

SAC PAIA & POPI MANUAL

1. INTRODUCTION

The Promotion of Access to Information Act, 2 of 2000 (“PAIA”) gives effect to section 32 of the Constitution, that provides for access to information if a person wants to exercise a right or to protect a right, subject to the procedural requirements laid down by PAIA. For this purpose, PAIA requires that the FSP must implemented a manual in terms of Section 51 of PAIA setting out the procedures to be followed to have access to Information which procedures are set out in this Manual.

The Protection of Personal Information Act, 4 of 2013 (“POPIA”) on the other hand provides for 8 protection principles that FSP’s must comply with to protect the Personal Information of all Data Subjects. The FSP must implement a Manual that must comply with section 14 and 51 of PAIA and is required to make it available to persons who want to access FSP’s Personal Information. Should a person having a right to the Personal Information, require access to these Personal Information, then access is allowed by following the procedures laid down by PAIA and as set out in this Manual.

This Manual is in place to inform any persons wishing to request access information held by the Company of the procedural and other requirements which a request for information must meet. When a request has been made in terms of the Act, the Company is obliged to release the information subject to the applicable legislative and or regulatory requirements except where the Act expressly provides that the information may or must not be released.

This Manual in its entirety is available for inspection, free of charge, at the Company’s offices and website (see details below).

2. PURPOSE

The purpose of the Manual is to:

- provide details on records and information of the FSP that are available and accessible once the requirements for access have been met; and
- sets out the procedures to be followed by a person that wants access to information, (including POPIA Personal Information) that are subject to protection and non-disclosure, if such person wants to exercise or to protect a right; and
- provide a guide on POPIA legislation how FSP process Personal Information.

3. COMPANY CONTACT DETAILS

3.1. Chief Executive Officer:	Renee Keeble
Registered Address:	8th Floor, 22 Long Street, Cape Town, Western Cape, 8000
Telephone Number:	+27861 86 87 88
Website:	www.sa-commercial.co.za
E-mail Address:	rkeeble@sa-commercial.co.za

3.2. The Company has opted to appoint an Information Officer to assess requests for access to information as well as to oversee its required functions in terms of the Act.

3.3. Information Officer: **Gabriella Keeble**
Registered Address: **8th Floor, 22 Long Street, Cape Town, Western Cape, 8000**
Telephone Number: **+27861 86 87 88**
Website: www.sa-commercial.co.za
E-mail Address: gkeeble@sa-commercial.co.za

3.4. The Information Officer may appoint Deputy Information Officers, as allowed in terms of Section 17 of the Act as well as Section 56 of the Protection of Personal Information Act 4 of 2013. All requests for information in terms of the Act must be addressed to the Information Officer.

3.5. Deputy Information Officer: **Lorretta Davids**
Registered Address: **8th Floor, 22 Long Street, Cape Town, Western Cape, 8000**
Telephone Number: **+27861 86 87 88**
Website: www.sa-commercial.co.za
E-mail Address: lmeyer@sa-commercial.co.za

3.6. Deputy Information Officer: **Kyle Crowie**
Registered Address: **8th Floor, 22 Long Street, Cape Town, Western Cape, 8000**
Telephone Number: **+27861 86 87 88**
Website: www.sa-commercial.co.za
E-mail Address: kcrowie@sa-commercial.co.za

4. The South African Human Rights Commission (“SAHRC”) GUIDE (PAIA Section 51(1)(b))

PAIA grants a Requester access to records of a private body, if the record is required for the exercise or protection of any rights. If a public body lodges a request, the public body must be acting in the public interest.

Requests in terms of PAIA shall be made in accordance with the prescribed procedures and at the rates provided for in terms of the PAIA Regulations.

Requesters are referred to the Guide in terms of Section 10 which has been compiled by the South African Human Rights Commission, which will contain information for the purposes of exercising Constitutional Rights.

The SAHRC Guide is available from the SAHRC with contact details:

- Postal Address: Private Bag 2700, Houghton, 2041
- Telephone Number: +27-11-877 3600
- Fax Number: +27-11-403 0625
- Website: www.sahrc.org.za

5. PUBLICATION AND AVAILABILITY OF INFORMATION AND RECORDS

5.1. Applicable Legislation:

FSP may be required to obtain information and keep records in terms of these legislation and depending on the relevant legislation requirements, FSP may also be required to make certain information or Records publicly available, allow disclosure of information or Records subject to certain

conditions or may be prevented to disclose information or Records. The Requester's right of access to information or a Record must be dealt with taking into consideration the applicable legislation requirements. The following legislation is applicable herein:

- 5.1.1. Basic Conditions of Employment Act 75 of 1997 as amended
- 5.1.2. Companies Act 71 of 2008 as amended
- 5.1.3. Compensation of Occupational Injuries and Diseases Act 130 of 1993 as amended
- 5.1.4. Constitution of the Republic of South Africa
- 5.1.5. Electronic Communications and Transactions Act 25 of 2002 as amended
- 5.1.6. Employment Equity Act 55 of 1998 as amended
- 5.1.7. Financial Intelligence Centre Act No 38 of 2001;
- 5.1.8. Income Tax Act 58 of 1962 as amended
- 5.1.9. Labour Relations Act 66 of 1995 as amended
- 5.1.10. Occupational Health & Safety Act 85 of 1993 as amended
- 5.1.11. Skills Development Levies Act 9 of 1999 as amended
- 5.1.12. Unemployment Insurance Act 30 of 1966 as amended
- 5.1.13. Value Added Tax Act 89 of 1991 as amended

5.2. Available Records (PAIA Section 51(1)(d))

Examples of record Categories and available Records that are applicable to the FSP may be requested from the Information Officer. The inclusion of a category or examples of Records does not mean that the Information and Records falling within those categories will automatically be made available to a Requester.

Records may be available as follows:

- Freely if publicly available e.g. information and records available on the FSP's public website;
- Made available but subject to Copyright;
- Made available but subject to limited disclosure.

Note that a person may only request information from the FSP as a Private Body if the requested information is required for the exercise or protection of a right. Certain grounds of refusal may also apply as indicated below in paragraph 6.4 to a request for such record.

6. FORM OF REQUEST TO ACCESS INFORMATION AND RECORDS (PAIA Section 51(1)(e))

6.1. Requester

- **Personal Requester:** A Personal Requester is a requester who is seeking access to a record containing Personal Information about the Requester itself. Access will be granted by the FSP subject to applicable legislation.
- **Other Requester:** If a person other than the Personal Requester is seeking access to a record containing Personal Information, then the FSP is not obliged to grant access to such record, unless such person fulfils the requirements for access as provided for in terms of PAIA.

6.2. Request for Information Procedures

The procedures to follow are as follows:

- A Requester must complete and sign the prescribed form together with payment of the required fee (only if it is an Other Requester).
- The completed and signed form together with proof of payment must either be posted, submitted per hand or be emailed to the Information Officer at the email address stated above.
- If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally to the Information Officer.
- If a request is made on behalf of another person, the Requester must then submit proof of the capacity in which the Requester is making the request on behalf of the other person to the satisfaction of the Information Officer.
- All required information must be provided on the form and the information must be true complete and correct with enough particularity to enable the Information Officer to identify:
 - the Requester's identity;
 - contact details of the Requester;
 - the requested record/s, and
 - the form of access required by the Requester.
- A Requester may only request access to a record in order to exercise or protect a right and must clearly state what the nature of the right is so to be exercised or protected. The requester is further required to provide an explanation of why the requested record is required for the exercise or protection of that right.
- The FSP will process a request to access a record within 30 (thirty) days of receipt of the completed form together with proof of payment, if applicable, unless the Requestor has stated exceptional reasons and circumstances together with proof, if applicable, that would satisfy the Information Officer that the time period not be complied with.
- The FSP shall inform the Requester in writing whether access has been granted or denied together with reasons thereof.
- If the Requester requires access to the records in another manner, the Requester must state the manner and the particulars so required.

6.3. Fees Payable

The applicable fees that are prescribed in terms of the PAIA Regulations are as follows:

- A non-refundable prescribed request fee is payable up on submission of any request for access to any record before a request will be processed.
- The fees above do not apply if the request is for personal records of the person requesting – in this instance no fee is payable.
- If the preparation of the record requested requires more than the prescribed hours (currently 6 hours), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request were granted).
- A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit.
- Records may be withheld until the fees have been paid by the Requester.
- Fees are subject to confirmation by the Regulator in the Government Gazette and any applicable fees or changes will be upfront disclosed to Requesters.

6.4. Grounds for refusal of a Request

Chapter 4 of PAIA provides for several grounds on which a request for access to Personal Information must be refused.

These grounds may include where:

- the privacy and interests of other individuals are protected, including a deceased person, where disclosure would be unreasonable;
- such records are already otherwise publicly available;
- the public interests are not served;
- the mandatory protection of commercial information of a third party/ company which include trade secrets, financial, commercial or technical information that may cause harm if disclosed and information that could put a third party/ Company in disadvantage in contractual/ other negotiations or commercial competition or computer programs owned by a company protected by copyright and intellectual property laws;
- the mandatory protection of certain confidential information of a third party;
- the mandatory protection of confidential information of third parties if it is protected in terms of an agreement;
- mandatory protection of the safety of individuals and protection of property;
- mandatory protection of Records that are privileged in legal proceedings
- research information of a third party/ Company if disclosure would put the research or researcher in disadvantage.
- Requests for Records that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources.

6.5. Information or Records not found

If information or Records cannot be found despite reasonable and diligent searches by the FSP, then the Information Officer must provide the Requester with a notice in the form of an affidavit setting out the measures taken to locate the document and the inability to locate it.

6.6. Remedies available to a Requester if access is refused

The decision made by the Information Officer is final and Requesters must exercise external remedies if the Request for access to Information or Records is refused. A Requester may however apply to a court for relief within 180 days of notification of the decision for appropriate relief as provided for in terms of sections 56(3) (c) and 78 of PAIA.

7. POPIA GUIDE AND PROCESSING OF PERSONAL INFORMATION BY THE FSP

POPIA provides for minimum protection principles for the lawful processing of Personal Information by FSP.

7.1. Objection to process Personal Information

- A person that wants to object to the processing of Personal Information in terms of section 11(1)(d) to (f) of POPIA, must complete, sign and submit to the Information Officer the Form contained Appendix 6 of this Manual.
- Affidavits or other documentary proof may be submitted with the Form in support of the objection.

7.2. Request for a) correction or deletion of Personal Information; or for b) destruction or deletion in possession of unauthorised person of Personal Information

- A Person that wants to submit a request to rectify, delete or destroy Personal Information in terms of section 24 of POPIA, must complete, sign and submit to the Information Officer the prescribed form.
- A request for the correction or deletion of the Personal Information of a Data Subject can be addressed to the Responsible Party in possession or control of the Personal Information.
- A request for the destruction or deletion of a Record of Personal Information about the Data Subject can be addressed to a Responsible Party in possession or control of the Record who are no longer authorised to retain such Record.
- Affidavits or other documentary proof may be submitted with the Form in support of the request.

7.3. Complaints in terms of POPIA

- A Person may submit a complaint to the Regulator in the prescribed manner and form alleging interference with the protection of the Personal Information of a Data Subject.
- A Responsible Party or Data subject may, in terms of section 63(3), further submit a complaint to the Regulator in the prescribed manner and form if he/ she/ it is aggrieved by the determination of an adjudicator.
- The contact details of the Information Regulator are as follows:
 - **Business address:** JD House, 27 Stiemens street, Braamfontein, Johannesburg, 2001
 - **Postal address:** P O Box 31533, Braamfontein, Johannesburg, 2017
 - **E-mail:** complaints.IR@justice.gov.za
 - **Website:** www.justice.gov.za