INFORMATION REGULATOR (SOUTH AFRICA)

Ensuring protection of your personal information and effective access to information

ISIKHOKELO

SENDLELA YOKUSEBENZISA UKUKHUTHAZA UKUFIKELELA KUMTHETHO WEENKCUKACHA WESI 2 WONYAKA WAMA-2000, NJENGOKO ULUNGISWE NGAKUTSHA

ISIXHOSA

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PAIA GUIDE

INTSHAYELELO NGUSIHLALO

UMgaqo-siseko weRiphablikhi yoMzantsi Afrika, 1996[1] ("UMgaqo-siseko") uchaza ukuba uMzantsi Afrika lilizwe lobukumkani nelentando-yesininzi esekwe kwinkqubela-phambili yamalungelo oluntu yaye inkqubo yokuphendula ngezenzo zakho, eyokuphendula ebantwini neyokungafihli nto kwindlela yolawulo yinxalenye yezinto ezixatyisiweyo nguwo. Ngaphambi kokuba uMzantsi Afrika ube nenkululeko ngokomaqo-siseko, enyanzelisa iNkqubo yaMalungelo [Bill of Rights], inkqubo kaRhulumente eMzantsi Afrika kwenye yezinto zayo, ikhokhelele kwinkcubeko enemfihlo nengakwazi kuphendula kumaqumrhu kawonke-wonke nawabucala, nto leyo ikhokhelele ekubeni kusetyenziswe kakubi ubuphatha-mandla futhi kwaphulwa namalungelo oluntu. Kungoko ke icandelo 32(1) leNkqubo yaMalungelo, inika ilungelo lokufikelela kwiinkcukacha ezigcinwe lilizwe, kunye naziphi na iinkcukacha ezigcinwe nguye nawuphi na umntu ekufuneka enze lowo msebenzi okanye akhusele nawaphi na amalungelo. ICandelo Section 32(2) loMgaqo-siseko kwakhona linika umthetho kumthetho-siseko welizwe, oza kunika isiphumo kweli lungelo, ngokuhlonipha, ukukhusela, ukunyusela nokuzalisekisa eli lungelo.

UMthetho wokuNyuswa kokuFikelela kwiiNkcukacha, weNombolo 2 wama 2000 (apha emva koko obizwa nge-"**PAIA**", okanye "UMthetho" ngokutshintshana), nanjengoko ulungisiwe, ngumthetho-siseko welizwe owabasemthethweni ngokwendlela ebalulwe kwicandelo elingasentla 32(2) lomgaqo-siseko.

Injongo ye-**PAIA**, kukunyanzelisa inkcubeko yokungafihli-nto neyokuphendula ngezenzo zomntu kumaqumrhu kawonke-wonke nawabucala. Yenza oko ngokunika isiphumo selungelo lokufikelela kwiinkcukacha nokuthi ekuhlaleni inyusele ukuba abantu boMzantsi Afrika bafikelele kakuhle kwiinkcukacha ukuze bakwazi ukusebenzisa ngokupheleleyo amalungelo abo yaye yaye bakhusele onke amalungelo abo, yaye kwakhona bazazi iinjongo zoMzantsi Afrika zentando yesininzi efikelelekayo nokwaziyo ukuthatha inxaxheba kuyo.

ISikhokelo se-**PAIA** senzelwe ukuze sizalisekise oko kufanele kwenziwe nguMlawuli weeNkcukacha ("UMlawuli") phantsi kweCandelo 10 le-**PAIA**, elifuna uMlawuli ukuba asenze ngakutsha yaye enze iSikhokelo esikhona esenziwe yiKomishini yaMalungelo oLuntu yoMzantsi Afrika ukuba sifumaneke.

Esi Sikhokelo siyilelwe ukuba sibe sisixhobo esikhokhelayo, esilula yaye esifikelelekayo kuye nabani onomnqweno wokusebenzisa naliphi na ilungelo elicamngcwe kwi-**PAIA** kunye noMthetho wokuKhuselwa kweeNkcukacha zoMntu [Protection of Personal Information Act], wama-2013.

UMmeli Pansy Tlakula
USIHLALO WEQUMRHU ELILAWULA IINKCUKACHA

[1] *Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)*

ISIKHANYELI

*Esi Sikhokelo asimkhululi umsebenzisi waso kuxanduva lokusebenzisa isakhono nenkathalo yakhe ngokubhekiselele kokufunwa okanye iimfuno ezibekwe ngumthetho-siseko. Ngaphezu koko, esi Sikhokelo asiniki ngcebiso isemthethweni yaye asenzelwanga ukuba sisebenze endaweni ye-**PAIA** okanye iMithetho ekhutshwe phantsi kwe-**PAIA**. UMlawuli akamkeli tyala layo nayiphi ilahleko ekunokwenzeka ukuba yenzeke ngokwesiphumo sokoyama kwesi Sikhokelo.*

1. ULUHLU LWEZIFINYEZO NEZISHUNQULELO

CEO	IGosa eliyiNtloko Mlawuli
CFO	IGosa eliyiNtloko Mlawuli yeziMali
UMgaqo-Siseko	UMgaqo-Siseko weRiphablikhi yoMzantsi Afrika, iNombolo yoMthetho, 108 wama 1996
DIO	IGosa elinguSekela kwiiNkcukacha
DoJ & CD	ISebe lezoBulungisa noPhuhliso loMgaqo-Siseko
IO	IGosa leeNkcukacha
Amalungu	Amalungu eQumrhu loLawulo lweeNkcukacha
UMphathiswa	UMphathiswa wezoBulungisa neeNkonzo zoLuleko
PAIA	UMthetho wokuNyuswa kokuFikelela kwiiNkcukacha iNombolo 2 wama 2000, njengoko ulungiswe ngakutsha
PAJA	UMthetho wokuNyuswa koLawulo lwezoBulungisa, 2000
PFMA	UMthetho woLawulo lweziMali zoLuntu iNombolo.1 we- 1999 njengoko ulungiswe ngakutsha
POPIA	UMthetho wokuKhuselwa kweeNkcukacha zoMntu iNombolo.4 wama 2013
Regulator	UMlawuli weeNkcukacha
SAHRC	IKomishini yaMalungelo oLuntu yoMzantsi Afrika

2. ISIGAMA ESISEBENZA KAKUHLE ESICHAZWE NGENDLELA NOHLOBO EKULULA UKULUQONDA

Isigama	Inkcazelo
INtlawulo yokuFikelela	Le ntlawulo yokufikelela ihlawulwa ngulowo ucelayo kwiqumrhu ocela kulo iinkcukacha, ukuze uquke iindleko zokufumana nokukopa iingxelo ozofunayo. Into ongayihlawula inikwa ngumthetho.
Umlawuli	Licandelo likarhulumente okanye nawuphi na umntu okanye umntu womthetho othatha inyathelo lolawulo.

Isigama	Inkcazelo
Isenzo esilawulayo	Siso nasiphi isigqibo esithathwayo okanye nakuphi na ukungakwazi kuthatha isigqibo ngaba (a) Icandelo loluntu likarhulumente, xa: (i) kusetyenziswa igunya ngokubhekiselele kuMgaqo-siseko okanye umgaqo-siseko wephondo, okanye (ii) kusetyenziswa amandla oluntu okanye kusenziwa umsebenzi woluntu ngokubhekiselele kuwo nawuphi na umthetho-siseko, okanye (b) umntu okanye umntu womthetho, ingelilo icandelo elithile likarhulumente, xa esebenzisa igunya loluntu okanye esenza umsebenzi woluntu ngokubhekiselele kumba wokuxhobisa umntu, nto leyo ichaphazela kakubi amalungelo angawo nakabani na yaye anegalelo ngqo okanye igalelo lomthetho langaphandle.
Umntu osemaGunyeni	Umntu ogunyazisiweyo ngumntu owenza isicelo egameni lomnye umntu, yaye ogunyaziswe kakuhle ngokwembalelwano ukuze enze oko.
IiNgxelo eziZivelelayo	Ezi ziingxelo zizakuthi zinikwe luluntu okanye iqumrhu labucala kulowo ufake isicelo ngaphandle kokuba kufuneke bafake isicelo. Ezi ngxelo zidweliswe 'kwisaziso zokuziveza ngokwakho ngokuzithandela', nekufuneka zenziwe zibeselubala.
Isihloko seenkcukacha	Ngulowo mntu iinkcukacha ezibhekise kuye.
Iintsuku	Ngaphandle kokuba kwaziswe ukuba 'lusuku lomsebenzi' kwicandelo le-**PAIA**, usuku lwaziwa ngokuba lolo lukwikhalenda. Ukubala ixesha, usuku olo kufakwe ngalo isicelo safunyanwa ngalo alubalwa, yaye iintsuku zonke ezilandelayo ziqukiwe, kuquka iimpela-veki kunye neeholide zikawonke-wonke kude kubalwe usuku lokugqibela. Ukuba usuku lokugqibela lokuphendula isicelo lungeCawa okanye iholide kawonke-wonke, kubalwa usuku olulandelayo njengosuku lokugqibela.
UKwala ngaBom	Ukuba akufunyanwanga mpendulo kwisicelo kwixesha elibekiweyo, oku kuchazwa njengo 'Kwala ngaBom'.
Uxwebhu 3	Olu xwebhu lunikwa ngumthetho yaye kufuneka lusetyenziswe ukucela ukufikelela kwiinkcukacha ezigcinwe liqumrhu likarhulumente okanye elabucala.
Uxwebhu 4	Olu luxwebhu lunikwa ngumthetho yaye kufuneka lusetyenziswe xa kubhenwa kwisigqibo esenziwe liqumrhu loluntu ngokubhekiselele kwisicelo sokufikelela kwiinkcukacha.

Isigama	Inkcazelo
Isikhokelo	Esi siKhokelo, senziwe kukulandelwa icandelo 10 le-**PAIA**, njengoko siphinde salungiswa, nesifuna ukunceda umntu onomnqweno wokusebenzisa naliphi ilungelo lakhe njengoko kucamngcwe kwi-**PAIA** nakuMthetho wokuKhuselwa kweeNkcukacha zoMntu, 2013.
IGosa leeNkcukacha	IGosa leeNkcukacha ngumntu ogunyazisiwe ukuba asebenze ngezicelo ze-**PAIA**. Ezi zilandelayo ziindidi zaMagosa eeNkcukacha kwiQumrhu elikhethekileyo ngalinye -

Iqumrhu loLuntu okanye ICandelo likaRhulumente (njengoko lichazwe kwicandelo lama 239 loMgaqo-siseko)	ISebe leLizwe	UMlawuli Jikelele okanye umntu ommele endaweni yakhe
	ULawulo lwePhondo	INtloko yeSebe okanye umntu ommele endaweni yakhe.
	UMasipalati	UManejala kaMasipalati okanye umntu ommele endaweni yakhe.
	AMaziko oLuntu adweliswe kuHlelo lwe-PFMA 1, 2, 3A, 3B, 3C KUNYE NO- 3D	IGosa eliyiNtloko Mlawuli okanye umntu osebenza emele Lona.
IQumrhu laBucala	UMntu ngokweNdalo	UMrhwebi oziMeleyo oshishina nangayiphi indlela, okanye urhwebo okanye ongumsebenzi oqeqeshiweyo kodwa ikukuphela kwaloo msebenzi yaye engenzeli siqu sakhe.
	INdibaniselwano yoShishino	Nawuphi na umntu odibene naye ngoshishino okanye nawuphi na umntu ogunyazisiweyo kwindibaniselwano yoshishino.
	IQela loPolitiko	Inkokheli yeqela lopolitiko okanye nawuphi na umntu ogunyazisiwe yinkokheli.

<table>
<tr><th>Isigama</th><th colspan="3">Inkcazelo</th></tr>
<tr><td>IQumrhu laBucala</td><td></td><td>UMntu woMthetho</td><td>IGosa eliyiNtloko Mlawuli okanye uManejala oyiNtloko okanye igosa elilingana naye elingumntu womthetho okanye nawuphi umntu ogunyaziswe lelo gosa.

QAPHELA: IGosa eliyiNtloko Mlawuli okanye elilingana nayo elingagunyazisa nawuphi na umntu odaliweyo njengeGosa leeNkcukacha okanye iQumrhu laBucala.</td></tr>
<tr><td>IGosa elinguSekela Mlawuli weeNkcukacha</td><td colspan="3">IGosa elinguSekela Mlawuli weeNkcukacha ngumntu ochongwe okanye onyulwe liGosa leeNkcukacha lequmrhu loluntu ukuze lincedise lowo ufaka isicelo ngeenkcukacha zakhe yaye apho iGosa leeNkcukacha linganyula abanye abaziziphatha-mandla ze-PAIA ukuba benze njalo.

QAPHELA: Lo gama iliqumrhu loluntu kuphela elingonyula okanye lichonge iGosa/amaGosa angooSekela Balawuli beeNkcukacha, ngokubhekiselele kwicandelo 17(1) le-PAIA, uMthetho woKhuselo lweeNkcukacha, 2013 (“POPIA”) wandisa igunya lokuchonga iGosa elinguSekela Mlawuli weeNkcukacha ukuya kwiqumrhu labucala, ngokubhekiselele kwicandelo 56(1) ngoko.</td></tr>
<tr><td>UMlawuli weeNkcukacha</td><td colspan="3">I-Ofisi yoMlawuli weeNkcukacha usekwe ngokubhekiselele kwicandelo 39 le-POPIA, ukuhlola nokunyanzelisa ukulandelwa kwemigaqo ne-POPIA kunye ne-PAIA. Kwesi Sikhokelo i-Ofisi yoMlawuli weeNkcukacha okanye uMlawuli weeNkcukacha ubizwa ngokuba nguMlawuli.</td></tr>
<tr><td>ISibheno sangaPhakathi</td><td colspan="3">ISibheno sangaPhakathi yinkqubo yokucela umngeni kwsigqibo esithathwe ngokubhekiselele kwisicelo se-PAIA kwiqumrhu loluntu, ekufuneka sigcwaliswe ngaphambi kokuba kucelwe umngeni kuMlawuli okanye inkundla enomthetho.</td></tr>
<tr><td>IQumrhu laBucala</td><td colspan="3">Iqumrhu labucala ngumntu, inkampani okanye naluphi na uhlobo lweziko lomthetho eliqhuba urhwebo, ishishini okanye umsebenzi oqeqeshelweyo, kuquka iqela lezopolitiko.</td></tr>
</table>

Term	Description
IQumrhu loLuntu	Iqumrhu loluntu lithetha isebe likarhulumente okanye elinye iziko okanye indawo esetyenziswayo, eyenza umsebenzi woluntu. Nangona kunjalo, xa kubhekiswe kwisibheno sangaphakathi, nayiphi na into ekuthiwa "liqumrhu loluntu" itshintshwe yaba "nguRhulumente", ukuze kunqandwe ukubhideka xa kujongwe amaqumrhu oluntu apho kungekho sibheno.
Ingxelo	Ingxelo zizo naziphi na iinkcukacha, nokuba ziluluphi uhlobo, kuquka, umzekelo, imiqulu ebhaliweyo, eviwe ngeendlebe, engamanani kunye nezinto eziyimifanekiso bhanya-bhanya. Nayiphi na ingxelo ecelwe kwiqumrhu loluntu okanye labucala ithetha ingxelo esezandleni zelo qumrhu, nokuba loo ngxelo yenziwe lelo qumrhu.
IMigaqo yolawulo	I-**PAIA** ivumela uMphathiswa ukuba akhuphe imithetho yolawulo eyongeza u-Mthetho obekiweyo, ekufuneka ishicilelwe kwiGazethi kaRhulumente yaye iquka imiba efana namaxwebhu ekufuneka asetyenziswe kunye neentlawulo ezingahlawuliswa kwiinkqubo ezithile.
IGunya eliFanelekileyo	I-**PAIA** isebenzisa isigama esithi 'igunya elifanelekileyo' ukuchaza umntu okuRhulumente weLizwe, owePhondo nosekuHlaleni apho isibheno sangaphakathi kufuneka senziwe khona, ekuyintloko yopolitiko yequmrhu ekubhekiwe kulo ikakhulu, (lo msebenzi ungenziwa ngokonyula mntu uthile ngokusemthethweni).

3. IINKCUKACHA ZOQHAGAMSHELWANO ZOMLAWULI

IGosa leeNkcukacha

IGosa eliyiNtloko-Mlawuli: Mnu Mosalanyane Mosala

Umntu ekuqhagamshelwana naye: Nkszn Ntombizodwa Harrieth Rikhotso

Imeyili: NtoRikhotso@justice.gov.za

USekela-Gosa weeNkcukacha: Ms. Varsha Sewlal

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4. INJONGO YESI SIKHOKELO SE-PAIA

4.1 Injongo yesi Sikhokelo kukunika iinkcukacha ezifunwa ngumntu onomnqweno wokusebenzisa naliphi na ilungelo elicamngwe kuMthetho wokuNyuswa kokuFikelela kwii Nkcukacha wonyaka wama-2000 (**PAIA**) kunye noMthetho wokuKhuselwa kweeNkcukacha zoMntu wonyaka wama- 2013 ("**POPIA**"). Nawuphi na umntu, nokuba ngummi waliphi na ilizwe angafaka isicelo seenkcukacha phantsi kwe-**PAIA**.

4.2 Esi Sikhokelo siza kunceda umntu ikakhulu, okwabizwa ngokuba sisihloko seenkcukacha, ngendlela angafikelela ngayo kwiinkcukacha zakhe ngokubhekiselele kwicandelo 23 le-**POPIA**. Phantsi kwe- **POPIA**, umntu okanye isihloko seenkcukacha, banelungelo koku-

4.2.1 ukucela iqela elinoxanduva ukuba liqinisekise, simahla ukuba elo qela ligcine iinkcukacha zabo na okanye hayi, noku

4.2.2 ukucela kwiqela elinoxanduva ingxelo okanye inkcazelo yeenkcukacha zomntu malunga nesihloko seenkcukacha ezigcinwe liqela elinoxanduva, kuquka iinkcukacha malunga nokwaziwa kwabo bonke abanye ababandakanyekayo okanye iindidi zabo babandakanyekayo abakhe bafikelela kwiinkcukacha okanye abakhe bafikelela kuzo;

4.2.3 ukucela iqela elinoxanduva ukuba -

(a) lilungise okanye licime iinkcukacha zomntu malunga nesihloko seenkcukacha ezikubo okanye eziphantsi kolawulo lwabo ezingezizo ncam, ezingafanelekanga, ezibaxiweyo, eziphelelwe lixesha, ezingaphelelanga, ezilahlekisayo okanye ezifunyenwe ngendlela engekho mthethweni okanye

(b) litshabalalise okanye licime ingxelo yeenkcukacha zomntu malunga nesihloko seenkcukacha iqela elinoxanduva loko elingasafanelanga lizigcine

4.3 Esi sikhokelo kwakhona siza kunceda nawuphi na umntu ngendlela yokufaka isicelo sokufikelela kwiingxelo phantsi kwe-**PAIA**. Isikhokelo kwakhona siza kunceda abo bacelayo koku:

4.3.1 ukuqonda nge- **PAIA**, iinzuzo zayo kunye nemvelaphi yayo;

4.3.2 ukufunda inkqubo yenyathelo emva kwelinye yokwenza isicelo kunye neengcebiso ezizezinye zokwenza inkqubo ibelula;

4.3.3 ukufunda ngeentlobo zeenkcukacha ezingacelwa kusetyenziswa i-**PAIA**;

4.3.4 ukuqonda inkqubo angathi lowo ufake isicelo acele umngeni kwisigqibo esithathwe ngokubhekiselele kwisicelo;

4.3.5 ukwaziswa kutshintsho oluzakwenzeka kwi-**PAIA** yakuba i-**POPIA** isebenza ngokupheleleyo.

4.4 Esi sikhokelo kwakhona siza kunceda abantu ukuqobnda ngendlela yokucela umngeni ekunikweni imvume yokufikelela kwiingxelo zabo okanye indlela yokuthatha inxaxheba kwinkqubo yokufikelela kwiingxelo zabo.

5. MALUNGA NE-PAIA

5.1 Ilungelo lokufikelela kwiinkcukacha "yenye yeendlela ezisebenza kakuhle zokumisa ukuxabiseka komgaqo-siseko wokungafihli nto, ukuveza elubala izinto kunye nokuthatha uxanduva lokuphendula ngoko ukwenzileyo[2]. Oku kuxabiseka komgaqo-siseko akunakufikelelwa ukuba urhulumente usebenza yedwa ngeenkcukacha ezazisa ngeendlela nezigqibo zakhe ngako oko, ukufikelela kwiinkcukacha akubalulekanga kakhulu kuphela kurhulumente wentando yesininzi osebenza kakuhle nofuna bantu bathathe inxaxheba kodwa kukwakhulisa ukuthembeka kukarhulumente eluntwini yaye kwandisa ukusebenza ngokusemthethweni. Ezinye iinzuzo zelungelo lokufikelela kwiinkcukacha, umzekelo zezi, kukuba ityhafisa ubuqhophololo nobuqhetseba futhi nezinye iindlela zokuziphatha ezingalunganga eburhulumenteni.

5.2 Xa uMgaqo-Siseko woMzantsi Afrika wenziwa ngexesha elilandela ukuwa kweNkqubo yoCalucalulo malunga nonyaka u-1990, imibutho eyahluka-hlukeneyo kunye neziqu zabantu bakhankasela ukuba kufakwe ilungelo lokufikelela kwiinkcukacha. Kwakuthenjwe ukuba ukufakwa kweli lungelo leNkqubo yaMalungelo [Bill of Rights] liza kuqinisekisa ukuba loo nkohlakalo nezenzo ezibi zobundlobongela azingekhe ziphinde zenzeka, nanjengoko urhulumente kunye namaziko abucala bezakunyanzeleka ukuba basebenze ngendlela yokuthatha uxanduva lokuphendula ngezenzo zabo yaye zonke izinto zibeselubala ngokuthi banike indlela yokufikelela kwiinkcukacha yaye kananjalo bengenokwazi ukuzimela ngasemva kwesigqubuthelo seemfihlo. Kwabonwa njengenyathelo elifunekayo lokunceda ukwakha inkcubeko yokugwetyelwa eza kukhokelela kwiimeko zobudlelwane ezibhetele ebantwini kunye nabo basemagunyeni olawulo. Kwenye yeemeko zakuqala[3] zokujongana nombuzo wokuba ingaba lowo mntu utyholwayo ufanelwe kukuba afikelele kuzo zonke iinkcukacha eziqulethwe kwidokhethi yamapolisa. U-Jones J wazisa ngokubaluleka kwayo kwezi meko:

"Injongo … kukubeka bucala ukuqhubeka kwenkqubo endala yolawulo, inkqubo apho kwakungenzeka ukuba urhulumente abaleke ukuphendula ngezenzo zakhe ngokwala ukuveza iinkcukacha nokuba ibinento eyithweleyo ekusetyenzisweni okanye ukhuselo lwamalungelo omntu. Oku yinkathazo eyilelwe ukunqanda [….] Ukubonwa kokulunga kunye nokubaselubala kukhuthaza intembeko yoluntu kulawulo lweemeko zoluntu ngokubanzi. Le ntembeko yenye yeempawu zeendawo zasekuhlaleni ezilawulwa yintando yesininzi apho uMgaqo-Siseko wenza imizamo khona.".

[2] *UMthetho woLawulo we-Hoexter 94*
[3] *1994 (1) SACR 635 (E)*

5.3 ICandelo lama-32 loMgaqo-Siseko ligqamisa ilungelo lokufikelela kwiinkcukacha ezigcinwe ngamaqumrhu oluntu nawabucala. ICandelo lama-32 kwakhona lichaza ukuba umthetho-siseko kufuneka umiselwe ukunika isiphumo kwilungelo lokufikelela kwiinkcukacha ngokuchaza iindlela apho iinkcukacha ezisuka kumaqumrhu oluntu nawabucala zingafikelelwa khona yaye ngokunika iimeko apho amaqumrhu kawonke-wonke nawabucala angala ukuba kufikelelwe kwiinkcukacha.

5.4 I-**PAIA** yamiselwa ukuba iphendule igunya loku kumiselwe ngasentla yaye ifike elulawulweni kwindawo enkulu ngoMatshi 2001. Intshayelelo yayo yamiselwa ukuvunywa "inkcubeko yokufihla nokungaphenduli" kwexesha langaphambi kwentando yesininzi kwaye uqinisekisa ukuba enye yeenjongo ze-**PAIA** "kukukhusela inkcubeko yokudandalazisa nokuphendula kwizinto zamaqumrhu oluntu nawabucala."

5.5 I-**PAIA** imele ukunika igalelo kumalungelo omntu okufikelela kwiinkcukacha nokuphendula koko ukwenzileyo. Yenzelwe ukuxhobisa abantu ukuze basebenzise umthetho yaye ngaloo ndlela, inceda ukuququzelela ukucela imvume yokufikelela kwiinkcukacha ngeendlela ezahlukeneyo. Umntu akadingi gqwetha ukuze afake isicelo sokufikelela kwiinkcukacha ngokubhekiselele kwi-**PAIA**.

6. IINJONGO ZE-PAIA

6.1 Iinjongo ze-**PAIA** ayikokuhlala endaweni yelungelo lomthetho kodwa kukunika isiphumo kwilungelo elikwicandelo lama- 32 ngokweemida yokuthethelela yaye ngendlela enceda ukuba kulingane onke amanye amalungelo aqukwe kuMgaqo-Siseko. Inethemba lokukhuthaza inkcubeko yamalungelo oluntu kunye nomthetho wabantu ekuhlaleni, kwicandelo likarhulumente nelabucala ebantwini. I-**PAIA** ifuna ukunyusela ukudandalaziswa kwezinto elubala, ukuphendula kwizinto ezenziweyo kunye nolawulo lwamaziko onke (awoluntu nawabucala omabini) ngokuxhobisa abantu ukuze baqonde ukufikelela kwabo kwiinkcukacha zamalungelo, basebenze ngawo yaye bawaphononongе yaye babandakanywe ekuthathweni kwezigqibo ezibachaphazelayo.

6.2 Ilungelo lokufikelela kwiinkcukacha lilungelo elinamandla kakhulu lomgaqo-siseko, nanjengoko linceda abantu ukubona amanye amalungelo. Umntu angalisebenzisa ukujonga nokuhlola ukunikezelwa kweenkonzo zikarhulumente okanye ukufikelela kwiingxelo zakudala ezingabanomdla.

6.3 Iinjongo ze-**PAIA** zezi:

6.3.1 ukunika isiphumo kwilungelo lomgaqo-siseko lokufikelela koku -

6.3.1.1 naziphi iinkcukacha ezigcinwe nguRhulumente; kunye

6.3.1.2 naziphi iinkcukacha ezigcinwe ngomnye umntu kwaye ezifuneka ukuze zisetyenziswe okanye ukukhusela nawaphi na amalungelo.

- Imfuneko ebhekiselele kukhuselo lwamalungelo ivalelwe kwiinkcukacha ezigcinwe zizandla zabucala. Amaqumrhu abucala ngoko ke anebakala elingaqinanga kakhulu lokudandalazisa izinto kunamaqumrhu kawonkewonke. Icandelo labucala, ngamanye amazwi, lifanelwe kukugcina iinkcukacha kulo, ngaphandle kokuba ezo nkcukacha zifunwa ukukhusela amalungelo.

- I-**PAIA** ibona, ngokubhekiselele kwiCandelo 8(1) ngoko, ukuba iqumrhu elo lingaba "leloluntu" okanye "elabucala" ngeenjongo zoMthetho, kuxhomekeke ekubeni ingxelo ekuthethwa ngayo "ibhekise ekusebenziseni amandla okanye indlela yokusebenza yokwenza njengequmrhu loluntu okanye njengequmrhu labucala."

6.3.2 ukunika igalelo kwelo lungelo -

6.3.2.1 kujongwe imida ethethelelayo, kuquka, kodwa kungaphelelanga koko, imida ekujongwe kuyo ekukhuseleni imfihlo okuvakalayo, imfihlo yezoshishino kunye nolawulo loburhulumente obunegalelo nobusebenza kakuhle; kunye

6.3.2.2 nangendlela elungelelanisa elo lungelo kunye nawo nawaphi amalungelo, kuquka amalungelo akwiNkqubo yaMalungelo kwiSahluko 2 soMgaqo-siseko;

6.3.3 ukunika igalelo koko kwiimfanelo zomgaqo-siseko weLizwe ekukhuthazeni inkcubeko yamalungelo oluntu kunye nobulungisa basekuhlaleni, ngokuquka amaqumrhu oluntu kwinkcazelo 'yalowo ufaka isicelo', yaye kubavumela, kwezinye izinto, ukuba bafikelele kwiinkcukacha ezikumaqumrhu abucala bakuba behambelana neemfuno ezine ezikulo Mthetho, kuquka enye imfuneko eyongeziweyo yokuba amanye amaqumrhu kwezinye iimeko enzele intando yabantu;

6.3.4 ukuseka ubucukubhede bokuzithandela okanye ngokukhethwa okanye iinkqubo ezinika igalelo kwelo lungelo ngohlobo olulungileyo olukwazi ukwenza abantu ukuba bafikelele kwiingxelo zamaqumrhu oluntu nawabucala ngokukhawuleza kakhulu, ngamaxabiso aphantsi kwaye bengasebenzisanga mandla kakhulu futhi ngendlela evakalayo; futhi

6.3.5 nokuthi ngokubanzi kuphakanyiswe ukungafihli nokudandalazisa izinto, ukuphendula kwizinto ezenziwayo kunye nolawulo oluhamba kakuhle kuwonke-wonke nabucala, kuquka kodwa kungenamda, ukuxhobisa nokufundisa wonke umntu

6.3.5.1 ukuqonda amalungelo abo ngokubhekiselele kwisigama esikulo Mthetho ukuze kusetyenziswe amalungelo abo ngokubhekiselele kumaqumrhu oluntu nawabucala;

6.3.5.2 ukuqonda imisebenzi kunye nenkqubo yamaqumrhu oluntu; noku

6.3.5.3 ukuhlolisisa kakuhle nokuthatha inxaxheba ekuthatheni isigqibo esichaphazela amalungelo abo, ngamaqumrhu oluntu.

6.4 UMthetho wokuNyuselwa kokuFikelela kuLungiso lweeNkcukacha, 2019

6.4.1 Kumba othi ***IVoti Yam ineGalelo [NPV] ujongene noMphathiswa weeNkonzo zoBulungisa noLuleko kunye Nenye* [2018] ZACC 17**, inkundla yomgaqo-siseko yafumana ukuba "uRhulumente uphantsi kwemfanelo esuka ekufundweni kakuhle kwamacandelo 32, 19 nele- 7(2) oMgaqo-siseko ukwenza yonke into ngokuzathuzeka kakhulu ukunika ngendlela eyenzekayo nevakalayo, ukuzithethela kwilungelo lokufikelela kwiinkcukacha kunye nelungelo lokuvota. Kwakhona uninzi lwazamela ukuba oku kubenjalo kuba ukusebenza kwelungelo lokuvota kufuneka kube kukuzikhethela yaye kukho uqhagamshelwano olubalulekileyo phakathi kokusebenza kakuhle kwelungelo lokuvota kunye nelungelo lokufikelela kwiinkcukacha. Futhi, "ngaphandle kokufikelela kwiinkcukacha, ukukwazi kwabemi ukwenza isigqibo esithatha uxanduva sopolitiko, kubomi boluntu kujongelwe phantsi". INkundla yoMgaqo-Siseko yaqinisekisa lo myalelo wokungevakali ngokomthetho yaze yanika umyalelo wokuba iPalamenmte iyilungise i-**PAIA** yaye ithathe naliphi na elinye inyathelo elibona lifanelekile ukunika inkqubo yokushicilelwa, kugcinwe yaye kuququzelelwe ukufikelela ngokuvakalayo kwiinkcukacha, ekubeni kufakwe inkxaso ngezimali zabucala kumaqela oopolitiko kunye nabagqatswa abazimeleyo kwixesha leenyanga ezili-18.

6.4.2 Ngokubhekiselele kwisigwebo esikhankaanywe ngasentla somgaqo-siseko, uMongameli wathi, ngomhla wesi- 3 Juni 2019, wavuma uMthetho wokuNyuselwa kokuFikelela kwiiNkcukacha, 2019 (uMthetho wolungiso lwe-**PAIA** 2019)[4]. UMthetho wolungiso lwe-**PAIA** wonyaka u-2019 uquka iqela lopolitiko elikwinkcazelo yequmrhu labucala, nto leyo ithetha kakuhle ukuba inkokheli yeqela lopolitiko okanye naawuphi na umntu ogunyaziswe ngokusemthethweni yinkokheli leyo uligosa okanye intloko yeenkcukacha. UMthetho wolungiso wonyaka u-2019 ngoku wandisa ilungelo lokufikelela kuzo naziphi iingxelo zeqela lopolitiko.

6.4.3 UMthetho wolungiso ulungiselela iinkcukacha zokunika inkxaso yezimali zabucala kumaqela opolitiko kunye nabagqatswa abazimeleyo ukuba ubhalwe, ugcinwe yaye wenziwe ufumaneke.

6.4.4 Ngokubhekiselele kwicandelo 52A loMthetho wolungiso lwe-**PAIA** ka- 2019, intloko yeqela lopolitiko kufuneka yakhe futhi igcine iingxelo zalo naluphi uhlobo lomnikelo ogqitha umda obekiweyo, wama **R100 000.00**, oyenziwe kwelo qela lopolitiko kuwo nawuphi na unyaka-mali kunye nesazisi saye nawuphi umntu okanye amashishini enze lowo mnikelo. Intloko yeqela lopolitiko kwakhona kufuneka yenze iingxelo zifumaneke qho ngekota, njengoko kubekiwe, yaye agcine ezo ngxelo ixesha elingangeminyaka emihlanu ubuncinane emva kokuba ezo ngxelo kubhekiswe kuzo zenziwe.

[4] *UMthetho wokuLungiswa kokuNyuselwa kokuFikelela kwiiNkcukacha, iNombolo. 31 wanyaka u-2019*

6.4.5 Oku kuthetha ukuba lo gama uMthetho weNkxaso-mali yamaQela oPolitiko usenza kunyanzeleke ukudandalazisa iingxelo kwiKomishini yoLonyulo, uMthetho wolungiso lwe-**PAIA** ka- 2019 ngoku wandisa ilungelo lokufikelela kwiingxelo zawo nawuphi umnikelo ogqitha ama- **R100 000.00** owenziwe kwelo qela lopolitiko.

6.5 Omnye umthetho-siseko okhusela ilungelo lokufikelela kwiinkcukacha

I-**PAIA** ikwakhona kuko konke okungqonge umthetho, nto leyo yenzelwe ukwenza “inkcubeko yokugwetyelwa”. Ukuqwalasela oku. I-**PAIA** ichaza ukuba nawuphi na umthetho onika umntu indlela yokufikelela kwiinkcukacha owenza kungabinzima kakhulu kune- PAIA, ungasetyenziswa endaweni yayo[5].

6.5.1 UMthetho weeNkampani wama 71 wonyaka u-2008

6.5.1.1 ICandelo 26(1) loMthetho weeNkampani linika umntu onomdla okanye onelungelo lokubanomdla kuzo zonke iindlela zokhuselo ezikhutshwa yinkampani eyenza inzuzo okanye olilungu lenkampani engenzi nzuzo, ukuba unelungelo lokuhlola futhi akope, ngaphandle kwentlawulo engaphezu kwaleyo iyeyona inkulu ibekiweyo, yayo nayiphi ikopi ekhankanyiweyo, iinkcukacha eziqulethwe kwiingxelo zenkampani.

6.5.1.2 Ngokubhekiselele kwicandelo 26(7)(b) loMthetho weeNkampani, “amalungelo okufikelela kwiinkcukacha abekwe kweli candelo ongeza yaye, akamelanga nawaphi amalungelo umntu anganawo ukufikelela kwiinkcukacha ngokubhekiselele kuMthetho wokuNyuselwa kokuFikelela kwiiNkcukacha, 2000 (INombolo yoMthetho. 2 wama 2000)”.

6.5.2 UMthetho weNkxaso-mali yamaQela oPolitiko, 2018 (INombolo yoMthetho. 6 wama 2018)

6.5.2.1 INkxaso-mali yezoPolitiko iveza isikhokelo esingqongqo solawulo senkxaso-mali yabucala yawo onke amaqela opolitiko abhalisiweyo, nokuba amelwe okanye akamelwanga kwizindlu zowiso-mthetho amaphondo nawelizwe. Oku kuquka ukumisa imida kwimvelaphi, ubungakanani nomsebenzi womnikelo wenkxaso-mali ngamaqela opolitiko.

6.5.2.2 Ukuqinisekisa ukungafihlwa kwezinto nokuphendula kwizinto ezenziweyo, amaqela opolitiko kufuneka achaze yonke iminikelo efunyenweyo engaphezu komda wokuchazwa kwezinto wama- R100 000.00 kwiKomishini yoloNyulo rhoqo emva kweenyanga ezintathu (futhi nangaphambi kolonyulo lukawonkewonke).

[5] *ICandelo 2(1) le-PAIA*

6.5.2.3 Nawuphi umntu okanye umbutho owenza umnikelo kwiqela lopolitiko, othi uwodwa okanye ilandelelana igqithe ama- **R100 000.00** ngonyaka makaxele lowo mnikelo kwiKomishini yoloNyulo kwiintsuku ezingama 30 exesha apho loo minikelo unyukayo wegqitha ama- **R100 000.00**.

6.5.2.4 Okokugqibela, uMthetho weNkxaso-mali yamaQela oPolitiko ubeka isinyanzelo kwiKomishini yoloNyulo ukwazisa uluntu kwiinyanga ezintathu rhoqo ngeminikelo exelwe ngamaqela opolitiko kwanokuxela rhoqo ngonyaka kwiPalamente ngayo yonke iminikelo eyenziwe kumaqula opolitiko enyakeni.

6.5.3 UMthetho woKhuselo lweeNkcukacha zoMntu, 2013 (iNombolo. 4 wama 2013)

6.5.3.1 ICandelo lama 23 we- **POPIA** unika lowo usisihloko seenkcukacha ilungelo lokufikelela kwiinkcukacha zakhe ezigcinwe lelo qela linoxanduva, kuquka iinkcukacha ezimalunga nesazisi zabo bonke abangabanye ababandakanyekayo okanye amacandelo angamanye abandakanyekayo, afikelela akhe afikelela kwiinkcukacha.

6.5.3.2 Oku kuthetha ukuba lo gama ukufikelela kwingxelo eneenkcukacha ezimalunga nalowo ufake isicelo kubekelwe bucala kwi- **PAIA** ngokubhekiselele kwiCandelo 11(2) ke ngoko, isihloko seenkcukacha singacela

6.5.3.2.1 ukufikelela kwiinkcukacha zakhe; kunye/okanye

6.5.3.2.2 izazisi zabo babandakanyekayo bangabanye, kunye/okanye iindidi zabo bangabanye babandakanywekayo, abafikelela okanye abakhe bafikelela kwiinkcukacha.

6.5.3.2.3 ukulungiswa okanye ukususwa kweenkcukacha malunga nesihloko seenkcukacha abanazo okanye eziphantsi kolawulo lwabo yaye engeyiyo ngqo, engafanelekangekisayo okanye efunyenwe ngendlela engekho mthethweni; okanye

6.5.3.2.4 ingxelo yeenkcukacha zakhe iqela elinoxanduva elingasafanelekanga ukubanegunya lokuyigcina, ukuba liyitshabalalise okanye liyisuse.

6.5.3.3 Iqela elinoxanduva lingala ukudandalazisa naziphi na iinkcukacha zalo ezifunwayo, ngokubhekiselele kwiimeko kumhlathi 19.4 ongasezantsi.

6.5.4 UMthetho wokuNyuselwa koLawulo kwezoBulungisa wesi 3 wama 2000

6.5.4.1 Omnye umthetho obalulekileyo ekufuneka ukhunjulwe xa kujongwe ekufikeleleni kwiinkcukacha nguMthetho wokuNyuselwa koLawulo lwezoBulungisa [Promotion of Administrative Justice Act (**PAJA**)]. I-**PAJA** inika igalelo kwilungelo lenyathelo lolawulo elinomthetho opheleleyo, elivakalayo nelinenkqubo elingileyo kunye nelungelo lokufikelela kwizizathu ezibhaliweyo zenyathelo lolawulo njengoko kucamngcwe kwicandelo 33(2) loMthetho[6].

6.5.4.2 Ngokubhekiselele kwicandelo 5(1) we-**PAJA**, nawuphi umntu onamalungelo akhe achaphazeleka ngokuphathekayo okanye kakubi ngenyathelo lolawulo yaye ongakhange anikwe zizathu zelo nyathelo, angathi, kwiintsuku ezingama 90 emva komhla apho lowo mntu athe wazi ngenyathelo elo okanye angathi afanelwe kukwazi ngalo elo nyathelo, acele umlawuli ochaphazelekayo ukuba amnike izizathu ezibhaliweyo zeso senzo. Umlawuli lowo isicelo senziwa kuye makathi, kwiintsuku ezingama 90 emva kokufumana isicelo, anike lowo mntu isizathu esivakalayo senyathelo lolawulo ngembalelwano.

7. UKUSEKWA KOMLAWULI WEENKCUKACHA

7.1 Ukuqinisekisa ukunyuselwa kunye nokuphuculwa kweenjongo ze-**PAIA**, ezikukunika igalelo kwelo lungelo lokufikelela kwiinkcukacha, ngohlobo olwenza abantu bafumane ukufikelela kwiingxelo zamaqumrhu karhulumente nawabucala, ngokukhawulezileyo nangendlela engatyabuli pokotho kangangoko, uMlawuli weeNkcukacha ("uMlawuli") wasekwa ngokubhekiselele kwicandelo lama 39 le-**POPIA**.

7.2 Ukuze kuqinisekiswe ukuba kulandelwa iinkqubo ezingenabugocigoci nezingatyabuli pokotho, xa kusenziwa isicelo sokufikelela kwiinkcukacha, izikhalazo eziya kuMlawuli kunye nezicelo zenkundla kufuneka zibekwe ngaphandle kunokuba ngumthetho.

7.3 I-**POPIA** ilungisa indima ye-**SAHRC** ngokubhekiselele koko kufunwa yi-**PAIA**. Ukusukela ngowama 30 Juni 2021, yonke imisebenzi ye-**SAHRC**, njengoko ibhalwe kwi-**PAIA**, iza kugcinwa nguMlawuli, nto leyo kwakhona inamagunya ongeziweyo anyanzeliswayo.

7.4 Lo gama i-**SAHRC** iza kuhlala igcine iimfanelo zayo ezibanzi zomthetho-siseko zokunyusela, ukukhusela nokuhlola ukugqama kwamalungelo kwiNkqubo yaMalungelo,

7.5 i-**SAHRC** kunye noMlawuli baza kusebenza kunye, omnye ecaleni komnye.

[6] *Wonke umntu onamalungelo athe aphathwa kakubi ngenyathelo lolawulo, unelungelo lokunikwa izizathu ezibhaliweyo*

8. INDIMA YOMLAWULI WEENKCUKACHA

8.1 UMlawuli inendima ebaluleke kakhulu ngokubhekiselele kwi-**PAIA**. UMlawuli ubekwe yi-**PAIA**, phantsi kweNdawo ye- 4, iSahluko 1A neNdawo yesi- 5 kunye namanye amacandelo, ukuba:

8.1.1 anyusele ilungelo lokufikelela kwiinkcukacha yaye ancedise uluntu ekusetyenzisweni kwe-**PAIA** apho kufaneleke ngokuvakalayo ukwenza njalo,

8.1.2 ukuhlola kunye nokusebenzisa i-**PAIA** ngamaqumrhu oluntu nawabucala (okuquka ukunyusela iindlela ezisebenza kakuhle ukwenza iinkcukacha zifumaneke kwangexesha),

8.1.3 ukwenza iingcebiso ukuqinisa i-**PAIA**, kunye noku

8.1.4 ukwazisa iPalamente rhoqo ngonyaka.

8.2 ICandelo 77C (1) kunye nele- (2) le-**PAIA** lilungiselela la magunya nemisebenzi elandelayo yoMlawuli, ukuba -

8.2.1 kuphandwe isikhalazo esenziwe kuMlawuli ngendlela ebekiweyo;

8.2.2 kuthunyelwe isikhalazo kwiKomiti yoNyazeliso esekwe ngokubhekiselele kwicandelo lama- 50 le-**POPIA**; okanye

8.2.3 kugqitywe, ngokwecandelo 77D, ukungathathi manyathelo okanye, njengoko kunganjalo, kungafunwa nyathelo liya phambili ngokubhekiselele kwisikhalazo eso; yaye

8.2.4 kwenziwe, apho kufanelekileyo, njengomququzeleli ngokubhekiselele kweso sikhalazo ngendlela ebekiweyo.

8.3 UMlawuli angathi, ngokubhekiselele kwicandelo 77H(1) le-**PAIA**, kunye nephulo ngokwalo, okanye xa kusenziwa isicelo okanye egameni legosa leenkcukacha okanye intloko yequmrhu labucala okanye nayiphi na indlela yokuziphatha yakhe nawuphi na umntu njengokuhlolwa, nokuba liqumrhu loluntu okanye labucala, ahambe ngokubhekise kwimimiselo ye-PAIA, ngokokwemigaqo-nkqubo kunye neenkqubo zokwenza.

8.4 UMlawuli ugunyazise, ngokubhekiselele kwicandelo lama 77F le-**PAIA**, ukusebenzisa iinzame ukugcina ukuhlawulwa kwesikhalazo, ukuba sibonakala kwisikhalazo, okanye nayiphi na impendulo ebhaliweyo, eyenziwe ngokubhekiselele apho, ukuba kungenzeka kuhlawulwe isikhalazo. Oku kuthetha ukuba uMlawuli angazama kuphela ukuncedisa abo babandakanyekayo ukuhlawula izibheno zabo, ukuba kukho isikhalazo esifakwe kuMlawuli, ngaphandle kokuba ugqibe, kwiphulo lakhe, ukuqhuba uhlolo, njengoko kubekwe kumhlathi 8,3 ngasentla.

9. MAKING A REQUEST FOR A RECORD

Nceda ujonge itshati yenkqubo yenyathelo ngalinye kumhlathi 27 ngasezantsi, ukuba ungacela njani ukufikelela kwiingxelo.

9.1 Ukuqala: **iiNcwadana ze-PAIA**

9.1.1 Lo gama iSikhokelo sip[apashiwe ukunceda uluntu abasuka ndawo zonke ukugcina ilungelo labo lomgaqo-siseko, kukho ezinye iindawo zokufumana iinkcukacha ezinganceda umntu ukwenza isicelo sokufikelela kwiingxelo. I-**PAIA** ifuna ukuba amaqumrhu oluntu kunye namaqumrhu abucala, enze incwadana ye-**PAIA** ifumaneke[7].

9.1.2 Ngaphambi kokuba nabani na athathe amanyathelo okufikelela kwiinkcukacha okanye iingxelo kwiqumrhu elithile, iNcwadana ye-**PAIA** sisixhobo sokuqala ukusifunda.

9.1.3 Kwesona siseko sayo, incwadana ye-**PAIA** isebenza kakhulu emntwini ukuba:

9.1.3.1 ajonge ubume beengxelo engathi kanti sele ifumaneka ngaphandle kwemfuneko yokufaka isicelo esisemthethweni se-**PAIA**;

9.1.3.2 aqonde indlela yokwenza isicelo sokufikelela kwinkcukacha ezigcinwe liqumrhu elithile;

9.1.3.3 afikelele kwiinkcukacha ezifanelekileyo zomntu oza kunceda uluntu ngeengxelo ezifunwa nguye noba ngubani ofuna ukufikelela;

9.1.3.4 azi lonke ulungiso olufumanekayo kwiqumrhu elo apho kufikelelwa kwiingxelo ezo zicelwayo, ngaphambi kokuya kuMlawuli okanye iiNkundla;

9.1.3.5 azi inkcazelo yeenkonzo ezifumaneka kumalungu oluntu kwiqumrhu nokuba kufikelelwa njani kwezo nkonzo;

9.1.3.6 azi ukuba iqumrhu liza kuzishicilela iinkcukacha zomntu, iinjongo zokushicilelwa kweenkcukacha zomntu kunye nenkcazelo yeendidi zezihloko zeenkcukacha kunye neenkcukacha okanye iindidi zeenkcukacha ezibhekiselele apho;

9.1.3.7 azi ukuba iqumrhu lilungiselele ukususa okanye ukushicilela iinkcukacha zomntu ngaphandle kweRiphablikhi yoMzantsi Afrika; kunye

[7] *ICandelo 14 kunye necandelo 51 le-PAIA*

9.1.3.8 azi ukuba nokuba iqumrhu linamanyethelo akhuselekileyo afanelekileyo okuqinisekisa ukuba imfihlo, ukulunga nokufumaneka kweenkcukacha eshicilelwayo.

9.2 Uzifumana phi iincwadana ze-PAIA?

9.2.1 INcwadana ye-**PAIA** yamaqumrhu oluntu

9.2.1.1 Onke amaqumrhu oluntu makenze iNcwadana ye-**PAIA** ifumaneke lula ngeelwimi ubuncinane ezintathu ezisemthetrhweni[8].

9.2.1.2 Okokona kuncinane kakhulu, kufuneka benze ikopi yeNcwadana ye-**PAIA** ifumaneke simahla, ngaphandle kokuba kucelwe ikopi engamaphepha uqobo eshicilelwe iceliwe –

9.2.1.2.1 kwisiza se-intanethi sequmrhu loluntu;

9.2.1.2.2 kwi-ofisi esentloko yequmrhu loluntu yokuhlolwa koluntu ngexesha leeyure eziqhelekileyo zomsebenzi;

9.2.1.2.3 ukuba umntu ufuna ikopi eliphepha, iqumrhu loluntu malenze ikopi kodwa lingafuna intlawulo efikelelekayo yokunikwa kwekopi eliphepha; yaye

9.2.1.3.4 kuMlawuli kwakuba kuceliwe.

9.2.2 IiNcwadana ze-PAIA zamaqumrhu abucala

9.2.2.1 Amaqumrhu abucala kwakhona afuneka ukuba aqulunqe incwadana ze-**PAIA**[9], kodwa akukho mfuneko yakuyiqulunqa ngeelwimi ezingaphezulu kolunye okanye ngolwimi olukhethekileyo, nangona kukhuthazwa ukuba iiNcwadana ze-**PAIA** zamaqumrhu abucala kufuneka ubuncinane abengesiNgesi. Ukuba iqumrhu elikhethekileyo linika iinkonzo kuninzi lwabantu abangenamfundo esemthethweni, uMlawuli ukhuthaza ukuba incwadana yelo qumrhu ingathi kwakhona ibengalo naluphi ulwimi olusemthethweni.

9.2.2.2 Okukokona kuncinane, amaqumrhu abucala kufuneka enze ikopi yeNcwadana ye-**PAIA** ifumaneka simahla[10], ngaphandle kokuba kucelwe incwadana engamaphepha -

9.2.2.2.1 kwisiza se-intanethi sequmrhu labucala;

9.2.2.2.2 kwindawo elikomkhulu leshishini lequmrhu labucala, ukuze kuhlolwe luluntu ngeeyure eziqhelekileyo zoshiashino;

[8] *ICandelo14(1) le-PAIA*
[9] *Ngokubhekiselele kwicandelo 51 le-PAIA*
[10] *ICandelo 51(3) le-PAIA*

9.2.2.2.3 ukuba umntu ufuna incwadana angamaphepha, iqumrhu labucala malenze ikopi kodwa lingacela intlawulo efikelelekayo yokunikwa kwekopi engamaphepha futhi

9.2.2.2.4 kuMlawuli kwakuba kuceliwe.

9.2.3 UMphathiswa wezoBulungisa kunye neeNjkonzo zoLuleko unamagunya okhulule[11] amanye amaqumrhu abucala okanye udidi lwamaqumrhu abucala kwimfanelo yokwenza le ncwadana. Okwangoku, yaye ukuya kuma ngowama 31 Disemba 2021, uMphathiswa ukhulule[12] onke amaqumrhu abucala, ngaphandle kwayo nayiphi inkampani ethi -

(a) ingabiyiyo eyabucala njengoko kuchazwe kwicandelo 1 loMthetho weeNkampani, 2008 (INombolo yoMthetho. 71 ka-2008); kwakhona

(b) ibeyinkampani yabucala njengoko kuchazwe kumhlathi 1 woMthetho weeNkampani, 2008 (iNombolo yoMthetho 71 ka- 2008) osebenza kumacandelo akhankanywe kumqolo wokuqala wohlelo olukwesi Sazisi yaye

(i) inabasebenzi abangama 50 kwingqesho yabo; okanye

(ii) linengeniso yonyaka iyonke, elingana nenye okanye ngaphezulu kwesixa esibekwe kumqolo 2 wetheyibhile engasezantsi,

ekwenzeni incwadana ecamngcwe kwicandelo 51(1) loMthetho okhankanywe kuqala, ixesha leenyanga ezintandathu (6) ukusukela ngomhla **1 Julayi 2021** ukuya kowama **31 Disemba 2021**: -

ICandelo	Ingeniso yonyaka
LezoLimo	R6 izigidi
LeMigodi neeNkwali	R22.5 izigidi
LezeMveliso	R30 izigidi
LoMbane, iRhasi naManzi	R30 izigidi
LezoKwakha	R15 izigidi
LeNtengiso noSishino lweeMoto kunye neeNkonzo zoLungiso	R45 izigidi
LoShishino looBhazabhaza beeevenkile, ii-Arhente zoRhwebo kunye neeNkonzo eziManyeneyo	R75 izigidi
Lokutya, iiNdawo zokuHlala kunye nezinye iintlobo zoRhwebo	R15 izigidi
LoThutho, uGcino lwezinto noNxibelelwano	R30 izigidi
LeziMali neeNkonzo zamaShishini	R30 izigidi
LasekuHlaleni, iiNkonzo eziKhethekileyo nezaBantu uqobo	R15 izigidi

[11] *ICandelo 51(4) le-PAIA*
[12] *IGazethi kaRhulumente inombolo: 39504, 11 Disemba 2015*

9.2.4 Ngenxa yokubaluleka kweemfuno zomthetho xa kusenziwa iNcwadana ye-**PAIA**, ingakumbi ukulungisa icandelo lama 51 le- **PAIA** kwakhona, (eliqale ukusebenza ngowama 30 Juni 2021), ngokubhekiselele kumda weenkcukacha incwadana ekufuneka iziqulethe, wandiswe ukuze uquke imiba ebhekiselele kwi-**POPIA**, amaqumrhu abucala akasayi kukhululwa kwimfuneko yokuqulunqa incwadana ye-**PAIA**.[13] Ngako oko, ukusukela, ngomhla woku-1 Janyuwari 2022, iqumrhu ngalinye loluntu nelabucala liza kufuneka ukuba libeneNcwadana yalo ye-**PAIA**, njengoko kubekwe kumhlathi 9.2.2.2 ngasentla.

9.2.5 Ukukhululwa kweenkampani zabucala kwimfanelo yokwenza incwadana ye-PAIA akukhululi ezo nkampani ekulandeleni imigaqo ye-**PAIA**. Oku kuthetha ukuba nawuphi na umntu angafaka isicelo sokufikelela kwiinkcukacha kwiqumrhu labucala elikhululiweyo. Ukukhululwa kuthetha nje ukuba ezo nkampani zabucala azenzi zincwadana ze-**PAIA**.

9.2.6 Kwakhona khumbula ukuba akungawo onke amaqumrhu abucala, nanjengoko inkcazelo yequmrhu labucala iquka umntu ngokwendalo, umrhwebi oyedwa kunye nendibaniselwano. Nangona kunjalo, kungabanexabiso ukujonga isiza se-intanethi, nanjengoko ezinye iiNkampani zisakha incwadana ze-**PAIA** nokuba lingakanani inani labasebenzi bazo okanye ingeniso yabo yonyaka.

9.3 Ukuziveza ngokwakho kunye nokubakho kwengxelo ezithile okuzenzekelayo

9.3.1 Iingxelo ezizivelela ngokwazo zezo uluntu okanye iqumrhu labucala liza kuzinika ngaphandle kwemfuno yalowo ufaka isicelo ukuba afake isicelo kwi-**PAIA** (ngamanye amazwi, umntu angayicela nje ngaphandle kokuzalisa uXwebhu 2 lwe-**PAIA**).

9.3.2 IGosa leeNkcukacha lequmrhu loluntu liyafuneka, ngokubhekiselele kwicandelo 15(1) le-**PAIA**, ukwenza kufumaneke uludwe okanye iindidi zeengxelo ezifumaneka ngokuzivelela, njengoko kubekwe kumhlathi 9.3.4 ngasezantsi.

9.3.3 Iingxelo ezizivelelayo zequmrhu labucala zingenziwa kwakhona ukuba zibekhona, ngokubhekiselele kwicandelo 52(1) le-**PAIA**, kodwa ngendlela yokuzithandela ngokomhlathi 9.3.4 ngasezantsi.

9.3.4 Inkcazelo yeendidi zeengxelo ezizivelelayo mazenziwe zifumaneke -

(a) kuMlawuli weeNkcukacha;

(b) kwisiza se-intanethi sequmrhu; kunye

(c) nokwenzela ukuba zihlolwe, kwii-ofisi zequmrhu ekujoliswe kulo ngexesha leeyure eziqhelekileyo zoshishino.

[13] *Icandelo 100 le-PAIA*

9.3.5 Nceda uqaphele ukuba uMlawuli uza kufaka inkcazelo yeengxelo ezizivelelayo zequmrhu loluntu kwisiza se-intanethi yakhe.

9.3.6 Olu ludwe luquka iingxelo ezingafunwa ukuba zibekhona yeminye imithetho kunye nazo naziphi iingxelo iqumrhu elizikhetha ukuzifaka. Ukuze kunqandwe ukuba semthethweni kokulandela imigaqo yesicelo senkqubo ye-**PAIA**, lowo ufake isicelo ucetyiswa ukuba ajonge iNcwadana ye-**PAIA** yequmrhu loluntu okanye elabucala ekujoliswe kulo. Ukuba umntu unqwenela ukufikelela kwiinkcukacha ezikuluhlu lwequmrhu lweengxelo ezizivelelayo, lowo mntu angacela nje ukufikelela kwiinkcukacha ngaphandle kokufuna ukugcwalisa uXwebhu 2 lwe-**PAIA**.

9.3.7 UMthetho weNkxaso-mali yamaQela oPolitiko wesi- 6 ka-2018 uveza olunye utshintsho nge-**PAIA**, obhekiselele ekubeni iintloko zamaqela opolitiko kufuneka zishicilele yaye zigcine iingxelo zeminikelo, nto leyo iza kudinga ukuba ipapashwe ngaphandle kokuba umntu afake isicelo kwi- **PAIA**.

10. IINKCUKACHA ZOQHAGAMSHELWANO ZAMAGOSA EENKCUKACHA

10.1 Nangona iinkcukacha zoqhagamshelwano zamaGosa eeNkcukacha alo naliphi iqumrhu loluntu kufuneka zishicilelwe kuzo zonke iincwadi neendawo ezazisa ngeenkcukacha zeemfonomfono, ngokubhekiselele kwicandelo 16 le-PAIA, uMlawuli uneekcukacha ezikhethekileyo zawo onke amaGosa eeNkcukacha (kuquka ooSekela maGosa eeNkcukacha, ebenziwe ngokubhekiselele kwicandelo 17 nama- 56 le- **PAIA** kunye ne-**POPIA** ngokulandelelana) abhaliswe kuyo ngokubhekiselele kwicandelo 55(2) le- **POPIA**.

10.2 Lo gama ukufuna iinkcukacha ezizizo zoqhagamshelwano kungasoloko kuyindawo esokolisayo yokwenza isicelo se- **PAIA**, njengoko iindima ezidlalwayo zitshintsha rhoqo, kwicandelo likarhulumente yaye incwadana ye-**PAIA** ingangabi yeyexesha langoku, indawo yokuqala yokufumana iinkcukacha zoqhagamshelwano makube yiNcwadana ye-**PAIA** yequmrhu. Nangona kunjalo, ukuba lowo ufake isicelo akakwazi ukuyifumana incwadana, kunganceda kwakhona ukutsalela indawo yokutshintsha iminxeba ukucela iinkcukacha ezifanelekileyo.

10.3 KooMasipalati, uMbutho wooRhulumente basekuHlaleni boMzantsi Afrika, For Municipalities, the [South African Local Government Association (**SALGA**)], ubeka iinkcukacha zoqhagamshelwano kweli khonkco:
http://www.salga.org.za/Municipalities%20MCD.html

10.4 Unxibelelwano norhulumente lukwanika iinkcukacha zoqhagamshelwano zelizwe nezephondo kwakunye neenkcukacha zoqhagamshelwano zaMashishini aNgakaRhulumente phantsi kweli khonkco:
https://www.gov.za/about-government/contact-directory. Kufuneka usoloko ukhumbula ukuba inkcazelo yeGosa leeNkcukacha inceda ukuba kwaziwe ukuba ziinkcukacha zoqhagamshelwano zikabani ezifunekayo ukwazi iGosa leeNkcukacha.

11. INKQUBO YOKWENZA ISICELO SEENKCUKACHA

11.1 Amaxwebhu esicelo

11.1.1 Isicelo sokufikelela kwiinkcukacha singenziwa kumaqumrhu karhulumente nawabucala.

11.1.2 I-PAIA ifuna ukuba, xa usenza eso sicelo, kufuneka ufake isicelo kuxwebhu olufunekayo (la maxwebhu abekwe ngokweMimiselo). Kukho amaxwebhu amabini angasetyenziswa ukucela ilungelo lokufikelela kwiinkcukacha:

Uxwebhu 2	Uxwebhu 4
Olu xwebhu lungasetyenziswa ukuba ufuna ukucela ukufikelela kwiingxelo zequmrhu loluntu okanye elabucala.	Olu xwebhu lungasetyenziswa ukuba ufuna ukufaka isibheno sangaphakathi ngakwisigqibo samaGosa eeNkcukacha, okanye eso sooSekela maGosa eeNkcukacha beLizwe, iPokanye iNdawo yasekuHlaleni kaRhulumente apho kungasebenza isibheno sangaphakathi.

11.1.3 La maxwebhu angafumaneka kwisiza se-intanethi soMlawuli ku https://www.justice.gov.za/inforeg/

11.2 Ukugqiba ukuba isicelo sibhekiselele kwiinkcukacha ezigcinwe liqumrhu loluntu okanye elabucala

11.2.1 Iqumrhu loluntu lenza inkqubo, efana nokunikezela ngombane okanye amanzi eluntwini. Ngako oko, iqumrhu loluntu ayililo nje eleLizwe, elePhondo okanye eleSebe likaRhulumente wasekuHlaleni– lingaquka amashishini angakarhulumente okanye amaZiko asebuRhulumenteni afana noMlawuli, u-Eskom, okanye i-PRASA, nangona kunjalo, kufuneka kwnziwe umahluko ngokubhekiselele kwiqumrhu loluntu ngeenjongo zesibheno sangaphakathi, esijolise kuphela kuRhulumente weLizwe, owePhondo nowasekuHlaleni.

11.2.2 Iqumrhu labucala lenza umsebenzi wabucala. Elo qumrhu (ekungenzeka libengumntu) wenza urhwebo, ushishino okanye umsebenzi oqeqeshelweyo. Kubaluleke kakhulu ukuqaphela ukuba xa ufaka isicelo se-**PAIA** kwiqumrhu labucala, umntu makachaze ukuba leliphi ilungelo alikhuselayo okanye alisebenzisayo ngokucela ezo nkcukacha. Ngokubhekiselele kuzo naziphi iinkcukacha ezigcinwe ngomnye umntu, u-Streicher JA waqukumbela esi sihlalo ngoku hlobo lulandelayo, kwi-**Khansile yeDolophu yaseKapa iqubisana neeNkonzo zoHlolo lweeDolophu (eNtshona-Kapa) CC kunye neziNye**[14],

[14] ***2001 (3) SA 1013*** *(SCA) umhlathi 28 ku-1026F-G*

"Iinkcukacha zingafunwa kuphela kumsebenzi okanye ukukhusela ilungelo, ukuba zingancedisa ekusebenziseni okanye ekukhuseleni ilungelo elo. Kulandela ukuba, ukuze kwenziwe ityala lokufikelela kwiinkcukacha ngokubhekiselele kwicandelo lama 32, lowo ufake isicelo kufuneka achaze ukuba leliphi ilungelo anqwenela ukulisebenzisa okanye alikhusele, ziziphi iinkcukacha ezifunekayo yaye ezo nkcukacha zingamnceda njani ukwenza okanye ukukhusela elo lungelo".

11.2.3 Ngamanye amaxesha umbuzo wokuba ingaba ingxelo yeyoluntu na okanye yeyabucala, unganobugocigoci yaye uluntu lucetyiswa ukuba lufune ingcebiso yasemthethweni. Umzekelo, ukuba iqumrhu loluntu liqesha iqumrhu labucala ukuba lenze iinkonzo ezithile egameni lalo, oko oko kufakwa kweemitha zamanzi kwiindawo ezithile zasekuhlaleni, ukufikelela kwiinombolo zeemitha ezifakiweyo, nokuba ezo nkcukacha zigcinwe lelo qumrhu labucala, kuza kuthathwa njengeenkcukacha zequmrhu loluntu.

11.3 Umntu ulichaza kanjani ilungelo anethemba lokulisebenzisa okanye elokulikhusela?

11.3.1 Xa uchaza ukuba leliphi ilungelo umntu anethemba lokulisebenzisa xa esenza isicelo kwiqumrhu labucala, ubani akanakubhekisa kwilungelo lokufikelela kwiinkcukacha. Umntu kufuneka achaze ukuba ingxelo leyo ayicelayo ifuneka kangakanani kuye ukuze akhusele okanye asebenzise elinye ilungelo. Oku kungaquka amalungelo angengawo amalungelo omgaqo-siseko.

11.3.2 Ubani angathi umzekelo, afune izicwangciso ezikhulu kwinkampani ekungenzeka ibenegalelo kumaqondo ongcoliseko lwasekuhlaleni, ukuze ancede ukukhusela ilungelo lomntu ekuhlaleni ngokuhlola leyo misebenzi. Okanye ubani angafuna iingxelo, ezinganceda umntu ukubona ukuba unelungelo lokufaka ibango loluntu kwishishini elithile. Ngako oko umntu lowo kufuneka:

11.3.2.1 Ngokukhethekileyo achaze elo lungelo anethemba lokulikhusela okanye ukulisebenzisa, yaye emva koko

11.3.2.2 Achaze ngokucacileyo ukuba kutheni ingxelo ayifunayo ifuneka ngokufanelekileyo ukunceda lowo unelo lungelo.

11.3.3 Ngokuchasene noko, xa ufaka isicelo se-**PAIA** kwiqumrhu loluntu, umntu lowo akufanelanga ade abenesizathu sokucela iinkcukacha.

12. NGUBANI ONGENZA ISICELO SE-PAIA?

12.1 Nawuphi unmntu, nokuba ngummi woMzantsi Afrika okanye akungommi woMzantsi Afrika, uvumelekile ukuba enze isicelo phantsi kwe-**PAIA**. Lowo ufake isicelo ingangumntu ngokokuzalwa okanye umntu ngokomthetho.

12.2 Iqumrhu loluntu libonwa njengomntu ngokomthetho yaye lingenza isicelo sokufikelela kwiinkcukacha ezigcinwe ngamaqumrhu abucala, kodwa kuphela xa iqumrhu loluntu -

12.2.1 Limele iimfuno zoluntu, yaye

12.2.2 Ukuba iingxelo zifunwa ukuze kuzalisekiswe okanye kukhuselwe naliphi ilungelo ngaphandle kwalawo equmrhu loluntu.

12.3 Phantsi kwe-**PAIA** lowo ucelayo akakwazi kucela ukufikelela kwingxelo, yequmrhu loluntu, eneenkcukacha zakhe njengalowo ufaka isicelo, kwiqumrhu loluntu[15], nangona kunjalo lowo ufake isicelo okanye isihloko seenkcukacha angathi, ngokubhekiselele kwicandelo 23(1)(b) le-**POPIA**, acele kwiqela elinoxanduva ingxelo okanye inkcazelo yeenkcukacha zomntu malunga nesihloko seenkcukacha, ezigcinwe liqela elinoxanduva. Oku kuthetha ukuba nawuphi umntu angathi ngoku acele ukufikelela kwiinkcukacha zakhe ezigcinwe liqumrhu loluntu okanye elabucala akubonisa isazisi esanelisayo. Iinkcukacha zomntu lowo ufaka isicelo, angazicela kwiqumrhu elinoxanduva, zingaquka iinkcukacha malunga nezazisi zabo bangabanye babandakanyekayo okanye iindidi zabo bandabanye babandakanyekayo abefikelela okanye abakhe bafikelela kwiinkcukacha.

12.4 Ngokubhekiselele kwicandelo 50(1) le-**POPIA**, nawuphi umntu angacela ukufikelela kwingxelo zequmrhu labucala, eziqulethe iinkcukacha zomntu malunga nalowo ucelayo okanye umntu ekwenziwa isicelo ngaye.

13. SINGENZIWA KUBANI ISICELO?

13.1 IGosa leeNkcukacha lequmrhu loluntu kufuneka libeke uSekela-Gosa/ooSekela-Gosa, amabaqinisekise ukuba ukufikelela kwiingxelo zequmrhu loluntu kufikeleleka lula kangangoko. Nangona oku kwakungeyiyo imfuneko ngokubhekiselele kwiqumrhu labucala phantsi kwe-**PAIA**, iqumrhu labucala lingabeka uSekela-Gosa weeNkcukacha okhankanywe ngasentla, ngokubhekiselele kwicandelo 56 le-**POPIA**.

13.2 Isicelo sokufikelela kwiinkcukacha, nangona kungajoliswa kwiGosa leeNkcukacha, singafakwa kuSekela-Gosa weeNkcukacha. Iinkcukacha zikaSekela Gosa/ooSekela Gosa beeNkcukacha zingafunyanwa kwincwadana ye-**PAIA** yelo qumrhu okanye kuMlawuli.

14. UKUGCWALISA UXWEBHU

14.1 Uxwebhu 2 – isicelo sokufikelela kwingxelo yequmrhu loluntu okanye elabucala:

14.1.1 Ukuze kugcwaliswe uxwebhu lwe-**PAIA**, umntu kufuneka anike iinkcukacha ezaneleyo ukuvumela iGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha ukuba abone iingxelo ezifunwa ngulowo ufake isicelo.

[15] *Icandelo 11(2) le-PAIA*

14.1.2 IMimiselo yoLawulo ye-**PAIA** ichaza ngokukhethekileyo uxwebhu omalusetyenziswe, ekufuneka luthunyelwe kwiGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha wequmrhu.

14.1.3 Abo bafaka isicelo abangakwazi kufunda okanye ukubhala bangenza izicelo ngomlomo kwiGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha wequmrhu loluntu, othi abenoxanduva lokugcwalisa uxwebhu 2 egameni lalowo ufake isicelo. Uxwebhu olukhoyo ngoku luza kufuna ukuba ugcwalise la macandelo alandelayo:

Iinkcukacha ezifunekayo	Inkcazelo
Iinkcukacha zequmrhu loluntu/labucala	Eli candela kufuneka libene-imeyili kunye nenombolo yefeksi yeGosa leeNkcukacha kunye/okanye uSekela Gosa weeNkcukacha.
Iinkcukacha zomntu ocela ukufikelela kwiingxelo	Oku kufuneka kuqulathe iinkcukacha ezaneleyo malunga nalowo ufaka isicelo ukwenza lowo ufaka isicelo kube lula ukumbona, kuquka iinkcukacha zoqhagamshelwano zalowo ufaka isicelo: idilesi yeposi, idilesi ye-imeyili, ifeksi kunye/okanye nenombolo yomnxeba eMzantsi Afrika. Kwakhona icela inombolo yesazisi sakho ukuqinisekisa ukuba nguwe. Ukuba ucela iinkcukacha egameni lomnye umntu, kufuneka kunikwe ubungqina begunya lokwenza isicelo ('njengomntu ogunyazisiweyo').
Iinkcukacha zengxelo efunwayo	Nika iinkcukacha ezipheleleyo zengxelo apho kucelwa ukufikelela khona, kuquka inombolo engqamene noko ukuba uyayazi, ukwenzela ukuba ingxelo ifumaneke. (Ukuba indawo ebekiweyo ayifanelekanga, nceda uqhubeke kwiphepha elilelinye yaye uliqhoshele kolu xwebhu. Onke amaphepha ongezelelekileyo makasayinwe.
Uhlobo lwengxelo	Oku kufuneka kuqulathe iinkcukacha ezaneleyo malunga nengxelo ukuyenza ukuba kubelula ukuyibona. Ukuba iinkcukacha ezifunwayo azikwazi kuvala indawo enikwe kolo xwebhu, elinye iphepha elongeziweyo, elibhalwe ngesandla okanye ngekhompyutha lingasetyenziswa ukunika iinkcukacha ezibanzi zesicelo, oko iphepha

Iinkcukacha ezifunekayo	Inkcazelo
	ngalinye elongeziweyo lisayiniwe laqhoshelwa kuxwebhu lwesicelo. Ungathi umzekelo, ufake isicatshulwa esisuka kwingxelo okanye kwibali leendaba elitshoyo ukuba lisuka kwingxelo oyifunayo. Kusoloko kukuvumela ukuba uquke inombolo engqamene nengxelo, ukuba ikhona.
Iintlawulo	Iqumrhu apho lowo ufaka isicelo afuna ukufaka isicelo sokufikelela kwingxelo, kuquka ingxelo eneenkcukacha zomntu malunga naye, lingacela ukuba uhlawule intlawulo yesicelo (intlawulo yokufikelela) okanye intlawulo eyinxalenye yentlawulo epheleleyo kodwa eso sixa masingabisikhulu, nanjengoko iintlawulo kufuneka zibe zezexesha elivakalayo noko ukulungiselela ukukhangela nokulungisa iingxelo. UMphathiswa angaqaphela kwiGazethi, akhulule ukuhlawulwa kweentlawulo njengoko kudweliswe kumhlathi 51.1 ongasezantsi. Kukho indawo ebekiweyo ukuze lowo ufaka isicelo abonise ukuba kutheni ekholelwa ukuba makakhululwe ekuhlawuleni iintlawulo. Isizathu singaquka, umzekelo, ukuba akasebenzi.
Uxwebhu lokufikelela kwingxelo	Eli candelo likuvumela ukuba uqaphele ngo “X” okufunayo ukuze uxwebhu lokufikelela kwingxelo lunikwe kwikopi yengxelo kunye/okanye kwi-flash drive kunye/okanye kwindawo yokudlala idiski yeenkcukacha.
Indlela yokufikelela	Phantsi kweli candelo kufuneka uqaphele oko ukufunayo ngokubhekiselele kulwimi olo ingxelo ekufuneka ibengalo (oku kungangenzeki ngokubhekiselele kwiingxelo zonke kodwa kufuneka ubonise oko ukukhethayo). Uhlobo lokufikelela kwingxelo lunganegalelo ekubeni kungavunywa kufikelelwe ngenxa yeentlawulo eziphezulu. Umzekelo, ukuba lowo ufake ingxelo ufuna umqulu ngolwimi olufunayo,

Iinkcukacha ezifunekayo	Inkcazelo
	iintlawulo zokutshintsha imiqulu ukuya kulwimi olufunayo zingahlawulwa. Nangona kunjalo, ukuba ingxelo ayikho ngolo lwimi ulufunayo, ungafikelela ngolwimi ekushicilelwe ngalo. Uhlobo lokufikelela ingxelo ingaquka ukuzihlolela ingxelo, ingxelo ithunyelwe nge-imeyili okanye ifeksi okanye ikhuriya okanye iposi.
Isaziso sesigqibo esibhekiselele kwisicelo sokufikelela kwiingxelo	Kubekwa indawo yalowo ufaka isicelo ukuze achaze indlela anqwenela ukwaziswa ngayo malunga nesigqibo sokunika okanye sokwala isicelo. Lowo ufaka isicelo angacacisa umzekelo ukuba angafuna ukuba kuqhagamshelwane naye nge-imeyili okanye ngomnxeba okanye impendulo ingaposwa okanye ikhuriywe ukuya kuye.
Iinkcukacha zelungelo elisetyenziswayo okanye elikhuselwayo	Xa ucela iinkcukacha kwiqumrhu labucala, lowo ucelayo kufuneka achaze "iinkcukacha zelungelo eliza kusetyenziswa okanye elikhuselwayo". Apha kufuneka achaze ilungelo ayame kulo (njengelungelo lendawo engqongileyo ecocekileyo) kunye nokuba ingxelo leyo ayicelayo iza kukunceda mhlawumbi ukusebenzisa okanye ukukhusela elo lungelo. Kufuneka abonise ukudibana phakathi kwengxelo ayifunayo kunye nokusebenzisa okanye ukukhusela elo lungelo. Ngelishwa, ngokungafaniyo nesicelo sokufikelela kwingxelo yequmrhu loluntu, akakwazi umntu ukufikelela ingxelo yequmrhu labucala ngaphandle kokuba ucacisa ilungelo/amalungelo afuna ukuwakhusela okanye ukuwasebenzisa xa kunokunikwa ukufikelela kwiinkcukacha. Oku kungaquka umba wokuba emva kokuba efikelele kwiingxelo, uza kusebenzisa ilungelo lenzuzo nokhuseleko olulinganayo lomthetho[16] ngokutshutshisa elo qumrhu ngomonakalo athe wawufumana.

[16] *ICandelo 9(1) .Iomgaqo-siseko weRiphablikhi yoMzantsi Afrika, uMthetho 108 wonyaka u- 1996*

14.1.4 Ukuba ngazo naziphi izizathu isicelo sakhe asilandeli mfuno ezidweliswe ngasentla, iGosa leeNkcukacha lingathi lisale isicelo sakhe, ngaphandle kokuba wazise umntu ofaake isicelo ukuba ufuna ukusala isicelo yaye nezizathu zibekiwe. IGosa leeNkcukacha kwakhona malazise ukuba liza kuncedisa lowo ufake isicelo okanye limnike ithuba lokulungiasa impazamo.

15. IINTLAWULO EZIQUKIWEYO

15.1 Ngokubanzi, iintlawulo kufuneka zombini zihlawulwe xa kusenziwa isicelo kodwa kwakhona ukuvala iindleko zokunika ukufikelela kwiingxelo ngokubhekiselele kwisicelo. Kukhona, kungenjalo, okunye ukukhululwa. Ukuba lowo ufaka isicelo unikwa imvume yokufikelela kwiingxelo azicelileyo yaye angakhululwa ekuhlawuleni iintlawulo, njengoko kuboniswe kumhlathi 15.2 ngasezantsi, iGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha angahlawulisa iintlawulo ezibekiweyo ngolu hlobo lungasezantsi, -

QAPHELA: Uhlobo lwentlawulo ngokubhekiselele kwiintlawulo ezihlawulwa kuMaqumrhu oLuntu nawaBucala lungahlolwa kwisiza se-intanethi soMlawuli.

Into	Inkcazelo
1	Intlawulo yalowo ufaka isicelo, ehlawulwa ngulowo ufaka isicelo.
2	Ikopi efotiweyo yephepha elilingana ne-A4
3	Ikopi eprintiweyo yephepha elilingana ne-A4
4	Kwikopi ekuhlobo olufundwa ngekhompyutha kwi: (i) Flash drive (ukuba inikwe lowo ufake isicelo) (ii) Kwidiski yekhompyutha • Ukuba inikiwe ngulowo ufaka isicelo • Ukuba uyinikiwe lowo ufaka isicelo
5	Ukuze kubhalwe imifanekiso ebonakalayo kwiphepha ngalinye elilingana ne-A4
6	Ikopi yemifanekiso ebonakalayo
7	Ukubhalwa kwengxelo emanyelwayo, kwiphepha ngalinye elilingana ne-A4
8	Ikopi yengxelo emanyelwayo kwi: (i) Flash drive (ukuba inikwe lowo ufake isicelo) (ii) Kwidiski yekhompyutha • Ukuba inikiwe ngulowo ufaka isicelo • Ukuba uyinikiwe lowo ufaka isicelo
9	Ukuze kujongwe yaye kulungiswe ingxelo ukuze ivezwe kwiyure nganye okanye indawo nganye yeyure, ngaphandle kweyure yokuqala, efuneka ngokuvakalayo koko kujongwa nolungiso. Ukuze kungadlulwa kwinkcitho yonke yoku
10	Inxalenye yentlawulo: Ukuba oko kujongwa kwedlula iiyure ezi 6
11	Ukuposa, i-imeyili okanye nakuphi na okunye ukuthunyelwa nge-intanethi

15.2 Lowo ufaka isicelo akudingeki ahlawule intlawulo yokufikelela[17] kwiqumrhu loluntu ukuba:

15.2.1 Akatshatanga yaye umvuzo wakhe ngonyaka, emva kokutsala kwezinto ezivumelekileyo, ezifana ne- **PAYE** kunye ne- **UIF**, ungaphantsi kwama **R14 712** ngonyaka, okanye

15.2.2 Utshatile yaye umvuzo wabo udibene neqabane lakhe, emva kwezinto ezivumeleke ukutsala ezifana ne- **PAYE** kunye ne-**UIF**, ungaphantsi kwama **R27 192** ngonyaka.

15.3 Nceda uqaphele ukuba iqumrhu loluntu okanye elabucala lingacela, kuXwebhu 4 kwiMimiselo, inxalenye yentlawulo kulowo ufake isicelo kodwa kuphela xa bekholelwa ukuba iinkcukacha okanye iingxelo ezifuniweyo ziza kuthatha ngaaphezu kweeyure ezintandathu (6) ukukhangela kodwa isiza senxalenye yentlawulo asikwazi ukuba ngaphezu kwesinye kwisithathu sentlawulo ebekiweyo.

16. IINGABA IGOSA LEENKCUKACHA LIZA KUMNCEDA LOWO UFAKA ISICELO UKWENZA ISICELO SE-PAIA?

16.1 Indima yaMagosa eeNkcukacha kunye/okanye uSekela Gosa weeNkcukacha kumaqumrhu omabini oluntu nawabucala kukuba, ngokubhekiselele kushicilelo lwezicelo zokufikelela kwiingxelo:

16.1.1 amkele isicelo se- **PAIA** okanye i- **POPIA**;

16.1.2 aququzelele ushicilelo lwesicelo kwiqumrhu;

16.1.3 enze isigqibo sokuba anganika okanye ale ukunika imvume yokufikelela kwiingxelo ezicelwayo;

16.1.4 anxulumane nalowo ufake isicelo (umzekelo, kufuneka babuze lowo ufake isicelo iinkcukacha ezibanzi okanye kufuneka bacele ukwandiselwa ixesha ukuze bajongane nesicelo eso, njl njl);

16.1.5 bacebise lowo ufake isicelo ngesiphumo sesicelo sabo se-**PAIA**, cebo eli kufuneka linikwe ngokukhawuleza kakhulu kodwa kwiintsuku ezingama 30 emva kokufumana isicelo. Ixesha lokuqala leentsuku ezingama 30 lingandiswa lakuba ixesha elandisiweyo elingekho ngaphezu kweentsuku ezingama 30, ukuba umzekelo, lowo ufake isicelo ukuvumile oko kwandiswa kwexesha okanye isicelo sifuna kukhangelwe iingxelo ezingakwazi kufunyanwa ngexesha ebelibekiwe lokuqala;

16.1.6 anike lowo ufake isicelo izizathu zesigqibo sokwala ukufikelela kwiingxelo. Kubaluleke kakhulu ukuba izizathu zokwala ezinikwayo zicace yaye zibeneenkcukacha ezibanzi yaye maziquke oko kujongwe kuko, kumacandelo akhethekileyo e-**PAIA** (jonga umhlathi 19.4 ngasezantsi, ngokubhekiselele kwiimeko zokwala ukufikelela kwiingxelo[18]);

[17] *ngokweSazisi sikaRhulumente R991 somhla we-14 Okthobha 2005*
[18] *Icandelo 33 ukuya ku- 46 le- PAIA*

16.1.7 bazise abo bangabanye babandakanyekayo ngenkqubo yesaziso samaqela angamanye abandakanyekayo, ngiokubhekiselele kwicandelo lama 47 le-PAIA; yaye

16.1.8 ukuba kuyavunywa kufikelelwe kwiingxelo, kunikwe lowo ucelileyo ikopi yengxelo.

16.2 Xa kusaziswa lowo ufake isicelo malunga nesigqibo, kwakhona kunikwe iintloko zeziseko ezifumanekayo kwakunye namaxesha abekiweyo afanelekileyo (isiseko esifumanekaayo sahlukile kumaqumrhu oluntu nawabucala).

16.3 Indima eyongeziweyo kunye noxanduva lwamaGosa eeNkcukacha kunye/okanye ooSekela maGosa eeNkcukacha yileyo ichazwe ngokubanzi kwiNqaku leSikhokelo kumaGosa eeNkcukacha kunye nooSekela maGosa eeNkcukacha, iNqaku leSikhokelo lifumaneka ku https://www.justice.gov.za/inforeg/docs.html

16.4 Ngenxa yokuba indima yamaGosa eeNkcukacha kunye/okanye ooSekela maGosa eeNkcukacha, ikukuququzelela isicelo sokufikelela kwiiNkcukacha, oku kukwathetha ukuba banemisebenzi eyahlukeneyo kwabo benza isicelo.

16.5 AmaGosa eeNkcukacha kunye/okanye ooSekela maGosa eeNkcukacha mabanike uncedo simahla.

16.6 AmaGosa eeNkcukacha kunye/okanye nooSekela-gosa beeNkcukacha bequmrhu lol loluntu banale misebenzi ikhethekileyo ilandelayo:

Imisebenzi yamaGosa eeNkcukacha	Inkcazelo
Ukuncedisa ekugcwaliseni uxwebhu	IGosa leeNkcukacha malinike uncedo oluvakalayo kulowo ufaka isicelo xa kugcwaliswa uxwebhu yaye angangali ukwamkela uxwebhu olungagcwaliswanga kakuhle ngaphandle kokuba ulunikile olo ncedo okanye ukunikwa kolo ncedo kwaliwe.
Ukunika iinkcukacha ezifanelekileyo	Ukuba kwenzeka kakuhle, iGosa leeNkcukacha malinike lowo ufaka isicelo nazo naziphi iinkcukacha ezingafanela, nokuba akucelwanga ngokukhethekileyo.
Ukuthumela isicelo kwenye indawo	Lo ngumsebenzi obaluleke kakhulu. Xa kusenziwa isicelo se-**PAIA** kwiqumrhu loluntu elingelilo, iGosa leeNkcukacha malithumele isicelo kwiqumrhu

Imisebenzi yamaGosa eeNkcukacha	Inkcazelo
	loluntu elililo **kwiintsuku ezili 14** lifumene isicelo yaye makazise lowo ufake isicelo ngembalelwano akuba enze oko. Kwakuba kuthunyelwe, iGosa leeNkcukacha elililo maliphendule ngesigqibo kwiintsuku **ezingama 30**.
Ukuthatha ixesha ukukhulula ingxelo	IGosa leeNkcukacha lingagqiba ukuthatha ixesha ukukhulula ingxelo iye kulowo ufake isicelo ukuba leyo ngxelo iza kushicilelwa kwiintsuku ezingama 90 okanye ukuba ingxelo ifunwa ngumthetho oza kushicilelwa kodwa oko kusaza kwenzeka.

16.7 Kumaqumrhu oluntu nawabucala, iGosa leeNkcukacha malithi, ukuba alikwazi kufumana iingxelo ezithile ezifuniweyo okanye likholelwa ukuba iingxelo azikho, lifake isiqinisekiso esenziwe emapoliseni okanye i-afidavithi[19] kulowo ufake isicelo, enika isaziso ukuba iingxelo ezikhankanyiweyo azikho okanye azifumaneki kodwa achaze kwakhona amanyathelo abawathathileyo ukuzifuna.

17. UNCEDO OLUFUMANEKA KUMLAWULI WEENKCUKACHA NGOKUBHEKISELELE KWI-PAIA NE-POPIA

17.1 IGosa leeNkcukacha lequmrhu loluntu linoxanduva lokunika olo ncedo[20], simahla, nanjengoko kufanelekile ukwazisa lowo ufake isicelo okanye isihloko seenkcukacha ukuba alandele imeko yokufikelela njengoko icamngwe kumacandelo 18 e-**PAIA** necandelo 23 le-**POPIA**.

17.2 Nangona kunjalo, ukuba iGosa leeNkcukacha alikwazi kulandela msebenzi wakhe, ngokubekwe kumhlathi 17.1 ngasentla, lowo ufake isicelo okanye isihloko seenkcukacha, angafaka isikhalazo kuMlawuli yaye uMlawuli angathi, kwakuphandwa, akhuphe iSazisi sesiNyanzeliso esikhomba iGosa leeNkcukacha ukuba linike uncedo olufanelekileyo.

17.3 UMlawuli angathi, xa kusenzeka, ngokucelwa, ancedise nawuphi na umntu onomnqweno wokusebenzisa naliphi ilungelo elicamngcwe kwi- **PAIA** ne-**POPIA**[21], yaye oku kuquka ukunika uncedo oluvakalayo, simahla, nanjengoko kufanelekile ukwenza lowo afake isicelo okanye isihloko seenkcukacha, ukuba ahambe ngendlela ecamngwe kumacandelo 18 nelama- 53 e- **PAIA** kunye necandelo 23 le-**POPIA**.

17.4 Oku kungasentla kuquka ukunika isikhokelo sendlela yokugcwalisa isicelo sokufikelela kuxwebhu okanye ukugcwalisa uxwebhu egameni lomntu ongafundanga okanye ongaboniyo.

[19] *ICandelo 23(1) nelama 51(1) le- PAIA*
[20] *ICandelo 19(1) le- PAIA*
[21] *ICandelo 83(3)(c) le- PAIA*

18. INGABA IGOSA LEENKCUKACHA LINGANDISA IMIDA YAMAXESHA ABEKIWEYO?

18.1 Inkcazelo yonke yenkqubo kunye nemida yamaxesha abekiweyo asemfanekisweni wenkqubo yesicelo ye-**PAIA**, kumhlathi 27 ngasezantsi. Ukubanemida yamaxesha yindawo ebalulekileyo kwi-**PAIA**, nanjengoko ilungiselela ukulawulwa kakuhle kwezicelo zokufikelela kwiingxelo.

18.2 Ukukukhumbuza, wakuba ufake isicelo sakho kakuhle kwiGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha, lowo kwenziwa kuye isicelo okanye lowo sithunyelwe kuye makaphendule ngokukhawuleza kakhulu kodwa **kwixesha elikwiintsuku ezingama 30**[22]. Nangona kunjalo, iGosa leeNkcukacha lequmrhu loluntu okanye labucala lingacela kanye **ukwandiselwa iintsuku ezingama 30**[23], kodwa kuphela xa:

18.2.1 isicelo kuseseengxelo ezininzi okanye efuna iingxelo ezininzi eziza kuphandwa yaye kungekho kongezwa kwexesha, olu phando luza kuphazamisana nemisebenzi eqhelekileyo yeqela elikhankanyiweyo;

18.2.2 isicelo sifuna uphando ngokweengxelo ezikwi-ofisi yelo qumrhu engekho kwisixeko okanye idolophu enye yaye kungenakugqitywa **kwiintsuku ezingama 30**; kwaye/okanye

18.2.3 kufuneka elinye ibakala lokuququzelelwa ukuze kusetyenzwe ngeso sicelo, nto leyo ingenakugqitywa **kwiintsuku ezingama 30**.

18.3 IGosa leeNkcukacha kufuneka lazise lowo ufake isicelo ngenjongo yakhe yokwandisa ixesha lokuqala ebelibekiwe yaye abonise ixesha ekwandiswa ngalo. Isizathu sokwandisa ixesha yaye azise lowo ufake isicelo ngelungelo lakhe loku -

18.3.1 Ukubhenela kwigunya elifanelekileyo;

18.3.2 Ukukhalaza kuMlawuli okanye

18.2.3 Ukwazisa ngeenkqubo zasenkundleni ngakumba wokwandisa ixesha nanjengoko kungenzeka.

18.4 IGosa leeNkcukacha kwakhona malazise lowo ufake isicelo ngenkqubo yelungelo ngalinye kwakhankanywe ngasentla kwisazisi[24].

19. IIMPENDULO KWISICELO SEENKCUKACHA

19.1 I-**PAIA** inike uluntu ilungelo lokucela ukufikelela kwiingxelo ezisuka kwiqumrhu loluntu okanye elabucala. Kudla ngokuchazwa njengomthetho ogcina abemi besazi malunga norhulumente wabo. Amaqumrhu oluntu kufuneka achaze iinkcukacha ezifunwayo phantsi kwe-**PAIA** ngaphandle kokuba oko kuwela ngaphantsi kwenye

[22] *Icandelo 25(1) le-PAIA*
[23] *Icandelo 26(1) le-PAIA*
[24] *Icandelo 26(3) le-PAIA - ukwandiswa kwesazisi kufuneka kuchaze ukuba lowo ufake isicelo angafaka isibheno sangaphakathi, isikhalazo kuMlawuli weeNkcukacha okanye isicelo enkundleni, nanjengoko kungenzeka, ngakwimeko yokwandiswa kwexesha kunye nenkqubo (kuquka ixesha) lokufaka isibheno sangaphakathi, isikhalazo kuMlawuli weeNkcukacha okanye isicelo, nanjengoko kunganjalo.*

kwizinto ezikhululwe kuxanduva loko ezilishumi elinambini (12) okanye izizathu zokuba kutheni ukufikelela kwiingxelo zequmrhu loluntu kungenzeka okanye kunganikwa[25] kwakunye **nezinto ezikhululwe kuxanduva ezisixhenxe (7)** okanye izizathu zokuba kutheni kungenakufikelelwa kwiqumrhu labucala[26]. Ukukhululwa kuxanduva okulishumi elinethoba (19) okunikwe kwi-**PAIA** kwenzelwe ukukhusela iimfuno ezifana nokukhuseleka komntu, ukhuseleko lwelizwe kunye nokunyanzeliswa komthetho.

19.2 Umgaqo-siseko okhokhelayo ngaphantsi kolawulo lwe-**PAIA** kukuqala kokungafihli nto. Oku kuthetha ukuba nasiphi isizathu sokumisela umda koku kungafihlini zinto makubenezizathu ezicavileyo. Amaqumrhu oluntu kwakhona makaqwalasele ukuba ukudandalazisa iinkcukacha kuyenzeka na xa bebona ukuba ukuziveza akwenzeki yaye mabaqhawule okanye balungise kwakhona iinkcukacha ezingenakuvezwa baze baveze eziseleyo.

19.3 Iintlobo zeempendulo kwizicelo

19.3.1 Xa isicelo sokufikelela kwiinkcukacha senziwe, iGosa leeNkcukacha okaanye uSekela Gosa weeNkcukacha makathi, ukuba isicelo sokufikelela kwingxelo sinikiwe okanye asinikwanga, azise lowo ufake isicelo ngoku -

(a) Isigqibo sakhe; kunye
(b) Neentlawulo ezihlawulwayo, ukuba zikhona,

kuxwebhu oluhambelana kakhulu **noXwebhu 3** lweSihlomelo A kwiMimiselo:

19.3.2 Nangona kunjalo, i-**PAIA** inika uluhlu lwezizathu okanye iimeko (ukukhululwa kokuthile) (jonga imihlathi 19.4 no- 19.6 ngasezantsi) zokuba kutheni isicelo singaliwa okanye kufuneka saliwe. Oku kubalulekile, nanjengoko isicelo singaliwa kuphela ngaphantsi kwezi meko zidwelisiweyo zokwala nemvume yokufikelela kwiingxelo.

19.3.3 Nangona kukho ezi zizathu zikhankanywe ngasentla zokwala nokufikelelwa kweengxelo, iGosa leeNkcukacha lequmrhu loluntu malinike isicelo sokufikelela kwingxelo yequmrhu ukuba iimfuno zoluntu ekuveleni kwengxelo yequmrhu ingaphaya kobungozi obubekwe kwizizathu ezidwelisiweyo ngokucacileyo[27]. Oku kuthetha ukuba lowo ufake isicelo angaxhomekeka kwiimfuno zoluntu nanini na iimeko zokwala ukufikelelwa kweengxelo zifuniwe.

19.3.4 Ngokufutshane, izizathu zokuba kutheni iinkcukacha zingenakuvezwa kubhekiselele ekubeni ukuvezwa kwezo nkcukacha kungenza ubungozi obukhulu kunokungabuvezi. Kukho iindidi ezimbini zeemeko ezidwelisiweyo zokwala ukufikelela kwiingxelo zequmrhu:

[25] Isahluko 4 se- PAIA- iimeko zokwala nemvume yokufikelela kwiingxelo (icandelo 34-45 le-PAIA)
[26] Isahluko 4 se- PAIA –iimeko zokwala nemvume yokufikelela kwiingxelo (icandelo 63-69 le- PAIA)
[27] icandelo 46 le- PAIA

19.4 Iimeko ezigunyazisiweyo zokwala (iimeko zokukhululwa)

19.4.1 Kwiimeko ezigunyazisiweyo, iGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha makasale isicelo kuba sisebenza kwingxelo.

19.4.2 Akukho meko zigunyazisiweyo ngaphandle kwezokuzithathela izigqibo. Oku kulandelayo ziimeko ezigunyazisiweyo zokwala, yaye iGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha makasale isicelo kuba zibhekiselele kwingxelo -

19.4.2.1 **Ukhuselo olugunyazisiweyo lwemfihlo lowo umgomnye obandakanyekayo ongumntu ngokokuzalwa;**
IGosa leeNkcukacha lequmrhu loluntu okanye elabucala malivumele lowo ufake isicelo afikelele kwiinkcukacha zomntu ongomnye ukuba oko 'kuvela ngendlela engavakaliyo'. Amacandelo ngokwawo abonisa izizathu ezimbalwa xa oku kungenzeki, njengokuba xa iingxelo sele zisaziwa luluntu okanye apho umntu anike imvume. Umba wokunika imvume ubaluleke ngokukhethekileyo nanjengoko udibanisa nenye indawo yenkqubo lowo afake isicelo ekufuneka ayazi, ebhekiselele ekwazisweni kwabanye ababandakanyekayo, ngokubhekiselele kwisahluko 5 se-**PAIA**.

19.4.2.2 **Ukukhuselwa okugunyazisiweyo kweengxelo ezithile zeNkonzo yeNgeniso yoMzantsi Afrika [South African Revenue Service];**
IGosa leeNkcukacha lase-**SARS** malingavumeli lowo ufake isicelo ukuba afikelele kwiingxelo ezifumanekileyo okanye ezigcinwe ngu-**SARS** ngeenjongo zakhe zokuqokelela irhafu. Nangona kunjalo, iingxelo ezifunyenwe okanye ezigcinwe ngu-**SARS** makungaliwa nazo ukuba isicelo senziwa ngumnini wazo okanye umntu lowo isicelo senzelwa yena.

19.4.2.3 **Ukukhuselwa okugunyazisiweyo kweenkcukacha zoshishino lwabo bangabanye babandakanyekayo;**
IGosa leeNkcukacha malivumele lowo ufakwe isicelo imvume yokufikelela kwiinkcukacha zorhwebo zomnye umntu (ngamanye amazwi, ongenguye lowo ufake isicelo okanye lowo sifakwa kuye). Oku kungaquka iinkcukacha ezifana neemfihlo zorhwebo, okanye ezingaphazamisana neemfuno zorhwebo zabanye ababandakanyekayo. Umzekelo, u-**KFC** usebenzisa iiresipi ezithile, kuquka izinongo ezenziwa liqela lesithathu, oko kuyimfihlo yorhwebo yelo qela lesithathu yaye ukuvezwa koko kungaphazamisa neemfuno zorhwebo zelo qela.

19.4.2.4 **Ukukhuselwa okugunyazisiweyo kweenkcukacha ezithile eziyimfihlo, kunye nokukhuselwa kwezinye iinkcukacha eziyimfihlo zeqela lesithathu elibandakanyekayo;**
AmaGosa eeNkcukacha equmrhu loluntu nelabucala makangavumeli lowo ufake isicelo afikelele kwingxelo ukuba ukukhutshwa kwayo kungalingana nokwaphula umsebenzi wokuthembeka ofunwa liqela elilenye elichaphazelekayo ngokubhwekiselele kwisivumelwano okanye ikontraki.

19.4.2.5 **Ukukhuselwa okugunyazisiweyo kokhuselo lwabantu kunye nokhuseleko lwendawo;**
IGosa leeNkcukacha lequmrhu loluntu okanye labucala malingavumeli lowo ufake isicelo ukuba afikelele kwiingxelo ukuba ukhukhutshwa kwazo kungathi ngokuvakalayo konakalise ukhuseleko lomntu. Kula macandelo afanayo, kukwachazwa ukuba iGosa leeNkcukacha lequmrhu lingala nemvume yokufikelela ukuba ingalimaza ukhuseleko lwesakhiwo okanye indawo.

19.4.2.6 **Ukukhuselwa okugunyazisiweyo kwamadokethi amapolisa kwiinkqubo zebheyili kunye nokhuselo lokunyazeliswa komthetho kunye neenkqubo zomthetho;**
IGosa leeNkcukacha lequmrhu loluntu malingavumeli lowo ufaka isicelo kwiingxelo ezifana neengxelo zenkqubo yebheyili esele zikhuselwe ngokwecandelo lama 60 loMthetho weeNkqubo zoLwaphulo-mthetho. Kweli candela linye, kukwachazwa kukwachazwa ukuba iGosa leeNkcukacha lequmrhu loluntu lingala nokufikelelwa kweengxelo zonyanzeliso mthetho eziveza iindlela zalo, amaqhinga, iinkqubo zokunqanda ulwaphulo-mthetho okanye ukugwetywa kwamatyala, kunye nezinye iingxelo ezihambelana neenkqubo zomthetho ezenzekayo.

19.4.2.7 **Ukukhuselwa okugunyazisiweyo kweengxelo ezinelungelo elisuka kwimveliso yeenkqubo zomthetho;**
IGosa leeNkcukacha lequmrhu labucala malivumele lowo ufake isicelo ukuba afikelele kwingxelo ukuba ingxelo inikwe ilungelo kwiinkqubo zomthetho, ngaphandle kokuba umntu onegunya lelo lungelo ulirhoxisile elo lungelo.

19.4.2.8 **Ukukhuselwa okugunyazisiweyo kweenkcukacha zophando kunye nokukhuselwa kweenkcukacha zophando lwequmrhu loluntu okanye elabucala.**
IGosa leeNkcukacha lequmrhu malingavumeli lowo ufake isicelo ukuba afikelele kwingxelo ukuba ingxelo leyo ibhekiselele kuphando olwenziwa okanye oluzakwenziwa liqumrhu elikhankanyiweyo yaye ukukhululwa kwazo kungenzeka kubhentsise umphandi, iqela lesithathu elibandakanyekayo okanye umba ophandwayo ube kwimo embi.

19.4.3 Nceda uqaphele ukuba ezi meko zingasentla zokugunyaziswa kokwala nokufikelelwa kweengxelo ngandlela ithile kuyafana kumaqumrhu oluntu nawabucala, ngaphandle kokukhuselwa okugunyazisiweyo kweengxelo ezithile zeNkozo yeNgeniso yoMzantsi Afrika **SARS**, zamadokethi esipolisa kwiinkonzo zebheyile, ukunyanzeliswa komthetho, ezisebenza kuphela kumaqumrhu oluntu.

19.4.4 Ukuba ingxelo idityaniswa nemeko ekhululwe kuxanduva oluthile, iGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha wawo omabini amaqumrhu, eloluntu nelabucala uphantsi koxanduva lokuqwalasela ukuvezwa kweenkcukacha ezithile xa kusenzeka, nanini na xa bejonga ukuba ukuvezwa kwazo ngokupheleleyo akwenzeki yaye kufuneka bathathe amanyathelo avakalayo okuqhawula okanye okulungisa kwakhona la ndawo ingenakukhutshwa iye kulowo ucele iinkcukacha yaye kunikwe imvume yokufikelela kwiingxelo eziseleyo.

19.5 **Ukuthatha njengokungavumi ngabom isicelo**[28]

19.5.1 Ukungakwazi ukuphendula kakuhle kwiasicelo ngexesha elibekiweyo elililo kubonwa 'njengokwala ngabom'. Oku kubalulekile kuba i-**PAIA** ivumela lowo ufake isicelo ukuba acele umngeni kwisigqibo xa isigqibo singenziwanga yaye isicelo singahoywanga. Lowo ufake isicelo angachaza nje kwisibheno sakhe sangaphakathi ukuba khange kufunyanwe mpendulo.

19.5.2 Ukufunwa kokufikelela kwiingxelo kuthathwa njengokwala emva kokuphela kweentsuku ezingama 30 okanye ixesha elandisiweyo yaye iqumrhu loluntu okanye elabucala lingakwazanga kuphendula.

19.6 **Imeko zokuzigqibela ukwala**

19.6.1 Kwiimeko zokuzigqibela, iGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha angaqwalasela ukuba angala na okanye hayi kwisicelo eso kuba iimeko zibhekiselele kwingxelo eceliweyo. Ngenxa yokuba ikukuzigqibela, iGosa leeNkcukacha kufuneka lisebenzise ingqondo yalo ngokufanelekileyo xa ejonge iimeko ezahlukeneyo, ezizezi:

19.6.1.1 **Iimeko zokhuselo, ukhuseleko kunye neemeko zehlabathi zoMzantsi Afrika:** IGosa leeNkcukacha lingala ukufikelelwa kweenkcukacha ukuba ukukhutshwa kwazo kungasongela ngokwezizathu ukhuselo okanye ukhuseleko lwelizwe. Oku kungenzeka apho ukukhutshwa kweenkcukacha kungalimaza iimeko zoMzantsi Afrika nelinye ilizwe, njengokuveza iingxelo ezinikwe ziyimfihlo.

19.6.1.2 **Umdla woqoqosho, ezezimali noshishino:** IGosa leeNkcukacha lingala ukufikelelwa kweengxelo ukuba ukukhutshwa kwazo kuza kubayingozi kuqoqosho kunye nesimo sezimali zeRiphablikhi;

[28] *Icandelo 27 nelama 58 le-PAIA*

19.6.1.3 **Iinkqubo zamaqumrhu oluntu:** IGosa leeNkcukacha lequmrhu loluntu lingala ukufikelelwa kweenkcukacha ukuba ukukhutshwa kwazo kungathintela iinkqubo, umzekelo, ukuba lizama ukwenza umgaqo-nkqubo okanye ukuxoxa ngomba othile;

19.6.1.4 **Izicelo ezingathandabuzekiyo okanye ezikhathazayo:** AmaGosa eeNkcukacha angasala isicelo seenkcukacha ukuba banombono wokuba ukuqhuba nesicelo kuzakutya ixesha ngesizathu esingekhoyo yaye kungakhokhelela ekufeketheni ngeziseko. Ukongeza, bangala nemvume yokufikelela kwiingxelo ukuba isicelo sibonwa njengokuba senziwe ngulowo ufake isicelo ukudika okanye ukucaphukisa ngokungenamfuneko.

20. UKUGUNYAZISWA KOKUVEZWA KWEENGXELO NGENXA YOMDLA WOLUNTU

20.1 Nokuba kukho imeko yokuzithandela okanye yokugunyaziswa kokwala neengxelo ngokubhekiselele kwisicelo sokufikelela kwiingxelo zoluntu okanye ezabucala, kungenzeka ukuba umdla woluntu wokuvezwa kwengxelo ubaluleke kakhulu kunengozi eyenziwe kukukhutshwa kwengxelo.

20.2 Apho kukho ukubaluleka kweemfuno zoluntu njengoko kubekwe ngasentla yaye ukuvezwa kwengxelo kungaveza ubungqina bolwaphulo olukhulu, okanye ukungakwzi ukulandela umthetho okanye ukhuseleko loluntu olubi nolungagungqiyo okanye ubungozi eluntwini, ngoko iGosa leeNkcukacha lequmrhu malinike isicelo sokufikelela kwingxelo nangona kukho iimeko zokukhululwa koxanduva ezibekwe ngasentla.

21. INKQUBO YOKWAZISWA KWABANYE ABABANDAKANYEKAYO[29]

21.1 IGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha weqela kufuneka, ngokubhekiselele kumacandelo 47 nelama 71 e-**PAIA**, athathe onke amanyathelo avakalayo ukwazisa abanye ababandakanyekayo malunga nesicelo seengxelo zakhe ekungenzeka kubeyingxelo equka iinkcukacha zomntu mhlawumbi,

21.1.1 Ingxelo yase-**SARS**;

21.1.2 Iimfihlo zorhwebo;

21.1.3 Iinkcukacha, ukukhululwa kwazo ekungenza iimeko zenyathelo lokophula intembeko okanye iinkcukacha zophando ezingaveza kakubi umntu okanye umba wesihloko ebungozini obukhulu.

21.2 Isaziso esiya kwabanye ababandakanyekayo abaneengxelo okanye iinkcukacha ezisisihloko sesicelo mabamememe abo bangabanye babandakanyekayo ukuba -

[29] *Icandelo 47 lo 71 le-PAIA*

21.2.1 bamelwe ngokuthi kubhalelwe okanye kuthethwe neGosa leeNkcukacha ukuba kutheni isicelo sokufikelela kwiinkcukacha kufuneka saliwe; okanye

21.2.2 banike imvume yokuvezwa kweengxelo kulowo ufake isicelo.

21.3 Okubalulekileyo kulowo ufake isicelo, i-**PAIA** ithi izaziso ezibhaliweyo eziya kwabanye ababandakanyekayo mazithunyelwe kwabo babandakanyekayo kwiintsuku ezingama 21 zokuba kufunyenwe isicelo yaye iGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha makazise lowo ufake isicelo ukuba sithunyelwe isaziso kwabo bangabanye babandakanyekayo.

21.4 Kwakuba kuthunyelwe isaziso, iGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha makathi ngoko enze isigqibo sokugqibela ukuba azikhulule okanye angazikhululi iingxelo kwiintsuku ezingama 30 zokuthunyelwa kweso saziso.

21.5 Abo bangabanye babandakanyekayo mabaziswe ngesigqibo esithathiweyo kunye nezizathu ezivakalayo zokunika isicelo kufuneka zinikwe. Abanye ababandakanyekayo kwakhona mabaziswe ngelulengo kwanenkqubo yokuccela umngeni kwisigqibo njengoko siboniswe kumhlathi 22 ongasezantsi.

22. ULUNGISO OLUSEMTHETHWENI OLUFUMANEKAYO OLUJONGENE NEZIGQIBO OKANYE UKUNGAKWAZI KUTHATHA SIGQIBO LIGOSA LEENKCUKACHA OKANYE USEKELA GOSA WEENKCUKACHA

22.1 Inyathelo ekufuneka lithathwe kwakuba kwenziwe isigqibo ngakwisicelo

22.1.1 Umceli angathatha inyathelo lokulandelela ngembalelwano, kwisigqibo esilindelweyo seGosa leeNkcukacha okanye uSekela GHosa weeNkcukacha. Kukhuthazwa ukuba lonke unxibelelwano phakathi kwalowo ufake isicelo kunye neGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha lube ngembalelwano ukulungiselela iinjongo zokuphinda kujongwe oko kwixesha elizayo.

22.1.2

Kukho iinkqubo ezahlukeneyo zamaqumrhu karhulumente nawabucala, ingakumbi ngokubhekiselele kwizibheno zangaphakathi. Umzekelo, ngokubhekiselele kwisicelo sokufikelela kwingxelo yequmrhu loluntu, lowo ufake isicelo makathi kuqala afake isibheno ngaphakathi ngaphambi kokuya kuMlawuli okanye eNkundleni. Nangona kunjalo, akukho sibheno sangaphakathi ngakwisigqibo (nokuba ukunika okanye ukwala nemvume yokufikelela kwiingxelo)

22.1.3 okanye ukwala ngabom ukufikelelwa kweengxelo zequmrhu labucala.

Eli candelo liza kuchaza ulungiso olusemthethweni olufumanekayo kwabo bafaka isicelo abanomnqweno wokucela umngeni kwezo zigqibo, eziquka izibheno zangaphakathi, ukufaka isikhalazo kuMlawuli kunye nezicelo eziya eNkundleni. Jonga kwakhona umfanekiso we-**PAIA** wenkqubo ekuhanjwa ngayo yesicelo kumhlathi 27 ngasezantsi.

22.1.4 Lowo ufake isicelo angathi, kwezinye izinto, acele umngeni kwesi sigqibo silandelayo sequmrhu likarhulumente kunye/okanye labucala. -

22.1.4.1 ithenda okanye ukuhlawulwa kwentlawulo yesicelo;

22.1.4.2 ithenda okanye ukuhlawulwa kwenxalenye yentlawulo;

22.1.4.3 intlawulo yokufikelela eza kuhlawulwa izakuba nkulu kakhulu;

22.1.4.4 uhlobo lokufikelela olunikiweyo;

22.1.4.5 ukwaliwa kwesicelo;

22.1.4.6 inkqubo (kuquka ixesha) lokufaka isibheno sangaphakathi;

22.1.4.7 ixesha elingelilo elandisiweyo elithathwe ukuphendula isicelo sokufikelela kwiingxelo;

22.1.4.8 ukungakwazi ukuchaza iingxelo;

22.1.4.9 ukunikwa isicelo sokufikelela kwiingxelo;

22.1.4.10 ukwala ukunika isicelo sokurhoxisa iintlawulo;

22.2 Ulungiso lwangaphakathi

22.2.1 Lowo ufaka isibheno ubhena kanjani ngaphakathi ngakwisigqibo sequmrhu loluntu?

22.2.1.1 Isibheno sangaphakathi singafakwa kuphela, ngokubhekiselele kwicandelo 74 le-**PAIA**, kwigunya elifanelekileyo lendawo ethile kurhulumente welizwe okanye owephondo okanye nawuphi umasipalati kwindawo esekuhlaleni karhulumente njengoko imeko ingatsho.[30]

22.2.1.2 Ngako oko, umzekelo, uMasipalati weSixeko saseGoli [City of Johannesburg] ngumzekelo wendawo esekuhlaleni apho isibheno sangaphakathi singafakwa khona. INgxowa-mali yeeNgozi zeNdlela [Road Accident Fund] okanye uMlawuli ngumzekelo wequmrhu loluntu elingeyondawo karhulumente welizwe, owephondo nowasekuhlaleni, nanjengoko kubekwe kumthetho-siseko yaye ke ngoko isibheno sangaphakathi singangafakwa ngakuye.

[30] *Icandelo 74(1) le-PAIA*

22.2.1.3 Xa lowo ufake isicelo okanye abanye ababandakanyekayo bengonwabanga sisigqibo esenziwe liGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha welizwe, owephondo okanye indawo esekuhlaleni karhulumente, lowo ufake isicelo okanye abanye ababandakanyekayo banelungelo lokufaka isibheno sangaphakathi, ngokubhekiselele kwicandelo 74(1) okanye (2) le- **PAIA**. Inkqubo yokufaka isibheno ibekwe kwincwadana ye-**PAIA** yelo qumrhu yaye indlela yokufaka isibheno sangaphakathi kwakhona ichazwe banzi apha ngasezantsi.

22.2.1.4 Ukuba impendulo esuka kwindawo karhulumente welizwe, owephondo okanye owasekuhlaleni ibonwa njengokwala ngabom, ngamanye amazwi, ayikwazanga kuphendula kwisicelo kwiintsuku ezingama 30 okanye naliphi ixesha elandisiweyo, lowo ufake isicelo angafaka isibheno sangaphakathi, ngokweenkqubo ezibekiweyo apha, ngaphambi koko lowo ufake isicelo angaya kuMlawuli okanye iNkundla.

22.3 Ukugcinwa kweengxelo kude kunikwe isigqibo sokugqibela kwisicelo okokugqibela.

22.3.1 IGosa leeNkcukacha lenqanaba likarhulumente weLizwe, owePhondo okanye owasekuHlaleni apho kwenziwa isibheno sangaphakathi, ngokubhekiselele kwicandelo 21 le-**PAIA**, lifanele lithathe amanyathelo afanelekileyo okugcina ingxelo yaye alikwazi ukususa okanye litshabalalise nayiphi ingxelo efuniweyo kude kufike ixesha apho, njengazo zonke okanye naziphi iinkqubo kwisibheno sangaphakathi okanye isikhalazo kuMlawuli okanye isicelo esiya enkundleni, njengoko kungenzeka, zibe ziyagqitywa.

22.3.2 Oku kuthetha ukuba igosa leenkcukacha alikwazi kususa okanye litshabalalise naziphi na iinkcukacha eziceliweyo, kungekagqitywa nayiphi inkqubo ebekiweyo kumhlathi 22.3.1.1 ngasentla.

22.4 Isibheno sangaphakathi kufanele sisiwe kubani?

22.4.1 Nangona isibheno siza kuqwalaselwa ligunya elifanelekileyo, isibheno sangaphakathi masinikwe okanye sithunyelwe kwiGosa leeNkcukacha leNqanaba likaRhulumente weLizwe, wePhondo okanye owasekuHlaleni, njengoko kungenzeka, kwidilesi yakhe, inombolo yefeksi okanye idilesi ye-imeyili[31], inkcukacha zayo zingafunyanwa kwincwadana ye-**PAIA** okanye njengoko ingafunyanwa kuMlawuli.

22.4.2 IGosa leeNkcukacha lesizwe, elephondo okanye inqanaba lasekuhlaleni, njengoko kungenzeka, linoxanduva ngokubhekiselele kwicandelo 75(4) le-**PAIA**,

[31] *Icandelo 75(1)(b) le-PAIA*

lokufaka isibheno kwigunya lesibheno, kunye nezizathu zakhe zesigqibo eziphantsi kwesibheno. Ukufakwa kwesibheno kwigunya elifanelekileyo makwenziwe kwiintsuku ezili 10 emva kokufunyanwa kwesibheno.

22.5 Ngubani igunya elifanelekileyo?

22.5.1 Igunya elifanelekileyo, apha elibizwa "ngegunya lesibheno" ngokubanzi yintloko yopolitiko yequmrhu elikhankanyiweyo (nangona lo msebenzi ungonyulelwa umntu ngokusemthethweni) yaye ngokukhethekileyo kubhekiswe kulo mntu ulandelayo-

IQumrhu loLuntu ("uRhulumente")	IGunya eliFanelekileyo ("Igunya leSibheno")
I-Ofisi yoBongameli	Umntu obekwe ngembalelwano, nguMongameli, ukuba ukhona, kungenjalo uMongameli ligunya lesibheno
ISebe leLizwe	UMphathiswa onoxanduva loko okanye umntu obekwe ngembalelwano ngulowo Mphathiswa
I-Ofisi yeNkulumbuso	Umntu obekwe ngembalelwano yiNkulumbuso.
ISebe lePhondo	ILungu leKhansile yoLawulo (**MEC**) elinoxanduva lwelo Sebe lePhondo okanye umntu ebekwe ngembalelwano ngu- **MEC**;
UMasipalati	USodolophu, uSomlomo okanye nawuphi na umntu obekwe ngembalelwano yiKhansile kaMasipalati yalowo masipalati;

22.5.2 Nayiphi na enye imeko, apho ingeyiyo i-ofisi yeNkulumbuso: ilungu lekomiti yolawulo elinoxanduva lwequmrhu loluntu okanye umntu obekwe ngembalelwano lelo lungu.

22.5.3 Ukuba igunya lokubhena liyasiphumeza isigqibo seGosa leeNkcukacha, ngako oko isibheno sangaphakathi siyaliwa kuze kume isigqibo sokuqala seGosa leeNkcukacha. Nangona kunjalo, ukuba igunya lesibheno alivumelani nesigqibo seGosa leeNkcukacha, ngoko kunikwa isibheno yaye isigqibo sokuqala siyabhukuqwa.

22.5.4 Isigqibo seGosa leeNkcukacha simile. Nangona kunjalo ukuba igunya elisetyenzisiweyo alivumelani nesigqibo seGosa leeNkcukacha kuthi kunikwe isibheno kwaye isigqibo sokuqala siyajikwa.

22.6 Ngubani ongafaka isibheno sangaphakathi?

22.6.1 Nawuphi na umntu ocelileyo onesicelo sakhe se-**PAIA** sokufikelela kwiingxelo zeNqanaba leLizwe, iPhondo okanye ekuHlaleni, njengoko kunganjalo, esaliweyo yaye ekholelwa ukuba enye yeemeko zesibheno ezidweliswe kumhlathi 22.2.4 ngasentla ziyasebenza kwisicelo sakhe, unelungelo lokufaka isibheno sangaphakathi.

22.6.2 Abanye ababandakanyekayo bangafaka izibheno zangaphakathi ngakwisigqibo esenziweyo liGosa leeNkcukacha ukunika imvume yokufikelela kwingxelo ababandakanyeka kuyo. Ukuba isibheno sangaphakathi siquka abanye ababandakanyekayo, igunya lesibheno elifumene isibheno sangaphakathi kufuneka azise abo babandakanyekayo bangabanye (ngako oko uxanduva luyasuka kwiGosa leeNkcukacha liye kwigunya lesibheno).

22.7 Ixesha apho kungafakwa ngalo isibheno

22.7.1 Isibheno sangaphakathi masifakwe -

22.7.1.1 **kwiintsuku zingama 60**[32] emva kokuba kwathathwa isigqibo;

22.7.1.2 **kwiintsuku ezingama 30**[33] emva kokunikwa kwesaziso kwabanye ababandakanyekayo besigqibo ekubhenwa ngakuso

22.7.2 Ukufaka isibheno sangaphakathi emva kwexesha elikhankanywe ngasentla (mva) kungangavunyelwa, ngaphandle kokuba kunikwe isizathu esivakalayo sokufakwa kade kwigunya lesibheno. Umzekelo, njengokulaliswa esibhedlele ngaphezu kweentsuku ezingama 60, oko kungamkelwa njengezizathu ezivakalayo zokufaka kade.

22.7.3 Ukuba igunya lokubhena alikwamkeli ukufakwa kwesicelo sokubhena kwangaphakathi kade, kufuneka likunike izizathu zokukhaba isibheno yaye linike isikhokelo sazo naziphi iinkcukacha ezongeziweyo, ukuba zikhona, ezifuneka ukuze kwamkelwe isibheno. Igunya lesibheno malikucebise malunga nenkqubo yokufaka isikhalazo ngakwisigqibo soMlawuli okanye inkundla ukuba sikhona, esifuneka ukuze kwamkelwe isibheno ukuba sikhona, esifuneka ukuze kwamkelwe isibheno.

[32] *Icandelo 75(1)(a)(i) le-PAIA*
[33] *Icandelo 75(1)(a)(ii) le-PAIA*

22.7.4 Njengoko kuboniswe ngasentla, isibheno sakho masifakwe liGosa leeNkcukacha kwigunya lesibheno kwiintsuku ezili 10 emva kokufunyanwa kwesibheno sangaphakathi[34].

22.8 **Isaziso sesibheno esenziwa ligunya lesibheno kulowo ufake isicelo okanye abanye ababandakanyekayo**

22.8.1 Igunya lesibheno malithi, ngokukhawuleza kangangoko linakho kodwa **kwiintsuku ezingama 30** emva kokufunyanwa kwesibheno sangaphakathi[35], azise

22.8.1.1 abo babandakanyekayo apho ingxelo okanye abo ingxelo ephantsi kwesibheno kuyeyabo, okanye

22.8.1.2 lowo ufake isicelo malunga nesibheno sangaphakathi ngasekunikweni kwesicelo semvume yokufikelela kwiinkcukacha.

22.8.2 Lowo ufake isicelo okanye abanye ababandakanyekayo ekunikwa bona isaziso, bangathi **kwiintsuku ezingama 21** emva kokunikwa kwesaziso, benze iimbalelwano yokumelwa kwigunya lesibheno ukuba kutheni isicelo sokufikelela kufuneka sinikwe okanye singanikwa.

22.9 **Isigqibo kwisibheno sangaphakathi kunye nesaziso saso[36]**

22.9.1 Igunya lesibheno kufuneka ligqibe ngesibheno sangaphakathi gokukhawuleza kangangoko kodwa kuyo nayiphi imeko kwiintsuku ezingama 30:

22.9.1.1 emva kokuba isibheno sangaphakathi sifunyenwe liGosa leeNkcukacha lequmrhu;

22.9.1.2 emva kokuba kwaziswe abanye ababandakanyekayo, njengoko kuboniswe kumhlathi 22.3.6.1 ngasentla.

22.9.2 Isigqibo segunya lesibheno masaziswe kulowo mbheni, abanye ababandekayo kunye nalowo ufake isicelo. Isigqibo segunya lesibheno masikhatshwe zizizathu ezivakalayo zesigqibo, kuquka oko kunikwe kwi-**PAIA** okanye i-**POPIA** ekoyanywe ngako.

22.9.3 Ukuba igunya lesibheno alikwazi kunika isaziso sesigqibo kwisibheno sangaphakathi kumbheni kwiintsuku ezingama 30, isibheno sithathwa ngokuba simisiwe yaye lowo ufake isicelo angaqhubeka nokufaka isikhalazo kuMlawuli okanye aye eNkundleni ukuze afumane ukukhululwa okufanelekileyo[37].

[34] *Icandelo 75(4) le-PAIA*
[35] *Icandelo 76(2)(a) le-PAIA*
[36] *Icandelo 77 le-PAIA*
[37] *Icandelo 77(7) le-PAIA*

22.10 **Ukugcwalisa uXwebhu 4 lwesibheno sangaphakathi**

22.10.1 Ukuze kubhenwe ngakuso nasiphi isigqibo esenziwe linqanaba likaRhulumente weLizwe, owePhondo okanye owasekuHlaleni, lowo ufake isicelo makafake isibheno sangaphakathi ngokugcwalisa uXwebhu 4. UXwebhu 4 malufakwe kwiGosa leeNkcukacha elifanelekileyo, ekufuneka liluthumele kwigunya lesibheno, njengoko kubekwe ngasentla.

22.10.2 UXwebhu 4 lufumaneka kwisiza se-intanethi soMlawuli, https://www.justice.gov.za/inforeg/, kwakunye nesiza se-intanethi senqanaba likaRhulumente elibandakanyekayo.

22.10.3 IGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha wenqanaba likaRhulumente elibandakanyekayo alikho phantsi kokuzibophelela ukunceda lowo ufake isicelo ukuba agcwalise uxwebhu lwesibheno sangaphakathi, nangona kunjalo, lowo ufake isicelo usengacela iGosa leeNkcukacha ukuba limncede koku.

22.10.4 Apha ngasezantsi kukho inkqubo yenyathelo ngalinye lokugcwalisa uxwebhu lwesibheno sangaphakathi -

Iinkcukacha Ezifunwayo	Inkcazelo
Iinkcukacha zequmrhu loluntu	Eli candela kufuneka liquke igama lendawo kaRhulumente weLizwe, owePhondo nowasekuHlaleni obandakanyekayo kunye negama kunye nefani yeGosa leeNkcukacha.
Iinkcukacha zombheni ofaka isibheno sangaphakathi	Eli candelo kufuneka ligcwaliswe ngumbheni, nokuba umelwe okanye hayi. Amagama apheleleyo kunye nefani, inombolo yesazisi kunye nesikhundla akuso, apho isibheno sangaphakathi senziwa khona egameni lomnye umntu, ukuba kufanelekile, masinikwe. Ukuba isibheno sesesikhundla sakhe, eso sikhundla masibhalwe phanmtsi. ezongeziweyo ezifunekayo ziquka iinkcukacha zoqhagamshelwano zalowo ufaka isicelo: idilesi yeposi, idilesi ye-imeyili,

Iinkcukacha Ezifunwayo	Inkcazelo
	inombolo yefeksi kunye/okanye eyomnxeba. Ezi nkcukacha kufuneka zifane nezesicelo sokuqala. Ukuba umntu ofaka isicelo ngumntu omele lowo ufake isicelo, ubungqina besikhundla sokufaka isibheno mabuqhoshelwe kolo xwebhu.
Iinkcukacha zomntu lowo isicelo senziwa egameni lakhe (ukuba sifakwe ngomnye obandakanyekayo)	Eli candela lifuna kuphela ukugcwaliswa ngumntu ocela iinkcukacha zomnye umntu. Ukuba umntu ofaka isibheno sangaphakathi akunguye lowo wayecele iinkcukacha kuqala, iinkcukacha zalowo ufaka isicelo mazifakwe apha. Ukuba isicelo umntu uyazenzela, le ndawo ayifuni kugcwaliswa.
Isigqibo ngasekufakweni kwisibheno sangaphakathi	Uxwebhu lunika indawo yalowo ufake isicelo ukuba abonise ngo “x”, ukuba yeyiphi kwiimeko ezidwelisiweyo engena kwisibheno.
Iimeko zokubhena	Phantsi kweli candelo, lowo ufake isicelo kufuneka achaze ngokubanzi ukuba kutheni ecinga ukuba kusebenze iimeko zesibheno. Kufuneka anike izizathu/isizathu sokuba kutheni ecinga ukuba isigqibo seGosa leeNkcukacha asilunganga. Kwakhona kufuneka aqhosele nayiphi na imiqulu exhasa isibheno. Uludwe lwezizathu ezinika inkxaso ngakwisibheno zingachazwa banzi kwiphepha elilelinye, ukuba indawo enikiweyo kuxwebhu ayonelanga.

Iinkcukacha Ezifunwayo	Inkcazelo
	Ngako oko, umntu kwakhona makafake yonke into ethe yenzeka ukusuka phantsi ukuya phezulu, kude kufikelele kwisibheno sangaphakathi. Kwiphepha elilelinye, ubani angathi ajonge kumacandelo akhethekileyo e-**PAIA** njengesiseko sesibheno.
Isaziso sesigqibo sesibheno	Kubekwe indawo yernkcazelo yendlela isigqibo esingathunyelwa ngayo, umzekelo, ngeposi, ikhuriya okanye uhlobo olukhawuleza kakhulu lokuposa okanye i-imeyili. Nceda ukhethe indlela oyikhethayo yokwaziswa.

22.10.5 Lo gama kungekho kuthintelwa ngasekubeni ufumane igqwetha elikuncedisa kuso nasiphi isigaba sesicelo seenkcukacha, iinkqubo ezahlukeneyo ze-**PAIA** zenzelwe ukusetyenziswa lula, kususwa imfuneko yegqwetha kunye neentlawulo zomthetho ezingakhona.

23. ISIKHALAZO ESIYA KUMLAWULI WEENKCUKACHA

23.1 Lowo ufake isicelo okanye abanye ababandakanyekayo bangafaka isikhalazo kuMlawuli emva kokuba lowo ufake isicelo okanye abanye ababandakanyekayo begqibe yonke inkqubo yokubhena yangaphakathi ngakwisigqibo seGosa leeNkcukacha lenqanaba likarhulumente welizwe, owephondo okanye owasekuhlaleni. Oku kuthetha ukuba ubani angafaka isikhalazo sakhe, ngakwinqanaba elithile likarhulumente kuMlawuli, ukuba akasonwabelanga isigqibo segunya lesibheno. UMlawuli uza kukhaba isikhalazo ukuba inkqubo yesibheno kwinqanaba elifanelekileyo likarhulumente aligqitywanga.

23.2 Nangona kunjalo, ngokubhekiselele kwiqumrhu loluntu (ngokubhekiselele kwisibheno sangaphakathi oko akwenzeki) kunye nequmrhu labucala, lowo ufake isicelo okanye abanye ababandakanyekayo bangafaka isikhalazo kuMlawuli, ukuba abonelisekanga sisigqibo sequmrhu elibandakanyekayo.

23.3 Isikhalazo esiya kuMlawuli sisenziwa ngulowo ufake isicelo okanye abanye ababandakanyekayo masifakwe kwiintsuku ezili 180 kufunyenwe isigqibo esisuka kwiqumrhu.

23.4 **Lowo ufake isicelo angafaka isikhalazo kuMlawuli, ukuba akonwabanga koku -**

23.4.1 isiphumo sesibheno sangaphakathi kwigunya lesibheno lenqanaba likarhulumente;

23.4.2 isiphumo segunya lesibheno sokungavumeli kufakwa kade kwesibheno sangaphakathi;

23.4.3 isigqibo seGosa leeNkcukacha lequmrhu loluntu esingeyondawo yalo naliphi inqanaba likarhulumente kukuba

23.4.3.1 lale isicelo semvume yokufikelela; okanye

23.4.3.2 landise ixesha lokujongana nesicelo; okanye

23.4.3.3 linike imvume yokufikelela ngohlobo oluthile.

23.4.4 Isigqibo sentloko yequmrhu labucala kukuba -

23.4.4.1 lale isicelo semvume yokufikelela; okanye

23.4.4.2 anyanzelise ukuhlawulwa komrhumo wokufaka isicelo okanye inxalenye yentlawulo yomerhumo wokufikelela kwwinkcukacha; okanye

23.4.4.3 andise ixesha lokujongana nesicelo; okanye

23.4.4.4 anike imvume yokufikelela kwiinkcukacha ngohlobo oluthile.

23.5 Abanye ababandakanyekayo bangafaka isikhalazo kuMlawuli, ukuba akakonwabeli oku -

23.5.1 isiphumo sesibheno sangaphakathi kwigunya lokubhena kwinqanaba likarhulumente elifanelekileyo;

23.5.2 isigqibo seGosa leeNkcukacha sequmrhu loluntu elingeyonxalenye yalo naliphi inqanaba likarhulumente, sokunika isicelo semvume yokufikelela kwiinkcukacha; okanye

23.5.3 isigqibo sentloko yequmrhu labucala sokunika isicelo sokufikelela kwingxelo yelo qumrhu,

23.6 **Ingaba umntu ukhalaza njani kuMlawuli?**

23.6.1 Isikhalazo esiya kuMlawuli kwakhona masenziwe ngembalelwano yaye kufuneka kugcwaliswe uxwebhu wesikhalazo, nokuba kungesandla okanye kwi-intanethi. Uxwebhu lwesikhalazo, uXwebhu 5, lungakhutshelwa kwisiza se-intanethi soMlawuli, https://www.justice.gov.za/inforeg/

23.6.2 Oku kuthetha ukuba uMlawuli akayi kwamkela isikhalazo ngomnxeba; nangona kunjalo, uMlawuli kufuneka anike uncedo oluvakalayo kuye nabani onqwenela ukwenza isikhalazo yaye oku kuquka uncedo olubhekiselele ekugcwaliswени koxwebhu lwesikhalazo.

23.6.3 Ukuba ubani ucela umngeni kwisigqibo seGosa leeNkcukacha lequmrhu labucala, kufuneka anike ubungqina obaneleyo ukubonisa ukuba ingxelo eceliweyo ifunelwa ukusebenzisa okanye ukukhusela nalo naliphi na ilungelo/amalungelo. Ukufikelela kwiingxelo zequmrhu labucala kunganikwa kuphela ukuba umntu angabonisa ukuba ufuna ukusebenzisa okanye ukukhusela nalo naliphi na ilungelo/amalungelo ngengxelo efuniweyo.

23.7 **23.7 Kwenzeka ntoni emva kokufumana isikhalazo?**

23.7.1 Emva kokufunyanwa kwesikhalazo somntu, uMlawuli makathi -

23.7.1.1 aphande isikhalazo yaye ajonge koko akufumeneyo kwiKomiti yoNyanzeliso ngesikhalazo; okanye

23.7.1.2 angathathi nyathelo ngesikhalazo ngenxa yokuba -

23.7.1.2.1 isikhalazo khange sifakwe kwixesha leentsuku ezili 180 ezinikiweyo yaye akukho meko zivakalayo zokuphumeza ukufakwa kade kwesikhalazo;

23.7.1.2.2 isikhalazo asinanjongo inzulu okanye siyaxhalabisa okanye asenziwanga ngokuthembekileyo; okanye

23.7.1.2.3 lakuba lijonge kuzo zonke iimeko zetyala, naliphi inyathelo elilandelayo akukho mfuneko yayo okanye ayifanelekanga. Umzekelo iinkcukacha eziceliweyo sele zifumaneka eluntwini.

23.7.1.3 apho kufanelekileyo lixolelanise okanye lisebenzise ezona nzame zalo ukukhusela oko kulungelelaniswa okanye lincedise amaqela ukuba alungise kakuhle loo mpikiswano; yaye

23.7.1.4 Iicebise lowo ukhalazayo kunye neGosa leeNkcukacha, elo iinkcukacha zibhekiselele kulo, ngenkqubo yenyathelo elithathiweyo.

23.8 Unxibelelwano lokuqala loMlawuli kulowo ukhalazayo kunye neGosa leeNkcukacha ngokubhekiselele kwisikhalazo esifakiweyo

23.8.1 Ukuba uMlawuli ugqiba ukuba angathathi nyathelo lilelinye ngakulowo ukhalazayo, uMlawuli uza kwazisa lowo ufake isicelo ngeso sigqibo kunye nezizathu zokungathathi nyathelo lilelinye ngesikhalazo.

23.8.2 Ukuba uMlawuli ugqiba ekubeni aphande isikhalazo, lowo ufake isicelo uza kufumana ileta emcebisa ukuba uMlawuli ugqibe ukuba aqhube uphando.

23.8.3 Emva kokufunyanwa kwesikhalazo, uMlawuli uza kunikezela ngeenkcukacha zesikhalazo kwiGosa leeNkcukacha lequmrhu elifanelekileyo yaye alicele ukuba lizinike uMlawuli, impendulo ebhaliweyo yesikhalazo.

23.9 Amagunya okuphanda oMlawuli

23.9.1 UMlawuli unamagunya, ngokubhekiselele kwicandelo 77G(2) le-**PAIA**, ukuba -

23.9.1.1 asebenzise ezona nzame zakhe ukukhusela oko kulungelelaniswa kwenziweyo;

23.9.1.2 akhuphe isamani yaye anyanzelise ukuvela kwabantu ngaphambi koMlawuli;

23.9.1.3 abanyanzele ukuba banike ubungqina ngomlomo okanye obubhaliweyo befunga yaye baveze naziphi na iingxelo;

23.9.1.4 afumane yaye amkele nabuphi ubungqina kunye nazo naziphi iinkcukacha, nokuba kuyafungwa, ngombhalo osuka esipoliseni [afidavithi];

23.9.1.5 angene aze akhangele nayiphi na indawo apho ekuhleli iqela elinoxanduva;

23.9.1.6 aqhube udliwano-ndlebe naye nawuphi umntu okwindawo ekungenwe kuyo conduct; yaye

23.9.1.7 aqhubeke ebuza nantoni engaqondakaliyo kwezo ndawo uMalwuli ayibona ifanelekile.

23.10 **Ukuhlolwa kokuhambelana nokungaphakathi kwi-PAIA**

23.10.1 UMlawuli angaqhuba uhlolo lokuba iqumrhu loluntu okanye elabucala liyahambelana ngokubanzi noko kufakwe kule-**PAIA**.

23.10.2 UMlawuli angathi engacwangcisanga aqhube uhlolo lokuhamba ngemigaqo kwiqumrhu, ngentando yakhe, nangona kunjalo, uMlawuli kwakhona angaqhuba uhlolo lokuhamba ngemigaqo akuba eceliwe liGosa leeNkcukacha lequmrhu okanye egameni lalo okanye nawuphi na umntu. Oku kuthetha ukuba nawuphi na umntu angacela uMlawuli ukuba aqhube uhlolo nokuhamba ngokwemigaqo kwiqumrhu. Kwakhona umntu angafaka isicelo engazixelanga ukuze aqhube uhlolo lokuhamba ngokwemigaqo, ngokuthi abonise ukuba ucela uba ahlale engaziwa.

23.10.3 UMlawuli uza kunika umntu ocele uhlolo olunengxelo yohlolo kunye nezincomo zenyathelo eliza kuthathwa, ukuba likhona.

23.11 **Iinkcukacha seSaziso**

UMlawuli anganika iGosa leeNkcukacha lequmrhu iSaziso seeNkcukacha esifuna iqela elibekiweyo ukuba linike uMlawuli iinkcukacha ezibekwe kwisaziso. Umzekelo, ukuba kufakwe isikhalazo kuMlawuli, esibhekiselele ekwaleni nemvume yokufikelela iinkcukacha, ngokubhekiselele kuzo naziphi iimeko ezikhululwe kokuthile, uMlawuli angacela, kwiSaziso seeNkcukacha, iikopi zeengxelo apho kwaliwe ukunikwa imvume yokufikelela, ukuze kuqondwe ukuba izizathu zokwala ziyevakala na okanye hayi.

23.12 **Ukusekwa kweKomiti yoNyanzeliso**

23.12.1 Mlawuli kufuneka aseke iKomiti yoNyanzeliso[38], enamagunya oku -

23.12.1.1 ukuqwalasela zonke iimeko ezisiwe kuyo nguMlawuli ngokubhekiselele kwi-**PAIA** aze akhangele okufunekayo koko; yaye

23.12.1.1 enze nayiphi imihlomlo kuMlawuli ngokubhekiselele kulo naliphi inyathelo ekufuneka lithathiwe ngakwiGosa leeNkcukacha lequmrhu.

23.13 **ISaziso sesiNyanzeliso**

23.13.1 UMlawuli angathi, emva kokuqwalasela imihlomlo yeKomiti yesiNyanzeliso, anike iGosa leeNkcukacha lequmrhu iSaziso sesiNyanzeliso -

[38] *Icandelo 50 le-POPIA*

23.13.1.1 esiqinisekisa, silungisa okanye sibeka bucala isigqibo esisisihloko sesikhalazo; okanye

23.13.1.2 esifuna iGosa leeNkcukacha ukuba lithathe elo nyathelo okanye liyeke ukuthatha elo nyathelo njengoko uMlawuli weeNkcukacha echaze kwisaziso.

23.14 **Ziziphi iziphumo zokungahambi ngokwemigaqo yeZaziso zoNyanzeliso?**

23.14.1 IGosa leeNkcukacha lequmrhu elala ukuhambelana nesaziso sonyazeliso linetyala yaye kufanele emva koko ligwetywe intlawulo okanye ukuvalelwa ejele kwexesha elingedluli kwiminyaka emithathu okanye zombini, loo ntlawulo kunye nokuvalelwa ejele.

23.14.2 ICandelo 77K le-**PAIA** liyabonisa ukubaluleka kwelungelo lokufikelela kwiingxelo. Eli candelo kwakhona liqinisa ukubaluleka koMlawuli ngokubhekiselele ekuphunyezweni kwelungelo lokufikelela kwiinkcukacha.

24. ISICELO ESIYA ENKUNDLENI

24.1 **Ngubani ongafaka isicelo enkundleni ngakwisigqibo?**

24.1.1 Lowo ufake isicelo okanye abanye ababandakanyekayo bangafaka isicelo enkundleni ukuze bakhululwe ngokufanelekileyo ngokubhekiselele kwicandelo 82 kwezi meko zilandelayo:

24.1.1.1 emva kokuba lowo ufake isicelo okanye abanye ababandakanyekayo begqibe inkqubo yesibheno sangaphakathi ekubhekiswe kuso kumhlathi 22.3 ngasentla; okanye

24.1.1.2 emva kokuba lowo ufake isicelo okanye abanye ababandakanyekayo begqibe inkqubo yezikhalazo ekubhekiswe kuzo kumhlathi 77A.

24.1.2 Ngokubhekiselele kwicandelo 78(1) le- **PAIA**, lowo ufake isicelo okanye iqela lesithathu unokhetho olume kabini, ukuthumela kwabanye isigqibo, esikuluhlu olukwimihlathi 22.2.4, 23.4 kunye no- 23.5 ngasentla, kuMlawuli okanye iNkundla. Lo gama ubani enganyanzelekanga ukuya kuMlawuli ngaphambi kokuya eNkundleni, kucetyiswa ukuba umntu makaqwalasele ukuya kuMlawuli, nanjengoko uMlawuli enamaqhinga abanzi nakhawulezileyo okusombulula impixano, kuneNkundla.

24.1.3 Nangona kunjalo, ukuze iNkundla ibenomthetho ofanelekileyo wokugweba le meko, lowo ufake isicelo okanye abanye ababandakanyekayo mabathi -

24.1.3.1 bacatshukiswe sesinye sezigqibo ezikuluhlu olukumhlathi 22.2.4, 23.4 okanye 23.5 ngasentla; okanye

24.1.3.2 bagqibe inkqubo yezikhalazo kuMlawuli okanye barhoxise isikhalazo kuMlawuli. Oku kuthetha ukuba ubani akayi kuya enkundleni ukuba isikhalazo sakhe asikagqitywa kuMlawuli.

24.1.4 Ukuba ubani ucela umngeni ngakwisigqibo seGosa leeNkcukacha lequmrhu labucala, kufuneka anike ubungqina obaneleyo ukubonisa ukuba ingxelo eceliweyo iyafuneka ukuze isetyenziswe okanywe ukukhusela naliphi ilungelo/amalungelo.

24.2 Angasifaka nini umntu isicelo eNkundleni ngakwisigqibo sequmrhu okanye uMlawuli?

24.2.1 Isicelo esiya eNkundleni senziwe ngulowo ufake isicelo okanye abanye ababandakanyekayo, ongaphumelelanga kwisibheno sangaphakathi, segunya lesibheno lenqanaba elithile likarhulumente okanye ocatshukiswe sisigqibo seGosa leeNkcukacha lequmrhu (esikuluhlu oluku 22.2.4, 23.4 okanye 23.5 ngasentla) okanye esoMlawuli masifakwe kwiintsuku ezili 180 ukusukela kumhla wesiganeko esibalulwayo.

24.2.2 IGosa leeNkcukacha lequmrhu okanye igunya lesibheno likaRhulumente, njengoko kunganjalo, becatshukiswe sisiphumo soMlawuli, bangafaka isicelo enkundleni ukuze bafumane ukukhululwa okufanelekileyo ngokubhekiselele kwicandelo 82, kwiintsuku ezili 180[39].

24.2.3 Lowo ufake isicelo, abanye ababandakanyekayo okanye iqumrhu, bangafaka isicelo enkundleni ukuze babenazo naziphi izigqibo ezibacaphukisayo ziphinde zijongwe yiNkundla.

24.2.4 Isicelo esiya eNkundleni phantsi kwe-**PAIA** senziwa ngokweenkqubo zikarhulumente, yaye kufuneka sisetyenziswe njengendlela yokugqibela.

24.2.5 Amatyala okufikelela kwiinkcukacha angeviwa ngaphambi kweeNkundla zikaMantyi, nanjengenkundla yokuqala, yaye iNkundla ePhakamileyo inolawulo.[40]

24.2.6 Ukungakwazi ukuzisa isicelo kwiintsuku ezili 180, kungaphunyezwa yiNkundla, ukuba ubani ubonisa ukuba nomdla kubulungisa. Oku kuthetha ukuba inkundla ingamkela isicelo esifike kade ukuba umba oza kugwetyelwa ufunyanwa usemdleni wobulungisa.

[39] *Icandelo 78(4) le-PAIA*
[40] *Section 91A of PAIA and Promotion of access to information Rules, 2019*

Ukuba iingxelo apho ukufikelela okucelwayo kungancedisa omnye ukufumana ukuqwalaselwa konyango olubanzi, umzekelo, inkundla inganika ukuba kuphunyezwe oko kule meko.

24.2.7 Isicelo singaziswa ngokwenkqubo ebekwe kumthetho 53 weMithetho yeNkundla ePhakamileyo okanye ngokubhekiselele kumthetho 55 weMithetho yeNkundla kaMantyi, ukuba akukho ngxelo okanye kunikwe iingxelo ezingaphelelanga ngumlawuli.

24.2.8 Ukuba ingxelo sele inikiwe, isicelo siza kuziswa ngokomthetho 55 weMithetho yeNkundla kaMantyi, ukuba apho kukho isizathu sokuba lowo ufake isicelo akholelwe ukuba ingxelo epheleleyo yeenkqubo bekungafanelayo ifakwe ngumlawuli, lowo ufake isicelo angaqhubeka ngokwenkqubo ebekwe kuMthetho 53 weMithetho yeNkundla ePhakamileyo, kulonyulo lwayo, kodwa uza kubonisa kwi-afidavithi yokusekwa kwayo, ukuba kutheni kukho isizathu sokukholelwa ukuba akunikwanga ngxelo ipheleleyo .

24.3 Lithini inqanaba lesigqibo soMlawuli lo gama kulindwe isigqibo seNkundla?

Amagunya oMlawuli asuka ikakhulu kuMgaqo-siseko, i-**POPIA** ne-**PAIA**. Isiphumo soko, isaziso sokunyanzeliswa esikhutshwa nguMlawuli sineziphumo ezisemthethweni yay eke ngoko siyabophelela kude kufike ixesha apho inkundla yomthetho igqibe ngenye indlela. Izigqibo zoMlawuli ngoko ziyasebenza futhi zinyanzelekile ngaphandle kokuba kuyalelwe ngenye indlela yiNkundla efanelekileyo.

24.4 Yeyiphi imiyalelo iNkundla emamele isicelo engayinika?

24.4.1 Inkundla (nokuba yekaMantyi okanye iNkundla ePhakemeyo) emamele isicelo ingenza le miyalelo ilandelayo -

24.4.4.1 ukuqinisekisa, ukulungisa okanye ukubekela bucala isigqibo, nokuba seseGosa leeNkcukacha okanye iGunya leSibheno okanye uMlawuli weeNkcukacha;

24.4.4.2 ukufuna iGosa leeNkcukacha okanye iGunya leSibheno ukuba lithathe elo nyathelo okanye lingalithathi elo nyathelo njengoko inkundla ibona kufanele kwixesha elibekwe emyalelweni;[41]

24.4.4.3 ukunika isithinteli, ukukhululwa okwethutyana okanye okukhethekileyo, umyalelo obhengezayo okanye umyalelo wembuyekezo;

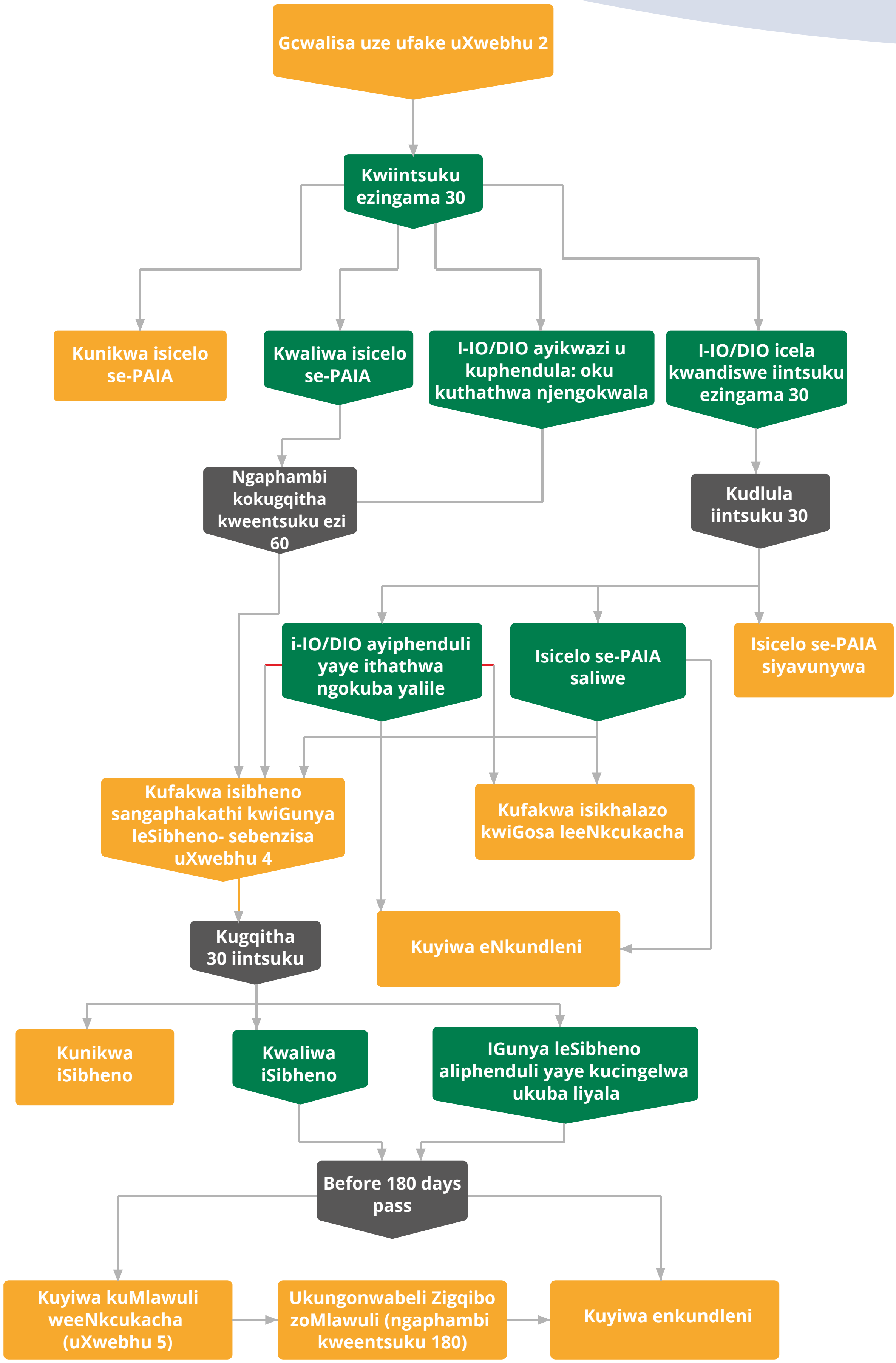
[41] *UMthetho 4 Ukuphunyezwa kokufikelela kwiiMlithetho yeenkcukacha, 2019*

24.4.4.4 ukunika umyalelo weendleko ngakulo naliphi iqela;

24.4.4.5 ngokomdla wobulungisa, lixolele ukungahambelani nexesha leentsuku ezingama 180 leyo kuziswa ngayo isicelo. Nanjengoko kubekwe ngasentla, iimeko ezanelisayo zokungakwazi ukuhamba ngexesha elibekiweyo kufuneka zichazwe ngokubanzi kwisicelo esikhaphayo sokuxolelwa.

25. UMFANEKISO WENKQUBO YESICELO SE-PAIA

Nceda ujonge kwitshati yenkqubo yenyathelo ngalinye, kwiinkqubo ekufanele zilandelwe xa kusetyenziswa ilungelo lokufikelela kwiinkcukacha.


Gcwalisa uze ufake uXwebhu 2
Kwiintsuku ezingama 30
Kunikwa isicelo se-PAIA
Kwaliwa isicelo se-PAIA
I-IO/DIO ayikwazi u kuphendula: oku kuthathwa njengokwala
I-IO/DIO icela kwandiswe iintsuku ezingama 30
Ngaphambi kokugqitha kweentsuku ezi 60
Kudlula iintsuku 30
i-IO/DIO ayiphenduli yaye ithathwa ngokuba yalile
Isicelo se-PAIA saliwe
Isicelo se-PAIA siyavunywa
Kufakwa isibheno sangaphakathi kwiGunya leSibheno- sebenzisa uXwebhu 4
Kufakwa isikhalazo kwiGosa leeNkcukacha
Kugqitha 30 iintsuku
Kuyiwa eNkundleni
Kunikwa iSibheno
Kwaliwa iSibheno
IGunya leSibheno aliphenduli yaye kucingelwa ukuba liyala
Before 180 days pass
Kuyiwa kuMlawuli weeNkcukacha (uXwebhu 5)
Ukungonwabeli Zigqibo zoMlawuli (ngaphambi kweentsuku 180)
Kuyiwa enkundleni

26. IMITHETHO EYENZIWE NGOKWECANDELO 92 LE- PAIA

26.1 Ngokwecandelo 92(1) nelama 92(4) le-**PAIA**, uMphathiswa wenze iMithetho ngokubhekiselele kuPhumezo lokuFikelela kwiiNkcukacha, oluquka le miba ilandelayo

26.1.1 Izibophelelo zoMlawuli weeNkcukacha **(umthetho 2)**

26.1.2 Izibophelelo zaMagosa eeNkcukacha **(umthetho 3)**

26.1.3 Ukuzivelela kweengxelo ezithile kumaqumrhu oluntu **(umthetho 4)**

26.1.4 Ukuzichaza nokuzivelela kweengxelo ezithile zamaqumrhu abucala **(umthetho 5)**

26.1.5 Isicelo sokufikelela kwiinkcukacha ezigcinwe ngamaqumrhu oluntu nawabucala **(umthetho 6)**

26.1.6 Isiphumo sesicelo neemirhumo ehlawulwayo **(umthetho 7)**

26.1.7 Isibheno sangaphakathi ngakwisigqibo sequmrhu loluntu **(umthetho 8)**

26.1.8 Ukufaka izikhalazo kuMlawuli weeNkcukacha **(umthetho 9)**

26.1.9 Inkqubo ebhekiselele kuphando ngakulowo ukhalazayo **(umthetho 10)**

26.1.10 Ukulungelelaniswa kweemeko **(umthetho 11)**

26.1.11 Uxolelwaniso lwemeko **(umthetho 12)**

26.1.12 Ukuhlolwa kokuhamba ngemigaqo nguMlawuli weeNkcukacha ephendula isicelo **(umthetho 13)**

26.1.13 Amatyala nezigwebo **(umthetho 14)**

26.1.14 Unxibelelwano lobuxhakaxhaka be-intanethi **(umthetho 15)**

26.1.15 Amatyala nezigwebo **(umthetho 16)**

26.2 Ngokubhekiselele kwicandelo 79(1) le-**PAIA**, iBhodi yeMithetho yeeNkundla zoMthetho, ngokupasiswa nguMphathiswa, yenza imithetho yenkqubo yoku -

26.2.1 inkundla ukwenzela izicelo ngokubhekiselele kwicandelo 78 le-**PAIA**; kunye

26.2.2 nenkundla ukuze yamkele ukumelwa okwenziwa egameni lomnye ekujoliswe kuko kwicandelo 80(3)(a).

27. IMITHETHO ENGUNDOQO, IMIMISELO, IZAZIASO KUNYE NOKUVUMA

Imithetho, njengoko ingalungiswa ixesha nexesha
UkuNyuselwa koMthetho wokuFikelela kwiiNkcukacha, uMthetho 2 wama 2000
UkuNyuselwa koMthetho woBulungisa boLawulo, uMthetho 3 wama 2000
UkuNyuselwa koMthetho wokuFikelela kwiiNkcukacha, uMthetho 54 wama 2002
UMthetho woKhuselo lweeNkcukacha zoMntu, uMthetho 4 wama 2013
UMthetho wokuNyuselwa kokuFikelela kuLungiso lweeNkcukacha, uMthetho 31 wama 2019
UMthetho weNkxaso-mali yeQela loPolitiko, uMthetho 6 wama 2018

IMithetho neZaziso

ISaziso sikaRhulumente	Umhla wokupapashwa	Umxholo nenkcazelo
ISaziso sikaRhulumente R.757 kwi-GG No 45057	27 Agasti 2021	Imithetho ebhekiselele ekuNyuselweni kokuFikelela kwiiNkcukacha, 2021.
ISaziso sikaRhulumente R.991 kwi- GG 28107	14 Okthobha 2005	Imimiselo ebeka iimeko apho umntu akhululweyo ekuhlawuleni imirhumo.
ISaziso sikaRhulumente 7 kwi- GG No. 44785	30 Juni 2021	Ukukhuselwa kwamaqumrhu athile ekwenzeni iNcwadana ye-**PAIA**.
ISaziso sikaRhulumente 1217 kwi- GG 42717	19 Septemba 2019	Ukunikwa indawo kweeNkundla zooMantyi njengezinamandla okumamela iimeko ze-**PAIA**.
ISaziso sikaRhulumente R. 1284 kwi- GG 42740	4 Okthobha 2019	Imithetho yenkqubo yokusebenza ekufuneka yenziwe ngokwe-**PAIA** phambi kweNkundla ePhakamileyo okanye iNkundla kaMantyi.

UKUVUMA

Esi Sikhokelo senziwe ngakutsha sendlela yokusebenzisa i-**PAIA** saqulunqwa kuqala yiKomishini yaMalungelo oLuntu yoMzantsi Afrika [South African Human Rights Commission (**SAHRC**)] yaye uMlawuli uyawuvuma ngomsebenzi wokuqala we-**SAHRC**, kuquka neziseko zayo.

Ikhutshwe ngu
UMLAWULI WEENKCUKACHA