



REGISTRATION NUMBER OF THE COMPANY:

2015/122776/08

TB HIV Care NPC

**PAIA MANUAL PREPARED IN TERMS OF SECTION 51 OF THE PROMOTION OF
ACCESS TO INFORMATION ACT 2 OF 2000 (“PAIA”)**

**ACCESS TO INFORMATION MANUAL
(PRIVATE BODY)**

Date of compilation: 13 July 2021

Date manual was last updated: 13 July 2021

1	Purpose.....	3
2	Definitions	3
3	TB HIV Care.....	4
4	Contact details	4
5	PAIA.....	4
6	PAIA guide	5
7	Categories of Records.....	5
8	Schedule of Records	1
9	Records available without a request in terms of PAIA.....	1
10	Records available in terms of any other legislation	1
11	Request for information.....	2
12	Granting or refusal of requests.....	4
13	Access to health or other Records	5
14	Appeals and complaints	6
15	Lodging a complaint with the information regulator	7
16	Filing an application to court	7
B.	Particulars of person requesting access to the Record	9
C.	Particulars of person on whose behalf request is made.....	10
D.	Particulars of Record	10
E.	Fees	11
F.	Form of access to Record	11
G.	Particulars of right to be exercised or protected.....	12
H.	Notice of decision regarding request for access	12

1 Purpose

- 1.1 This Promotion of Access to Information Act (PAIA) manual is published in accordance with the requirements of section 51 of PAIA and is aimed at facilitating access to information held by TB HIV Care, as a private body.

2 Definitions

- 2.1 **“Access fee”** means the fee paid by the Requester to TB HIV Care to cover the costs of finding and copying the Requested Records.
- 2.2 **“Authorised Person”** means the person who is making a Request on behalf of someone else, and has been properly authorised, in writing, to do so.
- 2.3 **“Automatically Available Records”** means Records that TB HIV Care will provide to a Requester without them needing to file a Request.
- 2.4 **“Deemed Refusal”** where no response is received to a Request within, the prescribed time.
- 2.5 **“Information Officer or IO”** and **“Deputy Information Officer or DIO”**:
 - 2.5.1 The Information Officer is the person designated to handle information requests, POPIA and PAIA compliance.
 - 2.5.2 The Deputy Information Officer is the person designated by the Information Officer to assist the Requester with their information request and POPIA and PAIA compliance.
- 2.6 **“Record”** means anything on which sounds or images or both are fixed or from which sounds or images or both are capable of being reproduced, regardless of form.
- 2.7 **“Request”** means a request for access to information as required by PAIA and further set out in this PAIA manual, **“Requested”** shall have the same meaning.
- 2.8 **“Request fee”** means the cost to be paid for making a Request for access to information.
- 2.9 **“Requester”** means the natural or juristic person requesting access to information and / or the Authorised Person.
- 2.10 **“Third party”** means any natural or juristic person, who is not the Requester of the information, nor the body to whom the information request is made.

3 TB HIV Care

- 3.1 TB HIV Care is a registered non-profit organisation that puts integrated care at the heart of responding to TB, HIV and other major diseases. TB HIV CARE works to prevent, find and treat TB and HIV in South Africa as well as targeting interventions to address the needs of populations at risk, such as inmates, sex workers and people who inject drugs.
- 3.2 TB HIV Care supports the constitutional right of access to information and is committed to provide access to TB HIV Care Records in accordance with the provisions of PAIA and POPIA, the confidentiality agreements contracted with third parties and the principles of South African law.
- 3.3 TB HIV Care has the following subsidiary: **Strategic Health Solutions (Pty) Ltd**

4 Contact details

- 4.1 A copy of this PAIA manual is available on our website, alternatively by sending a request for a copy to the DIO at the electronic mail address or from our registered office provided below.
- 4.2 The Chief Executive Officer of TB HIV Care is the Information Officer, who has delegated his responsibility to the Deputy Information Officer.
- 4.3 **The Deputy Information Officer (“DIO”) of TB HIV Care is the Chief Financial Officer:**

Kuben Pillay

Email Address: dio@tbhivcare.org

PO Box: PO Box 2589, Cape Town, 8001

Street address: 7th Floor, 11 on Adderley, Cape Town, City Centre, 8001

Telephone number: 021 425 0050

Website: <https://tbhivcare.org/>

5 PAIA

- 5.1 PAIA grants the Requester access to Records of private bodies, provided the Record is required for the exercise or protection of the Requestor’s rights. If a public body lodges a request, the public body must be acting in the public interest.
- 5.2 Requests in terms of PAIA shall be made in accordance with the prescribed procedures, at the rates provided.

6 PAIA guide

6.1 An official PAIA Guide has been compiled by the South African Human Rights Commission (SAHRC). The purpose of the PAIA Guide is to provide information to assist Requesters in understanding PAIA, its benefits and background, the process by which to make a Request, the types of information which can be requested using PAIA, understanding the process by which a Requester can challenge a decision taken in relation to their Request and the impact of POPIA on PAIA.

6.2 The contact details of the SAHRC are:

Postal Address: Private Bag 2700, Houghton, 2041

Telephone Number: +27-11-877 3600

Fax Number: +27-11-403 0625

Website: www.sahrc.org.za

6.3 This PAIA guide is made available by the Information Regulator (established in terms of POPI) and copies of the updated guide are available from Information Regulator in the manner prescribed. The Information Regulator's contact details are set out below.

6.3.1 The Information Regulator:

Physical address: JD House, 27 Stiemens St., Braamfontein, Johannesburg, 2001

Postal address: P.O Box 31533, Braamfontein, Johannesburg, 2017

Email address: infoereg@justice.gov.za

Website: <https://www.justice.gov.za/infoereg/>

7 Categories of Records

7.1 TB HIV Care generates substantive programme Records, relating to the outputs of its programmes and operational Records, relating to its organisational operations.

7.2 In certain instances, Records are received and/or owned by levels of government, funders or sub-recipients. The right to transfer Requests for Records to relevant bodies where such bodies were the primary holders or generators of the information Requested is reserved by TB HIV Care.

7.3 TB HIV Care programme structure is set out under **Annexure A**.

8 Schedule of records

Category of record	Record type
Company records	Notice of Incorporation (Registration certificate)
	Memorandum of Incorporation and any alterations or amendments
	Company rules
	Registration of company secretary and auditors
	Notice and minutes of all board meetings including resolutions adopted
	Copies of reports presented at the annual general meeting of the company
	Company policies
	Standard operating procedures
	Employment equity plans
	Employment equity reports
Bid or bid proposal documents and other supply chain documents	
Financial records	Accounting systems, financial statements, bank statements, bank reconciliations and month-end reports
	Audited financial statements
Publications	Newsletters, posters and publications

Category of record	Record type
	Media enquiries and responses
	Organisations contact details set out under TB HIV Care website
Service providers and supplier	Agreements, reports, registers, onboarding documentation and invoices
Employees and former employees	Employee Records including remuneration and disciplinary Records
	Employee contracts
Grant documentation (funders and sub-recipients)	Grant award notification
	Grant agreement
	Technical and financial reporting etc.
Records relating to provision of services performed in terms of TB HIV Care programmes	Registration forms, consent forms, clinical Records, service and medical Records and health information

9 Records available without a request in terms of PAIA

- 9.1 Records of a public nature may be accessed without the need to submit a formal application.
- 9.2 Other non-confidential Records may also be accessed without the need to submit a formal application however, an appointment to view such Records will still have to be made with the DIO.

10 Records available in terms of any other legislation

- 10.1 TB HIV Care retains Records in terms of legislation, listed below, that are applicable to its operation and programmes. Unless disclosure is prohibited in terms of any legislation, regulations, contractual agreements or otherwise, Records that are required to be made available in terms of such legislation may be Requested from TB HIV Care by the Requestor in accordance with this PAIA manual and PAIA.
- 10.2 Accessibility of Records after a request is made may be further denied by TB HIV Care subject to the grounds set out under clause 12.
- 10.3 The following (which list is not exhaustive) legislation is applicable:
 - 10.3.1 Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997);
 - 10.3.2 Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) (BBBEE Act);
 - 10.3.3 Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996);
 - 10.3.4 Companies Act, 2008 (Act No. 71 of 2008);
 - 10.3.5 Compensation for Occupational Injuries and Diseases Act, 1993 (Act No.130 of 1993);
 - 10.3.6 Cybercrimes Act, 2020 (Act. No 19 of 2020)
 - 10.3.7 Electronic Communications Act, 2005 (Act No. 36 of 2005);
 - 10.3.8 Electronic Communications and Transaction Act, 2002 (Act No. 25 of 2002);
 - 10.3.9 Employment Equity Act, 1998 (Act No. 55 of 1998);
 - 10.3.10 Health Professions Act, 1974 (Act No. 56 of 1974);
 - 10.3.11 Income Tax Act, 1962 (Act No. 58 of 1962)
 - 10.3.12 Labour Relations Act, 1995 (Act No. 66 of 1995);
 - 10.3.13 Non-profit Organisations Act, 1997 (Act No. 71 of 1997);

- 10.3.14 Occupational Health and Safety Act, 1993 (Act 85 of 1993);
- 10.3.15 Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004);
- 10.3.16 Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);
- 10.3.17 Protection of Personal Information Act, 2013 (Act No. 4 of 2013) (POPI);
- 10.3.18 Skills Development Levies Act, 1999 (Act No. 9 of 1999);
- 10.3.19 Unemployment contributions Act, 2001 (Act No. 63 of 2001);
- 10.3.20 Value Added Tax Act, 89 of 1991.

11 Request for information

Procedural requirements. The Requestor must comply with all the procedural requirements contained in PAIA and this PAIA manual to request access to a Record.

11.1 The Request:

11.1.1 The Requestor must:

11.1.1.1 Download and complete the formal Request form "**Annexure B**";

11.1.1.2 Include the supporting documentation required below and attach same to the form;

11.1.1.3 Pay the prescribed fee. **Please take note that a Request will not be processed until the request fee and the deposit (if applicable) have been paid.**

11.1.2 Proof of identity:

11.1.2.1 Proof of identity must be provided by the Requester in order for the DIO to authenticate the Request and the Requester.

11.1.2.2 If the Request is made on behalf of another individual or organisation the following will be required:

11.1.2.2.1 the Authorised Person must indicate the capacity in which the Authorised Person is related to the individual or organisation; and

11.1.2.2.2 the individual's consent.

11.1.2.3 This is to ensure that TB HIV Care does not deny the Requester access on the basis that the information is confidential.

11.2 Format of the record:

11.2.1 The Requester must include the format of the Record in the Requester.

11.3 The Requester must provide sufficient detail to allow the DIO to identify the Records sought, failure to do so may result in the process being delayed until such additional information is provided.

11.4 Only requests with sufficient particulars as to the right the requester is seeking to protect, will be considered.

HOW DO I:

When explaining which right you are hoping to exercise by making your request to a private body you cannot refer to your right of access to information. So, you have to explain how the record you are asking for is reasonably required for you to protect, or exercise, another right. This could include rights that are not just constitutional rights. You may for example require the master plans from a company that has the potential to impact the pollution levels in a community, in order to help protect your right to the environment through monitoring its activities. Or you may require records, which will help you determine if you have a right to file a civil claim against an entity. You therefore need to:

1. Specifically identify the right you hope to protect or exercise, and then
2. Explain clearly why the record you are asking for is reasonably required to help you with that right.

11.5 The prescribed fee:

11.5.1 A prescribed fee must to be paid to TB HIV Care when a Request is made in order to cover the cost of providing access to such Records. Fees levied are published by the Minister and are displayed below. Levies published by the Minister are subject to change and at the time of publishing the below fees were correct.

11.5.2 The following fees are applicable:

11.5.2.1 **Request fee:** this fee is an administration fee to the value of R50.00, that must be paid where a Request is made to access a Record by a person other than a personal Requestor and is not refundable;

11.5.2.2 **Deposit:** which is payable if TB HIV Care receives a Request for access to Records where the preparation of such Record will take more than six hours, this will not be more than one-third of the total fee;

11.5.2.3 **Reproduction fee:** which is payable once access to the Record is granted, this fee is intended to reimburse TB HIV Care for the costs involved in searching and preparing the Record for delivery:

Description	R value
Copy of an A4-size page or part thereof	R1.10
Printing per A4 page	R0.75
For a copy in a computer-readable form on memory stick	R7.50
Copy on a CD	R70.00
Transcription of visual images per A4 page	R40.00
Copy of a visual image	R60.00
Transcription of an audio Record per A4 page	R20.00
Copy of an audio Recording	R30.00
Search and preparation of the Record for disclosure	To search for and prepare the Record for disclosure, R30.00 for each hour or part of an hour reasonably required for such search and preparation
Postage	The actual postage is payable

12 Granting or refusal of requests

12.1 When a Request is made, the DIO might grant the Request and provide the Requester with access to the Record. However, PAIA also lists reasons why a Request MUST be refused.

12.2 Requesters should take note that requests MUST be refused based on the following grounds:

12.2.1 **Privacy of a third party:** The DIO will not allow a Requester access to the personal information of another person if it amounts to ‘an unreasonable disclosure’ unless the Records are already public, or where a person has given consent.

12.2.2 **Commercial information of TB HIV Care or a third party:** The DIO will not allow a Requester access to the commercial information of TB HIV Care or third party. This would include information like trade secrets, or that might threaten that TB HIV Care’s or a third party’s commercial interest.

12.2.3 **Confidential information:** The DIO will not allow a Requester access to a Records if its release would amount to a breach of a duty of confidence owed

to a third party in terms of an agreement (or contract). Mandatory protection and information that would be considered privileged in terms of any legal and/or medical proceedings.

- 12.2.4 **Safety of individuals and property:** The DIO will not allow a Requester access to a Record if its release could reasonably be expected to compromise the safety of an individual or where such access to a Record would likely to impair the security of a building or property.
- 12.2.5 **Legal privilege:** The DIO will not allow a Requester access to a Record if the Record is privileged from production in legal proceedings, unless the person entitled to the privilege has waived such privilege.
- 12.2.6 **Research Information:** The DIO will not allow a Requester access to a Record if the Record relates to research that is, or will be, undertaken by the body in question and its release expose them to a serious disadvantage.
- 12.2.7 In the event that a Record cannot be located, and it is believed that the Record does not exist or merely cannot be located, then TB HIV Care will inform the Requester.
- 12.2.8 Any other reason that is allowed in any applicable law.
- 12.2.9 PAIA requires that the DIO inform third parties about Requests they are considering providing access to, that relate to them under certain exemption grounds. The notice hopes to give those third parties an opportunity to make their own submissions in relation to whether or not that Request should be refused (though the final decision always rests with the IO or DIO).

13 Access to health or other Records

- 13.1 For the purposes of this section, the term “Relevant Person” shall refer to the Requester and /or the Authorised Person making a Request on the persons behalf.
- 13.2 Requesters must stipulate in their Request for information and/or what health information is required, understanding that information held by a medical practitioner must be obtained directly from him or her. TB HIV Care cannot release information held by another party, or information that is protected by a medical practitioner /patient relationship.
- 13.3 TB HIV Care, in terms of Section 50 of PAIA, may only grant a Request for access to information and/or a Record provided by a medical practitioner in his or her capacity as such, about the physical or mental health of the Requester him /herself, or to authorised person making such a request on behalf of the person concerned.

- 13.4 TB HIV Care may in terms of Section 61 (1) of the Act, refuse access to information and/or Records, if TB HIV Care is of the opinion that such disclosure would cause serious harm to the Requester's physical and/ or mental health.
- 13.5 Before the DIO allows, grants or facilitates access to information and/or Records, he may consult with the treating medical practitioner who, subject to Section 61(2) had been nominated by the Relevant Person.
- 13.6 If the Relevant Person is:
- 13.6.1 under the age of 16 years, a person having parental responsibilities for the Relevant Person, must make the nomination referred to in Section 61() of the Act; and/or
 - 13.6.2 incapable of managing his or her affairs, a person appointed by the court to manage those affairs must make that nomination.
- 13.7 If after TB HIV Care has given access to the medical practitioner, and the medical practitioner is of the opinion that the disclosure of the information and/or Record to the Relevant Person, would likely cause serious harm to his or her physical and/or mental health, or well-being, the DIO may only grant access to that information and/or Record if he has been given sufficient guarantees by the Requester, that adequate provision has been made for such counselling or arrangement as are reasonably practicable before, during or after the disclosure of the information and/or Record limit, alleviate or avoid such harm to Relevant Person.
- 13.8 Before access to the information and/or Record is so given to the Requester, the person responsible for such counselling or arrangements must be given access to the information and/or Record.
- 13.9 TB HIV Care may also refuse access to the information and/or Records in terms of any other law.

14 Appeals and complaints

- 14.1 The Requester may lodge a complaint with the Information Regulator and only thereafter, file an application in court in terms of the following grounds:
- 14.1.1 The Requester is refused access to a Record.
 - 14.1.2 The Requester is provided the Record, but not in the form Requested.
 - 14.1.3 TB HIV Care extends the time to respond to a Request.
 - 14.1.4 Charges a request fee, deposit or reproduction fee.
- 14.2 Internal appeals are not applicable to TB HIV Care.

14.3 The Requester must establish that the Record requested is required for the exercise or protection of any other right.

15 Lodging a complaint with the information regulator

15.1 If a Requester or third party is aggrieved by a decision, as out above, taken by TB HIV Care they will have 180 days from the time of the final decision to lay their complaint before the Information Regulator in the prescribed manner and form for appropriate relief.

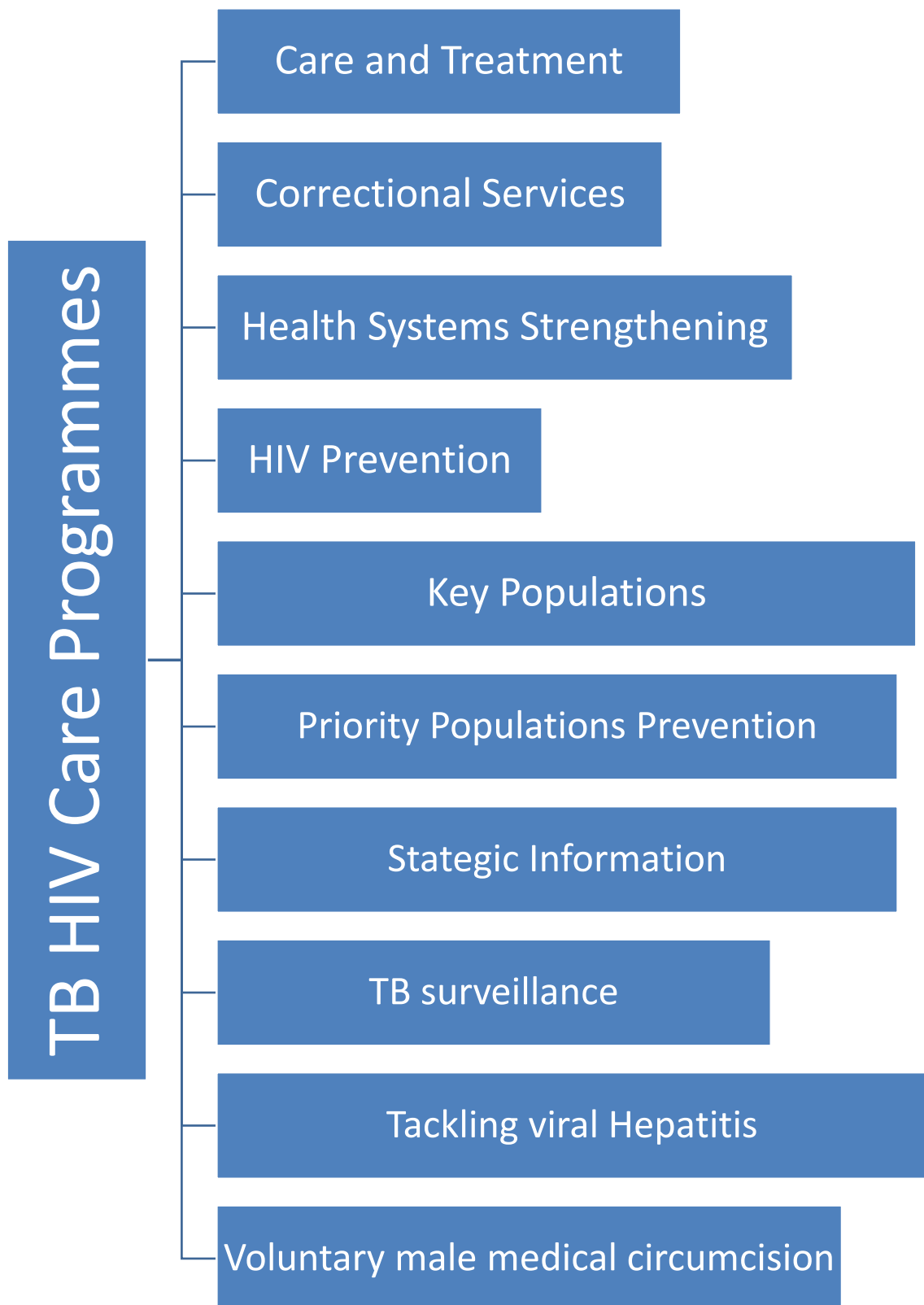
16 Filing an application to court

16.1 If a Requester or third party is aggrieved by a decision, as out above, taken by TB HIV Care they will have 180 days from the time of the last decisions to apply to court to have their grounds, as set out above, considered.

16.2 An application may only be filed in court where the Requestor or third party has exhausted the complaints procedure set out under clause 15.

16.3 Access to information cases can be heard before the Magistrate's Courts as a court of first instance, as provided for under section 79 of PAIA, and also the High Courts.

Annexure A: Programme structure



Annexure B: Request form

FORM C
REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY
(Section 53(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))
[Regulation 10]

A. Particulars of the private body

The Head:

B. Particulars of person requesting access to the Record

(a) The particulars of the person who requests access to the Record must be given below.
(b) The address and/or fax number in the Republic to which the information is to be sent must be given. (c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname:

Identity number:

Postal address:

Telephone number: () Fax number: ()

E-mail address:

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

C. 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:

D. Particulars of Record

- (a) 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.
- (b) 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.

1. Description of Record or relevant part of the Record:

2. Reference number, if available:

3. Any further particulars of Record:

E. Fees

- (a) A request for access to a Record, other than a Record containing personal information about yourself, will be processed only after a request fee has been paid.
- (b) You will be notified of the amount required to be paid as the request fee.
- (c) The fee payable for access to a Record depends on the form in which access is required and the reasonable time required to search for and prepare a Record.
- (d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:

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 to 4 below, 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 .	
NOTES:	
(a) Compliance with your request for access in the specified form may depend 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*	<input type="checkbox"/>	Inspection of Record	<input type="checkbox"/>	
2. If Record consists of visual images - (this includes photographs, slides, video Recordings, computer-generated images, sketches, etc.):					
	View the images	<input type="checkbox"/>	Copy of the images*	<input type="checkbox"/>	Transcription of the images* <input type="checkbox"/>
3. If Record consists of Recorded words or information which can be reproduced in sound:					
	Listen to the soundtrack (audio cassette)	<input type="checkbox"/>	Transcription of soundtrack* (written or printed document)	<input type="checkbox"/>	<input type="checkbox"/>
4. If Record is held on computer or in an electronic or machine-readable form:					
	Printed copy of Record*	<input type="checkbox"/>	Printed copy of information derived from the Record*	<input type="checkbox"/>	Copy in computer readable form* (stiffy or compact disc) <input type="checkbox"/>

*If you requested a copy or transcription of a Record (above), do you wish the copy or transcription to be posted to you? Postage is payable.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
--------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------	-----------------------------

G. Particulars of right to be exercised or protected

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.

1. Indicate which right is to be exercised or protected:

2. Explain why the Record requested is required for the exercise or protection of the aforementioned right:

H. 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 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 at this day of year

Signature of requester /
Person on whose behalf request is made