

**MANUAL ON THE PROMOTION OF ACCESS TO  
INFORMATION FOR**

**KAROO HOOGLAND MUNICIPALITY**

**In Terms of Section 14 of the Promotion of Access to  
Information Act, 2000 (Act No. 2 of 2000)**

**VERSION 1/2015**

**JULY 2015**

# 1. INTRODUCTION

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The Promotion of Access to Information Act, No 2 of 2000 ("the Act") was enacted on 3 February 2000, giving effect to the constitutional right of access to, inter alia, any information held by the State, subject to justifiable limitations, including but not limited to limitations aimed at the reasonable protection of privacy, commercial confidentiality; and effective, efficient and good governance in a manner which balances that right with any other right, including the Bill of Rights in the Constitution.

The Act also sets out the requisite procedural issues attached to a request for information. Please note that wherever reference is made to "Public Body" in this manual, it will refer to Karoo Hoogland Local Municipality ("the Municipality"), a public body within the local sphere of government, for whom this manual is drafted.

## 2. PURPOSE AND SCOPE OF THIS MANUAL

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Section 14 of the Act obliges the Information Officer (Municipal Manager) of public bodies, like the Karoo Hoogland Local Municipality, to compile a manual which would assist a person to obtain access to information held by such public body and stipulates the minimum requirements such manual has to comply with.

**As required under Section 14, this Manual contains the following information:**

- A description of the Municipality's structure and functions;
- The postal and street address, phone number, fax number and electronic mail address of the Information Officer as well as of the Deputy Information Officer designated;
- A description of the Guide compiled by the South African Human Rights Commission and how to access it;
- Sufficient detail to facilitate a request for access to a record of the Municipality;
- A description of the subjects on which the Municipality holds records and the categories of records held on each subject;
- Categories of records of the Municipality which are available without a person having to request access;
- A description of the services available to members of the public from the Municipality and how to gain access to those services;
- A description of any arrangement or provision for a person by consultation, making representations or otherwise, to participate in or influence:
  - The formulation of policy; or
  - The exercise of powers or performance of duties by the Municipality;
- A description of all remedies available in respect of an act or a failure to act by the Municipality; and
- Such other information as may be prescribed.

### **3. DESCRIPTION OF THE STRUCTURE AND FUNCTIONS OF THE MUNICIPALITY IN TERMS OF SECTION 14(1)(a)**

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In terms of Section 9 of the Local Government: Municipal Structures Act (No. 117 of 1998), Karoo Hoogland Municipality is a Category B municipality (in terms of the Local Government Municipal Demarcation Act, Act No 27 of 1998) with a plenary executive system combined with a ward participatory system.

The municipality performs 21 functions which is more than the average of 20 in our province.

#### **STRUCTURE OF THE MUNICIPALITY:**

The municipality comprises of the Council and its administration.

At a political level the Municipality comprises of 7 Councillors (4 Ward Councillors and 3 Proportional Representatives) with party representation as set out below:

- 3 African National Congress
- 2 Democratic Alliance
- 2 Cope

The Municipality has a Mayor, who is also the Speaker and Chairperson of the Council. The day to day functioning and decision making of the municipality takes place through Portfolio Committees, which report to the Council.

#### **The Portfolio Committees that report to the Council are:**

- Finance And Administration Committee
- Infrastructure Committee
- Commonage Committee
- Local Labour Forum Committee

Administratively, the Municipality is run by the Municipal Manager, who is the Administrative Head and Accounting Officer of the Municipality, Assisted by a Head of Department(Directors) for each Portfolio, as set out here above.

#### **FUNCTIONS OF THE MUNICIPALITY**

The Municipality has legislative authority and is empowered to govern, on its own initiative, the local governmental affairs of its community, subject to national and provincial legislation, as provided for in the Constitution and other relevant legislation.

#### ***The Municipality operates within a legislative framework which consists of various statutes, which include:***

- The Constitution of the Republic of South Africa (Act 108 of 1996);
- The Local Government: Transitional Act (Act 209 of 1993);
- The Local Government: Municipal Structures Act (Act 117 of 1998);
- The Local Government: Municipal Systems Act (Act 32 of 2000); and

- The Local Government: Municipal Finance Management Act (Act 56 of 2003)

Other Statutes which impacts on the governance of the Municipality include (the list is not exhaustive):

- The Water Services Act (Act 108 of 1997);
- The National Water Act (Act 36 of 1998);
- The Electoral Act, 1998 (Act 73 of 1998);
- The Promotion of Local Government Affairs Act (Act 91 of 1983);
- The Electricity Act (Act 41 of 1987);
- The Promotion of Access to Information Act (Act 2 of 2000);
- The Promotion of Administrative Justice Act (Act 3 of 2000);
- The National Health Act (Act 61 of 2003);
- The Occupational Health And Safety Act (Act 85 of 1993);
- The Labour Relations Act (Act 66 of 1995);
- The Basic Conditions of Employment Act (Act 75 of 1997);
- The Employment Equity Act (Act 55 of 1998);
- The Skills Development Act (Act 97 of 1998);
- The Unemployment Insurance Act (Act 63 of 2001);
- The Pension Funds Act (Act 24 of 1956);
- The Housing Act (Act 107 of 1997);
- The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act (Act 19 of 1998);
- The Removal of Restrictions Act (Act 84 of 1967);
- The Expropriation Act (Act 63 Of 1975);
- The Limitation of Legal Proceedings (Provincial And Local Authorities) Act (Act 94 of 1970);
- The Arbitration Act (Act 42 of 1965);
- The Public Audit Act (Act 25 of 2004); and
- The National Road Traffic Act (Act 93 of 1996)

The Municipality's function is to carry out its constitutional mandate, by striving within its financial and administrative capacity to achieve the objects of local government, viz:

- To provide democratic and accountable government for local communities;
- To ensure the provision of services to communities in a sustainable manner;
- To promote social and economic development
- To promote a safe and healthy environment; and
- To encourage the involvement of communities and community organisations in the matters of local government.

**In terms of the aforesaid statutes the powers and functions of Karoo Hoogland Local Municipality include, inter alia:**

- (a) Ensuring integrated development planning;
- (b) Provision of potable water supply systems;
- (c) Bulk supply of electricity, which includes for the purposes of such supply, the transmission, distribution and the generation of electricity ;
- (d) Provision of bulk sewage purification works and main sewage disposal systems;

- (e) Solid waste disposal sites, insofar as it relates to:
  - (i) the determination of a waste disposal strategy;
  - (ii) the regulation of waste disposal;
  - (iii) the establishment, operation and control of waste disposal sites, bulk waste transfer facilities and waste disposal facilities;
  - (iv) Municipal roads which form an integral part of a road transport system;
  - (v) Development of Municipal airports;
  - (vi) Provision of fire fighting services, which includes:
    - i. planning, coordination and regulation of fire services;
    - ii. specialized fire fighting services such as mountain, veld and chemical fire services;
    - iii. coordination of the standardization of infrastructure, vehicles, equipment and procedures;
    - iv. training of the fire officers.
  - (f) The establishment, conduct and control of cemeteries and crematoria;
  - (g) Promotion of local tourism;
  - (h) Provision of Municipal public works relating to any of the above functions or any other functions assigned to the municipality;
  - (i) The receipt, allocation and distribution of grants made to the municipality;
  - (j) The imposition and collection of taxes, levies and duties as related to the above functions or as may be assigned in terms of national legislation

## **4. CONTACT DETAILS OF THE MUNICIPALITY**

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Karoo Hoogland Municipality - NC066

**Physical Address:**

Mulder street 2, Williston, 8920

**Postal Address:**

Private Bag X03  
Williston  
8920

**Telephone Number:**

053 3913 003

**Fax Number:**

053 3913 294

**Website Address:**

[www.karoohoogland.gov.za](http://www.karoohoogland.gov.za)

**E-mail Address:**

[karooadmin@telkomsa.net](mailto:karooadmin@telkomsa.net)

## **5. CONTACT DETAILS OF INFORMATION OFFICER AND DEPUTY INFORMATION OFFICER**

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### **INFORMATION OFFICER:**

**Name and Designation :** Gustav Waldo Von Mollendorf // Municipal Manager

**Postal Address:** Private bag X03, Williston, 8920

**Physical Address:** Mulder Street 2, Williston, 8920

**Telephone Number :** 053 3913 003

**E-mail Address:** khm.municipalmanager@gmail.com

### **DEPUTY INFORMATION OFFICER:**

**Name and Designation :** Christelle Viljoen // Administration Manager

**Postal Address:** Private bag X03, Williston, 8920

**Physical Address:** Mulder Street 2, Williston, 8920

**Telephone Number :** 053 3913 003

**E-mail Address:** karoadmin@telkomsa.net

## **6. THE HUMAN RIGHTS COMMISSION GUIDE**

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A Guide has been compiled by the Human Rights Commission in terms of Section 10 of the Act, which contains information required by a person wishing to exercise any right, contemplated by the Act. The Guide is available in all of the official languages from the PAIA Unit of the Human Rights Commission, who may be contacted at:

**Physical Address:**

29 Princess of Wales Terrace  
Cnr of York and St Andrews Street, Parktown

**Postal Address:**

Private Bag 2700  
Houghton  
2041

**Telephone:** +27 11 484 8300      **Fax:** +27 11 484 1360  
**Website:** [www.sahrc.org.za](http://www.sahrc.org.za)      **E-mail:** [paia@sahrc.org.za](mailto:paia@sahrc.org.za)

## **7. FUNCTIONS AND STRUCTURE OF KAROO HOOGLAND LOCAL MUNICIPALITY**

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The functions of Karoo Hoogland Local Municipality as prescribed by Section 84(1) of the Local Government Municipal Structures Act and adjusted by the Minister and MEC responsible for local government in terms of sections 84(3) and 85 of the said Act respectively are as follows. The municipality still performs 21 functions which is more than the average of 20 in our province. The Municipality deliver services to Williston, Sutherland, Fraserburg and surrounding farms.

### **FUNCTIONS OF KAROO HOOGLAND LOCAL MUNICIPALITY**

#### **AMENITIES AND INFRASTRUCTURE**

1. Electricity
2. Storm water Management
3. Street lighting
4. Road Maintenance
5. Waste Water and sewerage disposal
6. Libraries
7. Museums
8. Swimming pools
9. Sport & Recreation
10. Water Supply
11. Sanitation
12. Landfill Sites
13. Library
14. Museum
15. Cemetery

## **HEALTH ENVIRONMENTAL AND COMMUNITY SERVICES**

1. Squatting
2. Environmental and Conservation
3. Refuse removal
4. Town Cleaning
5. Cemeteries and Crematoria

## **ECONOMIC DEVELOPMENT**

1. Local Tourism
2. Economic Development
3. Trading Legislation
4. Street Trading
5. Industrial Development

## **FINANCE**

1. Keeping of Financial records
2. Municipal rating and taxation
3. Municipal Insurance
4. Municipal Banking and Investments
5. Taking up of loans
6. Credit Control
7. Grants
8. Procurement
9. Supply Chain Management

## **HOUSING DEVELOPMENT**

1. Housing development (Assisting the Department of Housing)
2. Housing Administration (Assisting the Department of Housing)

## **HUMAN RESOURCES**

1. All legislative, Civil law and Administrative functions pertaining to staff
2. Staff Training
3. Implementation of Skills Act
4. Councillor Training
5. Local Labour Forum

## **LAND, RURAL AND AGRICULTURAL DEVELOPMENT**

1. Rural land matters (Commonage)
2. Rendering of services in previous disadvantaged areas.

## **PLANNING AND BUILDING CONTROL**

1. Integrated Development Plan formulation
2. Town Planning Services (Contracted)
3. Building Control Services (Contracted)
4. Strategic Planning
5. Plans and Signage control (Contracted)
6. By-Law and policy development



## **ADMINISTRATION**

1. Archives & registration
2. Communications & Correspondence
3. Information technology
4. Legal Assistance
5. Performance Management System
6. Councillor Support
7. Record keeping

## **SAFETY AND SECURITY**

1. Law Enforcement (Assisted by District Municipality)
2. Fire Services / Rescue Services (Assisted by District Municipality)
3. Disaster Management (Assisted by District Municipality)

## **INTERNAL AUDIT**

1. Internal Auditing of entire Municipality (Contracted)

## **8. GENERAL INFORMATION REGARDING A MUNICIPALITY**

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1. Budgeting :  
**WHAT IS A MUNICIPAL BUDGET ?**

The annual budget of a Municipality contains estimates of all revenue expected to be received during the financial year ending 30 June to which the budget relates, estimates of current expenditure for that financial year, estimates of interest and debt servicing charges, estimates of capital expenditure for that financial year and the projected financial implications of that expenditure for future financial years. Approval of the budget A Municipal Council must for each financial year, compile/approve an annual budget in operating income and expenditure and capital expenditure and thereby appropriate money from its Revenue Fund for the requirements of the municipality (Municipal Finance Management Act 2000, chapter 4, paragraph 13; Local Government Transition Act).

### **The Purposes of Preparing a Budget**

The objective of the budgeting process is to set maximum expenditure limits for the budget or each component thereof, for the Municipality. A Municipality may only incur expenditure in accordance with its approved budget (Local Government Transition Act No. 209 of 1993, paragraph 10G (4) (a)). The Municipality's annual budget also serves as an important tool for planning and control. The Municipality's budget must structure and manage its administration and budgeting and planning process to give priority to the basic needs of the community, and to promote the social and economic development of the community (Constitution of the Republic of South Africa No. 108 of 1996/152, Section 153).

2. Integrated Development Planning :  
**WHAT IS INTEGRATED DEVELOPMENT PLANNING?**

Integrated Development Planning is a process through which Municipalities prepare a strategic development plan, for a five-year period. The Integrated Development Plan (IDP) is a product of the integrated development planning process. The Integrated Development Plan is a principle strategic planning instrument, which guides and informs all planning, budgeting, management and decision-making in a Municipality (Integrated Development Plan Guide Pack Guide 0 Overview, Chapter 2, paragraph 2.1 (i)). An Integrated Development Plan adopted by a Municipal Council may be amended, and remains in force until an Integrated Development Plan is adopted by the next elected Council (Local Government Municipal Systems Act, 2000, Paragraph 25(2)). Therefore the Integrated Development Plan is linked to the term of office of Councillors.

3. Procurement :  
**WHAT IS PROCUREMENT ?**

Procurement refers to the process of acquiring goods and services by the Municipality, in accordance with a set of policies adopted by the Council. When procuring/acquiring goods and services, Municipalities must ensure it is in accordance with a system which is fair, equitable, transparent, competitive and cost effective.

**What are the objectives of the Procurement Policy ?**

- To create a procurement system which is uniform within the municipality and simple;
- To create conditions which are conducive to the empowerment of small, medium, micro-enterprises (SMME's);
- To promote the achievement of equity by measures designed to protect or advance persons, disadvantaged by past unfair discrimination;
- To eliminate fraud or any other irregularities in the procurement of goods and services; and
- To guide the Municipality in properly administrating processes relating to tenders/contracts/retentions, purchase requisitions and orders, creditor payments and stores.

4. Tariffs :  
**WHAT ARE TARIFFS ?**

Tariffs represent the charges levied by Council on consumers for the utilisation of services (e.g. water, electricity, refuse services, etc) provided by the Municipality and rates on properties. Tariffs may be calculated in various different ways, dependent upon the nature of the service being provided. Tariffs may be set in such a manner so as to recover the full cost of the service being provided or recover a portion of those costs. Legal Requirements In terms of Section 74 of the Municipal Systems Act, 2000, the Council must adopt and implement a Tariff Policy that complies with the provisions of any applicable legislation on the levying of fees for municipal services provided by or on its behalf.

## **OBJECTIVES OF TARIFF POLICY**

The objective of the tariff policy is to ensure the following:

- The tariffs of the Municipality conform to acceptable policy principles;
- Municipal services are financially sustainable;
- There is certainty in the Council of how the tariffs will be determined;
- Tariffs of the Municipality comply with the applicable legislation; and
- Tariffs should take into consideration relief to the indigent.
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### **5. INDIGENT SUPPORT :**

Indigent Support, in terms of Section 74 of the Local Government Municipal Systems Act 2000, refers to the adoption and implementation of a Tariff Policy for the subsidisation of tariffs for poor households who simply cannot afford the cost of full provision, by the Municipality, and for this reason the Council will endeavour to ensure affordability through:

Settings tariffs in terms of the Council's Tariff Policy, which will balance the economic viability of continued service delivery; and Determining appropriate service levels.

### **OBJECTIVES OF THE INDIGENT SUPPORT POLICY**

The objective of the Indigent Support Policy is to ensure the following:

- The provision of basic services to the community in a sustainable manner.

This objective will, however, only be possible within the financial and administrative capacity of the Council; The Council recognises the fact that the community has a right of access to basic services however, this does not give the community the right to the services; and To provide procedures and guidelines for the subsidisation of basic service charges to its indigent households, using the Council's budgetary provisions/Equitable Share of National Revenue received from Central Government, according to prescribed policy guidelines.

### **6. Credit Control and Debt Collection :**

#### **WHAT IS CREDIT CONTROL AND DEBT COLLECTION?**

Credit control and debt collection policy refers to the administrative mechanisms, processes and procedures established by the municipality to collect the revenues due and payable to it for services rendered and for rates and levies it has raised. Services rendered include water, electricity, refuse and sewage removal, municipal roads, etc.

Legal Requirements Municipalities must adopt, maintain and implement a credit control and debt collection policy, which is consistent with rates and complies with the provisions of the Municipal Systems Act No. 32, 2000.

In terms of Section 98 of the Municipal Systems Act, 2000, the Municipality must adopt and implement effective credit control and debt collection methods, in order to deal with non-payment of services, while ensuring that the genuine indigents receive the target relief. The Credit control and debt collection policy may differentiate between different

categories of users, debtors, service providers, service standards, geographical areas and other matters as long as the differentiation does not amount to unfair discrimination.

### **OBJECTIVES OF CREDIT CONTROL AND DEBT COLLECTION POLICY**

The objectives of credit control and debt collection are to ensure the following:

- All monies due to the Council are collected;
- A sound customer management system that aims to create a positive and reciprocal relationship between persons liable for these payments and the Municipality itself is established;
- Establish mechanisms for users of services and ratepayers to provide feedback to the Municipality or other service provider regarding the quality of the services and the performance of the service provider;
- Users of services are informed of the costs involved in service provision, the reasons for the payment of service fees, and the manner in which monies raised from the service are utilised;
- Persons liable for payments, receive regular and accurate accounts and indicate the basis for calculating the amounts due;
- *Credit control and debt collection procedures of the Municipality comply with the applicable legislation; and Credit control and debt collection procedures take into consideration relief to the indigent.*

7. Mayor :

#### **ELECTION OF A MAYOR**

The municipal Council must elect a member of the Council as the mayor.

#### **Functions and Powers of a Mayor** (Municipal Structures Act, No. 117 of 1998).

The mayor of the municipality performs the following functions:

- Presides at the meeting of the Finance committee and Council meeting
- Perform the duties, including any ceremonial functions, and exercises the powers delegated to him/her by the municipal Council
- Identify the needs of the municipality.
- Evaluate these needs in order of priority.
- Make recommendations to the Council regarding the strategies to address priority needs.

#### **Terms of Office** (Municipal Structures Act, No. 117 of 1998)

A mayor is elected for the duration of his/her term as a member of the Council. No person may hold office as a mayor for more than two consecutive terms.

8. **Ward Committees/Forums** (Municipal Structures Act No. 117 of 1998) :

#### **WHAT ARE WARD COMMITTEES/FORUMS?**

Ward committees/Forums are committees established for each municipal ward to broaden community participation at local government level. Community participation in the municipality must take place through structures such as ward committees established in terms of the Municipal Structures Act.

### **Composition of Ward Committees/Forums**

The ward committee/forums shall consist of the Councillor representing that particular ward in the municipal Council and not more than 10 other elected persons representing various groups within the local community.

The ward Councillor is a member of his/her ward committee/forum and is also the chairperson of the ward committee/forum.

The ward committee/forum should have a diverse representation as possible to ensure that all interested groups are presented including women.

### **Functions and Powers of the ward committee/forum**

Ward committees/forums may make recommendations on any matters affecting its ward to the ward Councillor or to the Council or mayor through that particular ward Councillor. Ward committees/forums may perform any duties, which have been delegated to it by the local Council.

### **Term of office of the member**

Members representing various groups within the local community in the ward committee/forum are elected for a term determined by the local Council.

The ward Councillor remains the member of the ward committee/forum for a period ending when the next Councillor for the ward is declared elected.

## 9. Councillors (Municipal Systems Act, 2000, Chapter 1) : **WHO IS A COUNCILLOR?**

A Councillor means a member of a municipal Council.

### **Who can be a Councillor?**

Every citizen who is qualified to vote for a particular municipal Council has the right to stand as a candidate to be voted as a Councillor. (Municipal Structures Act, Section 21).

### **Functions (Municipal Systems Act, 2000 schedule 1)**

Councillors are elected to represent local communities on municipal Councils:

- To ensure that municipalities have structured mechanisms of accountability to local communities.
- To meet the priority needs of communities by providing services equitably, effectively and sustainably within the means of the municipality.

In fulfilling this role Councillors must be accountable to local communities and report back at least quarterly to constituencies on Council matters, including the performance of the municipality in terms of the established indicators. In order to ensure that Councillors fulfil their obligations to the communities, and support the achievement by the municipality of its objectives set out in Section 19 of the Municipal Structures Act a code of conduct for Councillors was established. (Refer Municipal Systems Act, 2000 schedule 1).

### **Determination of number of Councillors**

The number of Councillors to serve on the municipal Council must be determined in accordance with the formula determined by the Minister by notice in government gazette.

For local and district municipalities the number of Councillors cannot be fewer than three and cannot be more than ninety, while for a metropolitan municipality it may not be more than two hundred and seventy.

The Karoo Hoogland Local Municipality has **seven** Councillors.

### **Term of office for Councillors**

Councillors are elected as members of the municipal Council for a period ending when the next Council is declared elected. Councillors are elected as representatives of a local Council to a district Council for a period ending when the next local Council is declared elected.

## **10. MUNICIPAL COUNCIL (Municipal Structures Act, Chapter 3) :**

A Municipal Council is defined in Section 157(1) of the constitution.

### **ESTABLISHMENT OF MUNICIPAL COUNCIL**

Each municipality must have a municipal Council consisting of the mayor, municipal manager, a number of Councillors determined by the MEC for local government in the province.

### **OBJECTIVES OF A MUNICIPAL COUNCIL**

A municipality must strive, within its financial and administrative capacity, to achieve the objectives set in Section 152 of the constitution as follows:

- Provide democratic and accountable government.
- Provision of services to communities in a sustainable manner.
- Promote social and economic development.
- Promote a safe and healthy environment.
- Encourage community participation in matters of local government.

### **WHO QUALIFIES TO BE A MEMBER OF THE MUNICIPAL COUNCIL?**

Every citizen who is qualified to vote for a particular municipal Council has the right to stand as a candidate in an election for that Council provided he/she is not disqualified in terms of Section 158(1) of the Constitution.

### **Functions of Municipal Council**

A municipal Council must develop mechanisms to consult the community and community organisations in performing its functions and exercising its powers.

### **On an annual basis a municipal Council must review:**

- The needs of the community
- Its priorities to meet those needs
- Its processes for involving the community
- Its organisational and delivery mechanisms for meeting the need of the community and

- Its overall performance in achieving the objectives as set out in Section 152 of the Constitution.

### **Term of Municipal Council**

The term of the municipal Council is **five** years.

## **11. Municipal Manager (Municipal Structures Act, No. 117 of 1998) :**

### **APPOINTMENT OF MUNICIPAL MANAGER**

A Municipal Manager is appointed in terms of Section 82 of the Municipal Structures Act. A municipal Council must appoint a municipal manager who is the head of administration and also the accounting officer for the municipality.

### **Who appoints the municipal manager?**

The municipal Council is responsible for appointing the municipal manager and to provide him/her with the necessary tools to perform his/her duties. The municipal manager is therefore accountable to the municipal Council.

### **Objectives of the Municipal Manager**

The primary objective of the municipal manager is to ensure that the municipality operates in terms of the policy directions of the municipal Council.

### **Functions of the Municipal Manager (Municipal Systems Act)**

As head of the administration and the accounting officer, the municipal manager is responsible, inter alia, for the formation and development of an economical, effective, efficient and accountable administration equipped to implement the Integrated Development Plan (IDP). The Municipal Manager is also responsible for managing the communication between political structures and office bearers and administration.

## **9. DESCRIPTION OF SUBJECTS AND CATEGORIES OF RECORDS HELD BY THE MUNICIPALITY**

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**"Records"** of the municipality refer to those records created or received in the course of official business and which are kept as evidence of the Municipality's functions, activities and transactions.

There are different forms of records, for example **correspondence files, maps, plans, registers, agendas and minutes, by-laws and tariffs, policy documents, etc**, which could be available in different media formats, i.e. paper or electronic. **Annexure "A"** gives a description of the subjects on which the Municipality holds records, as well as the categories held on each subject.

## **10. RECORDS HELD AND ACCESS TO RECORDS HELD BY THE MUNICIPALITY**

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The method of managing records in the Municipality is in accordance with national archive requirements.

It should be noted that inclusion in the following list of records does not mean that the files or records are necessarily accessible under the Promotion of Access to Information Act. The Act prohibits a public body from allowing access, and/or allows the public body to refuse access, to certain types of information. Chapter 4 of the Act deals with the grounds for refusal of access to records.

**INFORMATION TO BE FORMALLY REQUESTED IN TERMS OF THE ACT INCLUDES, INCLUDES INTER ALIA:**

- Statutory Documents;
- Correspondence on General Files;
- Financial Records;
- Tenders;
- Annual financial reports;
- Management reports;
- Cheque returns;
- Salary Advices;
- Employees' Leave Records;
- UIF Returns;
- Documentations on Policies and Conditions of Employment;
- Documentation on disciplinary matters;
- Data base of service recipients, including but not limited to residents, customers, suppliers, etc.;
- Various agreements entered into between the Municipality and third parties;
- Documents pertaining to tenders and other procurement related matters;
- Minutes of the Municipality and its various committees and sub-committees;
- Internal correspondence;
- Internal Policies and Procedures;
- Records obtained from third parties held by the Municipality.
- Council minutes and agendas (In closed Council);

## **11. VOLUNTARY DISCLOSURE AND AUTOMATIC AVAILABILITY OF CERTAIN RECORDS (SECTION 15)**

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The records as set out in **Annexure "B"** are automatically available without a person having to request access in terms of the Act, but where appropriate, remain subject to review by the Information Officer or Deputy Information Officer in terms of Section 15 (4) of the Act.].

All other records must be formally requested as provided for in this manual. The only fee payable, if any, for access to these records is the prescribed fee for reproduction.

Where a request for information cannot be met a requester shall be:

- Informed of his/her right to make a formal application under the Act.
- Informed of the fact that certain types of requests for information may be refused.
- Informed of his/her right to appeal if a request is initially refused.



## **12. REQUEST FOR ACCESS (SECTION 11)**

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### **Access given**

When a record/information is requested in terms of the Act, the requester must be given access thereto, if the requester complies with the following:

"All the procedural requirements in the Act, relating to the request for access to a record; and Access to the record is not refused on any ground of refusal mentioned in the Act."

### **Form of Request [Section 18(1)]**

Access to information which is not automatically available must be requested in writing on the prescribed form (Form A), attached hereto as **Annexure "C"** and be forwarded to the Information Officer or Deputy Information Officer.

### **The application form must be accompanied by the prescribed request fee.**

The application should clearly state what information is required and if the request is for a copy of a record, or whether the requester would like to view the record at the office of the Municipality.

If a person asks for access in a particular form, the requester would be given access in the manner that has been asked for, unless doing so would interfere unreasonably with the running of the Municipality or would damage its records or infringe a copyright not owned by the municipality.

If the requester wishes to be informed of the decision regarding the request in any other manner, e.g. telephonically, by fax or e-mail, in addition to a written reply, it must be indicated as such.

In cases where the requester is asking for information on behalf of somebody else, the capacity in which the request is being made should be indicated and proof hereof provided.

When a requester is unable to read or write or has a disability, the request can be made orally, in which event the Information Officer or Deputy Information Officer will complete the form on behalf of the requester.

If for practical reasons access cannot be given in the requested manner but in an alternative manner, then the fee for access will be calculated according to the manner that the that the requester had requested.

The Information officer or Deputy Information Officer will render such reasonable assistance, free of charge, as is necessary to enable that requester to comply with section 18(1).

If a requester has made a request for access that does not comply with section 18(l), the Information officer/Deputy Information Officer concerned may refuse the request if he/she has:

Notified the requester of an intention to refuse the request and stated in the notice:

- The reasons for the contemplated refusal; and that the information officer/Deputy Information Officer, or another official, would assist that requester in order to make the request in a form that would remove the grounds for refusal; given the requester a reasonable opportunity to seek such assistance; as far as reasonably possible, furnished the requester with any information that would assist the making of the request in that form; and given the requester a reasonable opportunity to confirm the request or alter it to comply with section 18(l).

### **TRANSFER OF REQUESTS (SECTION 20)**

If a request for access is made for information which is not in the possession of the Municipality, or if the information is more closely connected to another public body, the Information Officer/Deputy Information Officer will assist the requester to make the request to the relevant Information Officer of the other body, or transfer the request to the other body within 14 (fourteen) days after the request has been received.

### **Fees payable (Section 22)**

In terms of the Act, two types of fees are required to be paid, namely the **request fee** and the **access fee**.

A requester who seeks access to a record containing personal information about him or herself, the requester, is not required to pay the request fee. Every other requester must pay the relevant request fee.

The Information Officer/Deputy Information Officer will notify the requester to pay the prescribed fee, if any, before further processing the request. The prescribed request fee payable is set out in **Annexure "D"**. The requester may also be notified to pay a deposit under certain circumstances.

The requester may lodge an internal appeal or an application to the court against the payment of the request fee.

Certain persons, as set out in **Annexure "E"**, are exempted from paying access fees.

### **RECORDS NOT FOUND/NON-EXISTING (SECTION 23)**

In cases where records cannot be found or do not exist and all reasonable steps have been taken to find the requested record, the Information Officer/Deputy Information Officer will by means of an affidavit/affirmation, inform the requester accordingly, giving full reasons.

### **DEFERRAL OF ACCESS (SECTION 24)**

Requests may be deferred until information becomes available. The requester will be notified accordingly and requested to make representations within 30 (thirty) days as to why the information is required prior to it becoming public.

### **DECISIONS AND NOTICE (SECTION 25)**

The Municipality will respond to the request within 30 (thirty) calendar days, unless the request contains considerations that are of such a nature that an extension of the 30 day time limit is necessitated. Where an extension of the 30 day time limit is required, the requester shall be notified accordingly, together with an explanation why such extension was necessitated. The time limit may be extended only once, for a further period of 30 days (Section 26).

If the Information Officer/Deputy Information Officer fails to give the decision on a request for access to the requester within the periods as set out here above, the Information Officer/Deputy Information Officer is regarded as having refused the request (Section 27).

If the request is granted, a further access fee as set out in **Annexure "D"** must be paid for the search, preparation and reproduction of the record, where applicable.

The requester will be given the required information, if available, within a reasonable time after receipt of the application form and prescribed fee.

### **LANGUAGE OF ACCESS (SECTION 31)**

The record will be made available in the language preferred by the requester, if it exists in that language, or, if it does not exist in that language or the requester has no preference or has not indicated a preference, in any language it exists in.

## **13. REFUSAL OF ACCESS TO CERTAIN RECORDS**

As indicated here above, the right of access to information is subject to justifiable limitations, including but not limited to limitations aimed at the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance and in a manner which balances that right with any other right, including the Bill of Rights in Chapter 2 of the Constitution.

Section 9 (b)(ii) recognises that the right to access to information must be given effect to in a manner which balances the right with any other rights, including such rights contained in the Bill of Rights in the Constitution. The Information Officer/Deputy Information Officer may refuse access to certain records under the circumstances as provided for in sections 33 to 46 in Chapter 4 of the Act (See **Annexure "F"**).

**KAROO HOOGLAND MUNICIPALITY MAY REFUSE TO GRANT ACCESS TO RECORDS ON THE FOLLOWING GROUNDS:**

- (a) Mandatory protection of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- (b) Mandatory protection of the commercial information of a third party, if the record contains :
  - Trade secrets of that third party;
  - Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
  - Information disclosed in confidence by a third party to KAROO HOOGLAND MUNICIPALITY if the disclosure could put that third party at a disadvantage in negotiations or commercial competition.
- (c) Mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- (d) Mandatory protection of the safety of individuals, and protection of property;
- (e) Mandatory protection of records which would be regarded as privileged in legal proceedings;
- (f) The commercial activities of KAROO HOOGLAND MUNICIPALITY, which may include :
  - trade secrets of KAROO HOOGLAND MUNICIPALITY
  - Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of KAROO HOOGLAND MUNICIPALITY;
  - Information which, if disclosed could put KAROO HOOGLAND MUNICIPALITY at a disadvantage in negotiations or commercial competition;
  - A computer programme which is owned by KAROO HOOGLAND MUNICIPALITY, and which is protected by copyright;
- (g) The research information of KAROO HOOGLAND MUNICIPALITY or a third party, if its disclosure would disclose the identity of KAROO HOOGLAND MUNICIPALITY, the researched or the subject matter of the research and would place the research at a serious disadvantage.
- (h) Request for information that are clearly frivolous, or vexatious, or which involve an unreasonable diversion of resources.

## 14. THIRD PARTY NOTIFICATION AND INTERVENTION (CHAPTER 5)

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### **Notice to third parties (Section 47)**

The Information Officer/Deputy Information Officer considering a request for access to a record of a third party must take all reasonable steps to inform a third party to whom or which the record relates of the request as soon as reasonably possible, but in any event, within 21 days after the request is received, by the fastest means reasonably possible. The third party may, within 21 days after being so informed, make written or oral representations to the Information Officer/Deputy Information Officer why the request should be refused or may give written consent for the disclosure of the record to the requester.

### **Decision on representations by third parties (section 49)**

The information officer must, within 30 days, decide whether to grant the request for access and notify the third party accordingly. If the request for access is granted, the notice must state:

- Adequate reasons for granting the request, including the provisions of this Act relied upon;
- that the third party may lodge an internal appeal or an application, as the case may be, against the decision within 30 days after notice is given, and the procedure for lodging the internal appeal or application; and
- that the requester will be given access to the record after expiry of the applicable period,
- unless such internal appeal or application with a court is lodged within that period.

## 15. INTERNAL APPEALS AGAINST DECISIONS OF INFORMATION OFFICERS (PART 4 OF THE ACT)

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### **Right of internal appeal (section 74)**

A requester may lodge an internal appeal with the municipality against a decision of the Information Officer or Deputy Information Officer, if:

- A request for access is refused;
- The fees charged are unacceptable;

The period within which a decision with regard to access to a record must be made, is extended; and Access to a record is not provided in the requested form; and

A third party may lodge an internal appeal with the municipality against a decision by the Information Officer, Deputy Information Officer to disclose information relating to that third party.

### **Appeal procedure and fees (section 75)**

An internal appeal must be lodged on the prescribed form (**Form B**), which is attached as **Annexure "G"**, within the following periods:

- A period of 60 (sixty) days;

- If notice to a third party is required i.t.o. Section 49 (1)(b), within 30 (thirty) days after notice is given to the appellant of the decision appealed against or, if notice to the appellant is not required, after the decision was taken.

### **The internal appeal**

An internal appeal must:

- be delivered, posted, faxed or sent electronically to the Information Officer or Deputy Information Officer;
- state the manner in which the applicant wishes to be informed of the decision on the internal appeal, in addition to a written reply;
- identify the subject of the internal appeal and give reasons for the appeal;
- if applicable, be accompanied by the prescribed appeal fee(s); and
- Specify a postal address, fax number or e-mail address.

The Information Officer or Deputy Information Officer must, within ten (10) working days after the receipt of an internal appeal, submit it, together with his/her reasons for the decision, to the Relevant Authority, namely the Executive Mayor, or in her absence the Speaker or any other person designated by the Municipal Council in writing, for consideration.

If an internal appeal is considered against the refusal of a request for access to a record of a third party, the third party to whom or which the record relates, must be informed of the internal appeal and he/she may, within 21 days after being so informed, make written representations why the request for access should not be granted or give written consent for the disclosure of the record to the requester concerned.

Late appeals may be allowed, if good cause can be shown.

### **Decision on internal appeal and notice thereof (section 77)**

When deciding on the internal appeal the Relevant Authority may confirm the decision appealed against or substitute a new decision for it, within 30 days after the internal appeal is received by the Information Officer/Deputy Information Officer.

The Relevant Authority will immediately after the decision on an internal appeal give notice of the decision to the appellant and any relevant third party, state adequate reasons for the decision, and that the appellant, third party or requester, as the case may be, may lodge an application with a court against the decision on internal appeal within 60 days; or, if notice to a third party is required, within 30 days after notice is given, and also state the procedure for lodging the application.

If the Relevant Authority fails to give notice of the decision on an internal appeal to the appellant within the periods indicated here above, it is regarded as having dismissed the internal appeal.

## **16. APPLICATIONS TO COURT (PART 4, CHAPTER 2 OF THE ACT)**

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A requester or third party may make an application to a Court regarding the decisions of the Information Officer/Deputy Information Officer, but only after the internal appeal process has been exhausted.

A requester may make an application to a Court, if he/she is:

- Aggrieved by the decision of the Information Officer or Deputy Information Officer to disallow the late lodging of an internal appeal;
- Aggrieved by the decision of an Information Officer or Deputy Information Officer of a public body, other than the Information Officer of a national department, provincial administration or municipality to refuse a request for access;
- Aggrieved by the decision of an Information Officer or Deputy Information Officer relating to fees required to be paid, the extension of the period within which to deal with the request or the form of access in which the information will be furnished.
- Apply to a Court by way of an application for appropriate relief i.t.o. Section 82, within 30 days.

## **17. ARRANGEMENTS ALLOWING FOR PUBLIC PARTICIPATION [(SECTION 14(1)(G))]**

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Section 14(1)(a) of the Act requires the Municipality to make arrangements or provisions for a person, by consultation, to make representations to participate in or influence the formulation of policy or the exercise of powers or performance of duties by the Municipality.

Public participation in a local government context is governed by the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) and the Municipal Structures Act, 1998 (Act 117 of 1998).

The purpose of the public participation process is to ensure that the Municipality, as well as the broader community, co-owns the public participation process and the end product.

The municipality seeks actively to facilitate the engagement of the community in its planning and policy making processes, through public hearings and ward based public meetings in the annual review of its Integrated Development Plan (IDP).

This is also used as an opportunity to provide feedback on the performance levels achieved by the municipality.

A municipal unit has been formed to concentrate on involving the community in Council's public processes and planning, such as the finalisation of the annual budget and the annual IDP review.

**The municipality may use any of the following methods to engage in public participation:**

- Distribution of documents in public places for comment;
- Surveys;
- Newspaper advertisements;
- Formal public hearings;
- Public meetings; and
- Development of a public participation structure.

## **18. OTHER INFORMATION AS PRESCRIBED IN TERMS OF SECTION 14(1)(I)**

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There is currently no information available from the Minister of Justice and Constitutional Development, in terms of Section 92, to be placed here.



# **ANNEXURE "A"**

## **SUBJECTS AND CATEGORIES OF RECORDS HELD BY THE MUNICIPALITY**

(These records are available subject to a person having to request access in terms of the Act and subject to such information not being excluded from disclosure in terms of the Act.)

### **Infrastructure**

Electricity distribution layouts  
Road maps and plans for future road developments  
Geographical information systems  
Landfill sites - future and existing

### **Financial Information**

Tariffs  
Subsidy income  
Estimates  
VAT records  
Invoices and supporting documentation  
Bank statements and records of investments held (if any)  
Pension Funds: annual reports and financial statements  
Debtors' statements and financial history  
Council bank reconciliations  
Details of payments made to creditors  
Rentals levied and arrears in situation  
Councillors' allowance details

### **Human Resource Records**

UIF records  
Staff vacancies, circulars and advertisements  
Human resource policies and procedures  
Salary and remuneration package details  
Leave records  
Medical records of patients, i.e. employees  
Health: training, promotion and education

### **Operational Statistics and Records**

Statistical information  
Town planning statistical information  
Electricity disconnection/reconnection statistics  
Strategic plans and statistical information relating to:  
Roads  
Stormwater engineering  
Drainage plans  
Catchment management plans  
Development set-back lines  
Control lines  
Stormwater complaints database  
Traffic and transportation  
Architectural services  
Contingency and strategic emergency plans  
Monthly statistics  
Operational emergency procedures  
Legal opinions and litigation files  
Environment matters

Clinics - statistical information  
Housing - backlog situation and future plans  
Details of evictions  
Libraries - archival collection  
Fines - processing details, i.e. fines, summonses, court rolls, etc

### **Motor vehicle testing and license records**

Contraventions and prosecutions  
Accident records  
Arrest reports/records  
Solid waste tonnage collection  
Water consumption records  
Water services disconnection and reconnection details  
Electricity supply details

### **Municipal Services and Customer Records**

Customers' application, registration and consumption details  
Library membership details

### **Property matters**

Building plans  
Town planning applications and consents  
Town planning enforcement records  
Geographical information  
Information on Council-owned land  
Valuation rolls  
Lease agreements for properties rented by the municipality (if any)  
Lease agreements for properties rented to the municipality (if any)  
Agreements of properties alienated by the Municipality  
Sale agreements of properties acquired by the Municipality  
Title deeds of municipal properties  
Applications to lease or purchase property  
Applications of property for municipal usage, including expropriations  
Allocations of social sites to religious/institutional organizations  
Information on sale of commercial/non-commercial property within the municipal area  
Property holdings of the municipality

### **General statistics, surveys and audits**

Environmental impact assessments  
Demographic data  
Social information  
Economic information of the region  
Accident records  
Accident statistics and reports  
Major hazard installation and risk assessments  
Diseases  
Details of current housing - owners/tenants  
Occupational Health and Safety Audit of municipal buildings  
Fire risk survey of municipal buildings  
Occupational hygiene on municipal properties  
Records of investigations conducted and their outcomes  
Water quality  
Audit reports i.e. forensic, computer and risk audit

### **Municipal Plans and Policy Decisions**

Legislation affecting Local Government, including by-laws  
Health policy issues

### **Procurement Records**

Details of quotations obtained  
Copies of tenders advertised and awarded  
Database of suppliers' registration for tendering purposes  
Details of tenders\contracts awarded  
Standards of performance of security tenders

# ANNEXURE "B"

## SUBJECTS AND CATEGORIES OF RECORDS HELD BY THE MUNICIPALITY WHICH ARE AVAILABLE WITHOUT REQUEST FEE

*The records as set out here are automatically available without a person having to request access in terms of the Act, but where appropriate, remain subject to review by the Information Officer or Deputy Information Officer in terms of Section 15 (4) of the Act.]. All other records must be formally requested as provided for in this manual. The only fee payable, if any, for access to these records is the prescribed fee for reproduction.*

- Debtor's account
- Town Planning schemes
- News Letter
- Brochures
- Policies
- All information as freely available on our website:  
**[www.karoohoogland.gov.za](http://www.karoohoogland.gov.za)**

These records can be accessed in the following manner:

- e-mail;
- fax;
- letter.

Additionally, we are required to ensure that certain records are available, in terms of the following Acts:

- The Occupational Health and Safety Act No. 85 of 1993;
- The Value-Added Tax Act No. 89 of 1991;
- Income Tax Act No. 58 of 1962;
- Basic Conditions of Employment Act No. 75 of 1997;
- Employment Equity Act No. 55 of 1998;
- Labour Relations Act No. 66 of 1995;
- The Medical Schemes Act No. 131 of 1998;
- The Compensation for Occupational Injuries and Diseases Act No. 130 of 1993
- The Health Act No. 63 of 1977;
- Consumer Affairs (Unfair business practices Act), 71 of 1988;
- Customs and Excise Amendment Act, 45 of 1995;
- South African Revenue Services Act, 34 of 1997;
- The Constitution of the Republic of South Africa No. 108 of 1996;
- Environmental Conservation Act 107 of 1998;
- Northern Cape Development and Planning Act No 7 of 1998;
- Regional Services Council Act, No 109 of 1985;
- Division of Revenue Act, No 7 of 2003;
- Statistics Act, No 6 of 1999;

- Local Government: Municipal Demarcation Act, No 27 of 1998;
- Local Government: Municipal Structures Act, No 117 of 1998;
- Local Government: Municipal Systems Act, No 32 of 2000;
- National Water Act, No 36 of 1998;
- Electricity Act, No 41 of 1987

Notification of the availability of records that can be accessed without a request, and records that are available in terms of the Acts listed above, is periodically (i.e. at least once annually) given to the Cabinet Minister of Justice.

# **ANNEXURE "C"**

## **STANDARD FORM TO BE COMPLETED**

**REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY**

**(Section 18(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)**

**[Regulation 6]**

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# ANNEXURE "D"

## TARIFF STRUCTURE // FEES PAYABLE

### The Act provides for two types of fees:

- A request fee, which is a standard fee and
- An access fee, which must be calculated by taking into account reproduction costs, search and preparation time and cost as well as postal costs

Before any request is processed, the requester is expected to pay an amount of **R200.00**

- (a) For every photocopy of an A4-size page or part thereof .....*Per approved tariff list*
- (b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form .....*Per approved tariff list*
- (c) For a copy in a computer-readable form on –
  - (i) DVD ..... R100,00
  - (ii) Compact disc ..... R100,00
  - (iii) Memory Stick provided by requester.....R 40,00
- (d) For a copy of an audio record ..... R50,00
- (e) To search for and prepare the record for disclosure, R45,00 for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation

# ANNEXURE "E"

## PERSONS EXEMPTED FROM PAYING THE FEES FOR REQUESTED INFORMATION

Database	Government Gazettes
Gazette No	28107
Notice No	991
Regulation	8325
Gazette No	
Gazette	GOV
Date	20051014

### Government Notice

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R.991

14 October 2005

### PROMOTION OF ACCESS TO INFORMATION ACT, 2000 EXEMPTIONS AND DETERMINATIONS FOR PURPOSES OF SECTION 22(8)

I, Brigitte Sylvia Mabandla, Minister for Justice and Constitutional Development, acting under section 22(8) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) hereby-

- (a) exempt the following persons from paying the access fee contemplated section 22 (6) of the Act:
- (i) A single person whose annual income, after permissible deductions referred to in the Schedule to this notice are made, does not exceed R14 714.00 per annum; and
  - (ii) married persons or a person and his or her life partner whose annual income, after permissible deductions referred to in the Schedule to this notice are made, does not exceed R27 192.00 per annum and
- (b) determined that:-
- (i) where the cost of collecting any fee contemplated in section 22 of the Act, exceeds the amount charged, such fee does not apply;
  - (ii) the access fee contemplated in section 22(6) of the Act does not apply to the personal record of a requester; and
  - (iii) the request fee contemplated in section 22(1) of the Act and the access fee contemplated in section 22(6) of the Act do not apply to a record requested by a maintenance investigation or inquiry in terms of the provisions of the Maintenance Act, 1998 (Act No. 99 of 1998) or the regulations made under section 44 of that Act.

### SCHEDULE

1. For purposes of paragraph (a) (i) and (ii) of the notice the following deductions are permissible:
- (a) Employees' tax in terms of paragraph 2 of Part II of the Fourth Schedule of the Income Tax Act, 1962 (Act No. 58 of 1962);
  - (b) contributions in terms of section 5 of the Unemployment Insurance Contributions Act, 2002 (Act No.4 of 2002);



- (c) compulsory contributions to a Group Insurance Fund in terms of a court order or in terms of a contract between an employer and his or her employee;
- (d) contributions to any medical scheme registered under the provisions of the Medical Schemes Act, 1998 (Act No. 131 of 1998), and allowed to be deducted in terms of section 18 (1) (a) of the Income Tax Act, 1962 (Act No. 58 of 1962);
- (e) contributions to pension funds in terms of section 13A of the Pension Funds Act, 1958 (Act No. 24 of 1956);
- (f) rent or mortgage installments to the maximum of R12 000.00 per annum;
- (g) maintenance paid in terms of a court order; and
- (h) school fees, except school fees paid to a private school.

**B.S. MABANDLA,MP**

**Minister for Justice and Constitutional Developmen**

# **ANNEXURE "F"**

## **RECORDS THAT MAY BE REFUSED ACCESS TO**

*Section 9 (b)(ii) recognises that the right to access to information must be given effect to in a manner which balances the right with any other rights, including such rights contained in the Bill of Rights in the Constitution. The Information Officer/Deputy Information Officer may refuse access to certain records under the circumstances as provided for in sections 33 to 46 in Chapter 4 of the Act (See **Annexure "F"**).*

### **Access must be refused in the following circumstances:**

- Protecting commercial information that we hold about a third party (for example trade secrets: financial, commercial, scientific or technical information that may harm the commercial or financial interests of a third party);
- Disclosure of the record (containing trade secrets, financial, commercial, scientific, or technical information) would harm the commercial or financial interests of a third party;
- Disclosure of the information about a third party, supplied in confidence, will put third party at a disadvantage in contractual or other negotiations or prejudice it in commercial competition;
- If disclosure would result in a breach of a duty of confidence owed to a third partying terms of an agreement;
- If disclosure would jeopardize the safety or life of an individual;
- If access to the record is prohibited in terms of Section 60(14) of the Criminal Procedure Act No. 51 of 1977;
- The record is privileged from production in legal proceedings unless the privilege has been waived;
- Records containing information about research being carried out or about to be carried out on behalf of a third party and the disclosure is likely to expose the third party, a person that will be carrying on the research on behalf of the third party, or the subject matter of the research, to serious disadvantage.

### **Access may be refused in the following circumstances:**

- If the record consists of information that was supplied in confidence by a third person and disclosure could reasonably be expected to prejudice the future supply of similar information, or information from the same source and it is in the public interest that similar information, or information from the same source, should continue to be supplied;
- If disclosure would prejudice or impair the security of a building, structure or system or means of transport or any other property;
- If the record contains methods, techniques, guideline or procedures for the prevention detection, curtailment or investigation of a contravention or possible contravention of a law or the prosecution of alleged offenders;
- If the disclosure could jeopardize the economic interests or financial welfare of the Republic or the ability of Government to manage the economic affairs of the Republic;
- If the record contains financial, commercial, scientific or technical information that may harm the commercial or financial interests of the public body;

- Disclosure would reasonably expect that it would put a public body at a disadvantage in contractual or other negotiations or prejudice it in commercial competition;
- If the record is a computer programme;
- Records containing information about research being carried out or about to be carried out on behalf of the public body and the disclosure is likely to expose the public body, a person that will be carrying on the research on behalf of the public body, or the subject matter of the research to serious disadvantage.
- If the records contains an opinion, advice, report or recommendation obtained or prepared, an account of a consultation, discussion or deliberation that has occurred (including minutes of meetings) for the purpose or formulating a decision or making a policy or disclosure would frustrate the deliberative process;
- Disclosure could jeopardize the effectiveness of testing, examining or auditing procedures or methods used by the body;
- The record contains evaluative material and disclosure would breach an implied promise made to the person who gave it regarding his or her identity or the content of the material;
- The record contains preliminary, working or draft material;
- If the request is manifestly frivolous or vexatious or the work required to process the request would unreasonably divert the resources of the public body.

# ANNEXURE "G"

## INTERNAL APPEAL FORM

(Section 75 of the Promotion of Access to Information Act 2000 (Act No. 2 of 2000))  
[Regulation 8]

STATE YOUR REFERENCE NUMBER:

### A. Particulars of public body

The Information Officer/Deputy Information Officer:

### B. Particulars of requester/third party who lodges the internal appeal

- (a) The *particulars of the person who lodge the internal appeal must be given below.*  
(b) *Proof of the capacity in which appeal is lodged, if applicable, must be attached.*  
(c) *If the appellant is a third person and not the person who originally requested the information, the particulars of the requester must be given at C below.*

Full names and surname:

Identity number:

Postal address:

Fax number:

Telephone number:

E-mail address:

Capacity in which an internal appeal on behalf of another person is lodged:

### C. Particulars of requester

This section must be completed ONLY if a third party (other than the requester) lodges the internal appeal.

Full names and surname:

Identity number:

### D. The decision against which the internal appeal is lodged

*Mark the decision against which the internal appeal is lodged with an X in the appropriate box:*

<input type="checkbox"/>	Refusal of request for <i>access</i>
<input type="checkbox"/>	<i>Decision</i> regarding fees prescribed in terms of section 22 of the Act
<input type="checkbox"/>	Decision regarding the extension of the period within which the request must be dealt
<input type="checkbox"/>	Decision in terms of section 29(3) of the Act to refuse access in the form requested by
<input type="checkbox"/>	Decision to grant request for access

**E. Grounds for appeal**

If the provided space is inadequate, please continue on a separate folio and attach it to this form. You must sign all the additional folios.

State the grounds on which the internal appeal is based:

State any other information that may be relevant in considering the appeal:

**F. Notice of decision on appeal**

You will be notified in writing of the decision on your internal appeal. *If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.*

**State the manner:**

Particulars of manner:.....

Signed at.....this .....day of ..... 20.....

SIGNATURE OF APPELLANT:

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**FOR DEPARTMENTAL USE:  
OFFICIAL RECORD OF INTERNAL APPEAL**

Appeal received on ..... (date) by  
(state rank, name and surname of information officer/deputy information officer).

Appeal accompanied by the reasons for the information officer's/deputy information officer's decision and, where applicable, the particulars of any third party to whom or which the record relates, submitted by the information officer/deputy information officer on (date) to the relevant authority.

**OUTCOME OF APPEAL:**

DECISION OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER  
CONFIRMED/NEW DECISION SUBSTITUTED NEW DECISION:

DATE: \_\_\_\_\_

RELEVANT AUTHORITY: \_\_\_\_\_

RECEIVED BY THE INFORMATION OFFICER/DEPUTY INFORMATION OFFICER  
FROM THE RELEVANT AUTHORITY ON (date): \_\_\_\_\_