

# South Africa's Constitutional and Regulatory Framework

- Article 32 of Constitution guarantees right of Access to Information
- Given effect by Promotion of Access to Information Act in 2000
- Provides for Access to both public and privately-held information
- Part of framework that includes:
  - Municipal Systems Act No. 32 of 2000
  - Public Finance Management Act No. 1 of 1999
  - Municipal Finance Management Act No. 56 of 2003
  - Promotion of Administrative Justice Act No. 3 of 2000
  - Batho Pele Principles



## **Principle 5 : INFORMATION**

**You're entitled to full particulars.**

**You will get full, accurate and up-to-date facts about services you are entitled to. Information should be provided at service points and in local media and languages. Contact numbers and names should appear in all departmental communications.**

**THE PRINCIPLE:** You should be given full, accurate information about the public services you are entitled to receive.

# 2004 Results



## Principle 6: OPENNESS & TRANSPARENCY

**Administration must be an open book.**

**You'll have the right to know. Departmental staff numbers, particulars of senior officials, expenditure and performance against standards will not be secret. Reports to citizens will be widely published and submitted to legislatures.**

**THE PRINCIPLE:** You should be told how national and provincial departments are run, how much they cost, and who is in charge.



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# Conflict in South African Cities: An Analysis of Service-Related Unrest

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Portfolio Committee on Provincial and Local  
Government

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# PROTECTION OF INFORMATION BILL

Replaces the Protection of  
Information Act 1982 -  
unconstitutional

MISS guidelines from 1996 – ultra  
vires

# 6 campaign demands.

1. Limit classification to core state bodies such as police, defense, intelligence

Minister refuses to narrow definition from all organs of state – includes the Natal Sharks Board, Algoa Bus Company, local government.

## 2. Limit classification to national security matters.

Minister announces deletion of 'national interest' but says that information relating to health issues, tax, commercial information, legally privileged documents, research information, and information relating to operations of public bodies will be classified (34 – 44 PAIA)

### 3. Exclude commercial information from the Bill

Minister says will narrow definition of state security to exclude commercial information but includes “economic, scientific or technological secrets vital to Republic’s security” and commercial information of a third party (sec 36 PAIA)



## 4. Independent oversight structure for appeal

- Minister says no, but might establish a board.

5. Apply penalties to those who disclose secrets to those responsible for keeping secrets.

Minister says no.

6. Provide a defense to those who can show if a court of law that they revealed secrets in the public interest ie if the documents show illegality and criminality.

Minister says no