



Safeda & Associates

Manual prepared in accordance with section 51 of the Promotion of Access to Information Act No. 2 of 2000 and the Protection of Personal Information Act No. 4 of 2013

1. INTERPRETATION

In this document, clause headings are for convenience and shall not be used in its interpretation unless the context clearly indicates a contrary intention:

1.1 an expression which denotes:

1.1.1 any gender includes the other genders;

1.1.2 a natural person includes an artificial or juristic person and vice versa;

1.1.3 the singular includes the plural and vice versa;

1.2 the following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings:

1.2.1 **"this document"** – this document together with all of its annexures, as amended from time to time;

1.2.2 **"the Company"** – Safeda & Associates Incorporated with Registration No. 2022/825881/21;

1.2.3 **"PAIA"** – Promotion of Access to Information Act No. 2 of 2000, as amended from time to time, including the regulations promulgated in terms of the PAIA;

1.2.4 **"POPIA"** – Protection of Personal Information Act No. 4 of 2013, as amended from time to time, including the regulations promulgated in terms of POPIA;

1.2.5 **"Information Officer"** – the designated Information Officer/s or head of the body, as described in this manual, responsible for discharging the duties and responsibilities assigned to the Information Officer as prescribed in terms of PAIA and POPIA;

1.3 any reference to any statute, regulation or other legislation shall be a reference to that statute, regulation or other legislation as at the signature date, and as amended or substituted from time to time;

1.4 if any provision in a definition is a substantive provision conferring a right or imposing an obligation on any party, then notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this document;

1.5 where any term is defined within a particular clause other than this, that term shall bear the meaning ascribed to it in that clause wherever it is used in this document;

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- 1.6 where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day. If the last day of such number so calculated falls on a day which is not a business day, the last day shall be deemed to be the next succeeding day which is a business day;
 - 1.7 any reference to days (other than a reference to business days), months or years shall be a reference to calendar days, months or years, as the case may be;
 - 1.8 the use of the word “including” followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and the eiusdem generis rule shall not be applied in the interpretation of such general wording or such specific example/s;
 - 1.9 insofar as there is a conflict in the interpretation of or application of this document and PAIA or POPIA, the legislation shall prevail; and
 - 1.10 this document does not purport to be exhaustive of or comprehensively deal with every procedure provided for in PAIA or POPIA. A requester is advised to familiarise his/her/itself with the provisions of PAIA and POPIA before lodging any request with the Company.

2 INTRODUCTION

- 2.1 This manual is published pursuant to sections 14 and 51 of PAIA which was promulgated in order to nurture an ethos which promotes transparency, accountability and effective governance of all private and public bodies. PAIA gives effect to section 32 of the Constitution of the Republic of South Africa, 1996, which provides for the right of access to information in a manner that affords persons a means/platform to obtain the records of private and public bodies as promptly and as efficiently as reasonably possible to endorse, including but not limited to, mechanisms and procedures that empower and educate all persons.
- 2.2 In addition, the manual explains how to access, or object to, or request correction or deletion of, personal information held by the Company, in terms of sections 23, 24 and 25 of POPIA and the Regulations Relating to the Protection of Personal Information, 2017.

3 OVERVIEW OF THE COMPANY

- 3.1 The Company is a law firm which conducts business as attorneys, notaries, conveyancers, and is involved in the provision of a range of legal services.
- 3.2 The Company has its offices in Johannesburg.

4 PURPOSE

The purpose of this manual is to facilitate requests for access to records of the Company as provided for in PAIA, and to inform data subjects on the types of information the Company collects and processes, and how a data subject may request access to this information.

5 INFORMATION AND CONTACT DETAILS

5.1 The Information Officer

Contact details:

Name: Khairiyah Safeda

Telephone no: on request

Email: khairiyah@safedalaw.co.za

5.2 The Company Head Office (Johannesburg)

Physical address:

2 Bruton Road

Nicol Main Office Park, Block C

Bryanston

2191

South Africa

Postal address:

Postnet Suite #236

Private Bag 9976

Sandton

2146

6 GUIDANCE ON PAIA AND POPIA

6.1 As of 1 July 2021, the Information Regulator will assume the functions of the South African Human Rights Commission (“SAHRC”) and will be responsible for PAIA and POPIA queries.

6.2 As part of its functions, the Information Regulator will publish a guide on how to use PAIA and POPIA in the new dispensation.

6.3 The SAHRC has previously developed a guide with information on how to use PAIA. This guide is available on the SAHRC website <https://www.sahrc.org.za>.

6.4 Any information or queries related to the guide, or to PAIA or POPIA should be directed to the Information Regulator:

Contact details:

Telephone no: (010) 023 5200

Information Regulator Email: enquiries@infoeregulator.org.za

Website: www.infoeregulator.org.za

7 RECORDS HELD BY THE COMPANY

7.1 Records that are automatically available in terms of section 51(1)(c)

The records that are located on the the Company website, are automatically available and are freely accessible to any person requesting this information. It is therefore not necessary to apply for access thereto in terms of PAIA. The Company website address is www.safedalaw.co.za.

7.2 Records held by the Company in accordance with other legislation

The Company is required, in accordance with legislation, to retain certain records. We hold records for the purposes of PAIA in accordance with the following legislation, among others:

7.2.1 Basic Conditions of Employment Act 75 of 1997;

7.2.2 Broad-Based Black Economic Empowerment Act 53 of 2003;

7.2.3 Companies Act 71 of 2008;

7.2.4 Compensation for Occupational Injuries and Diseases Act 130 of 1993;

7.2.5 Electronic Communications and Transaction Act 25 of 2002;

7.2.6 Employment Equity Act 55 of 1998;

7.2.7 Financial Intelligence Centre Act 38 of 2001;

7.2.8 Income Tax Act 58 of 1962;

7.2.9 Labour Relations Act 66 of 1995;

7.2.10 Legal Practice Act 28 of 2014;

7.2.11 Occupational Health and Safety Act 85 of 1993;

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- 7.2.12 Pension Funds Act 24 of 1956;
 - 7.2.13 Regulation of Interception of Communications and Provision of Communication-Related Information Act 70 of 2002;
 - 7.2.14 Skills Development Levies Act 9 of 1999;
 - 7.2.15 Skills Development Act 9 of 1999;
 - 7.2.16 Unemployment Insurance Act 63 of 2001; and
 - 7.2.17 Value Added Tax Act 89 of 1991.

8 OTHER TYPES OF RECORDS HELD BY THE COMPANY IN TERMS OF SECTION 51(1) OF PAIA

The table below contains a description of the types of records/ subjects on which the Company holds, and the categories of records held on each subject. These records are not automatically available without a request in terms of PAIA. A request made in terms of PAIA for records in any of the categories below may be refused in accordance with any of the grounds of refusal as set out in PAIA.

Subject	Description of record
Statutory records	<ul style="list-style-type: none"> ▪ Company incorporation documents ▪ Share register ▪ Memorandum of incorporation ▪ Minutes of meetings of the board of directors ▪ Records relating to the appointment of directors, auditors, and other officers
Income tax	<ul style="list-style-type: none"> ▪ Pay-as-you-earn (PAYE) records ▪ Documents issued to employees for income tax purposes ▪ Records of payments made to South African Revenue Services on behalf of employees ▪ All or any statutory compliance ▪ Value Added Tax ▪ Skills development levies ▪ Unemployment Insurance Fund
Labour relations records	<ul style="list-style-type: none"> ▪ Personnel documents and records ▪ Employment contracts ▪ Medical aid records ▪ Pension Fund records ▪ Disciplinary records ▪ Salary records ▪ Disciplinary code and/or procedures ▪ Leave records ▪ Training records ▪ Training manuals ▪ Address lists
Finance	<ul style="list-style-type: none"> ▪ Receipts and payments ▪ Bank statements ▪ A list of the company's debtors and creditors ▪ Budgets ▪ Management accounts ▪ Asset registers ▪ Invoices ▪ Salaries ▪ Minutes of meetings ▪ Correspondence
Risk and compliance	<ul style="list-style-type: none"> ▪ Contracts ▪ Policies and procedures ▪ Risk assessment ▪ Compliance records
Others	<ul style="list-style-type: none"> ▪ IT usage statistics and equipment details ▪ Supplier lists ▪ Secretarial records ▪ Media releases and public relation events records

9 PROCESSING OF PERSONAL INFORMATION

9.1 POPIA

9.1.1 Chapter 3 of POPIA provides for the minimum conditions for lawful processing of personal information. These conditions may not be derogated from unless specific exclusions apply as outlined in POPIA.

9.1.2 The Company processes personal information in accordance with POPIA. In terms of our privacy policy, the Company will ensure that all processing conditions of POPIA are complied with at the time of processing of personal information. The Company processes personal information of both living and juristic persons.

9.2 Purpose for processing personal information by the Company

9.2.1 The Company will process your information in the ordinary course of the business of providing legal and related services. Primarily, the Company will use your personal information only for the purpose for which it was originally or primarily collected. Your personal information will only be used for a secondary purpose if such purpose constitutes a legitimate interest and is closely aligned with the original or primary purpose for which your personal information was collected.

9.2.2 The Company processes personal information for a number of reasons, including, but not limited to:

9.2.2.1 providing services as requested;

9.2.2.2 managing the commercial relationship with clients;

9.2.2.3 managing dispute resolution;

9.2.2.4 creating and managing supplier relationships;

9.2.2.5 managing contracts, orders, deliveries, invoices and accounting;

9.2.2.6 sending quotation estimates and invoices;

9.2.2.7 general human resource and finance functions including those obligations imposed by legislation;

9.2.2.8 recruitment;

9.2.2.9 procurement processes;

9.2.2.10 analysis, evaluation, review and collation of information in order to determine legal issues and potential disputes, provide legal advice and prepare or comment on opinions, memoranda, agreements, correspondence, reports, publications, documents relating to legal proceedings and other documents or records; and

9.2.2.11 to allow for proper functioning of the website which includes, amongst others, proper display of content, interface personalisation and ensuring that the website is safe and secure to protect against misuse.

9.3 Categories of data subjects

The Company processes the following personal information and special personal information relating to the following categories of data subjects, including but not limited to:

Category of data subjects	Types of information processed
Individuals (clients and potential clients)	Name, surname, South African identity number or passport number, date of birth, age, marital status, citizenship, telephone numbers, email address, physical and postal addresses, income tax number, financial information, banking information including account numbers, FICA documentation and CCTV images.
Juristic Persons (corporate clients)	Entity name, registration number, tax-related information, contact details for representative, banking information including account numbers and FICA documentation.
Directors	Identity numbers, names, FICA documentation, CCTV images and biometric data.
Employees, potential employees and new recruitments	Name, surname, South African identity number or passport number, date of birth, age, marital status, citizenship, telephone numbers, email address, physical and postal addresses, income tax number, race, disability information, employment history, criminal background checks, CVs, education history, banking details, remuneration and benefit information, health information, details related to employee performance, disciplinary procedure information, CCTV images and biometric data.

Category of data subjects	Types of information processed
<p>Service providers, including outsourced and hosted services, auditors etc.</p>	<p>Company registration details, identity numbers, BEE certificates, tax clearance, income tax and VAT registration details, payment information including bank account numbers, invoices, contractual agreements, addresses, contact details and CCTV images.</p>

9.4 Disclosure of personal information to third parties

9.4.1 We may disclose your personal information to third parties such as our associates and service providers, for legitimate business purposes, in accordance with applicable law and subject to the applicable professional and regulatory requirements regarding confidentiality.

9.4.2 Should the Company disclose your information to third parties, the latter will be obliged to use that personal information for the reasons and purposes the information was disclosed for. To this end, we have agreements in place with the relevant third parties to ensure that an adequate level of security and confidentiality is adopted by the third parties to which your personal information is being transferred to.

9.5 Trans-border/Cross border flows of personal information

The Company may transfer your personal information to recipients outside of the Republic of South Africa. However, the Company complies with the conditions for the transborder flow of personal information as provided by section 72 of POPIA.

9.6 Data security

9.6.1 The Company takes reasonable, appropriate and adequate technical and organisational measures to ensure that your personal information is kept secure and is protected against unauthorised or unlawful processing, accidental loss, destruction, damage, alteration, disclosure or unauthorised access. We contractually mandate any third parties to which your personal information is transferred to do the same.

9.6.2 The Company regularly reviews our security controls and related processes to ensure that your personal information is secure. However, where there are reasonable grounds to believe that your personal information has been accessed or acquired by any unauthorised person, we will notify the Information Regulator and you, unless the Information Regulator or a public body responsible for detection, prevention or investigation of offences, informs us that notifying you will impede a criminal investigation.

10 HOW TO REQUEST ACCESS TO A RECORD

- 10.1 To request a record in terms of PAIA, the requester must complete the prescribed form attached to this manual as **Annexure A**. This request must be sent to the Information Officer at the addresses provided in clause 5.1.
- 10.2 For POPIA-related requests to object to the processing of personal information, correct or delete personal information, the request must be made in writing on the applicable prescribed **Form 1** (objection) or **Form 2** (correction or deletion), which are attached to this manual as **Annexure B**.
- 10.3 The requester must provide sufficient detail to enable the Information Officer to identify the record/s requested and the requester. The requester must indicate which form of access is required, identify the right that he/she/it is seeking to exercise or protect and provide an explanation of why the requested record is required for the exercise or protection of that right.
- 10.4 If the request is made on behalf of another person, the requester must submit proof of the capacity in which the requester is making the request, to the reasonable satisfaction of the Information Officer.
- 10.5 PAIA makes provision for certain grounds upon which a request for access to information must be refused. On this basis, the Information Officer will decide whether or not to grant a request for access to information.

11 PAYMENT OF FEES

- 11.1 PAIA provides for two types of fees, namely:
- 11.1.1 a request fee, which will be a standard non-refundable administration fee, payable prior to the request being considered; and
- 11.1.2 an access fee, payable when access is granted which must be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postal costs.
- 11.2 Subsequent to a request being made, the Information Officer, shall by notice require the requester, excluding the personal requester, to pay the prescribed request fee (if any), before further processing of the request.
- 11.3 If the search for and preparation for disclosure of the record has been made, including arrangements to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the Company will request the requester to pay, as a deposit, the prescribed portion of the access fee which would be payable if the request is granted.

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- 11.4 The Company may withhold a record until the requester has paid the fees as indicated in **Annexure C**.
- 11.5 A requester whose request has been granted must pay the applicable access fee for reproduction, search, preparation and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the request form.
- 11.6 In terms of POPIA, a data subject has the right to request the Company to confirm, free of charge, whether or not it holds personal information about the data subject and request from the Company the record or a description of the personal information held, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information.
- 11.7 POPIA further provides that where the data subject is required to pay a fee for services provided to them, the Company must provide the data subject with a written estimate of the payable amount before providing the service and may require that the requester pay a deposit for all or part of the fee.

12 **APPLICABLE TIME-PERIODS**

- 12.1 The Company will inform the requester within 30 days after receipt of the request of its decision whether or not to grant the request.
- 12.2 The 30-day period may be extended by a further period of not more than 30 days if the request is for a large number of records or requires a search through a large number of records and compliance with the original period would unreasonably interfere with the activities of the Company or the records are not located at the Company's offices.

13 **OUTCOME OF THE REQUEST (GRANTING OR REFUSING)**

Should the request be refused, the notice will state adequate reasons for the refusal, including the provisions of the PAIA relied upon; and that the requester may lodge an application with a Court against the refusal of the request.

14 **GROUNDINGS FOR REFUSAL OF ACCESS TO RECORDS**

- 14.1 In terms of section 62 to 69 of PAIA, access granted to a record may be refused on one or more of the following grounds:
- 14.1.1 protection of privacy to a third party who is a natural person;
- 14.1.2 protection of the commercial information of a third party;

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- 14.1.3 protection of certain confidential information of a third person;
 - 14.1.4 protection of the safety of individuals and the protection of property;
 - 14.1.5 protection of records privileged from production and legal proceedings;
 - 14.1.6 the commercial information and activities of the Company;
 - 14.1.7 the protection of research information of a third party; and
 - 14.1.8 any other ground legally available on which to refuse access to the information requested.
- 14.2 Despite any provisions of PAIA, a request must be granted if the disclosure of the record would reveal evidence of substantial contravention of, or failure to comply with, the law or imminent and serious public safety or environmental risk, and the public interest in the disclosure of the record clearly outweighs the harm contemplated in terms of section 70 of PAIA.

15 **REMEDIES FOR REFUSAL**

Should the requester be dissatisfied with the Information Officer's decision to refuse access, that person may within 30 days after notification of the refusal apply to a Court for the appropriate relief.

16 **AVAILABILITY OF THE MANUAL**

This manual will be reviewed and updated, if necessary, on a periodic basis.