



Office of Health Standards Compliance
Ensuring quality and safety in health care

GUIDE

ON HOW TO USE

THE PROMOTION OF ACCESS TO INFORMATION

ACT NO. 2 OF 2000

TO BE READ TOGETHER WITH
THE PROTECTION OF PERSONAL INFORMATION ACT NO 4 OF 2013
AND
THE OHSC PRIVACY POLICY STATEMENT

Vision

Safe and quality healthcare for all South Africans.

Mission

We act independently, impartially, fairly and fearlessly on behalf of the people of South Africa in guiding, monitoring and enforcing healthcare safety and quality standards in health establishments.

Values

Our values are informed by the South African Constitution and Batho Pele principles: "Human dignity; freedom and the achievement of equality; and that people must come first."

TABLE OF CONTENTS

PAGE NO:

1. INTRODUCTION TO THE OHSC	3
2. CONTACT DETAILS OF THE OHSC	4
3. LIST OF ACRONYMS AND ABBREVIATIONS	5
4. USEFUL TERMS EXPLAINED	5
5. PURPOSE OF REVISED PAIA GUIDE FOR THE OHSC	7
6. THE OPERATIONAL ENVIRONMENT OF THE OHSC	8
7. TYPES OF RECORDS KEPT BY THE OHSC	10
8. CATEGORIES OF RECORDS AVAILABLE	12
9. DETAIL TO FACILITATE A REQUEST FOR ACCESS TO INFORMATION	13
10. ACCESS REQUEST PROCEDURE AND PRESCRIBED FEES	13
11. CONSIDERATION OF REQUESTS FOR INFORMATION	15
12. REMEDIES IN THE EVENT WHERE ACCESS IS DENIED	18
13. FORM A – REQUEST FOR ACCESS	21

1. INTRODUCTION: ROLE AND FUNCTIONS OF THE OHSC

1.1. The Office of Health Standards Compliance (“the OHSC”) was established as a schedule 3A PFMA public entity in 2014, in terms of section 79 A of the **National Health Act, 2003 (“the NHA”)**; to promote and protect the health and safety of users of health services in South Africa. To achieve this objective, Section 78 of the NHA requires that the OHSC:

1.1.1. Monitors and enforces compliance with norms and standards prescribed by the **Minister of Health** for different categories of health establishments in terms of the **Regulations published in the GG No. 41419 of 2 February 2018.**

1.1.2. Ensures that complaints about non-compliance with those prescribed norms and standards are properly evaluated, investigated where appropriate, and complaints resolved in a procedurally fair, economical, and expeditious manner as prescribed by **Regulations published in the GG No.40350 of 13 October 2016.**

1.2 In terms of Section 79 of the NHA, the OHSC must:

- *inspect and certify compliance by health establishments with the prescribed norms and standards and where appropriate and necessary, withdraw such certification;*
- *monitor indicators of risk as an early warning system intended to detect serious breaches of norms and standards and promptly report any breaches to the Minister;*
- *investigate complaints about the national health system;*
- *identify areas of concern and make recommendations for interventions by the relevant health department having jurisdiction, to ensure that compliance with prescribed norms and standards is achieved;*
- *recommend quality assurance and management systems for the national health system to the Minister for approval;*

- *keep records of all OHSC activities.*

1.3. The OHSC as a public body, is required in terms of Section 32(1)(a) of the Constitution of the Republic of South Africa, 1996, to ensure that everyone who has a right of access to any information held by the State, may do so easily to further their rights.

1.4. In terms of Section 14 of the Promotion of Access to Information Act No 2 of 2000 (“further referred to as “PAIA”), this manual provides a guide on what categories of records are held by the OHSC and the procedure(s) that needs to be followed should any member of the public, lawfully request access to such records.

2. CONTACT DETAILS

Set out below are the current address and contact details of the Office of Health Standards Compliance and its designated officers who will be responsible for dealing with enquiries for information, as received from members of the public.

Chief Executive Officer	Dr Sipiwe Mndaweni
Statutory designation as Information Officer	In terms of Section 17 of PAIA and section 55 of POPI -the above person holds the responsibilities outlined in the information legislation and may delegate their statutory functions to a Deputy Information Officer
Physical address:	79 Steve Biko Road Prinshof Pretoria, 0084
Postal address:	Private Bag X21 Arcadia 0007
Telephone number:	+27 12 942 7700
Website address:	www.ohsc.org.za
Contact Person	Deputy Information Officer Director: Governance, Board Secretary and Legal Services
e-mail:	Mrs. P. K Padayachee kpadayachee@ohsc.org.za

3. LIST OF ACRONYMS AND ABBREVIATIONS AND LEGISLATION

CEO	Chief Executive Officer
Constitution	Constitution of the Republic of SA Act 108 of 1996
DIO	Deputy Information Officer
IO	Information Officer
Information Regulator	Statutory body created in terms of POPI to adjudicate information disputes
OHSC	Office of Health Standards Compliance
OHO	Office of the Health Ombud (a separate but related function of the OHSC)
PFMA	Public Finance Management Act No 1 of 1999, as amended
PAIA	Promotion of Access to Information Act, No 2 of 2000 (as amended in 2019)
PAJA	Promotion of Administrative Justice Act, No 3 of 2000
POPI	Protection of Personal Information Act, No 4 of 2013
SAHRC	South African Human Rights Commission
Pol	Proof of identification must accompany any application form submitted
PoA	Proof of authorization and proper identification must be submitted by any representative or third party assisting an applicant

4. USEFUL TERMS EASILY EXPLAINED

Access fee	The prescribed fee as contained in Annexure B to the PAIA Regulations, to be paid by the person requesting information– unless it is someone’s personal information; or the fee has been waived (see the back of this Guide)
Administrator	This is a person working in a public body taking administrative action.

Administrative action	<p>Is any decision taken, or any failure to take a decision, by</p> <p>(a) An organ of state when:</p> <p>(i) exercising a public power in terms of the Constitution or other provincially constituted legislation; or</p> <p>(ii) exercising a public power in terms of any other legislation; or</p> <p>(b) a natural or juristic person, other than an organ of state, when exercising a public power or performing a public function in terms of any empowering legislation</p> <p>which adversely affects the rights of any person, and which has a direct, external legal effect</p>
Assisted person	Section 18(3) of PAIA also makes provision for information requests to be made orally - in instances where individuals, because of illiteracy or any disability, are unable to complete the forms and must be duly assisted by the Information Officer or Deputy Information Officer in terms of the PAIA regulations
Authorized person	The authorized person is the person who is making a request on behalf of someone else.
Automatically available records	These are records that a public body will provide to a requester without them needing to file a request and could relate to the requester's personal information or OHSC information and educational brochures guidelines etc.
Complainant	Any person who has made a request for information in terms of PAIA and challenges the outcome of the administrative decision to refuse access or did not receive feedback on a request.
Data subject	Is the person to whom personal information relates.
Deemed refusal.	If no response is received to a request from the Information Officer within the prescribed time this is defined as a deemed refusal.
Form A	The prescribed form on which a request must be made i.t.o. Regulation 2 & 3 (See back of this Guide)
Form 5	Form to lodge complaint with Information Regulator also available online at https:// www.justice.gov.za/inforeg
Representative of complainant	Legal representative or person or organization acting on behalf of the complainant

Third party	Representative or third party assisting the process of a PAIA application for information to be completed or reviewed -when it has been lodged
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5. PURPOSE OF THIS REVISED PAIA MANUAL

5.1. While the aim of PAIA is to foster a culture of transparency and accountability in public and private bodies - by widely enabling the right of access to information, it is important to note that PAIA also provides a balance- by clarifying in Chapter 4 of PAIA (sections 33-43) on what lawful grounds those rights of access to information may justifiably be limited (justifiably refused).

5.2. Section 9 of the PAIA provides that the right of access to information is subject to certain justifiable limitations aimed at, amongst others:(a) the reasonable protection of privacy; (b) commercial confidentiality; (c) effective, efficient, and good governance.

5.3 Changes Brought About by the POPI Act:

5.3.1 The Protection of Personal Information Act, No. 4 of 2013 was promulgated to come into effect incrementally. Most of the sections of the POPI Act, which created compliance obligations, only came into effect on 1 July 2020 and gave institutions a grace period of one year to become compliant. The Information Regulator, established by the Act, only started enforcing compliance with effect from 1 July 2021.

5.3.2 While PAIA enables access to all information within certain limitations – the main objective of the POPI Act is to ensure that all South African institutions -conduct themselves in a responsible manner when: collecting, processing, storing, and sharing personal information.

5.3.3 Section 10 of the PAIA Act has been amended and removed the role of the South African Human Rights Commission with regard to the provision and protection of information and established the SA Information Regulator.

5.4 Any person wishing to exercise any right contemplated in either of the above information laws - may clarify their rights by contacting the Information Regulator Act as set out below:

Physical Address: The Information Regulator of South Africa
 JD House 27 Stiemens Street,
 Braamfontein
 Johannesburg

Postal Address: Private Bag X 2700
 Houghton

Telephone: (010) 023 5200

e-mail address: enquiries@info regulator.org.za

Website: [https:// www.justice.gov.za/info reg](https://www.justice.gov.za/info reg)

6. THE OPERATIONAL ENVIRONMENT OF THE OHSC

6.1 The OHSC pursues its mandate through the following programmes or business units:

Programme	Functions
1. Administration	To provide the leadership and administrative support necessary for the OHSC to deliver on its mandate and comply with all relevant legislative requirements. These units include: Office of the CEO which is made up of: <ol style="list-style-type: none"> 1. Stakeholder relations and Communications; 2. Governance Board Secretariate and Legal Services; 3. Planning Monitoring and Evaluation; Chief Financial Officer and Corporate Services includes: <ol style="list-style-type: none"> 1. Human Resources 2. Information Technology 3. Finance and Supply Chain Management

2. Compliance Inspectorate	To manage the inspection of health establishments in order to assess compliance with national health system's norms and standards as prescribed by the Minister.
3. Certification and Enforcement	Certify health establishments as compliant or non-compliant with prescribed norms and standards and take enforcement action against non-compliant health establishments.
4. Complaints Management and the Office of the Health Ombud (OHO)	To consider, investigate and dispose of complaints relating to the non-compliance with prescribed norms and standards in a procedurally fair, economical and expeditious manner and where necessary to appoint an expert panel to hear evidence and adjudicate serious complaints together with the Health Ombud.
5. Health Standards Design, Analysis and Support	To provide high-level technical, analytical and educational support tools to enable the work of the OHSC in relation to inspections of health establishments and ongoing research of norms and standards; guidance on compliance with norms and standards, analysis of data collected and establishment of communication networks with other stakeholders.

6.2 In adherence to the OHSC's legislative mandate in terms of the National Health Act, 2003, and the Strategic Goals set by the Board, the OHSC is required to compile a **5 Year Strategic Plan** as well as an **Annual Performance Plan** on an ongoing basis. These publications are compiled and readily available from the OHSC Communication and Stakeholder Relations Unit and on the OHSC website www.ohsc.org.za.

6.3 The strategic focus of the OHSC

6.3.1 Vision:

Consistent safe and quality healthcare for all

6.3.2 Mission:

We monitor and enforce health care safety and quality standards in

health establishments independently, impartially, fairly and fearlessly on behalf of healthcare users.

6.3.3 Corporate values of the OHSC:

Human dignity	We will have respect for human individuality and treat each individual as a unique human being.
Accountability	We will take responsibility for our results and outcomes.
Transparency	We will operate in a way that creates openness between manager and employees.
Quality healthcare	Quality healthcare means doing the right thing, at the right time, in the right way, for the right person – and having the best possible results.
Safety	Maintain a safe and healthy workplace for all employees in compliance with all applicable laws and regulations. Promote a positive attitude towards safety.
Integrity	We will conduct ourselves with openness, honesty and respect for all stakeholders.

7. TYPES OF RECORDS KEPT BY THE OHSC

7.1 Finance:

7.1.1 Audited Financial Statements

7.1.2 Accounting records

7.1.3 Bank statements

7.1.4 Bank reconciliations

7.1.5 Payments records

7.1.6 Budget

- 7.1.7 Supply Chain Management policy
- 7.1.8 Supply chain management documentation

7.2 Human Resources

- 7.2.1 Employee records
- 7.2.2 Employee contracts
- 7.2.3 Employee related policies
- 7.2.4 Disciplinary Code
- 7.2.5 Employment Equity plan
- 7.2.6 Statutory required records

7.3 Governance, Board Secretariat and Legal Services

- 7.3.1 Board Charter
- 7.3.2 Terms of Reference of Committees of the Board
- 7.3.3 Agreements entered into by the OHSC.
- 7.3.4 Standard operating procedures of the legal section
- 7.3.5 Record of all litigation matters
- 7.3.6 Record of contracts entered into

7.4 Compliance Inspectorate

- 7.4.1 Inspection register
- 7.4.2 Inspection reports
- 7.4.3. Approved Annual Inspection Strategy
- 7.4.4 Copies of compliance notices issued.

7.5 Complaints management of office of the Ombud

- 7.5.1 Complaints register
- 7.5.2 Screening reports

- 7.5.3 Investigations register
- 7.5.4 Investigation reports
- 7.5.5 Register of assigned complaints
- 7.5.6 Reports issued by the Ombud

7.6 Health Standards Design, Analysis and Support

- 7.6.1 Recommendation reports submitted to the authorities
- 7.6.2 National Core Standards Measurement/Inspection tools
- 7.6.3 Records of Frequently Asked Questions
- 7.6.4 Terms of Reference for Task Teams

7.7 Certification and enforcement

- 7.7.1 Inspection register
- 7.7.2 Inspection reports
- 7.7.3 Certification and enforcement register

7.8 Communication and Stakeholder relations

- 7.8.1 Media statements
- 7.8.2 Records of the OHSC conferences and events
- 7.8.3 Publications issued by the OHSC.

8 CATEGORIES OF RECORDS AVAILABLE

(as required by Section 15(1))

The following categories of records are automatically available without a person having to formally request access in terms of this Act:

- Strategic Plan 2020/21 to 2024/25
- Annual reports, once submitted to Parliament.
- Annual financial statements, once audited and submitted to the Board.

- Regulations and guidelines
- Procedural Regulations pertaining to the Functioning of the Office of Health Standards and Compliance and Handling of complaints by the Health Ombud
- Compliance Status Framework for Clinics
- Compliance Status Framework for Health Centres
- Compliance Status Framework for Hospitals
- Certification and enforcement manual
- Protocol for engagement between the Office for Health Standards and Compliance and health establishments and other key parties
- OHSC safety policy
- External communique

9. DETAIL TO FACILITATE A REQUEST FOR ACCESS TO RECORDS (as required by Section 14 (1) (f)).

Any request for access to records should be submitted on **Form A** (a copy of which is attached) which should be sent to the contact person whose names and address details appear in Section 2 page 3 of this Guide.

10. ACCESS REQUEST PROCEDURE AND PRESCRIBED FEES

10.1 Records held by the OHSC and the OHO may be accessed, subject to the provisions of PAIA and POPI, upon request once the requirements for a request for access to information have been met. The OHSC distinguishes between three types of requesters, being a personal requester, a third party requester and an independent requester.

10.2 A personal requester is a requester who is seeking access to records containing personal information regarding him/ herself.

10.3 A third party requester is a person, duly authorized in writing, who is seeking access to records containing information regarding personal

information of the person authorizing the third party to bring such a request.

10.4 An independent requester is a requester who is seeking access to information relating to third parties. Requests by the latter will be considered in terms of the provisions of the Promotion of Access to Information Act, 2000 and the Protecting of Personal Information Act, 2013.

10.5 A request for access to any specific record must be made:

10.5.1 By completing the prescribed Form A (contained at the back of this Guide); and

10.5.2 Should be sent to the Deputy Information Officer per email address on p3.

10.6 Form A must be completed with adequate particularity to enable the Information Officer to identify:

- the record / s requested;
- the identity of the requester;
- the form of access required;
- the postal, electronic mail address or fax number of the requester.

10.7 The requester must state that he or she requires the information in order to exercise or protect his or her right and clearly state what the nature of the right is that needs to be protected. The requester must also indicate why the requested record is required to exercise or protect such right.

10.8 In the event of an individual being unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally to a Deputy Information Officer, who shall complete the form in accordance with the instruction of such a person.

10.9 Please note an initial, non-refundable request fee of R140,00 (inclusive of VAT) is payable on submission of Form A. This fee is not applicable to personal requests, i.e., individual seeking access to records pertaining to themselves or matters in which they have a direct personal interest; and in specific instances, such fee may be waived (as per regulations).

10.10 In the event that a request for access is successful an access fee will be payable for the search, reproduction and/or preparation of records and will be calculated based on the fee prescribed under the Act. The access fee must be paid prior to access being given to the requested record.

11. CONSIDERATION OF REQUESTS FOR INFORMATION

11.1 Request for information will be evaluated and the applicant will be notified within 30 days after receipt of the request in the prescribed format of the following:

11.1.1 Notification of an extension period (if required) in terms of the Act. The 30 (thirty) days period mentioned above may be extended for a further period of not more than 30 (thirty) days under certain circumstances (details will be provided together with the notification of such extension).

11.1.2 The access fee and/or deposit

The applicant will be informed of the access fee (if any) which is payable for having access to the records. In addition, a deposit may be requested which is fully refundable in the event that the application is ultimately refused.

11.2 Payment Method

All payments must be made by deposit into the following Bank:

Bank Name:	Standard Bank
Account name:	Office of Health Standards Compliance
Current account number:	411063227
Branch name:	Van der Walt Street Branch
Branch code:	01-45-00
Reference:	PAIA/00001/full names

No request may be processed unless the request fee, where applicable, has been paid; Section 22 (1) of the Act

11.3 Decision on request

11.3.1 The applicant will be informed whether or not the application for access has been denied or granted.

11.3.2 In the event that it is granted the information referred to above pertaining to the access fee, any deposit payable and any other relevant matters will be advised.

11.3.3 In the event that the applicant is refused access, the applicant will be given adequate reasons for refusal and will be informed that the applicant may lodge a complaint with the Information Regulator or bring an application to court to review the refusal of access to records.

11.4 Grounds for refusal

The OHSC may legitimately refuse to grant access to a requested record that falls within a certain category. Grounds on which the OHSC will refuse access to information includes, but is not limited to the

following grounds:

- 11.4.1 In the event where the OHSC holds information about a third person (who is a natural or juristic person), including a deceased person, and the disclosure would amount to an unreasonable disclosure.
- 11.4.2 Protecting commercial information of the OHSC or any third party (for example financial, commercial scientific or technical information that may harm the commercial or financial interests of the OHSC or third party).
- 11.4.3 If disclosure of the record would result in a breach of a duty of confidence owed to a third party in terms of an agreement.
- 11.4.4 If disclosure of the record would endanger the life or physical safety of an individual.
- 11.4.5 If disclosure of the record would prejudice or impair the security of property or means of transport.
- 11.4.6 If disclosure of the record would prejudice or impair the protection of a person in accordance with a witness protection scheme.
- 11.4.7 If disclosure of the record would prejudice or impair the protection of the safety of the public.
- 11.4.8 The record is privileged from production in legal proceedings unless the legal privilege has been waived.
- 11.4.9 Disclosure of the record would put the OHSC at a disadvantage in contractual or other negotiations.

11.4.10 The record contains information about research being carried out or about tbe carried out on behalf of a third party or the OHSC.

11.4.11 If the disclosure is prohibited under any other legislation.

11.5 Records that cannot be found or do not exist.

11.5.1 If the OHSC has searched for a record and it is believed that the record either does not exist or cannot be found, the requester will be notified by way of an affidavit or affirmation.

11.5.2 The notification in 6.5.1 above will include the steps that were taken to yto locate the record.

11.6 Third party information

11.6.1 If access is requested to a record that contains information about a third party, thus in the event of an independent requester, the OHSC is obliged to attempt to contact this third party to inform them of the request. This enables the third party the opportunity of responding by either consenting to the access or by providing reasons why taccess should be denied.

11.6.2 In the event of the third party furnishing reasons for the support or denial of access, the Deputy Information Officer will consider those reasons in determining whether access should be granted to an independent requester or not.

12. REMEDIES AVAILABLE IN THE EVENT WHERE ACCESS IS DENIED.

12.1 The OHSC does not have an internal appeal procedure. As such, the decision made by the Information Officer or Deputy Information Officer is final, and requesters shall have to exercise external remedies at their disposal in the event of them being aggrieved by the outcome of their request.

12.2 A requester aggrieved by a decision of the Information Officer or Deputy Information Officer, may lodge a complaints with the Information Regulator or apply to the relevant court for relief.



Office of Health Standards Compliance
Ensuring quality and safety in health care

FORM A

REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

(Section 18(1) of the Promotion of Access to
Information Act, 2000(Act No.2 of 2000))

[Regulation 6]

FOR OHSC USE

Reference Number:.....

Request received by

.....

(state position, name, and surname of information officer/deputy information
officer) on

..... (date) at

.....(place)

Requested fee (if any): R

Deposit (if any): R

Access fee: R

.....

SIGNATURE OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER



Office of Health Standards Compliance
Ensuring quality and safety in health care

A. PARTICULARS OF A PUBLIC BODY

The Information Officer/Deputy Information Officer

B. PARTICULARS OF A PERSON REQUESTING ACCESS TO THE RECORD

- (a) *The particulars of the person who requests access to the record must be recorded below.*
- (b) *The address and/or fax number in the Republic to which the information is to be sent.*

Full names and surname:

Identity number:

Postal address:

Fax number:

Telephone number:

E-mail address:

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

C. PARTICULARS OF PERSON ON WHOSE BEHALF A 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 A 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 page and attach it to this form.
- (c) **The requester must sign all the additional pages.**

1. Description of a record or relevant part of the record:

2. Reference number, if available:

3. Any further particulars of the record:

E. FEES

- (a) *A request for access to a record, other than a record containing 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 therefore.*

Reason for request for exemption of payment for the fee:

F. FORM OF ACCESS TO THE RECORD:

If you are prevented by a disability to request, view or listen to the record in the form of access provided for in 1 to 4 hereunder, 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 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		Inspection of record	
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2. **If the record consists of visual images: (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.**

View the images		Copy the images		Transcription of the images	
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3. **If the record consists of recorded words or information which can be reproduced in sound:**

Listen to the soundtrack (Audio cassette)		Transcription of soundtrack (Written or printed document, at cost of applicant)	
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4. **If the record is held on computer or in a electronic or machine-readable form:**

Printed copy of record		Printed copy of information derived from the record		Copy in computer readable form (Memory stick, external hard drive, to be provided by the applicant)	
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If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you?	Yes	No
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G. 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 _____ on this ____ day of __20__

Signature / mark of requester / person on whose behalf request is made