

# PROMOTION OF ACCESS TO INFORMATION ACT, 2 OF 2002

## TABLE OF CONTENT

1. INTRODUCTION
  2. AVAILABILITY OF THIS MANUAL
  3. INFORMATION OFFICERS CONTACT DETAILS
  4. RECORDS HELD BY THE BANK
  5. STEPS TO CONSIDER BEFORE SUBMITTING A REQUEST
  6. HOW TO REQUEST FOR ACCESS
  7. PRESCRIBED FEES
  8. CONSIDERING YOUR REQUEST
  9. YOUR REMEDIES
- ANNEXURE 1  
REQUEST FOR ACCESS TO RECORDS OF PRIVATE BODY

## 1. INTRODUCTION

The Promotion of Access to Information Act, 2 of 2002 (“the Act”) gives effect to the right of access of information held by a public body (i.e. Government institutions) or private sector bodies (i.e. companies) as stipulated in section 32 of the Constitution, that is required for the exercise or protection of the requester’s right.

This information manual (“manual”) provides an outline of the types of records held by Edu-Loan (Pty) Ltd (“Fundi”) and explains how one may submit requests for access to these records in terms of the Act.

A guide of the Act is available from South Africa Human Rights Commission (“SAHRC”) website: [www.sahrc.org.za](http://www.sahrc.org.za).

## 2. AVAILABILITY OF THIS MANUAL

The requester can access the Manual on Fundi’s website at [www.Fundi.co.za](http://www.Fundi.co.za) or request a copy by e-mail from Fundi’s Governance Department as provided for in paragraph 3.

## 3. INFORMATION OFFICERS CONTACT DETAILS

Governance Department  
Cnr. 14th Avenue and Hendrik Potgieter  
Weltevreden Park  
1751

Telephone: 011 670 100

E-mail: [legal@fundi.co.za](mailto:legal@fundi.co.za)

## 4. RECORDS HELD BY FUNDI

Fundi maintains record in the following categories and subject matters. Requests regarding any of these categories of information will be evaluated on a case by case basis in accordance with the Act.

### **Internal Records:**

- Financial Records;
- Operational Records;
- Intellectual Property;
- Marketing Records;
- Internal Correspondence;
- Statutory Records; and
- Internal Policies and Procedures.

**Employee Records:**

“Employee” refers to any person who works for or provide services to or on behalf of Fundi and receive or is entitled to receive any remuneration and any other person who assists in carrying our or conducting any work or services to Fundi.

Employee records:

- any personnel records provided to Fundi by their employees
- any records a third party has provided Fundi about any of their employees
- Conditions of employment and other employee related contractual and quasi-legal records;
- Internal evaluation records, and
- Other internal records and correspondence.

**Other Parties:**

Records are kept in respect of other parties including contractors, suppliers, departments, service providers.

**5. STEPS TO CONSIDER BEFORE SUBMITTING A REQUEST**

The following step must be considered before submitting a request:

**STEP 1**

The purpose of the information that the requester requests:

Please note that section 7 (1) states that:

“This Act does not apply to a record of a public body or a private body if –

- a) that record is requested for the purpose of criminal or civil proceedings;
- b) so requested after the commencement of such criminal or civil proceedings, as the case may be; and
- c) the production of or access to that records for the purpose referred to in paragraph (a) is provided for in any other law”

If section 7(1) applies, the requester may not bring a request in terms of this Act. The Requester must use the rules and procedures for discovery of information of the relevant legal forum and proceedings that he/she is involved in. Fundi reserves the right to claim all expenses and other damages incurred as a result of a requester submitting a request in contravention of section 7(1).

**STEP 2:**

Does the information requested exist in the form of a record?

The Act only applies to documents that are in existence at the time of receiving the request.

The Act does not compel anyone to create a record which is not yet in existence at the time the request is made.

**STEP 3:**

Is the document in the Possession or under the control of Fundi?

The Act provides that the record requested must be in Fundi’s possession or under its control.

If the document is not in the possession of Fundi the requestor must request the document from the party under whose possession or control it is.

**6. HOW TO SUBMIT REQUEST FOR ACCESS****REQUEST FORM**

Complete the request form in Annexure 1 to this Manual (“the Request Form”). The requestor may send the completed form to the information officer as set out in Paragraph 3. The requestor must provide sufficient information to enable us to adequately identify –

- the record or records requested;

- the identity of the requester;
- which form of access is required, if the request is granted;
- the postal address, contact and fax number of the requester

#### *DESCRIPTION OF THE RIGHT*

An adequate description of the right that the requester seeks to protect or enforce by means of the records requested. The court has indicated that the access to the records must be necessary for exercise of the protection of the right so stated.

Fundi may refuse the request of access of information if the right is not clearly defined or where the right you claim to seek to exercise or protect does not qualify as a right as contemplated in the Act.

#### *REPRESENTATIVES*

In the event that the request is made by another person on behalf of the requester, then the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of Fundi.

#### *ILLITERACY OF DISABILITY*

If a person is unable to complete the prescribed form due to illiteracy or disability, such a person may make a request orally.

#### *PRESCRIBED FEE*

The prescribed access fee, if applicable, as provided for in paragraph 7 below must be paid and proof of payment must be submitted along with the request.

#### **7. PRESCRIBED FEES**

The Act provides for two types of fees, namely: Request fee, which is a standard fee; and an Access fee, which will be calculated taking into account reproduction costs, search and preparation time and cost, as well as postal costs. The requester, other than a personal requester must pay the prescribed R50.00 (fifty rand) request fee, before submitting the request and provide a deposit slip as proof of such payment which must accompany the Request form.

“Personal requester” - means a requester seeking access to a record containing personal information about the requester.

“Personal information” - means information about an identifiable individual, including but not limited to-

- a) information relating to the race, gender, sex, pregnancy, marital status, national, ethics or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the individual.
- b) information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
- c) any identifying number, symbol or other particular assigned to the individual;
- d) the address, fingerprints or blood type of the individual;
- e) the personal opinions, views or preferences of the individual, except where they are about another individual or about a proposal for a grant, an award or a prize to be made to another individual;
- f) correspondence sent by the individual that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- g) the views or opinions of another individual about the individual;
- h) the views or opinions of another individual about a proposal for a grant, an award or a prize to be made to the individual, but excluding the name of the other individual where it appears with the views or opinions of the other individuals; and

i) the nature of the individual where it appears with other personal information relating to the individual or where the disclosure of the name itself would reveal information about the individual; but excludes information about an individual who has been dead for more than 20 years.

If the search for and preparation of the record, including arrangement to make it available in the requested form, require more than the hours prescribed in the regulation for this purpose, the information officer will request you to pay as a deposit the prescribed portion of the access fee which would be payable if the request is granted. The information officer may withhold the record until the requester has paid the fees as indicated in ANNEXURE 1.

A requester whose request has been granted must pay an access fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the request form.

You may ask for a refund of the deposit if your request for access is refused.

#### 8. CONSIDERING YOUR REQUEST

Subject to the provisions in the Act in respect of the extension of time periods, Fundi will process the request within 30 days, unless you have stated special reasons which would satisfy the Information Officer that circumstances dictate that the above time periods not be complied with.

Fundi will inform you in writing whether the access has been granted or denied.

The main grounds for Fundi to refuse a request for information relate to the –

- mandatory protection of the privacy of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- mandatory protection of the commercial information of a third party, if the record contains:
  - trade secrets of that third party
  - Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interest of that third party;
  - information disclosed in confidence by a third party to Fundi, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- mandatory protection of the safety of individuals and the protection of property;
- mandatory protection of records which would be regarded as privileged in legal proceedings;
- the commercial activities of Fundi, which may include –
  - trade secrets of Fundi;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interest of Fundi
  - information which, if disclosed could put Fundi at a disadvantage in negotiations or commercial competition.
- a computer program which is owned by Fundi, and which is protected by copyright.
- The research information of Fundi or a third party, if its disclosure would disclose the identity of Fundi, the researcher or the subject matter of the research and would place the research at a serious disadvantage;

## 9. REMEDIES OF THE CONSUMER

The decision made by the Information officer is final. If your request is denied, you are entitled to apply to a court with appropriate jurisdiction for relief.