

Citizens' access to information

The information manual

Background

The Bill of Rights provides that any person has the right of access to any information held by the state. This includes information held by a municipality. The Constitution further provides that national legislation must be enacted to give effect to this right. This prompted the Promotion of Access to Information Act 2 of 2002. Importantly, the Act also makes provision for access to information regardless of whether it came into existence before or after commencement of the Act.

In terms of the Act each municipality must compile an access to information manual within six months after the commencement of section 14. The manual must be ready by 28 February 2003 and be available in three official languages. The aim of the manual is mainly to foster a culture of transparency and accountability in the public and private sector and to promote a society where people can more fully exercise and protect their rights.

The main purpose of the manual is to assist the public in knowing what information the municipality holds and where it can be obtained. In other words, the manual serves as an index to the municipality's records and must contain sufficient

detail to facilitate a request for information from the public.

What the municipality must do

The Act regards the municipal manager as the information officer and he or she is entitled to appoint deputy information officers. All their contact details must be included in the manual. The municipality must update and publish the manual annually. Manuals must be available at all times at municipal offices.

Content of the manual

The Act prescribes that the manual must contain the following information:

- **A list of all municipal structures and functions:** A proper understanding of the structures and operation of the municipality is necessary to locate records wanted by members of the public.

For the manual to serve as part of an effective management of records a description of the municipality's structures and functions is necessary, for example, how the municipality works (internal structures), what services it provides, etc.

There is also a public participation goal behind the description of the municipality's structures and functions. This is to assist the public to gain access to records and participate where necessary in decision-making processes within the municipality.

- **Contact details:** The manual must include the postal and street address, phone and fax

By February 2003 each municipality must compile an access to information manual in three official languages.

key points

- Each municipality must have an access to information manual ready by 28 February 2003.
- The manual must be available in three official languages.
- It must outline the functions and structures of the municipality in detail.

number and e-mail address (if available) of the information officer and all deputy information officers.

- **Details of records:** It must offer sufficient details of all records held by the municipality, including a description of subjects on which the municipality hold records and the categories of records held.

This is necessary to respond to requests for information and to streamline the process of retrieving it.

- **Voluntarily disclosure:** A list of information that is automatically available, without requesting access in terms of the Act, must be included.
- **Services:** The manual must describe all services available from the municipality and information relating to access to those services.
- **Participation:** The manual must include a detailed description of how to make representations to, and participate in, the municipality's policy formulation processes.
- **Procedure:** Detailed description of the procedures for accessing information must form part of the manual. For example, the person requesting information needs to identify him/herself, the request must be in writing, the application should clearly state information

Importantly, the reasons for the request are irrelevant and there is no need to justify why the information is needed.

requested and it should state the preferred language.

In the case of a person who is illiterate or disabled, the request can be made orally and be put into writing on the prescribed form by the information officer, with a copy provided to the person requesting the information.

Importantly, the reasons for the request are irrelevant, and there is no need to justify why the information is needed.

- **Appeals and remedies:** In case the municipality fails to act, the manual must include a description of all internal appeal remedies available.
- **Refusal of access:** The manual must describe in detail the circumstances under which an information officer may refuse access to records, for example for reasons of public safety, commercial interests, etc.

- **Fees:** The manual must include a description of the fees for provision of information and appeal fees.

More information regarding the information manual and its format can be obtained from *Government Gazette* No. 24061 and 24080 published on 22 November 2002.

Access procedures

After the information officer receives a request that complies with the relevant procedures and after the relevant fees are paid, he or she must make a decision within 30 days as to whether to disclose or refuse the information.

There is no obligation on municipalities to acquire information that is not under their control. However, the Act places a duty on the information officer to transfer the request to the appropriate institution within 14 days of receipt of the request.