



**PROMOTION OF
ACCESS TO
INFORMATION
MANUAL (PAIA
MANUAL)
TT-FOA-20**

Standard Operating Policy – Finance,
Operations & Administration



1. INTRODUCTION

1.1. This manual extends to the information held by the Tshiamiso Trust, hereinafter referred to as “the Trust”. The Trust is a registered in terms of the Trust Property Control Act, under registration number **IT001752/2019 (G)**.

1.2. The Trust has been established to implement and fulfil the terms of the silicosis and TB class action settlement agreement. It is tasked with ensuring that all eligible former or current gold mineworkers with silicosis or work-related TB (or, in case of deceased mineworkers, their dependants) are compensated as per the registered Trust Deed.

1.3. In fulfilling its mandate, the Trust, the founding companies, Agents and claimants’ attorneys will do all they can to provide the necessary information to support the claims. The Trust’s functions include, but are not limited to, the tracking and tracing of eligible claimants, assistance with the claims process, the processing of claims, the facilitation of benefit medical examiners, and the release of payments to successful claimants. The intended co-operation with the Medical Bureau for Occupational Diseases, will reduce duplication and facilitate claims on both institutions. The Trust is also responsible for managing all the administrative functions of the Trust.

1.4. This manual is intended to foster a culture of transparency and accountability, 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.

1.5. This manual is compiled in accordance with section 51 of the PAIA Act. It is intended to provide:

- A description of the records held by the Trust and on behalf of the Trust
- Stipulate the grounds for refusal of access to any records
- Outline the procedure to be followed and the fees payable when requesting access to information



1.6. This manual is available for inspection, free of charge, at the physical address of the Trust, recorded in Section 3 below, as well as on the Trust's website.

2. PURPOSE OF PAIA

2.1. The Promotion of Access to Information Act, 2000 (“**PAIA**”) gives effect to section 32 of the Constitution, which provides that everyone has the right to access information held by the State, as well as information held by another person (or private body) when such privately held information is required to exercise a right or to protect a right.

2.2. PAIA, provides that a person requesting information must be given access to any record of a private body, if that record is required for the exercise or the protection of a right. However, such request has to comply with the procedural requirements laid down by the PAIA.

2.3. Section 9 of the PAIA Act however recognises that such a 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; and 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.

3. TRUST INFORMATION AND CONTACT DETAILS

3.1. General Contact Details

The Tshiamiso Trust

Chief Executive Officer:	Lusanda Jiya (acting)
Postal & Physical address:	Block 2, 3 Anerley Road Parktown, Johannesburg 2193
Telephone number:	010 824 8350
Website:	www.tshiamisotrust.com

3.2. Information Officer Contact Details

Name: Tshepang Mtshemla
Postal & Physical address: Block 2, 3 Anerley Road
Parktown, Johannesburg
2193
Telephone number: 010 824 8350
E-mail address: paia.requests@tshiamisotrusted.com

3.3. Deputy Information Officer Contact Details

Name: Rhulani Mackaukau
Postal & Physical address: Block 2, 3 Anerley Road
Parktown, Johannesburg
2193
Telephone number: 010 824 8350
E-mail address: paia.requests@tshiamisotrusted.com

3.4. South African Human Right Commission: The PAIA Unit

The South African Human Rights Commission is required in terms of the PAIA Act to compile a guide in every official language, containing information as may reasonably be required by a person who wishes to exercise any right contemplated in the act, in a manner that is easily comprehensible to any such person. As at the date of publishing this manual, the guide had not yet been compiled. Any enquiries regarding the guide should be directed to:

Name: The PAIA Unit: Information and Communications
Postal address: Private Bag X2700, Houghton, 2041
Physical address: South African Human Rights Commission: PAIA Unit
33 Hoofd Street, Braampark Forum III
Braamfontein
Telephone number: 011 484 8300
Fax number: 011 484 1360
Website: www.sahrc.org.za

E-mail address: PAIA@sahrc.org.za

4. RECORDS OF THE TRUST

Section 50 of the PAIA Act stipulates that:

A requester must be given access to any record of a private body if:

that record is required for the exercise or protection of any right;

that person complies with the procedural requirements in the act relating to a request for access to that record;

access to that record is not refused in terms of any ground for refusal contemplated in chapter 4 of the act.

The accessibility of the documents may be subject to grounds for refusal as set out in part 5 of this manual.

Records held by the Trust are broadly classified and grouped according to the following subjects and categories:

4.1. **Records/information available without formal request to be made and are automatically available without a person having to request access in terms of this Act:**

- Address and telephone details of the Trust
- Web site and Trust e-mail address;
- Names of Trustees, Executive and Management Teams;
- Total of staff members (numbers);
- Contents in annual reports; and
- Contents in Brochures.

4.2. **Personnel Records**

- 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; and
- Training schedules and material.

"Personnel" refers to any person who works for or provides services to or on behalf of the Trust and that receives or is entitled to receive remuneration and any other person who assists in carrying out or conducting the business of the Trust and includes, without limitation, the Trustees, all permanent, temporary and part-time staff, as well as contract workers.

4.3. **Claimant/ Beneficiary Records**

- Records provided by an eligible claimant, claimant or beneficiary of the Trust;
- Records provided by a dependant of to an eligible claimant, claimant or beneficiary of the Trust;
- Records provided by a third party in respect of an eligible claimant, claimant or beneficiary of the Trust;
- Records generated by or within the Trust relating to an eligible claimant, claimant or beneficiary.

The terms claimant and beneficiary refer to the terms as defined in the Trust Deed.

4.4. **Trust Records**

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

- Financial records;
- Operational records;
- Information technology policies and procedures;
- Marketing and communication records;
- Administrative records;
- Statutory records;
- Internal policies and procedures; and
- Human resource records.

4.5. **Other Party Records**

The Trust may possess records pertaining to other parties including, but not limited to, contractors, suppliers, and service providers and such other parties may possess records that can be said to

belong to the Trust. Records held by the Trust pertaining to other parties, including but are not limited to: financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about contractors/suppliers

5. ACCESS TO RECORDS HELD BY THE TRUST

Records held by the Trust 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 Trust.

There are two types of requesters:

5.1. Personal Requester

- A personal requester is a requester who is seeking access to a record containing personal information about the requester.
- The Trust 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 may be charged.

5.2. Other Requester

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

6. REQUEST PROCEDURE

- 6.1. A Personal Requester may submit a written request to the Designated Information Officer whose contact details appear in section 3 of this manual, or in accordance with the process notes published on the Trust's website from time to time.

6.2. A requester requiring access to information held by the Trust or on behalf of the Trust, must complete the prescribed form, enclosed herewith as Annexure A, submit it to the Information Officer at the postal or physical address, or electronic mail address recorded in section 3 of this manual and pay a request fee and a deposit, if applicable (refer section 8 of this manual).

6.3. The prescribed form:

1. Must be completed comprehensively to at least enable the information officer to identify:

- The record or records requested;
- The identity number of the requester;
- The form of access required, if the request is granted;
- The address and contact number of the requester.

2. The requester must also

- State that he requires the information in order to exercise or protect a right; and
- Clearly state the nature of the right to be exercised or protected. In addition, the requester must clearly specify why the record is necessary to exercise or protect such a right.

6.4. **ACCESS TO HEALTH RECORDS**

6.4.1. All medical and health records are strictly confidential and will only be disseminated to personal requestors upon verification of identification, or to Other requestors in terms of Section 60 of the Act.

6.5. The Trust will process the request within 30 days, unless the requester has stated special reasons which would satisfy the Information officer that circumstances dictating that the above time periods not are complied with.

6.6. The requester will be informed in writing whether access has been 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.

6.7. 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.

6.8. If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.

6.9. The requester must pay the prescribed fee, before any further processing can take place.

7. GROUNDS FOR REFUSAL

The Trust may refuse a request for information. The basis on which the Trust may refuse a request for information have been detailed below:

7.1. **Mandatory Protection of Privacy of Third Party who is Natural Person**

A request for access to a record may be refused if its disclosure would involve the unreasonable disclosure of personal information about a third party, including a deceased individual.

7.2. **Mandatory Protection of Commercial Information of Third Party**

A request for access to a record may be refused if the record contains

- Trade secrets of a third party;
- Financial, commercial, scientific or technical information, other than trade secrets, of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that third party; or
- Information supplied in confidence by a third party, the disclosure of which could reasonably be expected:
 - To put that third party at a disadvantage in contractual or other negotiations; or
 - To prejudice that third party in commercial competition.

7.3. **Mandatory Protection of Certain Confidential Information of Third Party**

A request for access to a record may be refused if its disclosure would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement.

7.4. **Mandatory Protection of Safety of Individuals, and Protection of Property**

A request for access to a record may be refused

- If its disclosure could reasonably be expected to endanger the life or physical safety of an individual; or
- If its disclosure would be likely to prejudice or impair
 - The security of
 - A building, structure or system, including, but not limited to, a computer or communication system;
 - A means of transport; or
 - Any other property; or

- Methods, systems, plans or procedures for the protection of
 - An individual in accordance with a witness protection scheme;
 - The safety of the public, or any part of the public; or
 - The security of property.

7.5. Mandatory Protection of Records Privileged from Production in Legal Proceedings

A request for access to a record may be refused if the record is privileged from production in legal proceedings unless the person entitled to the privilege has waived the privilege.

7.6. Commercial Information of Private Body

A request for access to a record may be refused if the record

- Contains trade secrets of the private body;
- Contains financial, commercial, scientific or technical information, other than trade secrets, of the private body, the disclosure of which would be likely to cause harm to the commercial or financial interests of the body;
- Contains information, the disclosure of which could reasonably be expected
 - To put the private body at a disadvantage in contractual or other negotiations; or
 - To prejudice the body in commercial competition;
- Is a computer programme, as defined in section 1(1) of the Copyright Act 98 of 1978 as amended, owned by the private body, except insofar as it is required to give access to a record to which access is granted in terms of this act.

7.7. Mandatory Protection of Research Information of Third Party, and Protection of Research Information of Private Body

A request for access to a record may be refused if the record

- Contains information about research being or to be carried out by or on behalf of a third party, the disclosure of which would be likely to expose
 - The third party;
 - A person that is or will be carrying out the research on behalf of the third party; or
 - The subject matter of the research, to serious disadvantage.
- Contains information about research being or to be carried out by or on behalf of the private body, the disclosure of which would be likely to expose
 - The private body;

- A person that is or will be carrying out the research on behalf of the private body; or
- The subject matter of the research, to serious disadvantage.

7.8. Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused.

8. REMEDIES

8.1. Internal Remedies

The Trust does not have internal appeal procedures. The decision made by the Information Officer is final. Requesters 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.

8.2. External Remedies

- 8.2.1. A requestor that is dissatisfied with the Information Officer's reasons for refusal to disclose information, may within 30 (thirty) days of notification of the decision, apply to a Court for relief.
- 8.2.2. A third party dissatisfied with the Information Officer's reasons for refusal to disclose information, may within 30 (thirty) days of notification of the decision, apply to a Court for relief.
- 8.2.3. For the purposes of PAIA, the relevant Courts that have jurisdiction for such applications are:
- Constitutional Court;
 - High Court;
 - Another court of similar status; or
 - Magistrate's Court designated by Minister of Justice and Constitutional Development.

9. PRESCRIBED FEES

- 9.1. The applicable fees are prescribed in terms of the Regulations promulgated under PAIA. There are two types of fees payable:
- **Request fee:** A non-refundable request fee of R50 (excluding VAT) is payable on submission of any request for access to any record. This does not apply if the request is for personal records of the person requesting – in this instance no fee is payable.

- **Access fee:** An access fee is payable prior to being granted access to the records in the form required. These fees are prescribed in Part III of Annexure A as defined in Government gazette Notice No. 187, Regulation 11.

9.2. When the request is received by the Information Officer, such officer will by notice require the requester to pay the prescribed fee, before further processing of the request.

9.3. 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 will notify the requester to pay as a deposit the prescribed portion of the access fee which would be payable if the request is granted.

9.4. The Information Officer may withhold a record until the requester has paid the relevant fee.

9.5. A requester whose request for access to a record has been granted, must pay an access fee that is calculated to include, where applicable, the request fee, the process fee for reproduction and for the search and preparation, and 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 requested form.

9.6. If a deposit has been paid in respect of a request for access, which is refused, the Information Officer concerned must repay the deposit to the requester.

9.7. All fees are subject to change as allowed for in PAIA and as a consequence such escalations may not always be immediately available at the time of the request being made. Requesters will be informed of any changes to the fees prior to making a payment.



“ANNEXURE A”

REQUEST FOR INFORMATION FORM

1. PARTICULARS OF PERSON REQUESTING ACCESS TO INFORMATION

Full Names & Surname: _____
Identification Number: _____
Telephone Number: _____
Fax Number: _____
E-Mail Address: _____
Postal Address: _____
Code: _____

2. PARTICULARS OF PERSON ON WHOSE BEHALF THE REQUEST IS MADE

Only complete this section if a request for information is made on behalf of another person.

Full Names & Surname: _____
Identification / Company Number: _____

3. PARTICULARS OF REQUESTED INFORMATION

Provide full particulars of the information to which access is requested. If the provided space is not sufficient, please continue on a separate page and attach it to this form. Any additional pages submitted must be signed.

4. FORMAT IN WHICH INFORMATION IS REQUESTED

Indicate the format in which the information requested is required. Please note that the request for access in the specified format may depend on the format in which the record is available and access in the requested format may be refused under certain circumstances.



5. RIGHT TO BE EXERCISED OR PROTECTED

Indicate what right is to be exercised and/or protected and why the information is required to protect and/or to exercise this right.

6. NOTICE OF APPROVAL / REJECTION OF REQUEST

You will be notified via e-mail and/or post whether your request has been approved or denied. If you wish to be informed in another manner, please specify the manner and provide the necessary details:

Signed at: _____ on this _____ day of _____ 20____

Signature of person submitting the request