

PAIA Manual

MOSTERT & BOSMAN
ATTORNEYS

**Manual in terms of Section 51 of the
Promotion of Access to Information Act 2
of 2000**

as at 24 June 2021

PREAMBLE

Section 51 of the Promotion of Access to Information Act 2 of 2000 ("**PAIA**") and the Protection of Personal Information Act 4 of 2013 ("**POPIA**") requires that we, as a private body, compile a manual to inform the public of the procedure to follow when requesting information from us for the purpose of exercising or protecting rights and a disclosure of the information collected by us.

This manual may be amended from time to time and any new versions of the manual will be made public.

INTRODUCTION TO THE FIRM

Mostert & Bosman Attorneys ("**the Firm**", "**us**" or "**we**") is a partnership which trades as attorneys, conveyancers and notaries.

The Firm supports a culture of transparency and accountability in our environment and aims to ensure that members of the public have effective access to information in our possession which will assist them in the exercise and protection of their rights. These will however always be subject to the limitations in terms of the law.

This manual will provide information on the categories of information in our possession. We also explain the process to follow should you require access to any of this information.

A copy of this manual is also available on our website www.mbalaw.co.za .

SECTION A – FIRM DETAILS

Full name	MOSTERT & BOSMAN ATTORNEYS
Registration number	N/A as the firm is a partnership
Address	4 th FLOOR MADISON SQUARE, TYGERFALLS, BELLVILLE, 7530
Postal address	PO BOX 3355, TYGER VALLEY, 7536
Telephone number	(021) 914 3322
Fax number	(021) 914 3330
Email	lee-anne@mbalaw.co.za
Managing director	LEE-ANNE ELY
Information officer	CLOETE MARAIS
Information officer contact details	Tel: (021) 914 3322 Email: cloetem@mbalaw.co.za
Website	www.mbalaw.co.za

SECTION B – THE GUIDE ON PAIA

Section 10 of PAIA requires the Information Regulator to update and make available the Guide compiled by the South African Human Rights Commission containing information reasonably required by a person wishing to exercise or protect any right in terms of PAIA. This Guide is available on the Information Regulator's website (<https://www.justice.gov.za/infoereg/>).

Enquiries regarding the Guide can be addressed to the Information Regulator, the contact details of which are as follows:

Address: 27 Stiemens Street, Braamfontein

Telephone: (011) 877 3600

Fax: (011) 403 0684

Website: <https://www.justice.gov.za/infoereg/>

E-mail: infoereg@justice.gov.za

SECTION C – INFORMATION AVAILABLE IN TERMS OF PAIA AND POPI AND INFORMATION HELD BY THE FIRM

1. CATEGORIES OF INFORMATION, DATA SUBJECTS AND RECIPIENTS OF INFORMATION

1.1. INFORMATION

We hold the following categories of information in terms of PAIA:

- 1.1.1. Statutory company information as required by legislation;
- 1.1.2. Accounting, financial and administrative records;
- 1.1.3. Employee records, contracts and policies;
- 1.1.4. Property records about fixed and moveable property, intellectual property;
- 1.1.5. Client agreements and information;
- 1.1.6. Information of persons visiting our website (referred to as Visitors);
- 1.1.7. Agreements and contracts with service providers and partners;
- 1.1.8. Statutory taxation records;
- 1.1.9. Information technology and security records; and
- 1.1.10. Services and marketing information.

1.2. CATEGORIES OF DATA SUBJECTS AND PERSONAL INFORMATION

The categories of data subjects and the categories of information that will be held and/or processed for each category includes:

1.2.1. Employees:

- 1.2.1.1. Name and contact details;
- 1.2.1.2. Identity number;
- 1.2.1.3. Employment history and references;
- 1.2.1.4. Banking and financial details;
- 1.2.1.5. Details of payments to third parties (deductions from salary);
and

1.2.1.6. Other information not specified reasonably required to be processed for business operations.

1.2.2. **Vendors / suppliers / similar business relationships:**

1.2.2.1. Name and contact details;

1.2.2.2. Identity number and/or company information and directors' information (where applicable);

1.2.2.3. Payment details;

1.2.2.4. Information about products or services;

1.2.2.5. Information pertaining to the relationship with us; and

1.2.2.6. Other information not specified reasonably required to be processed for business operations.

1.2.3. **Clients:**

1.2.3.1. Name and contact details;

1.2.3.2. Online identifier information;

1.2.3.3. Information pertaining to the relationship with us; and

1.2.3.4. Other information not specified reasonably required to be processed for business and client relationship operations.

1.2.4. **Visitors**

1.2.4.1. Name and contact details;

1.2.4.2. Company name (as applicable);

1.2.4.3. Such other information as is necessary or appropriate to fulfil the purpose of the Visitor's interaction with us.

1.3. **RECIPIENTS OF INFORMATION**

The following persons / entities may be recipients of information:

1.3.1. Any person / entity who provides a service on the Firm's behalf;

1.3.2. Any firm, organisation or person who provides the Firm with products or services;

1.3.3. Any payment system which the Firm uses;

- 1.3.4. Regulatory and governmental authorities or ombudsmen, or other authorities, including tax authorities and the Information Regulator, where the Firm have a duty to share information;
- 1.3.5. Third parties to whom payments are made on behalf of employees, including pension funds (if applicable) and medical schemes (if applicable);
- 1.3.6. Financial institutions from whom payments are received on behalf of data subjects;
- 1.3.7. Any other operator not specified;
- 1.3.8. Employees, contractors and temporary staff; and
- 1.3.9. Agents.

2. PURPOSES OF PROCESSING

The purpose of processing data subjects' personal information will include.

2.1. For clients and prospective clients:

- 2.1.1. Responding to pre-contractual queries;
- 2.1.2. Performing obligations or exercising rights in pursuance of any agreement with clients;
- 2.1.3. Administering our agreement with the client;
- 2.1.4. Verifying clients' details;
- 2.1.5. Operating and managing clients' accounts and managing any agreement or correspondence that customers may have with the Firm;
- 2.1.6. Ongoing client relationship management;
- 2.1.7. Corresponding with clients, including for marketing purposes;
- 2.1.8. Carrying out business and statistical analysis, product or service development, internal operational requirements and testing;
- 2.1.9. Carrying out audits and performing other administrative and operational purposes, including the testing of systems;
- 2.1.10. Recovering any debt that clients may owe us;

- 2.1.11. Complying with our regulatory or other obligations; and
- 2.1.12. Any other reasonably required purpose relating to the Firm's business and relationship.

2.2. **For employee purposes:**

- 2.2.1. Verification of applicants' information during employment application process;
- 2.2.2. General matters relating to personnel;
- 2.2.3. General administration;
- 2.2.4. Provident fund (if applicable), medical aid (if applicable) and payroll administration;
- 2.2.5. Disciplinary action;
- 2.2.6. Training; and
- 2.2.7. Any other reasonably required purpose relating to the employment or possible employment relationship.

2.3. **For vendors / suppliers / other business relationships:**

- 2.3.1. Purposes relating to the agreement or business relationship or possible agreement or business relationships between the parties;
- 2.3.2. Verifying information and performing checks;
- 2.3.3. Payment;
- 2.3.4. Complying with our regulatory or other obligations;
- 2.3.5. Reporting; and
- 2.3.6. Any other reasonably required purpose relating to the Firm's business.

2.4. **For Visitors**

- 2.4.1. Carrying out business and statistical analysis, service development, internal operational requirements and testing;
- 2.4.2. Complying with our regulatory or other obligations; and
- 2.4.3. Direct marketing purposes where the law allows for same.

3. PLANNED TRANS-BORDER FLOWS OF PERSONAL INFORMATION

The Firm foresees the following reasons for possible trans-border flow of personal information, which it undertakes to do in compliance with POPIA:

- 3.1. Storing information electronically;
- 3.2. Making use of third party service providers to fulfil a business function on behalf of the Firm.

4. INFORMATION SECURITY MEASURES

The Firm implements the following general processes and procedures as reasonable measures to protect the integrity and confidentiality of personal information:

- 4.1. general awareness and training programs;
- 4.2. retention policy for all information;
- 4.3. secure hard copy filing (where appropriate);
- 4.4. secure systems and devices (where appropriate);
- 4.5. selection of third party suppliers through a dedicated election process;
- 4.6. information security policies and processes including access controls and monitoring, own device policy etc.; and
- 4.7. process for reporting risks identified or security breaches.

5. PROCESS FOR REQUESTING ACCESS TO INFORMATION

If you wish to request access to any categories of information referred to in clause 1 above, you are required to complete a request form as set out in Annexure "A" hereto. These forms are available from:

- our Information Officer (whose contact details are in section A of this manual);
- the Information Regulator's website (<https://www.justice.gov.za/inforeg/>); or
- the Department of Justice and Constitutional Development website (www.doj.gov.za).

There is a prescribed fee (payable in advance) for requesting and accessing information in terms of PAIA. Details of these fees are contained in the request form.

You may also be called upon to pay the additional fees prescribed by regulation for searching for and compiling the information which you have requested, including copying charges.

It is important to note that access is not automatic – you must identify the right you are seeking to exercise or protect and explain why the record you request is required for the exercise or protection of that right. You will be notified in the manner indicated by you on the request form whether your request has been approved.

6. REFUSAL OF ACCESS TO INFORMATION

The Firm must refuse a request for information on the following grounds:

- 6.1. **The mandatory protection of privacy of a third party who is natural person.** An access request must be refused where the disclosure of personal information would involve the unreasonable disclosure of personal information about a third party (including a deceased person) (unless an exception exists as per section 63(2) of PAIA);
- 6.2. **The mandatory protection of the commercial information of a third party.** An access request must be refused if the record contains:
 - 6.2.1. trade secrets of that third party;
 - 6.2.2. financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party; or
 - 6.2.3. information disclosed in confidence by a third party to the Firm, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition (unless an exception exists as per section 64(2) of PAIA);
- 6.3. **The mandatory protection of confidential information of a third party.** Access requests must be refused where the information is protected in terms of any agreement;
- 6.4. **The mandatory protection of the safety of individuals and the protection of property.** Access requests must be refused where disclosure could be expected to endanger the lives or physical safety of others;
- 6.5. **The mandatory protection of records which would be regarded as privileged in legal proceedings.** Access requests must be refused where the information is privileged, unless the person entitled to the privilege has waived the privilege;

6.6. **The commercial information of the Firm.** An access request must be refused where the information may include:

- 6.6.1. trade secrets of the Firm;
- 6.6.2. financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of the Firm;
- 6.6.3. information which, if disclosed could put the Firm at a disadvantage in negotiations or commercial competition; or
- 6.6.4. a computer program which is owned by the Firm, and which is protected by copyright,

(unless an exception exists as set out in section 68(2) of PAIA).

6.7. **Mandatory protection of research information of a third party, and protection of research information of a private body.** An access request must be refused where the disclosure of research information of the Firm or a third party would disclose the identity of the Firm, the researcher or the subject matter of the research and would place the research at a serious disadvantage.

Any requests for information that are frivolous or vexatious or which involve an unreasonable diversion of resources shall be refused.

7. REMEDIES FOR THE REFUSAL OF ACCESS TO INFORMATION

Internal remedy

7.1. The decision of the Information Officer of the Firm is final. Where a person is aggrieved with the decision, such person will need to exercise their alternative remedies applicable in cases where a request for information has been denied and they are not satisfied with the reasons provided by the Information Officer.

External remedies

7.2. PAIA provides that where a request for information is refused and the person requesting the information is not satisfied with the reasons provided by the Information Officer, the requestor may apply to a court for relief within 180 (one hundred and eighty) days of being notified of the refusal.

7.3. Further, you may lodge a complaint with the Information Regulator established in terms of POPIA regarding the outcome of any decision of the Firm in respect of requests made in terms of this Manual.

SECTION D – INFORMATION AVAILABLE IN TERMS OF OTHER LEGISLATION

Where applicable to our operations, information is also available and/or we also retain records and documents in terms of certain provisions of the following statutes (as amended from time to time):

- Attorneys Act 53 of 1979
- Basic Conditions of Employment Act 75 of 1997
- Broad Based Black Economic Empowerment Act 53 of 2003
- Closed Corporation Act 69 of 1984
- Closed Corporation amendment Act 25 of 205
- Companies Act 71 of 2008
- Compensation for Occupational Injuries and Diseases Act 130 of 1993
- Consumer Protection Act 68 of 2008
- Electronic Communications and Transactions Act 25 of 2002
- Employment Equity Act 55 of 1998
- Financial Advisory and Intermediary Services Act 37 of 2002
- Financial Intelligence Centre Act 38 of 2001
- Financial Sector Regulation Act 9 of 2017
- Income Tax Act 58 of 1962
- Insolvency Act 24 of 1936
- Labour Relations Act 66 of 1995
- National Credit Act 34 of 2005
- National Minimum Wage Act 9 of 2018
- Occupational Health and Safety Act 85 of 1993
- Prevention of Organised Crime Act 121 of 1998
- Promotion of Access to Information Act 2 of 2000
- Protection of Personal Information Act 4 of 2013
- Regulation of Interception of Communications and Provision of Communication Related Information Act 70 of 2002
- Sectional Titles Act 95 of 1986
- Tax Administration Act 28 of 2011

- Unemployment Contributions Act 63 of 2001
- Unemployment Insurance Act 30 of 1966
- Value-added Tax Act 89 of 1991

SECTION E – NOTICE IN TERMS OF SECTION 51(1)(C) OF PAIA

To date, no notices on the categories of records automatically available without a person having to request access thereto in terms of PAIA have been published.

The following categories of records are automatically available for inspection, purchase or photocopying. In other words, you do not need to request this information in terms of PAIA:

- Newsletters;
- Booklets;
- Pamphlets / Brochures; and
- Any other information available on the Firm' website.

Request forms for these categories of information are also available from our information officer, whose contact details appear in section A of this manual.

ANNEXURE "A"

FORM C

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

(Section 53 (1) of the Promotion of Access to Information Act 2 of 2000)

[Regulation 10]

A. Particulars of the private body

The Head:

.....
.....
.....

B. Particulars of the person requesting access to the record

- (a) *The particulars of the person who requests access to the record must be given below.*
- (b) *The address and/or fax number in the Republic to which the information is to be sent must be given.*
- (c) *Proof of the capacity in which the request is made, if applicable, must be attached.*

Full names and surname:

.....

Identity number:

Postal address:

.....

.....

.....Fax:

Telephone: E-mail address:.....

Capacity in which request is made, when made on behalf of another person:.....

.....

C. Particulars of person on whose behalf request is made

This section must be completed ONLY if a request for information is made on behalf of another person.

Full names and surname:

.....

Identity number:

D. Particulars of the record

(a) *Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.*

(b) *If the provided space is inadequate, please continue on a separate folio and attach it to this form. **The requester must sign all the additional folios.***

1. Description of record or relevant part of the record:.....

.....

.....

.....

2. Reference number, if available:

3. Any further particulars of record:.....

.....

.....

.....

E. Fees

(a) *A request for access to a record, other than a record containing personal information about yourself, will be processed only after a **request fee** has been paid.*

(b) *You will be notified of the amount required to be paid as the request fee.*

(c) *The **fee payable for access** to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.*

(d) *If you qualify for exemption of the payment of any fee, please state the reason for exemption.*

Reason for exemption from payment of fees:

.....

.....

F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

Disability:.....

.....

.....

.....

Form in which record is required:.....

.....

.....

.....

Mark the appropriate box with an **X**.

NOTES:

- (a) *Compliance with your request in the specified form may depend on the form in which the record is available.*
- (b) *Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.*
- (c) *The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.*

1. If the record is in written or printed form:

copy of record*	inspection of record
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2. If record consists of visual images

(this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):

view the images	copy of the images*	transcription of the images*
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3. If record consists of recorded words or information which can be reproduced in sound:

listen to the soundtrack (audio cassette)	transcription of soundtrack* (written or printed document)
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4. If record is held on computer or in an electronic or machine-readable form:

printed copy of record*	printed copy of information derived from the record*	copy in computer readable form* (stiffy or compact disc)
-------------------------	--	--

*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable:	YES	NO
---	-----	----

G. Particulars of right to be exercised or protected

*If the provided space is inadequate, please continue on a separate folio and attach it to this form. **The requester must sign all the additional folios.***

1. Indicate which right is to be exercised or protected:
-
-
-
2. Explain why the record requested is required for the exercise or protection of the aforementioned right:.....
-
-
-

H. Notice of decision regarding request for access

You will be notified in writing whether your request has been approved/denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

.....

.....

Signed at this day of

.....

SIGNATURE OF REQUESTER/PERSON ON WHOSE BEHALF
REQUEST IS MADE

ANNEXURE "B"

AN EXPLANATORY NOTE ON FEES TO BE CHARGED BY A PRIVATE BODY WHEN GRANTING A REQUEST FOR ACCESS TO INFORMATION IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000.

The fees chargeable by private bodies are contained in Part III of Annexure "A" of the Regulations. A copy of Part III is attached for your convenience. The present charges are as follows:

1. COPIES OF A MANUAL

Should an individual require a copy of the private body's manual, a fee of R1,10 is chargeable for every photocopy of an A4 page or part thereof.

2. REPRODUCTION FEES¹

Reproduction fees apply to obtaining copies or transcriptions of information which is automatically available from the private body. The fees are listed in paragraph 2 of Part III of Annexure "A" to the Regulations.

3. ACCESS FEES²

Access fees are chargeable for copies or transcriptions of information requested under this Act. The fees are listed in paragraph 4 of Part III of Annexure "A" to the Regulations.

4. OTHER FEES

4.1. A request fee³ of R50,00 is payable by a requester who is seeking access to a record containing information which is not personal to the requester.

4.2. A search fee⁴ may be charged at a rate of R30,00 per hour or part thereof for searching and preparing the record for disclosure provided such time was reasonably required for that purpose.

4.3. If the request is not limited to records containing information which is personal to the requester and if the head of the private body is of the opinion that the time taken to give effect to the request will exceed six hours, the requester can be called upon to pay a deposit of not more than one third of an estimate of the access fee which will become payable.⁵

4.4. If a copy of a record is posted to a requester, the requester is obliged to pay the actual postage payable.

¹ Section 52(3) and Regulation 1(1).

² Section 54(7) and Regulation 11(3).

³ Section 54(1) and Regulation 11(2).

⁴ Annexure "A", Part III, Item 4(1)(f).

⁵ Section 54(2).

Promotion of Access to Information Regulations, 2002

Annexure A

Part III

Fees in respect of private bodies

1. The fee for a copy of the manual as contemplated in regulation 9(2)(c) is R1,10 for every photocopy of an A4-size page or part thereof.
2. The fees for reproduction referred to in regulation 11(1) are as follows:

	R (ex VAT)
(a) for every photocopy of an A4-size page or part thereof	1,10
(b) for every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	0,75
(c) for a copy in a computer-readable form on –	
(i) stiffy disc	7,50
(ii) compact disc	70,00
(d) (i) for a transcription of visual images, for an A4-size page or part thereof	40,00
(ii) for a copy of visual images	60,00
(e) (i) for a transcription of an audio record, for an A4-size page or part thereof	20,00
(ii) for a copy of an audio record	30,00

3. The request fee payable by a requester, other than a personal requester, referred to in regulation 11(2) is R50,00.
4. The access fees payable by a requester referred to in regulation 11(3) are as follows:

	R (ex VAT)
(1) (a) for every photocopy of an A4-size page or part thereof	1,10
(b) for every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	0,75
(c) for a copy in a computer-readable form on –	
(i) stiffy disc	7,50
(ii) compact disc	70,00
(d) (i) for a transcription of visual images, for an a4-size page or part thereof	40,00
(ii) for a copy of visual images	60,00
(e) (i) for a transcription of an audio record, for an A4-size page or part thereof	20,00
(ii) for a copy of an audio record	30,00
(f) to search for and prepare the record for disclosure, R30,00 for each hour or part of an hour reasonably required for such search and preparation.	
(2) for purposes of section 54(2) of the act, the following applies:	
(a) six hours as the hours to be exceeded before a deposit is payable; and	
(b) one third of the access fee is payable as a deposit by the requester.	
(3) the actual postage is payable when a copy of a record must be posted to a requester.	