



elrc

EDUCATION LABOUR
RELATIONS COUNCIL

Manual on the Promotion of Access to Information Act, 2000

(Act No. 2 of 2000)

	EDUCATION LABOUR RELATIONS COUNCIL	Doc No. CS/COD&E/001	
		Date: SEPTEMBER	Rev 0
		Page: 2 of 20	
Title: MANUAL ON THE PROMOTION OF ACCESS TO INFORMATION ACT		Document type: MANUAL	
This document has been seen and accepted by the following: GENERAL SECRETARY OF THE COUNCIL		COMPILED/ REVIEWED BY:  BERNICE LOXTON RESEARCH & MEDIA MANAGER	
RECOMMENDED BY:  O MAKOFANE SENIOR MANAGER: CORPORATE SERVICES	APPROVED BY:  NOLUSINDISO FOCA GENERAL SECRETARY		
DATE OF LAST REVIEW: SEPTEMBER 2017			
DATE OF NEXT REVIEW: SEPTEMBER 2019 <i>NOTE: - This document may be changed before the stipulated period as and when a need arises as guided by the Documentation Policy</i>			

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1. INTRODUCTION

- 1.1 The Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (PAIA), which flows from section 32 of the Constitution of the Republic of South Africa, 1996, gives effect to the constitutional right of access to any information held by the state and any information held by any other person, provided that such information is required for the exercise or protection of any rights.

Section 31 (1) (a) of the Constitution entrenches every person's right to gain access to any information held by the state.

The purpose of the PAIA is twofold:

- To foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information; and
- To actively promote a society in which the people of South Africa have effective access to information to enable them to exercise and protect all of their rights more fully.

Before 27 April 1994, the system of government in the country resulted in a secretive, unresponsive culture in public and private bodies, which often led to abuse of power and to human rights violations.

The PAIA came into effect on 9 March 2001.

2. THE FUNCTIONS AND THE STRUCTURE OF THE EDUCATION LABOUR RELATIONS COUNCIL [SECTION 14(1)(A)]

2.1 What is the ELRC?

2.1.1 The Education Labour Relations Council (ELRC) is a registered Bargaining Council that was established in terms of section 37 of the Labour Relations Act, No 66 of 1995 (LRA). The ELRC facilitates administratively and effectively the negotiation and consultation process as a bargaining council, and provides for a non-partisan forum for the prevention and resolution of disputes in the Public Education sector

2.2 Vision

2.2.1 To improve the quality of teaching and learning through labour peace.

2.3 Mission statement

2.3.1 To provide quality services for excellence in teaching.

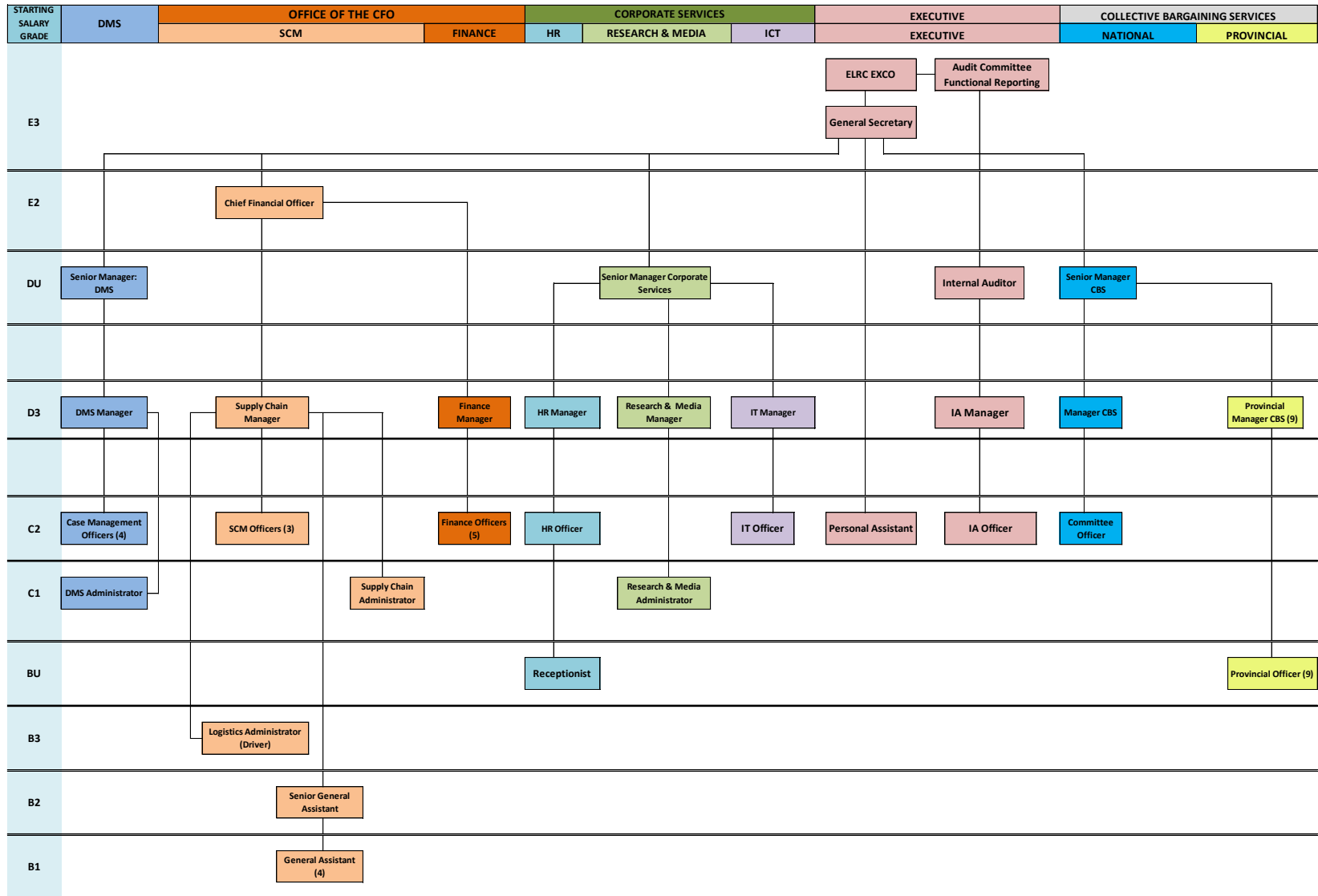
2.4 Values

2.4.1 The values adopted by the Council are:

- 2.4.1.1 *Professionalism*: promote behavior that is generally accepted to be correct and proper;
- 2.4.1.2 *Transparency*: ensure access to information by citizens;
- 2.4.1.3 *Independence*: the right to making informed decisions independently that minimise or avoid conflicts of interest;
- 2.4.1.4 *Accountability*: accepting responsibility for actions and decisions taken, with allowance for corrective action and penalty for wrongdoing;
- 2.4.1.5 *Fairness and equity*: the adjudication of grievances and disputes;
- 2.4.1.6 *Social Responsibility*: respond to the social issues of the day; and
- 2.4.1.7 *Efficiency*: Delivery of quality services economically.

2.5 Strategic outcome-oriented goals

- 2.5.1 Research and monitoring evaluation activities provide an evidence base for improved policies and policy implementation in basic education.
- 2.5.2 Equal importance is attached to proactive dispute prevention and dispute resolution.
- 2.5.3 Collective bargaining processes maximise the scope of the Parties' shared interest.
- 2.5.4 Provide appropriate support and training for all involved in dispute resolution and collective bargaining.
- 2.5.5 Sound communication strategies support and complement the core activities of the Council.
- 2.5.6 Strengthen social dialogue through supporting and participating in education initiatives, such as the National Education Collaboration Trust (NECT).



3. THE STRUCTURE OF THE ELRC

3.1 The ELRC consists of a national office situated in Gauteng, and nine provincial offices. Each provincial office has a Provincial Manager responsible for the overall functioning of the Province.

4. CONTACT DETAILS

HEAD OFFICE

Physical Address:

261 West Street
Centurion
0042

Postal Address:

Private Bag X126
Centurion
0046

Contact numbers:

Tel: (012) 663-7446
Fax: (012) 643-1601

Email Addresses:

Reception:

PulengG@elrc.org.za

General Secretary:

EstelleP@elrc.org.za

Media Manager:

BerniceL@elrc.org.za

ELRC Provincial Chambers

EASTERN CAPE

Postal Address : P O Box 474, King Williams Town, 5600
Physical Address : 12 Clifford Street, 2 Floor, Suite 6
Quigney, East London, 5200
Telephone Number : (040) 639-3535
Fax Number : (040) 639-3562

FREE STATE

Postal Address : P.O. Box 2386
Physical Address : 131 Beljac Building, Zastron Street, 2 Floor
Office No. 201, Bloemfontein, 9300
Telephone Number : (051) 430-8927
Fax Number : (051) 430-5803

GAUTENG

Postal Address : P O Box 5980, Johannesburg, 2000
Physical Address : 32 Von Brandis Street, 4th Floor
Johannesburg, 2000
Telephone Number : (011) 331-0061
Fax Number : (011) 331-0062

KWAZULU-NATAL

Postal Address : PO Box 19796, Dormerton, 4015
Physical Address : 1st Floor, ThekwiniFET College, 262 Daintree Avenue, Asherville, Durban, 4091
Telephone Number : (031) 208-7065
Fax Number : (031) 208-2372

MPUMALANGA

Postal Address : P O Box 194, White River, 1240
Physical Address : 15 William Lynn Street, Shop No. 19 A Arena Building, White River, 1240
Telephone Number : (013) 751-2838
Fax Number : (013) 751-3491

NORTHERN CAPE

Postal Address : P.O. Box 979, Kimberly, 8300
Physical Address : 95 Du Toitspan Building, Suite 13, Du Toitspan Road, Kimberley, 8300
Telephone Number : (053) 832-0247/8
Fax Number : (053) 832-0248

LIMPOPO

Postal Address : P.O. Box 2100, Polokwane, 0700
Physical Address : 49 Landdros Mare Street, Std Bank Building Office No. 3005, Polokwane, 0700
Telephone Number : (015) 291-1460
Fax Number : (015) 295-3090

NORTH WEST

Postal Address : As per Physical Address
Physical Address : 1st Floor, Mimosa Building, Protea Park, Rustenburg, 0300
Telephone Number : (014) 592-0085
Fax Number : (014) 597-3399

WESTERN CAPE

Postal Address : Same as physical address
Physical Address : Fairway Close, Fairway Square Building North Block 1st Floor, Parow, 7500
Telephone Number : (021) 595-2149
Fax Number : (021) 595-2949

5. ACCESS TO THE RECORD HELD BY THE ELRC [SECTION 14(1)(D)]

5.1 Automatic disclosures [Section 14(1)(e)]

A variety of records, reports and documents can be accessed on the ELRC's website: www.elrc.org.za

National Head Office

Information Centre (library):

The public is allowed to utilise the Council's Information Centre (library) but cannot take books on loan. The following resources are available from the ELRC library:

- Books
- Journals
- Research Reports
- Strategic Plans
- Quarterly Reports
- Annual Reports
- Annual Performance Plan

Administration Services

- Minutes of meetings on collective bargaining
- Dispute Awards
- ELRC Policies

5.2 The request procedure:

A requester must be given access to a record of a public body if the requester complies with the following:

5.2.1 The requester complies with all the procedural requirements in the Act relating to the request for access to that record; and

5.2.2 Access to that record is not refused on any ground of refusal as mentioned hereunder:

5.2.2.1 Mandatory protection of the privacy of a third party who is a natural person;

5.2.2.2 Mandatory protection of commercial information of a third party;

5.2.2.3 Mandatory protection of certain confidential information of a third party;

5.2.2.4 Mandatory protection of the safety of individuals and the protection of property;

5.2.2.5 Mandatory protection of records privileged from production in legal proceedings;

- 5.2.2.6 Mandatory protection of research information of a third party and protection of research information of a public body;
- 5.2.2.7 Manifestly frivolous and vexatious requests or substantial or unreasonable diversion of resources; and
- 5.2.2.8 Mandatory protection of economic interests and welfare of the Republic and commercial activities of public bodies.

5.3 Nature of the request

- 5.3.1 A requester must use the form that has been printed in the Government Gazette [Govt. Notice R187- 15 February 2002] (Form A).
- 5.3.2 The requester must also indicate if the request is for a copy of the record or if the requester wants to come in and look at the record at the offices of the public body. Alternatively if the record is not a document it can then be viewed in the requested form, where possible [s 29(2)].
- 5.3.3 If a person asks for access in a particular form then the requester should get access in the manner he/ she has asked for. This is unless doing so would interfere unreasonably with the running of the public body concerned, or damage the record, or infringe a copyright not owned by the state. If for practical reasons access cannot be given in the required form but in an alternate manner, then the fee must be calculated according to the way that the requester first asked for it [s29(3) and (4)].
- 5.3.4 The requester must provide the Research and Media Manager with sufficient particulars to enable the officer to identify the requester and the requested record [s 18(2)(a)].
- 5.3.5 The requester must indicate the language in which he or she prefers to receive the requested record [s 18(2)(b)].
- 5.3.6 If, in addition to a written reply to their request for the record, the requester wants to be told about the decision in any other way, e.g. telephone, this must be indicated [s 18(2)(e)].
- 5.3.7 If a requester is asking for the information on behalf of somebody else, the capacity in which the request is being made should be indicated [s 18(2)(f)].
- 5.3.8 If a requester is unable to read or write, or has a disability, then they can make the request for the record orally. The information officer must then fill in the form on behalf of such a requester and give them a copy [s 18(3)].
- 5.3.9 The information officer must notify the requester by notice, requiring the requester to pay the prescribed fee (if any) before further processing the request.

5.3.10 After the information officer has made a decision on the request the requester must be notified of such a decision in the way in which the requester wanted to be notified in.

6. SERVICES AVAILABLE [SECTION 14(1)(F)]

6.1 Nature of services

The services of the ELRC are schematically depicted in the diagram on the following page.

Services the ELRC provides to the public

DISPUTE MANAGEMENT SERVICES

Panellists
Conciliations
Arbitrations
Facilitation /mediation

COLLECTIVE BARGAINING

Collective agreements

RESEARCH AND MEDIA

Access to records such as Collective Agreements, awards and Information on education and research

6.2 How to gain access to these services

To gain access to the above services at the ELRC, requests must be made to the relevant department as indicated below: Refer to Contact Details (Section 4 for contact details for the ELRC's provincial offices).

General Secretary

Physical Address : 261 West Street, Centurion, 0046
Postal Address : Private Bag X126, Centurion, 0046
Telephone : (012) 663 7746
Fax : (012) 643 1601
Email : EstelleP@elrc.org.za

Research and Media

Manager

Physical Address : 261 West Street, Centurion, 0046
Postal Address : Private Bag X126, Centurion, 0046
Telephone : (012) 663 7446
Fax : (012) 643 1601
Cell : 083 384 7747
Email : BerniceL@elrc.org.za

Senior Manager: Collective Bargaining Services

Physical Address : 261 West Street, Centurion, 0046
Postal Address : Private Bag X126, Centurion, 0046
Telephone : (012) 663 7446
Fax : (012) 643 1601
Cell : 073 530 2536
Email : SelaeloM@elrc.org.za

Senior Manager: Dispute Management Services

Physical Address : 261 West Street, Centurion, 0046
Postal Address : Private Bag X126, Centurion, 0046
Telephone : (012) 663 7446
Fax : (012) 643 1601
Cell : 060 560 2536
Email : MatloseM@elrc.org.za

Senior Manager: Corporate Services

Physical Address : 261 West Street, Centurion, 0046
Postal Address : Private Bag X126, Centurion, 0046
Telephone : (012) 663 7446
Fax : (012) 643 1601
Cell : 060 560 2529
Email : OctaviaM@elrc.org.za

7. ARRANGEMENT ALLOWING FOR PUBLIC PARTICIPATION [SECTION 14(1)(G)]

7.1 If members of the public have any queries or concerns regarding the ELRC and would like to participate in the formulation of policy, they would have to apply through the General Secretary or contact any member of the social partners under whose constituency such member belongs to. For example, if the member of the public were a unionist, he would have to refer the matter to the constituency that represents labour.

8. THE REMEDIES AVAILABLE IF THE PROVISIONS OF THIS ACT ARE NOT COMPLIED WITH [SECTION 14(1)(H)]

8.1 The requester can lodge an internal appeal with the General Secretary of the ELRC. The requester can lodge an appeal related to:

8.1.1 A decision not to grant access to a record;

8.1.2 A decision to extend the time period to deal with the request; or

8.1.3 The body refusing to give the requester the record in the form he or she asked for.

8.2 The procedure is as follows:

8.2.1 The requester would be required to complete the relevant appeal form C, within 60 days.

8.2.2 After completing the form, the requester must send the form to the Information Officer.

8.2.3 A requester may request to be informed of the outcome of the appeal in any manner other than a written reply, for example, by e-mail or telephone.

8.2.4 The person appealing must supply their contact details.

8.2.5 The information officer must respond to the request within 10 working days and if the request was refused the Information Officer must give reasons for refusing in terms of the Act.

9. OTHER INFORMATION AS PRESCRIBED IN TERMS OF THE ACT [SECTION 14(1)(I)]

9.1. There is currently no information available from the Minister of Justice and Correctional Services in terms of Section 92 to be placed here.

10. UPDATING OF THE MANUAL [SECTION 14 (2)]

10.1. A public body must, if necessary, update and publish its manual referred to in subsection (1) of Section 14, at intervals of not more than a year.

11. AVAILABILITY OF THE MANUAL [SECTION 14 (3)]

11.1 Regulation No. R 187 of 15 February 2002 prescribes, in Section 4(1) that the manual of a public body must be made available in the following manner:

11.1.1 The manual is to be made available on the website, if any, of the public body.

12. REQUEST TO THE MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT FOR THE COMPILATION OF ONE MANUAL [SECTION 14(4)(A) AND SECTION 14(4)(B)]

12.1. If the functions of two or more public bodies are closely connected, the Minister may, on request or of his or her own accord, determine that the two or more bodies compile one manual only.

The public bodies in question must share the cost of the compilation and making available of such manual as the Minister determines.

13. EXEMPTION BY THE MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT FROM ANY PROVISION OF THIS SECTION FOR A DETERMINED PERIOD [SECTION 14(5)]

13.1 For security, administrative or financial reasons, the Minister may, on request or of his or her own accord, by notice in the *Gazette*, exempt any public body or category of public bodies from any provision of this section for such period as the Minister thinks fit.

PRESCRIBED FORMS FOR ACCESS TO RECORDS

**ANNEXURE B OF NOTICE 187 IN THE GOVERNMENT
GAZETTE ON 15 FEBRUARY 2002**

FORM A
REQUEST FOR ACCESS TO RECORD OF BARGAINING COUNCIL

[Section 18(1) of the Promotion of Access to Information Act, 2000
(Act No. 2 of 2000)]

[Regulation 2]

FOR DEPARTMENTAL USE

Reference number:

.....

Request received by:

.....

(state rank, name and surname of information officer / deputy information officer) on (date)

..... (place)

Request fee (if any): R

Deposit (if any): R

..... Signature of Information Officer /

Deputy
Information Officer

PARTICULARS OF BARGAINING COUNCIL

The Information Officer:
Bernice Loxton
Research and Media Manager
Tel: 012 663 7446
Fax: 012 643 1601
Email: BerniceL@elrc.org.za
www.elrc.org.za

PARTICULARS OF PERSON REQUESTING ACCESS TO THE RECORD

- (a) *The particulars of the person who requests access to the record must be recorded below.*
- (b) *Furnish an address and/or fax number in the Republic to which the information must be sent.*
- (c) *Proof of the capacity in which the request is made, if*

applicable, must be attached.

Full names and surname:

.....

Identity number:

Postal address:.....

.....

Fax number:

Telephone number:

.....

E-Mail address:

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

.....

d. PARTICULARS OF PERSON ON WHOSE BEHALF REQUEST IS MADE

This section must be completed only if a request for information is made on behalf of another person.

Full names and surname:

.....

Identity number:

.....

e. PARTICULARS OF RECORD

- *Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.*
- *If the provided space is inadequate, please continue on a separate folio and attach it to this form. **The requester must sign all the additional folios.***

Description of record or relevant part of the record:

.....
.....

Reference number (if available):

.....

Any further particulars of record:

.....
.....
.....

f. FORM OF ACCESS TO RECORD

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 – 4 hereunder, state your disability and indicate in which form the record is required.

Disability:

.....

Form in which record is required:

.....

**Mark the appropriate box with an 'X'.*

- (a) *Your indication as to the required form of access depends on the form in which the record is available.*
- (b) *Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.*
- (c) *The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.*

1. If the record is in written or printed form:
 - Copy of record*
 - Inspection of record*

2. If record consists of visual images:
This includes photographs, slides, video recordings, computer-generated images, sketches, etc.
 - View the images*
 - Copy of the images*
 - Transcription of the images*

3. If record consists of recorded words or information which can be reproduced in sound:
 - Listen to the soundtrack (audio cassette)*
 - Transcription of soundtrack (written or printed document)*

4. If record is held on computer or in an electronic or machine-readable form:
 - Printed copy of record*
 - Printed copy of information derived from the record*
 - Copy in computer-readable form (compact disc)*

If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you?

- YES
- NO

Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available

In which language would you prefer the record?

.....

g. NOTICE OF DECISION REGARDING REQUEST FOR ACCESS

You will be notified in writing whether your request has been approved / denied. If you wish to be informed thereof in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

.....

.....

Signed on this day of 20__

.....

SIGNATURE OF REQUESTER / PERSON ON WHOSE BEHALF REQUEST IS MADE:

.....