

JEFFER WENTZEL
BOWENS
10 FRICKER ROAD
ILLOVO BOULEVARD
JOHANNESBURG 2196



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 481 Pretoria, 22 July 2005 No. 27799

MANUAL

IN ACCORDANCE WITH

**THE PROMOTION OF ACCESS TO
INFORMATION ACT (NO. 2 OF 2000)**

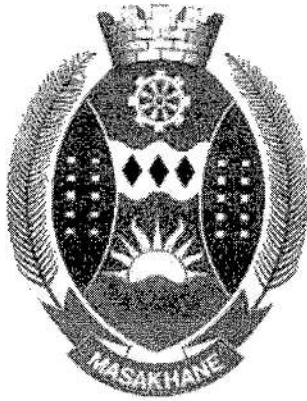


AIDS HELPLINE: 0800-0123-22 Prevention is the cure

INDEX

Company Name	Gazette No.	Date	Page No.
Steve Tshwete Local Municipality	27799	22/07/2005	3

STEVE TSHWETE LOCAL MUNICIPALITY



**MANUAL IN TERMS OF SECTION 14 OF THE
PROMOTION OF ACCESS TO INFORMATION
ACT, 2 OF 2000**

STEVE TSHWETE LOCAL MUNICIPALITY

Manual in terms of Section 14 of the Promotion of Access to Information Act no. 2 of 2000.

<u>TABLE OF CONTENTS</u>	<u>PAGE</u>
Part 1	5
Introduction	5
Purpose of the Manual	5
Part ii	5
The Act.	5
Part iii	8
Structure and Schematic Diagram	8
Part iv	11
Contact Details	11
Part v	12
Guide or how to use the Act	12
Part vi	12
Categories and subjects of information	12
Part vii	16
How to request access to a record	16
Part viii	17
Appeal Procedures	17
Part ix	18
Fees	18

Part 1

INTRODUCTION

The promotion of Access to Information Act, 2 of 2000 (the Act) was enacted to give effect to the constitutional right of access of any information held by the State or any other person and which is required for the exercise or protection of any rights.

PURPOSE OF THE MANUAL

The manual is intended to foster a culture of transparency and accountability within the organisation as a whole by giving effect to the right of access to information that is required for the exercise or protection of any right.

The manual further seek 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.

Part ii

THE ACT

Section 14 reads as follows:

Manual on function of, and index of records held by, public body

- (1) Within six months after the commencement of this section or the coming into existence of a public body, the information officer of the public body concerned must compile in at least three official languages a manual containing-
 - (a) a description of its structure and functions;
 - (b) the postal and street address, phone and fax number and, if available, electronic mail address of the information officer of the body and of every deputy information officer of the body designated in terms of section 17 (1);
 - (c) a description of the guide referred to in section 10, if available, and how to obtain access to it;
 - (d) sufficient detail to facilitate a request for access to a record of the body, a description of the subjects on which the body holds records and the categories of records held on each subject;
 - (e) the latest notice, in terms of section 15 (2), if any, regarding the categories of records of the body which are available without a person having to request access in terms of this Act;

- (f) a description of the services available to members of the public from the body and how to gain access to those services;
 - (g) a description of any arrangement or provision for a person (other than a public body referred to in paragraph (a) or (b) (i) of the definition of 'public body') by consultation, making representations or otherwise, to participate in or influence-
 - (h) the formulation of policy; or
 - (ii) the exercise of powers or performance of duties, by the body;
 - (h) a description of all remedies available in respect of an act or a failure to act by the body; and
 - (i) such other information as may be prescribed.
- (2) A public body must, if necessary, update and publish its manual referred to in subsection (1) at intervals of not more than one year.
- (3) Each manual must be made available as prescribed.
- (4) (a) 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.
- (b) The public bodies in question must share the cost of the compilation and making available of such manual as the Minister determines.
- (5) * 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.

(ii) OTHER LEGISLATION

Structural Description and functions of the Steve Tshwete Local Municipality [Section 14 (l) (a)]

1. The powers and functions of the Steve Tshwete Local Municipality are listed inter alia in sections 152, 156 and 229 of the Constitution of South Africa, 108 of 1996, which reads as follows:

Section 152: Objects of local government

- (1) The objects of local government are-

- (a) to provide democratic and accountable government for local communities;

- (b) to ensure the provision of services to communities in a sustainable manner;
 - (c) to promote social and economic development;
 - (d) to promote a safe and healthy environment; and
 - (e) to encourage the involvement of communities and community organisation's in the matters of local government.
- (2) A municipality must strive, within its financial and administrative capacity, to achieve the objects set out in subsection (1).

Section 153: Development duties of municipalities

A municipality must-

- (a) structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social economic development of the community; and
- (b) participate in national and provincial development programmes.

Section 229: Municipal fiscal powers and functions

- (1) Subject to subsections (2), (3) and (4), a municipality may impose-
- (a) rates on property and surcharges on fees for services provided by or on behalf of the municipality; and
 - (b) if authorised by national legislation, other taxes, levies and duties appropriate to local government or to the category of local government into which that municipality falls, but no municipality may impose income tax, value-added tax, general sales tax or customs duty.
- (2) The power of a municipality to impose rates on property, surcharges on fees for services provided or on behalf of the municipality, or other taxes, levies or duties-
- (a) may not be exercised in a way that materially and unreasonably prejudices national economic policies, economic activities across municipal boundaries, or the national mobility of goods, services, capital or labour; and
 - (b) may be regulated by national legislation.
- (3) When two municipalities have the same fiscal power and functions with regard to the same area, an appropriate division of those powers and functions must be made in

terms of national legislation. The division may be made only after taking into account at least the following criteria:

- (a) The need to comply with sound principles of taxation.
 - (b) The powers and functions performed by each municipality.
 - (c) The fiscal capacity of each municipality.
 - (d) The effectiveness and efficiency of raising taxes, levies and duties.
 - (e) Equity.
- (4) Nothing in this section precludes the sharing of revenue in terms of this section between municipalities that have fiscal power and functions in the same area.
- (5) National legislation envisaged in this section may be enacted only after organised local government and the Financial and Fiscal Commission have been consulted, and any recommendations of the Commission have been considered.

Other legislation also contains information about the functions of the Steve Tshwete Local Municipality of which the most important is Section 83 (1) and (2) and 84 (2) of the Local Government Municipal Structures Act, 117 of 1998, which reads as follows:

Section 83 (1): General

A Municipality has the functions and powers assigned to it in terms of section 156 and 229 of the Constitution.

Section 83 (2)

The functions and powers referred to in subsection (1) must be divided in the case of a district municipality and the local municipalities within the area of the district municipality, as set out in this Chapter.

Section 84 (2):

A local municipality has the functions and powers referred to in Section 83(1), excluding those functions and powers vested in terms of subsection (1) of this section in the district municipality in whose area it falls.

Part iii

STRUCTURE AND SCHEMATIC DIAGRAM OF THE STEVE TSHWETE LOCAL MUNICIPALITY

1. Structure

The Steve Tshwete Local Municipality consist of a political component of 47 councillors elected in terms of applicable legislation of South Africa and an administrative component made up by different departments which together operates as one unit. The following areas falls under the Steve Tshwete Local Municipality's area of jurisdiction: Middelburg, Hendrina, Kranspoort, Presidentsrus, Doornkop, mine villages, Rietkuil, Pullenshope, Komati, Naledi, Lesedi.

The Executive Mayor, IMT Mahlangu is the political head of the Steve Tshwete Local Municipality while the Municipal Manager, Mr WD Fouche is both the administrative head and accounting officer of the Municipality. The component which make up the administration of the Municipality are headed by managers directly accountable to the Municipal Manager.

2. Schematic diagram of the Steve Tshwete Local Municipality

The following schematic diagram of the Steve Tshwete Local Municipality represents the structure thereof at the date of publishing this manual.

Political Component

Legislative Authority			
Council of the Steve Tshwete Local Municipality consisting of 47 councillors			
Executive Authority			
Executive Mayor			
Speaker	6 x MMC	PA	Secretary and driver

Administrative Component

Municipal Manager				
Corporate Services	Technical & Facilities	Public Services	Finance	Audit

3. Core responsibilities of the Departments

3.1 Municipal Manager

Section 55 of the Municipal systems Act, 32 of 2000 states as follows:

"As the head of administration the municipal manager of a municipality is, subject to the policy directions of the municipal council, responsible and accountable for:

- the formation and development of an economic, effective, efficient and

accountable administration in accordance with the Local Government Municipality Structures Act, 117 of 1998, Local Government Municipal Systems Act, 32 of 2000 and all other applicable legislation.

- implementation of the municipality's IDP and the monitoring of progress with the implementation thereof
- management, effective utilization and training of staff, maintenance of discipline of staff, appointment of staff other than those referred to in section 56 (a) subject to the Employment Equity Act, 55 of 1998, and the promotion of sound labour relations and compliance by the municipality with applicable labour legislation.
- advising the political structures and political office bearers of the municipality, managing communications between the municipality's administration, its political structures and political office bearers, giving effect to the decisions of the political structures and office bearers of the municipality.
- administration and implementation of the municipality's by-laws and other legislation
- exercise of powers and the performance of any duties delegated by the municipality council or sub-delegated by other delegating authorities of the municipality in terms of Section 59 of the Municipal Systems Act.
- Facilitating participation by the local community in the affairs of the municipality and by developing and maintaining a system whereby community satisfaction with municipal services is assessed.
- the implementation of national and provincial legislation applicable to the municipality
- responsible and accountable for all income and expenditure of the municipality, all assets and the discharge of all liabilities of the municipality and proper and diligent compliance with applicable municipal finance management legislation.
- performance of any other function that may be assigned by the municipal council.

3.2 Corporate Services

The provision of support service to the Council and other departments.

The receipt, distribution and safekeeping of all Council's correspondence.

The effective control, safekeeping and distribution of all Council records excluding financial records.

Maintenance of Council's geographical information system.

3.3 Technical and Facilities

The installation and provision of infrastructural services throughout the area of jurisdiction of the municipality-

Maintenance and upgrading of Council's facilities.

3.4 Public Services

Rendering of Safety and Security Services as well as Housing, Health and Social Services throughout the area of jurisdiction of the municipality.

3.5 Finance

Management of all income, expenditure and related matters of the municipality in accordance with the applicable municipal finance legislation.

3.6 Audit

Monitoring diligent compliance with the applicable municipal finance and all other relevant legislation.

Part iv

CONTACT DETAILS

Information Officer	:	Municipal Manager Mr WD Fouche wfouche@middelburgsa.co.za
Deputy Information Officer	:	Manager Corporate Services Mr SM Mnguni mmnguni@middelburgsa.co.za
	:	Chief Public Relations Officer Ms T Malesela tmalesela@middelburgsa.co.za

General information and contact details

Physical Address	:	Municipal Buildings c/o Church Street and Wanderers Avenue
------------------	---	---

Middelburg

Postal Address : P.O. Box 14
Middelburg
1050

Telephone : 013 – 249 7000

Fax : 013 – 243 2550

E-mail : council@middelburgsa.co.za

Part v

Section 10 guide on how to use the Act

The guide will be available from the South African Human Rights Commission.

Part vi

CATEGORIES AND SUBJECTS OF INFORMATION

The list of subjects on which documents are held will be updated from time to time and requesters should contact the Information Officer or his deputy to establish if a record not listed is held by the municipality as well as to the classification and availability thereof.

The categories of documents for which no request is required are listed in Part vi (1) and Part vi (2) hereunder while the categories of documents which are not automatically available are listed in Part vi (3).

1. Categories automatically available to employees without a formal request

The following records are automatically available to all employees and need not to be requested in accordance with the procedure outlined in Part vii below.

- personnel records are available to the employee concerned
- records of disciplinary hearings and related matters are available to the employee concerned
- Council's procurement policy, employment equity plan, employment statistics and skills development plan.
- Council's policies, procedures and guidelines and all other documents to which the general public as listed in Part vi (2) below is entitled to without having to request access thereto in terms of Part vii below.

2. Categories automatically available to the general public without a formal request

The following documents are automatically available to the general public and need not to be requested in accordance with the procedure outlined in point 6 below.

2.1 General public

- the Steve Tshwete Local Municipality notice of establishment
- public relations brochures and publications
- media releases
- agendas prepared for a full council meeting excluding those parts which relate to personnel matters and which may in terms of relevant legislation be excluded and issues listed in point 5.3 below.
- the municipality's Integrated Development Plan.
- the municipality's procurement policy
- documents, reports, plans, frameworks, policies and procedures, the context of which the municipality must notify the general public in terms of applicable legislation of its existence. The same applies to Council's discussions on the subject and matters which must be published for general comment or cognizance by the public
- the municipality's by-laws
- legislation applicable to the municipality
- tender or quotation documents in respect of a tender issued, called and awarded by the municipality provided that the fees applicable for that specific tender be paid

2.2 Specific categories of persons

Copies of tender documents, levy returns or any other documents submitted by a person provided that the requestor submitted the original document in the possession of the municipality

3 Categories which are not automatically available

The following categories of records are not automatically available and the formal procedure described in point 6 below should be followed in order to access these records.

3.1 Personnel records

These includes the following:

- personnel information, employment history and health records
- personal records provided to the municipality by it's personnel
- records which a third party has provided to the municipality about any of it's personnel
- training and development
- conditions of employment and other personnel – related contractual and legal records
- internal evaluation records
- records of internal loans and financial assistance
- other internal records and correspondence.

3.2 Consumer related records

These include the following:

- records which consumers have provided to the municipality acting for and on behalf of a company
- records a third party has provided to the municipality
- records generated by or within the municipality in respect of all aspects relating to his or her liability in respect of levies towards the municipality
- information relating to the financial operations and employment history of any person who submitted a tender, quotation, proposal, submission, presentation or offer to the municipality for the supply, provision or installation of services, material or equipment.

3.3 Municipal records

These include the following:

- financial records
- operation records
- project management, including building plans, plant and operation manuals, procedures and maintenance

- data bases
- patents, registered designs and trademarks
- technological know-how
- information technology
- intellectual property
- product records
- marketing and strategic records
- internal and strategic records
- internal correspondence
- retirement fund records
- statutory records
- statutory compliance records
- internal policies and procedures
- treasury related records
- securities and equities
- investment records
- financial records
- cash flow records
- anti corruption hotline records
- any other record not listed above which may be held by the municipality

3.4 Other parties

Records held by the municipality relating to other municipalities, organs of state and parties including financial records, correspondence, contractual records, records provided by other parties and records third parties have provided about

the municipality's contractors and supplier in respect of contractors, suppliers, subsidiary or fellow subsidiary companies, joint ventures and service providers.

In respect to tender or quotation documents, the records shall be made available to the requestor only if the requestor submitted the said documents to be considered for a specific service or item and only which relates to the specific document requested.

Part vii

HOW TO REQUEST ACCESS TO A RECORD

1 Informal procedure for requesting records automatically available

- (a) If the record to be requested relates to a single department and access thereto is likely to be given automatically without having to request access thereto in terms of the Act, the requestor should make his or her request directly to the relevant department.
- (b) A request as described in paragraph (a) above should be made to the head of the department concerned. The head of the department may:
 - grant or refuse access to the record requested
 - refer the request to a higher authority
 - grant or arrange the grant of access to the record upon having given consideration to all the applicable facts and circumstances, it is appropriate to do so and, if appropriate, subject to such conditions as the municipality may impose.
- (c) If the requestor is not satisfied with the outcome of his/her request the procedure as set out in Part viii must be followed.

2 Procedure for requesting a record not automatically available.

- (a) A request for a record must be made on Form A (Request for Access to a record of a Public Body) set out in Government Gazette R187 dated 15 February 2002. On request the information officer will acknowledge receipt thereof on the form and will hand deliver, telefax or post a copy thereof to the requestor or his designee.
- (b) The requestor must
 - provide sufficient detail on the request form to enable the information officer to identify the record and the requestor

- indicate which form of access to the record is required
 - indicate if he wishes to be informed of the decision on the request in any other manner and if so, state the manner
 - identify the right that he is seeking to exercise or protect and provide an explanation of the right
 - If a request is made on behalf of another person, the requestor must submit proof of the capacity in which he is making the request to the satisfaction of the information officer.
- (c) The requestor must submit the prescribed form to the information officer at the address, telefax number and or electronic mail address set out in point 3 above.
- (d) The following request fees will be payable by every requestor other than a personal requestor prior to the request being processed:
- R35,00 (Thirty-Five Rand)
 - if the information officer is of the opinion that six hours will be exceeded to search, prepare and or reproduce the record requested, a deposit is payable equal to half of the access fee which would be payable if the request is granted
- (e) The information officer shall notify the requestor within 30 days from the date of a proper request being received. The 30 day period may be extended by the information officer in accordance with the prescriptions of the Act.
- (f) If the request for access is granted the notice referred to in (e) above will state the access fee to be paid upon access to the record and the form in which such access shall be given.
- (g) After access is granted actual access to the record will be given as soon as reasonably possible.
- (h) If the request for access is refused the information officer will provide adequate reasons for the refusal and the requestor may follow the appeal procedures at set out in Part viii.

Part viii

APPEAL PROCEDURES

1 Requestors to information must take note of the following:

- In certain circumstances the information officer is to notify a third party of a

- request for a record to whom or which that record relates and of the rights of such third party to challenge the decision of the information officer.
- In certain circumstances the information officer is obliged to refuse a request for access to certain records in terms of the Act.
 - Section 7(2) of the Promotion of Administrative Justice Act stipulates that no court or tribunal shall review any administrative action unless all internal remedies are exhausted.
- 2 The requestor who was informed shall have the right to lodge within 30 days, after receipt of the notice in which he was informed that his or her request has been refused, a written appeal to the authority referred to in paragraph 7.3 clearly setting out the following:
- the date upon when he received the notification referred to in Part vii (2)(e)
 - full reasons why he is of the opinion that the request was unreasonably or unlawfully turned down
 - the harm caused or that is likely to be caused as a result of the refusal
 - any other material aspect which is in his opinion relevant to the request or might assist the appeal authority to consider the appeal.
- 3 If the request was turned down by the Deputy Information Officer the appeal referred to in 7.2 above shall be directed to the Information Officer
- 4 If the request was turned down by the Information Officer the appeal should be directed to the Executive Mayor at the address in Part iii above.
- 5 The appeal shall be in writing and may be submitted in electronic format, by post or by telefax.
- 6 The Deputy Information Officer or a designated officer shall assist appellants who can not read or write or who do not have the means to submit the appeal in the format referred to above.

Part ix

Fees

The fees to be paid in terms of this policy shall be the fees determined in the regulations to the Act published in GN R223 of 9 March 2001.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Publications: Tel: (012) 334-4508, 334-4509, 334-4510
Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504
Subscriptions: Tel: (012) 334-4735, 334-4736, 334-4737
Cape Town Branch: Tel: (021) 465-7531

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001
Publikasies: Tel: (012) 334-4508, 334-4509, 334-4510
Advertensies: Tel: (012) 334-4673, 334-4674, 334-4504
Subskripsies: Tel: (012) 334-4735, 334-4736, 334-4737
Kaapstad-tak: Tel: (021) 465-7531