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**CHIEF DIRECTORATE: CORPORATE SERVICES**

**PROMOTION OF ADMINISTRATIVE JUSTICE ACT (PAJA)  
FRAMEWORK/GUIDELINE**

<b>ORGANISATION</b>	<b>DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT</b>
<b>PROGRAMME</b>	<b>CHIEF DIRECTORATE: CORPORATE SERVICES</b>
<b>FRAMEWORK / GUIDELINE</b>	<b>PROMOTION OF ADMINISTRATIVE JUSTICE ACT FRAMEWORK (ACT NO.3 OF 2000)</b>
<b>POLICY REF. NO</b>	<b>/P</b>
<b>DESCRIPTION</b>	This manual on the Promotion of Administrative Justice Act is developed to guide the implementation of the Act in the department.
<b>COVERAGE</b>	This guideline cuts across all functions, programmes and employees within NW Department of Agriculture and Rural Development (DARD)
<b>COMPILED BY</b>	<b>CHIEF DIRECTORATE: CORPORATE SERVICES</b>
<b>APPROVED BY</b>	<b>ACTING HEAD OF DEPARTMENT</b>
<b>SIGNED</b>	
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## 1. INTRODUCTION

- 1.1 In South Africa, administrative decision-making is promulgated through the Promotion of the Administrative Justice Act 3 of 2000 (PAJA) as part of general administrative law.
- 1.2 PAJA sets out the general rules that govern how administrators must make decisions; reasonably, justly and procedurally fair within the Republic of South Africa. Reasonableness means that administrators should be able to comprehend the context of an application for a government service before making a decision.
- 1.3 Justifiableness refers to administrators having the power to make an authorised decision.
- 1.4 Procedural fairness means that an administrator must ensure that if a person is likely to receive a negative decision, the potentially affected individual must be given; adequate notice of the nature and purpose of the proposed negative decision, a reasonable opportunity to make representations, a clear statement of the administrative action, adequate notice of any right of review or internal appeal where applicable and adequate notice of the right to request written reasons.
- 1.5 The effectiveness of the PAJA can be measured through the lens of decision-making as a theory on the process of decision-making.
- 1.6 With regards to PAJA, adequate information can therefore only be achieved if there is a creative flow of information between the administrator and the individual or its collective.
- 1.7 The framework is not just about PAJA but instead, it is really about how to make decisions and to use procedures that will improve the relationship between the administration and the public.

- 1.8 The procedures set out in this guideline, provides compliance to the Act and improvement towards the lives of all people in South Africa by making sure that decisions that affect them are properly taken and explained, if reasons are requested.
- 1.9 These processes will assist in changing the way people think about the public service, and should be aligned to the provisions as outline by the Promotion to Access to Information Act [PAIA], when a right is affected to follow due procedures as outlined in the PAIA prescripts. [Act no. 2 of 2000].
- 1.10 In addition when it comes to internal departmental inquiries, employees will be subjected to various policy provisions and prescripts for example the DPSA regulations and procedures when following a grievance process.

## **2. TERMS AND CONCEPTS**

- 2.1 The following are the terms and concepts needed to understand the way PAJA works and what it is trying to do. It explains:

### **2.2.1 The Constitution of the Republic of South-Africa**

- 2.2.1.1 South Africa is governed by the Constitution of the Republic of South Africa (the Constitution). The Constitution established a "*constitutional democracy*" in South Africa as the highest law in the country. It contains the Bill of Rights and the rules how government has to function.
- 2.2.1.2 All laws and the citizens of the Republic of South Africa are all subjected to and governed by the Constitution, which must be followed and obeyed at all times. Thus will include, all spheres of government, public citizens, private entities, and employees of government etc.

2.2.1.3 The Constitution sets out the powers of state and how these powers must be executed within the rules of law.

2.2.1.4 The Constitution includes the Bill of Rights (including the right to Just Administrative Action) that protects the rights of all people as public citizens, and it set out the rules, obligations and duties that have to be obeyed, when justifiable administrative decisions are taken.

## **2.2.2 The Rule of Law**

2.2.2.1 One of the most important principles contained in the Constitution is the rule of law. To be a constitutional democracy (rather than a dictatorship or a tyranny) the government must act in accordance with the law. This means two things:

- (a) The government (like everyone else in the country) must obey the law; and
- (b) The government can only exercise power over people if the law allows it to.

## **2.2.3 The Law**

2.2.3.1 The government must obey the law and can only act within the prescripts of the law to ensure that its decisions taken is legislatively justifiable.

## **2.2.4 Legislation**

2.2.4.1 The Constitution sets out a number of specific legal rules and it gives the legislatures the powers to direct written legislation.

2.2.4.2 Although the Constitution in itself is legislation passed by Parliament, all other legislation is subordinate to the Constitution and therefore legislation passed through an Act of Parliament, an Act of the Provincial Legislature or any by-laws issued by local

government entities, will only be valid if it complies with the spirit and context of the Constitution of the Republic of South Africa.

2.2.4.3 PAJA is the means to ensure that administrators makes informed and justifiable decisions, through an empowering provision, which led to the implementation of the following delegations:

- (a) Financial delegations of the Department of Agriculture and Rural Development.
- (b) HR Delegations of the Department of Agriculture and Rural Development.
- (c) The Constitution in Chapter 3 set out a broad framework as to what these empowering provisions are and what can be a delegated powers vested within a specific administrators prerogative as a authorised delegation as per the DPSA, Treasury Regulations and Supply Chain Management Directives and prescripts to guide the administrator in fair procedures and decisions taken which is specifically designed towards the three [3] spheres of government.

## 2.2.5 Common-Law

2.2.5.1 Common law is a legal system primarily based on judicial decisions, precedents, and custom law, rather than codified statutes, that are not written legislation but developed over centuries as common standards and case law that derived from our Judicial systems.

2.2.5.2 It further relies on the *stare decisis rule*, where courts follow earlier rulings in similar cases to ensure consistency in the application of the rule of law, and judicial decisions.

2.2.5.3 In developing common law principles, the Constitution of the Republic of South Africa makes provision for the development of the law through consideration of

International legislation from other Commonwealth Countries, which allow for a statutory provision to be considered in the application of South African law.

- 2.2.5.4 When a court makes a decision, other courts usually follow this decision when they decide similar cases. In this way, courts develop legal rules through case law.

## **2.2.6 The Bill of Rights [fundamental human rights]**

2.2.6.1 Our Constitution contains a Bill of Rights (in Chapter 2) known as the fundamental human rights, which protects the rights of all people in South Africa, not only citizens. The state has to "respect, promote and fulfill" these rights and cannot do anything that goes against these rights.

2.2.6.2 The particular right that we are concerned with is section 33 of the Bill of Rights, which reads as follows:

2.2.6.3 Briefly, this means people have a right:

- (a) To fair and reasonable administrative action that is allowed by the law; and
- (b) To be given reasons for administrative action that may affect a right.

2.2.6.4 How to access a right:

- (a) The right to request written reasons is to be followed by the Promotion to Information Act no 2 of 2000 (PAIA Act), which enables individuals to access records held by a public or private body to enforce their rights.
- (b) It therefore promotes a system of transparency, accountability and allows the requester to follow the prescripts of the PAIA process when requests for written reasons is to be obtained.

- (c) The requestor would have to engage the relevant institution to provide a copy of its PAIA manual in order to follow the procedural process to access to information when a right is affected, to obtain written reasons.

## 2.2.7 The state

- 2.2.7.1 The state is the "**organised authority**" of a country. It manages its public affairs, both inside and outside the country. The state is made up of many organs of state. These can be divided into four separate areas:
- 2.2.7.2 **The legislature.** As we've seen, the legislature is made up of Parliament, the nine provincial legislatures and the municipal councils. Their main function is to make law (called legislation) and they must obey the Constitution when doing so.
- 2.2.7.3 **The judiciary.** The judiciary is made up of the courts and the judges and magistrates. Their function is to interpret and to enforce the law (including the Constitution).
- 2.2.7.4 **The executive.** The National Executive is made up of the President and the cabinet (the ministers). At provincial level, the executive is the Premier of a province and the provincial Executive Council. At local level, the executive is the respective district or municipal council. The executive makes political decisions. It develops policy and writes legislation which it asks Parliament (or the other legislatures) to consider and pass.
- 2.2.7.5 **Administration.** The administration does the day-to-day work of government. It is made up of:
- (a) All government departments at national, provincial and local levels;
  - (b) The police and the army; and

- (c) The 'parastatals'. These are organisations such as public enterprises and regulatory boards. Examples are Eskom, Telkom and the SABC.
- (d) Schedule 2 entities as listed in terms of the Public Finance Management Act no. 1 of 1999 as amended.

## **2.2.8 Administrative Law**

2.2.8.1 This is the branch of the law dealing with the administration. It is made up of:

- (a) General administrative law, that governs the administration in general, by setting out General rules and principles that all administrators must follow; and
- (b) Remedies for people affected by administrative decisions - that is, where administrative powers have not been properly used or where requirements of in the law have not been followed.
- (c) Particular administrative law, is the body of law governing specific areas of the administration. For example, the law relating to refugees and immigration, vehicle licensing, state tendering procedures, land-use planning or civil aviation to name a few.
- (d) The PAJA is part of general administrative law, which is applied to and binds the entire administration at national, provincial and local spheres of government.
- (e) PAJA sets out the general rules for the proper performance of all administrative actions.
- (f) PAJA makes provision for reasons to be given for administrative action in certain circumstances.

- (g) It requires administrators to inform people about their rights to review or appeal and to request reasons; and
- (h) Sets out the remedies that are available if these rules are not followed.
- (i) PAJA sets out the rules how the powers given to administrators by other laws must be exercised.
- (j) Before administrators can make decisions that have an impact on another person, they must be allowed to do so by particular legislation that is an empowering provision called a delegation to enable an administrative decision to be made.
- (k) Whether the law allows a particular administrator to make a particular decision depends on the law that applies to that administrator.
- (l) Even when administrators have this power, their decisions must also satisfy general administrative law that is justifiable and relate to a fair procedure.

### 2.2.9 Democracy

- 2.2.9.1 The Constitution says South Africa is a 'democratic state' founded on the principle (amongst others) of 'democratic government, to ensure accountability, responsiveness and openness'.
- 2.2.9.2 The right to administrative justice in section 33 of the Constitution and the PAJA itself is an important part of creating a democratic state.
- 2.2.9.3 Democracy has been described as '*government by explanation*'. This means that the decisions of government should be explained or justified to the people that they affect.

- 2.2.9.4 The right to just administrative action in the Constitution recognises the importance of justification in the following ways:
- 2.2.9.5 Section 33 (1) provides a right to 'reasonable' administrative action that is 'procedurally fair'.
- 2.2.9.6 Section 33 (2) gives people the right to be given reasons for administrative action that affects their rights.
- 2.2.9.7 Administrators exercise public power. The public has agreed to administrators having power over them but, in a democratic state, administrators are expected to use this power for the public benefit and in the interest of justice, not for their own private benefit.
- 2.2.9.8 Decisions must be made (and must be seen to be made) impartially. By requiring reasonable and procedurally fair administrative action, section 33 makes sure that decisions are free from any actual or apparent bias or prejudice.

## **2.2.10 Internal Appeal Procedures**

- 2.2.10.1 The PAJA sets out the procedures and grounds for challenging a particular type of administrative action.
- 2.2.10.2 If someone feels that a decision by an administrator is unlawful, unreasonable or that fair procedures were not followed, they must first approach internal Appeal procedures within the Department.
- 2.2.10.3 All internal procedures must be followed, before alternative measures can be taken.

### **2.2.11 Judicial review**

- 2.2.11.1 Any entity whether it be government or a private institution must uphold and obey the law.
- 2.2.11.2 The Courts may be perused if it is believed that a public or private body contravened a rule of law, to which the Court will decide whether the administrative decision taken were lawful, called a judicial review process.
- 2.2.11.3 The Courts have the power to overrule an administrative decision if it had been found to be inconsistent with any legislation or the Constitution of the Republic of South Africa.
- 2.2.11.4 The PAJA sets out the procedures and grounds for challenging a particular type of administrative action and when to approach the Courts. if all internal appeal processes had been followed.

### **2.2.12 Batho Pele Principles vs Batho Pele Standards**

- 2.2.12.1 Since 1 October 1997, the South African public service has been guided by a new service delivery approach and framework, which were set out as principles guiding the public service outlined as the 'Batho Pele' White Paper.
- 2.2.12.2 Through the Professionalisation of the Public Service Framework, the 'Batho Pele' Principles had been revised to the 'Batho Pele' Standards.
- 2.2.12.3 It is expected that all government departments are to formulate standards as to how these 'Batho Pele' principles will be formulated as a service strategy to communicate the standard of the services that will be communicated and aligned to the

departmental systems, procedures and communications to internal and external clients of the Department.

- 2.2.12.4 This call for a complete change management policy to be formulated by the department to its internal and external stakeholders to be in line with the PAJA objectives that compliments the 'Batho Pele' principles in the form of standards.
- 2.2.12.5 The Batho Pele White Paper sets out eight national service delivery principles, which highlight the public service's standards to be:
- 2.2.12.6 Regular consultation with its customers about the level and quality of services they are receiving and should receive in future;
- 2.2.12.7 Set service standards, setting out the level and quality of services that customers can realistically and consistently expect;
- 2.2.12.8 Increase access to services, especially to those people who experience barriers to access (such as their race, gender or disability; where they live; how much money they have; their access to modern communication systems; their culture and so on);
- 2.2.12.9 Ensure higher levels of courtesy by setting out and sticking to standards of behaviour for the treatment of customers;
- 2.2.12.10 Provide more and better information about services, so that customers have full, accurate, relevant and up-to-date information about the services that are available and that they are entitled to receive;
- 2.2.12.11 Increase openness and transparency about how services are delivered, how well they perform, the resources they use and who is in charge;

- 2.2.12.12 Remedy failures and mistakes, so that when problems occur, there is a positive response and problems are sorted out; and
- 2.2.12.13 Give the best possible value for money, so that customers feel that the money they contribute to the state (through various forms of taxes), is used properly and that any savings are used to improve service delivery in future.
- 2.2.12.14 Batho Pele standards will promotes the initiative of putting the needs of the people first.
- 2.2.12.15 Batho Pele standards is therefore ensuring that the resources used to run the Public Service are geared towards delivering quality services.
- 2.2.12.16 Batho Pele standards is about minimizing and reducing wasteful and expensive internal procedures and using the money to provide better services to more people.
- 2.2.12.17 Batho Pele standards is all about ensuring that government priorities are adhered to and value for money is recognized throughout its services.
- 2.2.12.18 Batho Pele standards will require front line officials to be appointed to serve the public directly or provide services to other parts of government. They are often best placed at managerial levels, which will be aligned to the inherent job requirements of the specific posts, to improve services for both internal and external clients.

### **3. PURPOSE OF THE FRAMEWORK**

- 3.1 The purpose of the framework is to provide administrators in the public service with a guidance and an introduction to the most important requirements of the Promotion of Administrative Justice Act 3 of 2000 (PAJA). It is also aimed at promoting an efficient, accountable, open and transparent administration. The PAJA has:

- 3.1.1 Set out the rules and guidelines that administrators must follow when making decisions
- 3.1.2 Requires administrators to give reasons for their decisions
- 3.1.3 Requires administrators to inform people about their rights to review or appeal and to request reasons.
- 3.1.4 Give members of the public the right to challenge the decision of the administrators in court.

## **4. PROCEDURAL FAIRNESS**

4.1 The Constitution provides for administrative action that must be lawful, reasonable and procedurally fair and that reasons must be given for administrative action that adversely affects any potential rights.

### **4.1.1 What does procedural fairness mean?**

4.1.1.1 In terms of section 3, there are 2 parts of procedural fairness:

- (a) Firstly, it is unfair for the administrator to make an adverse decision that affects a person without consulting them first e.g. dismissing a person without giving him the opportunity to present their case.
- (b) Secondly, the decision making process must be free from any real or apparent partiality, bias, or prejudice.
- (c) When the administrator is making the decision, it must be seen by everyone as a decision that reflects procedural fairness and impartiality as a common standard.
- (d) It must be in the public interest or seen in the common interest of justice.

## **5. GENERAL RULES IN EXERCISING DECISIONS:**

5.1 The PAJA has sets out the rules needed to be followed when making decisions. It deals with two types of decisions affecting the public, that is:

### **5.1.1 Those affecting individuals**

5.1.1.1 The department has to ensure that it promotes and protects an individual's right, in this case the following forms part i.e application for Foster care where processes should be clearly outlined.

5.1.1.2 The Department promotes and protects an individual's or a public's right by making decisions through;

(a) Authorised incumbents such as programme managers and the approved validation team, when there is a call for submission of business plans to be funded. There is a procedure on how the business plans will be validated and confirmed prior to approval for funding by National.

(b) In giving an individual or a public opportunity to submit representations before it makes its final decisions, the department has put in place procedures to call for bursary applications for potential students where applications will be assessed fairly and if successful, the Service Level Agreement is signed between the parties, i.e. the department and the beneficiaries.

### **5.1.2 Those affecting sections of the public**

5.1.2.1 It is important to note that PAJA only covers decisions that adversely affect people's rights.

5.1.2.2 This means that the decision must impose a burden or have a negative effect, which may include decision that:

- (a) Require someone to do something, to tolerate something or not to do something;
- (b) Limit or remove someone's rights; or
- (c) Decide someone does not have a right to something.

5.1.2.3 However, the main focus is on good administrative practice, using procedures that are fair and based on informed decision-making practices.

5.1.2.4 It is important to note that once a final decision is made, it may not always be commonly known that such decision will adversely affect another person's right to constitute a fair process, hence PAJA set out the requirements.

## 6. ADMINISTRATIVE DECISIONS AFFECTING THE PUBLIC:

6.1 In terms of section 4 of PAJA, the administrator has to decide which **public procedure** has to be followed when administrative action has to be taken especially when the person's right is adversely affected.

6.2 In cases where **administrative action** materially and adversely affects the rights of the public, an administrator, in order to give effect to the right to procedurally fair administrative action, must decide whether:

6.2.1 To hold a public enquiry

6.2.2 To follow a notice and comment procedure

6.2.3 Where the administrator is empowered by any empowering provision to follow a procedure which is fair but different, to follow that procedure, or,

6.2.4 To follow another appropriate procedure which gives effect to fair administration

### 6.3 Decision to hold a public enquiry

6.3.1 If an administrator decides to hold a public enquiry, the administrator should conduct the public enquiry or appoint a suitable qualified person to do so. The panel should

determine the procedure for the public enquiry which should include public hearings and compliance with the procedures to be followed in line with the public enquiries.

#### **6.4 Decision to follow a notice**

6.4.1 If anyone's right is adversely affected by this decision, the proposed administrative action must be published by way of a notice and must now be sent to the person before the decision is taken. A notice must give them adequate notice of the nature and purpose of the administrative action; and a reasonable opportunity to make representations

6.4.2 Adequate notice of the nature and purpose of the action

6.4.2.1 "*Adequate notice*" means more than just informing a person that an administrative action is being planned. A person must be given enough time to respond to the planned administrative action. The person also needs to have enough information to be able to work out how to respond to the proposed action. They need to know the nature of the action (what is being proposed) and the purpose (why the action is being proposed). This is more relevant where an individual or the public are informed about their right to request written reasons for its decision in the form of feedback.

6.4.3 A reasonable opportunity to make representations

6.4.3.1 The length of time to allow a person to make representations will be different in different circumstances. Sometimes, this will be set out in your enabling statute or in your guidelines. If not, you should at least allow people enough time to raise objections, provide new information, or answer charges.

## **7. DECISIONS AFFECTING INDIVIDUALS**

### **7.1 Fair Procedures**

7.1.1 In terms of section 3 of PAJA which deals with fair procedures when making decisions with a particular impact. However, there are procedures that need to be followed by the administrator before making any decisions which are mandatory and other procedures that can be considered by the administrator but discretionary procedure does not have to be followed.

### **7.2 Mandatory Procedure**

7.2.1 The following are the mandatory procedures that must be followed when an administrative action is been performed that has an impact on a person.

7.2.2 Before the decision is given

7.2.2.1 A person must be given adequate notice of the nature and purpose of the proposed administrative action

7.2.2.2 A reasonable opportunity to make representation

7.2.3 After the decision is taken

7.2.3.1 A clear statement of the administrative action

7.2.3.2 Adequate notice of any right of review or internal appeal and

7.2.3.3 Adequate notice of the right to request the reason in terms of section 5 of PAJA

### **7.3 Discretionary Procedures**

7.3.1 In addition to the mandatory procedures outlined above, in order to ensure fairness, every administrator must consider the following additional procedures:

- 7.3.1.1 Providing assistance in responding to the action. In any serious or complex cases, this would suggest that legal representation must be followed by the person
- 7.3.1.2 A person must be given the opportunity to present information and arguments in their favour and to challenge information and arguments against them
- 7.3.1.3 A person affected may need to be given the opportunity to appear in person before the administrator

## **8. REQUEST FOR REASONS**

### **8.1 Good administrative practice**

- 8.1.1 It is generally a good administrative practice to give reasons for all reasons taken. The constitution says that, the administration must be accountable for its use of public power. This suggests being able to explain decisions to the people who are affected by them. According to PAJA, the request for reasons must be made within 90 days of the date on which the person became aware or should have become aware of the administrative action. Adequate reasons must be given in writing within 90 days.

### **8.2 Who can request reasons?**

- 8.2.1 Any person whose rights have been adversely affected by the administrative action can request written reasons. This includes a person whose rights have been specifically affected.

### **8.3 What are adequate written reasons?**

- 8.3.1 This suggests that satisfactory explanation must be provided as to why a decision was taken. The reasons must entail enough detail explaining why the administrative action was taken. However, if the person requesting reasons has raised specific questions, these should be answered as far as possible.

## **9. JUDICIAL REVIEW**

### **9.1 Administrative decisions**

9.1.1 Any person who is not satisfied with the administrator's decision or who has exhausted all internal appeals and is still not satisfied may take the matter to court for review. This is known as 'judicial review'.

### **9.2 Judicial review**

9.2.1 For the rights to just administrative action to be more than just rights on paper, there must be a way to enforce them. The most important way in which these rights can be enforced is by judicial review. This means that any person who believes an administrative decision is wrong can challenge the decision in court.

### **9.3 Exhaustion of internal remedies**

9.3.1 Before someone can ask a court to review an administrative action, there is an important rule, in the PAJA that must be complied with the rule of exhaustion of internal remedies. This means that, where the law sets out procedures allowing someone to review or appeal a decision of the administration, these must be used up before an affected person can approach a court. A person can therefore only ask for judicial review as a last resort.

### **9.4 Time limit for judicial review**

9.4.1 One of the most important rules in the PAJA is that an application for judicial review must be made within 180 days (approximately 6 months) of the date on which all internal remedies were exhausted. Where there are no internal remedies available, the application must be made within 180 days of the date on which the applicant became

aware of the decision (or could reasonably be expected to have become aware of the decision).

## **9.5 Administrators role in judicial review**

9.5.1 The person who takes the administrative action to court (the Applicant) will issue a “notice of motion”. This is a notice to the other side (the Respondent) that a court action is being started. The Applicant will attach affidavits and other relevant documents to the notice of motion. This notice of motion will be served on the administrator (who will be the Respondent in this matter).

9.5.2 The Respondent (or Respondents) must deliver all documentation and records regarding the administrative action to the relevant registrar or clerk of the court within 15 court days (working days). As the decision-maker, you may also be required to make an affidavit explaining the circumstances and factors that you took into account when making the decision. The attorney or advocate handling the matter for your department will assist you to do this.

## **10. CONCLUSION**

10.1 In conclusion, PAJA requires that:

10.1.1 Administrator to obeys the law

10.1.2 Administrators have the authority in law for their action

10.1.3 Administrator’s action is performed in a procedurally fair way

10.1.4 There must be good reasons for taking a particular administrative action and,

10.1.5 That the Administrator provides reasons and information about available remedies to persons affected by an administrative action.

## **11. ANNEXURES**

**11.1 ANNEXURE 1: EXAMPLE OF A FIRST NOTICE**

**11.2 ANNEXURE 2: CHECKLIST**

**11.3 ANNEXURE 3: EXAMPLE OF A STANDARD RESPONSE**

## ANNEXURE 1: EXAMPLE OF FIRST NOTICE

Department of Agriculture and Rural Development,  
Private Bag X 6  
Mmabatho  
2735  
Tel: 018 xxx xxx  
Fax: 018 xxx xxx  
Email:xxxxx@nwpg.gov.za

23<sup>rd</sup> March 2023  
Reference: 12345/01

### CERTIFIED MAIL

Ms xxxxx  
PO Box 123  
Dinokana  
0736

Dear Ms xxxxxx

### **RE: Your application dated 23 March 2025**

You have applied for foster care; unfortunately, it seems that you may not be a South African citizen. The document you sent us to prove your age is a Botswana birth certificate. It seems that you may not be entitled to a foster care. As a result, I may not be able to award you grant. The reason I would not be able to award you a grant is that only South African citizens qualify for foster care from the state. If you are a Botswana citizen, you will not qualify.

If you do not agree with this decision, you may write to me at the above address explaining why you do not agree. **Please make sure that you do so before \_\_\_\_\_**. If I have not heard from you by then, I will have to turn down your application.

Sincerely

\_\_\_\_\_  
**HEAD OF DEPARTMENT:  
DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT  
NORTH-WEST PROVINCE**

**DATE:** \_\_\_\_\_

## **ANNEXURE 2: CHECKLIST**

The following checklist can be photocopied and used by you to help you when taking decisions. When you use it, remember to place the completed form on the file to which it applies. This will assist you greatly if you need to write reasons at a later date or if the matter is taken on review.

Am I authorised to take this decision by the empowering provision?

---

That is: " What is the empowering provision? Write it down in the following space:

---

Has the application or request been sent to the right department?

---

Am I the right person to take this decision?

---

Is the matter in my geographical area?

---

Did I act under an authorised delegation of power?

---

If so ... " Is the delegation in writing?

---

Am I impartial?

---

Do I have any personal interest in this matter?

---

Do I have any financial interest in this matter?

---

Do I personally know any of the parties involved?

---

Do I have any prejudice against any of the parties involved?

---

Did I comply with all procedures set out in the empowering provision?

---

Did I follow the prescribed procedure?

---

If I did not follow the prescribed procedure, does the empowering provision allow me to follow a different but fair procedure or is it a justified departure (for example, if the matter was urgent)?

---

If you followed a different procedure, write down what you did in the following space and why you did it:

---

Did I give notice to all parties whose rights may be adversely affected by my decision?

---

Fill in their names in the space below:

---

Did I give them an opportunity to make representations?

---

Did I consider all the representations before I made my decision?

---

Did I take the decision based on the correct information - factually and legally?

---

What are the facts?

---

What is the law that I took into account?

---

What factors did I consider as relevant when I made my decision?

---

What factors did I disregard as irrelevant factors / considerations when I made my decision?

---

Did I take the purpose of the empowering provision into account in making my decision?

---

What is the purpose of the empowering provision?

---

Write it down:

---

Did I make my decision in good faith?

---

Is this my decision, and not a decision that I made because I was influenced or told to do it in this way by others?

---

What is the connection between the decision I took and the purpose for which it was taken?

---

Did I make my decision within the prescribed time or within a reasonable time (if there is no prescribed time)? How long did it take me?

---

**ANNEXURE 3: EXAMPLE OF A STANDARD RESPONSE**

Note: This document is to be used as a guide only and may be changed or amended according to the applicant's needs. Database of examples of administrative decision-making processes and tools. An example of a standard letter template to communicate with unsuccessful bidders about their rights to:

- 1. Request reasons or be provided with reasons.
- 2. Request a review or appeal

[Organ of state details]  
 [Telephone number]  
 Date: .....

Enquiries: insert contact name and details  
 Reference: [insert the reference number]

Insert the contact number of the bidder if the bidder is an entity or juristic person, include i.e. (Pty) Ltd or CC)

Insert the bidder's name

Insert the bidders postal address if the letter is to be sent by post or physical address if the letter is to be hand delivered.

Insert the bidders email address if the letter is to be sent by email communication.

**Per Email / Registered Mail / Hand Delivery** [delete the items that are not applicable]

Dear Sir/ Madam [delete whichever is not applicable]

RE: SUBMISSION OF TENDER NUMBER ..... [Insert the tender details and date]

You submitted a proposal for the abovementioned tender. The evaluation and Adjudication process has now been completed, and we regret to inform that your proposal was not successful.

Use the paragraph below if reasons are provided.

The reasons for rejecting your proposal are the as follows:

- (a) Insert the reasons why the proposal was not successful
- (b) .....
- (c) .....

If reasons are not provided use the two paragraphs below:

You have the right to request reasons for this decision within 90 days of receipt of this notice. Any request that you make must be in writing. If you cannot write and cannot find someone to assist you, you can visit our offices at the above-mentioned address, and we will assist you.

Your request must be addressed to [insert name and title of the decision maker – accounting authority]. It can be sent by email, registered mail or delivered by hand to the following address:

Postal address [insert details]

Physical address [insert details]

Email address [insert details]

Any submission that you make for reasons to be provided must include your name, the bid number to which your enquiry is related, telephone number and address.

If you believe that the Department made a procedural or technical error in reaching this decision or that it was biased, you are entitled to take the decision on review to the High Court in terms of the Promotion to Administrative Justice Act, No. 3 of 2000. Such an application must be made to the Court within 180 days of receipt of this notice.

Yours faithfully

[insert name and position of person signing the letter – it should be an authorized person]

Received \_\_\_\_\_

Date \_\_\_\_\_

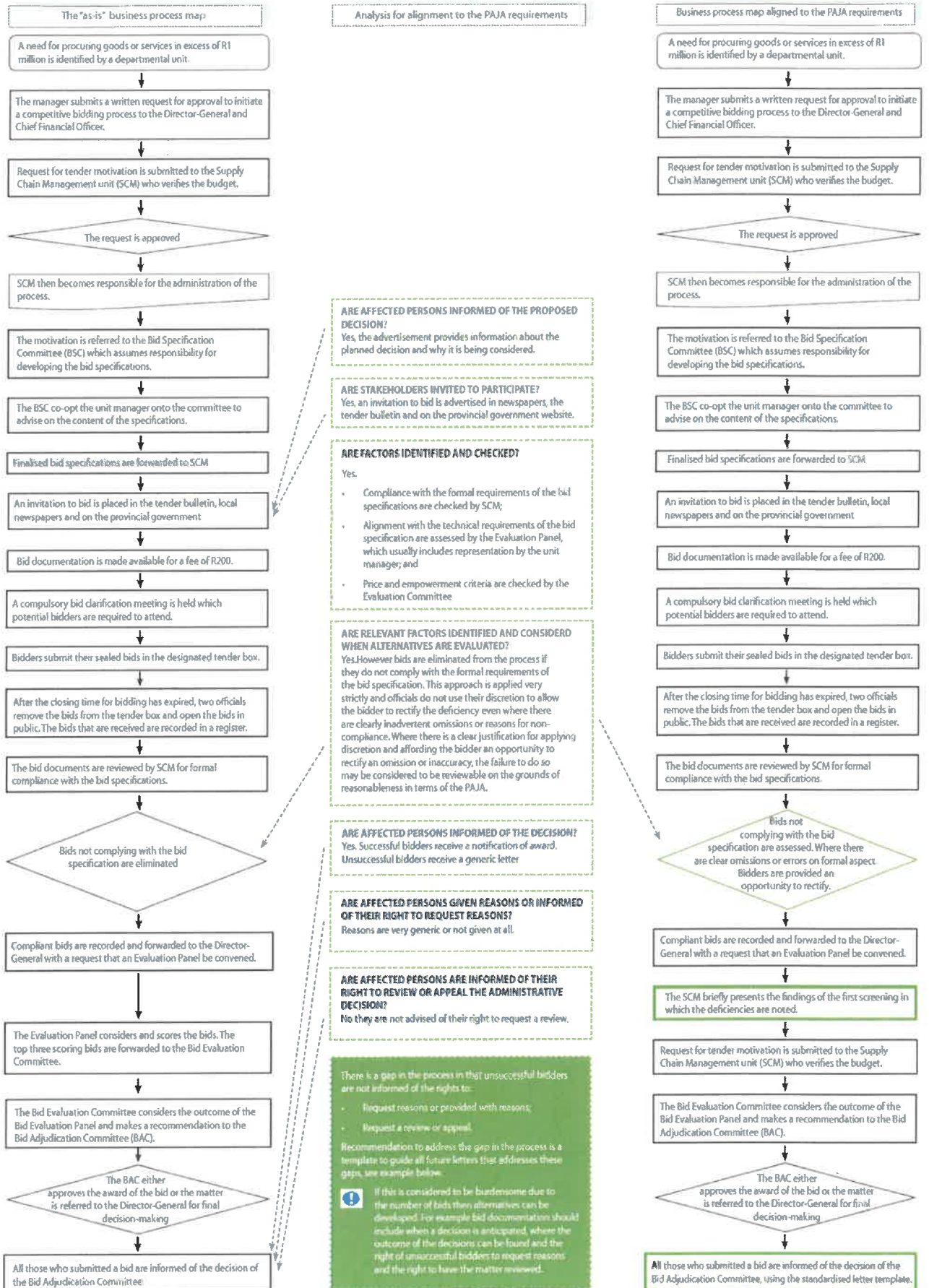
*This should be included so that it can be proved when the letter was received if it was delivered by hand if not delivered by hand, email transmission report or registered post slip must be retained as evidence.*

## **12. PAJA MAINSTREAM PROCESS GUIDELINE**

12.1 This explains the guideline towards the implementation process below.

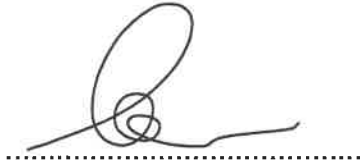


## The processes outlined below is an example of the PAJA mainstreaming process



### 13. RECOMMENDATION:

13.1 It is therefore recommended that the Acting Head of Department approves the framework to be used by all employees in the implementation of PAJA and its outlined procedures.



**Ms A.M. De Bruin**  
**Acting Chief Director: Corporate Services**

16/03/2026

**Date**

**APPROVED / ~~NOT APPROVED~~ / ~~APPROVED WITH AMENDMENTS:~~**

for implementation



**Ms K. O. Bodigelo-Nyezi**  
**Acting Head of Department**  
**Department of Agriculture and Rural Development**  
**North-West Provincial Administration**

18/03/2026

**Date**