

# PAIA POLICY

## Promotion of Access to Information

Prepared by Shivani Nair: Legal, Compliance and Risk Manager

Updated: 22 June 2021





**FSP Name:** Legal & Tax Services (Pty) Ltd

FSP License Number: 28566

(Registration No: 2001/011518/07)

## **MANUAL PREPARED IN TERMS OF SECTION 51 OF THE PROMOTION OF ACCESS TO INFORMATION ACT (ACT 2 OF 2000)**

### **1. COMPANY OVERVIEW**

- 1.1. Chief Executive Officer of Legal&Tax Services (Pty) Ltd: Benjy Frank Porter
- 1.2. Postal Address: P O Box 95275 Grant Park 2051
- 1.3. Street Address: 3rd Floor Acacia Grove, Houghton Estate Office Park, 2 Osborn Road, Houghton, Johannesburg 2196
- 1.4. Business phone: 0860 587 587
- 1.5. Business fax: 011 728 2046
- 1.6. E-mail address: [info@legalandtax.co.za](mailto:info@legalandtax.co.za)
- 1.7. The company has appointed an Information Officer and a Deputy Information Officer in terms of the Protection of Personal Information Act No. 4 of 2013 ("POPI Act"):

#### **Information Officer:**

Darren Cohen (General Manager)

Deputy Information Officer

Lizl Finch (Head of Sales: Johannesburg)

#### **Contact person:**

Name: Darren Cohen

E-mail address: [Darrenc@legalandtax.co.za](mailto:Darrenc@legalandtax.co.za)

- 1.8. The duties of the Information Officer include the following:
  - 1.8.1 Collecting data processing inventories;
  - 1.8.2 Administration of data processing notifications;
  - 1.8.3 Handling complaints;
  - 1.8.4 Preparing annual reports;
  - 1.8.5 Developing internal regulations and providing advice on technology and protection;
  - 1.8.6 Ensuring that the rights and freedoms of the data subjects are unlikely to be adversely affected by the processing operations;
  - 1.8.7 Raising awareness and provide training on data protection issues and encourage a culture of protecting personal data within his/her organizations;
  - 1.8.8 Informing controllers of their obligations and making data subjects aware of their rights;
  - 1.8.9 Ensuring that controllers and data subjects are informed of their rights and obligations pursuant to the local POPI Act and cross border considerations;
  - 1.8.10. Making recommendations for the practical improvement of information and data protection to the FSP;
  - 1.8.11. Advising the controller concerned on matters concerning the application of data protection provisions; and
  - 1.8.12. Communicating with the Information Regulator and discussing any issues



## 2. HUMAN RIGHTS COMMISSION GUIDELINE

The South African Human Rights Commission has compiled a guide.

The guide contains information reasonably required by a person who wishes to exercise any right contemplated in the Act.

Any enquiries regarding this guide must be directed to:

**The South African Human Rights Commission Private Bag X2700  
Houghton  
2041**

**Tel: +27(11) 877 3830**

**Fax: +27(11) 403 0625**

**Website: [www.sahrc.org.za](http://www.sahrc.org.za)**

**Email address: [paia@sahrc.org.za](mailto:paia@sahrc.org.za)**

## 3. WHO MAY REQUEST INFORMATION IN TERMS OF THE ACT?

Any person, who requires information for the exercise or protection of any rights, may request information from a private body. Section 50 of the Act states that:

(a) That record is required for the exercise or protection of any rights;

(b) That person complies with the procedural requirements in this Act relating to a request for access to that record; and

(c) Access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.

(Promotion of Access to Information Act 2 of 2000)

## 4. THE SUBJECTS ON WHICH THE COMPANY holds records and the categories of records are listed below. Please note that a requester is not automatically allowed access to these records and that access to them may be refused in accordance with Sections 62 to 69 of the Act

## 5. CATEGORIES OF RECORDS

### 5.1. Human Resources

Records found in this division contain information of employees that include the following:

- 5.1.1. Any personal records provided to Legal&Tax Services by the employee/personnel;
- 5.1.2. Any records a third party has provided to Legal&Tax Services about its personnel;
- 5.1.3. Conditions of employment and other personnel-related contractual and quasi-legal records;
- 5.1.4. Internal evaluation records;
- 5.1.5. Other internal records and correspondence related to the particular employee.



## 5.2. Client related Records

Clients include both juristic and natural entities that receive a service from Legal&Tax Services this information includes:

- 5.2.1. Any records a client has provided to a third party acting on behalf of Legal&Tax Services.
- 5.2.2. Any records a Third Party has provided to Legal&Tax Services; and 5.2.3 records generated by or within Legal&Tax Services pertaining to the client, including transactional records.
- 5.2.3. Records generated by or within Legal&Tax Services pertaining to the client, including transactional records.

## 5.3. Legal&Tax Records

This category of records relates, but is not limited to, the following information:

- 5.3.1. Financial records
- 5.3.2. Operational records
- 5.3.3. Databases
- 5.3.4. Information technology
- 5.3.5. Marketing records
- 5.3.6. Internal correspondence
- 5.3.7. Product related records
- 5.3.8. Statutory records
- 5.3.9. Internal policies and procedures
- 5.3.10. Treasury related records
- 5.3.11. Securities and equities
- 5.3.12. Records held by officials of Legal&Tax Services.

## 5.4. Other Parties

Legal&Tax Services may possess records pertaining to other parties, including without limitation, contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, service providers. Alternatively, such other parties may possess records that can be said to belong to Legal&Tax Services.

The following records fall under this category:

- 5.4.1. Personnel, client or Legal&Tax records which are held by another party as opposed to being held by Legal&Tax and,
- 5.4.2. Records held by Legal&Tax pertaining to other parties, including without limitation financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about the contractors/suppliers.

## 5.5. Records available in terms of other legislation

The requestor may also request information that is available in terms of legislation, such as the following:



- 5.5.1. Basic Conditions of Employment Act (Act No 75 of 1997);
- 5.5.2. Compensation for Occupational Injuries and Diseases Act (Act No. 130 of 1993);
- 5.5.3. Employment Equity Act (Act No. 55 of 1998); 5.5.4 Labour Relations Act (Act N No. 55 of 1998);
- 5.5.4. Labour Relations Act (Act No. 66 of 1995);
- 5.5.5. Occupational Health and Safety Act (Act No. 85 of 1993);
- 5.5.6. Promotion of Equality and Prevention of Unfair Discrimination Act (Act No. 4 of 2000);
- 5.5.7. Skills Development Act (Act No. 97 of 1998);
- 5.5.8. Skills Development Levies Act (Act No. 9 of 1999);
- 5.5.9. South African Qualifications Authority Act (58 of 1995);

Information relating to personnel may be requested in terms of the above legislation

- 5.5.10. Companies Act (Act No. 61 of 1973);
- 5.5.11. Short-Term Insurance Act (Act No. 53 of 1998);
- 5.5.12. Financial Markets Control Act (55 of 1989);
- 5.5.13. Financial Services Board Act (97 of 1990).

Records relating to company reporting and company related records as far as is allowed in terms of these Acts may be requested.

- 5.5.14. Income Tax Act (Act No. 58 of 1962 as amended); and
- 5.5.15. VAT Act (89 of 1991)

Records relating to tax, employees and the company may be requested in terms of the above Acts. The information officer will take into consideration section 6 of the manual to decide on whether or not access to any of the information stated above should be given to the requester.

## 6. DECISION MAKING PROCESS

- 6.1. **In terms of Section 55**, the information officer will take all reasonable steps to find a record that has been requested. If the record cannot be found or does not exist, the information officer must notify the requester by way of affidavit or affirmation, that it is not possible to give access to the record. This is deemed to be a refusal of the request. If, however, the record is later found, the requester must be given access if the requester would otherwise have been granted.
- 6.2. **Section 56** provides that the information officer must within 30 days of receipt of a correctly completed request; notify the requester of the decision as to whether or not to grant the request. If the request is:
  - 6.2.1. **Granted**: the notification must state the applicable access fee required to be paid, together with the procedure to be followed should the requester wish to apply to court against such fee, and the form in which access will be given.
  - 6.2.2. **Declined**: the notification must include adequate reasons for the decision, together with the relevant provisions of the Act relied upon, and provide the procedure to be followed should the requester wish to apply to court against the decision.



- 6.3. **The information officer** may extend the period of 30 days by a further period not exceeding 30 days if:
- 6.3.1. The request is for a large number of records or requires a search through a large number of records;
  - 6.3.2. Consultation between divisions of Legal&Tax Services or with another private body is required; or
  - 6.3.3. The requester consents to the extension.
  - 6.3.4. The requester must be notified within the initial 30-day period in writing of the extension, together with reasons therefore, and the procedure involved should the requestor wish to apply to court against the extension.
  - 6.3.5. The information officer's failure to respond to the requester within the 30-day period constitutes a deemed refusal of the request.
- 6.4. **Section 59** provides that the information officer may sever a record and grant access only to that portion which the law does not prohibit access to.
- 6.5. **If access is granted**, access must be given in the form that is reasonably required by the requester, or if the requester has not identified a preference, in a form reasonably determined by the information officer.

## 7. THIRD PARTIES

If the request is for a record pertaining to a third party, the information officer must take all reasonable steps to inform that third party of the request. This must be done within 21 days of receipt of the request. The manner in which this is done must in the fastest means reasonably possible, but if orally, the information officer must thereafter give the third party a written confirmation of the notification. The third party may within 21 days thereafter either make representations to Legal&Tax Services as to why the request should be refused, alternatively grant written consent to the disclosure of the record. The third party must be advised of the decision taken by the information officer on whether to grant or decline the request, and must also be advised of his/her/its right to appeal against the decision by way of application to court within 30 days after the notice.

## 8. GROUNDS FOR REFUSAL OF A REQUEST

Notwithstanding compliance with section 50, the request may be declined in accordance with one of the prescribed grounds in terms of the Act, namely:

- 8.1. **Section 63** of the Act prohibits the unreasonable disclosure of the personal information of natural-person third parties to requestors. This includes the personal information of deceased persons. However Section 63 (2) does provide exceptions to this.
- 8.2. **Section 64** states that a request must be refused if it relates to records containing third party information pertaining to:
  - 8.2.1. Trade secrets;
  - 8.2.2. Financial, commercial, scientific or technical information where disclosure would be likely to cause harm to the commercial or financial interests of the third party; or



- 8.2.3. Information, supplied in confidence by the third party, the disclosure of which could reasonably be expected to put the third party at a disadvantage in contractual or other negotiations, or prejudice the third party in commercial competition. The information must, however, be released if it pertains to the results of products or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.
- 8.3. **Section 65** prohibits disclosure of information if such disclosure would constitute a breach of any duty of confidentiality owed to a third party in terms of an agreement.
- 8.4. **In terms of Section 66**, Legal&Tax Services must refuse a request for access to a record of the body if disclosure could reasonably be expected to:
- 8.5. **Endanger** the life or physical safety of an individual;
- 8.6. **Prejudice or impair** the security of a building, structure or system, including but not limited to a computer or communication system, means of transport or any other property;
- 8.7. **Legal&Tax Services** may also refuse a request for access to information that would prejudice methods, systems, plans or procedures for the protection of an individual in accordance with a witness protection scheme or safety of the public.
- 8.8. **Section 67** mandates the refusal of a request if the record is privileged from production in legal proceedings, unless the person entitled to the privilege has waived the privilege.
- 8.9. **Section 68** pertains to records containing information about Legal&Tax Services itself and unlike the other provisions pertaining to declinature of a request, is not mandatory, but rather discretionary. Legal&Tax Services may refuse access to a record if the record:
- 8.9.1. Contains trade secrets of Legal&Tax Service ;
- 8.9.2. Contains financial, commercial, scientific or technical information, the disclosure of which would be likely to cause harm to the commercial or financial interests of Legal&Tax;
- 8.9.3. Contains information which, if disclosed, could reasonably be expected to put Legal&Tax Services at a disadvantage in contractual or other negotiations, or prejudice Legal&Tax Services in commercial competition;
- 8.9.4. Consists of a computer program owned by Legal&Tax Services. Notwithstanding the above, the information must be released if it pertains to the results of product or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.
- 8.10. **Section 69** prohibits the disclosure of information about research where disclosure is likely to expose the third party, the person conducting the research on behalf of the third party, or the subject matter of the research to serious disadvantage. Disclosure is discretionary if such research pertains to Legal&Tax Services itself.
- 8.11. **Notwithstanding** any of the above-mentioned provisions, Section 70 provides that a record must be disclosed if its disclosure would:



8.11.1 Reveal evidence of a substantial contravention of or failure to comply with the law, imminent and serious public safety or environmental risk; and

8.11.2 If the public interest in the disclosure clearly outweighs the harm.

## 9. RIGHTS OF APPEAL

A requestor that is dissatisfied with the information officer's refusal to grant access to any information may, within 30 days of notification of the decision, apply to court for relief. Likewise, a third party dissatisfied with the information officer's decision to grant a request may, within 30 days of notification of the decision, apply to court for relief.

9.1. **It should be noted** that notwithstanding any provision in this Act, the court may examine the record (s) in question. No record may be withheld from the court on any grounds. The court may not, however, disclose the contents of the record (s).

9.2. **The court is empowered** to grant any order that is just and equitable, including:

9.3. **Confirming**, amending or setting aside the information officer's decision;

9.4. **Requiring the information** officer to take any action, or refrain from taking any action as identified by the court within a specified period;

9.5. **Granting an interdict**, interim or special relief, declaratory order or compensation; or an order as to costs.





## PROMOTION OF ACCESS TO INFORMATION ACT NO.2 OF 2000 MANUAL

### ANNEXURE A

#### FORM C

#### REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

(Section 53 (1) of the Promotion of Access to Information Act, 200 (Act No.2 of 2000) [Regulation 10]

#### A. REQUEST PROCEDURES

The Head:

---

---

---

#### B. PARTICULARS OF PERSON REQUESTING ACCESS TO THE RECORD

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

Full names and surname:

---

Identity number:

---

Postal address:

---

Fax number:

---

Telephone number:

---

Email Address:

---

Capacity in which request is 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 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 applicant must sign all additional folios.**

Description of record or relevant part of the record:

---

---

---

---

---

Reference number, if available:

---

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. 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 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

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

This includes photographs, slides, video recordings, computer-generated images, sketches, etc)

Copy of images\*  Transcription of images\*

**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)

**4. If record is held on computed 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?

Yes  No

**Postage is payable**

**F. 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:**

---

---



## PROMOTION OF ACCESS TO INFORMATION ACT NO.2 OF 2000 MANUAL

### ANNEXURE B 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 fee for a copy of the manual as contemplated in regulation 9(2) © is R1, 10 for every photocopy of an A4- size page or part thereof.	
The fees for reproduction referred to in regulation 11(1) are as follows:	R
a) For every photocopy of an A4- size page or part thereof:	01,10
b) For every printed copy of an A4-size page or part thereof held on a computer or in machine readable form	00,75
c) For a copy in a computer – readable form on –	
i. Stiffy disc	07,50
ii. Compact disc	70,00
d) For a transcription of visual images, for an A4-size page of part thereof	
i. For a copy of visual images	40,00
ii. For a copy	60,00
e) For a transcription of an audio record, for an A4-size page or part thereof	
i. For a copy of an audio record	20,00
ii. For a copy	30,00
3. The request fee payable by a requester, other than a personal requester referred to in regulation 11(2) is	50,00
4. The access fees payable by a requester referred to in regulation 11(3) are as follows:	
a) For every photocopy of an A4-size page or part thereof	01,10
b) For every printed copy of an A4 –size page or part thereof held on a computer or in electronic or machine readable form c)	00,75
c) For a copy in a computer readable form on –	
i. Stiffy disc	07,50
ii. Compact disc	70,00
d)	
i. For a transcription of visual images, for an A4-size page of 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.	
5. 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 deposit by the requester.	
6. The actual postage is payable when a copy of a record must be posted to the requester.	