

SECTION 14 MANUAL FOR THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION (SAHRC).

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2. PARTICULARS IN TERMS OF SECTION 14

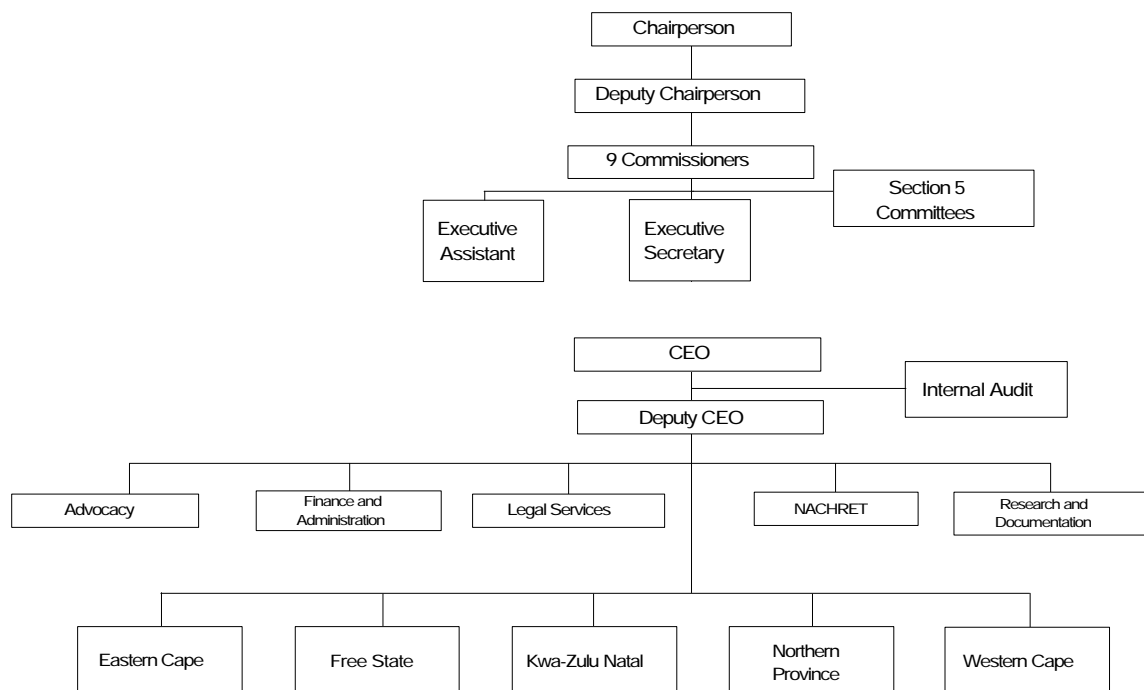
A. The functions and structure of the South African Human Rights Commission (SAHRC) [Section 14(1)(a)]

i. The functions of the SAHRC

The functions of the SAHRC as prescribed by section 184(1) of the Constitution (Act 108 of 1996) are:

184. (1) The South African Human Rights Commission must -
- (a) promote respect for human rights and a culture of human rights;
 - (b) promote the protection, development and attainment of human rights; and
 - (c) monitor and assess the observance of human rights in the Republic.

ii. A schematic diagram of the structure of the South African Human Rights Commission



iii The structure of the SAHRC

The SAHRC consists of a national office that is situated in Gauteng and various provincial offices that are situated in the Eastern Cape (Port Elizabeth), Free State (Bloemfontein), Kwa Zulu Natal (Durban), Northern Province (Polokwane) and in the Western Cape (Cape Town).

The SAHRC is made up of 7 Commissioners (including the Chairperson and Deputy Chairperson) and the Secretariat. The Full Time Commissioners are Ms Charlotte McClain, Mr Jody Kollapen (Deputy Chairperson), Dr Leon Wessels, Ms Shirley Mabusela (Chairperson), Mr Tom Manthata and Dr Zonke Majodina. Prof Karthy Govender is a Part Time Commissioner.

The Secretariat performs its functions through the various departments and is headed by the Chief Executive Officer, Ms Lindiwe Mokate, who is assisted by the Deputy CEO Mr Bongani Khumalo.

B. Contact details [Section 14(1)(b)]

Information officer:

Ms Lindiwe Mokate - CEO

requestsPAIA@sahrc.org.za

Deputy information officer:

Adv Tseliso Thipanyane - HOD Research
and Documentation Department

requestsPAIA@sahrc.org.za

General information:

Address: Boundary Road
Isle of Houghton- Wilds View
Entrance 1
Houghton
Johannesburg
2198

Postal address: Private Bag 2700
Houghton
2041

Telephone: +27 11 484-8300

Fax: +27 11 484-1360

Website: www.sahrc.org.za

General enquiries: PAIA@sahrc.org.za

C. The section 10 Guide on how to use the Act [Section 14(1)(c)]

The guide will be available from the South African Human Rights Commission by not later than August 2003.

D. Access to the records held by the SAHRC [Section 14(1)(d)]

i. Automatic disclosures [Section 14(1)(e)]

A notice in terms of section 15(2) describes the categories of records of the bodies that are available without a person having to request access in terms of the Act. Information for the SAHRC notice in terms of section 15(2) was not available at the time of publication of this manual.

Voluntary disclosures:

SAHRC publications

1. Reports
2. Booklets
3. Pamphlets
4. Posters
5. Newsletters

A comprehensive list is available on the SAHRC website: www.sahrc.org.za

ii. Records that may be requested [Sections 14(1)(d)]

Description of the subjects and categories of records held by the SAHRC:

RESEARCH AND DOCUMENTATION DEPARTMENT (*Subject*)

1. MONITORING OF SOCIO- ECONOMIC RIGHTS (*Category*)
 - Protocols (*Sub-category*)
 - Annual Economic and Social Rights Reports
 - Workshops and seminars
 - Papers
 - Conference reports
2. LIBRARY SERVICES (*Category*)
 - Books (*Example of a record*)
 - Other human rights documents

3. MONITORING OF THE IMPLEMENTATION OF THE EQUALITY LEGISLATION
 - Research reports
 - Conference reports
 - Socio- economic workshops
 - Records of meetings of the Equality Unit

4. MONITORING OF THE IMPLEMENTATION OF THE PROMOTION OF ACCESS TO INFORMATION ACT
 - Manuals of private and public bodies
 - Section 32 Reports
 - Annual Reports to the National Assembly
 - Records of Briefing of Training Sessions
 - Research reports

5. OTHER RESEARCH PROGRAMMES
 - Farming Communities Research Programme
 - Farming Communities Background Research Report
 - SAHRC Evaluation Process
 - Terms of reference
 - Funding proposals
 - Evaluation report

LEGAL SERVICES DEPARTMENT

1. COMPLAINTS (Category)
 - Records of complaints received on various human rights violations.

2. SUBPOENA HEARINGS
 - Socio- economic rights
 - Racism in the media
 - Complaints handling in respect of subpoena hearings

3. INQUIRIES
 - Prisons
 - Prisoners on death row
 - Various inquiries in respect of complaints handling
 - Media
 - Human Rights Violations in Farming Communities
 - Submissions

4. LITIGATION
 - Court cases

5. MEDIATION AND CONCILIATION
 - Records of various mediation and conciliation matters

6. RECORDS OF MEETINGS
 - Complaints Committee meetings

ADVOCACY DEPARTMENT

1. COMMUNICATIONS
 - Kaponong Newsletter
 - Annual Report of the SAHRC
 - Press releases
2. ROLL BACK XENOPHOBIA
3. CAMPAIGNS UNIT
4. OTHER CAMPAIGNS

TRAINING AND EDUCATION DEPARTMENT

1. NACHRET
 - Conferences
 - Workshops and seminars
 - Training
 - Funding proposals
 - Any other training and advocacy activities

FINANCE AND ADMINISTRATION

1. HUMAN RESOURCES
 - Policies on staff recruitment and other staff related policies
 - Employment records and other related policies
2. PROCUREMENT
 - Asset register
 - Procurement policies
3. FINANCIAL MANAGEMENT
 - Budgets
 - Strategic plans
 - MTEF submissions

COMMISSIONERS

1. Minutes of meetings of Commissioners and senior management
2. Plenary Reports
3. Records of workshops and conferences attended
4. Papers presented

iii. The request procedures

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

- The requester complies with all the procedural requirements in the Act relating to the request for access to that record; and
- Access to that record is not refused on any ground of refusal mentioned in the Act.

Nature of the request:

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

There are two types of fees required to be paid in terms of the Act, being the request fee and the access fee s22:

A requester who seeks access to a record containing personal information about that requester is not required to pay the request fee. Every other requester, who is not a personal requester, must pay the required request fee:

- The information officer must notify the requester (other than a personal requester) by notice, requiring the requester to pay the prescribed fee (if any) before further processing the request.
- The request fee payable to public bodies is R35. The requester may lodge an internal appeal, where appropriate, or an application to the court against the tender or payment of the request fee.
- After the information officer has made a decision on the request the requester must be notified of such a decision in the way in which the requester wanted to be notified in.
- If the request is granted then a further access fee must be paid for the search, preparation, reproduction and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure.

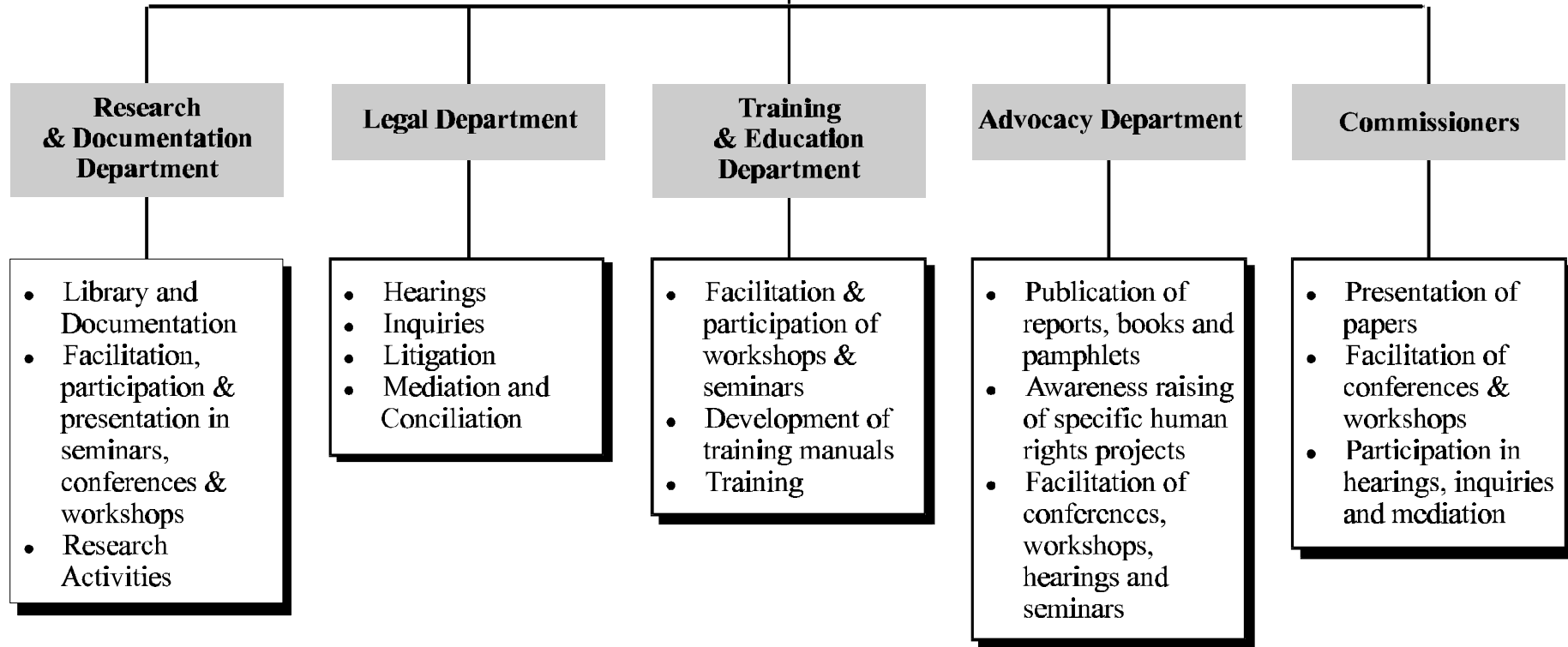
E. Services available [Section 14(1)(f)]

i. Nature of services

In the SAHRC these will include services such as: Legal Services, Research and Documentation, NACHRET and Advocacy.

See the diagram below.

SERVICES



ii. **How to gain access to these services**

To gain access to the services at SAHRC, requests must be made to the CEO of the SAHRC.

**The Chief Executive Officer of the South African Human Rights Commission:
Ms L Mokate**

Address: Boundary Road
Isle of Houghton - Wilds View
Entrance 1
Houghton
Johannesburg

Postal address: Private Bag 2700
Houghton
2041

Telephone: +27 11 484-8300
Fax: +27 11 484-1360
Website: www.sahrc.org.za
E-mail: lmokate@sahrc.org.za

F. **Arrangement allowing for public involvement in the formulation of policy and the exercise of power [Section 14(1)(g)]**

At the SAHRC, such arrangements for public involvement would include:

Section 5 Committees - in terms of the Human Rights Commission Act according to which persons to serve on such committees are appointed.

Hearings and workshops - the public may attend and make representations at these hearings and workshops.

Submissions and Reports - the Annual Report on Economic and Social Rights is open to the public for commentary before it's official submission.

Volunteers and Internship programmes - there is a recruitment policy in place for the recruitment of the public for such posts.

Consultants and contract researchers - Consultants' policy (if any) pertaining to recruitment.

G. The remedies available if the provisions of this Act are not complied with [Section 14(1)(h)]

The South African Human Rights Commission and other Chapter Nine Institutions (in terms of the Constitution of South Africa, Act 108 1996) does not have an internal appeal procedure like most other public bodies, the courts will have to be approached in such an instance. This would apply to any situation in which the requester wishes to appeal a decision made by the information officer. Although mention is made of internal appeal procedures, this is subject to such a mechanism actually being in place within a public body to facilitate such an internal appeal.

H. Other information as prescribed in terms of the Act [Section 14(1)(i)]

There is currently no information available from the Minister in terms of section 92 to be placed here.

I. Updating of the manual [Section 14(2)]

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

J. Availability of the manual [Section 14(3)]

Regulation 187 of 15 February 2002 prescribes in section 4(1) that the manual of a public body must be made available in the following manner:

A copy in each of the three official languages must be made available to every place of legal deposit as defined in section 6 of the Legal Deposits Act 1997; the South African Human Rights Commission; and every office of that public body.

The manual is to be published in three of the official languages in the *Gazette*.

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

K. Request to the minister for the compilation of one manual [Section 14(4)(a) and Section 14(4)(b)]

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

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

L. Exemption by the Minister from any provision of this section for a determined period [Section 14(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.