



PROMOTION OF ACCESS TO INFORMATION ACT (PAIA)

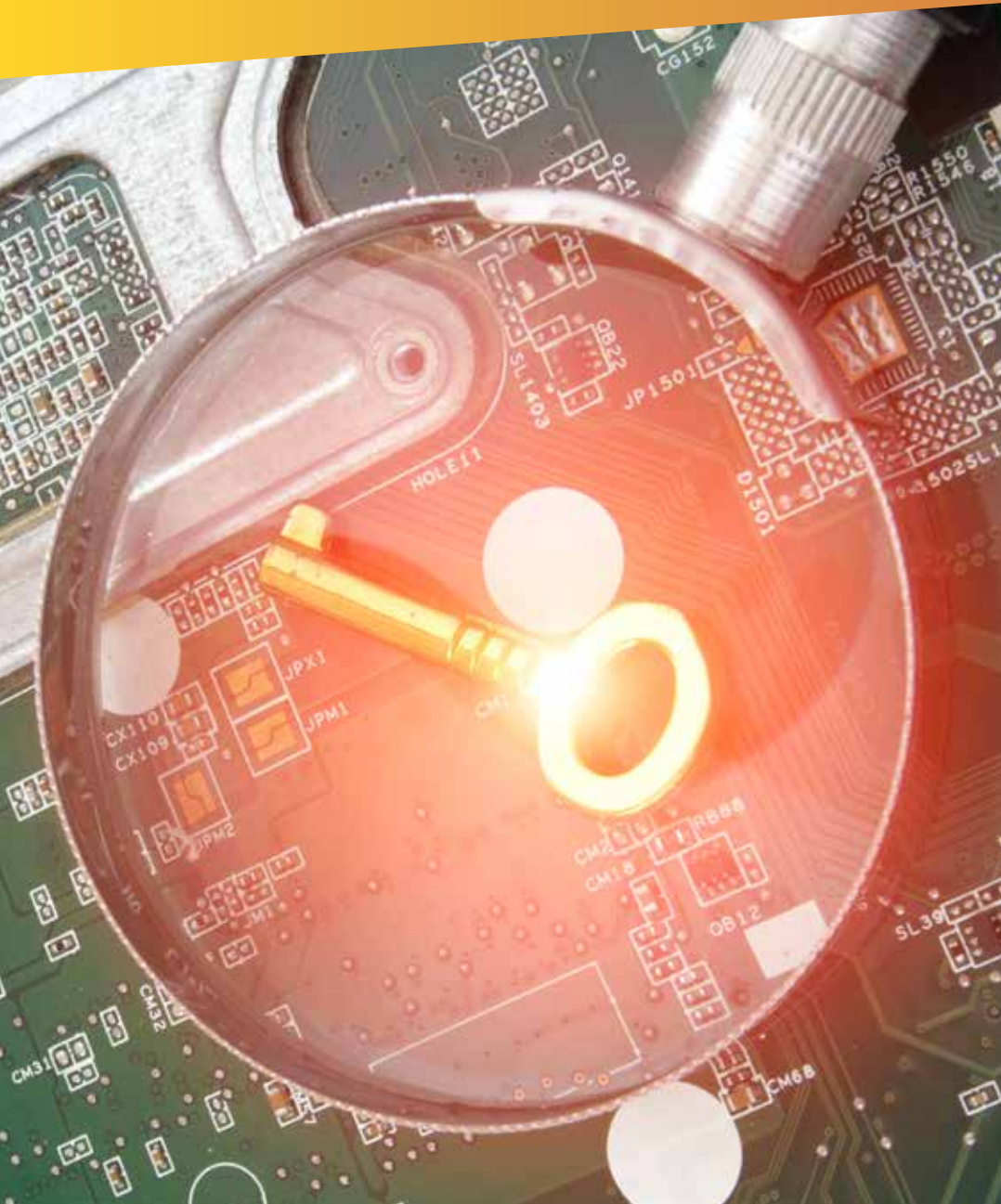
# ANNUAL REPORT

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2018/2019







## PREFACE

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The right of access to information has been long recognized in international normative frameworks and has also been provided for in domestic and regional laws. Sections 83 and 84 of the Promotion of Access to Information (PAIA) requires the South African Human Rights Commission (the SAHRC or Commission) to fulfil numerous legislative duties, which includes the tabling of the PAIA annual report with the National Assembly. The report must set out any recommendations made for the ‘development, improvement, modernisation, reform or amendment’ of the PAIA or any other law pertaining to access to information, as well as any recommendations made regarding processes for the electronic disclosure and availability of records. In addition, the report must include a compilation of reports submitted by all public bodies in terms of section 32 of the PAIA. Submission of this public sector compliance report is mandatory for all public bodies in the country. It sets out the number of PAIA requests received by each public body, how many of those requests were granted, denied and transferred; it informs of the number of appeals lodged in terms of PAIA and how many court applications were made. As the analysis contained in this report reveals, compliance levels with the duty to submit such reports remain extremely low.



# FOREWORD

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The passage of the Promotion of Access to Information Act 2 of 2000 (PAIA) constitutes a crucial tool for the realisation of the constitutional objectives of transparency and open government. The South African Human Rights Commission (Commission or SAHRC) has sought to monitor and enhance compliance by public and private bodies with their obligations under the PAIA for close to two decades. However, both formal and substantive compliance with the letter and spirit of the PAIA remain unacceptably low.

While the Commission welcomes the expanded enforcement powers that will be granted to the Information Regulator in terms of the PAIA, it urges Parliament to note the conduct of many institutions that have continuously failed to comply with the statutory obligations under the Act. As this report demonstrates, the majority of public bodies, particularly at the local government level, are still non-compliant with reporting obligations to the SAHRC on their handling of PAIA requests each financial year. In the last reporting period, for example, only 31 municipalities submitted reports to the Commission. Given that transparency, accountability, and public participation – crucial tenets of democracy and good governance – rest on strong information flows, the ongoing, systemic non-compliance with PAIA at multiple levels of government is extremely concerning.

In this report, the Commission focuses on its promotion, protection and monitoring mandates with regard to the state of access to information in South Africa. The Commission welcomes the work of various civil society organisations and applaud the emerging jurisprudence of the courts in relation to the protection of the right of access to information. The Commission likewise underscores the importance of continued legislative reform and development in order to improve access to information.

The Commission looks forward to a productive partnership with Parliament and the Information Regulator in entrenching a culture of openness in South Africa's public and private sectors.



**Tseliso Thipanyane**

***Chief Executive Officer and Information Officer***



## LIST OF ABBREVIATIONS

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<b>CC</b>	Coordinating Committee
<b>DIO</b>	Deputy Information Officer
<b>DG</b>	Director General
<b>DDG</b>	Deputy Director General
<b>DOJ</b>	Department of Justice and Correctional Services
<b>IO</b>	Information Officer
<b>ICIC</b>	International Conference of Information Officers
<b>NIOF</b>	National Information Officers Forum
<b>PAIA</b>	Promotion of Access to Information Act, 2 of 2000
<b>POPIA</b>	Protection of Personal Information Act, 4 of 2013
<b>PIOF</b>	Provincial Information Officers Forum
<b>PCC</b>	Provincial Coordinating Committee
<b>SALGA</b>	South African Local Government Authority
<b>SAHRC</b>	South African Human Rights Commission
<b>IDUAI</b>	International Day for Universal Access to Information





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# 1. INTRODUCTION

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Access to information is recognised globally as crucial to establishing transparent government and thereby promoting good governance. In South Africa, the Constitution of the Republic of South Africa, 1996 (Constitution) is founded on the values of accountability, responsiveness and openness.<sup>1</sup> Moreover, access to information held by the state, or another person and that is required for the exercise or protection of any right, is enshrined as a fundamental right in the Bill of Rights.<sup>2</sup> Given South Africa's current political landscape – characterised by allegations of widespread State Capture and endemic irregular expenditure – it is essential for the right of access to information to be realised in order to create the transparency necessary to hold government and private actors accountable. The Promotion of Access to Information Act, 2 of 2000 (PAIA) was enacted to give effect to the constitutional right of access to information. However, since its promulgation, the South African Human Rights Commission (SAHRC or Commission) has observed barriers to the free flow of information, including cumbersome request procedures and the need to resort to costly litigation where an internal appeal process is not available or is unsuccessful. Moreover, the Commission continues to observe pervasive non-compliance with the letter and spirit of the PAIA – both by public and private bodies. Often, information requests are simply ignored, forcing members of the public to litigate in order to vindicate their rights. At other times, grounds for refusal as set out in PAIA are relied upon without sufficient basis to do so. In order to empower members of the public to exercise various fundamental rights, access to information must be ensured. As the Commission continues to await the full operationalization of the Information Regulator<sup>3</sup> (which will enjoy greater enforcement powers under the PAIA than the Commission currently does) it urges all members of government, as well as private actors, to recall that under our law, “the disclosure of information is the rule and exemption from disclosure is the exception”.<sup>4</sup>

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<sup>1</sup>Section 1(d) of the Constitution, which explicitly connects the values of accountability, responsiveness and openness to regular elections and a multi-party system of democratic government.

<sup>2</sup>Section 32 of the Constitution.

<sup>3</sup>Established in terms of the Protection of Personal Information Act, 4 of 2013 (POPIA).

<sup>4</sup>*President of the Republic of South Africa and Others v M & G Media Ltd* 2012 (2) SA 50 (CC).



As custodians of the PAIA, the Commission continues to assist members of the public with challenges faced in accessing information, to the extent reasonably possible to do so.<sup>5</sup> While PAIA related litigation has not taken place, challenges in accessing information brought to the Commission have been resolved through alternative means in the year under review. The Commission notes further that many recommendations made by the Commission for the improvement and modernisation of the PAIA have not been taken up to date. The Commission accordingly reiterates its call for the expeditious operationalization of the Information Regulator, and urges government to consider further amendments to the PAIA to ensure that it remains fit for purpose in the information age. Ultimately, without transparency, accountability, responsiveness and openness cannot be achieved.



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<sup>5</sup>As contemplated by section 83(3)(c) of the PAIA.





## 2. MANDATE OF THE SAHRC

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The Commission is an independent state institution established to support constitutional democracy.<sup>6</sup> The Commission is constitutionally mandated to promote respect for human rights and a culture of human rights, promote the protection of human rights, and monitor and assess the observance of human rights in the country. The Commission is further empowered to realise its mandate through various means, including through investigations, education and the conduct of research. The South African Human Rights Commission Act, 40 of 2013 (SAHRC Act) furthermore obliges and empowers the Commission to carry out various functions, including by reviewing government policies and making recommendations to the State where it deems such action advisable for the adoption of progressive measures for the promotion of human rights.<sup>7</sup> The PAIA is the legislation envisaged to give effect to the constitutional right of access to information, enshrined in section 32 of the Constitution. Section 83 of the PAIA obliges and empowers the Commission to make recommendations regarding the reformation, modernization, improvement and development of PAIA. The Commission furthermore continues to target interventions at the full implementation of the PAIA, where human and financial resources so permit, through the provision of assistance to requesters of information, education, tracking of international developments and trends, highlighting the significance of access to information in the course of its work as a National Human Rights Institution,<sup>8</sup> conducting training and monitoring the level of compliance with the PAIA.

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<sup>6</sup>Section 181 of the Constitution.

<sup>7</sup>Section 13 of the SAHRC Act.

<sup>8</sup>UN General Assembly Resolution 48/134 *Principles Relating to the Status of National Institutions* (1993) <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>>.



## 3. THE PROMOTION MANDATE

The promotion mandate plays an integral part of the work expected of the Commission in terms of the PAIA. Section 83(2) of the PAIA obliges the Commission, “to the extent that financial and other resources are available”, to develop and conduct educational programmes, to encourage public and private body participation in such programmes, and to encourage the timely dissemination of information by public bodies regarding their activities. In anticipation of the operationalization of the office of the Information Regulator, a number of PAIA functions were scaled down by the Commission in preparation for a handover to the Information Regulator. Both offices continue to work together to ensure a smooth transition as the full promulgation of the Act by the President of the Republic is awaited.

Reduced resource availability has impacted on the frequency and range of promotional activities conducted by the Commission during the period under review. PAIA training for Deputy Information Officers (DIO) previously conducted by the Commission has as a result been redirected to the PAIA unit within the Department of Justice and Constitutional Development. The Commission has also reduced PAIA specific community law clinics. PAIA related information is now included in the general community outreach activities conducted through the Commission’s provincial offices.

### 3.1 International Day for Universal Access to Information (IDUAI)

As part of its promotional mandate, the Commission together with the Office of the Information Regulator, hosted the annual International Day for Universal Access to Information (IDUAI), celebrated internationally every year on the 28th of September. The event was hosted at the Southern Sun OR Tambo International under the theme “PAIA almost two decades on: Reflections and Opportunities”. This theme was forward looking in that it marked the imminent handover of PAIA-related functions and powers to the Information Regulator, while simultaneously providing an opportunity for reflection on milestones achieved and challenges remaining in the access to information context. The developments in respect of the right of access to information naturally enjoined the Commission and the Information Regulator to have partnered and co-host the IDUAI celebrations. The celebration was used to advance awareness of the PAIA, reflect on the implementation of the PAIA, allow further interaction between the public and the Information Regulator, and prepare decision makers for the transition of custodianship of the PAIA from the Commission to the Information Regulator in the near future. The co-hosts’ aim was to provide a



platform where various stakeholders could share insights from their respective sectors in respect of the PAIA. In particular, stakeholders had an opportunity to reflect on progress made and challenges encountered with access to information over the last 20 years.

Moreover, the keynote address by Mathatha Tsedu recognised the arguable need for comprehensive legislative reform of the PAIA in the information age, and emphasised the importance of ensuring universal access to the internet to enhance the free flow of information. The Deputy Minister of Justice and Constitutional Development indicated, however, that a prospective amendment of the PAIA would be limited to bringing the legislation in line with Constitutional Court jurisprudence and resultant legislation in respect of the private funding of political parties. In addition, various uncertainty and challenges in respect of the implementation of the PAIA were highlighted by participants and duly noted by the Commission.

### **3.2 International Conference of Information Commissioners (ICIC)**

The South African Information Regulator, in partnership with the Centre for Human Rights (University of Pretoria), the Commission, and supported by the secretariat of the International Conference of Information Commissioners (ICIC), hosted the 11th International Conference of Information Commissioners from 10 to 13 March 2019, at the Vodacom Commercial Park in Midrand, Johannesburg. With the newly created Information Regulator in South Africa firmly in place, it was an opportune time for the hosting of this global event by the partners in South Africa, marking South Africa's clear commitment to freedom of information to global peers.

The Conference, themed "International cooperation to strengthen public access to information" was hosted on the African continent for the first time. The ICIC provided a platform for diverse global voices to address current issues that impact on access to information, including transparency and accountability, competing interests, the rights of vulnerable societies and how to address the potentially growing digital divide in society. The Chairperson of the Commission was an invited speaker at the ICIC, and presented on the challenges experienced by the Commission in administering the PAIA for almost two decades. While noting continued problems in eliciting compliance with PAIA reporting obligations – even amongst other independent bodies supporting constitutional democracy and created under Chapter 9 of the Constitution – the Chairperson also highlighted some best practice examples for ensuing PAIA compliance. Despite sporadic proactive compliance with the PAIA and concomitant disclosure, the Chairperson further noted that the Commission currently lacks enforcement powers under the PAIA. As a result, members of the public are often compelled to resort to expensive litigation. Advocate Majola noted that the current fiscal environment does not lend itself to litigation as a resort of first instance in respect of the PAIA. It is regrettable that higher levels of enforcement





and litigation need to be adopted as mechanisms to establish a culture of information sharing in the public service, as such approaches should ideally be exceptional in strong democracies. The Commission accordingly reiterated its welcoming of the enforcement powers bestowed upon the Information Regulator, which are likely to yield positive results once the Information Regulator is fully operationalized.

### 3.3 Promotional activities within the Commission

Section 83(2) of the PAIA provides:

The Human Rights Commission must, to the extent that financial and other resources are available-

- (a) develop and conduct educational programmes to advance the understanding of the public, in particular of disadvantaged communities, of this Act and of how to exercise the rights contemplated in this Act;
- (b) encourage public and private bodies to participate in the development and conduct of programmes referred to in paragraph (a) and to undertake such programmes themselves; and
- (c) promote timely and effective dissemination of accurate information by public bodies about their activities.

The Commission has provided training for organs of State or other entities within the Johannesburg area. Furthermore, the Commission's Provincial Offices provide training, and further engages with the public and information-holding bodies in the course of dealing with PAIA-related complaints in terms of the Commission's Complaints Handling Procedures. The Commission moreover assists the Deputy Information Officers of various public bodies to interpret and apply the PAIA. In particular, the Commission often advises on interpretations relating to stipulated time periods and procedures for transfers of requests, and where records of information requested cannot be found or do not exist. Due to the complicated and technical nature of many of the PAIA's provisions, the Commission furthermore occasionally directs advisory letters to both public and private bodies, in which it sets out recommendations as to the optimal administration of the Act.<sup>9</sup> This is due to reports regularly received by the Commission from members of the public (requesters), public and private bodies regarding various ambiguous or technical provisions in the PAIA.

<sup>9</sup>Section 83(3)(d) of the PAIA.



### 3.4 Way forward

The Commission continues to advocate for transparency and openness through the discharge of both its constitutional and legislative promotion mandates. However, the Commission looks forward to the expeditious operationalization of the Information Regulator, as it is hoped that the operationalization of this body will provide a new opportunity for organs of State and private bodies to embrace freedom of information best practice.

The SAHRC and Information Regulator will continue to host collaborative interventions and quarterly meetings, aimed at ensuring that the public as well as all PAIA administrators are aware of the handover of PAIA functions and the implications of the additional enforcement powers that will be wielded by the Information Regulator. The attendance at the IDUAI event in 2018 and the level of participation is encouraging in that it shows that there is interest in upholding the right of access to information, holding those in power accountable and also fostering a culture of transparency. There appears to also be a realisation that current global trends impacting on access to information, and the Fourth Industrial Revolution, make interaction and compliance with legislation like the PAIA non-negotiable. Despite the low levels of compliance, it nonetheless appears that a commitment to at least engage on issues relating to access to information in South Africa is evident.

The Commission remains committed to ensuring the realisation of the right of access to information. Despite certain constraints in its operational environment, the Commission will thus continue to promote this fundamental constitutional right and concomitant law through its interaction with members of the public, public bodies and private bodies, integration in its ongoing work, as well as through participation in collaborative promotional activities.



## 4. THE PROTECTION MANDATE

In order to fulfil its constitutionally imposed protection mandate, the Commission enjoys the power, amongst others, “to take steps to secure appropriate redress where human rights have been violated”.<sup>10</sup> The Commission furthermore draws comprehensive investigative powers from the SAHRC Act, and addresses alleged human rights violations either through investigations launched on its own initiative, or through its Complaints Handling Procedures of 1 January 2018. The Commission also has the power to convene National or Provincial Hearings, which usually culminate in legal reports that contain advisory recommendations as well as enforceable directives.<sup>11</sup> In addition to the Commission’s primary protection mandate and related powers, the PAIA empowers the Commission to “if reasonably possible, on request, assist any person wishing to exercise a right contemplated in this Act”.<sup>12</sup>

### 4.1 PAIA inquiries

The Commission regularly receives inquiries from public requesters regarding the exercise of rights contemplated in the PAIA, as well as from Deputy Information Officers of public bodies and responsible persons from private bodies regarding the administration of the Act. Whereas some of these inquiries simply seek contact details of Deputy Information Officers in public bodies, or clarity regarding the procedures prescribed by the PAIA, others raise complex issues of interpretation and application of the Act. Trends in inquiries received by the Commission furthermore reveal that members of the public struggle to access information held by municipalities, especially where such municipalities are wholly PAIA non-compliant, and therefore do not possess a manual in terms of section 14 of the PAIA, which would contain contact details of relevant Deputy Information Officers as well as details of records held by municipalities. The Commission also assists members of the public with submitting PAIA requests to both public and private bodies. Often, the Commission advises

<sup>10</sup> Section 184(2)(b) of the Constitution.

<sup>11</sup> The Constitutional Court held in *Economic Freedom Fighters v Speaker of the National Assembly and Others; Democratic Alliance v Speaker of the National Assembly and Others* [2016] ZACC 11 para 69 that “[t]he legal effect of these remedial measures may simply be that *those to whom they are directed are to consider them properly*, with due regard to their nature, context and language, to determine what course to follow” (emphasis added).

<sup>12</sup> Section 83(3)(c) of the PAIA.





requesters to limit information requests and be as specific as possible regarding the records sought. Circumscribed information requests are less likely to be refused, particularly where public bodies could refuse on the basis of the unreasonable diversion of resources where large or vague volumes of records are requested.<sup>13</sup> The case of *South African History Archive Trust v South African Reserve Bank*<sup>14</sup> demonstrates the devastating financial effects that litigation pursuing access to a broad array of records may have. In casu, the non-governmental organisation (NGO) requested records from the South African Reserve Bank pertaining to investigations conducted by the Reserve Bank in respect of certain named individuals. However, the High Court held that the Reserve Bank was justified in refusing the request, inter alia on the ground that processing the request would unreasonably divert the Reserve Bank's resources. Worryingly, the High Court issued a cost order against the NGO. The South African History Archive Trust sought leave to appeal this order in December 2018. Nevertheless, this judgment underscores the importance of tailoring information requests, at least until a culture of transparency is truly prevalent in South Africa.<sup>15</sup>

Moreover, the Commission often assists both requesters and information holders in responding to information requests. For example, the Commission assisted in a matter where a family requested the details surrounding an incarcerated family member who died in prison and was later buried by the Department of Correctional Services. The Commission followed up on the request with the Department over a period of several months. Whereas the Department claimed to have lost the death certificate, the Commission advised that an affidavit was required in accordance with section 23 of the PAIA, where records cannot be found or do not exist. Although the Department eventually provided such an affidavit, a death register with the details of the death and the grave number was also disclosed. A simple information request which could have quickly brought closure to the family of the deceased prisoner unfortunately demanded significant time and human resources from the Commission and the Department.

<sup>13</sup> Section 45(b) of the PAIA provides that a public body may refuse a request for access where “the work involved in processing the request would substantially and unreasonably divert the resources of the public body”.

<sup>14</sup> *South African History Archive Trust v South African Reserve Bank South Gauteng High Court* (unreported case number 05598/16) (19 March 2018).

<sup>15</sup> L Chamberlain “A costly blunder: *South African History Archive Trust v The South African Reserve Bank*” (2019) *SAJHR*; S Ekambaram & M Marongo “GroundUp: Cost order against NGO weakens democracy” (3-07-2018) [Daily Maverick](#); the Supreme Court of Appeal overturned the High Court decision in *South African History Archive Trust v South African Reserve Bank and Another* (17/19) [2020] ZASCA 56 (29 May 2020) in May 2020, which falls outside the reporting period for this report.



Furthermore, the Commission regularly receives manuals from both public and private bodies.<sup>16</sup> Whereas the partial ministerial exemption of private bodies in respect of producing manuals is welcomed by the Commission,<sup>17</sup> even review and recommendations for improvement of public body manuals may prove time-intensive. Importantly, non-compliance with the requirements of section 14 of the PAIA (and section 51 of the PAIA in respect of private bodies) constitutes a criminal offence.<sup>18</sup> In order to extract PAIA compliance, the Commission therefore worked with the Government Employee Pension Fund (GEPF) for months during 2018 in order to ensure that the public body possessed a compliant PAIA manual. This exercise commenced after a public stakeholder alerted to Commission to the absence of a GEPF PAIA manual.<sup>19</sup> Of concern is the fact that the Commission dealt with several instances where public bodies were unaware of their status as such in terms of the PAIA. These statutory bodies were thus also unaware of the concomitant obligations imposed on them in terms of the PAIA. Confusion seems to abound where public bodies are closely related in terms of mandate or function, such as in the sphere of government pensions, or the financial industry. Where public bodies remain ignorant of the PAIA almost two decades after its promulgation, it is of little surprise that compliance levels remain unacceptably low. Furthermore, many large corporations seem unaware of the Commission's mandate and functions under the PAIA and the Constitution, and have therefore been unresponsive to requests from the Commission for details as to how to submit a PAIA request to such companies. Members of the public therefore continue to struggle to access information to which they have a right to, such as recordings of telephone conversations with telecommunication companies. It bears reiteration that besides a partial exemption from submitting PAIA manuals to the Commission, the private sector still bears obligations imposed by the constitutional right of access to information as well as the PAIA.<sup>20</sup>

<sup>16</sup> Section 14 of the PAIA requires public bodies to produce manuals, whereas section 51 contains a similar provision in respect of private bodies.

<sup>17</sup> In 2015, the Minister of Justice granted an exemption to certain private bodies from compiling and submitting manuals up until 2020. <[https://www.sahrc.org.za/home/21/files/gg39504\\_nn1222.pdf](https://www.sahrc.org.za/home/21/files/gg39504_nn1222.pdf)> For example, companies in certain sectors, those that employ less than 50 employees, and those that fall below annual turnover limits, have been exempted from submitting manuals to the Commission. Nevertheless, due to capacity constraints and the fact that a significant number of companies have not been exempted, the SAHRC struggles to monitor PAIA compliance by private bodies. Once POPIA become fully operational, private bodies will no longer have to submit their manuals to the Information Regulator. Instead, such manuals will need to be made available on a company's website, where a website exists.

<sup>18</sup> Section 90(2) of the PAIA.

<sup>19</sup> F Redelinghuys "GEPF still refusing to disclose information – Solidarity" (2-11-2017) *Politics Web*.

<sup>20</sup> Regarding the horizontal applicability of the rights enshrined in the Bill of Rights, see section 8 of the Constitution.



Despite the Commission rendering assistance to requesters where it is reasonably possible to do so, many information requests are ignored by both public and private bodies, or are refused on the basis of grounds for refusal that may be interpreted over-restrictively by the information holder. Since internal appeals are only available in respect of information requests directed at particular public bodies, the only remedial action open to frustrated requesters is often litigation.<sup>21</sup>

## 4.2 Complaints

In the absence of litigation, the Commission's Provincial Offices may resort to further engagement with information holders, or commence Alternative Dispute Resolution interventions to facilitate access to required information. The Commission's Western Cape Provincial office received the most complaints alleging a violation of the right of access to information. These complaints relate to both large private companies and public bodies including municipalities. Often, the denial of the right of access to information leads to the infringement of various other human rights, which are therefore included in complaints lodged with the Commission. The Commission's Eastern Cape Provincial Office received seven PAIA complaints in total. Respondents in these matters include the Department of Health, Government Pensions Fund, Department of Labour and the Department of Justice. The Commission's North West Provincial Office registered 3 access to information complaints, one of which was against a mining company and one against the provincial Department of Health. The Limpopo Provincial Office registered 3 complaints in relation to the Department of Health, South African Police Services and Department of Mineral Resources. The Gauteng Provincial Office registered one complaint against Telkom and another against the Department of Correctional Services. The Commission's KwaZulu-Natal Provincial Office finalised one complaint against a municipality, whereas another complaint remains active.

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<sup>21</sup> Section 78 of the PAIA.





### 4.3 Hearing reports

The Commission launched its Report on the National Hearing on the Underlying Socio-economic Challenges of Mining-Affected Communities in South Africa in August 2018. The report follows inclusive public hearings, and contains various recommendations and directives issued to government departments and, in appropriate instances, to mining corporations. Various findings throughout the report demonstrate that a lack of access to information leads to the limitation or infringement of various other rights, including those to land, access to adequate housing and sufficient food and water. The Commission further found a compelling need for meaningful participation amongst all stakeholders in mining-affected communities, as well as the urgent need to further develop the concept of free, prior and informed consent. Significantly, it was found that the fundamental right of access to information was inconsistently observed by relevant stakeholders. This impacted negatively on participation. For example, even though Social and Labour Plans should be proactively disclosed for affected community members to be sufficiently informed of mining operations, these are in practice not freely available. Subsequent to the launch of the report, the Commission observed that Information and Communication Technology is often inadequate in government structures, which renders to proactive disclosure of information such as Social and Labour Plans or Water Use Licenses practically difficult. There is therefore an urgent need for government to roll out universal internet access, and ensure that government content is zero rated. The Commission will monitor access to internet as part of its monitoring and assessment activities in respect of various rights for the next financial year.<sup>22</sup>

<sup>22</sup> Association for Progressive Communications *Perspectives on Universal Free Access to Online Information in South Africa: Free Public Wifi and Zero Rated Content* (2017).



## 5. THE MONITORING MANDATE

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The Commission is constitutionally mandated to monitor and assess the observance of human rights, including the right of access to information, in South Africa. As recognised above, the Commission plans to include in its monitoring, access to the internet as forming part of the content of various rights, including socio-economic rights and the right to equality. In addition, the PAIA empowers the Commission to monitor implementation of the Act.<sup>23</sup> Over the past two decades, the Commission has observed a range of challenges in using the PAIA. Both information holders and requesters have alerted the Commission to the fact that the PAIA requires reform to ensure that it remains fit-for-purpose in an information age. The Fourth Industrial Revolution (4IR) further requires the modernisation and simplification of the PAIA to strike a delicate balance between the free flow of information and the constitutional right to privacy, including data protection. Through its experience in assisting the public and information holders in utilising the PAIA, the Commission has in the past issued recommendations for the reform of the PAIA to the Department of Justice and Constitutional Development (DOJCD).<sup>24</sup> Although some promising developments in the access to information context have been observed by the Commission, many of its recommendations remain unaddressed. For example, the Commission has noted the need for greater proactive disclosure, a duty to create records and the creation of an offence for non-compliance with section 32 of the PAIA. The monitoring reported on below in respect of compliance by public bodies with PAIA reporting obligations<sup>25</sup> serves to fulfil the Commission's obligations under section 84 of the PAIA.

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<sup>23</sup> Section 83(3)(b) of the PAIA.

<sup>24</sup> SAHRC *PAIA Report 2015-2017* (2018).

<sup>25</sup> All public bodies must annually report to the Commission in terms of section 32 of the PAIA.



## 5.1 Status of the Information Regulator

Members of the public and civil society organisations continue to await the full operationalization of the Information Regulator. As alluded to above, the operationalization of the Information Regulator will serve to address some of the shortcomings of the PAIA, such as the lack of enforcement powers currently enjoyed by the Commission under the Act. The enforcement powers that will be bestowed upon the Information Regulator will go a long way in assisting members of the public to exercise their constitutionally guaranteed right to access information, while making the avoidance of costly litigation possible. In addition, the spectre of penalties by the Information Regulator is likely to encourage improved compliance by both the private and public sector with the PAIA.

In order to be prepared to fully hand over its PAIA function to the Information Regulator, the Commission meets with members of the Information Regulator on a quarterly basis. The two institutions also collaborate on relevant events in an effort to mobilise common stakeholders and advance the promotion of access to information. A Memorandum of Cooperation between the two organisations has been developed to govern areas of common interest and support a seamless transition of the handover of PAIA.

A promising development in relation to the operationalization of the Information Regulator has involved interactions around the handling of complaints. The Information Regulator benchmarked the complaints management system used by the Commission as it prepares its own procedures and systems for the PAIA and POPIA complaints. In addition, the tabling of regulations in Parliament on 3 December 2018 and their publication in the Government Gazette of 14 December 2018 has been welcomed. The regulations deal with, amongst others, the pre-investigation proceedings by the Regulator, the responsibilities of Information Officers, requests for data subjects' consent to process personal information, settlement of complaints, submission of complaints as contemplated in section 74(1) of the POPIA, and the powers of the Regulator to act as a conciliator in terms of section 76(1)(b) of the POPIA during investigation of a complaint.

The Commission continues to engage with the Information Regulator, and again urges the expeditious operationalization of the Information Regulator in order to revive and strengthen the mandate under PAIA, noting delays in the operationalization are likely to dilute potential gains from a timely handover anticipated by implementers and responsible authorities.





## 5.2 Political party funding

Having monitored judicial developments in respect of the private funding of political parties in its 2017/18 PAIA Report, the Commission welcomes the enactment of the Political Party Funding Act, 6 of 2018, which was assented to in January 2019. Promulgated in consequence of Constitutional Court jurisprudence declaring certain lacunae in the PAIA unconstitutional,<sup>26</sup> the Act complements the PAIA in purporting to regulate the recordal, preservation and disclosure of funding records of political parties on a proactive basis. The Commission has repeatedly advocated for more stringent proactive disclosure provisions in the PAIA, and is thus encouraged by this legislative development. It is to be hoped that the amendment of the PAIA necessitated by the Political Party Funding Act will be seized as an opportunity for more holistic reform and improvement of the PAIA. Furthermore, although the Political Party Funding Act was not fully operational for purposes of South Africa's general elections held in May 2019, the new legislation will serve to strengthen the democratic process and render the right to vote more meaningful in the next elections.

## 5.3 Judicial developments

The Commission will continue to monitor judicial developments in respect of the PAIA. Besides monitoring developments in respect of the cost order issued against the South African History Archive Trust, the Commission has observed other High Court jurisprudence which sought to clarify the content of certain provisions in the PAIA. For example, in *Manuel v Sahara Computers (Pty) Ltd and Another*,<sup>27</sup> the High Court reiterated that a requester must merely demonstrate that information is reasonably required for the exercise or protection of any right (beyond constitutional rights) when requesting information held by a private body. The court furthermore set out the requirements for affidavits deposed to by public (section 23) or private (section 55) bodies where records cannot be found or do not exist. In the light of the fact that the Commission has observed over-reliance on these provisions, in addition to inadequate affidavits being provided, further judicial clarity in this regard is a welcome development.

<sup>26</sup> *My Vote Counts NPC v Minister of Justice and Correctional Services and Another* 2018 (8) BCLR 893 (CC).

<sup>27</sup> *Manuel v Sahara Computers (Pty) Ltd and Another* (38562/2017) [2018] ZAGPPHC 864; [2019] 2 All SA 417 (GP) (12 December 2018).



## 5.4 International and regional monitoring

The Commission also monitors South Africa's compliance with its international and regional commitments. For example, the Commission takes note of South Africa's progress in meeting its commitments under the Open Government Partnership (OGP). According to the end-of-term OGP report for South Africa, various challenges remain in respect of citizen-based monitoring (both in relation to health facilities and in respect of the South African Police Service), as well as in various data portal pilot initiatives. Nevertheless, the Commission acknowledges innovative interventions made by government, and supports the full implementation of all commitments made under the OGP.<sup>28</sup> In addition, the Commission also monitors government's progress in achieving the sustainable development goals (SDGs) by 2030.<sup>29</sup> SDG 16 commits State Parties to "[p]romote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels". Indicator 16.10.2 measures the "[n]umber of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information". Although South Africa boasts sound constitutional and legislative frameworks in respect of access to information, implementation of such laws remains unacceptably low, as is further detailed below.

## 5.5 Monitoring under the PAIA

The Commission monitors various obligations imposed by the PAIA, to the extent that resources allow. As pointed out above, private parties have been partly exempted from submitting PAIA manuals to the Commission in terms of section 51 of the PAIA. Nevertheless, the Commission continues to receive such manuals, and is currently in possession of thousands of private body manuals without being able to verify their compliance with the PAIA. Once the Information Regulator is fully operational, POPIA will amend section 51 of the PAIA in that private bodies will only be obligated to submit their manuals upon request by the Information Regulator.

In terms of section 14 of the PAIA, an Information Officer (IO) of a public body must prepare a manual that contains the following information:

- The name and contact details of the IO and Deputy Information Officer(s);
- A description of the work of the public body and the services rendered by the public body;
- Records and information held by the public body;

<sup>28</sup> TL Humby *Independent Reporting Mechanism (IRM): South Africa End-of-Term Report 2016 – 2018* (2019).

<sup>29</sup> UN General Assembly *Transforming our World: the 2030 Agenda for Sustainable Development* (2015) A/RES/70/1.



- A list of categories of records that are automatically available;
- A description of how members of the public can participate in the policy development of the public body;
- A description of the request procedure to be followed when requesting information in terms of the PAIA;
- A description of remedies available to members of the public whose requests for information have been declined.
- The Commission will continue to underscore the importance of updated section 14 manuals for the promotion of transparency, accountability and responsiveness in the public sector.

Unfortunately, compliance levels with section 14 remain very low. The SAHRC has highlighted the importance of updating the manual due to the fact that there is a constant change in leadership and the manuals have to provide accurate information. The SAHRC also continues to emphasise the importance of public bodies updating their information on the Government Communication and Information System (GCIS). The Commission received 22 section 14 manuals in 2018/19, of which 11 were all from various provincial departments in the Free State, including the Office of the Premier. Other State entities like the North West University and the Western Cape Gambling Board submitted section 14 manuals.

Compliance with reporting obligations under section 32 of the PAIA likewise remains worryingly low. The Commission's annual PAIA reports constitute a reflection of its monitoring activities in respect of compliance with section 32, as further detailed below.



## 6. REPORTING IN TERMS OF SECTION 84

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Section 84 of the PAIA obliges the Commission to submit to the National Assembly an annual report setting out certain particulars which are in line with the data annually submitted by public bodies to the Commission in terms of Section 32(a)- (h) of the PAIA. The Commission must submit a report which sets out the following information in respect of each public body:

- Number of requests for access received;
- Number of requests for access granted in full;
- Number of requests for access granted in terms of section 46;
- Number of requests for access refused in full and refused partially and the number of times each provision of PAIA was relied on to refuse access in full or partially;
- Number of cases in which the periods stipulated in section 25(2) of PAIA were extended in terms of section 26(1);
- Number of internal appeals lodged with the relevant authority and the number of cases in which, as a result of an internal appeal, access was given to a record or a part thereof;
- Number of internal appeals which were lodged on the ground that a request for access was regarded as having been refused in terms of section 27;
- Number of applications made to every court and the outcome thereof and the number of decisions of every court appealed against and the outcome thereof;
- Number of applications to every court which were lodged on the ground that an internal appeal was regarded as having been dismissed in terms of section 77(7);
- Number of complaints lodged with the Public Protector in respect of a right conferred or duty imposed by PAIA and the nature and outcome thereof; and
- Such other matters as may be prescribed.





Below, the information received from public bodies, and which constitutes the SAHRC's report to the National Assembly, is elaborated.

## 6.1 National Departments

YEAR	NUMBER OF COMPLIANT DEPARTMENTS	
2002/2003	13	<p>The level of compliance at national level has decreased in comparison to the previous six financial years. In the 2018/19 financial year, the Commission received 26 reports. It is of great concern that compliance at the national level has decreased instead of improving. The South African Police Service (SAPS) received the highest number of requests for information (24 236 PAIA requests) followed by the Department of Energy which recorded 111 requests. The DOJCD reported 91 requests under the PAIA, whereas the Department of Environmental Affairs recorded 68 information requests. The SAPS granted 365 requests as a result of an internal appeal process. Although it is positive that members of the public are making use of the avenues of appeal available to them, it is simultaneously discouraging that requesters have to go through the appeals process to be granted the records being requested. The number of applications to court on the ground that an internal appeal was dismissed by the relevant authority was 461 comprising 111 in Eastern Cape, 24 in KwaZulu-Natal and 14 in Mpumalanga. SAPS indicated to the Commission that more service training will be conducted across all regions.</p>
2003/2004	15	
2004/2005	13	
2005/2006	13	
2006/2007	18	
2007/2008	22	
2008/2009	22	
2009/2010	18	
2010/2011	18	
2011/2012	30	
2012/2013	28	
2013/2014	26	
2014/2015	30	
2015/2016	29	
2017/2018	30	
2018/2019	26	



## 6.2 Provincial Departments

YEAR	NUMBER OF COMPLIANT DEPARTMENTS	
2002/2003	26	As is the case with national department compliance with section 32 of the PAIA, compliance levels at the provincial level decreased in comparison to the three previous financial years. Whereas there have not been any changes in compliance in certain provinces, compliance levels remain at zero in certain other provinces. Provinces such as Northern Cape continue not to comply with the PAIA, in that no section 32 report was received by the Commission in 2018/19, while only one submission was received from this province in the previous financial year. The North West province submitted only one section 32 report, as was the case in the previous financial year. Only two reports were received from Mpumalanga. Some provincial departments have remained compliant over the previous financial years and have maintained their compliance records in the current year of reporting. Provinces with the highest number of compliant departments were Free State, Limpopo, Western Cape and the Eastern Cape.
2003/2004	8	
2004/2005	4	
2005/2006	11	
2006/2007	14	
2007/2008	13	
2008/2009	33	
2009/2010	22	
2010/2011	56	
2011/2012	63	
2012/2013	69	
2013/2014	56	
2014/2015	90	
2015/2016	86	
2017/2018	68	
2018/2019	59	



### 6.3 Municipalities

LOCAL GOVERNMENT		Only 31 municipalities submitted section 32 reports to the Commission. The Western Cape shows the highest number of compliant municipalities, followed by Gauteng with four submissions. In North West, not a single report was submitted by local government. Only one report was received from Limpopo and Northern Cape, respectively. KwaZulu-Natal's levels of compliance have been worryingly low. Provinces that had high levels of compliance at the provincial level are the Eastern Cape, Limpopo and Free State. However, the same provinces showed very low compliance numbers in the local sphere. Municipalities that are the subject of complaints lodged with the Commission, such as Ngwathe municipality in the Free State, remain non-compliant despite consistent attempts at engagement by the Commission.
YEAR	NUMBER OF COMPLIANT MUNICIPALITIES	
2002/2003	3	
2003/2004	4	
2004/2005	6	
2005/2006	8	
2006/2007	11	
2007/2008	48	
2008/2009	33	
2009/2010	25	
2010/2011	20	
2011/2012	69	
2012/2013	37	
2013/2014	25	
2014/2015	51	
2015/2016	48	
2017/2018	39	
2018/19	31	



## 6.4 Chapter 9 and 10 institutions

YEAR	NUMBER OF COMPLIANT CHAPTER 9 & 10 INSTITUTIONS	
2002/2003	5	<p>The Commission has previously reported unacceptably low levels of compliance with the PAIA by Chapter 9 and Chapter 10 institutions. These are institutions constitutionally mandated to support democracy and it is disappointing that institutions such as the Public Protector continue not to comply with the PAIA, despite reminders having being sent to these institutions by the Commission. Non-compliance with section 32 reporting is not listed as an offence in the PAIA, in contrast to wilful non-compliance with section 14, which constitutes an offence. Given consistently low levels of PAIA compliance by these constitutional bodies, the Commission repeats its recommendation that non-compliance with section 32 of the PAIA be included as an offence in terms of the Act.</p>
2003/2004	3	
2004/2005	2	
2005/2006	5	
2006/2007	4	
2007/2008	3	
2008/2009	4	
2009/2010	4	
2010/2011	1	
2011/2012	3	
2012/2013	4	
2013/2014	4	
2014/2015	3	
2015/2016	4	
2017/2018	3	
2018/2019	3	



## 6.5 Other Public Bodies

As in the previous financial year, there has been significant improvement in compliance by State owned entities and other public bodies. In the past two financial years, the Commission has received a large number of section 32 reports. In the 2018/19 reporting year, 49 reports were received including reports from institutions of higher learning like the North West University, University of the Free State and Witwatersrand University. Institutions such as the South African Pharmacy Council submitted reports after engagement by the Commission. Institutions such as the South African Airways and Telkom remain non-compliant even after the Commission reported non-compliance to Parliament in its previous PAIA reports.

## 6.6 Trends analysis of compliance with section 32

Compliance with the reporting obligations imposed upon all public bodies by section 32 of the PAIA remains unacceptably low. A failure to comply with various provisions of the PAIA by local government is especially concerning, given the crucial role played by municipalities in service delivery. Without access to information, it becomes difficult if not impossible for members of the public to hold local government accountable for the realisation of various other constitutional rights. It appears as though the Commission's reporting to the National Assembly falls short of extracting compliance from municipalities and other Chapter 9 and 10 institutions, and therefore does not elicit accountability.

Public bodies are not adhering to the timeframes as stipulated under the PAIA. The Commission again notes numerous deemed refusals as a result of non-responsiveness to the requests received by public bodies. The Department of Correctional Services stated that most of the internal appeals they dealt with were as a result of the 30 day time period having lapsed without response. The PAIA currently provides for information to be disclosed within 30 days and in exceptional cases, for an extension to be granted to a maximum of 30 days.

The Office of the Presidency received 24 PAIA requests and five of these were refused in full. Some of the records requested were an itemized description of the legal fees amounting to R1 895 000 for the period 2005/6 as recorded in the Presidency's annual report. Requests included records regarding decisions and agreements concluded by or on behalf of the Presidency during the month of August 2006, and concerning the State's funding of legal expenses for the former President Mr Jacob Zuma. Those records were disclosed after the office of the Presidency requested a further extension as provided for in section 26 of PAIA.





A noticeable trend in the reporting year is the increase in internal appeals based on deemed refusals. Deemed refusals are instances when public bodies fail to respond to a request. This demonstrates a disregard for requests submitted and impedes the achievement of the transparency imperatives that the PAIA seeks to promote. In cases where section 32 reports are submitted, many of the reports received do not accurately capture the requirements of section 32. Moreover, the section 32 reports reveal an increasing trend by public bodies in not complying with the provisions of the PAIA in dealing with information requests. Some reports submitted show that a certain number of requests received were refused without relying on relevant provisions set out in the PAIA. Inaccurate reporting is evident in that institutions do not have mechanisms in place that enable the institution to track and monitor requests received. Whereas the Commission lacks the resources necessary to audit section 32 reports, it recommends that the Information Regulator be sufficiently resourced to carry out randomised audits. A number of public bodies made other recommendations to the Commission regarding reforms to the PAIA and assistance that could be provided by the Commission to aid public bodies to deal with access to information requests proactively.



## 7. CHALLENGES

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The Commission hopes that the Information Regulator, once fully operational, will use its enforcement powers to ensure compliance with PAIA by public bodies. The limited nature of the information required by the Commission from public bodies in terms of section 32 of the PAIA prevents a substantive analysis of levels of compliance with the legislation. In addition, the limited statistical data does not provide a clear identification of challenges experienced by implementers of the PAIA, thereby frustrating the development and implementation of effective interventions to address on-going concerns.

The PAIA requires focussed attention in particular to raise awareness both for information holders and rights holders. These sustained interventions require collaborative interventions by all stakeholders, including constitutional bodies, organised labour, civil society partners, and Parliament itself. Furthermore, while the PAIA creates a powerful framework to enable monitoring of compliance, and the levels of responsiveness to requests, such a monitoring function requires dedicated resources. In particular, after almost 20 years of implementation, there is a need to adequately verify the content of enabling instruments such as manuals and reports received in terms of the PAIA to distinguish trends and develop appropriate responses and interventions to such trends. The SAHRC has previously raised concerns in this respect about the absence of clear directives within the legislation to enable it to test the veracity of the content of a section 32 report. Presumably, the Information Regulator will be better placed to audit such information once a handover is effected. The Commission again highlights this concern as it has come to the attention of the Commission that a number of public bodies are not tracking and reporting on requests submitted to them. The Commission reiterates that amendments be effected to section 32 to include provisions which will require reporting on proactive disclosure such as frequency of proactive disclosure, means through which proactive disclosure is guaranteed in terms of accessibility and accuracy, and provision of any information of any internal action taken against Deputy Information Officers for non-performance of the PAIA obligations.



## 8. SECTION 32 REPORTING

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Each year, the Commission distributes section 32 reporting templates to hundreds of public bodies. Despite the PAIA having been in effect for close to two decades, those public bodies that do comply with section 32 reporting obligations often submit such reports to the Commission late. Whereas the deadline for section 32 reports is annually set as 31 May, reports are received by the Commission as late as September of the reporting year.

### COLOUR KEY

	<b>HAS COMPLIED WITH SECTION ***</b>
	<b>HAS NOT COMPLIED WITH SECTION</b>



## 8.1 National departments

NATIONAL DEPARTMENTS	Number of requests received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of requests refused in full	Number of requests refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
The Presidency	24	11	0	5	0	5	8	1	0		0	
Department of Planning Monitoring and Evaluation												
Parliament of the Republic of South Africa	4	3	0	0	0	0	1	0	0	0	0	
Department of International Relations and Cooperation	26	14	0	8	3	11	10	2	0	1	0	
Department of Communications	1	0	0	0	0	0	0	0	0	0	0	
Department of Trade and Industry	26	10	0	3	11	14	6	3	0	0	0	
Department of Justice & Constitutional Development	91	31	0	10	15	25	25	0	0	0	0	



Public Administration Leadership and Management Academy/ National School of Government												
Department of Economic Development												
Department of Science and innovation	0	0	0	0	0	0	0	0	0	0	0	
Department of Defence	42	43	21	3	0	6	14	20	0	16	0	
Department of Energy	111	82	0	0	6	6	31	1	1	0	0	
Department of Mineral Resources												
Department of Cooperative Governance	3	3	0	0	0	0	0	0	0	0	0	
Department of Correctional Services	179	148	2	6	8	7	5	6	0	6	3	
Department of Environmental Affairs	68	27	0	0	8	8	15	5	1	1	0	
Department of Agriculture, Forestry and Fisheries	102	79	1	7	3	9	10	7	3	3	1	
Department of Basic Education	26	10	0	0	0	1	3	1	1	0	0	
Department of Social Development	32	15	0	1	0	1	16	0	0	0	0	
National Treasury												
South African Police Service	24236	20389	1260	459	291	459	2265	616	365	616	461	
Department of Rural Development and Land Reform	19	8	0	4	0	1	9	0	0	0	0	





Department of Public Service and Administration	5	0	0	2	0	2	1	0	0	0	3	
Department of Labour												
Department of Health	36	13	0	1	0	0	1	0	0	0	0	
Department of Human Settlements	7	0	0	0	0	0	0	0	0	0	0	
Department of Government Communications and Information Systems												
Department of Tourism												
Department of Roads Transport	29	29	0	0	0	0	0	0	0	0	0	
Department of Arts and Culture, archives and records services of South Africa	36	14	0	4	17	21	2	0	0	0	0	
Department of Military Veterans												
Civilian Secretariat of Police												
Department of Public Works												
Department of State Security												
Department of Traditional Affairs												
Department Sports and Recreation South Africa												
Statistics South Africa												
Department of Women												
Department of Home Affairs												



Department of Public Enterprises												
Department of Water and Sanitation	75	54	0	0	0	0	21	0	0	0	0	
Department of Higher Education and Training	10	8	0	0	0	2	0	2	0	0	2	
Department of Small Business Development	1	1	0	0	0	0	0	0	0	0	0	
Department of Infrastructure Development												
Department of Telecommunications and Postal Services	1	1	0	0	0	0	0	0	0	0	0	



## 8.2 Provincial departments

### 8.2.1 Eastern Cape

PROVINCIAL DEPARTMENTS	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
<b>EASTERN CAPE</b>												
Office of the Premier	17	14	0	3	0	0	0	7	4	4	0	
Provincial Treasury	0	0	0	0	0	0	0	0	0	0	0	
Department of Safety and Liaison	0	0	0	0	0	0	0	0	0	0	0	
Department of Health	1103	1101	31	16	11	0	1103	656	0	0	124	
Department of Local Government and Traditional Affairs	22	21	0	0	0	1	5	0	0	0	0	
Department of Transport	3	3	0	0	0	0	0	0	0	0	0	
Department of Roads and Public Works	9	0	0	0	0	0	2	0	2	0	0	
Department of Human Settlements	5	3	0	0	0	0	1	0	0	0	0	
Department of Social Development	25	0	5	1	20	1	5	1	1	1	6	



Department of Sport, Recreation, Arts and Culture	40	39	0	1	0	0	0	9	9	0	24	
Department of Economic Development, Environmental Affairs and Tourism	14	14	0	0	0	0	8	2	2	0	0	
Department of Rural Development and Agrarian Reform	8	7	0	1	0	0	0	1	0	1	0	
Department of Education	0	0	0	0	0	0	0	0	0	0	0	
Department of Finance	0	0	0	0	0	0	0	0	0	0	0	



## 8.2.2 Free State

	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
<b>FREE STATE</b>												
Office of the Premier	26	25	0	0	1	0	2	0	0	0	0	
Department of Sports, Arts and Culture and Recreation	2	2	0	0	0	0	0	0	0	0	0	
Department of Cooperative Governance, Traditional Affairs and Human Settlements	0	0	0	0	0	0	0	0	0	0	0	
Department of Education	2	0	0	0	2	2	0	0	0	0	0	
Department of Police, Roads and Transport	1	1	0	0	0	0	1	0	0	0	0	
Department of Social Development												





Department of Agriculture and Rural Development	1	1	0	0	0	0	0	0	0	0	0	
Department of Small Business Development, Tourism and Environmental Affairs												
Department of Public Works	4	0	0	0	0	0	0	0	0	0	0	
Department of Health	121	97	0	1	0	1	3	4	4	4	0	
Provincial Treasury	2	2	0	0	0	0	0	0	0	0	0	



### 8.2.3 Gauteng

PROVINCIAL DEPARTMENTS	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
<b>GAUTENG</b>												
Office of the Premier												
Department of Agriculture and Rural Development	39	24	2	5	5	0	4	0	0	0	0	
Department of Economic Development	3	3	0	0	0	0	1	0	0	0	0	
Department of Social Development												
Department of Health												
Department of Finance												
Department of Community Safety												
Provincial Treasury	5	1	0	0	1	1	1	0	0	0	0	



Department of Education													
Department of Roads and Transport													
Department of Sports, Culture and Recreation													
Department of Human Settlements, Co-operative Governance and Traditional Affairs													
Department of Infrastructure Developments													



### 8.2.4 KwaZulu-Natal

PROVINCIAL DEPARTMENTS	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
<b>KWAZULU NATAL</b>												
Office of the Premier												
Provincial Treasury												
Department of Agriculture and Rural Development	5	5	0	0	0	0	2	0	0	0	0	
Department of Transport	1309	1303	1	1	1	3	1	1	0	0	0	
Department of Social Development	2	1	0	1	0	1	0	0	0	0	0	
Department of Health												
Department of Community Safety and Liaison	0	0	0	0	0	0	0	0	0	0	0	
Department of Sports and Recreation												
Department of Human Settlements	5	3	0	2	0	0	0	0	0	0	0	



Department of Public Works	1	2	0	0	0	0	0	0	0	0	0	
Department of Economic Development, Tourism and Environmental Affairs												
Department of Arts and Culture												
Department of Co-operative Governance and Traditional Affairs												
Department of Education												



### 8.2.5 Limpopo

PROVINCIAL DEPARTMENTS	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
<b>LIMPOPO</b>												
Office of the Premier	13	12	0	1	0	0	1	0	0	0	0	
Department of Cooperative Governance, Human Settlement and Traditional Affairs	92	78	0	0	0	0	0	0	0	0	0	
Department of Agriculture	5	5	0	0	0	0	1	0	0	0	0	
Department of Social Development	0	0	0	0	0	0	0	0	0	0	0	
Department of Health	3461	3640	1	1	0	0	0	0	1	1	0	
Department of Economic Development, Environment and Tourism	22	17	0	5	0	5	6	1	1	0	0	





Department of Public works, Roads and Infrastructure	11	4	0	0	7	7	1	0	0	0	0	
Department of Safety Security and Liaison	0	0	0	0	0	0	0	0	0	0	0	
Department of Sports, Arts and Culture	0	0	0	0	0	0	0	0	0	0	0	
Department of Education	21	5	0	0	0	0	0	0	0	0	0	
Provincial Treasury	7	7	0	0	0	0	0	0	0	0	0	
Department of Transport	33	20	0	3	6	9	15	0	0	0	0	



## 8.2.6 Mpumalanga

PROVINCIAL GOVERNMENT	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
<b>MPUMALANGA</b>												
Office of the Premier												
Department of Public Works	0	0	0	0	0	0	0	0	0	0	0	
Department of Cooperative Governance and Traditional Affairs	3	2	0	0	0	0	0	0	0	0	0	
Department of Finance												
Department of Culture, Sport and Recreation												
Department of Social Development												
Department of Education												



Department of Health													
Department of Human Settlements													
Department of Agriculture, Rural Development and Land Administration													
Department of Community Safety, Security and Liaison													
Department of Economic Development and Tourism.													



### 8.2.7 Northern Cape

PROVINCIAL GOVERNMENT	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
<b>NORTHERN CAPE</b>												
Office of the Premier												
Department of Co-operative Governance, Human Settlements and Traditional Affairs												
Department of Agriculture, Land Reform and Rural Development												
Department of Education												
Department of Environment and Nature Conservation												
Department of Social Development												



Provincial Treasury													
Department of Sports, Arts and Culture													
Department of Roads and Public Works													
Department of Economic Development and Tourism.													
Department of Health													
Department of Transport, Safety and Liaison													



### 8.2.8 North West

PROVINCIAL GOVERNMENT	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
<b>NORTH WEST</b>												
Office of the Premier												
Department of Public Works, Roads and Transport												
Department of Finance	1	1	0	0	0	0	0	0	0	0	0	
Department of Sports, Arts and Culture												
Department of Human Settlements, Public Safety and Liaison												
Department of Women, Children and People with Disabilities												



Department of Rural Environment and Agricultural Development													
Department of Education													
Department of Local Government and Traditional Affairs													
Department of Health													
Department of Social Development													





### 8.2.9 Western Cape

POVINCIAL GOVERNMENT	Number of requests received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
<b>WESTERN CAPE</b>												
Office of the Premier	25	12	0	0	0	13	13	0	1	1	1	
Provincial Parliament												
Department of Economic Development and Tourism	1	0	0	0	1	0	0	1	0	0	0	
Department of Environmental Affairs and Planning	28	26	0	2	0	2	4	0	0	0	0	
Department of Health	327	222	0	41	3	44	0	2	25	25	25	
Department of Human Settlements	10	8	0	0	0	0	0	0	0	0	0	
Department of local government	1	1	0	0	0	0	0	0	0	0	0	
Provincial Treasury	1	0	0	0	0	0	1	0	0	0	0	



Department of Agriculture	2	2	0	0	0	0	0	0	0	0	0	
Department of Transport and Public Works												
Department of Education	13	10	0	1	1	1	2	1	0	1	0	
Department of Cultural Affairs and Sport	37	37	0	0	0	0	0	0	0	0	0	
Department of Community Safety	0	0	0	0	0	0	0	0	0	0	0	
Department of Social Development	12	11	0	0	0	0	0	0	0	0	0	



## 8.3 Municipalities

<b>NON-COMPLIANT MUNICIPALITIES</b>			
<b>Eastern Cape Province</b>	Chris Hani District	Mlhontlo Local Municipality	Ngwathe Local Municipality
Buffalo City Metropolitan	Emalahleni Local Municipality	Nyandeni Local Municipality	Lejelweputswa District
Nelson Mandela Bay Metropolitan	Engcobo Local Municipality	Port St Johns Local Municipality	Masilonyana Local Municipality
Alred Nzo District	Inkwanca Local Municipality	Sarah Baartman District	Matjhabeng Local Municipality
Matatiele Local Municipality	Intsika Yethu Local Municipality	Bavivaans Local Municipality	Nala Local Municipality
Mbizana Local Municipality	Inxuba Yethemba Local Municipality	Blue Crane Route Local Municipality	Thabo Mofutsanyana District
Ntabankulu Local Municipality	Lukhanji Local Municipality	Camdeboo Local Municipality	Dihlabeng Local Municipality
Umzivubu Local Municipality	Sakhisizwe Local Municipality	Ikwezi Local Municipality	Maluti-A-Phofung Local Municipality
Amathole District	Tsolwana Local Municipality	Kou-Kamma Local Municipality	Mantsopa Local Municipality
Amahlathi Local Municipality	Joe Gqabi District	Kouga Local Municipality	Nketoana Local Municipality
Great Kei Local Municipality	Gariep Local Municipality	Makana Local Municipality	Phumelela Local Municipality
Mbhashe Local Municipality	Maletswai Local Municipality	Ndlambe Local Municipality	Kopanong Local Municipality
Mnquma Local Municipality	OR Tambo District	Sunday River Valley Local Municipality	Imbabazane Local Municipality
Nxuba Local Municipality	Ingquza Hill Local Municipality	<b>Free State Province</b>	Mthonjaneni Local Municipality
Ngqushwa Local Municipality	Greater Kokstad Local Municipality	Metsimaholo Local Municipality	Nkandla Local Municipality
Nkonkobe Local Municipality	Ingwe Local Municipality	Moqhaka Local Municipality	Ntambanana Local Municipality
Letsemeng Local Municipality	Ubuhlebezwe Local Municipality	Richmond Local Municipality	Zululand District Municipality
Mohokare Local Municipality	uMzimkhulu Local Municipality	Msunduzi Local Municipality	AbaQulusi Local Municipality
Naledi Local Municipality	Ilembe District Municipality	uMngeni Local Municipality	eDumbe Local Municipality
	KwaDukuza Local Municipality	uMshwathi Local Municipality	Nongoma Local Municipality
	Maphumulo Local Municipality	Tswelopele Local municipality	Ulundi Local Municipality
	Ndwedwe Local Municipality		uPhongolo Local Municipality



<p><b>Gauteng Province</b></p> <p>Emfuleni Municipality City of Tshwane <u>Sedibeng District</u> Lesedi Local Municipality <u>West Rand District</u> Merafong City Local Municipality Randfontein Local Municipality Westonaria Local Municipality</p> <p><b>KwaZulu-Natal Province</b></p> <p>Ethekwini Metropolitan Amajuba District Municipality Umsinga Local Municipality eMadlangeni Local Municipality Newcastle Local Municipality Harry Gwala District Municipality Maruleng Local Municipality Sekhukhune District Municipality Elias Mostoaledi Local Municipality Ephraim Local Municipality Fetakgomo Local Municipality Greater Tubatse Local Municipality Makhuduthamaqa Local Municipality Big 5 Hlabisa municipality Nquthu local municipality Kwa-Sani local municipality Sibonelo local municipality Emduneni local municipality</p>	<p>Ezinqoleni Local Municipality Umdoni Local Municipality Umuziwabantu Local Municipality Umzumbe Local Municipality Vulamehlo Local Municipality uMgungundlovu Local Municipality Impendle Local Municipality Mkhambathini Local Municipality Mpopana Local Municipality Mookgophong Local Municipality Thabazimbi Local Municipality</p> <p><b>Mpumalanga Province</b></p> <p>Ehlanzeni District Municipality Bushbuckridge Local Municipality Mbombela Local Municipality Nkomazi Local Municipality Thaba Chewu Local Municipality Dipaleseng Local Municipality</p>	<p>Mafube Municipality Xhariep Local Municipality Tokologo Local Municipality Fezile Dhabu Municipality uMkhanyakude Local Municipality Hlabisa Local Municipality Jozini Local Municipality Mtubatuba Local Municipality uMhlabuyalingana Local Municipality uMzinyathi District Municipality Umvoti Local Municipality uThukela District Municipality Indaka Local Municipality uMtshezi Local Municipality uThungulu District Municipality Mfolozi Local Municipality uMlalazi Local Municipality Steve Tshwete Local Municipality Victor Khanye Local Municipality</p> <p><b>Northern Cape Province</b></p> <p>Dikgatlong Local Municipality Magareng Local Municipality Phokwane Local Municipality Sol Plaatje Local Municipality John Taolo Gaetsewe District Ga-Segonyana Local Municipality Gamagara Local Municipality Joe Morolong Local Municipality</p>	<p><b>Limpopo Province</b></p> <p>Aganang Local Municipality Blouberg Local Municipality Molemole Local Municipality Mopani District Municipality Ba-Phalaborwa Local Municipality Greater Giyani Local Municipality Greater Tzaneen Local Municipality Richtersveld Local Municipality Emthanjeni Local Municipality Kareeberg Local Municipality Renosterberg Local Municipality Siyancuma Local Municipality Siyathemba Local Municipality Thembelihle Local Municipality Ubuntu Local Municipality Umsobomvu Local Municipality ZF Mgcawu District</p> <p><b>North West Province</b></p> <p>Lekwa Local Municipality Mkhondo Local Municipality Msukaligwa Local Municipality Nkangala District Municipality Dr JS Moroka Local Municipality Emakhazeni Local Municipality Emalahleni Local Municipality Ditsobotla Local Municipality Mahikeng Local Municipality</p>
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Ugu District municipality Okkhahlamba Municipality Hibiscus Municipality Vhembe District Municipality Makhado Local Municipality Musina Local Municipality Mutale Local Municipality Thulamela Local Municipality Waterberg District Municipality Bela-Bela Local Municipality Lephalale Local Municipality Modimolle Local Municipality Mogalakwena Local Municipality	<b>Western Cape Province</b> Breede Valley Local Municipality Witzenberg Local Municipality Beaufort West Local Municipality Prince Albert Local Municipality Eden District Municipality Bitou Local Municipality Hessequa Local Municipality Kannaland Local Municipality Knysna Local Municipality Oudtshoorn Local Municipality	Namakwa District Hantam Local Municipality Kamiesberg Local Municipality Karoo Hoogland Local Municipality Khai-Ma Local Municipality Nama Khoi Local Municipality Overstrand Local Municipality Bergrivier Local Municipality Cederberg Local Municipality Matzikama Local Municipality Kheis Local Municipality Khara Hais Local Municipality Kai Garib Local Municipality Kgatelopele Local Municipality Mier Local Municipality Tsantsabane Local Municipality	Ramotshere Moiloa Local Municipality Ratlou Local Municipality Tswaing Local Municipality Bojanala Platinum District Kgetlengrivier Local Municipality Madibeng Local Municipality Moretele Local Municipality Moses Kotane Local Municipality Rustenburg Local Municipality Dr Kenneth Kuanda District Maquassi Hills Local Municipality Ventersdorp Local Municipality Dr Ruth Segomotsi Mompati Local Municipality Greater Taung Local Municipality Kagisano-Molopo Local Municipality Lekwa-Teemane Local Municipality Mamusa Local Municipality Naledi Local Municipality <u>Ngaka Modiri Molema District</u>
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## COMPLIANT MUNICIPALITIES

LOCAL GOVERNMENT	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
<b>EASTERN CAPE</b>												
Elundini Municipality	0	0	0	0	0	0	0	0	0	0	0	
Senqu Local Municipality	0	0	0	0	0	0	0	0	0	0	0	
<b>GAUTENG</b>												
Mogale City Municipality	10	9	1	0	1	0	0	0	0	0	0	
City of Johannesburg Municipality	221	71	0	15	11	15	67	3	3	0	0	
Ekurhuleni Municipality	49	28	0	6	10	16	9	2	1	0	0	
Midvaal Local Municipality	96	92	0	0	0	0	3	0	0	0	0	



<b>FREE STATE</b>												
Setsoto Local Municipality	2	2	0	0	0	0	0	0	0	0	0	
Mangaung Metropolitan Municipality	17	10	0	3	1	4	1	0	0	0	0	
<b>KWAZULU- NATAL</b>												
Umlazi Municipality	0	0	0	0	0	0	0	0	0	0	0	
Dannhauser Municipality	0	0	0	0	0	0	0	0	0	0	0	
Abaqulisi Municipality	9	9	0	0	0	0	0	0	0	0	0	
uMhlathuze Municipality	23	19	2	0	0	0	1	0	0	0	0	
<b>NORTHERN CAPE</b>												
Frances Baard District Municipality	0	0	0	0	0	0	0	0	0	0	0	
<b>NORTH WEST</b>												
<b>MPUMALANGA</b>												
Govan Mbeki Municipality	3	3	0	0	0	0	0	0	0	0	0	
Polokwane municipality	21	10	2	1	9	0	0	0	0	0	0	
Lepelle Nkumpi Municipality	1	0	0	0	0	9	0	0	0	0	0	
Pixley Ka Seme Municipality	0	0	0	0	0	0	0	0	0	0		
<b>LIMPOPO</b>												
Capricorn District Municipality	1	0	1	2	0	0	0	0	0	0	0	





<b>WESTERN CAPE</b>												
Theewaterskloof Local Municipality	12	10	0	0	2	2	0	0	0	0	0	
Cape Winelands Municipality	0	0	0	0	0	0	0	0	0	0	0	
City of Cape Town	618	240	0	204	81	117	50	20	80	0	0	
Drakenstein Municipality	13	9	0	0	2	2	0	0	0	0	0	
Langesberg Local Municipality	4	4	0	0	0	0	0	0	0	0	0	
Oudsthoorn Municipality	8	6	0	2	0	0	0	0	0	0	0	
George Municipality	97	76	0	21	0	0	0	0	0	0	0	
Swellendam Municipality	0	0	0	0	0	0	0	0	0	0	0	
West Coast District Municipality	19	19	0	0	0	0	0	0	0	0	0	
Swartland Municipality	3	3	0	0	0	0	0	0	0	0	0	
Saldana Bay Municipality	15	10	0	4	1	5	4	0	0	0	0	
Overstrand Municipality	70	19	0	47	3	48	1	2	0	2	0	
Cape Agulhus Municipality	5	4	0	0	0	0	0	0	0	0	0	



## 8.4 Chapter 9 and 10 institutions

Chapter 9 and 10 Institutions	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
The Office of the Public Protector												
The South African Human Rights Commission	3	1	0	0	1	1	1	0	0	0	0	
The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities												



The Auditor General of South Africa	6	3	0	1	1	2	0	0	0	0	1	
The Commission for Gender Equality												
The Electoral Commission												
Independent Communications Authority of South Africa												
Public Service Commission	3	0	0	3	0	3	0	0	0	0	0	
Financial and Fiscal Commission												



## 8.5 Other Public Bodies

OTHER BODIES	Number of request received	Number of requests granted in full	Number of requests granted in the public interest (section 46)	Number of request refused in full	Number of request refused partially	Number of times provisions of the Act were relied on to refuse access in full or partial	Number of instances in which the periods stipulated in section 25(1) were extended in terms of section 26(1)	Number of internal appeals lodged with the relevant authority	Number of requests granted as a result of the internal appeal	Number of internal appeals lodged on account of a deemed refusal	Number of applications to court on grounds that an internal appeal was dismissed by the relevant authority failing to give notice of its decision (section 77(3))	Other information relating to implementation
Council for Medical Schemes	9	7	0	1	1	2	2	0	0	0	0	
Road Accident Fund	7905	7121	0	1012	0	1012	100	0	0	0	0	
Accounting Standards Board	0	0	0	0	0	0	0	0	0	0	0	
Air Traffic and Navigation Services SOC	2	1	0	1	0	0	0	0	0	0	0	
Broadcasting Complaints Commission of South Africa	0	0	0	0	0	0	0	0	0	0	0	
Blind South Africa	0	0	0	0	0	0	0	0	0	0	0	
Culture, Art, Tourism, Hospitality, and Sport Sector Education and Training Authority	0	0	0	0	0	0	0	0	0	0	0	
Companies and Intellectual Property Commission	4	3	0	1	0	0	0	1	1	0	0	
Dube Trade Port	1	0	0	0	1	0	0	0	0	0	0	



Development Bank of South Africa	5	3	0	1	0	1	0	0	0	0	0	
Denel	0	0	0	0	0	0	0	0	0	0	0	
Alexor SOC	0	0	0	0	0	0	0	0	0	0	0	
Market Theatre Foundation	0	0	0	0	0	0	0	0	0	0	0	
South African National Biodiversity Institute	5	1	0	2	2	2	0	0	0	0	0	
ESKOM	56	7	10	27	8	4	0	0	0	0	29	
Land and Agricultural Development Bank of South Africa	9	4	0	5	0	2	0	0	0	0	0	
Ithala Development Finance Corporation	3	3	0	0	0	0	3	0	0	0	0	
Independent Regulatory Board for Auditors (South Africa)	3	0	0	3	0	1	0	0	0	0	0	
Gauteng Gambling Board	4	3	0	0	0	0	0	0	0	0	0	
National Urban Reconstruction and Housing Agency	0	0	0	0	0	0	0	0	0	0	0	
National Housing Finance Corporation	0	0	0	0	0	0	0	0	0	0	0	
National School of Governance	2	2	0	0	0	0	0	0	0	0	0	
National Credit Regulator	2	0	0	1	0	1	1	0	0	0	0	
Nelson Mandela University	2	0	0	0	0	0	1	0	0	0	0	
Airports Company South Africa												
Legal Aid South Africa	3	1	1	1	0	0	0	0	1	0	0	



National Nuclear Regulator	1	1	0	0	0	1	1	0	0	0	0	
National Energy Regulator of South Africa	13	12	0	0	0	2	0	0	0	0	0	
Export Credit Insurance Corporation of South Africa	0	0	0	0	0	0	0	0	0	0	0	
SA Express Airways SOC Limited	0	0	0	0	0	0	0	0	0	0	0	
National Prosecuting Authority	18	14	0	5	0	0	0	1	1	0	0	
Information Regulator of South Africa	0	0	0	0	0	0	0	0	0	0	0	
KZN Growth Fund Trust												
Windybrow Theatre												
Legal Services Department												
North West University	77	50	0	22	4	3	1	0	0	0	0	
University of the Witwatersrand	5	2	0	3	0	3	1	1	0	0	0	
Nkoka Training cc												
Council of Scientific and Industrial Research												
Mining Qualifications Authority												
South African Qualifications Authority	1	1	0	0	0	0	0	0	0	0	0	
South African Revenue Services	38	11	0	13	7	16	3	4	1	1	1	
Freedom Park	12	12	0	0	0	0	0	0	0	0	0	
Film and Publication Board	0	0	0	0	0	0	0	0	0	0	0	



Office of the Chief Justice	210	0	0	210	0	210	0	0	0	0	0	
Public Investment Corporation	4	0	0	3	0	3	0	0	0	0	0	
Potato Certification Service	0	0	0	0	0	0	0	0	0	0	0	
South African Veterinary Council	0	0	0	0	0	0	0	0	0	0	0	
South African Forestry Company SOC	5	0	0	0	5	5	3	0	0	0	0	
South African Pharmacy Council	2	1	0	0	1	0	1	0	0	0	0	
SASRIA SOC	0	0	0	0	0	0	0	0	0	0	0	
South African Social Security Agency	3219	3604	0	4	6	0	3	8	7	0	0	
Small Enterprise Finance Agency	1	0	0	0	1	0	0	0	0	0	0	
Services Seta	2	0	0	0	2	2	2	0	0	0	0	
Stellenbosch University	4	1	0	0	3	3	1	0	0	0	0	
Free State Development Corporation												
East London Industrial Development Zone SOC Ltd												
University of Free State	4	4	0	0	0	0	2	0	0	0	0	
Telkom												
Transnet												
National Research Foundation												



## 9. CONCLUSION

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The PAIA continues to serve as progressive legislation. However, despite regional and international commitments, levels of implementation and compliance with the legislation remain regrettably low. The Commission continues to utilise available resources to promote, protect and monitor and assess the observance of the right of access to information in South Africa. However, the lack of certainty regarding the handover of its PAIA function and strained resource availability have impacted on its ability to fully service this mandate. This uncertainty also has adverse impacts on the information landscape and does little to hasten compliance in the absence of the dedicated new function taking over the mandate.

Whereas certain public bodies such as State-owned entities have shown steady improvement in compliance with the PAIA, low compliance at the provincial and local government levels has grave implications for the building of a transparent and open society. The trends in non-compliance may easily be related to trends in governance irregularity and poor audit outcomes at local government level. Moreover, non-compliance by institutions created in terms of Chapters 9 and 10 of the Constitution, demonstrates the need for a culture of transparency to be further entrenched in South Africa. Without transparency, accountability cannot be extracted from duty bearers. The results of a culture of secrecy are conspicuous in today's milieu, as is evident from widespread allegations of corruption and State capture.

Given the crucial importance of the right of access to information for the realisation of various other human rights, as well as for holding public and private actors to account, the Commission reiterates the need for urgent legislative and institutional reform. Without improvements to relevant legislation and the operationalization of institutions with enforcement powers under the PAIA, a society characterised by openness, transparency and responsiveness cannot be achieved.







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