

Promotion of Access to Information Act Manual



A copy of the manual will be available for inspection at:

Places of legal deposits as defined in the Legal Deposit Act No 54 of 1997

- City Library Services, Bloemfontein
- Library of Parliament, Cape Town
- Natal Society Library, Pietermaritzburg
- South African Library, Cape Town
- State Library, Pretoria

Every office of the public body

- *Kai! Garib District Municipal Office*
- *Technical Workshop*
- *Roads Workshop*

Public body web site: www.Kai! Garib.gov.za

The Human Rights Commission

Private Bag X2700

Houghton

2041

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1. Introduction

The Promotion of Access to Information Act of 2000 came into effect in March 2001. The purpose of this Act is to give effect to the constitutional right of access to any information held by public or private bodies, and which is required for the exercise or protection of any rights.

The Human Rights Commission is responsible for compiling a guide that provides details on how to use the Act. This guide is currently not available from the Human Rights Commission. Please direct any further queries in this regard to:

The South African Human Rights Commission:
PAIA Unit

The Research and Documentation Department

Postal Address: Private Bag X2700
Houghton
2041

Phone: (011) 484 8300

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In terms of Section 14(1) of the Promotion of Access to Information Act, the information officer of all public bodies are required to compile a manual that provides information regarding the subjects and categories of records held by such private bodies. This manual is intended to fulfill this requirement.

Accordingly, this manual provides a reference to the records we hold and the process that needs to be adopted to access such records. All requests for access to information (other than information that is available to the public) should be addressed to the contact person as identified in section 7 of this manual, as he/she is our designated Information Officer.

2. Overview of the public bodies functions, services and its structure

2.1 Functions

The functions of local government are –

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

2.2 Services

Service	How to access the service
Promotion of local tourism for the area of the District Municipality	Collective service
Electricity	Application form
Water	Application form
Refuse and sanitation	Application form
Nature reserve	Obtain a permit
Fire brigade	Call to control centre
Pounds	Collective service
Leasing of halls	Application form
Resorts	Payment of entrance fee
Cemetery	Application form
Housing	Application form
Agency services	Collective service
Disaster Management	Collective service
Roads & Stormwater	Collective service
Sports & Recreation	Collective service
Municipal Police	Collective service
Game farming	Collective service
Renting & Selling properties	Collective service
Environmental Health	Collective service

2.2 Structures

The Benede Oranje District Municipality, a category C Municipality, has been established in terms of Official Notice 27 of 2000 (Provincial Gazette 555 of 22 September 2000). Benede Oranje District Municipality later changed to Kai! Garib District Municipality in terms of Official Notice 25 of 2001 (Provincial Gazette 620 of 25 June 2001)

The district municipality has a mayoral executive system and comprises of the following municipalities: Mier, Kai!Garib, //Khara Hais, !Kheis, Tsantsabane and Kgatelopele. There are 18 councillors of which the Mayor and Speaker are designated as full time councillors.

3. General public participation in our affairs

The general public participates in the municipal affairs in the following manners:

- workshops
- community meetings
- information centre
- communication policy
- newsletters

4. Remedies available in respect of an act of the body or a failure to act by the body

The following remedies are available:

- Internal Appeals

An internal appeal is available in terms of section 75 of the Promotion of Access to Information Act 2000. An internal appeal should be handled as follows:

Decision by:
Municipal Manager
The Mayor

Appeal attended by noted:
The Mayor
The Council

- Courts
If all the internal appeals are denied and exhausted, the requestor may approach the Courts in terms of sections 78 – 80 of the Promotion of Access to Information Act, 2000

5. **Scope of the Manual**

The information contained in this manual is applicable to the areas under the Municipality’s jurisdiction.

6. **Our philosophy on access to information that we hold**

Kai! Garib District Municipality is in support of the Act

7. **Administration of the Act**

Our Information Officer, D. Ngxanga is duly authorized to ensure that the requirements of the Act are administered in a fair, objective and unbiased manner on behalf of Kai! Garib District Municipality.

Accordingly, all requests for access to records should be addressed to:

Contact person:	D. Ngxanga
Postal address:	P/Bag X6039, Upington, 8800
Physical address:	Hill Street 14, Upington, 8800
Phone number:	054-3372800
Fax number:	054-3372888
E-mail address:	Kai! Garib.gov.za

8. **Subjects and corresponding categories of records we hold**

Our records can be found in various forms including electronic, paper. In terms of the Promotion of Access to Information Act, access must be granted irrespective of form or medium.

To facilitate the easy identification of the records that we hold, we have **categorised** our records per **subject** area. The table below provides an indication of the subjects of information that we hold and the corresponding categories:

<i>Subjects</i>	<i>Categories</i>
Finance	Audited Financial Statements
	Tax records (employees)
	Asset register
	General correspondence
	Management Accounts
	Budgets & Tariffs
	Information relating to financial transactions
	Purchase & order information
	Valuation rolls
	Banking records
	Contracts
	Consumer Agreements
	Investment register
Administration	Minutes of Council & Committee Meetings
	Integrated Development Plan
	General Correspondence
	Local Economic Development Plans
	Performance Management documents
	Policies
	Tourism development plan
	Cemetery register
	Files register
Human Resources	Employee records
	Employments Contracts
	Personnel guidelines, policies & procedures
	Employee Medical records
	Training records
	Employment Equity records
	Pension records
	Employment benefits records
	Labour relation records
	Statutory records
	Job descriptions
	Skills development plan

<i>Subjects</i>	<i>Categories</i>
Information technology	IT policies & procedures
	User manuals
	Asset register IT related equipment
Logistics	Information relating to stock levels
	Information relating to delivery schedules & plans
	Stock replenishment information
	Stock register
	Workshop information
	Fleet register
Housing	Housing agreements
	Waiting lists
	Criteria for allocation
	Stand numbers
	Application forms
Town Planning	Amendment schemes
	Town planning schemes
	Minutes of hearings
	Advertising register
	Rezoning and subdivision Register
	Consent use
	Building plans
Disaster Management	Farms register
	Radio call frequency
	Disaster plan
	Voluntary list
	Flammable liquid register
Environmental Management	Food and water samples
	Register of food promises
	Environmental Management Plan
	Waste Management Plan

9. Records that can be accessed without a formal request

Certain records can be accessed without the submission of a formal request (refer to Section 10 of this document for particulars regarding formal requests), including:

- Debtor's account
- Town Planning schemes
- News Letter
- Brochures

These records can be accessed in the following manner:
e-mail;
fax;
letter

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

- The Occupational Health and Safety Act No. 85 of 1993;
- The Value-Added Tax Act No. 89 of 1991;
- Income Tax Act No. 58 of 1962;
- Basic Conditions of Employment Act No. 75 of 1997;
- Employment Equity Act No. 55 of 1998;
- Labour Relations Act No. 66 of 1995;
- The Medical Schemes Act No. 131 of 1998;
- The Compensation for Occupational Injuries and Diseases Act No. 130 of 1993
- The Health Act No. 63 of 1977;
- Consumer Affairs (Unfair business practices Act), 71 of 1988;
- Customs and Excise Amendment Act, 45 of 1995;
- South African Revenue Services Act, 34 of 1997;
- The Constitution of the Republic of South Africa No. 108 of 1996;
- Environmental Conservation Act 107 of 1998;
- Northern Cape Development and Planning Act No 7 of 1998;
- Regional Services Council Act, No 109 of 1985;
- Division of Revenue Act, No 7 of 2003;
- Statistics Act, No 6 of 1999;
- Local Government: Municipal Demarcation Act, No 27 of 1998;

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

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

10. Procedures to follow when submitting a formal request of access to a record

A request for access to a record that does not fall within the categories identified in Section 9 of this manual must be done formally either via conventional mail, e-mail or fax.

This request should be in the prescribed format as defined in Regulation 6 and Form A of Annexure B of Government Notice Number 187 of 15 February 2002. A request form is also available from our offices. The prescribed *request fee* should be attached (refer to Section 12 of this manual for more details on the fees).

If a requestor that seeks access to a record requires assistance in completing the prescribed access form, such assistance will be provided by a duly authorized and designated official, free of charge.

Our Information Officer will respond to a request for access as submitted in the required format within *30 days* of receiving the request by indicating whether your request for access has been granted.

If access to a record/information is granted, our response will include:

- An indication of the access fee that should be paid upon gaining access (if any);
- An indication of the form in which the access will be granted;
- A notice that you may lodge an internal appeal or application with the court against the access fee to be paid or the form of the access,

including guidance on the procedure and period for lodging the application or internal appeal.

If access to a record/information is denied, our response will include:

- Adequate reasons for the refusal; and
- Notice that the requestor may lodge an internal appeal or application with the court against the refusal of the request and the procedure, including the period, for lodging the internal appeal or court application. For details on the procedure, please refer to Chapter 1 and 2 of Part 4 of the Promotion of Access to Information Act.

Assuming your request of access is granted, you will be able to gain access to the requested records as soon as the applicable request fee has been paid.

Access will be granted to a record if the following criteria are fulfilled:

- The requestor complies with the procedural requirements in the Act relating to a request; and
- Access to the record is not refused in terms of any ground for refusal as contemplated in Chapter 4 of Part 2 of the Act.

11. Denial of access

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

- Protecting commercial information that we hold about a third party (for example trade secrets: financial, commercial, scientific or technical information that may harm the commercial or financial interests of a third party);
- Disclosure of the record (containing trade secrets, financial, commercial, scientific, or technical information) would harm the commercial or financial interests of a third party;
- Disclosure of the information about a third party, supplied in confidence, will put third party at a disadvantage in contractual or other negotiations or prejudice it in commercial competition;
- If disclosure would result in a breach of a duty of confidence owed to a third partying terms of an agreement;
- If disclosure would jeopardize the safety or life of an individual;

- If access to the record is prohibited in terms of Section 60(14) of the Criminal Procedure Act No. 51 of 1977;
- The record is privileged from production in legal proceedings unless the privilege has been waived;
- Records containing information about research being carried out or about to be carried out on behalf of a third party and the disclosure is likely to expose the third party, a person that will be carrying on the research on behalf of the third party, or the subject matter of the research, to serious disadvantage.

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

- If the record consists of information that was supplied in confidence by a third person and disclosure could reasonably be expected to prejudice the future supply of similar information, or information from the same source and it is in the public interest that similar information, or information from the same source, should continue to be supplied;
- If disclosure would prejudice or impair the security of a building, structure or system or means of transport or any other property;
- If the record contains methods, techniques, guideline or procedures for the prevention detection, curtailment or investigation of a contravention or possible contravention of a law or the prosecution of alleged offenders;
- If the disclosure could jeopardize the economic interests or financial welfare of the Republic or the ability of Government to manage the economic affairs of the Republic;
- If the record contains financial, commercial, scientific or technical information that may harm the commercial or financial interests of the public body;
- Disclosure would reasonably expect that it would put a public body at a disadvantage in contractual or other negotiations or prejudice it in commercial competition;
- If the record is a computer programme;
- Records containing information about research being carried out or about to be carried out on behalf of the public body and the disclosure is likely to expose the public body, a person that will be carrying on the research on behalf of the public body, or the subject matter of the research to serious disadvantage.

- If the records contains an opinion, advice, report or recommendation obtained or prepared, an account of a consultation, discussion or deliberation that has occurred (including minutes of meetings) for the purpose or formulating a decision or making a policy or disclosure would frustrate the deliberative process;
- Disclosure could jeopardize the effectiveness of testing, examining or auditing procedures or methods used by the body;
- The record contains evaluative material and disclosure would breach an implied promise made to the person who gave it regarding his or her identity or the content of the material;
- The record contains preliminary, working or draft material;
- If the request is manifestly frivolous or vexatious or the work required to process the request would unreasonably divert the resources of the public body.

Access **cannot be refused** in the following circumstances:

- If the information is already publicly available;
- If the record is older than 20 years;
- About a third party who has consented to the disclosure;
- About product or environmental testing that would reveal serious public safety or environmental risk; or
- If the records contemplated in sections 34(1), 36(1), 37(1)(a) or (b), 38(a) or (b), 40, 41(1)(a) or (b), 42(1) or (3), 43(1) or (2), 44(1) or (2) or 45 of the Act would reveal evidence of a substantial contravention or failure to comply with the law, an eminent and serious public safety or environmental risk and disclosure would outweigh the harms contemplated in each section, if disclosed.

12. Fees

The applicable fees are prescribed in terms of the regulations that relate to the Promotion of Access to Information Act. There are two basic types of fees applicable in terms of the Promotion of Access to Information Act – “request” and “access” fees. The non-refundable request fee (currently R35.00 exclusive of VAT) is payable on submission of the request for access to a record (unless the request is for personal records of the requestor in which event there is no applicable fee). The access fee is payable prior to gaining access to the records in the required

form. The applicable fees are prescribed in terms of Regulation 7 and Part II of Annexure A of Government Notice Number R187 of 15 February 2002.

13. Request for access to information about third parties

If you request access to a record that contains information about a third party, we are obliged to attempt to contact this third party to inform them of the request and to give them an opportunity to respond by either consenting to the access or by providing reasons why the access should be denied.

In the event that the third party agrees to access to the record, access will be granted. You may appeal against a refusal of access by our Information Officer. Please refer to Part 4 of the Promotion of Access to Information Act for further details on the Appeal Process.

14. Records that cannot be found or that do not exist

If we searched for a record and believe that it either does not exist or cannot be found, we will notify you by way of an affidavit or affirmation that it is not possible to give you access to the requested record as we are unable to locate it. We will also provide you with details on the steps that were taken to try to locate the record.

If at a later stage the record is located, we will grant you access, provided that access is not prohibited in terms of Chapter 4 of Part 2 of the Promotion of Access to Information Act.