

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

33 Hoofd Street
Braampark, Forum 3
Braamfontein
2017

Private Bag X 2700
Houghton
2041

Tel.: 011 877 3600
Fax: 011 403 0668



11 November 2015

Ref: GP/1516/0395

Advocate Anthony Brink

Per email: arbrink@iafrica.com

Dear Advocate Brink

RE: PAIA REQUEST LODGED WITH LEGAL AID SOUTH AFRICA

The South African Human Rights Commission (Commission) is an institution established in terms of section 184 of the Constitution. The Commission is mandated to promote, protect and monitor the observance of human rights. The Commission has an additional mandate in terms of the Promotion of Access to Information Act 2 of 2000 (PAIA) to advance the right to access information and monitor the implementation of PAIA. The Commission executes this mandate in various ways, including providing assistance to members of the public where possible and appropriate.

We confirm that you lodged a complaint with the Gauteng Provincial (GP) office, which complaint was subsequently transferred to the PAIA Unit of the Commission for further handling. Your complaint is based on your dissatisfaction with the manner in which certain PAIA requests lodged with Legal Aid South Africa (LASA) were dealt with.

We confirm the following:

1. As per our email dated 9th November 2015, the PAIA Unit of the Commission engaged with LASA regarding your complaint. Such engagement was aimed at establishing whether LASA would be willing to engage in an alternative dispute resolution (ADR) process facilitated by the Commission with a view to possibly resolving the complaint;
2. LASA responded to the Commission by providing a brief background of the present matter, as well as various other matters that you and LASA are still engaged on. LASA

Transforming society. Securing rights. Restoring dignity.

Chairperson: M L Mushwana; **Deputy Chairperson:** P Govender; **Commissioners (Full-Time):** B Malatji, L Mokate; M S Ameerma
Commissioners (Part-Time): J Love, D Titus;
Chief Executive Officer: L Khumalo

confirmed a willingness to engage in ADR, noting however the need for caution in respect thereof considering the said background;

3. After due and proper consideration, the Commission has elected not to proceed with ADR in the present matter based on the following:
 - a. The historical background of a number of matters between yourself and LASA (as communicated to the Commission by both parties on numerous occasions over recent years);
 - b. On-going litigation between yourself and LASA;
 - c. The close relationship and interrelatedness of the issues forming the basis of those previous matters and the present one; and
 - d. The potential prejudice that may arise for one and / or both parties as a result of being involved in ADR while parties are at the same time engaged in various closely related litigation matters.

The Commission has exercised the abovementioned discretion in terms of Section 83(a)(c) of PAIA, which reads as follows:

(3) The Human Rights Commission may ... (c) if reasonably possible, on request, assist any person wishing to exercise a right contemplated in this Act”.

In the circumstances, the Commission will close your file herein.

Should you be dissatisfied with this decision, you may lodge an appeal with the Commission in terms of Chapter 9 of the Commission's Complaints Handling Procedures, which provides as follows:

*“34 (1) (a) Any party to proceedings under these procedures, who feels aggrieved by any determination, decision of finding, may lodge an appeal with the Chairperson, if the appeal is of a substantive nature regarding any determination, decision or finding of a Provincial Manager, **within 45 days** from the date of being notified of such determination, decision or finding by post, delivery facsimile or email.”*

For further information regarding appeals, please contact one of the following officials:

Eden Esterhuizen – 011 877 3632

Sandile Mdunusana – 011 877 3633

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

33 Hoofd Street
Braampark, Forum 3
Braamfontein
2017

Private Bag X 2700
Houghton
2041

Tel.: 011 877 3600
Fax: 011 403 0668



We thank you for bringing your complaint to the attention of the Commission and trust that your matter will be equitably resolved.

Yours faithfully,

A handwritten signature in black ink is written over a horizontal line. The signature is fluid and cursive, starting with a large loop on the left and ending with a smaller loop on the right.

Kisha Candasamy
Head: PAIA Unit (Acting)
South Africa Human Rights Commission

Transforming society. Securing rights. Restoring dignity.

Chairperson: M L Mushwana; **Deputy Chairperson:** P Govender; **Commissioners (Full-Time):** B Malatji, L Mokate; M S Ameerma
Commissioners (Part-Time): J Love, D Titus;
Chief Executive Officer: L Khumalo