

Promotion of Access to Information Act

JO-ANNE LEE SOLOMON ATTORNEY (JLS Attorneys)

MANUAL PREPARED IN ACCORDANCE WITH SECTION 51 OF THE PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000

1. BACKGROUND TO THE PROMOTION OF ACCESS TO INFORMATION ACT

The Promotion of Access to Information Act, No. 2 of 2000 (the “Act”) was enacted on 3 February 2000, and gives effect to the constitutional right in terms of section 32 of the Bill of Rights contained in the Constitution of the Republic of South Africa 108 of 1996 (the “Constitution”) of access to any information held by the state and any information that is held by another person and that is required for the exercise or protection of any rights.

In terms of section 51 of the Act, all Private Bodies are required to compile an Information Manual (“PAIA Manual”).

Where a request is made in terms of the Act, the body to whom the request is made is obliged to release the information, subject to applicable legislative and/or regulatory requirements, except where the Act expressly provides that the information may or must not be released. The Act sets out the relevant procedure to be adopted when requesting information from a Public or Private Body.

2. PURPOSE OF THE PAIA MANUAL

The purpose of PAIA is to promote the right of access to information, to foster a culture of transparency and accountability by giving the right to information that is required for the exercise or protection of any right and to actively promote a society in which the people of South Africa have effective access to information to enable them to exercise and protect their rights.

In order to promote effective governance of private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights in relation to public and private bodies. Section 9 of the Act recognises that the right to access information cannot be unlimited and should be subject to justifiable limitations, including, but not limited to:

- Limitations aimed at the reasonable protection of privacy;
- Commercial confidentiality; and
- Effective, efficient and good governance;

and in a manner which balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution. This PAIA Manual complies with the requirements of section 10 of the Act and recognises that upon commencement of the Protection of Personal Information Act 4 of 2013, that the appointed Information Regulator will be responsible to regulate compliance with the Act and its regulations by private and public bodies.

3. JLS ATTORNEYS

JLS Attorneys is a firm that conducts a general legal practice.

This PAIA Manual of JLS Attorneys is available to view at its premises: 77 Mejon Street, Glenhazel, Johannesburg as well as on its website: www.jlsattorneys.co.za

4. CONTACT DETAILS OF THE SOLE PROPRIETOR [SECTION 51(1)(A)]

SOLE PROPRIETOR	Jo-anne Lee Solomon
REGISTERED ADDRESS	77 Mejon Street, Glenhazel, 2192, Johannesburg
POSTAL ADDRESS	P.O. Box 28972, Sandringham, 2131
TELEPHONE NUMBER	+27 11 882 6061
FACSIMILE NUMBER	+2786 664 0248
WEBSITE	www.jlsattorneys.co.za

5. THE INFORMATION OFFICER [SECTION 51(1)(B)]

The Act prescribes the appointment of an Information Officer for public bodies where such Information Officer is responsible to, inter alia, assess request for access to information. The head of a private body fulfils such a function in terms of section 51. JLS Attorneys has opted to appoint an Information Officer to assess such a request for access to information as well as to oversee its required functions in terms of the Act.

The Information Officer appointed in terms of the Act also refers to the Information Officer as referred to in the Protection of Personal Information Act 4 of 2013. The Information Officer oversees the functions and responsibilities as required for in terms of both this Act as well as the duties and responsibilities in terms of section 55 of the Protection of Personal Information Act 4 of 2013 after registering with the Information Regulator.

The Information Officer may appoint, where it is deemed necessary, 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. This is in order to render JLS Attorneys as accessible as reasonable possible for requesters of its records and to ensure fulfilment of its obligations and responsibilities as prescribed in terms of section 55 of the Protection of Personal Information Act 4 of 2013. All request for information in terms of this Act must be addressed to the Information Officer.

Contact Details of the Information Officer

INFORMATION OFFICER	Jo-anne Lee Solomon
PHYSICAL ADDRESS	77 Mejon Street, Glenhazel, 2192, Johannesburg
POSTAL ADDRESS	P.O. Box 28972, Sandringham, 2131
TELEPHONE NUMBER	+27 11 882 6061
ELECTRONIC MAIL	jlsattorneys@axxess.co.za

6. GUIDE OF SA HUMAN RIGHTS COMMISSION (SECTION 51(1) (B))

The South African Human Rights Commission has complied with the Guide as required in terms of Section 10 of the Act. The Guide contains such information as may reasonably be required by a person who wishes to exercise any right contemplated in term the Act and accordingly it:-

- Contains information on understanding and how to use the Act;
- Includes the objectives of the Act, particulars of every public and private body, the manner and form for requests and contents of the regulations promulgated under the Act;
- Will be updated and published every two years.

The Guide is available in all the official languages of the Republic of South Africa. The Guide is available for inspection, *inter alia* at the offices of the Human Rights Commission and on its website.

Any enquiries regarding the Guide should be directed to:-

CONTACT BODY	The South African Human Rights Commission
PHYSICAL ADDRESS	PAIA Unit (The Reasearch and Documentation Department) 29 Princess of Wales Terrace, Corner York and Andrew Streets, Parktown
POSTAL ADDRESS	Private Bag X2700, Houghton, 2041
TELEPHONE NUMBER	+27 11 887 3803
FACSIMILE NUMBER	+27 11 403 0625
WEBSITE	www.sahrc.org.za
ELECTRONIC MAIL	section51.paia@sahrc.org.za or PAIA@sahrc.org.za

7. THE LATEST NOTICE IN TERMS OF SECTION 52(2) (IF ANY)

At this stage, no notice(s) has/have been published on the categories of records that are automatically available without a person having to request access in terms of the Act.

8. RECORDS AVAILABLE ONLY ON REQUEST TO ACCESS IN TERMS OF THE ACT.

The Company's web page <http://www.jlsattorneys.co.za>, which is accessible to anyone who has access to the Internet, contains information relating to the areas of legal practice in which the company specialises.

Other records held by the Company include:

- Financial records
- Client records

Records and information required for the exercise or protection of any rights will be made available subject to the provisions of the Promotion of Access to Information Act 2 of 2000. Access to records may be refused on grounds specified in the Act.

9. RECORDS AVAILABLE WITHOUT A REQUEST TO ACCESS IN TERMS OF THE ACT

Records of a public nature, typically those disclosed on the JLS Attorneys' website, may be accessed without the need to submit a formal application.

Other non-confidential records, such as statutory records maintained at CIPC, may also be accessed without the need to submit a formal application, however, please note that an appointment to view such records will still have to be made with the Information Officer

10. RECORDS AVAILABLE IN TERMS OF ANY OTHER LEGISLATION

Where applicable to its operations, JLS Attorneys also retains records and documents in terms of the legislation listed below. Unless disclosure is prohibited in terms of legislation, regulations, contractual agreement or otherwise, records that are required to be made available in terms of these acts shall be made available for inspection by interested parties in terms of the requirements and conditions of the Act; the below mentioned legislation and applicable internal policies and procedures, should such interested parties be entitled to such information. A request to access must be done in accordance with the prescriptions of the Act. This list is not exhaustive.

- Attorneys Act No. 53 of 1979;
- Basic Conditions of Employment Act No. 75 of 1997;
- Broad-Based Black Economic Empowerment Act, 2003;
- Companies Act No. 71 of 2008;
- Compensation for Occupational Injuries and Diseases Act No. 130 of 1993;
- Constitution of the Republic of South Africa 2008;
- Debt Collectors' Act No. 114 of 1998;
- Electronic Communications Act No. 36 of 2005;
- Electronic Communications and Transaction Act No. 25 of 2002;
- Employment Equity Act 55 of 1998;
- Financial Intelligence Centre Act 38 of 2001;
- Income Tax Act No. 58 of 1962; 85 of 1993;
- Insolvency Act No. 24 of 1936;
- Labour Relations Act No. 66 of 1995;
- National Credit Act No. 34 of 2005;
- Occupational Health and Safety Act No. 85 of 1993;
- Prescription Act No. 68 of 1969;
- Promotion of Access to Information Act 2 of 2000;
- Protection of Personal Information Act No. 4 of 2013;
- Skills Development Levies Act No. 9 of 1999;
- Taxation Laws Amendment Act No. 7 of 2010;

- Unemployment Insurance Act No. 30 of 1966;
- Value-Added Tax Act 89 of 1991;

Although we have used our best endeavours to supply a list of applicable legislation, it is possible that this list may be incomplete. Whenever it comes to our attention that existing or new legislation allows a Requester access on a basis other than as set out in PAIA, we shall update the list accordingly. If a Requester believes that a right of access to a record exists in terms of other legislation listed above or any other legislation, the Requester is required to indicate what legislative right the request is based on, to allow the Information Officer the opportunity of considering the request in light thereof.

It is further recorded that the accessibility of documents and records may be subject to the grounds of refusal set out in this PAIA Manual.

11. REQUEST PROCEDURE

The requester must comply with all the procedural requirements contained in the Act relating to the request for access to a record.

The requester must complete the prescribed form enclosed herewith, and submit same as well as payment of a request fee and a deposit (if applicable) to the Information Officer or the Deputy Information Officer at the postal or physical address, facsimile number or electronic mail address as noted in clause 5 above.

The prescribed form must be filled in with sufficient information to enable the Information Officer to identify:

- the record or records requested; and
- the identity of the requester.

The requester should indicate which form of access is required and specify a postal address or fax number of the requester in the Republic;

The requester must state that he/she requires the information in order to exercise or protect a right, and clearly state what the nature of the right is so to be exercised or protected. The requester must clearly specify why the record is necessary to exercise or protect such a right (section 53(2)(d)).

JLS Attorneys will process the request within 30 (thirty) days, unless the requester has stated special reasons to the satisfaction of the Information Officer that circumstances dictate that the above time periods not be complied with.

The requester shall be advised whether access is granted or denied in writing. If, in addition, the requester requires the reasons for the decision in any other manner, the requester will be obliged to state which manner and the particulars required.

If a request is made on behalf of another person, then the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of the Information Officer (section 53(2)(f)).

If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.

The requester must pay the prescribed fee, before any further processing can take place.

All information as listed in clause 11 herein should be provided and failing which the process will be delayed until the required information is provided. The prescribed time periods will not commence until the requester has furnished all the necessary and required information. The Information Officer shall sever a record, if possible, and grant only access to that portion requested and which is not prohibited from being disclosed.

12. REFUSAL OF ACCESS TO RECORDS

A private body such as JLS Attorneys is entitled to refuse a request for information. The main grounds for JLS Attorneys to refuse a request for information relates to the:

- mandatory protection of the privacy of a third party who is a natural person or a deceased person (section 63) or a juristic person, as included in the Protection of Personal Information Act 4 of 2013, which would involve the unreasonable disclosure of personal information of that natural or juristic person;
- mandatory protection of personal information and for disclosure of any personal information to, in addition to any other legislative, regulatory or contractual agreements, comply with the provisions of the Protection of Personal Information Act 4 of 2013;
- mandatory protection of the commercial information of a third party (section 64) if the record contains:
 - trade secrets of the third party;
 - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
 - information disclosed in confidence by a third party to JLS Attorneys, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- mandatory protection of confidential information of third parties (section 65) if it is protected in terms of any agreement;
- mandatory protection of the safety of individuals and the protection of property (section 66);
- mandatory protection of records which would be regarded as privileged in legal proceedings (section 67).

The commercial activities (section 68) of a private body, such as JLS Attorneys, which may include:

- trade secrets of JLS Attorneys;
- financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of JLS Attorneys;
- information which, if disclosed could put JLS Attorneys at a disadvantage in negotiations or commercial competition;
- a computer program which is owned by JLS Attorneys, and which is protected by copyright;
- the research information (section 69) of JLS Attorneys or a third party, if its disclosure would disclose the identity of JLS Attorneys, the researcher or the subject matter of the research and would place the research at a serious disadvantage.

Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused. All requests for information will be assessed on their own merits and in accordance with the applicable legal principles and legislation. If a requested record cannot be found or if the record does not exist, the Information Officer shall, by way of an affidavit or affirmation, notify the requester that it is not possible to give access to the requested record. Such a notice will be regarded as a decision to refuse a request for access to the record concerned for the purpose of the Act. If the record should later be found, the requester shall be given access to the record in the manner stipulated by the requester in the prescribed form, unless the Information Officer refuses access to such record.

13. REMEDIES AVAILABLE WHEN JLS ATTORNEYS REFUSES A REQUEST

Internal Remedies

JLS Attorneys does not have internal appeal procedures. The decision made by the Information Officer is final. Requesters will have to exercise such external remedies at their disposal if the request for information is refused, and the requestor is not satisfied with the answer supplied by the Information Officer.

External Remedies

A requestor that is dissatisfied with the Information Officer's refusal to disclose information, may within 30 (thirty) days of notification of the decision, may apply to a Court for relief.

A third party dissatisfied with the Information Officer's decision to grant a request for information, may within 30 (thirty) days of notification of the decision, apply to a Court for relief.

For purposes of the Act, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status and a Magistrate's Court designated by the Minister of Justice and Constitutional Development and which is presided over by a designated Magistrate.

14. ACCESS TO RECORDS HELD BY JLS ATTORNEYS

Prerequisites for Access by Personal/Other Requester

Records held by JLS Attorneys may be accessed by requests only once the prerequisite requirements for access have been met. A requester is any person making a request for access to a record of JLS Attorneys. There are two types of requesters:

- **Personal Requester**

A personal requester is a requester who is seeking access to a record containing personal information about the requester. JLS Attorneys will voluntarily provide the requested information, or give access to any record with regard to the requester's personal information. The prescribed fee for reproduction of the information requested will be charged.

- **Other Requester**

This requester (other than a personal requester) is entitled to request access to information on third parties. In considering such a request, JLS Attorneys will adhere to the provisions of the Act. Section 71 requires that the Information Officer take all reasonable steps to inform a third party to whom the requested record relates of the request, informing him/her that he/she may make a written or oral representation to the Information Officer why the request should be refused or, where required, give written consent for the disclosure of the Information. JLS Attorneys is not obliged to voluntarily grant access to such records. The requester must fulfil the prerequisite requirements, in accordance with the requirements of the Act and as stipulated in Chapter 5; Part 3, including the payment of a request and access fee.

15. PRESCRIBED FEES (SECTION 51 (1) (F))

The Act provides for two types of fees, namely: a.

- A request fee, which is a form of administration fee to be paid by all requesters except personal requesters, before the request is considered and is not refundable; and
- An access fee, which is paid by all requesters in the event that a request for access is granted. This fee is inclusive of costs involved by the private body in obtaining and preparing a record for delivery to the requester.

When the request is received by the Information Officer, such officer shall by notice require the requester, other than a personal requester, to pay the prescribed request fee, before further processing of the request (section 54(1)).

If the search for the record has been made and the preparation of the record for disclosure, including arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the Information Officer shall notify the requester to

pay as a deposit the prescribed portion of the access fee which would be payable if the request is granted.

The Information Officer shall withhold a record until the requester has paid the fees as indicated below.

A requester whose request for access to a record has been granted, must pay an access fee that is calculated to include, where applicable, the request fee, the process fee for reproduction and for search and 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.

If a deposit has been paid in respect of a request for access, which is refused, then the Information Officer concerned must repay the deposit to the requester.

16. REPRODUCTION FEE

Where JLS Attorneys has voluntarily provided the Minister with a list of categories of records that will automatically be made available to any person requesting access thereto, the only charge that may be levied for obtaining such records, will be a fee for reproduction of the record in question.

REPRODUCTION OF INFORMATION FEES	FEES TO BE CHARGED
Information in an A4 size page photocopy or part thereof	R1,10
A printed copy of an A4 size page or part thereof	R0,75
A copy in computer readable format, for example: stiffy disc compact disc	R7,50 R70,00
A transcription of visual images, in an A4 size page or part thereof	R40,00
A copy of visual images	R60,00
A transcription of an audio record for an A4 size page or part thereof	R20,00
A copy of an audio record	R30,00

Request Fees

Where a requester submits a request for access to information held by an institution on a person other than the requester himself/herself, a request fee in the amount of R50,00 is payable up-front before the institution will further process the request received.

Access Fees

An access fee is payable in all instances where a request for access to information is granted, except in those instances where payment of an access fee is specially excluded in terms of the Act or an exclusion is determined by the Minister in terms of section 54(8).

The applicable access fees which will be payable are:

ACCESS OF INFORMATION FEES	FEES TO BE CHARGED
Information in an A4 size page photocopy or part thereof	R1,10
A printed copy of an A4 size page or part thereof	R0,75
A copy in computer readable format, for example: stiffy disc compact disc	R7,50 R70,00
A transcription of visual images, in an A4 size page or part thereof	R40,00
A copy of visual images	R60,00
A search for a record that must be disclosed	R30,00*
*per hour or part of an hour reasonably required for such search	
Where a copy of a record needs to be posted the actual postal fee is payable	

Deposits

Where the institution receives a request for access to information held on a person other than the requester himself/herself and the Information Officer upon receipt of the request is of the opinion that the preparation of the required record of disclosure will take more than 6 (six) hours, a deposit is payable by the requester.

The amount of the deposit is equal to 1/3 (one third) of the amount of the applicable access fee.

Collection Fees

The initial "request fee" of R50,00 should be deposited into the bank account below and a copy of the deposit slip, application form and other correspondence / documents, forwarded to the Information Officer via fax.

The officer will collect the initial "request fee" of applications received directly by the Information Officer via email.

All fees must be deposited into the following bank account:-

BANKING INSTITUTION	FNB
ACCOUNT NAME	JLS Attorneys
ACCOUNT NUMBER	6217 804 0558
BRANCH CODE	250 455

All fees are subject to change as allowed for in the Act and as a consequence such escalations may not always be immediately available at the time of the request being made. Requesters shall be informed of any changes in the fees prior to making a payment.

17. DECISION

Time Allowed to Institution

JLS Attorneys will, within 30 (thirty) days of receipt of the request, decide whether to grant or decline the request and give notice with reasons (if required) to that effect.

The 30 (thirty) day period within which JLS Attorneys has to decide whether to grant or refuse the request, may be extended for a further period of not more than (30) thirty days if the request is for a large number of information, or the request requires a search for information held at another office of JLS Attorneys and the information cannot reasonably be obtained within the original 30 (thirty) day period.

JLS Attorneys will notify the requester in writing should an extension be sought.

18. AVAILABILITY AND UPDATING OF THE PAIA MANUAL

This PAIA Manual is made available in terms of Regulation Number R.187 of 15 February 2002. JLS Attorneys will update this PAIA Manual at such intervals as may be deemed necessary. This PAIA Manual of JLS Attorneys is available to view at its premises and on its website

FORM C

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY
(Section 53(1) of the Promotion of Access to Information Act, 2000
(Act No. 2 of 2000)

[Regulation 10]

A. Particulars of private body

The Head:

B. Particulars of 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 number:

Telephone number:

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. Proof is required for authority in the form of a letter of authorization from the person on whose behalf the request is made and a certified copy of the identification of the requester and the person on whose behalf the request is made is required.
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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 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 for 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		inspection of record
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*
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 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 of20

SIGNATURE OF REQUESTER / PERSON ON
WHOSE BEHALF REQUEST IS MADE