

MANUAL
IN TERMS OF SECTION 51 OF THE
PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000 (PAIA)
READ WITH THE
PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013 (POPIA)
FOR THE
CHADINHA ATTORNEYS



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1. INTRODUCTION

- 1.1. The Chadinha Attorneys Promotion of Access to Information Manual (“the Manual”) is published in terms of section 51 of the Promotion of Access to Information Act No. 2 of 2000, as amended (“PAIA”) read together with sections 23 until 25 of the Protection of Personal Information Act No. 4 of 2014, as amended (“POPIA”).
- 1.2. PAIA gives effect to the provisions of section 32 of the Constitution of The Republic of South Africa, which provides an individual’s right of access to information. This refers not only to information held by the State but also to information held by any other person or entity. A person that is entitled to exercise a right or who requires information for the protection of any right, is entitled to access that information, subject to certain restraints and/or exclusions.
- 1.3. Section 51 of PAIA creates a legal right to access records (as defined in section 1 of PAIA) of a private body, however this right may be negated in circumstances as set out more fully in Chapter 4 of Part 3 of PAIA. In addition, in compliance with POPIA, a responsible party who processes personal information must notify the person to whom their personal information relates (the “data subject”) of the manner in which the data subject’s personal information is processed and how that data subject can access their personal information held by such a responsible party. Chadinha Attorneys is a responsible party as defined in terms of POPIA.

2. PURPOSE

- 2.1. The purpose of this Manual is to facilitate requests made for access to records (including records containing a data subject’s personal information).
- 2.2. Where this Manual is silent or fails to provide for a procedure provided for in terms of PAIA, the Requester or any other interested party must look at the Act for guidance. Such procedure is to be included as part of the Manual.
- 2.3. A person and/or data subject requesting access to records held by Chadinha Attorneys (“the Requester”) is advised to familiarize themselves with the provisions of PAIA before making any requests to Chadinha Attorneys in



terms of PAIA, particularly Chapter 4 of Part 3 of PAIA (Grounds for refusal of access to records).

2.4. Chadinha Attorneys make no representation and give no undertaking or warranty that any record(s) provided by it to the Requester is complete or accurate, or that such record is fit for any purpose. All users of such records shall use such records entirely at their own risk and Chadinha Attorneys shall not be liable for any loss, expense, liability or claims, however so arising, resulting from the use of this Manual or of any record provided by Chadinha Attorneys or any error therein.

2.5. All users and Requesters irrevocably agree to submit to the laws of the Republic of South Africa and to the exclusive jurisdiction of the Court of South Africa in respect of any dispute arising of the use of this Manual or any records provided by Chadinha Attorneys.

3. BUSINESS OVERVIEW

Chadinha Attorneys is a law firm which provides legal services to its clients.

4. CONTACT DETAILS (SECTION 51)

Name of Business	Chadinha Attorneys
Head of Business and Designated Information Officer	Chandre Chadinha
Email Address	chandre@chadinhaattorneys.co.za
Website	www.chadinhaattorneys.co.za
Postal Address	P O Box 8442, Bonaero Park, 1622
Physical Address	42 Webb Street, Northmead, Benoni
Phone number	083 783 8369

5. REQUIREMENTS IN TERMS OF PAIA

5.1. Description of Guide referred to in section 10 of PAIA: section 51(1)(b)

The South African Human Rights Commission (as provided for in section 10 of PAIA) has compiled and published a “Guide on how to use the Promotion



of Access to Information Act 2 of 2000". This Guide assists persons not only to use but also to understand PAIA thereby assisting persons who wish to exercise any right as contemplated in PAIA. The Guide has been published in each official language. This Guide can be accessed via the South Africa Human Rights Commission website: www.sahrc.org.za or inspected at their offices at Braampark Forum 3, 33 Hoofd Street, Braampark, Johannesburg

5.2. Notice in terms of section 52(2) of PAIA

At this stage Chadinha Attorneys do not have any categories of records which are automatically available without a person having to request access of such record in terms of PAIA and as such no notice has been published. All categories of records of Chadinha Attorneys require a formal request to access such records.

5.3. Records available in terms of other legislation: section 51(1)(d)

- 5.3.1. Income Tax Act 58 of 1962
- 5.3.2. Skills Development Act 97 of 1998
- 5.3.3. Consumer Protection Act 68 of 2008
- 5.3.4. Electronic Communication and Transaction Act 25 of 2002

Such records will only be made available to those persons/entities authorised to request access to such records in terms of the particular legislation. Any other persons must follow the request or access of records procedure as outlined in this Manual.

5.4. Subjects and categories of records held by Chadinha Attorneys: section 51(1)(e)

PAIA requires that sufficient detail be provided to facilitate a request for access to a record of Chadinha Attorneys. A description of the subjects on which Chadinha Attorneys holds records and the categories of the records held by each subject can be found in Annexure "A" attached to this Manual, which forms part of this Manual. In addition, reference can be made to Chadinha Attorneys' privacy policy for the personal information held by it.



6. THE PROCESS

6.1. Introduction

6.1.1. Access to records held by Chadinha Attorneys are not automatic and may be refused by Chadinha Attorneys on any of the grounds for refusal as contemplated in Chapter 4 of Part 3 of PAIA.

6.1.2. In order to request access to records held by Chadinha Attorneys, the Requester must not only identify the right he/she/it is seeking to exercise or protect but will be required to explain why the record requested is required for the exercise or protection of that right but must also comply with the procedural requirements as set out in PAIA.

6.1.3. If the Requester requests information on behalf of a public body (i.e. the State), the Requester must identify that the request for information is in the public's interest by stipulating adequate reasons therefore.

6.1.4. If the Requester is making a request on behalf of another person, sufficient proof (to the satisfaction of Chadinha Attorneys) of the capacity in which the Requester is making the request must be submitted. The type of proof required will be advised by Chadinha Attorneys upon receipt of the request.

6.2. Procedural Request

6.2.1. In order to facilitate such a request for access to records, the Requester needs to complete the prescribed access form attached as Annexure "B" to this Manual. Please note that the prescribed access form must be completed in full. If not, the process may be delayed until such additional information has been provided.

6.2.2. In terms of section 23(1) of POPIA, adequate proof of identity is required from the Requester/Data subject. Therefore, in addition



to the prescribed access form, the Requestor/ Data subject will be required to supply a certified copy of their identification document or any other legally acceptable form of identification.

6.2.3. The request form and proof of identification must be provided to the Information Officer of Chadinha Attorneys at the physical address of email address as more fully provided in clause 4 above. Chadinha Attorneys may, in its sole discretion, request that original certified copies be provided in certain circumstances if the electronic copies provided by the Requester/Data subject are not clear or are questionable.

6.2.4. The Requester must provide sufficient detail on the prescribed access form to enable the Information Officer to identify the record requested. When completing the access form, the Requester must also indicate:

6.2.4.1. which form of access is required;

6.2.4.2. the right the Requester is seeking to exercise or protect and explain why the requested record is required for the exercise or protection of that right;

6.2.4.3. whether the Requester wishes to be informed of the decision in any manner in addition to a written reply, and if so, to state the manner and necessary particulars to be so informed; and

6.2.4.4. an email address, telephonic contact numbers and postal address in the Republic of South Africa.

6.2.5. If a request is made on behalf of another person, the Requester must show, to the reasonable satisfaction of the information officer of Chadinha Attorneys, that he/she/it is duly authorised to make such a request.

6.2.6. If an individual is unable to complete the prescribed access form because of illiteracy or disability, such an individual may make the request verbally.



6.2.7. The prescribed access form must be adequately completed with sufficient information particularly so that the information officer of Chadinha Attorneys can identify and determine what the access fee will be, should access be granted.

6.2.8. A request will not be processed until the request fee has been paid.

6.3. **Refusal in terms of PAIA**

6.3.1. Chadinha Attorneys may refuse access to the requested record or parts thereof as contemplated in terms of Chapter 4, with specific reference to sections 62 until 70 (inclusive) of PAIA.

6.3.2. In instances whereby a third party needs to be notified of such request in order to authorise or decline access to the record, the head/information officer of Chadinha Attorneys undertakes to request same from the third party within 21 (twenty-one) days of receipt of the request and to include the required information provided for in terms of section 71(3) of PAIA.

6.3.3. In the event that the request is refused by the third party, Chadinha Attorneys cannot be held responsible for such refusal.

6.4. **Notification of refusal or granting of access to information**

6.4.1. The Requester will be informed within 30 (thirty) days of receipt of the prescribed form if it is Chadinha Attorneys' decision to refuse access to the information requested based on any of the grounds for refusal as contemplated in Chapter 4 of Part 3 of PAIA or whether the request has been granted.

6.4.2. Take note that the 30 (thirty) day period may be extended for a further 30 (thirty) day period should more time be required to gather the requested information. The Requester will, however, be notified if the initial 30 (thirty) day period is to be extended for



a further 30 (thirty) days.

- 6.4.3. If the head/information officer fails to give the decision on a request for access to the Requester, either within the initial 30 (thirty) day period or an extension thereof as contemplated in clause 6.4.2. above, it is deemed that the head/information officer has refused such request.

6.5. **Refusal since the record cannot be found**

- 6.5.1. If all reasonable steps have been taken by Chadinha Attorneys to find the record requested by the Requester and same cannot be located for reasons justifiable in terms of section 55 of PAIA, then the head/information officer shall provide an affidavit or affirmation to the Requestor advising that it is not possible to give access to the record so requested.

- 6.5.2. The affidavit or affirmation will comply with all the requirements provided for in terms of section 55(2) of PAIA.

- 6.5.3. In the event that the record is found subsequently, Chadinha Attorneys undertakes to contact the Requester in order to provide access, subsequent to payment of the applicable access fee.

7. **FEES**

- 7.1. There are two types of prescribed fees applicable when the Requester requests access to a record in terms of PAIA – a “request” and “access” fee.

7.1.1. Request Fee

- 7.1.1.1. The request fee is an administration fee that is payable on the submission of the request for access to a record and must be paid before the request is considered (**unless the request is to access the Requester's/Data Subject's personal information in which event there is no applicable fee**).the



request fee is not refundable if the request for access has been granted however it is refundable if the request for access has been refused by Chadinha Attorneys.

7.1.1.2. The request fee is currently statutorily set at R50.00 (Fifty Rand) for a private body at the time of publication of this Manual.

7.1.1.3. In line with section 23(1)(a) of POPIA, a Data subject (i.e. personal requester) has a right to request from Chadinha Attorneys to confirm, free of charge, whether or not Chadinha Attorneys hold personal information about the Data subject.

7.1.2. Access Fee

7.1.2.1. The access fee is payable prior to the Requester/Data subject actually gaining access to the record(s) so required in terms of the prescribed access form.

7.1.2.2. The access fee is intended to reimburse Chadinha Attorneys for the costs associated with the reproduction of documents, searching and preparing the record(s) so requested and for any time reasonably expended to search and prepare the record(s).

7.1.2.3. Should it reasonably expected that the preparation of the required record(s) may take more than 6 (six) hours, a deposit of one-third of the access fee is payable before the request will be processed by Chadinha Attorneys as a deposit.

7.1.2.4. T Chadinha Attorneys may withhold a record from the Requester/Data subject until he/she/it has paid the applicable fees (if any).



7.1.2.5. In accordance with section 23(3) of POPIA, Chadinha Attorneys may charge an access fee to the Data subject to enable Chadinha Attorneys to respond to the request. In such instances Chadinha Attorneys must provide the Data subject with a written estimate of the fee and may require payment of a deposit for all or part of the fee before providing the services.

8. NOTICES

8.1. The information officer of Chadinha Attorneys shall provide to the Requester/Data subject with a Notice in terms of section 54(3) of PAIA on initial receipt and consideration of the request for access. The Notice is attached as Annexure “C” of this Manual.

8.2. Once the request fee has been paid in full, the information officer will consider the request for access and will provide the Requester/Data subject with its decision to the request as more fully detailed in clause 6.4 above. This Notice is attached as Annexure “D” of this Manual.

9. ACCESSIBILITY OF THE MANUAL

The Manual is available for inspection, free of charge, at the offices Chadinha Attorneys as set out on page 5 of this Manual, as well as on Chadinha Attorneys’ website at www.chadinhaattorneys.co.za.

C CHADINHA

INFORMATION OFFICER



ANNEXURE "A"

SUBJECTS AND CATEGORIES OF RECORDS HELD BY THE BUSINESS: SECTION 51(1)(E)

1. Administration
 - Correspondence
 - Training Manuals
 - Training Records

2. Financial Records
 - Accounting Records
 - Annual Financial Statements
 - Asset Register
 - Auditor's Report
 - Management Accounts
 - Bank Statements
 - Details of Auditor
 - Electronic Banking Records
 - Invoices
 - Receipts
 - Rental Agreements
 - Tax Records (Business)
 - Records of payments made to SARS on behalf of business

3. Client records
 - Mandates
 - Personal information including but not limited to names, contact details, physical addresses, email addresses, identity numbers, race, gender, banking details
 - Correspondence
 - Receipts



- Consultation notes
4. Supplier records
- The name of the supplier
 - The address of the supplier
 - The contact details of the supplier
 - Proof of payments made to the supplier
 - Receipts and Delivery notes
5. Electronic Communication and Transaction Records
- Record of the personal information and the specific purpose for which the personal information was collected
6. Insurance Records
- General insurance – contents, building insurance
 - Professional Indemnity Insurance
7. Immovable and movable property Records
- Lease Agreement of movable property
 - Lease Agreement for the leasing of the building
 - Other agreements for the purchase, conditional sale, hire of assets



ANNEXURE “B”

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

(section 53(1) of the Promotion of Access to Information Act, 2000 (Act 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 capacity in which the request is made, if applicable, must be attached.*

Full name and surname:

Identity number:

Postal address:



Fax number:

Telephone number:

Email address:

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

C Particulars of person on whose behalf request is made

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

Full names and surname:

Identity number:

D Particulars of 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 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 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



<i>record is required.</i>			
Disability:		Form in which record is required:	
Mark the appropriate box with an X:			
Notes:			
a. <i>Compliance with your request in the specified form may depend on the form in which the record is available.</i>			
b. <i>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.</i>			
c. <i>The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.</i>			
1. If the record is in written or printed form:			
<input type="checkbox"/>	copy of record*	<input type="checkbox"/>	inspection of record
2. If record consists of visual images (this includes photographs, slots, video recordings, computer generated images, sketches, etc.):			
<input type="checkbox"/>	View the images	<input type="checkbox"/>	Copy the images*
<input type="checkbox"/>		<input type="checkbox"/>	Transcription of the images
3. If record consists of recorded words or information which can be reproduced in sound:			
<input type="checkbox"/>	Listen to the soundtrack (audio)	<input type="checkbox"/>	Transcription of soundtrack* (written or printed document)
4. If record is held on computer or in an electronic or machine-readable form:			
<input type="checkbox"/>	Printed copy of record*	<input type="checkbox"/>	Printed copy of information derived from the record*
<input type="checkbox"/>		<input type="checkbox"/>	Copy in computer readable form* (i.e. electronic copy)
*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		<input type="checkbox"/> YES	<input type="checkbox"/> 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 requestor must sign all the additional folios.

1. Indicate which right is to be exercised or protected:

2. Explain why the record requested is required for the exercise or protection of the
aforementioned right:

H Notice of decision regarding request for access

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

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

Signed at _____ this ____ day of _____ 20

Signature of Requester/person on whose
behalf request is made



ANNEXURE "C"

CHADINHA ATTORNEYS NOTICE IN TERMS OF SECTION 54(3) OF PAIA

1. Please be advised the Requestor is required to pay the prescribed request fee (if any) before the further processing of the prescribed access form is done.

2. Please be advised that in the event that:
 - a) the search for the requested record for which a request for access by a Requester has been made; and

 - b) the preparation of the record for disclosure (including any arrangements contemplated in section 29 (2) (a) and (b) (i) and(ii) (aa)) would, in the opinion of Chadinha Attorneys, require more than the hours prescribed, the Requester is herewith requested to pay as a deposit one-third of the access fee.

3. The Requester is herewith advised that the aforesaid instance is applicable and therefore a required deposit is payable. Such amounts totals _____ (which is one-third of the access fee, which amount is _____).

4. In the event that the Requester finds the aforesaid unacceptable, the Requester may lodge a complaint to the Information Regulator or an application with a court against the tender or payment of the request fee in terms of subsection (1), or the tender or payment of a deposit in terms of subsection (2), as the case may be.

5. The procedure for lodging the complaint stated in subsection 4 is available in the PAIA and its Regulations.

Signed at _____ this ____ day of _____ 20

Signature of Requester/person on whose
behalf request is made



ANNEXURE “D”
CHADINHA ATTORNEYS’ DECISION NOTICE

Based on the prescribed access form, the Requester has requested access to documents stated therein and Chadinha Attorneys hereby:

Declines

OR

Grants

1. In the event that Chadinha Attorneys grants access to the record – the access fee payable is _____ (in words)

2. The amount is calculated as following:

3. All exceptions, restrictions and parameters regarding access:

4. In the event that the request is granted but with issue, the Requester may lodge a complaint with the Information Regulator or an application with a court against the access fee to be paid or the form of access granted.

5. In the event that Chadinha Attorneys decline access to the record – the reasons for refusal are:

6. In the event that the request is declined, the Requester may lodge a complaint with the



Information Regulator or an application with a court against the refusal of the request.

