MALHERBE AND ASSOCIATES INC

PAIA 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. LIST OF ACRONYMS AND ABBREVIATIONS

1.1	**"THE FIRM"**	Malherbe and Associates Inc
1.2	**"DIO"**	Deputy Information Officer;
1.3	**"IO"**	Information Officer;
1.4	**"Minister"**	Minister of Justice and Correctional Services;
1.5	**"PAIA"**	Promotion of Access to Information Act No. 2 of 2000(as Amended;
1.6	**"POPIA"**	Protection of Personal Information Act No.4 of 2013;
1.7	**"Regulator"**	Information Regulator; and
1.8	**"Republic"**	Republic of South Africa
1.9	**"IT"**	Information Technology
1.10	**"HR"**	Human Resources
1.11	**"BBBEE"**	Broad Based Black Economical Empowerment

2. PURPOSE OF PAIA 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. KEY CONTACT DETAILS FOR ACCESS TO INFORMATION OF MALHERBE AND ASSOCIATES INC

3.1. Chief Information Officer

Name:	ANEL MALHERBE
Tel:	079 412 3630
Email:	anel@malherbelaw.co.za
Website:	https://malherbelaw.co.za/

3.2. Deputy Information Officer

Name:	JEAN-JACQUES MALHERBE
Tel:	079 412 3630
Email:	finance@malherbelaw.co.za
Website:	https://malherbelaw.co.za/

3.3 Access to information general contacts

Email: anel@malherbelaw.co.za / finance@malherbelaw.co.za

4. GUIDE ON HOW TO USE PAIA AND HOW TO OBTAIN ACCESS TO THE GUIDE

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[1] andsection 56 of POPIA[2];

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[3]; and

4.3.3.2. access to a record of a private body contemplated in section 50[4];

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-

[1] Section 17(1) of PAIA- *For the purposes of PAIA, each public body must, subject to legislation governing the employment of personnel of the public body concerned, designate such number of persons as deputy information officers as are necessary to render the public body as accessible as reasonably possible for requesters of its records.*

[2] *Section 56(a) of POPIA- Each public and private body must make provision, in the manner prescribed in section 17 of the Promotion of Access to Information Act, with the necessary changes, for the designation of such a number of persons, if any, as deputy information officers as is necessary to perform the duties and responsibilities as set out in section 55(1) of POPIA.*

[3] *Section 11(1) of PAIA- A requester must be given access to a record of a public body if that requester complies with all the procedural requirements in PAIA relating to a request for access to that record; and access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.*

[4] *Section 50(1) of PAIA- A requester must be given access to any record of a private body if-*
a) that record is required for the exercise or protection of any rights;
b) that person complies with the procedural requirements in PAIA 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.

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[5] and 51[6] 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[7] and 52[8] 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[9] and 54[10] regarding fees to be paid in relation to requests for access; and

4.3.10. the regulations made in terms of section 92[11].

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[5] *Section 14(1) of PAIA- The information officer of a public body must, in at least three official languages, make available a manual containing information listed in paragraph 4 above.*

[6] *Section 51(1) of PAIA- The head of a private body must make available a manual containing the description of the information listed in paragraph 4 above.*

[7] *Section 15(1) of PAIA- The information officer of a public body, must make available in the prescribed manner a description of the categories of records of the public body that are automatically available without a person having to request access*

[8] *Section 52(1) of PAIA- The head of a private body may, on a voluntary basis, make available in the prescribed manner a description of the categories of records of the private body that are automatically available without a person having to request access*

[9] *Section 22(1) of PAIA- The information officer of a public body to whom a request for access is made, must by notice require the requester to pay the prescribed request fee (if any), before further processing the request.*

[10] *Section 54(1) of PAIA- The head of a private body to whom a request for access is made must by notice require the requester to pay the prescribed request fee (if any), before further processing the request.*

[11] *Section 92(1) of PAIA provides that –"The Minister may, by notice in the Gazette, make regulations regarding-*
(a) any matter which is required or permitted by this Act to be prescribed;
(b) any matter relating to the fees contemplated in sections 22 and 54;
(c) any notice required by this Act;
(d) uniform criteria to be applied by the information officer of a public body when deciding which categories of records are to be made available in terms of section 15; and
(e) any administrative or procedural matter necessary to give effect to the provisions of this Act."

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/inforeg/).

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 AFRIKAANS

5. CATEGORIES OF RECORDS OF MALHERBE AND ASSOCIATES INC WHICH ARE AVAILABLE WITHOUT A PERSON HAVING TO REQUEST ACCESS

Category of records	**Types of the Record**	Available on Website	Available upon request
POPI POLICY	PUBLIC	X	X
PAIA MANUAL	PUBLIC	X	X

6. DESCRIPTION OF THE RECORDS OF MALHERBE AND ASSOCIATES INC WHICH ARE AVAILABLE IN ACCORDANCE WITH ANY OTHER LEGISLATION

Category of Records	**Applicable Legislation**
Banking Details and/or Financial Records	Financial Intelligence Centre Act, 38 of 2001 Income Tax Act, 58 of 1962 Value Added Tax Act, 89 of 1991 Companies Act, 71 of 2008 Close Corporations Act, 69 of 1984

Employee records, contracts, remuneration, attendance, and related HR information	Basic Conditions of Employment Act, 75 of 1997 Labour Relations Act, 66 of 1995 Employment Equity Act, 55 of 1998 Skills Development Act, 97 of 1998 Skills Development Levies Act, 9 of 1999 Unemployment Insurance Act, 63 of 2001 Unemployment Contributions Act, 4 of 2002 Occupational Health and Safety Act, 85 of 1993 Compensation for Occupational Injuries and Diseases Act, 130 of 1993
Pension and Provident Fund records	Pension Funds Act, 24 of 1956 Income Tax Act, 58 of 1962
Health and Safety / Industrial Relations records	Occupational Health and Safety Act, 85 of 1993 Labour Relations Act, 66 of 1995 Compensation for Occupational Injuries and Diseases Act, 130 of 1993
Client Register and Client Files	Legal Practice Act, 28 of 2014 Financial Intelligence Centre Act, 38 of 2001 Protection of Personal Information Act, 4 of 2013 Consumer Protection Act, 68 of 2008 Promotion of Access to Information Act, 2 of 2000
Contracts and Agreements (Clients, Suppliers, and Others)	Companies Act, 71 of 2008 Consumer Protection Act, 68 of 2008 Electronic Communications and Transactions Act, 25 of 2002 Legal Practice Act, 28 of 2014
Deceased Estates, Insolvent Estates and Trust Property	Administration of Estates Act, 66 of 1965 Trust Property Control Act, 57 of 1988 Estate Duty Act, 45 of 1955 Insolvency Act, 24 of 1936
Conveyancing / Property Transactions	Deeds Registries Act, 47 of 1937 Transfer Duty Act, 40 of 1949 Subdivision of Agricultural Land Act, 70 of 1970
Company / Practice Administration Records (Policies, Minutes, Licenses, Asset Register, Budgets)	Companies Act, 71 of 2008 Close Corporations Act, 69 of 1984 Broad-Based Black Economic Empowerment Act, 53 of 2003 Income Tax Act, 58 of 1962 Value Added Tax Act, 89 of 1991
IT Policies, Website, Marketing and Communications Records	Electronic Communications and Transactions Act, 25 of 2002 Protection of Personal Information Act, 4 of 2013
General Correspondence and Publications	Promotion of Access to Information Act, 2 of 2000 Protection of Personal Information Act, 4 of 2013

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

Subjects on which the body holds records	Categories of records
Human Resources	- HR policies and procedures - Employee records and contracts - Attendance Registers - Pension and/or Provident fund records - Employee Policies and Procedures - Remuneration Records and Policies - Conditions of Service - Industrial and Labour Relations Records - Information relating to Health and Safety Regulations - Personnel Guidelines, Policies and Procedures - Skills Requirements - Training Records relating to Staff and Management
Banking and financial Matters	- Banking details and/or records - Financial Records of Malherbe and Associates Inc - Insurance Records - Asset Register - Budgets - Tax records and information (Malherbe and Associates Inc and employees) - Purchases Records
Client and Supplier Management	- Client Register - Suppliers' Registry - Contracts
Corporate Governance/ Administration	- Correspondence (including General Correspondence) - Minutes of Meetings (Management and Staff) - Licenses
Marketing and Communications	- Marketing Strategies and Records - Website information - Publications and information circulars

Information Technology	- IT policies and Procedures

8. PROCESSING OF PERSONAL INFORMATION

8.1 Purpose of Processing Personal Information

THE FIRM uses the Personal Information in the following ways:

- Identifying and managing its customers
- Identifying customers and personal records
- Providing legal services to customers
- Conducting FICA, credit reference checks and assessments
- Profiling data subjects for the purpose of marketing or direct communication
- Keeping of accounts and records
- Detecting and prevention of fraud, crime, money laundering and other malpractice
- Conducting marketing and customer satisfaction research
- Administration of estates and wills
- Staff administration
- Marketing and sales
- Complying with legal and regulatory requirements
- In connection with legal proceedings

8.2 Personal Information Collected

Section 9 of POPI states that “Personal Information may only be processed if, given the purpose for which it is processed is adequate, relevant and not excessive.”

The type of information will depend on the needs for which it is collected and will be processed for that purpose only. THE FIRM collects and processes client’s personal information pertaining to the needs of the business conducted. Whenever possible, THE FIRM will inform the client of the information required and the information deemed optional. THE FIRM aims to have agreements in place with all suppliers,

insurers, and third-party service providers to ensure a mutual understanding regarding protection of the customer's personal information. With the customer's consent, THE FIRM may also supplement the information provided with the information that it receives from other providers to offer a more consistent and accurate service to its clients

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

Categories of Data Subjects	Personal Information that may be processed
Customers: Natural Persons	Names; contact details; physical and postal addresses; date of birth; ID number; tax related information; nationality; gender; confidential correspondence; marital status, medical information
Customers – Juristic Persons / Entities	Names of contact persons; name of legal entity; physical and postal address and contact details; financial information; registration number; founding documents; tax related information; authorised signatories; beneficiaries; ultimate beneficial owners; shareholding information; BBBEE information
Contracted Service Providers	Names of contact persons; name of legal entity; physical and postal address and contact details; financial information; registration number; founding documents; tax related information; authorised signatories; beneficiaries; ultimate beneficial owners; shareholding information; BBBEE information
Employees / Directors	Gender; pregnancy; marital status; colour, race; age; language; education information; financial information; employment history; Identity number; physical and postal address; contact details; opinions; criminal record; well-being; medical information
General (for purposes of completeness)	Attendance registers; Correspondence; Founding Documents Licences (categories); Minutes of Management Meetings; Minutes of Staff Meetings; Statutory Returns; Conditions of Service; Employee Records; Employment Contracts; Employment Equity Records; General Correspondence; Industrial and Labour Relations Records; Information relating to Health and Safety Regulations; Pension and Provident Fund Records; Performance Appraisals; Personnel Guidelines, Policies and Procedures; Remuneration Records and Policies Statutory Records; Training Records; Brochures on Company Information; Client and Customer Registry; Contracts; Information relating to Employee Sales Performance; Information relating to Work-In-Progress; Marketing and Future Strategies; Marketing Records;

	Production Records; Sales Records; Suppliers Registry; Annual Financial Statements; Asset Register; Banking Records; Budgets; Financial Transactions; Insurance Information; Internal Audit Records; Management Accounts; Purchase and Order Information Tax Records (company and employee); IT Policies and Procedures; User Manuals; FICA Docs; Identity Numbers Dates of birth; Telephone numbers; e-Mails; Addresses; Banking details; Bank account numbers; License numbers; Fidelity Fund Certificates; Registration numbers; BEE Certificates; Contractual agreements; Tender documents; Invoices
IT Practices	Network security controls Password controls Virus & Malware protection Software updates Disaster recovery & back-up policy

PLEASE NOTE: *The above section of the Manual indicates the subject and categories of records that are being held by THE FIRM and the inclusion of any subject and/or category should not be taken as an indication that any and/or all records falling in these subjects and/or categories will be made available to the requester under PAIA. It must be noted that grounds of refusal set out in PAIA may be applicable to a request for such records.*

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

Category of personal information	Recipients or Categories of Recipients to whom the personal information may be supplied
Identity number and names, for criminal checks	South African Police Services
Qualifications, for qualification verifications	South African Qualifications Authority
Credit and payment history, for credit information	Credit Bureaus
Client. Employee and service provider personal information (including identification, contact, financial and related records	Agents, affiliates and associates of the firm, who may use the information to communicate and/or send the Data Subject information on products and services.

Personal and contractual information of clients, employees, and service providers	Parties to whom the firm has assigned or transferred rights or obligations under any agreement.
Client, employee, and supplier data (operational and administrative information)	Service providers performing the following functions on behalf of the firm: • Capturing and organizing of data • Storing of data • Sending of emails and other correspondence to customers • Conducting due diligence checks • Administration of the Medical Aid and Pension Schemes
Stored digital and hard copy personal information	Outsourced IT service providers contracted to implement and maintain security controls, including firewalls, antivirus protection, and backup management.
General personal and operational data held by the firm	**Authorized personnel only**, with logical and physical access controls in place to protect personal data.

Retention of Personal Information Records

THE FIRM may retain Personal Information records indefinitely unless the Data Subject objects thereto. If the Data Subject objects to indefinite retention of its Personal Information THE FIRM shall retain the Personal Information records to the extent permitted or required by law.

8.5 General Description of Information Security Measures

THE FIRM employs up to date technology to ensure the confidentiality, integrity, and availability of the Personal Information under its care. Measures include:

- Firewalls;
- Virus protection software and update protocols;
- Logical and physical access control;
- Secure setup of hardware and software making up the IT infrastructure;
- Outsourced Service Providers who process Personal Information on behalf of THE FIRM are contracted to implement security controls;
- Personal information shall be stored on site and access shall be limited to authorized personnel only;
- All electronic files or data shall be backed up on to cloud based services.

9. THE REQUEST PROCEDURE IN TERMS OF PAIA

9.1 The Requester must complete the prescribed form (Form 2 annexed hereto), which completed form, together with payment of the request fee, must be submitted to the Information Officer to his/her electronic mailing address.

9.2 The Information Officer will inform the Requester of the relevant request fee that is payable before the request will be processed.

9.3 The Requester must provide sufficient information on the prescribed form for the Information Officer to identify both the requester and the record that is being requested.

9.4 The Requester must indicate to the Information Officer which form of access is required.

9.5 The Requester must indicate whether the record must be provided in a particular language and must also provide his/her postal address or fax number to the Information Officer. Should the Requester wish to be informed in any other manner, such manner and the details thereof must be provided to the Information Officer, for the Requester to be informed accordingly.

9.6 The Requester must indicate the right that he/she is electing to exercise or protect.

9.7 The Requester must provide an explanation as to why the record that is being requested is needed to exercise or protect the right concerned.

9.8 Should the request be made on behalf of another person, proof of the capacity in which the Requester is making the request must be submitted to the Information Officer together with the prescribed form.

10. AVAILABILITY OF THE MANUAL

10.1 A copy of the Manual is available-

10.1.1 On the website https://malherbelaw.co.za/

10.1.2 head office of the Malherbe and Associates Inc for public inspection during normal business hours;

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

10.1.4 to the Information Regulator upon request.

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

11. UPDATING OF THE MANUAL

The head of Malherbe and Associates Inc will update this manual on a regular basis.

Issued by

A Malherbe

ANEL MALHERBE (CHIEF INFORMATION OFFICER)
(DIRECTOR)

FORM 2

REQUEST FOR ACCESS TO RECORD

[Regulation 7]

NOTE:

1. *Proof of identity must be attached by the requester.*
2. *If requests made on behalf of another person, proof of such authorisation, must be attached to this form.*

TO: The Information Officer

_____
_____
_____
_____
(Address)

E-mail address: _____

Fax number: _____

*Mark with an **"X"***

☐ Request is made in my own name ☐ Request is made on behalf of another person.

PERSONAL INFORMATION				
Full Names				
Identity Number				
Capacity in which request is made *(when made on behalf of another person)*				
Postal Address				
Street Address				
E-mail Address				
Contact Numbers	Tel. (B):		Facsimile:	
	Cellular:			
Full names of person on whose behalf request is made *(if applicable):*				
Identity Number				
Postal Address				

Street Address				
E-mail Address				
Contact Numbers	Tel. (B)		Facsimile	
	Cellular			

PARTICULARS OF RECORD REQUESTED

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. (*If the provided space is inadequate, please continue on a separate page and attach it to this form. All additional pages must be signed.)*

Description of record or relevant part of the record:	
Reference number, if available	
Any further particulars of record	

TYPE OF RECORD
*(Mark the applicable box with an "**X**")*

Record is in written or printed form	
Record comprises virtual images *(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)*	
Record consists of recorded words or information which can be reproduced in sound	
Record is held on a computer or in an electronic, or machine-readable form	

FORM OF ACCESS *(Mark the applicable box with an "**X**")*	
Printed copy of record *(including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form)*	
Written or printed transcription of virtual images *(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)*	
Transcription of soundtrack *(written or printed document)*	
Copy of record on flash drive *(including virtual images and soundtracks)*	
Copy of record on compact disc drive*(including virtual images and soundtracks)*	
Copy of record saved on cloud storage server	

MANNER OF ACCESS *(Mark the applicable box with an "**X**")*	
Personal inspection of record at registered address of public/private body *(including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form)*	
Postal services to postal address	
Postal services to street address	
Courier service to street address	
Facsimile of information in written or printed format *(including transcriptions)*	
E-mail of information *(including soundtracks if possible)*	
Cloud share/file transfer	
Preferred language *(Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available)*	

PARTICULARS OF RIGHT TO BE EXERCISED OR PROTECTED *If the provided space is inadequate, please continue on a separate page and attach it to this Form. The requester must sign all the additional pages.*	
Indicate which right is to be exercised or protected	

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

FEES	
a) A request fee must be paid before the request will be considered. *b) You will be notified of the amount of the access fee to be paid.* *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	

You will be notified in writing whether your request has been approved or denied and if approved the costs relating to your request, if any. Please indicate your preferred manner of correspondence:

Postal address	**Facsimile**	**Electronic communication** ***(Please specify)***

Signed at _____ this _____ day of _____ 20 _____

_____

Signature of Requester / person on whose behalf request is made

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FOR OFFICIAL USE

Reference number:	
Request received by: (State Rank, Name And Surname of Information Officer)	
Date received:	
Access fees:	
Deposit (if any):	

_____

Signature of Information Officer