

Implementation of the Promotion of Access to Information Act, (Act 2 of 2000) in the Public Service

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Glossary

DEAT	Department of Environmental Affairs and Tourism
DIO	Deputy Information Officer
DoJ&CD	Department of Justice and Constitutional Development
DWAF	Department of Water Affairs and Forestry
EC	Eastern Cape Province
GCIS	Government Communication and Information Services
HoD	Head of Department
IO	Information Officer
MEC	Member of Executive Council
ODAC	Open Democracy Advice Centre
OPSC	Office of the Public Service Commission
PAIA	Promotion of Access to Information Act
PSC	Public Service Commission
SAHRC	South African Human Rights Commission
SAPS	South African Police Service
UN	United Nations

Foreword

Citizens require appropriate information in order to hold government accountable, play an active role in processes of governance and take advantage of the development opportunities that exist in the new democratic dispensation.

Government has put in place a number of policy frameworks to facilitate access to information. As one of these key policy frameworks, the Promotion of Access to Information Act, (Act 2 of 2000) seeks to change the extent and manner in which government provides information to the public. The Act derives its powers from Section 195 (1) (g) of the Constitution, that stipulates that:



"Transparency must be fostered by providing the public with timely, accessible, and accurate information."

This Constitutional provision is unique in that it embodies the **right** of the public to know what the government is doing and thus enhance its participation in the decision-making processes. The implementation of the Promotion of Access to Information Act (PAIA) is not merely about technical compliance with the Act, but it is also about ensuring that this constitutional right to information is realised in the daily lives of citizens.

Given its role as the custodian of good governance, the Public Service Commission saw it fit to evaluate the status of the implementation of the PAIA. This report provides useful information to government departments regarding the status of the implementation of the PAIA. The Public Service Commission (PSC) hopes that the report will contribute towards heightening the implementation of the Act, and promote awareness among the public of their right to timely and accurate information.

A handwritten signature in black ink, appearing to read 'Sangweni'.

Prof Stan S Sangweni

Chairperson: Public Service Commission

Executive Summary

1. Introduction

The Bill of Rights¹ contained in the South African Constitution ensures equal protection of human rights and contains, as one of the entrenched rights, the right to 'Access to Information'. The right requires of government departments to foster transparency by providing the public with timely, accessible, and accurate information.

The Promotion of Access to Information Act (PAIA) operationalises the Right of Access to Information. It aims to create a framework for citizens to access the records that government holds, and sets out how government should deal with such requests for information. The PAIA is one of the cornerstones to ensure transparency in the Public Service. The ability of the citizenry to exercise their right depends on how well the PAIA is implemented in departments.

As part of its oversight work, the PSC conducted a study to evaluate the implementation of the PAIA in the Public Service. The aims of the study were twofold. Firstly, the study sought to assess whether national and provincial departments have the capacity, systems, and procedures to implement the PAIA. The second aim was to identify good practices from national and provincial departments, and to increase awareness of the PAIA.

2. Research Methodology

The methodology comprised the following elements:

- A literature review was conducted to, among others; assist with the development of a questionnaire.

¹The Bill of Rights is a statement of fundamental rights and privileges. In the South African Constitution, they are contained in Chapter two.

- The PSC developed a questionnaire according to specific themes taken from the PAIA.
- The questionnaire was distributed to thirty national and one hundred provincial departments. Analysis was based on the responses provided by the departments in respect of the questionnaire.

3. Key Findings

3.1. Deputy information officers have not been appointed

Of the departments that responded, almost a quarter (23%) reported that they do not have Deputy Information Officers (DIOs). The number of DIOs appointed per department varies, with forty-seven percent (47%) of departments having appointed one DIO, and six percent (6%) having appointed more than 10 DIOs.

Five years have passed since the enactment of the PAIA in 2002, and departments have therefore had sufficient time to appoint DIOs. If DIOs are not appointed, the responsibility for the implementation of the PAIA rests with the Head of Department alone. Such an arrangement compromises implementation given the many other competing responsibilities that require the attention of the Head of Department.

3.2. PAIA manuals are not available to citizens

Fifty-four percent (54%) of the departments have manuals. It is of concern that five years after the enactment of the PAIA, 44% of departments still do not have the required PAIA manuals. Such a manual is supposed to be the basic guide, which underpins PAIA implementation and facilitates the handling of information requests from citizens. Without these manuals, citizens do not know what information is held by government departments and what information is automatically available to them. This means that citizens would be unable to participate in a meaningful manner in government decision-making processes.

3.3. Departments do not provide information to public institutions

It was found that seventy-three percent (73%) of the respondents said they have not submitted reports to the Minister of Justice and Constitutional Affairs.

The study found that a high number of respondents (51%) had not compiled and submitted these reports to the South African Human Rights Commission (SAHRC). The non-compliance of departments affects the ability of the SAHRC to undertake some of the oversight activities within its mandate due to a lack of accurate and credible information. Problems that might have been identified are not timeously addressed.

3.4. Citizens are not adequately informed of the internal appeal procedure

The study found that forty-nine percent (49%) of the departments reported that they inform requesters of information of their right to appeal while thirty five percent (35%) said they have not done so. In cases where appeals were dealt with, eighteen percent (18%) of the departments indicated that these were handled through the Head of Department or Executing Authority, while fourteen percent (14%) handled them through ad hoc measures and seven percent (7%) made use of their legal sections to handle the appeals.

3.5. Departmental systems to manage requests for information are lacking

Most departments that responded to this question reported having records of some sort, the majority of which are in the form of manual files. Forty-three percent (43%) reported not having any kind of system for managing requests. The absence of any system to manage requests is a serious concern, as departments will not be able to account for the manner in which requests for information are dealt with, and to respond to the requester or provide the required information to the SAHRC. This contributes to the difficulties citizens face when they attempt to follow up on the requests for information that they had submitted.

3.6. Departments require support from the south african human rights commission

When departments were asked what support they would like to receive from the SAHRC, most of them indicated that training was the most pressing need, followed by the appointment of the DIO, and compiling the manual on the PAIA. They also said they need assistance on informing the public of their right to information. It is worthwhile to note that all the information needed by the departments to compile the manual is available on the SAHRC's website.

4. Key Recommendations

4.1. Appointing deputy information officers

The appointment of DIOs is a mandatory and basic compliance element. Departments that have not yet appointed DIOs must immediately do so. Consideration should be given to learning from the SAPS approach, which ensures a network of DIOs dealing with requests for information in a manner that is customer driven, and ensures easy and timeous access to information.

4.2. Training of officials

The training of all DIOs must be made a priority to improve their levels of awareness of the PAIA. The training should be extended to front line staff to enable them to assist and refer citizens who want to submit a request for access to information to the appropriate official/DIO.

4.3. Making PAIA manuals available to citizens

Those departments that have not yet developed PAIA manuals should prioritise the development thereof.



4.4. Providing information to public institutions

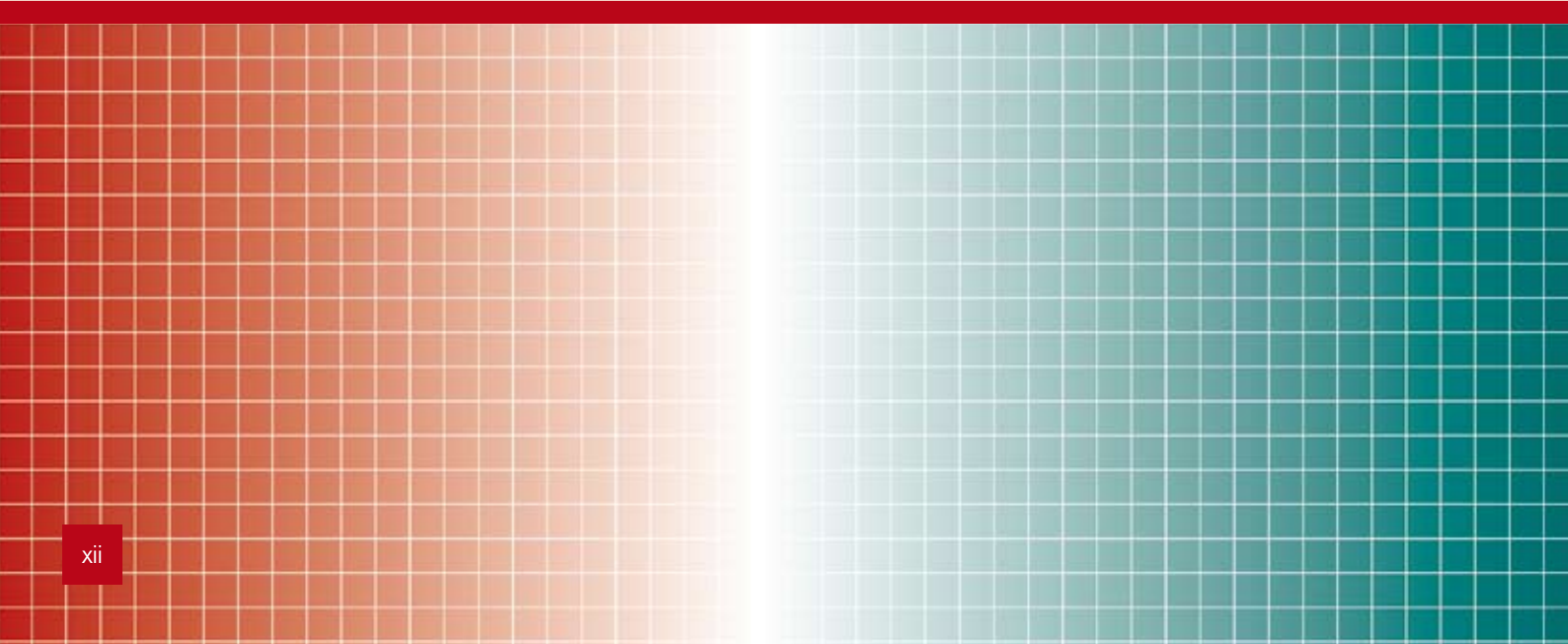
Departments that do not provide the required information to both the Minister of Justice and Constitutional Development and the SAHRC must account to their respective Parliamentary Portfolio Committees for this lack of compliance.

4.5. Informing citizens of their rights to information

Government departments must develop and implement comprehensive communication strategies to provide the public with information on the PAIA, specifically the right to lodge an internal appeal against a decision of an Information Officer (IO) or DIO.

4.6. Improving departmental systems to manage requests for access to information

Departments must develop formal systems, which deal with all aspects of the requests for information process, as a matter of urgency.



Chapter One

Introduction

1.1. Background

Access to information is one of the critical pillars of democracy in South Africa. Not only does such access promote transparency, but it also empowers citizens to participate meaningfully in processes of public policy making, implementation, and review.

Government introduced the Promotion of Access to Information Act, 2000 (Act 2 of 2000) (PAIA)² as one of the fundamental policy frameworks that seek to ensure that citizens can indeed enjoy access to accurate and timely information. As part of its oversight mandate, the Public Service Commission (PSC) embarked on a study in 2005 to evaluate the implementation of the PAIA in the Public Service. This study emanated from a concern that departments were not submitting the required Section 32 reports³ to the South African Human Rights Commission and that capacity constraints might be the underlying reason for this non-compliance.

The aims of the study were twofold. Firstly, the study sought to assess whether national and provincial departments have the capacity, systems, and procedures to implement the PAIA. The second aim was to determine the causes of non-compliance with the PAIA. Based on the findings, the study also identified good practices from national and provincial departments.

1.2. Building a human rights culture by promoting access to information

The promotion of a human rights culture in South Africa should be seen against the background of apartheid, which was characterised by secrecy, abuse of power, and control over information. The advent of democracy in 1994 in South Africa ushered in a new democratic state founded on the advancement of human rights. In this context, it is expected of the state to respect, protect, promote, and fulfil the human rights enshrined in the Constitution, including the right to have access to information. More specifically the Constitution enshrines the right of the public to know what the government is doing on its behalf and thereby to enhance participation in decision-making processes. Section 32 (2) of the Constitution further requires that national legislation be enacted to give effect to this right.

The Promotion of Access to Information Act⁴, which this study is about, results from this Constitutional requirement, and places an obligation on the Public Service to implement the Act. The PAIA came into force on 9 March 2001. The Regulations setting out the procedural framework around access to information were published in the Government Gazette on 15 February 2002. In so doing, South Africa became one of the 60 countries, which have enacted access to information legislation⁵. The enactment of the PAIA was a milestone as it evolved over a six-year period and overrides any other act, which has a more restrictive approach to information⁶. The PAIA does not repeal other Acts, such as the Protection of Information Act, 1982, it however, prevails over them⁷.

²Republic of South Africa. The Promotion of Access to Information Act, 2000, (Act 2 of 2000).

³This section required Information Officers to annually submit to the SAHRC a report stating the number of requests for access received, those granted in full and those refused in full or partially, number of cases where requests were extended and where internal appeals were lodged.

⁴Republic of South Africa. The Promotion of Access to Information Act, 2000, (Act 2 of 2000).

⁵Open Democracy Advice Centre. The Right to Know, Five Years On. 2006.

⁶See www.fxio.org.za.

⁷Republic of South Africa. South African Human Rights Commission. Reflections on Democracy and Human Rights: A Decade of the South African Constitution (Act 108 of 1996). 2006.



The PAIA gives legislative expression to the Constitutional rights and adopts the right to know approach. It aims to create a framework to:

- (a) allow people to access the information held by government and private bodies;
- (b) set out how people will be able to access these records;
- (c) determine the grounds on which access to information can be refused; and
- (d) set out how citizens could lodge an appeal against any decision to deny access to information.

The PAIA enables the public to scrutinise government decision-making and hold government accountable for actions and decisions that affect their lives and rights. The framework created in terms of the PAIA enables the public to access information and ensures that the Public Service participates in promoting a culture of human rights and just public administration. Without reliable and relevant information, citizens do not know what government is doing and cannot hold it accountable.

The PAIA is one of the legislative foundations for ensuring the transformation of the Public Service. The capacity and ability of the Public Service to comply with the provisions of the PAIA directly reflects the extent to which this transformation has taken place. The ability to implement the PAIA does not only relate to putting the required systems and procedures in place, but relates to changing the culture of secrecy in the Public Service and using the PAIA as a powerful tool in this regard. The impact of ongoing monitoring should not only be to ensure more effective systems and procedures, but should enable citizens to participate fully in government processes by having accurate and timely information and using their right to access to information to obtain such information.

1.3. State institutions responsible for the Promotion of Access to Information Act

Various role players are tasked with the implementation of certain aspects of the PAIA, including the South African Human Rights Commission, the Department of Justice and Constitutional Development (DoJ&CD), the Public Service Commission (PSC), and the Government Communications and Information Service (GCIS). The roles of these institutions are briefly described in the following table.

Institution	Mandate	Responsibilities in terms of the PAIA
The South African Human Rights Commission	<p>The SAHRC is an institution created by Section 184 of the Constitution of South Africa to, among other things, promote respect for human rights and a culture of human rights; promote the protection, development, and attainment of human rights; and monitor and assess the observance of human rights.</p> <p>The SAHRC has a constitutional mandate to promote a human rights culture in South African society.</p>	<p>The SAHRC is primarily responsible for the implementation of the PAIA. In terms of Section 83 of the PAIA, the Human Rights Commission has the following roles and responsibilities:</p> <ul style="list-style-type: none"> • To produce a Guide in terms of section 10 of the PAIA in all official languages that will assist members of the public to exercise their right of access to information that is held by public and private bodies; • To develop and conduct educational programmes to advance the understanding of the public, in particular of disadvantaged communities, of the PAIA and of how to use it; • To assist any person wishing to exercise a right under the PAIA; • To train information officers of public bodies; • To recommend to public and private bodies changes in the manner in which they administer the PAIA; • To consult with and receive reports from public and private bodies on the problems encountered in complying with the PAIA; • To obtain advice from, consult with, or receive and consider proposals from, any public or private body, officials of such a body or member of the public in connection with the Commission's functions in terms of the PAIA; and • To submit an annual report to the National Assembly as contemplated in section 84 of the PAIA.
The Public Service Commission	<p>The Public Service Commission (PSC) is, in terms of Chapter 10 of the Constitution (section 196), an independent and impartial institution of state. It promotes the basic values and principles governing public administration as contained in section 195 of the Constitution. It does this through monitoring and evaluating all the public administration practices in national and provincial departments.</p>	<p>In relation to the PAIA, the role of the PSC would be to promote the Constitutional values and principles of public administration, including the fostering of transparency through providing the public with timely, accessible, and accurate information. Monitoring whether the public has access to information therefore falls within the mandate of the PSC and the PSC shares this responsibility with the SAHRC.</p>

Institution	Mandate	Responsibilities in terms of the PAIA
The Government Communications and Information Services (GCIS)	GCIS is located in the Presidency and is primarily responsible for promoting communication between government and the public. This is done to ensure that the public is informed of government's policies and programmes so that people can accordingly voice their needs.	Section 16 of the PAIA ⁸ requires the Director-General of GCIS to publish postal and street addresses, phone and fax numbers, and if available, electronic mail addresses of the Information Officers of every public body in every telephone directory issued for general use. The GCIS is therefore a major role player in creating public awareness of the right of access to information.
The Minister of Justice and Constitutional Development	The core function of the Department of Justice and Constitutional Development is to give effect to the constitutionally mandated requirements that South Africa has a fair, equitable and accessible system of justice.	<p>The PAIA⁹ places the following obligations on the Minister of Justice and Constitutional Development.</p> <ul style="list-style-type: none"> • Making Regulations. In terms of Section 92 of the PAIA¹⁰, the Minister in charge of the administration of justice may, by notice in the Government Gazette, make regulations regarding any matter that is required by the PAIA to be prescribed. This includes uniform criteria to be applied by the Information Officer of a Public Body when deciding which categories of records are to be made available and any administrative or procedural matter necessary to give effect to the provisions of the PAIA. • Receiving and publication of certain public records. The Minister must, by notice in the Government Gazette, publish records that are automatically available without a person having to request access in terms of the PAIA. • Exemption from paying fees. The Minister may, by notice in the Government Gazette, exempt any person or category of persons from paying any fee and determine the fee structure applicable for accessing information.

1.4. Structure of the report

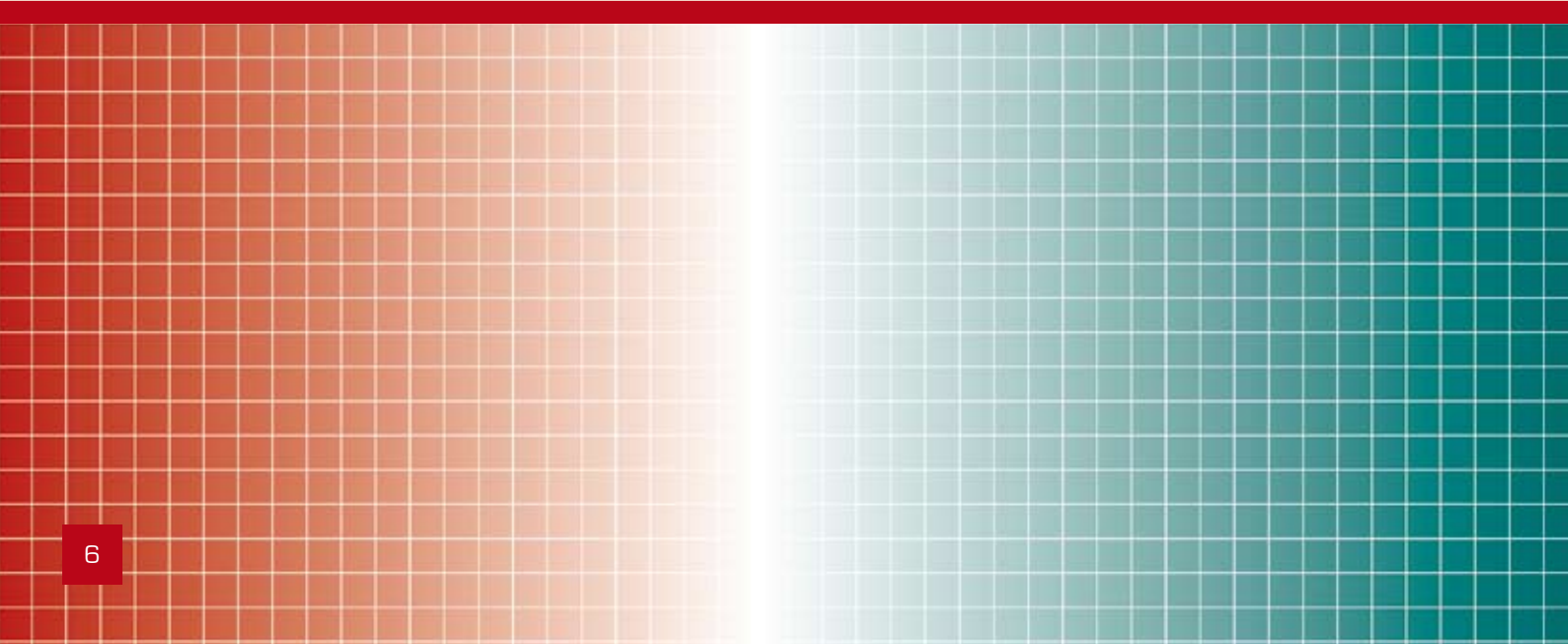
This report presents the findings of the evaluation with regard to the implementation of the PAIA.

Chapter 2 describes the research methodology, including aspects such as sampling, data gathering, and ensuring the quality of the data. The limitations of the study are also contained in this chapter. In chapter 3, an analysis of the responses from the questionnaire is presented. Chapter 4 outlines the best practice that was identified from the study. Finally, chapter 5 draws conclusions and provides recommendations for improving the implementation of the PAIA.

⁸Republic of South Africa. The Promotion of Access to Information Act. 2000, (Act 2 of 2000).

⁹Republic of South Africa. The Promotion of Access to Information Act. 2000, (Act 2 of 2000).

¹⁰Republic of South Africa. The Promotion of Access to Information Act. 2000, (Act 2 of 2000).



Chapter Two

Research Methodology

2.1. Introduction

In order to achieve the objectives of the study, it was necessary to adopt a research methodology which draws on information from existing documentary sources, as well as eliciting responses from the departments included in the study. This chapter outlines the research methodology that was used, including the processes of sampling, data gathering, and the quality assurance of data. The chapter also presents the limitations of the study.

2.2. The research process

Literature review

A literature review was conducted on the development of and the rationale behind the PAIA and the Bill of Rights contained in the South African Constitution. International trends on access to information were also studied. The purpose of the literature review was to assist with the development of a questionnaire. Based on an assessment of the information obtained through the literature review, a questionnaire for the study was developed. The questionnaire was thus structured in such a manner that it can assess the extent to which departments have met the following requirements contained in the PAIA:

- The appointment of Information and Deputy Information Officers (as required by Sections 1 and 17);
- Availability and updating of the Access to Information Manual (as required by Section 14);
- Records that are automatically available to the public;
- Advising the public of contact information (as required by Section 16);
- Systems for managing requests (as required by Section 25);
- Existence of systems for internal appeals (as required by Section 74);
- Complying with the mandatory submission of annual reports to the SAHRC; and
- Support required to implement the PAIA.

Scope

Since the PAIA applies to all departments, and given the importance of the legislation in promoting the constitutional values of transparency and accountability, all national and provincial government departments were included in the study.

Data gathering

Questionnaires were delivered by hand to managers in the offices of the Directors-General and Heads of Departments to ensure that priority was afforded to the study. Departments nominated the most appropriate officials to complete the questionnaire on their behalf. These officials served as contact points in each department for the duration of the study and assisted the PSC when follow-ups had to be made.

Data integrity and validation

Telephonic follow-up was undertaken to ensure that data of a high quality was collected. Through this process, incomplete or vague responses were addressed. The focus of the follow-up went beyond obtaining the completed questionnaire and included offering assistance through interviews and telephonic guidance to the contact persons.

Data analysis

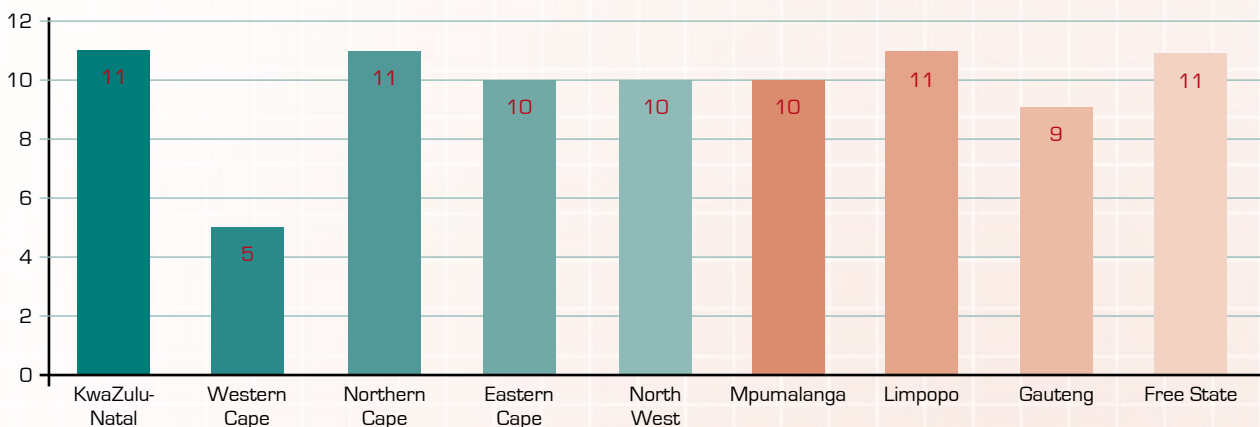
Data was captured on a spreadsheet to facilitate analysis. The spreadsheet was organised according to the headings contained in the questionnaire. The process of analysis involved the assessment of the responses as captured in the spreadsheet to identify overall trends, weaknesses and good practices. Based on the findings, a report was compiled containing recommendations for improving the implementation of the PAIA.

2.3. Response rate

The questionnaire was distributed to 30 national departments of which only forty percent (40%) responded while eighty-nine percent (89%) of the 100 provincial departments to whom the questionnaire was sent responded.

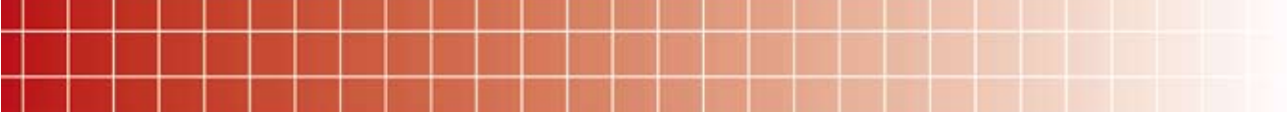
The response rate for each province is reflected in **Figure 1** below. As depicted in **Figure 1** the response rate was high except for the Western Cape Province where only five departments responded.

Figure 1: Provincial Responses to Questionnaire



2.4. Limitations of the study

Co-operation from departments is a critical element in ensuring the success of a study of this nature. The national departments specifically did not respond timeously to the questionnaires they received.



This affected the timeframes for completing the study and delayed the finalisation of the report. Despite telephonic follow up and offering assistance to complete the questionnaire, only 40% of the national departments responded to the questionnaire. This low response rate of national departments contrasts with the provincial departments where 89% of the departments responded to the questionnaire.

Departments did not provide the required supporting documentation or other types of evidence in response to the questions posed in the questionnaire. The questionnaire required that specific responses to questions be supported by either documentation or other types of evidence. Unfortunately, such documentation was not always included. For example, while a number of departments said that they had complied with particular requirements of the Act, they were unable to provide supporting documentation for verification purposes.

Responses that were incomplete or not related to the question posed in the questionnaire had to be addressed through telephone interviews to address the quality of the responses.

This report is a reflection of the status of compliance with the PAIA at the time the study was undertaken (March 2006). Cognisance should be taken of the fact that implementation of the PAIA might have improved since then and this improvement will not be reflected in the report.

Chapter Three

Key Findings

3.1. Introduction

This chapter presents an overview of the compliance of departments with the provisions of the PAIA. The analysis provided is based on the responses contained in the questionnaires completed by departments. The findings are organised according to the key elements of PAIA compliance, which were reflected in the questionnaire, sent to departments. In order to facilitate collective learning and future benchmarking, the chapter concludes by identifying areas of good practice in selected departments.

3.2. Findings

Deputy information officers have not been appointed

The PAIA defines an Information Officer as the Director-General, head or executive director or equivalent officer of a national department or provincial administration departments.

By virtue of being the head of a government department or a Chief Executive Officer of a public body, such an individual is automatically regarded as an Information Officer. Given the scope of departmental activities and the challenges that most institutions have to deal with regarding access to information, the PAIA also provides for the appointment of DIOs. Being appointed as a DIO vests responsibility for the practical implementation of the PAIA in a specific official in a department. The appointment of DIOs is thus the foundation for the successful implementation of the PAIA.

Figure 2: Deputy Information Officers per Department

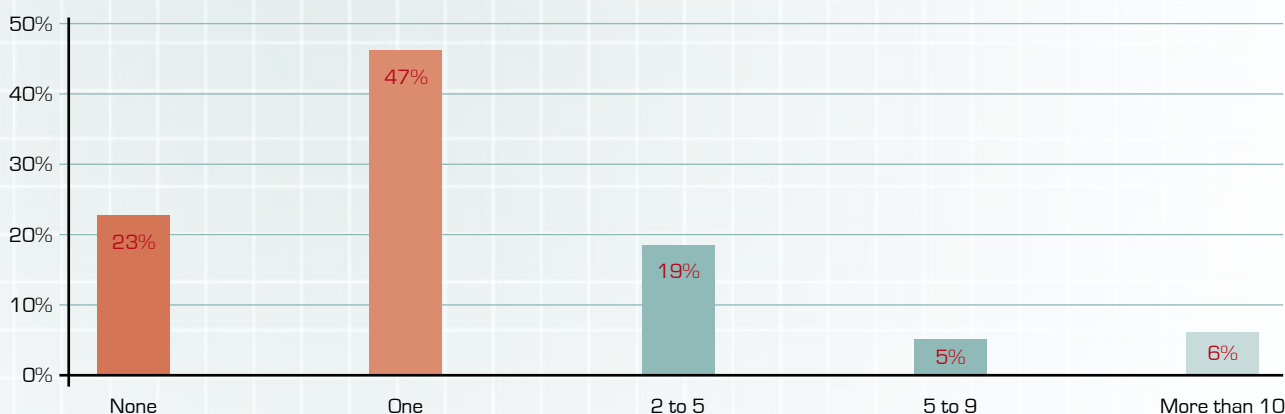


Figure 2 above provides an overview of the number of DIOs appointed in departments.

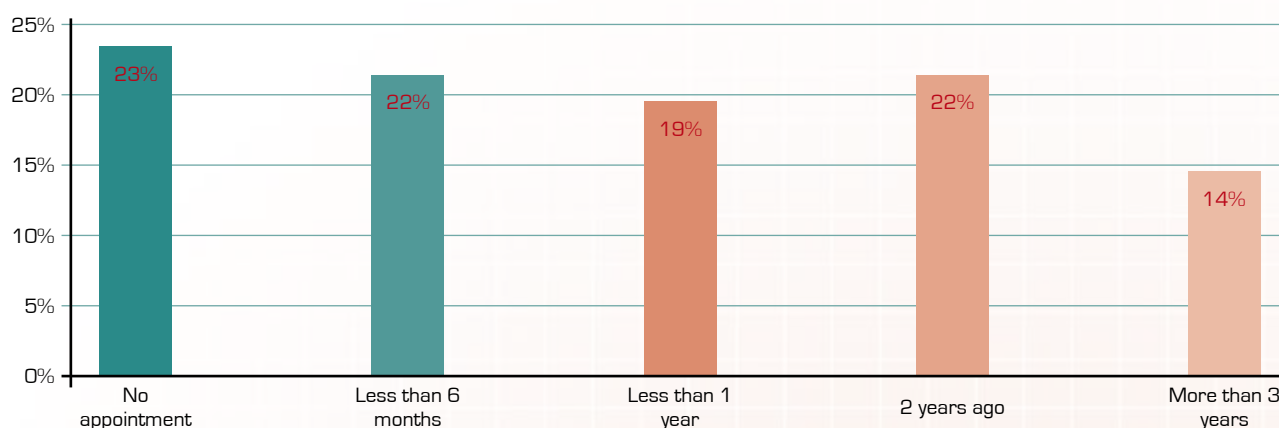
Of the departments that responded, almost a quarter (23%) reported that they do not have DIOs. The number of DIOs appointed per department varies, with forty-seven percent (47%) of departments having appointed one DIO, and six percent (6%) having appointed more than 10 DIOs. Departments in the latter category are the South African Police Service (SAPS) with 1210 DIOs, and the Western Cape and Northern Cape Premiers' Offices with 11 and 10 DIOs, respectively. This reflects the different ways in which departmental structures are used to implement the PAIA. The SAPS appointed a DIO at

each Police Station, creating a network for dealing with requests at the coalface of service delivery. This enhances the ability of citizens to obtain access to information in a timely and convenient manner.

Five years have passed since the enactment of the PAIA in 2002, and departments have therefore had sufficient time to appoint DIOs. If DIOs are not appointed, the responsibility for the implementation of the PAIA rests with the Head of Department alone. Such an arrangement compromises implementation given the many other competing responsibilities that require the attention of the Head of Department.

The study further sought to establish how long DIOs have been in their posts as their experience could affect the manner in which they understand their responsibilities. **Figure 3** below shows how long existing DIOs have been in their posts.

Figure 3: Period Deputy Information Officers have been in their posts



There are notable differences between departments in this regard. As can be expected when new legislation is enacted, very few departments (14%) appointed DIOs immediately after the PAIA was enacted in 2002. Twenty-two percent (22%) of departments have just recently (less than six months) appointed DIOs. From **Figure 3**, it is evident that at the time of the study an aggregate of 41% of the DIOs had been in their posts for a period of less than a year. This limited period may affect the manner in which DIOs understand the obligations the PAIA places on them, and thus affect the implementation of the Act and the handling of requests for information.

The study also looked at the manner in which DIOs were appointed. An appointment is likely to be viewed in a more serious light if it is confirmed in writing. Departments were asked to indicate whether they had formalised the appointment of their DIOs in writing. **Figure 4** depicts how DIOs were appointed.

Figure 4: Means by which Deputy Information Officers are appointed

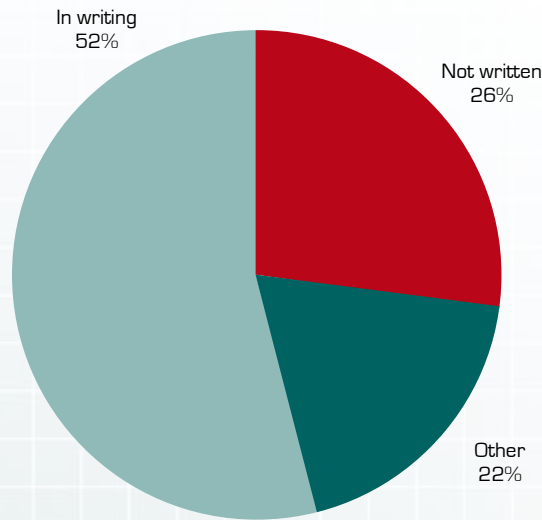
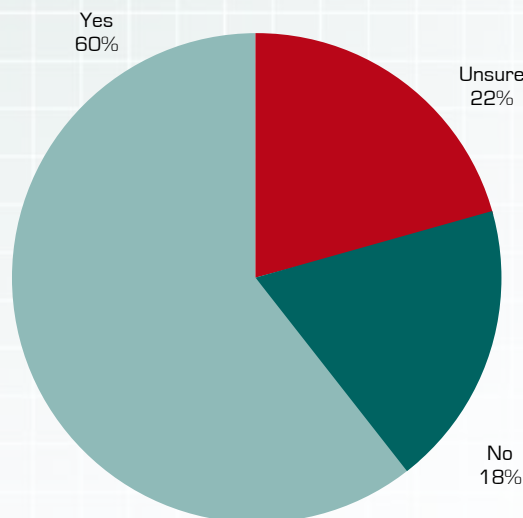



Figure 4 indicates that fifty-two percent (52%) of the departments appointed DIOs in writing. Of these, eight percent (8%) of the departments said they use job descriptions for this purpose and fourteen percent (14%) relied on performance agreements as a mechanism to formalise the appointment of DIOs. The latter finding is encouraging as it indicates that some departments are ensuring that individuals are held accountable for the implementation of the PAIA by using existing performance management instruments. These departments show the ability to incorporate the PAIA into normal management practices rather than dealing with it in an ad-hoc manner. It would, however, be important to have more departments institutionalise the implementation of the PAIA in this manner.

Insufficient training of deputy information officers

The understanding that DIOs have of their roles and responsibilities is critical for the implementation of the PAIA. **Figure 5** reflects the extent to which DIOs understood their roles and functions.

Figure 5: Clarity that Deputy Information Officers have about their roles





As reflected in the **Figure 5**, sixty percent (60%) of the respondents said that their DIOs understood their roles; eighteen percent (18%) said they were not clear about their role and twenty-two percent (22%) said they were unsure about their role. In forty percent (40%) of the cases, DIOs did not understand their role and questioned why they are called DIOs in the first place. This is a serious concern and indicative of compliance merely for the sake of compliance. This affects their ability to implement the PAIA. The understanding that DIOs have has to be extended beyond merely understanding their basic responsibilities such as the need for having a manual, and following procedures. It also has to be understood within the context of the realisation of social rights, organisational culture of the Public Service and delivery of services. The link between access to information and the expansion of a culture of human rights should be well understood by public servants and citizens alike.

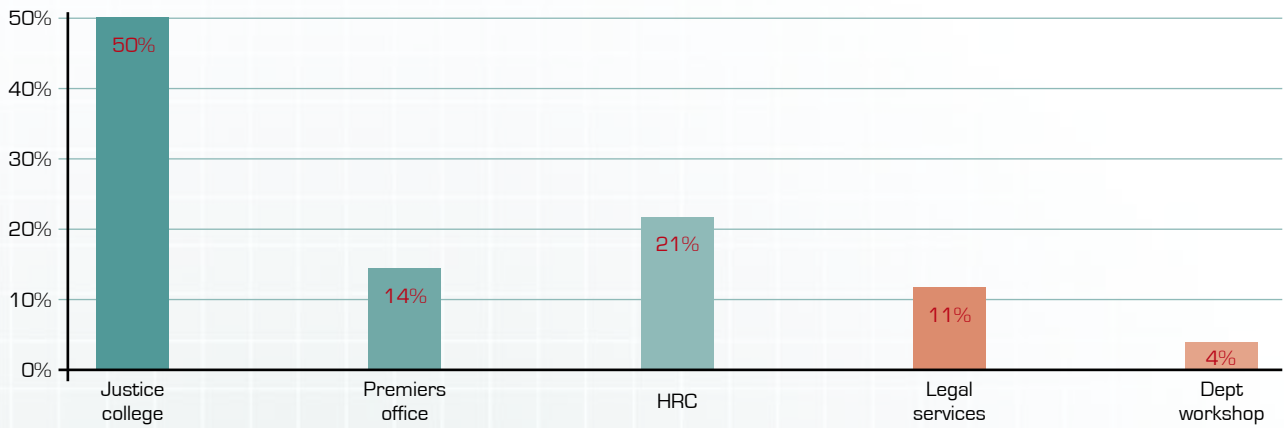
Departments were also asked whether they had provided training to DIOs and if so, who provided the training. Thirty-four percent (34%) of the respondents said they had received training and forty-one percent (41%) said no training was provided. The rest of the respondents either had not appointed DIOs or did not know where to get training.

Inadequate training is a major factor that affects the functioning of DIOs in departments. Without adequate training, there is no foundation for the implementation of the PAIA. These DIOs play a pivotal role in dealing with requests for access to information and as such, their decisions significantly affect the manner and ability with which citizens are able to access information and participate in government processes. This is most significant in cases where access to information is denied, as the procedure to appeal through the Courts is costly and places the redress mechanism provided for in the PAIA beyond the means of most South Africans.

Departments advanced several reasons for not providing training to DIOs. These included the fact that DIOs had only been appointed recently, that trained DIOs often left the employ of the departments, that changes in departmental structures impacted on decisions to appoint DIOs, that limited training opportunities existed for DIOs, and that officials not working with the PAIA were often wrongfully nominated for training. All these are not insurmountable hindrances and can be addressed by departments. The capacity of departments to implement the PAIA could be increased if adequate and focused training could be provided to DIOs. It would enhance the understanding that DIOs have of their jobs. Well-trained DIOs will be able to facilitate easy access to information.

Departments were also requested to indicate the sources of training for DIOs. **Figure 6** below lists the sources employed to train DIOs.

Figure 6: Sources of Training for Deputy Information Officers

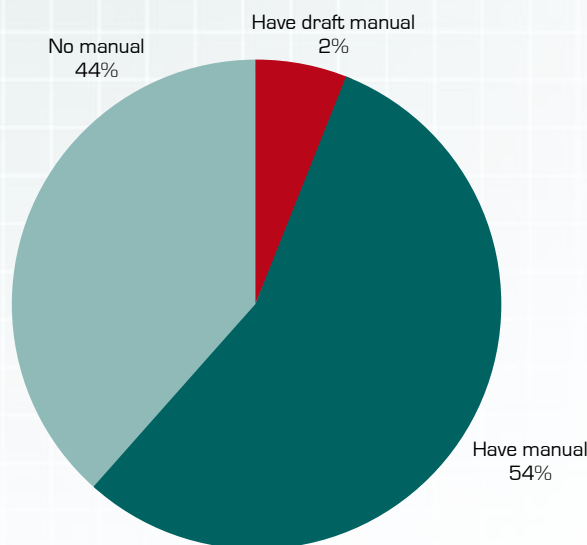


As is evident from **Figure 6**, it can be seen that fifty percent (50%) of the training was conducted by Justice College¹¹, followed by the SAHRC (21%) and the Premiers' Offices (14%). There were a few instances where personnel in the legal sections of government departments provided training on the PAIA. However, the figure shows that most of the training is provided by Justice College. The capacity to train public servants on the PAIA exists within the Public Service. The critical need for training could be addressed if the existing training capacity is used more optimally.

PAIA manuals are not available to citizens

Section 14 of the PAIA requires every public body to compile a manual, which contains a description of its structure, contact details to facilitate a request for access to information and a description of the services available to members of the public in at least three official languages. Given the importance of this manual in the promotion of access to information, the study assessed how many departments had the required manuals in place and whether this information is easily accessible to the public. Without this manual, effective communicating with the public on access to information cannot take place nor can it guide those seeking information. **Figure 7** denotes the availability of PAIA manuals.

Figure 7: Availability of the Manual



¹¹Justice College is the training institution of the Department of Justice and Constitutional Development where justice and legal related training is provided to public officials.

Figure 7 shows that fifty-four percent (54%) of the departments have manuals. It is of concern that five years after the enactment of the PAIA, 44% of departments still do not have the required PAIA manuals. Such a manual is supposed to be the basic guide, which underpins PAIA implementation and facilitates the handling of information requests from citizens. Without these manuals, citizens do not know what information is held by government departments and what information is automatically available to them. This means that citizens would be unable to participate in a meaningful manner in government decision-making processes.

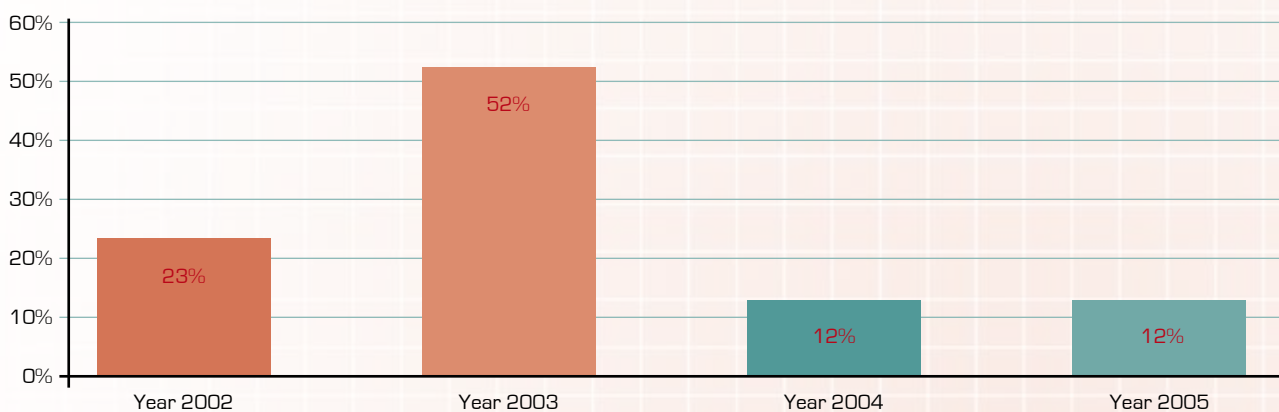
The study also established that none of the provincial departments in the Eastern Cape (EC) has manuals. This is despite the fact that three of the departments in the province reported having appointed DIOs, thus raising questions about what functions the DIOs have been performing since their appointment.

The PAIA requires that manuals be translated into at least three official languages to increase access to information. Respondents reported having difficulty in translating the manuals from English to other languages because of lack of resources to translate these manuals. The lack of resources may prevent the translation of the manuals in three official languages, but the costs thereof should be weighed against the benefits of even greater accessibility to information for citizens and enhancing the ability of citizens to exercise their right to information.

PAIA manuals are not updated

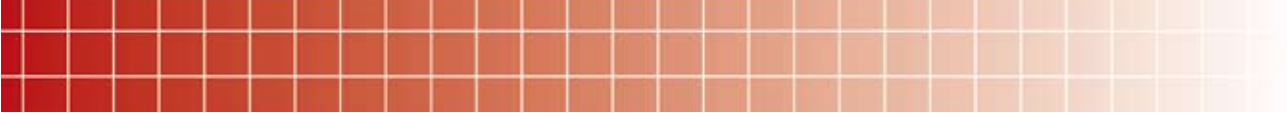
Among the departments that did compile a manual, the majority of the manuals were compiled during 2003, approximately two years after the promulgation of the PAIA. **Figure 8** indicates when the manuals were compiled.

Figure 8: Manuals Compiled in Each Year



From **Figure 8** above, it is evident that the momentum for compiling manuals increased from twenty-three percent (23%) in 2002 to fifty-two percent (52%) in 2003. From 2004 to 2005, this figure declined and stabilised at twelve percent (12%). Departments explained that they did not have the PAIA manual because they did not have DIOs. However, this reason is not compelling enough because all the information departments require to compile such a manual, is in fact available on the SAHRC's website¹².

¹²See www.SAHRC.org.za



Once compiled, manuals have to be easily accessed by the public. From the study, it was established that departments tend to use the Government Gazette, the Internet, the SAHRC, and front line service delivery offices to make the manual accessible and available to the public. Departments should take the reach of these mechanisms into account, as the poor and illiterate groups may not be able to access them. The use of information and communication technology as the only medium to ensure accessibility of the manuals, fails to address the information needs of disadvantaged and illiterate groups in the community, who do not have access to such technology. The manual can be made more accessible if front line staff uses it to inform citizens of their rights to information.

Section 14 of the PAIA requires that the manual be published and updated if necessary at intervals of not more than one year to ensure its relevance. Information Officers or DIOs are in the majority of cases responsible for updating the manual except for the Northern Cape, which makes use of Compliance Officers. In other departments, legal services officers are also involved in the updating of the manuals. In this regard, forty-eight percent (48%) of the respondents said that they have updated the manual, while twenty-one percent (21%) have never updated the manual since it was developed. This is a concern as just over a third (38%) of all the manuals that were developed contains outdated information, which means they are of little value to the citizens. These manuals only become a meaningful part of the compliance infrastructure if they are updated.

Departments do not provide information to public institutions

The PAIA provides for measures through which the SAHRC and the Minister of Justice and Constitutional Development can monitor the implementation of the PAIA. These measures are described below.

(a) Submission to the Minister of Justice and Constitutional Development

In the study, departments were requested to indicate whether they submitted the annual report to the Minister of Justice and Constitutional Development.

Section 15(1) of the PAIA requires the information officer of a public body on a periodic basis, but not less frequently than once each year, to submit to the Minister of Justice a description of the categories of information that are automatically available to the public without them having to request access to the information.

It was found that seventy-three percent (73%) of the respondents said they have not submitted reports to the Minister. Only half of the remaining twenty-seven percent (27%) said that they had submitted their reports to the Minister **annually**. Non-compliance in this regard restricts the ability of citizens to exercise their rights to access information as they are forced to apply for information, which should be automatically available. It places an unnecessary administrative burden upon departments that could have been prevented had these reports been submitted to the Minister. The extent to which this is occurring is of serious concern and should be addressed as a priority by departments and the Minister of Justice and Constitutional Development.

Departments were required to provide reasons for not submitting the required report to the Minister of Justice and Constitutional Development. The reasons stated included a lack of staff, the non-existence of the PAIA manual, lack of awareness, the need for guidance to assist departments to comply, the shifting of responsibility to another section of the organisation (for example, Premiers' Offices in the case of provinces) and the lack of records. None of these reasons provides a convincing case of lack of capacity. Instead, the reasons largely indicate that such departments are simply not prioritising the implementation of the PAIA and that commitment to implementing the PAIA is lacking.

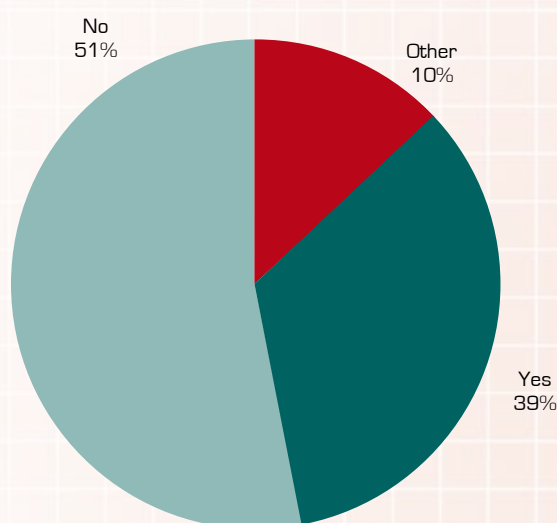
(b) Submission of an Annual Report to the South African Human Rights Commission

Departments had to indicate whether they complied with their obligation to submit an annual report to SAHRC.

In terms of Section 32 of the PAIA, departments are required to submit an annual report to the SAHRC. Such a report should provide a breakdown of requests for access to information, showing for example, the total received, the total granted/refused, appeals lodged and applications made to court. The reports enable the SAHRC to monitor the implementation of the PAIA by department.

With the SAHRC being a Chapter 9¹³ Institution supporting democracy, it is imperative for departments to submit reports as required lest they are perceived to be inhibiting a Constitutional body from exercising its oversight mandate. These reports would also be indicative of the nature of requests lodged with departments and will provide a basis for analysing trends within the Public Service. **Figure 9** provides an overview of the number of departments that submitted the required report to the SAHRC.

Figure 9: Compiling Reports for the SAHRC



¹³Chapter Nine Institutions' are state institutions supporting democracy, and include the Public Protector, Human Rights Commission, Auditor-General, Commission for Gender Equality, Electoral Commission, and Commission of the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities. These institutions are independent, subject only to the Constitution and the law, and they report to the National Assembly at least once a year.

As is depicted in the **Figure 9** above, the study found that a high number of respondents (51%) have not compiled and submitted these reports to the SAHRC. The non-compliance of departments affects the ability of the SAHRC to undertake some of the oversight activities within its mandate due to a lack of accurate and credible information. Problems that might have been identified are not timeously addressed.

Citizens are not adequately informed of the internal appeal procedure

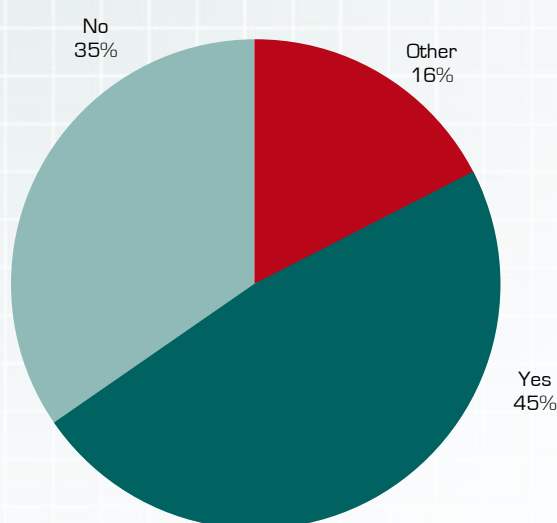
Section 74 of the PAIA entitles a requester of information to lodge an internal appeal against a decision of an Information Officer of a public body. This must however be done within sixty days of the decision being made. Once an appeal is lodged, departments must provide a decision on an internal appeal within thirty days of the appeal being lodged. The internal appeal process must have been exhausted before an aggrieved requester can forward the matter to the High Court.


While citizens can turn to the High Court to compel government bodies to release information, legal processes take time and can be very costly, effectively excluding poor people from exercising their right to access to information.

However, providing for internal appeal procedures in legislation is ineffective if the public is not informed about their appeal right and how to exercise their rights. Aggrieved requesters must first exhaust the internal appeal procedure before the Courts can consider an appeal. The prohibitive costs of court action make it imperative that the public be informed about their appeal rights and the internal appeal procedures followed by departments.

Figure 10 indicates how many departments inform requesters of information of their right to appeal any decision made by the IO.

Figure 10: Informing Clients of their Appeal Rights





As can be seen from **Figure 10**, the study found that forty-nine percent (49%) of the departments reported that they inform requesters of information of their right to appeal, while thirty five percent (35%) said they have not done so. In cases where appeals were dealt with, eighteen percent (18%) of the departments indicated that these were handled through the Head of Department or Executing Authority, while fourteen percent (14%) handled them through ad hoc measures and seven percent (7%) made use of their legal sections to handle the appeals.

Respondents indicated that they had no opportunity to inform the public about this entitlement because they had not dealt with any appeals. This is an unfortunate perspective because it ignores the fact that the public should be informed of their rights as a matter of course, and that departments should therefore not wait to be approached with an appeal before they can make the public aware of these rights. The right to appeal needs to be communicated to citizens especially when access to information is denied. Without this right being communicated, fewer citizens would appeal and the majority might actually accept the response of the department as final and thus not take any further steps.

The majority of departments (61%) indicated that they never had to deal with any appeals as none were received. The lack of progress with the implementation of the PAIA can partly be ascribed to a lack of awareness and understanding of the right to information and the PAIA by ordinary citizens. If citizens are unaware of their rights, and do not exercise these, departments will not be compelled to improve their compliance with the PAIA. In turn, this will create the perception that the PAIA is ineffective and lead to the erosion of this Constitutional right. It also points to the critical role that government and civil society organisations can play in making the public aware of their right to information. The right to information can significantly advance democracy through enhancing the ability of citizens to participate in government processes.

Departmental systems to manage requests for information are lacking

Departments were asked whether they had systems for managing requests for information, and whether they had a dedicated component dealing with these requests. In terms of section 25 (1) of the PAIA, bodies covered by the law have 30 days to answer to requests for information. If more time is required to address more complex requests, an additional 30 days extension can be utilised.

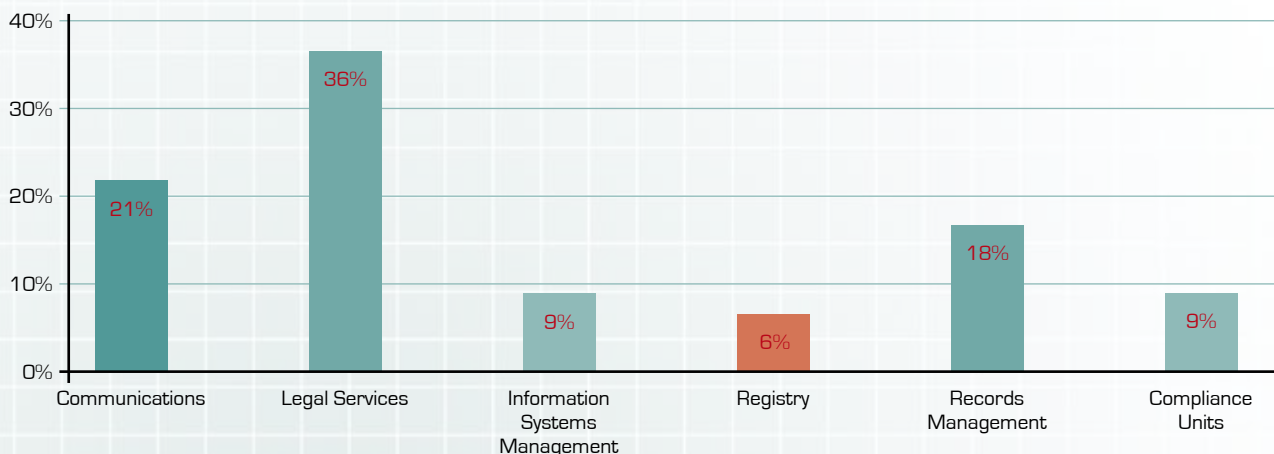
Public bodies must have systems to implement the PAIA. Without such systems, it becomes difficult to track the requests of citizens, whether such requests were appropriately responded to, the time departments took to respond to the requests for information or whether the legal limits for responding to information request were adhered to. Proper record keeping is a prerequisite for departments to adequately respond to any request for information.

Most departments that responded to this question reported having records of some sort, the majority of which are in the form of manual files. Forty-three percent (43%) reported not having any kind of system for managing requests. The absence of any system to manage requests is a serious concern, as departments would not be able to account for the manner in which requests for information are dealt

with and would not be able to respond to the requester or provide the required information to the SAHRC. This contributes to the difficulties citizens face when they attempt to follow up on the requests for information that they have submitted. The absence of systems to manage requests could explain why the timeframes for dealing with requests are frequently exceeded¹⁴.

However, as shown in **Figure II** below, the majority of departments reported having a specific component responsible for dealing with requests for information.

Figure II: Components dealing with PAIA requirements in Departments



In the majority of cases departments assign the responsibility for the PAIA implementation to their Legal Services sections (36%), followed by Communications (21%), Records Management (18%), Compliance Units (9%) and Registry (6%). The appropriateness of assigning the responsibility of the PAIA implementation to the records management unit or registry can be questioned. This can point to either the low priority assigned to the PAIA within departments or a misunderstanding of the aims and content of the PAIA by senior management. However, this does not mean that the Record Management Unit or Registry does not play an important role in the process of managing requests. Good practice identified in this study, suggests that these units play a critical role in the integrated management of requests.

While different components dealt with the PAIA, departments were found to be poor in tracking progress with requests, as only twenty-four percent (24%) had a tracking system in place and seventy six percent (76%) did not have such a tracking system in place. Where departments indicated that they had a tracking system, they were mainly referring to a manual register, a submission system, registers kept by secretaries or general records systems. While these may be viewed as systems, they are very basic, inaccessible and tend to hamper the effective implementation of the PAIA. The mentioned tracking systems do not provide an adequate basis for monitoring progress with requests and adherence to timelines, responding timeously to requesters, or reporting to the SAHRC.

¹⁴Open Democracy Advice Centre. South African Summary Country Report: Open Society Institute Justice Initiative 2004. Monitoring Study. September 2005. (see www.opendemocracy.org.za)

Departments stated that they did manage to deal with requests for information within reasonable timeframes. When asked how long it took to deal with a request for information, seventy-two percent (72%) of the respondents reported that their processes take thirty days as is required by the PAIA while twenty-eight percent (28%) of the respondents said that they went beyond the thirty-day threshold. The study could not verify the validity of these turn around times. However, at this stage it suffices to point out that other research has shown that public institutions are weak in responding to requests for information¹⁵.

The absence of formal systems to deal with requests and appeals also points to a need for dedicated monitoring and evaluation of departmental performance regarding the implementation of the PAIA.

Departments require support from the South African Human Rights Commission

The SAHRC has a critical support role to play for departments to implement the PAIA. Departments indicated that the SAHRC supported them through training (19%), workshops (10%), assistance with compiling the annual report to the SAHRC (6%), assistance with compiling the manual on the Act (5%), assistance with the Guide to the PAIA (5%), assistance with implementing the PAIA (5%), and assistance with compiling the Information Brochures (3%).

When departments were asked what support they would like to receive from the SAHRC, most of them indicated that training was the most pressing need, followed by the appointment of the DIO, and compiling the manual and assistance in informing the public of their right to information. It is worthwhile to note that all the information that the departments need in order to compile the manual is available on the SAHRC's website¹⁶.

Using the Government Communication and Information Service (GCIS) to create awareness of the PAIA

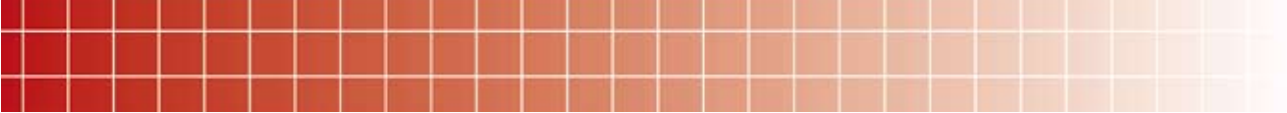
Section 16 of the PAIA requires that the Director-General of the Department of Government Communication and Information Services (GCIS) must at own cost, ensure the publication of the contact details, including the electronic mail address of the information officer of every public body in every telephone directory issued for use by the public as prescribed. An interview was conducted with GCIS to ascertain the implementation of this requirement.

The GCIS indicated that the updating of telephone directories was dependant on timeframes determined by Telkom. However, the intention is to ensure that in future the telephone directories would contain a separate page with the contact details of all the information officers of all the government departments¹⁷. This will make it easier for the public to obtain the contact details of the information officers. Previously the contact details of the IOs were not indicated in detail and could therefore not easily be traced. This is good practice and it aims at providing a client-centred service. GCIS intends publishing the details of DIOs in all future telephone directories.

¹⁵Open Democracy Advice Centre. South African Summary Country Report: Open Society Institute Justice Initiative 2004. Monitoring Study. September 2005. (see www.opendemocracy.org.za)

¹⁶www.SAHRC.org.za

¹⁷The PSC has since confirmed that this arrangement is already being implemented. The 2005/6 Telephone Directories include a separate page listing the details of departmental Information Officers.



In addition, the contact details of all government institutions are published in a Government Directory. The Directory is updated and distributed on a six- monthly basis to government departments.

GCIS further indicated that it also updates the government website with the contact details of all government departments and institutions, including information about the information officers. These contact details are updated on an on-going basis, as information is made available to the GCIS.


3.3. Good practices in the implementation of the PAIA

Although the rate of compliance with the PAIA is still unsatisfactory, the study established a few areas of good practice. The compliance systems implemented in certain departments are viewed as good practice. These systems are comprehensive, well developed, and integrated, and they seek to make provision for compliance with all aspects of the PAIA. The systems are also integrated into the management of the departments. Staff are aware of their responsibilities and the processes enable departments to focus on providing the citizen with the required information. The role the citizen plays in the processes is acknowledged.

The specific systems utilised by the South African Police Service (SAPS), the Department of Environmental Affairs and Tourism (DEAT) and the Department of Water Affairs and Forestry (DWAF) are described in detail and general best practice is then deduced from these systems. A systematic description of these systems can be found in Annexure A at the end of this report.

Roles and responsibilities are well understood and officials know how to deal with requests for information

- The SAPS uses its command and hierarchy structure effectively to deal with requests for information. A DIO was appointed at each Police Station. A request for information is submitted to the relevant DIO. Unambiguous guidelines describe what is required of the DIO. At the end of the month, each DIO based at a police station submits a PAIA return to Head Office for consolidation and submission before the seventh of each month. Based on these monthly reports, the national DIO consolidates the information and submits an annual report to the SAHRC. This forms the basis for a reporting and monitoring system.
- The national DIO in the SAPS uses the monthly reports submitted to him/her as a basis for submitting the annual report to the SAHRC. This ensures the integrity and accuracy of the report provided to the SAHRC.
- In the case of the Department of Environmental Affairs and Forestry (DEAT), a reference number is given to a request for information and it is submitted to the relevant Chief Director. This Chief Director submits the request for information to the Contact Centre through a task list. The Contact Centre attends to the request and provides the information in the requested format. This forms the basis for a reporting and monitoring system.
- The procedure within the Department of Water Affairs and Forestry (DWAF) requires that requests for information be registered by the DIO and Office of the Chief Information Officer



in Head Office. A file is opened, given a reference number, and a control sheet is attached to the inside cover of the file. The existence of a central register assists with monitoring the progress made and time taken to respond to requests for information.

Investigation of requests is properly managed

- After a file has been opened, the DIO in SAPS affixes an investigation dairy to the file and makes an entry in the file. The name of the requester and entry number is included in the file. This ensures that the SAPS can respond adequately to the request for information and track progress made in responding to the requester.
- The relevant Chief Director in the DEAT submits the request to the Contact Centre through a task list ensuring that it is not lost in the process. The responsibility for dealing with requests rests with the Contact Centre.
- In DWAF, a file containing the request for information is placed on a reminder system. Such a system ensures that requests for information are given due attention and facilitates monitoring of progress and feedback to citizens.
- The DIO within DWAF issues a research instruction to facilitate the process of providing an adequate response to the requester. The information obtained is contained in a report. This is one of the basic elements of a tracking system within the department to ensure the investigation of the request and provides an appropriate response to the citizen. The DIO then grants or denies a request for information using the report as a basis for his decision. Any future appeal that may be lodged against the decision of the DIO can be managed since the basis for the decision is contained in the report and does not require a complete re-investigation of the matter.

Records management is incorporated into the procedures for dealing with requests for information

- The SAPS keeps a Request to Access for Information Register and DIOs record the request. This is a key element in monitoring the time it takes to deal with requests for information. The DIO ensures that the sub-section Archives and Registration opens a file for all the correspondence relating to the request. Upon finalisation of all actions taken, the file is returned to the sub-section Archives and Registration for filing.
- Within the SAPS, a specific reference number is given to the request to identify it and assist with tracking its progress. A specific official file for each request is kept and properly stored to ensure future access to the information contained in the file should enquiries arise.
- The DEAT uses task lists when forwarding the request to the Contact Centre thus ensuring that the request is not lost and is attended to by the Contact Centre.
- Within the DWAF, a control sheet is attached to the inside cover of the file to assist in tracking progress. This is the basis for a monitoring system and ensures that adequate attention is given to all aspects of the requests for information. This is a quick yet effective control measure to ensure a quality response to requesters of information.

Providing information and the costs involved

- If the information requested is at cost, revenue stamps are used as evidence of payment (DEAT). This is a good control measure.
- Information is provided in the format that is required (DEAT).
- The DIO issues an assessment for the request fee (DWAF).
- The DIO issues an assessment for the deposit (DWAF).

Citizens are acknowledged in the process of dealing with requests for information

- Procedures within the DWAF require that the Office of the Chief Information Officer issues an acknowledgement receipt to the citizen requesting the information. This ensures that citizens are incorporated into the management process. It also promotes the confidence of the public in the ability of the department to provide the required information.
- The DIO of DWAF grants or denies the request for information within 30 days and informs citizen of the outcome. This is good practice and is in line with the legal requirements of the PAIA.

3.4. Conclusion

The study has established that the Public Service still faces serious challenges in the implementation of the PAIA. The implementation of the PAIA is erratic in the Public Service with basic compliance aspects not implemented in most departments. The most important change that needs to occur is at a conceptual level – where access to information is seen not only to actively promote good governance but also to realise the socio-economic rights of citizens¹⁸.

The above-mentioned departments might be used as examples by other departments, especially those struggling with the implementation of the PAIA. The steps and examples provided may be used as guidelines to improve on the implementation of a PAIA infrastructure.

It is imperative that departments attend to these implementation gaps to ensure that the constitutionally enshrined right to access to information is promoted and to enable citizens to use these rights to protect their interests.

¹⁸Republic of South Africa. South African Human Rights Commission. Reflections on Democracy and Human Rights: A Decade of the South African Constitution (Act 108 of 1996). 2006.

Chapter Four

Recommendations and Conclusion

4.1. Introduction

This study moved from the premise that the right to information is one of the most important human rights that the new democratic dispensation offers South Africans. However, many South African citizens have not yet felt the benefits of this Constitutional right. Departments play a key role in promoting PAIA, but as Chapter Three has shown, compliance with the provisions of the Act is unsatisfactory. This Chapter makes recommendations that would contribute towards more effective implementation of the PAIA.

4.2. Recommendations

Appointing deputy information officers

The appointment of DIOs is a mandatory and basic compliance element. Departments that have not yet appointed DIOs must immediately do so. Consideration should be given to learning from the SAPS approach, which ensures a network of DIOs dealing with requests for information in a manner that is customer driven, and ensures easy and timeous access to information.

In appointing DIOs, existing performance management instruments can be used to ensure accountability for the implementation of the PAIA. In this way, the implementation of the PAIA is incorporated into the normal management practices of departments.

Training of officials

Inadequate training is a major factor that affects the functioning of DIOs in departments. Training will ensure that DIOs have a proper understanding of their roles and responsibilities and are able to make appropriate decisions regarding requests for access to information. Training should also focus on ensuring the rights of citizens, enhancing a workplace culture of accountability and democracy.


The training of all DIOs must be made a priority to improve their levels of awareness of the PAIA. The training should be extended to front line staff to enable them to assist and refer citizens who want to submit a request for access to information to the appropriate official/DIO. Front line staff are in the best position to deal with citizens and should thus be trained to support requests for information.

Departments should timeously communicate their training needs to the SAHRC and other appropriate bodies, such as Justice College, to ensure that training is programmed.

Making PAIA manuals available to citizens

Basic systems underpinning the access to information infrastructure, such as the PAIA manuals, are not in place in departments.

The development of these PAIA manuals should be prioritised by those departments that have not yet developed them. However, these manuals only become a meaningful element in the compliance



infrastructure if they are updated periodically. Since outdated manuals are of little value to citizens, these manuals should receive regular priority attention.

The translation of manuals and the manner in which manuals are made available to the public should be reconsidered by departments. The use of information and communication technology as the prime medium to ensure accessibility of the manuals, does not address the information needs of disadvantaged and illiterate groups in the community. Departments should encourage the use of frontline offices to make the manuals available and accessible to citizens.

Providing information to public institutions

Departments do not provide the required information to the relevant public institutions. This is a basic compliance element and departments should account to the Minister of Justice and Constitutional Development for this lack of compliance. This prevents citizens from knowing what information is already available to them and may force them to request access to information unnecessarily. Departments that do not provide the required information to both the Minister of Justice and Constitutional Development and the SAHRC should be made to account to their respective Parliamentary Portfolio Committees for this lack of compliance.

Informing citizens of their rights to information

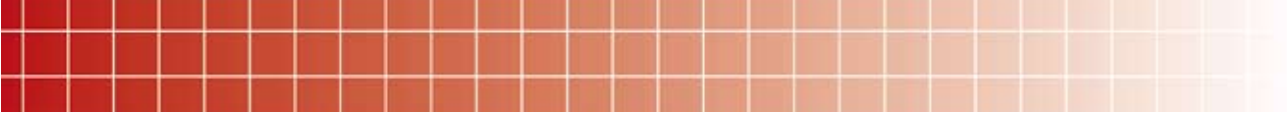
The lack of progress with the implementation of the PAIA can partly be ascribed to a lack of awareness and understanding of the right to information and the PAIA by ordinary citizens. Through awareness campaigns the level of awareness regarding the PAIA will increase and lead to more requests for information being lodged.

Government departments must develop and implement comprehensive communication strategies to provide the public with information on the PAIA, specifically the right to lodge an internal appeal against a decision of an IO or DIO.

Departments should make sure that they publish their internal appeal processes and make citizens aware of their rights in this regard. Such an awareness campaign could be linked to the “know your rights day” and other Public Service campaigns. The right to access to information or right to know must be popularised. Government and civil society organisations play a critical role in making the public aware of their right to information. GCIS could play a powerful role in raising awareness of the PAIA, but it should be linked to a national awareness campaign driven by the Department of Justice and Constitutional Development.

Improving departmental systems to manage requests for access to information

The importance of proper recordkeeping and filing systems and basic administration functions in implementing the PAIA cannot be over-emphasised. Formal systems, which deal with all aspects of the requests for information process, should be developed by departments as a matter of urgency. If



these systems function effectively, information can be provided timeously to citizens and the obligatory monitoring reports can be made available to the SAHRC.

The existing tracking systems to monitor progress in this regard are very basic and inaccessible.

Monitoring of the implementation of the PAIA

The PSC shall continue to monitor the implementation of the PAIA through the application of its monitoring and evaluation system. Strategic partnerships with stakeholders such as the SAHRC should be formed to conduct studies focusing on the PAIA.

Linking the PAIA to improved service delivery

Given that it is now mandatory for all senior managers to reflect **Batho Pele** principles in their performance agreements, it should be possible to improve compliance with the PAIA by linking it to these principles. Of the eight Batho Pele principles, the principles of Information, Openness and Transparency and Redress are closely aligned with the PAIA.

- **Information** requires that citizens be given full and accurate information about public services, which they are entitled to.
- **Openness and Transparency** requires that citizens be told how national and provincial departments are run, how much they cost and who is in charge.
- **Redress requires that** an apology, a full explanation, and a speedy and effective remedy be offered when the promised standard of service is not delivered, and when complaints are made, citizens should receive a sympathetic, positive response.

The PAIA gives effect to these principles and prescribes the appointment of specific officials to deal with requests for information, what information should be provided to the citizens and how redress mechanisms are to be incorporated into the process should citizens be denied access to public records.

4.3. Conclusion

The study established that the implementation of the PAIA is not being adequately prioritised and addressed by government departments. Efforts to build capacity to give effect to the requirements and spirit of the PAIA should be strengthened as part of the promotion of good governance. The PAIA is essential to the building of a transparent and accountable Public Service through the promotion of the right to access to information.

Departments should ensure that citizens become aware of the role information plays in the improvement of the quality of their lives whilst creating the requisite capacity to meet the information needs of the public. Access to information is ultimately a human rights issue, as citizens cannot fully enjoy the fruits of democracy without timeous, accurate, and reliable information about government and the services it renders.

Annexure A

Description of
Departmental Systems
used to Manage Requests
for Information

1. South African Police Service

The system that SAPS uses is elaborate and entails the following steps:

- (a) Forwarding requests for information and accompanying correspondence to the relevant DIO;
- (b) Upon receipt of a request, the DIO:
 - Records the request for Access to Information Register;
 - Requests Sub-section: Archives and Registration to open a file for all the correspondence relating to that request; and
 - Upon receipt of the file, affixes an investigation diary and makes an entry;
- (c) The name of the requester and the entry number are entered;
- (d) Upon the finalisation of all actions taken, the file is returned to the sub-section: Archives and registration for filing; and
- (e) At the end of every month each DIO based at a police station submits a return on the PAIA for consolidation and submission, before the seventh of each month, to Head Office. Based on these monthly reports, the national DIO consolidates the information and submits an annual report to the SAHRC.

2. Department of Environmental Affairs and Tourism

The DEAT also has an interesting system worth describing in terms of good practice. The system provides for the following entries:

- (a) Receiving the request;
- (b) Giving the request a reference number or utilising the existing reference from the requester
- (c) Referring the request to the Chief Directorate: Communication who sends it to the Contact Centre through a task list;
- (d) The Contact Centre attends to the request and refers it to the relevant information source if necessary, or provides the information in a format that is requested; and
- (e) If the information requested is at cost, evidence will be the verification of the revenue stamp.

3. Department of Water Affairs and Forestry

In the Department of Water Affairs and Forestry (DWAF), the system used entails the following:

- (a) The request gets registered by the DIO and office of the Chief Information Officer (CIO) in Head Office;
- (b) A file is then opened;
- (c) The file is placed on a reminder system;
- (d) A control sheet is attached to the inside cover of the file;
- (e) The Office of the Chief Information Officer issues acknowledgement of receipt;
- (f) If applicable, an assessment of a request fee and deposit is issued;
- (g) Research instructions are issued;
- (h) Departmental records are search for to obtain the required information;
- (i) A search report is completed; and
- (j) The DIO grants or denies provision of the information within 30 days.