

1 Boast Road
Eshowe 3815
17 November 2014

Patrick Hundermark
Deputy Information Officer,
Legal Aid South Africa
29 De Beer Street
Braamfontein
Per email: patrickh@legal-aid.co.za

Dear Mr Hundermark

FURTHER PAIA REQUEST

Further to my PAIA request a week ago concerning your Durban Justice Centre's Children's Court Practitioner, which you kindly acknowledged immediately, there's another matter I'm investigating – this time one in which National Operations Executive Brian Nair claims you're directly involved, making you best placed to respond to my further brief PAIA request about it.


Nair's allegations about you, made under oath during my cross-examination of him at the trial of my labour claim, are recited in the annexure to my request. I expect they'll be news to you, and that you'll accordingly be able to promptly dispose of my request under section 23, by certifying that none of the records I've specified exist – which is to say Nair falsely implicated you in his elaborate, corrupt scheming, as he was inventing and developing new stories to replace the budgetary pretext given me for not finalising my appointment to the Pietermaritzburg Senior Litigator post, which I'd refuted and exposed as a lie in my first petition to the Board in November 2010.

Since I pressingly need your response for the purposes of my appeal (and, in time, for referral to the Public Service Commission and the Director of Public Prosecutions), I'd appreciate it if you'd let me have your response 'as soon as reasonably possible' in

compliance with section 25(1), and not wait out the full maximum thirty calendar days allowed you.

If you email me LASA's bank account details I'll deposit the PAIA request fee.

Thanks again.

A handwritten signature in black ink, appearing to be 'Anthony Brink', written in a cursive style.

ANTHONY BRINK

arbrink@iafrica.com

Cc:

Nokwanda Molefe, PAIA Unit, South African Human Rights Commission

Sinthia Reddy, Public Protector investigator (ref: 7/2-040815/12)

Lesleigh Timothy, LASA Board Secretary

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 2]

FOR DEPARTMENTAL USE

Reference number:

Request received by (state rank, name and surname of information officer/deputy information officer) on (date) at (place).

Request fee (if any): R

Deposit (if any): R

Access fee: R

SIGNATURE OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER

A. Particulars of public body

Legal Aid SA

**Patrick Hundermark
Deputy Information Officer,
National Office
29 De Beer Street
Braamfontein**

B. Particulars of person requesting access to the record

(a) The particulars of the person who requests access to the record must be recorded below.

(b) Furnish an address and/or fax number in the Republic to which information must be sent.

(c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname : **Anthony Robin Brink**
Identity number : **590225 5116 081**
Postal address : **1 Boast Street, Eshowe 3815, KwaZulu-Natal**
Fax number : **086 672 0776**
Telephone number : **035 474 0145**
E-mail address : **arbrink@iafrica.com**

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

N/A

C. Particulars of person on whose behalf 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 : **N/A**
Identity number : **N/A**

D. Particulars of 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 folio and attach it to this form. **The requester must sign all the additional folios.***

1. Description of record or relevant part of the record:
2. Reference number, if available:
3. Any further particulars of record:

See annexure

E. Fees

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

Reason for exemption from payment of fees:

N/A

F. Form of access to record

If you are prevented by a disability to read, 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: N/A		Form in which record is required:	
<p>Mark the appropriate box with an "X".</p> <p>NOTES:</p> <p><i>(a) Your indication as to the required form of access depends on the form in which the record is available.</i></p> <p><i>(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.</i></p> <p><i>(c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.</i></p>			
1. If the record is in written or printed form -			
<input checked="" type="checkbox"/>	copy of record*	<input type="checkbox"/>	inspection of record

2. If record consists of visual images -

(this includes photographs, slides, video recordings, computer-generated images, sketches, etc.)

	view the images	X	copy of the images*		transcription of the images*
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3. If record consists of recorded words or information which can be reproduced in sound -

	listen to the soundtrack (audio cassette)	X	transcription of soundtrack* (written or printed document)
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4. If record is held on computer or in an electronic or machine-readable form -

	printed copy of record*		printed copy of information derived from the record*	X	copy in computer readable form* (on compact disc)
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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

A postal fee is payable.

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.

In which language would you prefer the record? **English**

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 thereof 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? **By email**

Signed at Eshowe on 17 November 2014

A handwritten signature in black ink, consisting of several overlapping loops and a central vertical stroke, resembling a stylized 'B' or 'R'.

SIGNATURE OF REQUESTER

FORM A ANNEXURE

1. Apropos of National Operations Executive Brian Nair's allegation in his 'Report to Board' on Senior Litigators in November 2011, concerning which he volunteered at the trial of case LC D529/11, 'I was the author of this',¹ 'It is felt that the current system of evaluating their performance by the High Court Unit Managers and thereafter by our Legal Quality Assurance Unit may not be appropriate',² the minute of the meeting at which this alleged view was expressed, and/or the record of the communication of this view to Nair or other executive.
2. The record of Nair's instruction to 'the Chief Legal Executive, then the Legal Development Executive' Patrick Hundermark to draft the 'terms of reference'³ of a 'review panel'⁴ to conduct 'performance reviews or quality reviews' for 'senior litigators',⁵ being the 'person' to whom Nair claimed at the trial to have 'allocated the responsibility'⁶ for doing this.
3. The minutes of the 'number of meetings' that Nair claimed Hundermark has 'hosted' in the allegedly 'on-going ... process ... still being attended to' by him, in the two years since Nair claimed to have 'allocated the responsibility' to him 'to properly develop terms of reference, to identify possible people to contribute to the panel, and to consult'⁷ with a view to conducting 'performance reviews or quality reviews' for 'senior litigators'.⁸
4. All and any records vouching that Hundermark has acted to (i) 'develop [the] terms of reference' set out in Nair's said Report to Board, (ii) 'to identify possible people to contribute to the panel', and (iii) 'to consult' anyone about it.

¹ Record, page 359, lines 10–15.

² Bundle (trial documents), page 870, section 4.

³ Record, page 398, lines 1–3.

⁴ Record, page 397, line 21.

⁵ Record, page 397, line 15.

⁶ Record, page 398, lines 1–3 .

⁷ Record, page 398, lines 3–10.

⁸ Record, page 397, line 15.



PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000

23 Records that cannot be found or do not exist

(1) If-

(a) all reasonable steps have been taken to find a record requested; and

(b) there are reasonable grounds for believing that the record-

(i) is in the public body's possession but cannot be found; or

(ii) does not exist,

the information officer of a public body must, by way of affidavit or affirmation, notify the requester that it is not possible to give access to that record.

(2) The affidavit or affirmation referred to in subsection (1) must give a full account of all steps taken to find the record in question or to determine whether the record exists, as the case may be, including all communications with every person who conducted the search on behalf of the information officer.

25 Decision on request and notice thereof

(1) Except if the provisions regarding third party notification and intervention contemplated in Chapter 5 of this Part apply, the information officer to whom the request is made or transferred, must, as soon as reasonably possible, but in any event within 30 days, after the request is received-

(a) decide in accordance with this Act whether to grant the request; and

(b) notify the requester of the decision and, if the requester stated, as contemplated in section 18

(2) (e), that he or she wishes to be informed of the decision in any other manner, inform him or her in that manner if it is reasonably possible.

90 Offences

(1) A person who with intent to deny a right of access in terms of this Act-

(a) destroys, damages or alters a record;

(b) conceals a record; or

(c) falsifies a record or makes a false record,

commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding two years.

INTERPRETATION ACT 33 OF 1957

4 Reckoning of number of days

When any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Sunday or public holiday.