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## Promotion of Access to Information («PAIA») procedure

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## **1 INTRODUCTION AND OBJECTIVES**

These Local Guidelines are intended to ensure that access to information within HBZ Bank Limited (hereinafter, the Bank) is complied with in accordance The Promotion of Access to Information Act, No 2 of 2000 (the PAIA). The PAIA was enacted giving effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights. Where a request is made in terms of the PAIA, the body to which the request is made is obliged to release the information, except where the PAIA expressly provides that the information may or must not be released. The PAIA sets out the requisite procedural issues attached to such request.

These Local Guidelines are intended to foster a culture of transparency and accountability within the Banking industry as a whole, by giving effect to the right to information that is required for the exercise or protection of any right and to actively promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect their rights. In order to promote effective governance of private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights in terms of the PAIA in order for them to exercise their rights in relation to public and private bodies.

Section 9 of the PAIA however recognizes that such right to access to information cannot be unlimited and should be subject to justifiable limitations, including, but not limited to:

- limitations aimed at the reasonable protection of privacy
- commercial confidentiality
- effective, efficient and good governance

and in a manner which balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

## **2 REFERENCES**

- The Promotion of Access to Information Act, No 2 of 2000
- The Constitution of the Republic of South Africa, 1996- Chapter 2: Bill of Rights
- The Protection of Personal Information Act, No 4 of 2013

## **3 INFORMATION OFFICER**

Information Officer:	Chief Executive Officer
Deputy Information Officer:	Head of Compliance
Postal address:	PO Box 1536, Wandsbeck, 3631
Physical Address:	135 Jan Hofmeyr Road, Westville
Tel:	031 – 267 4400
Fax:	031 – 267 1193
E-mail:	<a href="mailto:sazone@hbzbank.co.za">sazone@hbzbank.co.za</a>



## **4 GUIDE OF THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION**

The South African Human Rights Commission has compiled a guide as contemplated in section 10 of the PAIA. The guide contains such information as may reasonably be required by a person who wishes to exercise any right contemplated in the PAIA. Any inquiries regarding this guide should be directed to:

The South African Human Rights Commission, at PAIA Unit (The Research and Documentation Department),

Address: Braampark Forum 3, 33 Hoofd Street, Braamfontein

Telephone Number: 011 877 3600

Website: [www.sahrc.org.za](http://www.sahrc.org.za)

E-mail Address: [mnyuswa@sahrc.org.za](mailto:mnyuswa@sahrc.org.za)

## **5 RECORDS OF THE BANK**

Information is classified and grouped according to records relating to the following subjects and categories:

### **5.1 Personnel records**

“Personnel” refers to any person who works for, or provides services to or on behalf of the Bank, and receives or is entitled to receive remuneration and any other person who assists in carrying out or conducting the business of the Bank. This includes, without limitation, directors (executive and non-executive), all permanent, temporary and part-time staff members, as well as contract workers. Personnel records include the following:

- personal records provided by personnel
- records provided by a third party relating to personnel
- conditions of employment and other personnel-related contractual and quasi-legal records
- internal evaluation records and other internal records
- correspondence relating to personnel
- training schedules and material.

### **5.2 Customer related records**

“Customer” refers to any natural or juristic entity that receives services from the Bank. Customer related records include the following:

- records provided by a customer to a third party acting for or on behalf of the Bank in the banking industry
- records provided by a third party
- records generated by or within the Bank relating or pertaining to its customers, including transactional records.

### **5.3 Private body records**

These records include, but are not limited to, the records which pertain to the Bank’s own affairs:

- financial records
- operational records



- databases
- information technology
- marketing records
- internal correspondence
- product records
- statutory records
- internal policies and procedures
- treasury related records
- securities and equities
- records held by officials of the Bank.

### 5.4 Other party records

The Bank may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary / holding / sister companies, joint venture companies, and service providers. Alternatively, such other parties may possess records that can be said to belong to the Bank. These include:

- personnel, customer or private body records which are held by another party, as opposed to the records held by the Bank itself
- records held by the Bank pertaining to other parties, including without limitation, financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about the contractors / suppliers.

## 6 REQUESTS FOR INFORMATION

### 6.1 Request procedure

- The requester must comply with all the procedural requirements contained in the PAIA relating to the request for access to a record.
- The requester must complete the «Request for Access to Records of Private Body Form» available on the Banks website [www.hbzbank.co.za](http://www.hbzbank.co.za) or from the Bank's Information Officer, and submit it, as well as payment of a request fee and a deposit, if applicable, to the Information Officer at the postal or physical address or electronic mail address as stated above.
- The «Request for Access to Records of Private Body Form» must be filled in with enough particularity to at least enable the Information Officer to identify:
  - the record or records requested
  - the identity of the requester
  - which form of access is required, if the request is granted
  - the postal address or fax number of the requester.
- The requester must state that the information is required in order to exercise or protect a right, and clearly state what the nature of the right is so to be exercised or protected. In addition, the requester must clearly specify why the record is necessary to exercise or protect such a right.
- The Bank will process the request within 30 days, unless the requestor has stated special reasons that would satisfy the Information Officer that circumstances dictate that the above time periods not be complied with.



- The requester shall be informed whether access granted or denied. If, in addition, the requester requires the reasons for the decision in any other manner, he must state the manner and the particulars so required.
- If a request is made on behalf of another person, then the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of the Information Officer.
- If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.
- The requester must pay the prescribed fee, before any processing can take place.

### 6.2 Grounds for refusal of a request for access to records

The main grounds for the Bank to refuse a request for information relates to:

- mandatory protection of the privacy of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person
- mandatory protection of the commercial information of a third party, if the record contains:
  - trade secrets of the third party
  - financial, commercial, scientific or technical information which disclosure could cause harm to the financial or commercial interests of the third party
  - information disclosed in confidence by a third party to the Bank, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition.
- mandatory protection of confidential information of third parties if it is protected in terms of any agreement
- mandatory protection of the safety of individuals and the protection of property
- mandatory protection of records which would be regarded as privileged in legal proceedings
- the commercial activities of the Bank, which may include:
  - trade secrets of the Bank
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of the Bank
  - information which, if disclosed could put the Bank at a disadvantage in negotiations or commercial competition
  - a computer program which is owned by the Bank and which is protected by copyright.
- research information of the Bank or a third party, if its disclosure would disclose the identity of the Bank, the researcher or the subject matter of the research and would place the research at a serious disadvantage
- requests for information that are clearly frivolous or vexation, or which involve an unreasonable diversion of resources shall be refused.

### 6.3 Remedies available when the Bank refuses a request for information

#### 6.3.1 Internal remedies

- The Bank does not have internal appeal procedures. As such, the decision made by the Information Officer is final, and requestors will have to exercise such external remedies at their disposal if the request for information is refused, and the requestor is not satisfied with the answer supplied by the Information Officer.



### 6.3.2 External remedies

- A requestor that is dissatisfied with an Information Officer's refusal to disclose information may within 30 days of notification of the decision, apply to a court for relief.
- Likewise, a third party dissatisfied with an Information Officer's decision to grant a request for information, may within 30 days of notification of the decision, apply to a court for relief. For purposes of the PAIA, the courts that have jurisdiction over these applications are the Constitutional Court, the High Court or a court of similar status.

### 6.4 Access to records held by the Bank

- Records held by the Bank may be accessed by requests only once the prerequisite requirements for access have been met. A requester is any person making a request for access to a record of the Bank. There are two types of requesters:

#### Personal requester

- A personal requester is a requester who is seeking access to a record containing personal information about the requester.
- The Bank will voluntarily provide the requested information, or give access to any record with regard to the requester's personal information. The prescribed fee for reproduction of the information requested will be charged.

#### Other requester

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

### 6.5 Fees

- The PAIA provides for two types of fees, namely:
  - a Request Fee, which will be a standard fee
  - an Access Fee, which must be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postal costs.
- When the Information Officer receives the request, he / she shall, by notice, require the requester, other than a personal requester, to pay the prescribed Request Fee (if any), before further processing of the request.
- If the search for the record has been made and the preparation of the record for disclosure, including arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the Information Officer shall notify the requester to pay as a deposit the prescribed portion of the Access Fee which would be payable if the request is granted.
- The Information Officer shall withhold a record until the requester has paid the fees.
- A requester, whose request for access to a record has been granted, must pay
  - an Access Fee
  - for reproduction
  - for search and preparation



- for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the request form.
- If a deposit has been paid in respect of a request for access, which is refused, then the Information Officer will repay the deposit to the requester.
- For further information regarding fees, please refer to the <https://www.sahrc.org.za> and the Bank's website [www.hbzbank.co.za](http://www.hbzbank.co.za) (under the section "Promotion of Access to information")

### 6.6 Decision

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

## 7 AVAILABILITY

This document is made available in terms of Regulation Number R. 187 of 15 February 2002 and is published on the Banks website [www.hbzbank.co.za](http://www.hbzbank.co.za).

## 8 REQUEST FOR ACCESS TO RECORDS OF PRIVATE BODY FORM

The "Request for access to records of private body" form is available on the Banks website [www.hbzbank.co.za](http://www.hbzbank.co.za) (under the section "Promotion of Access to information")