

19 September 2019

**ATT: Ms PN Tyawa, Acting Secretary to Parliament  
Parliament of the Republic of South Africa**

Per Email: c/o rkleyn@parliament.gov.za

**CC: Mr L Claassen (Deputy Information Officer)**

Per Email: lclaassen@parliament.gov.za

**RE: Deemed refusal in terms of the Promotion of Access to Information Act**

Dear Acting Secretary,

Further to my PAIA application of 10 March 2019 and subsequent correspondence in that regard, most recently your letter of 26 July 2019.

The history of the matter is as follows:

- On 10 March 2019 I submitted a PAIA application for the report submitted by ENSAfrica resulting from their forensic investigation relating to the Parliamentary Budget Office (as per RFQ 705/2018).
- On 11 March 2019 I received notice confirming receipt from the Deputy Information Officer, Mr Claassen (henceforth DIO).
- On 12 April 2019 the DIO requested an extension under s26(1)(c) of the Act.
- On 15 April 2019 I agreed to this extension, which by the Act is for 30 days.
- On 16 May 2019 I followed-up on the above under the view that the extended period had expired if counted in calendar days and on that basis gave a deadline of 17 May 2019 for a response to avoid the conclusion that Parliament's non-response constituted a deemed refusal.
- On 31 May the DIO responded by email, to mine of 16 May, to say that in his view the period had not expired and, furthermore, that "we did indicate the basis for such extension is to further consult with third parties and we are confident that we will respond as soon as we have finalised that process".
- On 13 June 2019 I sent a further letter noting that if working days were used, the extended period would have expired on 10 June 2019 and have a deadline of 14 June 2019 for a response to avoid the conclusion that Parliament's non-response constituted a deemed refusal.
- On 14 June 2019 the DIO confirmed receipt of my letter but provided no substantive reply.
- No further correspondence was received from Parliament, despite the commitments made above and the legislated period having expired.
- On 24 July 2019 I noted that Parliament had failed to respond within the legislated time period and that constituted a deemed refusal under the Act. I further inquired as to whether any internal processes existed for appeal.
- On 26 July 2019 you replied to mine of 24 July and stated that the matter was "receiving attention and a response will be provided in due course".

The response of 26 July 2019 was vague and unsatisfactory but I nevertheless allowed Parliament time to deliver on this commitment, which it has not done. The fact is that Parliament has failed to provide a response to my request within the extended period I consented to and therefore is in violation of PAIA. No substantive reasons have been provided for this failure.

I hereby give you notice of my intention to take this matter further through legal means if a satisfactory response – in the form of the report requested or detailed, adequate reasons for the refusal – is not provided by the close of business on Friday 27<sup>th</sup> September 2019. I will not entertain any further attempts to delay the matter outside of the legislated prescripts. You will be aware that under the relevant Constitutional Court ruling I have 180 days to bring this matter to the courts.

I restate my hope that Parliament has sufficient regard for the onus placed upon it by PAIA, and for public funds, to avoid litigation.

Yours sincerely,

Dr Seán M Muller