



MANUAL ON PROMOTION OF ACCESS TO INFORMATION ACT, 2000 AND PROTECTION OF PERSONAL INFORMATION ACT, 2013








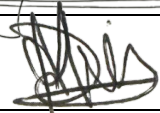
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1. INTRODUCTION

1.1. This Manual is published to address the requirements of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013) (hereinafter referred to as “POPIA”) and in compliance with section 14 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)(as amended) (hereinafter referred to as “PAIA”), a statute contemplated in section 32 of the Constitution of the Republic of South Africa, 1996.

1.2. Section 32(1)(a) of the Constitution of the Republic of South Africa, 1996 provides that everyone has a right of access to any information held by the state and any information held by another person that is required for the exercise or protection of any rights.

1.3. PAIA gives all South Africans the right to have access to records held by public and private bodies.

1.4. PAIA seeks to achieve the following:

- Ensures that the State takes part in promoting a human rights culture and promotes a culture of social justice;
- Encourages openness and establishes voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner, as reasonably possible; and
- Promotes transparency, accountability and effective governance of all public and private bodies, by: (i) empowering and educating everyone to understand their rights in terms of PAIA so that they are able to exercise their rights in relation to public and private bodies; (ii) to understand the functions and operation of public bodies; and (iii) to effectively scrutinise and participate in decision making by public bodies.

1.5. PAIA, however, recognises that such a right of access to information is subject to justifiable limitations and seeks to balance the requester’s constitutional right to information against the Information Officer’s right to refuse access to information on any of the grounds mentioned in Part 2, Chapter 4 of PAIA. Such limitations are acknowledged within these provisions of PAIA and POPIA.

- 1.6. Notwithstanding the right of access to information, there are circumstances under which there would be limited or restricted access to information held by the State.
- 1.7. Importantly, section 14 of PAIA provides that all public bodies must have information manuals to assist any person wanting to access records of public bodies. And therefore, the National Radioactive Waste Disposal Institute (hereinafter referred to as “NRWDI”), which was established in terms of section 3 of the National Radioactive Waste Disposal Institute Act, 2008 (Act No. 53 of 2008) (hereinafter referred to as the “NRWDI Act”), being a public body exercising a public power or performing a public function in terms of the NRWDI Act, is required to compile a Manual giving information to the public regarding the procedure to be followed in requesting information from a public body for the purposes of exercising or protecting rights. PAIA further requires that public bodies provide details of records held by such public body to accommodate requests for information.
- 1.8. Ultimately, the purpose of PAIA is to foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information, and to actively promote a society in which people would have access to all information necessary for the full and proper exercise and protection of their rights.
- 1.9. This Manual has been prepared by NRWDI to facilitate public access to records held by NRWDI and it contains, *inter alia*, the following information:
 - (a) A description of the structure and functions of NRWDI.
 - (b) The postal and street address, phone number (where possible) and a centralised electronic mail address where PAIA requests will be received by the Information Officer and/or his delegate.
 - (c) A description of the Guide compiled by the Information Regulator and how to access it.
 - (d) Information to assist in facilitating access to a record held by NRWDI.
 - (e) The categories of records available without a person having to request access in terms of PAIA.
 - (f) The categories of records which can be accessed through a PAIA request.

- (g) The actions to be taken if access to information has been refused.

2. LIST OF ACRONYMS AND ABBREVIATIONS

- (i) **“CEO”** means the Chief Executive Officer;
- (ii) **“DEE”** means the Department of Electricity and Energy and by association the Minister as the executive authority in charge of the Department of Electricity and Energy;
- (iii) **“PAIA”** means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (as amended);
- (iv) **“POPIA”** means the Protection of Personal Information Act, 2013 (Act No. 4 of 2013);
- (v) **“Regulator”** means the Information Regulator;
- (vi) **“Republic”** means the Republic of South Africa; and
- (vii) **“SAHRC”** means the South African Human Rights Commission.

3. DEFINITIONS

For the purpose of this Manual, unless the context otherwise indicates:

- 3.1. **“Access fee”** means a fee prescribed for the purpose of reproduction, search and reimbursement to NRWDI for access to the Record, and for time reasonably required in excess of the hours prescribed to search for and to prepare the Record for disclosure;
- 3.2. **“Constitution”** means the Constitution of the Republic of South Africa, 1996;
- 3.3. **“Data subject”** means the person to whom personal information relates;
- 3.4. **“Deputy Information Officer”** means an official delegated by the Information Officer to fulfil responsibilities in terms of PAIA;
- 3.5. **“Guide”** means the guide on how to use PAIA by any person who wishes to exercise any right contemplated in PAIA and POPIA, as contemplated in section 10 of PAIA;

- 3.6. **“Information Officer”** means the Chief Executive Officer of NRWDI, or the person who is acting as such;
- 3.7. **“Personal requester”** means the person requesting access to a record containing personal information about the requester;
- 3.8. **“Personal information”** means information relating to an identifiable natural person, including, but not limited to—
- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
 - (b) information relating to the education or the medical, financial, criminal or employment history of the person;
 - (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other assignment to the person;
 - (d) the biometric information of the person;
 - (e) the personal opinions, views or preferences of the person;
 - (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
 - (g) the views or opinions of another individual about the person; and
 - (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person, but excludes information about an individual who has been dead for more than 20 years;
- 3.9. **“Public Body”** means -
- (a) any department of state or administration in the national or provincial sphere

of government or any municipality in the local sphere or government; or

- (b) any other functionary or institution when —
 - (i) exercising a power or performing a duty 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;

3.10. “**Record**” means any recorded information, regardless of form or medium which is in the possession of or under the control of NRWDI, irrespective of whether it was created by NRWDI or not and is evidence of a transaction, preserved for the evidential information it contains;

3.11. “**Request**” means a request for access to a record of NRWDI;

3.12. “**Requester**” means the natural or juristic person requesting access to information or a record of NRWDI and also refers to the person making a request on behalf of somebody else; and

3.13. “**Third Party**” means any natural or juristic person who is not the requester of the information, nor the body to whom the information request is made.

4. BRIEF OVERVIEW OF NRWDI

4.1. NRWDI draws its mandate directly from the NRWDI Act, wherein NRWDI is responsible for, inter alia, the long-term management and disposal of radioactive waste on a national basis in a technically sound, socially acceptable, environmentally responsible and economically feasible manner. This responsibility is an apex priority for Government and the DEE to ensure that no undue burden is placed on future generations due to past, present and future involvement in nuclear science and technology applications.

4.2. Regarding information dissemination, the NRWDI Act states, as one of its functions, that NRWDI must provide information on all aspects of radioactive waste management to the people living around radioactive waste disposal facilities and to the public in general.

4.3. NRWDI's vision is to be a globally recognised leader in the management of radioactive waste disposal and its mission is to protect people and the environment by providing sustainable, safe and technologically innovative radioactive waste disposal solutions.

4.4 NRWDI has adopted the following "Values":

- (a) **N**urturing
- (b) **R**espect
- (c) **W**ork-life balance
- (d) **D**edication
- (e) **I**ntegrity

5. GOVERNANCE AND ORGANISATIONAL STRUCTURE

5.1 STRUCTURE AND FUNCTIONS OF NRWDI

5.1.1 LEGISLATIVE FRAMEWORK

- (a) NRWDI is an independent legal entity established by the NRWDI Act and is listed as a Schedule 3A public entity in accordance with the Public Finance Management Act, 1999 (Act No.1 of 1999) (as amended) (hereinafter referred to as the "PFMA").
- (b) NRWDI's sole shareholder is the Government of the Republic of South Africa, represented by and reporting to the DEE.
- (c) NRWDI endorses the code of corporate governance practices and conduct as contained in the King IV Report on Corporate Governance and affirms its commitment to comply in all material respects with the principles incorporated in this report.
- (d) NRWDI further subscribes to the corporate governance principle set out in the PFMA and the Protocol on Corporate Governance in the Public Sector.

5.1.2 THE BOARD OF DIRECTORS

- (a) In terms of the NRWDI Act, NRWDI is governed and controlled by a Board of Directors.

- (b) NRWDI has a Board appointed by the Minister and is responsible for the general management and control of the Institute. The Board must ensure that the functions of the Institute are carried out efficiently and effectively.
- (c) The NRWDI Board is the Accounting Authority as contemplated in the PFMA.
- (d) The Board has absolute responsibility for the performance of NRWDI and is fully accountable to the shareholder for such performance. Consequently, the Board provides strategic direction to the entity and retains full and effective control of NRWDI.
- (e) Consequently, the Board is largely responsible for oversight, risk management and strategic planning.
- (f) Additionally, the Board approves and closely monitors the management and implementation of plans and strategies.

5.1.3 THE EXECUTIVE MANAGEMENT

- (a) NRWDI is led by the CEO with an Executive Management Team in keeping with the Board's strategic direction.
- (b) The Executive Management is collectively responsible for managing the business of NRWDI.
- (c) Furthermore, the Executive Management prepares and reviews the strategic plans, annual performance plans and key policies for submission and approval to the Board. As well as ensuing operational efficiency, acceptable financial reporting quality, and compliance with all applicable laws, regulations, rules, and standards.

5.2 NRWDI FUNCTIONS AND OPERATIONS

Briefly, NRWDI will be performing the following functions and operations in accordance with section 5 of the NRWDI Act, 2008 (Act No. 53 of 2008), namely:

- 5.2.1 Managing radioactive waste disposal on a national basis;
- 5.2.2 Operating the national low-level waste repository at the Vaalputs waste disposal facility;

- 5.2.3 Designing and implementing disposal solutions for all categories of radioactive waste;
- 5.2.4 Developing criteria for accepting and disposing radioactive waste in compliance with applicable regulatory safety requirements and any other technical and operational requirements;
- 5.2.5 Assessing and inspecting the acceptability of radioactive waste for disposal and issue radioactive waste disposal certificates;
- 5.2.6 Managing, operating and monitoring operational radioactive waste disposal facilities including related predisposal management of radioactive waste on disposal sites;
- 5.2.7 Investigating the need for any new radioactive waste disposal facilities and the siting, designing and construction of new facilities as required;
- 5.2.8 Defining and conducting research and development aimed at finding solutions for long-term radioactive waste management;
- 5.2.9 Maintaining a national radioactive waste database and publishing a report on the inventory and location of all radioactive waste in the Republic at a frequency determined by the Board;
- 5.2.10 Managing ownerless radioactive waste on behalf of the Government, including the development of radioactive waste management plans for such waste;
- 5.2.11 Assisting generators of small quantities of radioactive waste in all technical aspects related to the management of such waste;
- 5.2.12 Implementing institutional control over closed repositories, including radiological monitoring and maintenance as appropriate;
- 5.2.13 Implementing any assignments or directives from the Minister regarding radioactive waste management;
- 5.2.14 Providing information on all aspects of radioactive waste management to the public living around radioactive waste disposal facilities and to the public in general;

5.2.15 Advising nationally on radioactive waste management;

5.2.16 Co-operating with any person or institution in matters falling within these functions; and

5.2.17 Any other function necessary to achieve the objectives of NRWDI.

6. INFORMATION OFFICER'S CONTACT DETAILS

6.1 The CEO is the Information Officer (in terms of the definition of Information Officer as provided for in section 1 of PAIA) and is responsible for the processing of all PAIA applications.

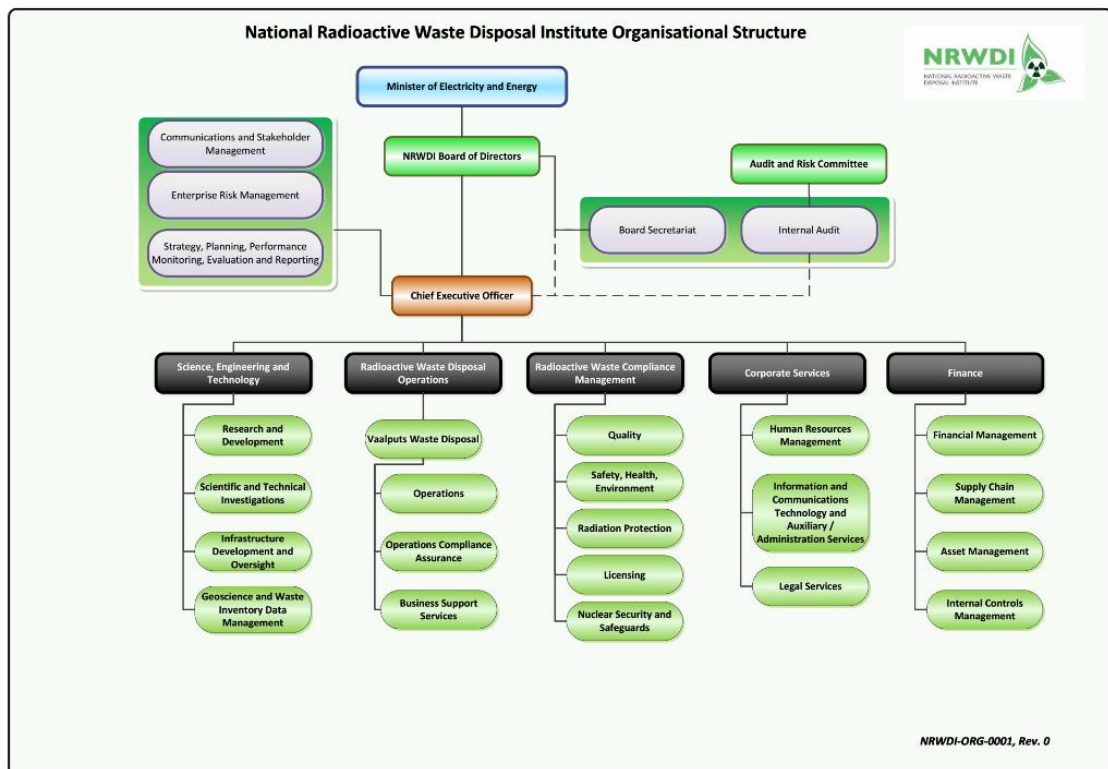
6.2 All PAIA applications sent via e-mail are to be forwarded to paia@nrwdi.org.za. All PAIA requests are to be marked for the attention of Legal Services, as Legal Services is the central receiving point for all PAIA applications. It is preferable that applications are sent via e-mail.

6.3 Contact Details of the NRWDI Offices

NRWDI Head Office	
Physical Address	Building X Elias Motsoaledi Street Extension R104 Pelindaba Brits Magisterial District North West 0240
Postal Address	Private Bag X1, Pretoria Gauteng, 0001
Website	www.nrwdi.org.za
E-mail address (general enquiries)	info@nrwdi.org.za
Email address (PAIA applications)	paia@nrwdi.org.za

Vaalputs Waste Disposal Facility	
Physical Address	Vaalputs Waste Disposal Facility, Kamiesberg Magisterial District Northern Cape Province 8261
Telephone Number	(027) 717-8400

7. ORGANOGRAM OF NRWDI REPORTING STRUCTURE



8. DESCRIPTION OF THE SECTION 10 GUIDE OF THE ACT

8.1. The Information Regulator has, in terms of section 10(1) of PAIA, as amended, updated the PAIA Guide, as initially compiled by the SAHRC. The purpose of the Guide is to provide information that is needed by any person who wishes to exercise any right contemplated in PAIA and POPIA. This Guide will specifically assist a person, also called a data subject, on how to access his/her or its personal information in terms of section 23 of POPIA.

8.2. The Guide is available in all official languages from the Information Regulator.

8.3. The contact details for the Information Regulator are as follows:

Physical address:	Postal address:	Email:
JD House 27 Stiemens Street Braamfontein, Johannesburg 2001	P.O Box 31533 Braamfontein Johannesburg 2017	Complaints: complaints.IR@justice.gov.za General enquiries: infoereg@justice.gov.za

9. RECORDS HELD BY NRWDI

9.1. In general, NRWDI endeavours to maintain its records of all its activities.

9.2. Records which have reached their disposal date are destroyed according to retention schedules after obtaining the relevant authorisation.

9.3. Records of lasting value in terms of legal, social, historical or research value are retained permanently.

10. INFORMATION AUTOMATICALLY AVAILABLE

10.1 The following information and/or records can be obtained without a formal request, in other words, the information is regarded as voluntary disclosures:

- (i) The National Radioactive Waste Disposal Institute Act;
- (ii) NRWDI Strategic Plan;
- (iii) NRWDI Annual Report;
- (iv) NRWDI Annual Performance Plans, as approved by the Minister;
- (v) Marketing brochures of NRWDI;
- (vi) Current NRWDI tender opportunities;
- (vii) Application forms;
- (viii) Published newsletters;
- (ix) Current NRWDI Employment opportunities; and

- (x) Corporate Social Investment projects and how to get involved;

10.2. All the above records are available on request at the NRWDI Head Office and/or on the NRWDI website: www.nrwdi.org.za.

10.3. Please refer to and use the website before submitting requests, as it would be an easier way of accessing records. You may also contact NRWDI to determine if information requiring access is automatically available or if the access to information procedure should be followed to acquire access to such documents.

10.4. Automatically available information that is not posted on the website may be requested from NRWDI without submitting a request in terms of PAIA. No request form for access in terms of PAIA needs be completed for records automatically available in terms of this section. However, a copying fee may be levied, where applicable.

11. INFORMATION NOT AUTOMATICALLY AVAILABLE TO THE PUBLIC

11.1. The inclusion of any subject or category of records should not be taken as an indication that records falling within those subjects and/or categories will be made available under PAIA. There are certain grounds that records must or may be refused as set out in PAIA.

11.2. Classified Information is deemed not automatically available to the public. Documentation and/or Information can be classified according to the following categories of sensitivity:

11.2.1. **Top Secret Records** - This is the highest security classified records, and these consist of unauthorised disclosure files which could cause great harm to the NRWDI and the country.

11.2.2. **Secret Files Records** – *This relates* to information that may be used to disrupt the objectives and functions of an institution and/or state.

11.2.3. **Confidential Records** – This relates to information that may be used to harm the objectives and functions of an individual and/or institution.

11.2.4. **Restricted Records** – This relates to information that may hamper activities of the institution.

11.2.5. **Intellectual Property** - Intangible information, assets owned and legally protected by NRWDI from use or implementation without consent. Such information will include amongst others, patents, copyrights, trademarks, trade secrets, commercially sensitive information, classified digital assets etc.

12. ACCESSIBLE NRWDI RECORDS THROUGH PAIA REQUEST

No.	Subject	Description of Record
1.	Organisation and Control	<ul style="list-style-type: none"> • Organogram • Delegation of Authority • Internal Policies (such as fraud and risk prevention policies)
2.	Human Resources Management	<ul style="list-style-type: none"> • Internal Policies related to HR function • HR Plans • Job Profiles / Description • Recruitment, Selection & Appointments <ul style="list-style-type: none"> ○ job advertisement ○ job profile for recruitment ○ unsuccessful job applications ○ regret letters • Code of Conduct and Business Ethics • Employee handbook (HR Manual) • Skills development plan • Employment equity plan • Corporate gift information
3.	Financial Management	<ul style="list-style-type: none"> • Policies related to Finance function • Revenue Management

		<ul style="list-style-type: none"> • Annual financial statements • MTEF, AENE and ENE allocations • Expenditure Management information • Cash flow information • Asset registers • Funding and Grant information
4.	Supply Chain Management	<ul style="list-style-type: none"> • Supply Chain Management Policy • Procurement information • Demand and Acquisition information • Quotations • Purchase orders • Tender documents • Empowerment incentives • SMME information • Reports on disposal of equipment • Asset register
5.	Facilities Management	<ul style="list-style-type: none"> • Policy and procedures
6.	Travel and Transport Services	<ul style="list-style-type: none"> • Trip arrangement and accommodation information (post-travel) • Trip authorisation records
7.	Records and Document Management	<ul style="list-style-type: none"> • Records management policy • File plan master copy • Register of destroyed records • Registry procedure Manual • Inventory list of records at NRWDI

		<ul style="list-style-type: none"> • List and register of retrieved files • PAIA requests (requests, refusals, etc.) • Disposal authority granted • Transferred records • Courier service files
8.	Information Technology	<ul style="list-style-type: none"> • IT Policy • Information systems management information • Usage/statistic Report • Installation and maintenance files (hardware, servers, software) • Issuing of equipment, HDD, laptops, 3G cards, etcetera. • Access control files • Systems license management • Software utilised by organisation • Information security management reports • Access rights' reports • Incident reports • Security audits • Systems log report
9.	Marketing & Communications	<ul style="list-style-type: none"> • Communication Policy • Stakeholder liaison information • Media liaison information • Briefings • Newsletters

		<ul style="list-style-type: none"> • Branding information • Exhibitions information • Advertisements (vacancies, bursaries, nominations, tenders) • Events management information • Public outreach programme information
10.	Legal Services	<ul style="list-style-type: none"> • Legal Services Policy(s) • Legal Services Processes • Litigation related information • Compliance related information • Contracting related information
11.	Radioactive Waste Operations (RWO) and Compliance	<ul style="list-style-type: none"> • Radioactive Waste Related Policies • NRWDI Licensing information and processes • Public Information documentation • RWO Projects • Emergency Planning and Safety Information • Documentation relating to Safety, Health, Environment, and Quality
12.	Strategic Projects	<ul style="list-style-type: none"> • Information on new projects • Designs, Maps and Drawings • Certificates • Lab test information • Site test information • Social infrastructure development projects • Socio economic infrastructure projects • Integrated development plan support programme • Project Information or reports

13. PROCEDURE TO ACCESS RECORDS

- 13.1. The PAIA request must be made on the correct prescribed request form (Form 2 – which will be published separately with this Manual) and addressed to the Information Officer or the relevant Deputy Information Officer.
- 13.2. The request form will be available at NRWDI office(s) and on its website at www.nrwdi.org.za.
- 13.3. The request form must be completed in full and hand delivered, posted or submitted via email.
- 13.4. Supervised access may be provided at NRWDI Head Offices under supervision of a NRWDI staff member.
- 13.5. Certain records, which are free of charge, may be accessed directly on the Internet from NRWDI's official website at: www.nrwdi.org.za and requesters are encouraged to first consider checking if the records are available on the official website before submitting a request.

14. HOW TO COMPLETE A PAIA REQUEST FORM - FORM 2 (REGULATION 7)

No.	Information Required	Description
1.	Details of the Requester	Information to identify the requester including contact details, postal and email address, and telephone number in South Africa.
2.	Details of the requested records	<ul style="list-style-type: none">• Information to be able to identify the record - as a vague request cannot be processed.• Additional documentation may be used to detail the request, and each additional page must be signed.

3.	Manner of access to the record	A description of the form or manner in which the record should be provided or made accessible, i.e. printed copy, digital copy, audio, etc.
4.	Manner in which to inform the requester of access to the record	The requester must be timeously informed about the decision to either: grant, refuse the request or defer access to the information for a period of 90 days. The notification can be sent via email, post, etc. (as per the requestor's election).
5.	Preferred language	NRWDI can only provide access to the record in the language in which the record exists. However, the language of correspondence will be in English unless special assistance or accommodation is required by the requestor (subject to available funds).
6.	Capacity of authorised person making request	When a request is made on behalf of someone else, proof of the capacity in which the person is making the request must be provided, i.e. lawyer, etc. A power of attorney must be attached to the request.

15. PAYMENT PROCEDURE

15.1. COST OF REQUEST FEES

- 15.1.1. A person who submits a request on behalf of someone (i.e. lawyers, etc) must pay the standard required request fee. The Deputy Information Officer will notify the requester of the requirements to pay the prescribed fee (if any) before processing the request as set out in section 22(1) of PAIA.

- 15.1.2. A requester who is requesting access to their personal information (own) are exempted from paying the request fee but will pay for the access fees.
- 15.1.3. The request fee payable to NRWDI is R35.00 per record, which is the amount stipulated in the PAIA Act read with its Regulations (as amended from time to time).
- 15.1.4. The fee is payable on submission of each application. This amount is non-refundable.
- 15.1.5. Requesters who earn less than R14 712.00 per annum if single and R27 192.00 per annum if married or in a life partnership do not have to pay access fees; subject to the submission of proof of earnings. These amounts are stipulated in the PAIA Act read with its Regulations (as amended from time to time).

15.2. COST OF ACCESS FEES

- 15.2.1 Requesters are required to pay fees for accessing public records.
- 15.2.2 The fee covers the searching and copying costs of the record.
- 15.2.3 An access fee is determined by the amount of records requested and the manner in which access is required.
- 15.5.4 Postage fees, if applicable, are to be paid by the requester for the delivery of their requested records
- 15.2.5 Request and access fees are as prescribed by Gazette 23119 of 15 February 2002, Government Notice No. R187. **These fees may increase from time to time, as and when the Department of Justice & Constitutional Development publishes a notice to this effect in the Government Gazette.**

15.3. NOTIFICATION OF FEES

- 15.3.1. Once the Information Officer or his delegate has made a decision on the request, the requester will be notified of such a decision in the manner in which the requester requested to be notified.

- 15.3.2. If a search for the record has been made and the preparation of the record for disclosure, including arrangements to make it available in the requested form requires more than the hours prescribed in the regulations, the Deputy Information Officer shall notify the requester to pay as a deposit the prescribed portion of the access fee, which would be payable if the request is granted. The Deputy Information Officer shall withhold the record until the requester has paid the relevant fees.
- 15.3.3. Should the request fee of R35.00 not accompany a request received by NRWDI, the Deputy Information Officer must notify the requester (other than a personal requester) by notice, requiring the requester to pay the request fee before further processing the request.
- 15.3.4. If the request is granted, then a further access fee must be paid for the search, preparation and reproduction and for any time that has exceeded the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the requested form.
- 15.3.5. If the deposit has been paid in respect of a request for access, which is refused, then the Deputy Information Officer will repay the deposit to the requester.

15.4. GROUNDS FOR REFUSAL OF ACCESS TO RECORDS

The Information Officer or his delegate may, and in some circumstances must, refuse a request for information if that information relates to the following:

- (i) Protection of personal information;
- (ii) Unreasonable disclosure of personal information about a third party, including a deceased individual;
- (iii) Protection of certain records of NRWDI;
- (iv) Protection of the commercial information of a third party [Section 36(1)];
- (v) Protection of the confidential information of third parties, supplied in confidence or protected in terms of an agreement [Section 37(1)];
- (vi) Protection of the safety of individuals and property [Section 38(1)];

- (vii) Protection of records privileged from production in legal proceedings [Section 40(1)];
- (viii) Protection of records reasonably expected to cause prejudice to the defense, security and international relations of the Republic of South Africa [Section 41(1)];
- (ix) Protection of records relating to the economic interests and the financial welfare of the Republic of South Africa and the commercial interests of public bodies and NRWDI [Section 42(1)];
- (x) Protection of research information of a third party, including a public body and NRWDI [Section 43(1)];
- (xi) Protection of the operations of public bodies and NRWDI [Section 44(1)];
and
- (xii) Manifestly frivolous or vexatious requests or those that would result in a substantial and unreasonable diversion of resources [Section 45(1)].

15.5. INTERNAL APPEAL UNAVAILABLE

Section 74 of the Act, read with the definition of a “public body”, only provides for an internal appeal to be considered by a department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government. Seeing that NRWDI does not fall within this scope, a requestor would not be able to lodge an internal appeal against the decision taken by NRWDI’s information officer.

15.6. REMEDIES AVAILABLE

15.6.1. A requester (or a third party lodging the application, if applicable) may seek relief from any court, with appropriate jurisdiction, in respect of the following decisions of the Information Officer or his delegate:

- (i) Refusal or partial refusal of the request for access;
- (ii) The amount of fees required to be paid;

(iii) The extension for the period within which to deal with the request; or

(iv) The form of access in which the information will be furnished.

15.6.2. All legal processes must be served on the Chief Information Officer or the Deputy Information Officer who dealt with the request within 30 days from the date of the decision.

16. PROTECTION OF PERSONAL INFORMATION (POPI)

16.1. Brief overview of the Key Objectives of POPIA:

16.1.1. Protecting Privacy:

POPIA's primary goal is to protect the fundamental right to privacy by establishing conditions for the lawful processing of personal information.

16.1.2. Balancing Rights:

It aims to balance the right to privacy with other rights, particularly the right of access to information, and protects important interests, including the free flow of information.

16.1.3. Establishing Minimum Requirements:

POPIA sets minimum requirements for the processing of personal information, ensuring that it is done lawfully and ethically.

16.1.4. Providing Rights and Remedies:

It provides individuals with rights and remedies to protect their personal information from unlawful processing.

16.1.5. Ensuring Compliance:

POPIA establishes voluntary and compulsory measures, including the Information Regulator, to promote, enforce, and fulfil the rights protected by the Act.

16.1.6. Regulating International Data Transfers:

POPIA also regulates the flow of personal information across borders, ensuring compliance with international standards.

16.1.7. Specifying Conditions for Lawful Processing:

POPIA outlines various conditions for the lawful processing of personal information, including accountability, processing limitation, purpose specification, further processing limitation, information quality, openness, security safeguards, and data subject participation.

16.1.8. Defining Processing:

POPIA defines "processing" as any operation or activity concerning personal information, including collection, storage, modification, and destruction.

16.2. Introduction to POPIA

16.2.1 Chapter 3 of POPIA provides for the minimum conditions for lawful "processing" of "personal information" by a "responsible party" (as defined under POPIA). These conditions must apply unless specific exclusions apply as outlined in POPIA.

16.2.2 NRWDI requires personal information relating to both natural and legal persons in order to carry out its business and organisation functions. The manner in which this information is processed and the purpose for which it is processed is determined by NRWDI. Accordingly, NRWDI is a responsible party for the purposes of POPIA and will ensure that the personal information of a data subject, amongst other things, as prescribed by POPIA -

- (a) is processed lawfully, fairly and transparently. This includes the provision of appropriate information to data subjects when their data is collected by NRWDI, in the form of privacy or data collection notices. NRWDI must also have a legal basis (for example, but not limited to, consent) to process personal information;
- (b) is processed only for the purposes for which it was collected;
- (c) will not be processed for a secondary purpose unless that processing is compatible with the original purpose;
- (d) is adequate, relevant and not excessive for the purposes for which it was collected;

- (e) is accurate and kept up to date;
- (f) will not be kept for longer than necessary;
- (g) is processed in accordance with integrity and confidentiality principles – this includes physical and organisational measures to ensure that personal information, in both physical and electronic form, is subject to an appropriate level of security when stored, used and communicated by NRWDI in order to protect against access and acquisition by unauthorised persons and accidental loss, destruction or damage; and
- (h) is processed in accordance with the rights of data subjects, where applicable.

16.3. DATA SUBJECTS' RIGHTS

Data Subjects have the right to:

- (a) Be notified that their personal information is being collected by NRWDI. The data subject also has the right to be notified in the event of a data breach, unless the identity of the data subject(s) cannot be established.
- (b) Know whether NRWDI holds personal information about them and to access that information. Any request for information must be handled in accordance with provisions of this Manual.
- (c) Request the correction or deletion of inaccurate, irrelevant, excessive, out of date, incomplete, misleading or unlawfully obtained personal information.
- (d) Object to NRWDI use of their personal information and request the deletion of such personal information (deletion would be on a case by case basis and subject to NRWDI record keeping requirements).
- (e) Object to the processing of personal information for purposes of direct marketing by means of unsolicited electronic communications.

- (f) Complain to the Information Regulator regarding an alleged infringement of any of the rights protected under POPIA and to institute civil proceedings regarding the alleged non-compliance with the protection of his, her or its personal information.

16.4. PURPOSE OF THE PROCESSING OF PERSONAL INFORMATION BY NRWDI

Personal information held by NRWDI can only be processed for a specific purpose. The legal and/or legitimate purpose for which NRWDI processes or will process personal information must accord with its business and/or operating requirements.

16.5. CATEGORIES OF DATA SUBJECTS AND PERSONAL INFORMATION RELATING THERETO

- 16.5.1. Under POPIA, data subjects are broadly categorised as natural or juristic persons, and the Act applies to the data of any legal entity, including individuals, companies, trusts, and non-profit institutions. A more detailed explanation of the categories of data subjects are recorded hereunder:

Natural Persons:

- 16.5.2. This refers to individual people, and POPIA protects their personal information, including things like name, age, race, gender, contact details, and more.

Juristic Persons:

- 16.5.3. This encompasses legal entities like companies, trusts, and non-profit organizations, and POPIA also applies to their data, including the data of their employees, suppliers, and partners.

Data Subject Rights

- 16.5.4. Data subject rights include the right to know of the processing, access the data, erasure, correction of information, and to object.

Special Personal Information

- 16.5.5. POPIA defines "special personal information" as personal information

concerning religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health or sex life, or biometric information of a data subject (excluding genetic information).

Processing Limitation

- 16.5.6. POPIA requires that personal information must be collected for a specific, explicitly defined and lawful purpose related to a function or activity of the responsible party.

Data Subject Participation:

- 16.5.7. POPIA emphasizes data subject participation, requiring organizations to ensure that data subjects are aware of the purpose of the collection of information unless the provisions of section 18(4) of POPIA are applicable.

16.6. SHARING OF PERSONAL INFORMATION

POPIA regulates data sharing, requiring responsible parties to ensure it's done lawfully and transparently, while protecting the rights of individuals whose data is shared. However, the information must be in accordance with the following principles.

16.6.1 Lawful Processing:

Data sharing must comply with the conditions for lawful processing outlined in POPIA, including obtaining consent, ensuring necessity, and adhering to specific purposes.

16.6.2 Transparency:

Individuals must be informed about how their data is being shared, including the identity of the parties with whom it's shared and the purposes for which it's used.

16.6.3 Purpose Limitation:

Data should only be shared for the purposes for which it was collected, and not for any incompatible purposes.

16.6.4 Data Minimization:

Only the necessary data should be shared, and not more than what is required for the specific purpose.

16.6.5 Accuracy:

Data must be accurate and kept up to date.

16.6.6 Security:

Data must be protected against unauthorized access, loss, or misuse.

16.6.7 Data Subject Rights:

Individuals have the right to access their data, request corrections, and object to processing, including sharing, of their data.

17. CROSS- BORDER FLOWS OF PERSONAL INFORMATION

POPIA generally prohibits the transfer of personal information to a third party in a foreign country unless certain protections are in place.

Section 72 of POPIA provides that personal information may only be transferred out of the Republic of South Africa if the:

- (a) Recipient country can offer such data at an “adequate level” of protection. This means that its data privacy laws must be substantially similar to the Conditions of Lawful Processing as contained in POPIA;
- (b) Data subjects’ consent to the transfer of their personal information;
- (c) Transfer is necessary for the performance of a contractual obligation between that data subject and the responsible party;
- (d) Transfer is necessary for the performance of a contractual obligation between the responsible party and a third party, in the interests of the subject; or
- (e) The transfer is for the benefit of the data subject, and it is not reasonably practicable to obtain the consent of the data subject, and if it were, the data subject, would in all likelihood provide such consent.

18. DESCRIPTION OF INFORMATION AND SECURITY MEASURES TO BE IMPLEMENTED BY NRWDI

18.1. A preliminary assessment of the suitability of the information security measures implemented or to be implemented by NRWDI may be conducted in order to ensure that the personal information that is processed by NRWDI is safeguarded and processed in accordance with the conditions for lawful processing under POPIA.

18.2. In order to comply with POPIA, NRWDI must implement reasonable security measures, including identifying risks, establishing safeguards, and regularly verifying their effectiveness, to protect personal information from loss, damage, or unauthorized access.

18.2.1. The key security measures required under POPIA are essentially the following:

18.2.1.1. Risk Assessment and Identification

Conduct a thorough assessment to identify all reasonably foreseeable internal and external risks to personal information.

18.2.1.2. Consider both technical and organizational risks

This includes physical security, network security, data storage, access controls, and human error.

18.2.1.3. Review regularly:

Risks should be reviewed regularly and updated in response to new threats or deficiencies in existing safeguards.

18.2.2. Established and Maintained Safeguards (Technical & Organisational):

Technical Safeguards:

- **Data Encryption:** Implement encryption to protect data both in transit and at rest.
- **Firewalls and Antivirus:** Use of firewalls, antivirus software, and other security tools to protect against cyber threats.

- **Intrusion Detection Systems:** Implement intrusion detection and prevention systems to monitor and block unauthorized access.
- **Data Loss Prevention (DLP):** Implement DLP solutions to prevent sensitive data from leaving the organization's control.
- **Access Controls:** Implement strict access controls to limit who can access personal information and what they can do with it.
- **Password Management:** Enforce strong password policies and multi-factor authentication where appropriate.
- **Regular Security Audits:** Conduct regular security audits to identify vulnerabilities and ensure that security measures are effective.

18.2.3. Organizational Safeguards:

- **Data Classification:** Classify personal information based on its sensitivity and implement appropriate security measures accordingly.
- **Security Awareness Training:** Provide regular training to employees on data protection and security best practices.
- **Data Retention Policies:** Implement data retention policies that ensure that personal information is not kept for longer than necessary.
- **Data Breach Response Plan:** Develop a plan for responding to data breaches, including notification procedures.
- **Contractual Obligations:** Ensure that contracts with third parties include data protection obligations.
- **Information Security Policy:** Develop and implement a comprehensive information security policy that addresses all aspects of data protection.

18.2.4. Regular Verification and Monitoring:

- **Regularly Verify Safeguards:** Regularly verify that security measures are effectively implemented and working as intended.
- **Monitor for Suspicious Activity:** Implement monitoring tools to detect and respond to suspicious activity.
- **Penetration Testing:** Conduct regular penetration testing to identify vulnerabilities in security measures.
- Section 19 of POPIA specifically addresses security measures for the integrity and confidentiality of personal information.
- The Act requires organizations to take "appropriate, reasonable technical and organizational measures" to protect personal information. NRWDI will utilise information communication technologies, within its budget, to ensure information in its possession is safeguarded.
- NRWDI must have due regard to generally accepted information, security practices and procedures.

19. OBJECTION TO THE PROCESSING OF PERSONAL INFORMATION BY A DATA SUBJECT

Section 11(3) of POPIA read with Regulation 2 (published on 14 December 2018) provides that a Data Subject may, at any time object to the processing of his/her/its personal information in the Prescribed Form, subject to exceptions contained in POPIA.

20. REQUEST FOR CORRECTION OR DELETION OF PERSONAL INFORMATION

Section 24 of POPIA read with Regulation 3 (published on 14 December 2018) provides that a data subject may request for their personal information to be corrected/deleted in the prescribed form.

21. UPDATING MANUAL

The Manual will be updated at least every three years or whenever changes to the information contained in the Manual requires to be updated.

22. AVAILABILITY OF THIS MANUAL

This Manual can be accessed as follows:

- (a) NRWDI website at www.nrwdi.org.za;
- (b) Requesting a copy by email from the Information Officer or Deputy Information Officer as provided for in this Manual.
- (c) South African Human Rights Commission / Information Regulator.