



Gatsheni Advisory (Proprietary) Limited

Promotion of Access to Information Act Manual

Prepared in terms of section 51 of the Promotion of Access to
Information Act 2 of 2000 (as amended)

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1. DEFINITIONS

1.1 Gatsheni Advisory (Proprietary) Limited (**GA**) is defined as a private body in terms of PAIA. In this manual, unless the context indicates a contrary intention, the following words or phrases shall bear the meanings assigned to them hereunder and cognate words and phrases shall bear corresponding meanings:

Word or Phrase	Meaning
Access fee	means a fee prescribed for the purpose of reproduction and for search and preparation, and for time reasonably required in excess of the hours prescribed to search for and to prepare the record for disclosure.
Data subject	means the natural or juristic person to whom Personal Information relates.
Deputy information officer (DIO)	the duly appointed deputy information officer (DIO) of GA, delegated by the Information Officer to fulfil responsibilities in terms of PAIA.
GA/the Firm	means Gatsheni Advisory (Proprietary) Limited.
Information officer (IO)	means the head of GA, or the person to whom the functions and responsibilities of the Information Officer have been delegated to in terms of PAIA.
Information Regulator	means the duly appointed information regulator of South Africa who has been given all the necessary legal powers in terms of POPIA to enforce the provisions of POPIA.
Constitution	means the Constitution of the Republic of South Africa, 1996.
Manual	means this manual, together with all annexures thereto as amended and made available at the offices of the GA from time to time.
PAIA/the Act	means the Promotion of Access to Information Act, 2000 as amended and the Regulations thereto.
Personal requester	means a requester seeking access to record containing personal information about the requester.



POPIA	means the Protection of Personal Information Act, 2013 and the Regulations thereto.
Processing	means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including: a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use; b) dissemination by means of transmission, distribution or making available in any other form; or c) merging, linking, as well as restriction, degradation, erasure or destruction of information.
Record	means any recorded information, regardless of form or medium which is in the possession or under the control of GA, irrespective of whether it was created by GA or not.
Request	means request for access to a record of the GA.
Requester	means any person making a request for access to a record of the GA and includes any person acting on behalf of that person or requester.
SAHRC	the South African Human Rights Commission
Section 10 Guide	the guide compiled by the South African Human Rights Commission in terms of section 10 of the Promotion of Access to Information Act No 2 of 2000 as amended.
Republic	means the Republic of South Africa
Responsible party	means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing personal information.
Third party	in relation to a request for access to a record of a private body, means any person (including, but not limited to, a public body) other than the requester.



2. PURPOSE OF THE MANUAL

This PAIA Manual is useful for the public to –

- 2.1 check the categories of records held by a body which are available without a person having to submit a formal PAIA request;
- 2.2 have a sufficient understanding of how to make a request for access to a record of the body, by providing a description of the subjects on which the body holds records and the categories of records held on each subject;
- 2.3 know the description of the records of the body which are available in accordance with any other legislation;
- 2.4 access all the relevant contact details of the Information Officer and Deputy Information Officer who will assist the public with the records they intend to access;
- 2.5 know the description of the guide on how to use PAIA, as updated by the Regulator and how to obtain access to it;
- 2.6 know if the body will process personal information, the purpose of processing of personal information and the description of the categories of data subjects and of the information or categories of information relating thereto;
- 2.7 know the description of the categories of data subjects and of the information or categories of information relating thereto;
- 2.8 know the recipients or categories of recipients to whom the personal information may be supplied;
- 2.9 know if the body has planned to transfer or process personal information outside the Republic of South Africa and the recipients or categories of recipients to whom the personal information may be supplied; and



2.10 know whether the body has appropriate security measures to ensure the confidentiality, integrity and availability of the personal information which is to be processed.

3. CONTACT DETAILS FOR ACCESS TO INFORMATION OF THE FIRM – SECTION 51 (1) (a)

3.1 Chief Information Officer (CIO)

Name: Steven Ndlovu
Tel: +27 31 313 3315 or +27 01 003 0783
Email: stevenn@gatsheniadvisory.co.za
Fax Number: +27 31 313 1326

3.2 Gatsheni Advisory – Head Office

Physical Address: 44 Morris Avenue,
Blairgowrie, Randburg,
Johannesburg,
2194
Telephone Number: +27 31 313 3315 or +27 01 003 0783
Email: stevenn@gatsheniadvisory.co.za
Website: www.gatsheniadvisory.co.za

4. GUIDE ON HOW TO USE PAIA AND HOW TO OBTAIN ACCESS TO THE GUIDE – SECTION 51 (1) (b)

4.1 The Regulator has, in terms of section 10(1) of PAIA, as amended, updated and made available the revised Guide on how to use PAIA (“Guide”), in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right contemplated in PAIA and POPIA.

4.2 The Guide is available in each of the official languages and in braille.



4.3 The aforesaid Guide contains the description of –

4.3.1 the objects of PAIA and POPIA;

4.3.2 the postal and street address, phone and fax number and, if available, electronic mail address of –

4.3.2.1 the Information Officer of every public body, and

4.3.2.2 every Deputy Information Officer of every public and private body designated in terms of section 17(1) of PAIA and section 56 of POPIA.

4.3.3 the manner and form of a request for –

4.3.3.1 access to a record of a public body contemplated in section 11;

4.3.3.2 access to a record of a private body contemplated in section 50;

4.3.4 the assistance available from the IO of a public body in terms of PAIA and POPIA;

4.3.5 the assistance available from the Regulator in terms of PAIA and POPIA;

4.3.6 all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by PAIA and POPIA, including the manner of lodging –

4.3.6.1 an internal appeal;

4.3.6.2 a complaint to the Regulator; and

4.3.6.3 an application with a court against a decision by the information officer of a public body, a decision on internal appeal or a decision by the Regulator or a decision of the head of a private body;



4.3.7 the provisions of sections 14 and 51 requiring a public body and private body, respectively, to compile a manual, and how to obtain access to a manual;

4.3.8 the provisions of sections 15 and 52 providing for the voluntary disclosure of categories of records by a public body and private body, respectively;

4.3.9 the notices issued in terms of sections 22 and 54 regarding fees to be paid in relation to requests for access; and

4.3.10 the regulations made in terms of section 92.

4.4 Members of the public can inspect or make copies of the Guide from the offices of the public and private bodies, including the office of the Regulator, during normal working hours.

4.5 The Guide can also be obtained –

4.5.1 upon request to the Information Officer;

4.5.2 from the website of the Regulator (<https://www.justice.gov.za/infoereg/>).

4.6 A copy of the Guide is also available in the following two official languages, for public inspection during normal office hours –

4.6.1 English; and

4.6.2 Zulu.

5. CATEGORIES OF RECORDS OF THE FIRM WHICH ARE AVAILABLE WITHOUT A PERSON HAVING TO REQUEST ACCESS – SECTION 52 OF PAIA

5.1 Generally, members of the public can visit our website to access information on Gatsheni Advisory and what it does (www.gatsheniadvisory.co.za). The particulars in that regard are extensive and even include some of our most recent and trusted clients.



6. RECORDS OF THE FIRM WHICH ARE AVAILABLE IN ACCORDANCE WITH ANY OTHER LEGISLATION IN TERMS OF SECTION 51(1)(d)

6.1 To the extent applicable, the Firm maintains such information and documents as may be required in accordance with, inter alia, the following legislation:

Category of Records	Applicable Legislation
• Employment contracts, BCEA Poster, HR Policy etc.	Basic Conditions of Employment Act 75 of 1997 (BCEA)
• BBBEE Sworn Affidavit	Broad-Based Black Economic Empowerment Act 53 of 2003
• Registration certificate, Memorandum of Incorporation, share certificate, Director's resolution. • CIPC Annual returns	Companies Act 71 of 2008
• Letter of Good Standing (COIDA certificate).	Compensation for Occupational Injuries and Diseases Act 130 of 1993 (COIDA)
• Password and User Access Policy, IT Acceptable Use Policy, IT Security Policy, Privacy of Information / Privacy Policy.	Cybercrimes Act 19 of 2020
• Email Policy	Electronic Communications and Transactions Act 25 of 2002 (ECTA)
• HR Policy, Employment Equity Plan, EEA Poster.	Employment Equity Act 55 of 1998 (EEA)
• SARS Tax Clearance Certificate, TCS PIN, Skill Development Levy (SDL), Monthly Employer Declaration form (EMP201), Employees' tax certificate [IRP5/IT3 and UIF declaration form (UI-19 Form)].	Income Tax Act 58 of 1962
• HR Policy	Labour Relations Act 66 of 1995
• Health and Safety Policy	Occupational Health and Safety Act 85 of 1993
• PAIA Manual	Promotion of Access of Information Act 2 of 2000 (PAIA) and the Regulations thereto.



Category of Records	Applicable Legislation
Privacy of Information / POPIA Policy	Protection of Personal Information Act 4 of 2013 (POPIA) and the Regulations thereto.
Quality Council for Trades and Occupations (QCTO) accreditation letter/certificate.	Skills Development Act 97 of 1998
Skill Development Levy (SDL), Monthly Employer Declaration form (EMP201), Employees' tax certificate [IRP5/IT3 and UIF declaration form (UI-19 Form).	Skills Development Levies Act 9 of 1999
Income tax returns (Company (IT14) and Trust (IT12TR) returns).	Tax administration Act 28 of 2011
Trade marks certification	Trade Marks Act 194 of 1993
UIF declaration form (UI-19 Form).	Unemployment Insurance Contributions Act 4 of 2002
VAT returns, (VAT201) form.	Value-Added Tax Act 89 of 1991 (VAT Act).

7. DESCRIPTION OF THE SUBJECTS ON WHICH THE BODY HOLDS RECORDS AND CATEGORIES OF RECORDS HELD ON EACH SUBJECT BY THE FIRM

7.1 The following is a list of the subjects on which the Firm holds records and the categories into which the stated subjects fall.

Subjects on which the body holds records	Categories of records
Existing and past clients	Confidential and sensitive client personal information.
Library	Publications of journals
	Precedents of case law
Information Technology	Records relating to computer software used by GA, including



Subjects on which the body holds records	Categories of records
	software, licence, support and maintenance agreements.
Miscellaneous	Various types of correspondence

8. PROCESSING OF PERSONAL INFORMATION

8.1 Purpose of Processing Personal Information

8.1.1 The Firm may process personal information:

- to provide services to clients;
- to comply with legal or regulatory obligations;
- if a data subject has provided their consent; or
- if the processing is allowed by law.

8.1.2 The purposes for which the Firm processes personal information include, but are not limited to:

- marketing and promotion of the Firm's services;
- providing and improving services to clients;
- improving users' experience when using the Firm's websites;
- communicating with persons for the Firm's internal purposes;
- enabling the Firm's internal operations.

8.2 Description of the categories of Data Subjects and of the information or categories of information relating thereto

8.2.1 The Firm collects personal information in various instances, including when:

- data subjects contact the Firm or request information or services;
- the Firm provides services to data subjects;
- persons apply for employment at the Firm;



- when persons use the Firm 's websites or engage with the Firm through emails.

8.2.2 The Firm may collect the information directly from a data subject or from third parties (such as regulatory and reporting authorities, government institutions, professional advisors and consultants, attorneys, courts, suppliers and service providers).

8.2.3 Below, are the categories of data subjects and the description of the nature or categories of the personal information which may be processed:

Categories of Data Subjects	Personal Information that may be processed
Clients/Customers	name, address, registration numbers or identity numbers, employment status and bank details etc.
Service providers	names, registration number, vat numbers, address, trade secrets and bank details etc.
Employees	name and surnames, address, emails qualifications, gender and race, employment history, background and reference checks etc.

8.2.4 The interaction with the Firm on the Firm's website will result in the collection of information regarding the person's activities on the website. Similarly, when anyone engages with the Firm via email or website link. This information includes, but is not limited to, the person's name, contact details and information regarding the matter with which they need assistance or service required.

8.2.5 In the course of engaging with clients on matters, the Firm will naturally be exposed to and collect personal information which includes the data subject's name, contact details, as well as information regarding the matters that the Firm assists them with.

8.3 The recipients or categories of recipients to whom the personal information may be supplied

8.3.1 The Firm may release personal information or disclose it to third parties in certain circumstances. These include, but are not limited to:



- if the Firm is required or authorised to do so by law or a court order;
- in order for the Firm to enforce its rights;
- in order for the Firm to provide services to its clients.

8.3.2 The third parties/recipients or categories of recipients to whom the personal information may be supplied include, but are not limited to:

- attorneys/advocates and other parties involved in legal services;
- third party service providers to the Firm or its clients;
- current, past, and prospective employers;
- regulatory and reporting authorities, government institutions, professional advisors and consultants, courts etc.

8.4 Trans-border flows of personal information

8.4.1 The Firm may from time to time, in the execution of its mandate, need to transfer personal information of data subjects with third parties in other countries. The Firm shall ensure that it complies with POPIA in the dissemination of such information. Such transfer will only be done if one of the following requirements are met:

- a) the foreign recipients of personal information are subject to a law, binding corporate rule, or a binding agreement which contains provisions substantially similar to POPIA concerning the processing and transfer of personal information.
- b) the data subject consents to the transfer; or
- c) The transfer is necessary for the performance of a contract between the data subject and the responsible party; or
- d) The transfer is necessary for the performance of a contract concluded in the interest of the data subject between the responsible party and the third party; or
- e) The transfer is for the benefit of the data subject, and it is not practical to obtain the consent of the data subject.



8.5 Description of Information Security Measures to be implemented by the Firm to ensure the confidentiality, integrity and availability of the information

- 8.5.1 The Firm takes all reasonable steps to protect and avoid unauthorised access to personal information. It has implemented various policies, procedures and software to safeguard personal information and routinely reviews its operations to ensure that personal information is adequately protected.
- 8.5.2 Security controls have been implemented to minimise the risk of loss, unauthorised access, disclosure, interference, modification or destruction of personal information.
- 8.5.3 Further the Firm employs appropriate, reasonable technical and organisational measures to prevent loss of, damage to or unauthorised destruction of personal information and unlawful access to or processing of personal information. These information security measures include but are not limited to access control, firewalls, Anti-virus and Anti-malware Solutions, data backups, and others.
- 8.5.4 The Firm continuously reviews and tests the security controls to mitigate the risk of cyber-attacks.

8.6 Request for correction or deletion of personal information

- 8.6.1 Section 24 of POPIA and regulation 3 of the POPIA Regulations provides that a data subject may request for their personal information to be corrected/deleted.
- 8.6.2 The data subject may make use of **Annexure B: Form 2 – Request for Correction or Deletion of Personal Information** to request for the correction or deletion of their personal information. Once completed, the data subject is to follow the Request Procedure set out in paragraph 9 of this Manual.

8.7 Objection to the processing of personal information



8.7.1 Section 11 (3) of POPIA and Regulation 2 of the POPIA Regulations provides that a data subject may, at any time object to the processing of his/her/its personal Information subject to exceptions contained in POPIA.

8.7.2 The data subject may make use of **Annexure C: Form 1 – Objection to the Processing of Personal Information** to request this. Once completed, the data subject is to follow the Request Procedure set out in paragraph 9 of this Manual.

9. SECTION 51(1)(e) REQUEST PROCEDURE FOR ACCESS TO RECORDS OF THE FIRM

9.1 To enable the Firm to process a request for access to information, kindly complete the prescribed **Annexure D: Form 02: Request for Access to Record [Regulation 7]**.

9.2 The requester must comply with the guidelines set out below, which have been set out in line with requirements of the PAIA, relating to the request for records:

9.3 The request must be submitted in the format of Form 2 as required and submitted to the Firm at the contact details outlined in paragraph 3 above. All requests for records made by a requester will be assisted by the Information Officer or the Deputy Information Officer.

9.4 The prescribed form must be completed in detail to provide clear, sufficient and unambiguous details to enable the Firm to ascertain:

- The identity of the requester (If the requester is represented by an agent, sufficient proof showing authority to represent the requester and the identity of the agent);
- The record/s requested;
- The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right;
- The form of access required;
- If the requester wishes to be informed of the decision in any manner (in addition to a written decision) the manner and particulars thereof;
- The postal address or fax number of the requester in the Republic.



- The request for access to information must be clearly identified as such and marked for the attention of the information officer; and
- The applicable Prescribed fee as set out in the regulations to the Act must accompany the request for access to information.

9.5 The request for access to records may be submitted orally under the circumstance of illiteracy or a disability of the requester. The completion of Form 2 will be done on behalf of the requester and provide a copy thereof to the requester.

9.6 Access to records will only be considered after the above checks are done, thereafter the Firm will respond to the requester within 30 days with a copy of the requested record or the reason/s of grounds of refusal.

9.7 The above 30 days' timeline may be extended for a further 30 days, should such a circumstance arise that an extension is needed. The requester will be notified, together with reasons explaining why the extension is necessary before the original 30 days expires.

9.8 Upon due lodgement of a request for access to information lodged with the Firm, the Firm will consider the request and notify the requester of its decision by way of a written notice within the time periods stipulated in the Act, stating clearly whether the request is granted or refused and advising the requester of external remedies which the requester may pursue to dispute the Information officer's decision.

9.9 The result and amount payable will then be communicated in ***Annexure E – FORM 3- outcome of request and of fees payable [Regulation 8]***.

10. GROUNDS FOR REFUSAL

10.1 The Firm has a right to refuse access to records which a requester has requested on the following grounds:



- Mandatory protection of privacy of a third party, who is natural person, if the disclosure of a record would involve the unreasonable disclosure of personal information about the third party, including a deceased individual;
- Mandatory protection of commercial information of a third party, if the request includes trade secrets, information supplied in confidence by the third party and financial, commercial, scientific or technical information of the third party, which the disclosure thereof would cause harm to the commercial or financial interest of that third party;
- Mandatory protection of certain confidential information of a third party, which if it is disclosed would constitute an action for breach of duty of confidence owed to the third party in terms of an agreement;
- Mandatory protection of safety of individuals, and protection of property where the disclosure could be reasonably expected to endanger the life or physical safety of an individual;
- Commercial information of the Firm;
- Mandatory protection of records privileged from production in legal proceedings; and
- Mandatory protection of research information of a third party, and protection of research information of the Firm.

10.2 Where the Firm was unable to disclose any certain part of information because of above Grounds of Refusal, any other information that is not part of the Ground of Refusal must be disclosed.

10.3 Section 70 of PAIA contains an overriding provision where disclosure of a record is deemed to be compulsory if it would reveal:

- i. a substantial contravention of, or failure to comply with the law; or
- ii. there is an imminent and serious public safety or environmental risk; and
- iii. the public interest in the disclosure of the record in question clearly outweighs the harm contemplated by its disclosure.

11. FEE SCHEDULE IN TERMS OF SECTION 54



The following fees will apply to all requests for access to information held by the Firm save for personal requests which will not subject to a fee:

11.1 A requestor must pay the prescribed fees (currently R50.00) before a request will be processed;

11.2 Where the preparation of the record requested requires more than the prescribed hours (currently 6 hours), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request were granted);

11.3 A requestor may lodge an application with a competent court against the tender/payment of the request fee and/or deposit;

11.4 The Firm may withhold access to a record under its control until the requisite fees have been paid;

11.5 If a request for access to information is granted, an access fee must be paid before such information is made available to the requester;

11.6 The prescribed fee structure for request of access to the records of a private body is available on the website of the SAHRC at www.sahrc.org.za but also as **Annexure F: Prescribed Fee Schedule**.

12. OTHER INFORMATION AS MAY BE PRESCRIBED IN TERMS OF THE ACT

12.1 Information or records not found

12.1.1 Where the Firm has taken all reasonable steps to find a record, but such record is not found, or is found not to exist, the Firm will provide notification of this to the requester in the form of an affidavit.

12.1.2 The affidavit will provide a full account of all steps taken by the Firm to find the record or to determine the existence thereof; and



12.1.3 If the requested record is later found by the Firm, the requester shall be notified and furnished with the requested document in the manner stipulated by the requester in the application for request for access to information previously lodged by the requester (This will apply to instances where the Firm does not object to disclosing the requested information).

12.1.4 Where the requested record is later found, but the Information officer objects to disclosing the record to the requester, the Firm shall notify the requester of the Firm's decision and advise the requester of external appeal remedies available to dispute the refusal of access to information.

12.2 Information requested about a third party

12.2.1 Where any information relating to a third party is requested from the Firm by a requester, the Firm will notify the third party of the request.

12.2.2 The third party will have an opportunity to grant his, her or its consent to the disclosure of the record or to make representations as to why the requested record should not be disclosed to the requester.

12.2.3 Where the Firm decides to grant access to the record, it will notify all affected third parties who will be entitled to approach a competent court by way of application in relation to such decision.

12.3 Remedies available to a requester upon refusal of access

12.3.1 Internal remedies

12.3.1.1 The Firm does not have any internal appeal procedures that may be followed after a request for access information has been refused. As such, the decision made by the Information officer is final and requestors 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.

12.3.2 External remedies

12.3.2.1 A requester that is dissatisfied with the Information officer's decision may, within 30 days of notification of the decision, apply to a competent court for relief.

12.3.2.2 Likewise, a third party dissatisfied with the Information officer's decision may, within 30 days of notification of the decision, apply to a competent court for relief.

12.3.2.3 For purposes of the Act, the courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court with similar status.

13. REPORTS TO THE HUMAN RIGHTS COMMISSION, SECTION 84(3)

13.1 For the purpose of the annual report referred to in section 84 and if so, requested by the Information Regulator, the head of Gatsheni Advisory may furnish to that Commission information about requests for access to records of the Firm.

14. AVAILABILITY OF THE MANUAL, SECTION 51(3)

14.1 A copy of the Manual is available –

14.1.1 on the Firm's at www.gatsheniadvisory.co.za;

14.1.2 head office of Gatsheni Advisory for public inspection during normal business hours;

14.1.3 to any person upon request and upon the payment of a reasonable prescribed fee; and

14.1.4 the Information Regulator upon request (<https://www.justice.gov.za/infoereg/>).

14.2 A fee for a copy of the Manual, as contemplated in annexure B of the Regulations, shall be payable per each A4-size photocopy made.



15. UPDATING THE MANUAL, SECTION 51(2)

15.1 The manual will be updated within one year after publication or whenever changes to the information contained in the manual require an update.

16. ANNEXURES

- **Annexure A: Form C – Request for access to record of private body [Regulation 10]**
- **Annexure B: Form 2 – Request for Correction or Deletion of Personal Information**
- **Annexure C: Form 1 – Objection to the Processing of Personal**
- **Annexure D: Form 02 – Request for Access to Record [Regulation 7]**
- **Annexure E: Form 3 – Outcome of request and of fees payable [Regulation 8]**
- **Annexure F: Prescribed Fee Schedule**