



DYLLON NICHOLLS AND ASSOCIATES ATTORNEYS

Trading as

**DNA ATTORNEYS
("the Firm")**

PAIA MANUAL AND POPIA POLICY

1. INTRODUCTION:

- 1.1. This manual has been prepared in accordance with Section 51 of The Promotion of Access to Information Act 2 of 2002 ("PAIA") and the Protection of Personal Information Act 4 of 2013 ("POPIA"), and to provide guidance to data subjects and third parties who may request access to information that is processed by DNA Attorneys.

2. KEY DEFINITIONS:

- 2.1. "*Data Subject*" means the person to whom the personal information relates, in the context at hand being a client of the Firm whether natural or juristic person;
- 2.2. "*Electronic Communication*" means any text, voice, sound or image message sent over an electronic communications network and collected by the recipient;
- 2.3. "*Personal Information*" means any and all data obtained from the Data Subject as is not available in the public domain, including that information as contained in the POPIA;
- 2.4. "*Processing*" means any operation, activity or set of operations concerning personal information that may be carried out by DNA Attorneys, as set out in the POPIA.

3. PURPOSE:

- 3.1. Section 32 of the Constitution provides that everyone has the right of access to information held by the State, and held by another person not being a public or state institution that is required for the exercise or protection of any right.
- 3.2. PAIA seeks to give effect to this constitutional right of access to information and provides for limitations of the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance.

- 3.3. POPIA seeks to give effect to the constitutional right of privacy and balancing the right of privacy against other rights, particularly the constitutional right of access to information as governed by PAIA.
- 3.4. DNA Attorneys is a private body as defined in PAIA. PAIA applies to all records held by a private body.
- 3.5. Ss such this Manual seeks to comply with the obligations of PAIA and POPIA as imposed on such private bodies.
- 3.6. Section 1 of PAIA defines a “record” as any information recorded, regardless of the form or medium, in the possession or under the control of the private body, whether or not it was created by that private body.
- 3.7. Where a request is made for disclosure of information in terms of PAIA, the body to whom the request is made is obliged to release such information, if such record is required for the exercise or protection of any rights, such requestor complies with the requirements of the Act in relation to such request, and such request is not refused in terms of any ground for refusal as contemplated in the Act.
- 3.8. The subjects and categories of records available to request of access can be found in section 51(1)(e) of PAIA.
- 3.9. Grounds for refusal may include:
 - 3.9.1. Unreasonable disclosures of personal information related to a third party in terms of section 63;
 - 3.9.2. Information in terms of section 64 that may be likely result in disclosure of trade secrets of a third party or which may cause harm to the commercial or financial interests of a third party;
 - 3.9.3. Information in terms of section 64(1)(c) which may reasonably be expected to put a third party at disadvantage in contractual or other negotiations or prejudice such party in commercial competition;

- 3.9.4. Information in terms of section 65 which may result in action for breach of a duty of confidentiality owed to a third party;
- 3.9.5. Information in terms of section 66 which may reasonably be expected to endanger the life or physical safety of an individual or property;
- 3.9.6. Information which is protected by legal and / or professional privilege in terms of section 67;
- 3.9.7. Commercial information which may result in disclosure of trade secrets or information which may or is likely to cause harm to the commercial or financial interests of DNA Attorneys as specified in section 68;
- 3.9.8. Information in terms of section 69 which may result in prejudice being caused to a third party, research and development carried out by such party or the subject matter of such research to serious disadvantage; and / or
- 3.9.9. Requests made after commencement of criminal or civil proceedings or information required to be kept confidential in terms of any legislation, regulation, statute or other lawful source.

4. PROTECTION OF PERSONAL INFORMATION

4.1. As DNA Attorneys constitutes an accountable institution as defined in the Financial Intelligence Centre, certain obligations are imposed on us as provided for therein and as imposed by the Law Society of South Africa, which requires us to collect certain personal information of third parties with whom we transact. The minimum Conditions for the Lawful Processing of Personal Information is set out in Chapter 3 of POPIA which, save unless specific exclusions apply as outlined in the Act apply, may not be derogated from.

4.2. Such information is required by us in order to give effect to our mandate and

client instructions, as well as to comply with obligations imposed on us in terms of relevant legislation.

4.3. Such legislation may include but is not limited to the following legislation:

- 4.3.1. The Protection of Personal Information Act 4 of 2013;
- 4.3.2. The Promotion of Access to Information Act 2 of 2000;
- 4.3.3. The Legal Practice Act 28 of 2014;
- 4.3.4. The Unemployment Insurance Act 30 of 1966;
- 4.3.5. The Basic Conditions of Employment Act 75 of 1997;
- 4.3.6. The Employment Equity Act 55 of 1998;
- 4.3.7. The Compensation for Occupational Injuries and Diseases Act 130 of 1993;
- 4.3.8. The Occupational Health and Safety Act 85 of 1993;
- 4.3.9. The Administration of Estates Act 66 of 1965;
- 4.3.10. The National Credit Act 34 of 2005;
- 4.3.11. The Insolvency Act 24 of 1936;
- 4.3.12. The Insurance Act 27 of 1943.
- 4.3.13. The Income Tax Act 58 of 1962; and
- 4.3.14. The Value Added Tax Act 59 of 1992;

4.4. Personal Information may only be processed for a specific purpose.

4.5. DNA Attorneys as a Responsible Party will ensure that such Personal

Information is:

- 4.5.1. Collected and processed from Data Subjects with the requisite consent;
- 4.5.2. processed only for the purpose for which it was collected;
- 4.5.3. Processed fairly and transparently;
- 4.5.4. is relevant, up to date and does not exceed the bounds or purpose for which it was collected;
- 4.5.5. not processed for a secondary or ulterior purpose, unless that processing is compatible with the original purpose for processing;
- 4.5.6. not to be kept for longer than is necessary; and
- 4.5.7. is processed with integrity and confidentiality, and subject to the appropriate level of security to protect against unauthorized access, accidental loss, destruction or damage.

4.6. Data Subjects are further entitled to:

- 4.6.1. be requested for consent for processing of personal data;
- 4.6.2. be notified that their personal information is being collected;
- 4.6.3. be informed in the event of a technical, cyber or data breach;
- 4.6.4. request amendment to personal information retained by us and / or deletion as made in the prescribed form in terms of Section 24 of POPIA and Regulation 3 of POPIA of the Regulations;
- 4.6.5. object to personal data being held by us subject to our record keeping requirements as imposed on us by legislation, regulation or other lawful source, in terms of section 11(3) of POPIA and regulations of the POPIA;

4.6.6. object to direct marketing by means of unsolicited electronic communications; and

4.6.7. lodge a complaint to the Information Regulator in relation to an alleged infringement of any rights entrenched in terms of POPIA.

5. INFORMATION OFFICER

PAIA imposes requirement of the appointment of an Information Officer who is responsible for, amongst other things, assessing requests for access to information. The Information Officer is appointed to oversee the obligations and responsibilities as provided for in terms these Acts.

5.1. Contact details of Information Officer:

Dyllon Nicholls

Telephone: 010 500 7543

Email: info@dnaattorneys.co.za

Website: <https://www.dnaattorneys.co.za>

Postal and Physical Address:

45 Kingfisher Drive
Fourways, Sandton
Johannesburg
2191.

5.2. Information Regulator:

Fax: (086) 500 3351

Email: infoereg@justice.gov.za

Website: www.justice.gov.za/inforeg

Physical Address: The Information Regulator

JD House, 27 Stiemens Street, Braamfontein, Johannesburg

6. THE SOUTH AFRICAN HUMAN RIGHTS' COMMISSION GUIDE ON PAIA

- 6.1. PAIA grants a party access to records of a private body if the record is required for the exercise or protection of any rights, and a public body if acting in the public interest.
- 6.2. Requests made in terms of PAIA are to be made in accordance with the prescribed procedures, considering the forms and tariffs as are dealt with in sections 6 and 7 of PAIA.
- 6.3. Parties wishing to make request for access to information are referred to the guide compiled by the South African Human Rights Commission ("SAHRC), as is available on the SAHRC website at <http://www.sahrc.org.za>, and from the Johannesburg SAHRC office:

Postal Address:	Private Bag 2700, Houghton, 2041
Telephone:	+27 (011) 484 8300
Fax:	+27 (011) 484 1360

7. In terms of Section 51(3), a copy of this manual can be found on our website and shall be available for physical inspection upon due request. In addition, a copy of same has been made available to the SAHRC as required by the regulations of PAIA.