



REGISTRATION NUMBER OF THE COMPANY:

2015/122776/08

TB HIV Care NPC

PAIA MANUAL PREPARED IN TERMS OF SECTION 51 OF PAIA

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

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1 Definitions

- 1.1 "CEO" means the Chief Executive Officer;
- 1.2 "CFO" means the Chief Financial Officer;
- 1.3 "Data Subject" means the person about whom the personal information relates.
- 1.4 "Information Officer" or "IO" and "Deputy Information Officer" or "DIO":
 - 1.4.1 The Information Officer is the person designated to handle information requests, POPIA and PAIA compliance.
 - 1.4.2 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.
- 1.5 "Information Regulator" means the Information Regulator established in terms of section 39 of the Protection of Personal Information Act, 2013;
- 1.6 "Personal Information" means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person including, but not limited to—
 - 1.6.1 information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
 - 1.6.2 information relating to the education or the medical, financial, criminal or employment history of the person;
 - 1.6.3 any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
 - 1.6.4 the biometric information of the person;
 - 1.6.5 the personal opinions, views or preferences of the person;
 - 1.6.6 correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
 - 1.6.7 the views or opinions of another individual about the person; and
 - 1.6.8 the name of the person if it appears with other personal information or relating to the person or if the disclosure of the name itself would reveal information about the person.

- 1.7 “**PAIA**” means the Promotion of Access to Information Act No. 2 of 2000;
- 1.8 “**POPIA**” means the Protection of Personal Information Act, No. 4 of 2013.

2 PAIA

- 2.1 The aim of PAIA is to give effect to the constitutional right to access to any information held by the state and any information that is held by another person and is required for the exercise or protection of rights.

3 PAIA Guide ¹

- 3.1 The information regulator has as amended, updated and made available the revised the PAIA Guide², initially compiled by the SAHRC, on how to use PAIA in an easily comprehensible form and manner as may reasonably be required by a person who wishes to exercise any right contemplated in PAIA and POPIA including:
 - 3.1.1 the objects of PAIA and POPIA;
 - 3.1.2 the postal and street address, phone and fax number and, if available, electronic mail address of-
 - 3.1.2.1 the Information Officer of every public body, and
 - 3.1.2.2 every Deputy Information Officer of every public and private body³
 - 3.1.3 the manner and form of a request for access to a record of a public body⁴ and private body⁵;
 - 3.1.4 the assistance available from the IO of a public body and the information regulator in terms of PAIA and POPIA;
 - 3.1.5 remedies in law available in the event of an act or failure to act in respect of a right or duty conferred or imposed by PAIA and POPIA, including the manner of lodging-
 - 3.1.5.1 an internal appeal;
 - 3.1.5.2 a complaint to the information regulator; and
 - 3.1.5.3 an application with a court against a decision by the IO of a public body, a decision on internal appeal or a decision by the information regulator or a decision of the head of a private body.

¹ Section 51(1)(b)(i) of PAIA

² Section 10(1) of PAIA

³ Designated in terms of section 17(1) of PAIA and section 56 of POPIA;

⁴ Section 11(1) of PAIA;

⁵ Section 50(1) of PAIA

- 3.1.6 voluntary disclosure of categories of records⁶;
 - 3.1.7 fees to be paid in relation to requests for access⁷; and
 - 3.1.8 PAIA regulations.
- 3.2 The PAIA Guide can be inspected or copies can be made from the offices of public and private bodies, including the office of the Regulator, during normal working hours and can also be obtained-
- 3.2.1 upon request to the IO; or
 - 3.2.2 from the website of the Information regulator (<https://www.justice.gov.za/infoereg/>);
 - 3.2.3 by completing the appropriate form attached as **Annexure A**.

4 Purpose of this PAIA manual

- 4.1 All private bodies are required to compile a PAIA manual⁸ in order to assist you to:
- 4.1.1 identify the categories of records held by TB HIV Care that are available without having to submit a formal PAIA request;
 - 4.1.2 identify the description of records that are available in accordance with legislation
 - 4.1.3 identify applicable rates that can be charged by TB HIV Care;
 - 4.1.4 assist you when making a request for access to a record;
 - 4.1.5 access contact details of the Deputy Information Officer;
 - 4.1.6 understand what personal information TB HIV Care processes, the purpose for processing and the description of the categories of data subjects;
 - 4.1.7 know if THC has planned to transfer or process personal information outside the Republic of South Africa and the recipients or categories of recipients to whom the personal information may be supplied; and
 - 4.1.8 know whether THC has appropriate security measures to ensure the confidentiality, integrity and availability of the personal information which is to be processed.

⁶ Sections 15 and 51 of PAIA for public and private bodies, respectively

⁷ Section 22 and 54 of PAIA

⁸ Section 51 of PAIA

5 TB HIV Care NPC

- 5.1 TB HIV Care NPC is a registered non-profit company putting 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.
- 5.2 TB HIV Care supports the constitutional right of access to information and is committed to providing access to records in accordance with PAIA and POPIA, confidentiality agreements contracted with third parties and the principles of South African law.
- 5.3 TB HIV Care has the following subsidiary: **Strategic Health Solutions (Pty) Ltd**

6 Contact details⁹

- 6.1 A copy of this PAIA manual is available on our website, alternatively by sending a written request for a copy, to the DIO to the electronic mail address or to the registered office address, provided below.
- 6.2 The CEO of TB HIV Care is the IO, who has delegated his responsibility to the DIO.
- 6.3 **The CEO and IO of TB HIV Care**

Harry Hausler

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/>

6.4 The CFO and CIO of TB HIV Care

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

⁹ Section 51(1)(A) of PAIA

Telephone number: 021 425 0050

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

7 Categories of Records

- 7.1 TB HIV Care holds records generated through its programmes and its organisational operations. TB HIV Care’s programme structure is set out under **Annexure B**.
- 7.2 In certain instances, records are received from and/or owned by levels of government, funders, sub-recipients or vendors. TB HIV Care reserves the right to transfer requests to such bodies as the primary holders or generators of the information requested.
- 7.3 Any request must be in accordance with this PAIA manual.
- 7.4 Records that are available without a person having to request access¹⁰
- 7.4.1 Unless otherwise set out under section 7, no category of record(s) is automatically available to any person.
- 7.4.2 Records of a public nature, typically those disclosed on TB HIV Care’s website may be accessed without the need to submit a formal application.
- 7.5 Records that must be formally requested:¹¹

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 including HR policies, procurement policies, finance policies, IT policies and programme policies

¹⁰ Section 51(b)(ii) of PAIA

¹¹ Section 51(1)(D) of PAIA

Category of Record	Record type
	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 and communications	Newsletters, posters and publications
	Media enquiries and responses
	Organisations contact details set out under TB HIV Care website
Service providers and supplier	Bidding documentation, agreements, reports, registers, onboarding documentation and invoices
Employees and former employees	Job advertisements Employee Records including remuneration and disciplinary Records and Training manuals
	Employee contracts
Grant documentation (funders and sub-recipients)	Grant award notification
	Grant agreement
	Technical and financial reporting etc.
Records relating to TB HIV Care programmes	Registration forms, consent forms, clinical records, service and medical records and health information
Training	Training manuals and attendance registers

- 7.6 TB HIV Care retains records in terms of legislation 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 in accordance with this PAIA manual.
- 7.7 Accessibility of records after a Request is made may be denied by TB HIV Care subject to the grounds set out under clause 11.
- 7.8 The following legislation is applicable (which list is not exhaustive):
- 7.8.1 Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997);
 - 7.8.2 Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) (BBBEE Act);
 - 7.8.3 Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996);
 - 7.8.4 Companies Act, 2008 (Act No. 71 of 2008);
 - 7.8.5 Compensation for Occupational Injuries and Diseases Act, 1993 (Act No.130 of 1993);
 - 7.8.6 Cybercrimes Act, 2020 (Act. No 19 of 2020)
 - 7.8.7 Electronic Communications Act, 2005 (Act No. 36 of 2005);
 - 7.8.8 Electronic Communications and Transaction Act, 2002 (Act No. 25 of 2002);
 - 7.8.9 Employment Equity Act, 1998 (Act No. 55 of 1998);
 - 7.8.10 Health Professions Act, 1974 (Act No. 56 of 1974);
 - 7.8.11 Income Tax Act, 1962 (Act No. 58 of 1962)
 - 7.8.12 Labour Relations Act, 1995 (Act No. 66 of 1995);
 - 7.8.13 National Health Act, 2003 (Act No. No. 61 of 2003);
 - 7.8.14 Non-Profit Organisations Act, 1997 (Act No. 71 of 1997);
 - 7.8.15 Occupational Health and Safety Act, 1993 (Act 85 of 1993);
 - 7.8.16 Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004);
 - 7.8.17 Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);
 - 7.8.18 Protection of Personal Information Act, 2013 (Act No. 4 of 2013) (POPI);
 - 7.8.19 Skills Development Levies Act, 1999 (Act No. 9 of 1999);

7.8.20 Unemployment Contributions Act, 2001 (Act No. 63 of 2001);

7.8.21 Value Added Tax Act, 89 of 1991.

8 Request for information¹²

You must comply with all the requirements contained in PAIA and this PAIA manual when requesting a record.

8.1 The Request:

8.1.1 The Requestor must:

8.1.1.1 Download and complete the formal request form "**Annexure C**";

8.1.1.2 Include the supporting documentation required and attach the supporting documents to the request;

8.1.1.3 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.**

8.1.2 Proof of identity:

8.1.2.1 Proof of identity must be provided by the requestor in order for the DIO to authenticate the request and the requestor.

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

8.1.2.2.1 the authorised person must indicate the capacity in which the authorised person is related to the individual or organisation;

8.1.2.2.2 the individual's written and signed consent;

8.1.2.2.3 proof of identity of the authorised person and of the individual on whose behalf the authorised person is acting.

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

8.2 Format of the Record:

8.2.1 The requestor must include the format of the record in the request.

¹² Section 53 of PAIA

- 8.3 The requestor 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.
- 8.4 **Only requests with sufficient particulars as to the right the requestor is seeking to protect will be considered¹³.**

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.**

8.5 The decision and notice:

- 8.5.1 TB HIV Care will as soon as possible, but within 30 days, after the request and the necessary particulars have been received, decide whether to grant the request and notify the requestor of the decision.

8.6 The prescribed fee:

- 8.6.1 A prescribed fee must be paid to TB HIV Care when a request is made in order to cover the cost of providing access to records. Fees levied are published by the Minister and are set out under **Annexure D**. Levies published by the Minister are subject to change and at the time of publishing the below fees were correct.

9 Access to health or other records¹⁴

- 9.1 Requestors must stipulate in their request what health information is required, understanding that information held by a medical practitioner must be obtained directly from that health practitioner.
- 9.2 TB HIV Care cannot release information held by another party, or information that is protected by a medical practitioner / patient relationship.

¹³ Section 53(2)(d) of PAIA

¹⁴ Section 61 of PAIA

10 Granting or refusal of requests

10.1 TB HIV Care is entitled to refuse a request for information. Possible grounds for refusal include, but are not limited to:

- 10.1.1 **Privacy of a third party:** The DIO will refuse the requestor access to personal information of another person (natural or deceased person or juristic person) if it amounts to unreasonable disclosure.¹⁵
- 10.1.2 **Commercial information of TB HIV Care¹⁶ or a third party¹⁷:** The DIO will refuse the requestor access to any commercial information of TB HIV Care or third party. This would include trade secrets, financial, commercial, scientific or technical information or information, that if shared might threaten TB HIV Care's or a third party's commercial interest.
- 10.1.3 **Confidential information:** The DIO will refuse the requestor access to a record 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)¹⁸.
- 10.1.4 **Safety of individuals and property:** The DIO will refuse the requestor access to a record if its release could reasonably be expected to compromise the life or safety of an individual or where such access to a record would likely prejudice or impair the security of a building, structure or system or certain methods, systems, plans or procedures.¹⁹
- 10.1.5 **Legal privilege:** The DIO will refuse the requestor access to a record if the record is privileged from production in legal proceedings.²⁰
- 10.1.6 **Research Information:** The DIO will refuse the requestor access to a record if the record likely exposes TB HIV Care, a third party, the subject matter of the research or the person carrying out the research on TB HIV Care's or the third parties behalf, to serious disadvantage.²¹
- 10.1.7 The DIO will refuse the requestor access to information where the request is frivolous or vexatious, or that involve an unreasonable diversion of resources.
- 10.1.8 Any other reason that is allowed in any applicable law.
- 10.1.9 TB HIV Care will accordingly inform the requestor in the event that a record does not exist or cannot be located.²²

¹⁵ Section 63 of PAIA

¹⁶ Section 68 of PAIA

¹⁷ Section 64 of PAIA

¹⁸ Section 65 of PAIA

¹⁹ Section 66 of PAIA

²⁰ Section 67 of PAIA

²¹ Section 69 of PAIA

²² Section 55 of PAIA

11 Appeals and complaints

- 11.1 Internal appeals are not applicable to TB HIV Care.
- 11.2 If the Requestor is not satisfied with TB HIV Care's response, the requestor may submit a complaint with the information regulator within 180 days of the decision in the prescribed manner and form.

12 Processing of personal information

12.1 Purpose of processing personal information:

12.1.1 TB HIV Care processes personal information to fulfil its mandate, comply with funder requirements, to provide services including clinical and social services, referrals, medical consultations medical examinations, treatment, prescription, awareness creation on how to live with and prevent contracting HIV, clinical training, strategic information and research, case management, HIV self-screening and index testing, information workshops, paediatric risk screening, contact tracing, maintain a do-not contact list, stakeholder relationship building, onboarding, monitoring, payment, auditing, compliance with legislation including labour, B-BBEE, UIF, occupational health and safety, tax, SITA, employment equity, membership administration and management, employee travel and wellness, disciplinary processes, legal processes, recruitment, reference checks, credit and criminal checks.

12.2 Description of the categories of data subjects and of the information or categories of information relating thereto:

12.2.1 Please refer to our Privacy Policy available at <https://tbhivcare.org/>

12.3 The recipients or categories of recipients to whom the personal information may be supplied:

12.3.1 Please refer to our Privacy Policy available at <https://tbhivcare.org/>

12.4 Planned transborder flows of personal information:

12.4.1 Please refer to our Privacy Policy available at <https://tbhivcare.org/>

12.5 General description of Information Security Measures to be implemented by the responsible party to ensure the confidentiality, integrity and availability of the information:

12.5.1 Please refer to our Privacy Policy available at <https://tbhivcare.org/>

13 Revision history

Version	Approval date	Revision history (description of change)	Author
1.0	13 July 2021	New SOP	Alexandra O'Hare
2.0		Clause 1 amended (definitions deleted and added), clause 2, 3, 4, 10 amended and updated, clause 6 updated contact details, clause 6 category of record added ("Training"), clause 7 access to health records deleted and National Health Act added, clause 12 added	Alexandra O'Hare

Annexure A: Request for a copy of the PAIA Guide

**ANNEXURE A
FORM 1
REQUEST FOR A COPY OF THE GUIDE
[Regulations 2 and 3]**

TO: *The Information Regulator
P.O Box 31533
Braamfontein,
2017
E-mail address: infoereg@justice.gov.za
Tel number: +27 (0) 10 023 5200

OR

*The information officer

Full names:			
In my capacity as (mark with "x"):	Information officer	<input type="checkbox"/>	Other
Name of *public/private			

body (if applicable)			
Postal Address:			
Street Address:			
E-mail Address:			
Facsimile:			
Contact numbers:	Tel.(B):		Cellular:

hereby request the following copy(ies) of the guide:

Language (mark with "X")	No of copies	Language (mark with "X")	No of copies
<input type="checkbox"/> Sepedi		<input type="checkbox"/> Sesotho	
<input type="checkbox"/> Setswana		<input type="checkbox"/> siSwati	
<input type="checkbox"/> Tshivenda		<input type="checkbox"/> Xitsonga	
<input type="checkbox"/> Afrikaans		<input type="checkbox"/> English	
<input type="checkbox"/> isiNdebele		<input type="checkbox"/> isiXhosa	
<input type="checkbox"/> isiZulu			

Manner of collection (mark with "x"):

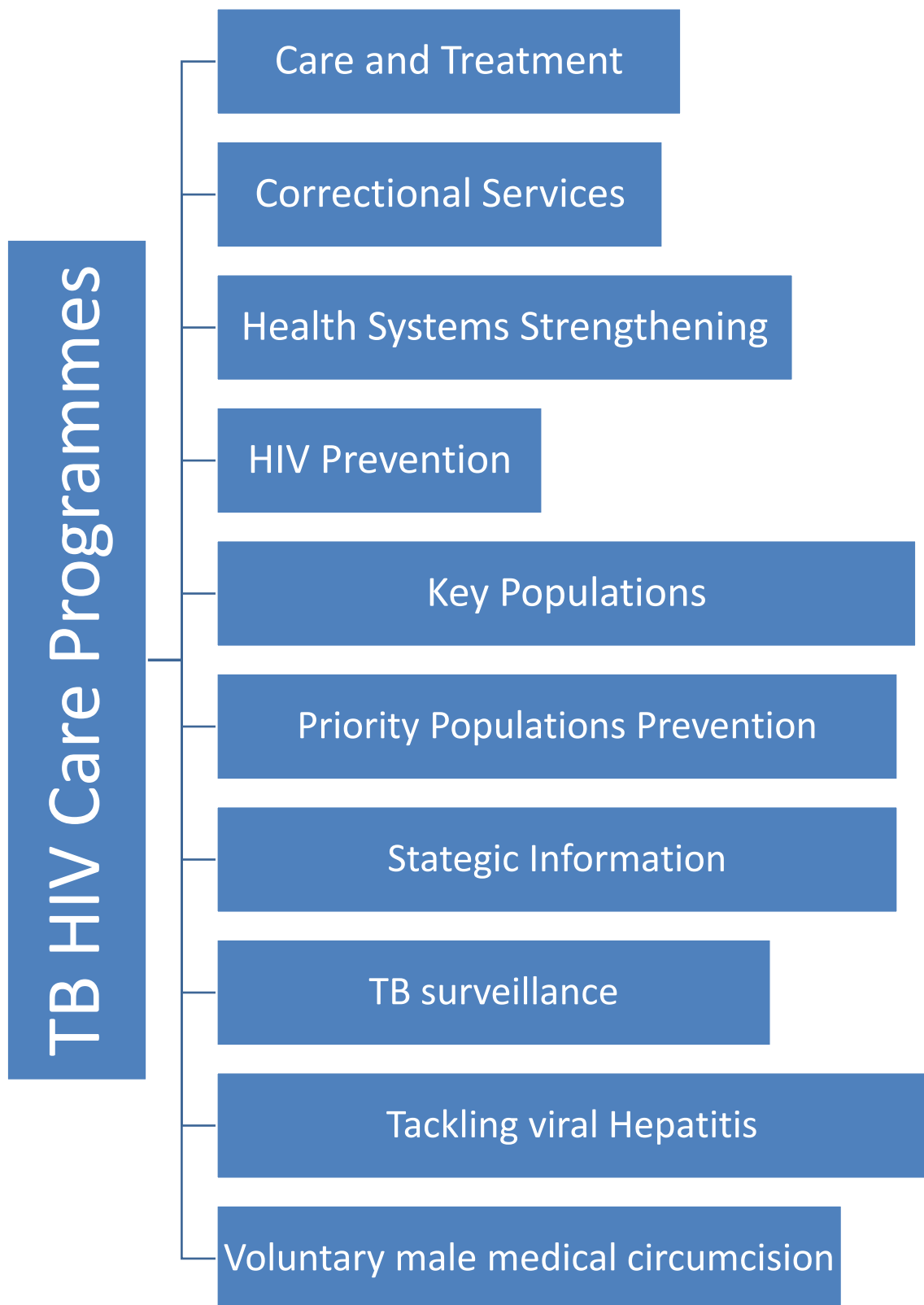
Personal collection	Postal address	Facsimile	Electronic communication (Please specify)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Signed at _____ this _____ day of _____ 20 _____

Signature of requester

* Delete whichever is not applicable

Annexure B: Programme structure



Annexure C: Request form

FORM 2 REQUEST FOR ACCESS TO RECORD [Regulation 7]

Note:

1. Proof of identity must be attached by the requester.
2. If requests made on behalf of another person, proof of such authorisation, must be attached to this form.

TO: The information officer

(Address)

E-mail address: _____

Fax number: _____

Mark with an "X"

- Request is made in my own name Request is made on behalf of another person.

PERSONAL INFORMATION	
Full names:	
Any further particulars of record:	
TYPE OF RECORD	
<i>(Mark the applicable box with an "X")</i>	
Record is in written or printed form	
Record comprises virtual images (this includes photographs, slides, video recordings, computer-generated images, sketches, etc)	
Record consists of recorded words or information which can be reproduced in sound	
Record is held on a computer or in an electronic, or machine-readable form	
FORM OF ACCESS	
<i>(Mark the applicable box with an "X")</i>	
Printed copy of record (including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form)	
<i>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 page and attach it to this form. All additional pages must be signed.)</i>	
Description of record or relevant part of the record:	
Reference number, if available:	

Written or printed transcription of virtual images (this includes photographs, slides, video recordings, computer-generated images, sketches, etc)	
Transcription of soundtrack (written or printed document)	
Copy of record on flash drive (including virtual images and soundtracks)	
Copy of record on compact disc drive (including virtual images and soundtracks)	
Copy of record saved on cloud storage server	

MANNER OF ACCESS (Mark the applicable box with an "X")	
Personal inspection of record at registered address of public/private body (including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form)	
Postal services to postal address	
Postal services to street address	
Courier service to street address	
Facsimile of information in written or printed format (including transcriptions)	
E-mail of information (including soundtracks if possible)	
Cloud share/file transfer	
Preferred language: (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)	

PARTICULARS OF RIGHT TO BE EXERCISED OR PROTECTED <i>If the provided space is inadequate, please continue on a separate page and attach it to this Form. The requester must sign all the additional pages.</i>	
Indicate which right is to be exercised or protected:	
Explain why the record requested is required for the exercise or protection of the aforementioned right:	

FEEs	
a)	A request fee must be paid before the request will be considered.
b)	You will be notified of the amount of the access fee to be paid.
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:	

You will be notified in writing whether your request has been approved or denied and if approved the costs relating to your request, if any. Please indicate your preferred manner of correspondence:

Postal address	Facsimile	Electronic communication (Please specify)

Signed at _____ this _____ day of _____ 20 _____

Signature of requester / person on whose behalf request is made

FOR OFFICIAL USE

Reference number:	
Request received by: <i>(state rank, name and surname of information officer)</i>	
Date received:	
Access fees:	
Deposit (if any):	

Signature of information officer

Annexure D: Prescribed fees

Fees in Respect of Private Bodies

Item	Description	Amount
1.	The request fee payable by every requester	R140.00
2.	Photocopy/printed black & white copy of A4-size page	R2.00 per page or part thereof.
3.	Printed copy of A4-size page	R2.00 per page or part thereof.
4.	For a copy in a computer-readable form on: (iii) Flash drive (to be provided by requestor) (iv) Compact disc <ul style="list-style-type: none"> • If provided by requestor • If provided to the requestor 	R40.00 R40.00 R60.00
5.	For a transcription of visual images per A4-size page	Service to be outsourced. Will depend on quotation from Service provider.
6.	Copy of visual images	
7.	Transcription of an audio record, per A4-size page	R24.00
8.	Copy of an audio record on: (v) Flash drive (to be provided by requestor) (vi) Compact disc <ul style="list-style-type: none"> • If provided by requestor • If provided to the requestor 	R40.00 R40.00 R60.00
9.	To search for and prepare the record for disclosure for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation. To not exceed a total cost of	R145.00 R435.00
10.	Deposit: If search exceeds 6 hours	One third of amount per request calculated in terms of items 2 to 8.
11.	Postage, e-mail or any other electronic transfer	Actual expense, if any."