

MPUMALANGA PROVINCIAL LEGISLATURE

PROMOTION OF ACCESS TO INFORMATION MANUAL

**COMPILED IN TERMS OF SECTION 14 OF THE PROMOTION OF
ACCESS TO INFORMATION ACT, 2 OF 2000**

- 13. DEEMED REFUSAL
- 14. SEVERABILITY
- 15. UPDATING AND AVAILABILITY OF THE MANUAL

Annexures

- Annexure A : Prescribed forms for access to records of a public body
- Annexure B : Notice of internal Appeal form
- Annexure C : Fees in respect of public bodies

Values

- i) Co-operation: Commitment to working with both internal and external stakeholders
- ii) Customer orientated: Placing customers first
- iii) Excellence: Continuous improvement of performance standards
- iv) Openness: Transparency and accessibility
- v) Participation: All processes of the Legislature to be people-centred
- vi) Quality orientation: Commitment to focusing on quality and meeting world class standards
- vii) Adaptability: Flexibility in response to new circumstances
- viii) Moral integrity: Acting with integrity at all times and being exemplary
- ix) Economical: Cost effective usage of resources
- x) Fairness: Acting in a fair, balanced and considered manner at all times

2. MANDATE OF THE LEGISLATURE

The Legislature derives its mandate from Chapter 6 of the Constitution of the Republic of South Africa, 1996 which outlines its powers, functions, and responsibilities as follows:

In executing its legislative powers, the Legislature may:

- Consider, pass, amend or reject any Bill; and
- Initiate or prepare legislation, except money Bills

Furthermore, the Legislature must provide for the following mechanisms:

- To ensure that all provincial executive organs of state in the province are accountable to it; and
- To conduct oversight over the provincial executive authority and any provincial organ of state, including the implementation of legislation.

The Legislature must also:

- Facilitate public involvement in the legislative and other processes of the Legislature and its Committees; and

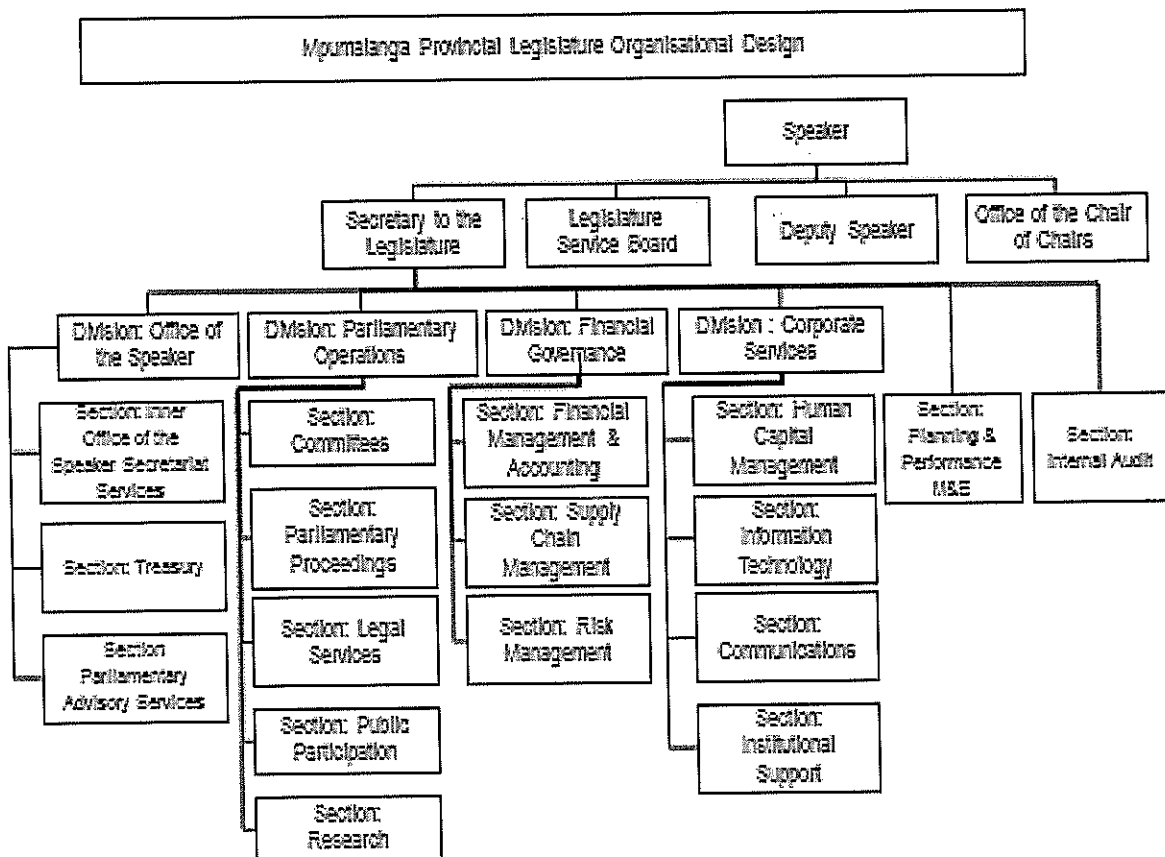
- f) Members Affairs
- g) Select Committee on Programming and Prioritization
- h) Ethics Committee

3. STRUCTURE OF THE MPUMALANGA PROVINCIAL LEGISLATURE

3.1 Organisational Structure

The Speaker for the Legislature is Hon B.T Shongwe, the Deputy Speaker is Hon B.D Dube. The Secretary to the Legislature (Accounting Officer) is Mr. L.J Mwale. The Legislature comprises the following organisational structure:

Figure 1: Organisational Design



- Communications

3.1.1 FUNCTIONS OF EACH COMPONENT WITHIN THE LEGISLATURE

PROGRAMME 1: ADMINISTRATION

The purpose of Programme 1 is to provide strategic leadership, management and administrative support to ensure institutional effectiveness and the achievement of the core business of the Legislature.

A: Office of the Speaker

The purpose is to provide political leadership, and management support to ensure effective functioning of the Legislature and the Office of the Speaker respectively towards the fulfilment of the constitutional mandate.

- **Chief of Staff**

The purpose is to provide effective support to the Executive Authority and ensure that the strategic and financial functions of the division and of the institution are executed.

- **Management**

The purpose is to provide overall strategic leadership, management, governance and administration to ensure effective and efficient functioning of the Legislature in achieving its vision and fulfilling its constitutional mandate.

- **Secretariat Services**

The purpose is to provide professional advice and secretariat services to the Speakership in executing political and constitutional responsibilities.

- **Treasury**

The purpose is to provide advise to the Executive Authority in the exercising the Treasury function of the Legislature and to oversee the implementation of prescripts related to financial matters.

DIVISIONS

(i) CORPORATE SERVICES

The purpose is to provide strategic and leadership support to the Legislature in relation to human capital management, information and communication technology, communications and Institutional support services.

• Management

The purpose is to provide overall strategic leadership, management, governance and administration to ensure effective and efficient functioning of the Legislature in achieving its vision and fulfilling its constitutional mandate.

• Human Capital Management

The purpose is to provide support to the Legislature in relation to human capital management services to ensure institutional effectiveness and the achievement of the core business of the Legislature.

• Information Technology

The purpose is to provide information communication technology system and tools in order to support the core business of the Legislature.

• Communications

The purpose is to provide communication services to internal and external stakeholders, and improve Institutional public image in support of the core business of the Legislature.

• Institutional Support

The purpose is to provide effective and efficient Institutional services in support of the core business of the Legislature.

- **Research**

The purpose is to provide research, policy analysis and knowledge management services in support of the core business of the Legislature.

- **Legal Services**

The purpose is to provide professional legal services in support of the core business of the Legislature.

- **Public Participation and Petitions**

The purpose is to provide professional and administrative services regarding public involvement and public participation in support of the core business of the Legislature.

3.2 General contact details of the Mpumalanga Provincial Legislature

Physical address : No. 7 Government Boulevard
Riverside Government Complex
Building 1
Mbombela
1200

Postal Address : Private Bag X11289
Mbombela
1200

Telephone Number : 013 766 1167
Fax Number : 013 766 1470
Website : www.mpuleg.gov.za

5. THE GUIDE ON HOW TO USE THE ACT

The Guide on how to use the Act is available from the South African Human Rights Commission. Please direct any queries to:

The South African Human Rights Commission

PAIA Unit
Research and Documentation Department
Private Bag 2700
Houghton
2041

Telephone: (011) 484 8300
Fax: (011) 484 1360
Website www.sahrc.org.za

6. RECORDS HELD BY THE LEGISLATURE

6.1 RECORDS THAT MAY BE REQUESTED

The Mpumalanga Provincial Legislature holds the following records which could be requested in terms of the Act:

- 6.1 Legislature's Strategic Plans, Performance Reports and Annual Reports;
- 6.2 Legislature's financial records;
- 6.3. Legislature's budget;
- 6.4 Legislature's personnel records;
- 6.5 Policy documents;
- 6.6 Documents on Law making, Oversight, Public Participation and Involvement
- 6.7 Media products;
- 6.8 Provincial Gazettes;
- 6.10 Legislature's Communication Strategies and Plans;
- 6.11 Records relating to contractual documents signed with various service providers;
- 6.12 Committee Reports;
- 6.13 Information Technology records;
- 6.14 Risk management records;
- 6.15 Hansard records;
- 6.16 Legislation;
- 6.17 Rules and Orders; and

<p>Speeches</p> <p>9. Legislature's Publications</p> <p>10. Policy documents</p> <p>11. Forms</p> <p>12. Committee Reports</p>	
FOR COPYING IN TERMS OF SECTION 15 (1) (a) (ii)	
<p>1. Legislature's Strategic Plans</p> <p>2. Legislature's Annual Reports</p> <p>3. Legislature's Annual Performance Plans</p> <p>4. Tender/Bid Documents</p> <p>5. Legislation administered by the Legislature</p> <p>6. Vacancies</p> <p>7. Promotion of access to Information Manual</p> <p>8. The Legislature's Media Statements and Speeches</p> <p>9. The Legislature's Publications</p> <p>10. Policy documents</p> <p>11. Forms</p> <p>12. Committee Reports</p>	<p>These records are available for copying at the Legislature on request or addressed to the Office of the Deputy Information Officer, Private Bag X 11289 Mbombela 1200</p> <p>Or visit our website on www.mpuleg.gov.za</p>
AVAILABLE FREE OF CHARGE IN TERMS OF SECTION 15 (1) (a) (iii)	
<p>1. Legislature's Strategic Plans</p> <p>2. Legislature's Annual Reports</p> <p>3. Legislature's Annual Performance Plans</p> <p>4. Tender/Bid Documents</p> <p>5. Legislation administered by the Legislature</p>	<p>These records are available free of charge at the Mpumalanga Provincial Legislature on request or addressed to the Office of the Deputy Information Officer, Private Bag X 11289 Mbombela 1200</p> <p>Or visit our website on www.mpuleg.gov.za</p>

7.3.2 Where the requester's request to access does not comply with the applicable procedures, access to the intended record shall be refused, but the Information Officer or the deputy Information Officer shall assist the requester to comply in order to eliminate any possible ground for refusal **(Section 19 (2) (a))**.

7.3.3 If the Information Officer or Deputy Information Officer is unable to provide such assistance so as to enable the requester to comply, the Information Officer or the Deputy Information Officer as the case may be, shall allow the Requester reasonable opportunity to seek such assistance so as to enable him or her to comply **(Section 19 (2) (b))**.

7.3.4 In determining the applicable time frame in which to respond to such request the time frame shall be calculated from the date of submitting the request **(Section 19 (3))**.

7.4 Transfer of Requests to Another Public Body (Section 20)

7.4.1 If upon submitting a request to access of a record is deemed to be held by the Legislature and it transpires that the record is in actual fact held by another Public Body, the requester shall be referred to such other Public Body and where the requester requires assistance in transferring the request, the Information Officer shall assist the requester to transfer such request **(section 19 (4) and Section 20 (1) (a))**.

7.4.2 Transfer of a request for access to a record shall also be made in circumstances where the Legislature is of the opinion that the subject-matter of the record so requested is closely connected to a function with functions of another Public Body **(Section 20 (1) (b))**.

7.4.3 Requests transferred to the Legislature: where requests have been transferred to the Legislature from other Institutions, the Legislature shall give priority to such requests considering the date and applicable timeframes which are applicable to the transferring institution **(section 20 (3) and section 20 (4))**.

Branch Name : Mbombela
 Branch Code : 270352
 Reference : (Quote the reference number allocated)

9. REMEDIES WHERE REQUESTS FOR ACCESS TO INFORMATION ARE REFUSED

9.1 Refusal of request

The main grounds for the Legislature to refuse a request for information relate to the:

9.1.1. Mandatory protection of privacy of a third party who is a natural person if the disclosure would involve the unreasonable disclosure of personal information about the third party, including a deceased individual **(Section 34 (1))**

9.1.2. Mandatory protection of the commercial information of a third party, if the record contains:

- a) Trade secrets of that third party; **(Section 36 (1) (a))**
- b) Financial, commercial, specific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party; **(section 36 (1) (b))**
- c) Information disclosed in confidence by a third party to the Legislature, if the disclosure could put a third party and the Legislature at a disadvantage in negotiations or commercial competition. **(Section 36 (1) (c)).**

9.1.3. Mandatory protection of certain confidential information of third parties if it is protected in terms of any agreement; **(Section 37 (1) (a))**

9.1.4. Mandatory protection of the safety of individuals and the protection of property; **(Section 38(a)).**

9.1.5. Mandatory protection of records which would be regarded as privileged in legal proceedings; **(Section 40)**

9.1.7. Mandatory protection of research information of the Legislature or a third party, if its disclosure would disclose the identity of the Legislature, the researcher or the subject matter of the research and would place the research at a serious disadvantage; **(Section 43 (1)).**

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

9.3.4. If the Speaker disallows the late lodging of the appeal, he or she must give notice of that decision to the person who lodged the appeal.

9.3.5. A requester lodging an appeal against the refusal of his or her request for access must pay the prescribed appeal fee (if any).

9.3.6. If the prescribed appeal fee is payable in respect of an appeal, the decision on the appeal may be deferred until the fee is paid.

9.3.7. As soon as reasonably possible, but in any event within ten (10) working days after receipt of an appeal, the Information Officer of the Legislature must submit to the Speaker:

- a) the appeal together with his or her reasons for the decision concerned; and
- b) if the appeal is against the refusal or granting of a request for access, the name, postal address, phone and fax number and electronic mail address, whichever is available, of any third party that must be notified of the request.

10. **REQUEST FOR ACCESS TO RECORDS THAT CANNOT BE FOUND OR DO NOT EXIST** (section 23)

15.1 If the Legislature cannot find a record so requested or is of the opinion that such a record does not exist, the requester shall be notified by way of an affidavit (**section 23(1)(b)**).

15.2 Should the Legislature subsequently find the record so requested, the Legislature shall accordingly give the requester access to the record (**section 23(4)**).

16. **DEFERRAL OF ACCESS TO INFORMATION** (section 24)

16.1 Access to documents that by nature can only be available at a future date due to applicable due processes that still need to be complied with, granting of access to such records shall be deferred until such due processes have been finalised (**section**

19. **SEVERABILITY** (section 28)

It is possible that access can be granted to only part of the record and access to the other part of the record be refused. In this case, the Legislature will continue to grant access to the part which access thereto has been approved.

20. **UPDATING AND AVAILABILITY OF THE MANUAL**

The Legislature undertakes to update and publish this Manual at intervals of not more than a year. The manual is published in three other official languages.

The manual is also available and accessible through the Mpumalanga Provincial Legislature's website on www.mpuleg.gov.za.

Identity number: _____

Postal address: _____

Fax number: _____

Telephone number: _____

E-mail address: _____

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

C. Particulars of person on 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 record or relevant part of the record: _____

2. Reference number, if available: _____

3. Any further particulars of record: _____

2. If 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*		
3. If 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)			
4. If 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)		
*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you?			YES	N O
Postage is payable.				
Note that <i>if</i> the record is not available in the language you prefer, access may <i>be granted</i> in the language in <i>which</i> the record is available.				
In which language would you prefer the record?				

G. Notice of decision regarding request for access

You will be notified 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 thisday of..... 20_____

**SIGNATURE OF REQUESTER OR PERSON ON
WHOSE BEHALF THE REQUEST IS MADE**

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:

	Refusal of request for access
	Decision regarding fees prescribed in terms of section 22 of the Act
	Decision regarding the extension of the period within which the request must be dealt with in terms of section 26(1) of the Act
	Decision in terms of section 29(3) of the Act to refuse access in the form requested by the requester
	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

Annexure C

FEES IN RESPECT OF PUBLIC BODIES

1. The fee for a copy of the manual as contemplated in regulation 5(c) is R0, 60 for every photocopy of an A4-size page or part thereof.
2. The fees for reproduction referred to in regulation 7(1) are as follows:

	R
(a) For every photocopy of an A4-size page or part thereof	0,60
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	0,40
(c) For a copy in a computer-readable form on -	
(i) memory stick/stiffy disc	5,00
(ii) compact disc	40,00
(d) (i) For a transcription of visual images, for an A4-size page or part thereof	22,00
(ii) For a copy of visual images	60,00
(e) (i) For a transcription of an audio record, for an A4-size page or part thereof	12,00
(ii) For a copy of an audio record	17,00
3. The request fee payable by every requester, other than a personal requester, referred to in regulation 7(2) is R35,00.
4. The access fees payable by a requester referred to in regulation 7(3) are as follows:

	R
(a) For every photocopy of an A4-size page or part thereof	0,60
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	0,40
(c) For a copy in a computer-readable form on -	
(i) memory stick/stiffy disc	5,00
(ii) compact disc	40,00

APPROVAL:

This Promotion of Access to Information Manual has been considered and approved by the Mpumalanga Provincial Legislature and comes into effect on the date of signature by the Secretary to the Legislature.



MR LJ MWALE
SECRETARY:
MPUMALANGA PROVINCIAL LEGISLATURE

2016/04/05

DATE