

PAIA MANUAL

of

**THE TRUSTEES FOR THE TIME
BEING OF THE ZEITZ MOCOA
FOUNDATION TRUST
(MASTER NO. IT000844/2015)**

**Prepared in accordance with Section 51 of the Promotion of Access to Information Act,
No 2 of 2000.**

(Private Body)

1 INTRODUCTION

This manual is compiled in accordance with section 51 of the of the Promotion of Access to Information Act, 2000 (act no 2 of 2000) (“the act”) and in accordance with the spirit of the Constitution of the Republic of South Africa Act No 108 of 1996, to enable and facilitate Requests for access to a Record held by a private body that is required for the exercise or protection of any rights. The reference to any information in addition to that specifically required in terms of section 51 of the act does not create any right or entitlement (contractual or otherwise) to receive such information, other than in terms of the act.

1.1 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 any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights. Where a request is made in terms of the Act, the body to whom the request is made is obliged to release the information, **except where the Act expressly provides that the information may or must not be released**. The Act sets out the requisite procedural issues attached to such request.

1.2 PURPOSE OF THE MANUAL:

In order to promote effective governance of private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights in terms of the Act in order for them to exercise their rights in relation to public and private bodies.

Section 9 of the Act however recognises that such right to access to information cannot be unlimited and should be 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 rights, including such rights contained in the Bill of Rights in the Constitution.

Wherever reference is made to “Private Body” in this manual, it will refer to **THE TRUSTEES FOR THE TIME BEING OF THE ZEITZ MOCAA FOUNDATION TRUST**, a private body which operates as a general trading company.

Wherever reference is made to a “document” or “record”, it shall include such documents or records that are stored on a computer or in any form of electronic format (precedent included).

PART I

2 CONTACT DETAILS

2.1 **Information Officer: FAWAZ MUSTAPHA**

Physical address: Silo District, V&A Waterfront, Cape Town, 8002

Tel: 087 350 4777

Email address: info@zeitzmocaa.museum

Chief Operating Officer: FAWAZ MUSTAPHA

Physical address: Silo District, V&A Waterfront, Cape Town, 8002

Tel: 087 350 4777

Email address: info@zeitzmocaa.museum

GUIDE ON HOW TO USE PAIA AND HOW TO OBTAIN ACCESS TO THE GUIDE

2.2 The Information Regulator has, in terms of section 10(1) of PAIA, as amended, updated, and made available a Guide on how to use PAIA (“Guide”), in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right contemplated in PAIA and POPIA.

2.3 The Guide is available in each of the official languages and in braille.

2.4 The aforesaid Guide contains the description of-

2.4.1 the objects of PAIA and POPIA;

2.4.2 the postal and street address, phone, and fax number and, if available, electronic mail address of-

2.4.2.1 the Information Officer of every public body, and

2.4.2.2 every Deputy Information Officer of every public and private body designated in terms of section 17(1) of PAIA and section 56 of POPIA;

2.4.3 the manner and form of a request for-

2.4.3.1 access to a record of a public body contemplated in section 11 of PAIA; and

- 2.4.3.2 access to a record of a private body contemplated in section 50 of PAIA;
- 2.4.4 the assistance available from the IO of a public body in terms of PAIA and POPIA;
- 2.4.5 the assistance available from the Regulator in terms of PAIA and POPIA;
- 2.4.6 all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by PAIA and POPIA, including the manner of lodging-
 - 2.4.6.1 an internal appeal;
 - 2.4.6.2 a complaint to the Regulator; and
 - 2.4.6.3 an application with a court against a decision by the information officer of a public body, a decision on internal appeal or a decision by the Regulator or a decision of the head of a private body;
- 2.4.7 the provisions of sections 14 and 51 of PAIA requiring a public body and private body, respectively, to compile a manual, and how to obtain access to a manual;
- 2.4.8 the provisions of sections 15 and 52 of PAIA providing for the voluntary disclosure of categories of records by a public body and private body, respectively;

- 2.4.9 the notices issued in terms of sections 22 and 54 of PAIA regarding fees to be paid in relation to requests for access; and
- 2.4.10 the regulations made in terms of section 92 of PAIA.
- 2.5 Members of the public can inspect or make copies of the Guide from the offices of the public and private bodies, including the office of the Regulator, during normal working hours.
- 2.6 The Guide can also be obtained-
 - 2.6.1 upon request to the Information Officer;
 - 2.6.2 from the website of the Regulator (<https://www.justice.gov.za/inforeg/>).
- 2.7 A copy of the Guide is also available in the following three official languages, for public inspection during normal office hours-
 - 2.7.1 English;
 - 2.7.2 Afrikaans; and
 - 2.7.3 IsiZulu

PART IV

3 GROUNDS FOR REFUSAL OF ACCESS TO RECORDS

The main grounds for the Private Body to refuse a request for information relates to the -

- 3.1 mandatory protection of the privacy of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- 3.2 mandatory protection of the commercial information of a third party, if the record contains –
 - 3.2.1 trade secrets or any other such intellectual property of that third party;
 - 3.2.2 financial, commercial, scientific, or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
 - 3.2.3 information disclosed in confidence by a third party to the Private Body, if the disclosure could put that third party at a disadvantage in present or future negotiations and/or commercial competition;
- 3.3 mandatory protection of confidential information of third parties if it is protected in terms of any agreement or legislation;
- 3.4 mandatory protection of the safety of individuals and the protection of property;
- 3.5 mandatory protection of records which would be regarded as privileged in legal proceedings;
- 3.6 the commercial activities of the Private Body, which may include –
 - 3.6.1 trade secrets or any other such intellectual property of the Private Body;
 - 3.6.2 financial, commercial, scientific, or technical information which disclosure of could likely cause harm to the financial or commercial interests of the Private Body;
 - 3.6.3 information which, if disclosed could put the Private Body at a disadvantage in present or future negotiations and/or commercial competition;
 - 3.6.4 a computer program which is owned by the Private Body, and which is protected by copyright.
- 3.7 the research information of the Private Body or a third party, if its disclosure would disclose the identity of the Private Body, the researcher or the subject matter of the research and would place the research at a disadvantage;

- 3.8 Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused.

4 REMEDIES AVAILABLE WHEN A PRIVATE BODY REFUSES A REQUEST FOR INFORMATION

4.1 INTERNAL REMEDIES

The Private Body does not have an internal appeal procedure. As such, the decision made by the information officer is final, and requesters will have to exercise such external remedies at their disposal if the request for information is refused, and the requester is not satisfied with the answer supplied by the information officer.

4.2 EXTERNAL REMEDIES

A requester that is dissatisfied with an information officer's refusal to disclose information may, within 180 days of notification of the decision, lodge a complaint with the Information regulator on the prescribed form which can be found at <https://www.justice.gov.za/inforeg/docs.html> or apply to the relevant Court for relief

A third party dissatisfied with an information officer's decision not to grant a request for information, may within 180 days of notification of the decision, lodge a complaint with the Information regulator on the prescribed form which can be found at <https://www.justice.gov.za/inforeg/docs.html> or apply to a Court for relief. For purposes of the Act, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court, or any other court with similar status.

5 ACCESS: REQUEST PROCEDURE

- 5.1 The requester must comply with all the procedural requirements contained in the Act relating to the request for access to a record (Section 53).

- 5.2 The requester must complete the prescribed form enclosed herewith in **Appendix 1** and submit same as well as payment of a request fee and a deposit, if applicable to the Information Officer at the postal or physical address, fax number or electronic mail address as stated in 2.1 above.

- 5.3 The prescribed form must be filled in with enough particularity to at least enable the Information Officer to identify –

- 5.3.1 The record or records requested;

- 5.3.2 The identity of the requester,

- 5.3.3 Which form of access is required if the request is granted;

- 5.3.4 The postal address or fax number of the requester.

- 5.4 The requester must state that he/she requires the information in order to exercise or protect a right, and clearly state what the nature of the right is so to be exercised or protected. In addition, the requester must clearly specify why the record is necessary to exercise or protect such a right.
- 5.5 The Private Body will process the request within 30 days, unless the requester has stated special reasons which would satisfy the Information officer that circumstances dictate that the above time periods not be complied with.
- 5.6 The requester shall be informed whether access granted or denied. If, in addition, the requester requires the reasons for the decision in any other manner, he/she must state the manner and the particulars so required.
- 5.7 If a request is made on behalf of another person, then the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of the information officer.
- 5.8 If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.
- 5.9 The requester must pay the prescribed fee before any further processing can take place.

6 ACCESS TO RECORDS HELD BY THE PRIVATE BODY

6.1 Records held by the Private Body may be accessed by requests only once the prerequisite requirements for access have been met.

6.2 A requester is any person making a request for access to a record of the Private Body. There are two types of requesters:

6.2.1 PERSONAL REQUESTER

6.2.1.1 A personal requester is a requester who is seeking access to a record containing personal information about the requester.

6.2.1.2 The Private Body will voluntarily provide the requested information or give access to any record with regard to the requester's personal information. The prescribed fee for reproduction of the information requested will be charged.

6.2.2 OTHER REQUESTER

6.2.2.1 This requester (other than a personal requester) is entitled to request access to information on third parties. However, the Private Body is not obliged to voluntarily grant access. The requester must fulfil the prerequisite requirements for access in terms of the Act, including the payment of a request and access fee.

7 FEES

- 7.1 The Act provides for two types of fees, namely:
- 7.1.1 A request fee, which will be a standard fee; and
 - 7.1.2 An access fee, which must be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postal costs.
- 7.2 When the request is received by the Information Officer, such officer shall by notice require the requester, other than a personal requester, to pay the prescribed request fee (if any) before any further processing of the request.
- 7.3 If the search for the record has been made and the preparation of the record for disclosure, including arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the 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.
- 7.4 The information officer shall withhold a record until the requester has paid the fees as indicated in **Appendix 2**.
- 7.5 A requester whose request for access to a record has been granted, must pay an access fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the request form.
- 7.6 If a deposit has been paid in respect of a request for access, which is refused, then the information officer concerned must repay the deposit to the requester.

8 DECISION

- 8.1 The Private Body will, within 30 days of receipt of the request, decide whether to grant or decline the request and give notice with reasons (if required) to that effect.
- 8.2 The 30-day period with which the Private Body has to decide whether to grant or refuse the request, may be extended for a further period of not more than thirty days if the request is for a large amount of information, or the request requires a search for information held at another office of the Private Body and the information cannot reasonably be obtained within the original 30-day period. The Private Body will notify the requester in writing should an extension be sought.

9 PROCESSING OF PERSONAL INFORMATION

9.1 Purpose of Processing Personal Information

To give effect to the constitutional right of access to any information held by the State or any other person and that is required for the exercise or protection of any rights.

9.2 Description of the categories of Data Subjects and of the information or categories of information relating thereto

Categories of Data Subjects	Personal Information that may be processed but not limited to the list below
Operators Individuals Private Entities Public Entities Service Providers/Suppliers	Name and Surname Contact Details Email Addresses Home Address Identification Numbers/Passport Numbers Bank Account Details Photographs Financial Information/Values Artwork Information

9.3 Information Security Measures implemented across various platforms to ensure the confidentiality, integrity, and availability of the information.

This may include but not limited to, Data Encryption; Anti-Virus, Anti Malware Solutions, Two-Factor Authentication and Firewall.

10 AVAILABILITY OF THE MANUAL

10.1 A copy of the Manual is available-

10.1.1 on <http://zeitzmocaa.museum/>

10.1.2 at the office of the Zeitz MOCAA for public inspection during normal business hours.

10.1.3 to any person upon request and upon the payment of a reasonable prescribed fee; and

10.2 to the Information Regulator upon request.

PRESCRIBED FORM TO BE COMPLETED BY A REQUESTER

FORM C

REQUEST FOR ACCESS TO RECORDS OF PRIVATE BODY

(Section 53(1) of the Promotion of Access to Information Act, No 2 of 2000)

(Regulation 10)

A. Particulars of Private Body

The Head:

B. Particulars of Person requesting access to the record

(a) *The particulars of the person who requests access to the records must be given below.*

(b) *The address and/or fax number in the Republic to which information is to be sent must be given.*

(c) *Proof of the capacity in which the request is made, if applicable, must be attached.*

Full Name and

Surname: _____

Identity

Number: _____

Postal Address: _____

Telephone Number: _____ Fax Number: _____

E-mail address: _____

Capacity in which request is made, when made on behalf of another person:

C. Particulars of person of whose behalf request is made:

This section must be completed ONLY if a request for information is made on behalf of another person

Full names and

Surname: _____

Identity Number: _____

D. Particulars of Record:

- (a) *Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.*
- (b) *If the provided space is inadequate, please continue on a separate folio and attach it to this form. **The requester must sign all the additional folios***

1. Description of the Record or relevant part of the record:

2. Reference number, if available: _____

3. Any further particulars of the record:

E. Fees:

- (a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a **request fee** has been paid.
- (b) You will be notified of the amount required to be paid as the request fee.
- (c) The **fee payable for access** to a record depends on the form in which the access is required, and the reasonable time required to search for and prepare a record.
- (d) If you qualify for exemption of the payment of any fee, please state the reason, therefore.

Reason for exemption of payment of the fee:

F. Form of Access to the Record:

If you are prevented by a disability to read, view, or listen to the record in the form of access provided for in 1 to 4 below, state your disability and indicate in which form the record is required.

Disability:	Form in which record is required:
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>

Mark the appropriate box with an "X"

NOTES:

- (a) Compliance with your request for access in specified form may depend on the form in which the record is available.
- (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.

(c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.

1. If the record is in written or printed form:

	Copy of record *		Inspection of record
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2. If the record consists of visual images:

(This includes photographs, slides, video recordings, computer-generated images, sketches, etc.)

	View the images		Copy of the images *		Transcription of the images*
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3. If the record consists of recorded words or information which can be reproduced in sound:

	Listen to the soundtrack (Audio cassette)		Transcription of soundtrack * (Written or printed document)
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4. If the record is held on computer or in an electronic or machine-readable form:

	Printed copy of record		Printed copy of information derived from the record *		Copy in computer readable form * (stiffy or compact disc)
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* If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you?
Postage is payable.

YES	NO
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G. Particulars of right to be exercised or protected:

If the provided space is inadequate, please continue on a separate folio and attach it to this form

The requester must sign all the additional folios

Indicate which right is to be exercised or protected:

1. Explain why the requested record is required for the exercising or protection of the aforementioned right:

H. Notice of decision regarding request for access:

You will be notified in writing whether your request has been approved/denied. If you wish to be informed in another manner, please specify the manner, and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

Signed at _____ this _____ day of
_____ 20____

SIGNATURE OF REQUESTER/PERSON
ON WHOSE BEHALF REQUEST IS MADE

PRESCRIBED FEES

Request fees:

Where a requester submits a request for access to information held by a Private Body on a person other than the requester himself/herself, a request fee in the amount of R140,00 is payable up-front and, in addition to the request fee, an access fee for search and preparation of the record (if applicable) may apply.

Reproduction Fees

Where the Private Body has voluntarily provided the Minister with a list of categories of records that will automatically be made available to any person requesting access thereto, the only charge that may be levied for obtaining such records, will be a fee for reproduction of the record in question.

Access fees:

An access fee is payable in all instances where a request for access to information is granted, except in those instances where payment of an access fee is specially excluded in terms of the Act, or an exclusion is determined by the Minister in terms of Section 54 (8).

THE APPLICABLE FEES FOR ACCESS/REPRODUCTION AS REFERRED TO ABOVE ARE:

a.	For every photocopy of an A4-size page or part thereof	R2.00
b.	For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R2.00
c.	For a copy in a computer-readable form on	
	- flash drive	R40.00
	- Compact disc provided by requestor	R40,00
	- Compact Disc provided to requestor	R60.00
d.	A transcription of visual images, for an A4-size page or part thereof service to be outsourced and depends on quotation from service	R

	provider	
	For a copy of visual images service to be outsourced and depends on quotation from service provider	R
	A transcription of an audio record, for an A4-size page or part thereof	R24,00
	For a copy of an audio record on:	
	- Flash Drive	R40.00
	- Compact Disc provided to requestor	R60.00
	- Compact Disc provided by requestor	R40.00
	- Search and preparation of a record for disclosure	140,00 per hour to not exceed R435.00
	- Postage, email, or any other electronic transfer actual expenses if any	

Deposits:

Where the Private Body receives a request for access to information held on a person other than the requester himself/herself and the information officer upon receipt of the request is of the opinion that the preparation of the required record of disclosure will take more than 6 (six) hours, a deposit is payable by the requester.

The amount of the deposit is equal to $\frac{1}{3}$ (one third) of the amount of the applicable access fee.

Note: In terms of Regulation 8, Value Added Tax (VAT) must be added to all fees prescribed in terms of the Regulations.

