli;

23.9.1.3 ukubaphoqa ukuba banikeze ubufakazi bomlomo noma obubhaliwe ngaphansi kwesifungo nokuba baveze noma yimaphi amarekhodi;

23.9.1.4 ukuthola nokwamukela noma yibuphi ubufakazi nolunye ulwazi, kungaba ngesifungo, nge-afidavithi;

23.9.1.5 angene futhi aseshe noma yiziphi izakhiwo ezihlala labo abathinyekayo;

23.9.1.6 enze ingxoxo yangasese nanoma yimuphi umuntu kunoma yisiphi isakhiwo angena kuso; nokuba

23.9.1.7 abuze noma yini noma yimiphi imibuzo kulezo zakhiwo uMlawuli ayibona ifanele.

23.10 Ukuhlola ukuhambisana nezinhlinzeko ze-PAIA

23.10.1 UMlawuli angahlola ukuthi ingabe inhlangano yomphakathi noma ezimele ngokuvamile iyahambisana yini nezinhlinzeko ze **PAIA**.

23.10.2 UMlawuli angenza ukuhlola okungahleliwe kokuthi inhlangano iyahambisana yini nezinhlinzeko, ngokuzithandela kwayo, kodwa-ke, uMlawuli angenza nokuhlola ukuhambisana nezinhlinzeko uma ecelwa noma enzela iSikhulu Sezolwazi enhlanganweni noma omunye umuntu. Lokhu kusho ukuthi noma yimuphi umuntu angacela uMlawuli ukuba ahlole ukuthi inhlangano iyahambisana yini nezinhlinzeko. Umuntu futhi angafaka isicelo esingaziwa-mnikazi sokuba kuhlolwe ukuthi inhlangano iyahambisana yini nezinhlinzeko, ngokusho ukuthi ucela ukuhlala engaziwa.

23.10.3 UMlawuli uzohlinzeka umuntu ocele ukuhlolwa ukuhambisana nezinhlinzeko umbiko walokho kuhlola kanye nezincomo zezinyathelo okufanele zithathwe, uma zikhona.

23.11 Isazizo Solwazi

UMlawuli anganikeza iSikhulu Sezolwazi enhlanganweni iSaziso Solwazi esidinga leyo nhlangano ukuba inikeze uMlawuli imininingwane ebalulwe esazisweni. Isibonelo, uma isikhalazo esifakwe kuMlawuli siphathelene nokwenqatshwa kokutholakala kolwazi ngokwanoma yiziphi izizathu zokwenqaba, uMlawuli angacela, kwiSaziso Solwazi, amakhophi amarekhodi lawo esikwenqabele ukutholakala kwawo ukuze anqume ukuthi izizathu zokwenqaba ziyezwakala yini noma cha.

23.12 Ukusungulwa KweKomidi Lokuphoqelela

23.12.1 UMlawuli kudingeka ukuba asungule iKomidi Lokuphoqelela[38], elinamandla -

23.12.1.1 okucubungula zonke izindaba ezidluliselwe kulo nguMlawuli ngokwe-**PAIA** bese lisho elikutholile ngazo; nokuba

23.12.1.1 lenze noma yiziphi izincomo kuMlawuli maqondana nanoma yisiphi isinyathelo okufanele sithathelwe iSikhulu Sezolwazi kuleyo nhlangano.

23.13 Isaziso Sokuphoqelela

23.13.1 UMlawuli, ngemuva kokubheka izincomo zeKomidi Lokuphoqelela, anganikeza iSikhulu Sezolwazi kuleyo nhlangano iSaziso Sokuphoqelela -

[38] *Isigaba 50 se-POPIA*

23.13.1.1 eqinisekisa, echibiyela noma esichitha isinqumo esikhalazelwayo; noma

23.13.1.2 edinga ukuba iSikhulu Sezolwazi sithathe isinyathelo noma singathathi isinyathelo njengokusho koMlawuli Wezolwazi esazisweni.

23.14 **Iyini imiphumela yokungahambasani neZaziso Zokuphoqelela?**

23.14.1 ISikhulu Sezolwazi enhlanganweni esenqaba ukuhambisana nesaziso sokuphoqelela siba necala futhi sizohlawuliswa noma sigqunywe ejele isikhathi esingeqile eminyakeni emithathu noma sigwetshwe kokubili inhlawulo nokugqunywa ejele.

23.14.2 Isigaba 77K se-**PAIA** siqokomisa ukubaluleka kwelungelo lokuthola ulwazi noma amarekhodi. Lesi sigaba siqinisa nokubaluleka koMlawuli maqondana nokugqugquzelwa kwelungelo lokuthola ulwazi.

24. UKUFAKA ISICELO ENKANTOLO

24.1 **Ubani ongafaka isicelo enkantolo ephikisa isinqumo?**

24.1.1 Umceli noma umuntu wesithathu angafaka isikhalazo enkantolo sokuthola usizo olufanele ngokwesigaba 82 kulezi zimo ezilandelayo kuphela:

24.1.1.1 ngemuva kokuba lowo mceli noma lowo muntu wesithathu esekwenze konke okusenqubweni yesikhalazo sangaphakathi okukhulunywe ngayo esigabeni 22.3 ngenhla; noma

24.1.1.2 ngemuva kokuba lowo mceli noma lowo umuntu wesithathu esekwenze konke okusenkambisweni yezikhalazo okukhulunywe ngayo esigabeni 77A.

24.1.2 Ngokwesigaba 78(1) se-**PAIA**, umceli noma umuntu wesithathu unezinketho ezimbili, kungaba ukudlulisela isinqumo, esishiwo ezigabeni 22.2.4, 23.4 no-23.5 ngenhla, kuMlawuli noma eNkantolo. Yize umuntu engaphoqelekile ukuya kuMlawuli ngaphambi kokuya eNkantolo, kutuswa ukuba umuntu acabange ngokuya kuMlawuli, njengoba uMlawuli enezindlela eziningi futhi ezisheshayo zokuxazulula izingxabano, ngokungafani neNkantolo.

24.1.3 Kodwa-ke, ukuze iNkantolo ibe negunya lokwahlulela udaba, umceli noma umuntu wesithathu kufanele -

24.1.3.1 kube ukuthi akavumelani nezinqumo, ezishiwo esigabeni 22.2.4, 23.4 noma u-23.5 ngenhla; noma

24.1.3.2 kube ukuthi usekwenze konke okusenkambisweni yezikhalazo noMlawuli noma ehoxisa isikhalazo kuMlawuli. Lokhu kusho ukuthi umuntu akakwazi ukuya eNkantolo uma isikhalazo sakhe sisesezithebeni zoMlawuli.

24.1.4 Uma umuntu ephikisa isinqumo seSikhulu Sezolwazi enhlanganweni ezimele, kudingeka ukuba anikeze ubufakazi obanele bokufakazela ukuthi irekhodi eliceliwe liyadingeka ekusebenziseni noma ekuvikeleni noma yimaphi amanye amalungelo.

24.2 Umuntu angasifaka nini isikhalazo eNkantolo esiphikisa isinqumo senhlangano noma soMlawuli?

24.2.1 Isikhalazo esifakwa eNkantolo ngumceli noma ngumuntu wesithathu, ongaphumelelanga esikhalazweni sangaphakathi kwisiphathimandla sezikhalazo emkhakheni othintekayo kahulumeni noma engavumelani nesinqumo seSikhulu Sezolwazi enhlanganweni ethile (esishiwo ku-22.2.4 , 23.4 noma ku-23.5 ngenhla) noma leso soMlawuli, kufanele sifakwe kungakapheli izinsuku eziyi-180 kusukela ngosuku lwaleso sinqumo.

24.2.2 ISikhulu Sezolwazi enhlanganweni ethile noma isiphathimandla sezikhalazo kuHulumeni, kuye ngohlobo lwesikhalazo, singavumelani nesinqumo soMlawuli, singafaka isicelo enkantolo ukuze sithole usizo olufanele ngokwesigaba 82, zingakapheli izinsuku eziyi-180[39].

24.2.3 Umceli, umuntu wesithathu, noma inhlangano, bangafaka isikhalazo enkantolo sokuba iNkantolo ibuyekeze noma yiziphi izinqumo abangavumelani nazo.

24.2.4 Ukufaka isikhalazo eNkantolo ngaphansi kwe-**PAIA** kwenziwa ngezinkambiso zomthetho, futhi kufanele kube yisinyathelo sokugcina.

24.2.5 Amacala okuthola ulwazi angalalelwa phambi kweNkantolo KaMantshi, njengenkantolo yokuqala[40], kanye neNkantolo Ephakeme enamandla afanele.

24.2.6 Ukwehluleka ukufaka isikhalazo kungakapheli izinsuku eziyi-180 kungavunyelwa yiNkantolo uma umuntu ebonisa ukuthi izidingo zobulungiswa zifuna kanjalo. Lokhu kusho ukuthi inkantolo ingasamukela isikhalazo esifike sekwedlule isikhathi uma udaba

[39] *Isigaba 78(4) se-PAIA*
[40] *Isigaba 91A se-PAIA neMithetho Yokugqugquzelwa kokutholakala kolwazi, 2019*

oluzokwahlulelwa lutholakala lunezinhloso zobulungiswa. Uma amarekhodi aceliwe ezosiza umuntu ekufakeni isikhalazo sokuboshwa noma ezosiza umuntu ekutholeni olunye usizo lwezokwelashwa, ngokwesibonelo, inkantolo kungenzeka imnikeze ushwele kulokhu.

24.2.7 Isicelo singalethwa ngokuhambisana nenqubo ebekwe kumthetho 53 weMithetho YeNkantolo Ephakeme noma ngokomthetho 55 weMithetho YeNkantolo KaMantshi uma kungekho marekhodi noma irekhodi elingaphelele elilethwe ngumphathi.

24.2.8 Uma irekhodi selilethiwe kakade, isikhalazo siyolethwa ngokomthetho 55 weNkantolo KaMantshi, uma nje kunesizathu sokuthi umceli uyakholelwa ukuthi irekhodi eliphelele lezinqubo kungenzeka ukuthi alizange lihlinzekwe ngumphathi, umkhalazi angaqhubeka ngokulandela inqubo ebekwe kuMthetho 53 weMithetho YeNkantolo Ephakeme, ngokukhetha kwayo, kepha abonise kwi-afidavithi yakhe ukuthi kungani kunesizathu sokukholelwa ukuthi irekhodi eligcwele alizange lilethwe[41].

24.3 Siyini isimo esingokomthetho sesinqumo soMlawuli lapho kusalindwe isinqumo seNkantolo?

Amandla oMlawuli atholakala ikakhulu kuMthethosisekelo, i-**POPIA** ne-**PAIA**. Ngenxa yalokhu, isaziso sokuphoqelela esikhishwa uMlawuli sinemiphumela yezomthetho, okusho ukuthi siyabopha kuze kube yilapho inkantolo yomthetho inquma okwehlukile. Izinqumo zoMlawuli ziyasebenza futhi ziyaphoqeleka ngaphandle uma kuneNkantolo efanele esho okwehlukile.

24.4 Yimiphi imiyalelo engakhishwa yiNkantolo elalela isikhalazo?

24.4.1 Inkantolo (kungaba ekaMantshi noma iNkantolo Enkulu) elalela isikhalazo ingenza le miyalelo elandelayo -

24.4.4.1 ukuqinisekisa, ukuchibiyela noma ukuchitha isinqumo seSikhulu Sezolwazi, noma seSiphathimandla Sezikhalazo noma soMlawuli Wezolwazi;

24.4.4.2 ukuyalela iSikhulu Sezolwazi noma iSiphathimandla Sezikhalazo ukuba sithathe isinyathelo esithile noma singasithathi isinyathelo esithile ngokubona kweNkantolo phakathi nesikhathi esithile esishiwo kulowo myalelo.;

24.4.4.3 ukukhipha incwadi evimbelayo yesikhashana noma usizo oluthile oluqondile, umyalelo oyisixazululo noma umyalelo wesinxephezelo;

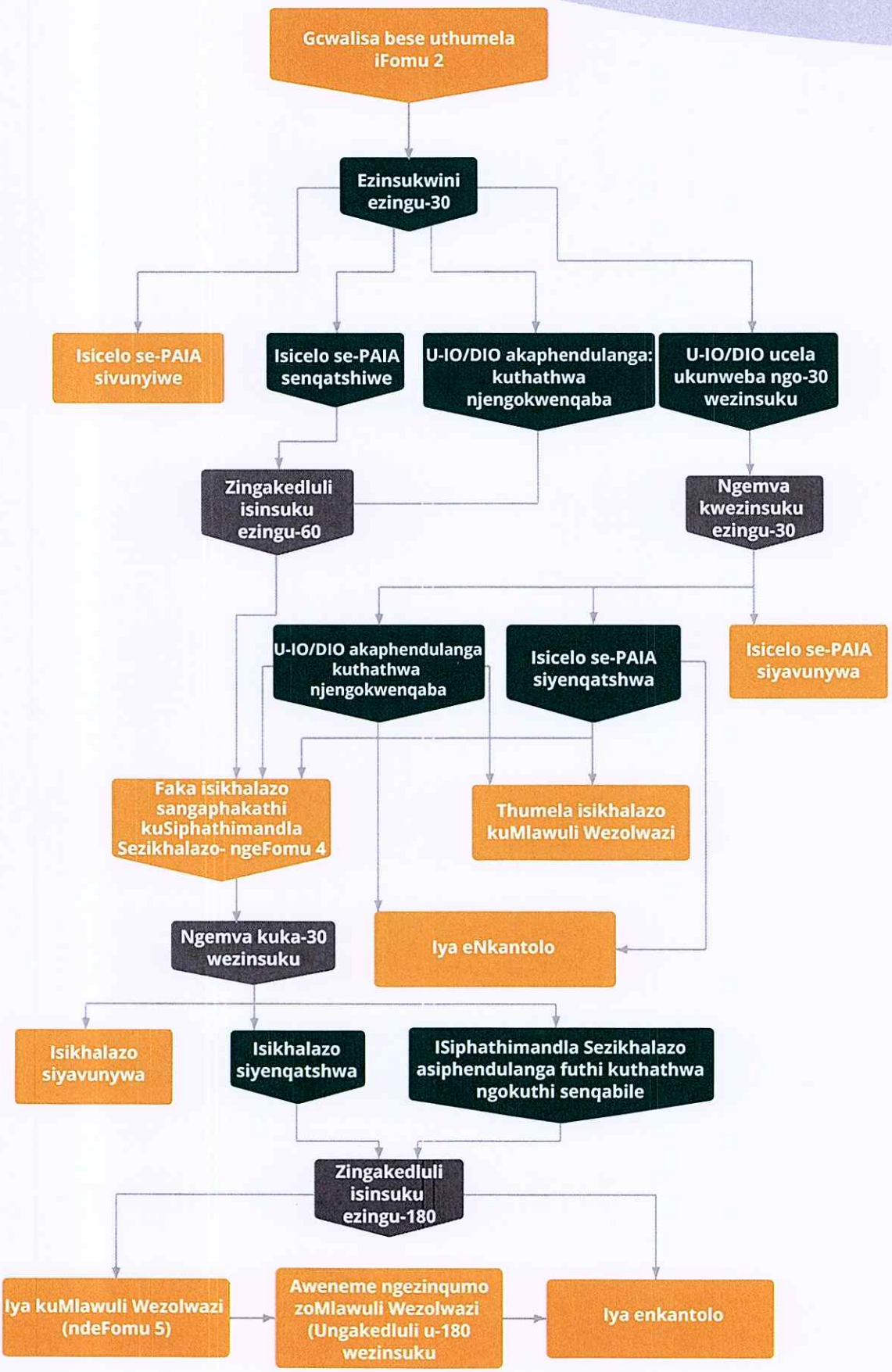
[41] *UMthetho 4 IMithetho yokugqugquzelwa kokutholakala kolwazi, 2019*

24.4.4.4 ukukhipha umyalelo wezindleko kunoma obani abathintekayo;

24.4.4.5 ngenxa yezobulungiswa, ukuxolela ukungalandelwa kwenkathi yezinsuku eziyi-180 zokufaka isikhalazo. Njengoba kushiwo ngenhla, izizathu ezanele zokuhluleka ukulandela isikhathi esinqunyiwe kufanele zichazwe kabanzi esikhalazweni esihambisana nesicelo sikashwele.

25. ISHADI LENQUBO YESICELO SE-PAIA

Sicela ubheke ukulandelana kwezinyathelo zenqubo ngothi lwazo, ezinqubweni okumele zilandelwe lapho usebenzisa ilungelo lokuthola ulwazi.


Gcwalisa bese uthumela iFomu 2
Ezinsukwini ezingu-30
Isicelo se-PAIA sivunyiwe
Isicelo se-PAIA senqatshiwe
U-IO/DIO akaphendulanga: kuthathwa njengokwenqaba
U-IO/DIO ucela ukunweba ngo-30 wezinsuku
Zingakedluli isinsuku ezingu-60
Ngemva kwezinsuku ezingu-30
U-IO/DIO akaphendulanga kuthathwa njengokwenqaba
Isicelo se-PAIA siyenqatshwa
Isicelo se-PAIA siyavunywa
Faka isikhalazo sangaphakathi kuSiphathimandla Sezikhalazo- ngeFomu 4
Thumela isikhalazo kuMlawuli Wezolwazi
Ngemva kuka-30 wezinsuku
Iya eNkantolo
Isikhalazo siyavunywa
Isikhalazo siyenqatshwa
ISiphathimandla Sezikhalazo asiphendulanga futhi kuthathwa ngokuthi senqabile
Zingakedluli isinsuku ezingu-180
Iya kuMlawuli Wezolwazi (ndeFomu 5)
Aweneme ngezinqumo zoMlawuli Wezolwazi (Ungakedluli u-180 wezinsuku
Iya enkantolo

26. IMITHETHONQUBO EYENZIWE NGOKWESIGABA 92 SE-PAIA

26.1 Ngokwesigaba 92(1) no-92(4) kwi-**PAIA**, uNgqongqoshe wenza iMithethonqubo emayelana nokuGqugquzelwa Kokutholakala Kolwazi, ehlanganisa izindaba ezilandelayo

26.1.1 Izibopho zoMlawuli Wezolwazi **(umthethonqubo 2)**;

26.1.2 Izibopho zeZikhulu Zezolwazi **(umthethonqubo 3)**

26.1.3 Ukutholakala ngokuzenzakalelayo kwamarekhodi athile ezinhlangano zomphakathi **(umthethonqubo 4)**

26.1.4 Ukudalula ngokuzithandela nokutholakala ngokuzenzakalelayo kwamarekhodi athile ezinhlangano ezizimele **(umthethonqubo 5)**

26.1.5 Ukutholakala kwamarekhodi amaqembu ezepolitiki **(umthethonqubo 6)**

26.1.6 Isicelo sokuthola ulwazi **(umthethonqubo 7)**

26.1.7 Umphumela wesicelo nezinkokhiso **(umthethonqubo 8)**

26.1.8 Isikhalazo sangaphakathi sokuphikisa isinqumo sesikhulu sezolwazi senhlangano yomphakathi **(umthethonqubo 9)**

26.1.9 Ukufaka izikhalazo **(umthethonqubo 10)**

26.1.10 Inqubo ephathelene nokuphenywa kwezikhalazo **(umthethonqubo 11)**

26.1.11 Ukuxazululwa kodaba **(umthethonqubo 12)**

26.1.12 Ukulanyulwa kodaba **(umthethonqubo 13)**

26.1.13 Ukucubungula **(umthethonqubo 14)**

26.1.14 Ukuxhumana ngezobuchwepheshe **(umthethonqubo 15)**

26.1.15 Amacala nezinhlawulo **(umthethonqubo 16)**

26.2 Ngokwesigaba 79(1) se-**PAIA**, iBhodi Lemithetho yeZinkantolo Zomthetho, ngemvume kaNgqongqoshe, lenza imithetho yenqubo -

26.2.1 yenkantolo maqondana nezicelo ngokwesigaba 78 se-**PAIA**; neyokuba

26.2.2 inkantolo ithole izethulo zabathintekayo okukhulunywe ngazo esigabeni 80(3)(a).

27. IMITHETHO ESEMQOKA, IMITHETHONQUBO, IZAZISO NESIVUMO

Imithetho, njengoba iyaye ichitshiyelwe ngezinye izikhathi
UMthetho Wokugqugquzelwa Kokutholakala Kolwazi, uMthetho 2 ka-2000
UMthetho Wezobulungiswa Bokuphatha, uMthetho 3 ka-2000
UMthetho Wokuchitshiyelwa Komthetho Wokugqugquzelwa Kokutholakala Kolwazi, uMthetho 54 ka-2002
UMthetho Wokuvikelwa Kwemininingwane Yabantu, uMthetho 4 ka-2013
UMthetho Wokuchitshiyelwa Komthetho Wokugqugquzelwa Kokutholakala Kolwazi, uMthetho 31 ka-2019
UMthetho Wokuxhaswa Ngezimali Kwabaqembu Ezepolitiki, uMthetho 6 ka-2018

Imithethonqubo Nezaziso		
Isaziso SikaHulumeni	**Usuku lokushicilelwa**	**Isihloko nencazelo**
Isaziso Sikahulumeni R. 757 esikwi-GG Nombolo 45057	27 Agasti 2021	Imithethonqubo ehambisana Nokugqugquzelwa Kokutholakala Kolwazi, 2021
Isaziso SikaHulumeni R.991 ku GG 28107	14 Okthoba 2005	Imithethonqubo echaza izizathu zokukhululwa komuntu ekukhokheni izinkokhiso.
Isaziso Sikahulumeni 397 esikwi-GG Nombolo 44785	30 Juni 2021	Ukukhululwa kwezinhlangano ezithile ezizimele ekwenzeni iBhukwana Le-**PAIA**.
Isaziso SikaHulumeni 1217 ku GG 42717	19 Septhemba 2019	Ukuqokwa kweziNkantolo ZikaMantshi njengezinamandla okulalela izindaba ze-**PAIA**.
Isaziso SikaHulumeni R. 1284 ku GG 42740	4 Okthoba 2019	Imithetho yenqubo yezicelo ezizokwenziwa ngokwe-**PAIA** phambi kweNkantolo Ephakeme noma iNkantolo KaMantshi.

ISIVUMO

Lo Mhlahlandlela obuyekeziwe wokusetshenziswa kwe-**PAIA** ekuqaleni wahlanganiswa yiKhomishini Yamalungelo Abantu YaseNingizimu Afrika (i-**SAHRC**) futhi uMlawuli lapha uyawuvuma umsebenzi wokuqala we-**SAHRC**, kubandakanye nayo yonke imithombo yayo.

Ukhishwe ngu
MLAWULI WEZOLWAZI