

SECTION 51(1) MANUAL IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT, NO 2 OF 2000, AS

AMENDED

1. INTRODUCTION

- 1.1. In terms of the preamble thereto, the Promotion of Access to Information Act, no 2 of 2000, as amended (“**PAIA**”) was enacted to foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information, and to actively promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect all of their rights.
- 1.2. The majority of PAIA commenced on 9 March 2001, but section 51 thereof only commenced on 15 February 2002.
- 1.3. This manual relating to NLA Advisory (Pty) Ltd and NLA Legal Inc (collectively, “**the Body**”) is issued in terms of section 51 of PAIA.
- 1.4. The Effective Date of this updated manual is 5 September 2021.

2. THE HEAD OF THE BODY (SECTION 51(1)(a) OF PAIA)

- 2.1. The required details of the head of the Body are as follows:

Full names:	Natalie Maria Lubbe
Postal Address	P.O. Box 662 Bromhof 2154
Street Address	24 Crawford drive Norscot Sandton

Phone number	011 704-1563
Fax number	n/a
Email address	natalie@NLAteam.com

2.2. The head of the Body shall also serve at the Body's *Information Officer*.

3. **THE GUIDE TO HOW TO USE PAIA (SECTION 51(1)(b), AS READ WITH SECTION 10, OF PAIA)**

3.1. In terms of section 10 of PAIA, the Human Rights Commission has compiled a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any rights contemplated in PAIA.

3.2. The guide, and all information relating to PAIA (including the contact details of the relevant persons in the PAIA unit) can be found online at: <https://www.sahrc.org.za/index.php/understanding-paia>

4. **CATEGORIES OF RECORDS OF THE BODY (SECTION 51(1)(c) AND (d) OF PAIA)**

4.1. The Body holds the following records:

4.1.1. the corporate documents of the Body, including its incorporation documents, amended memorandum of incorporation, directors' information, and records relating to the provisions and requirements of the Companies Act, 71 of 2008, as amended;

4.1.2. Personal Information of its clients and third party suppliers (some of which is protected by the provisions of the Protection of Private Information Act, no 4 of 2013, as amended ("*POPI*"));

4.1.3. financial records, including audited annual financial statements, the books and records of account and the source documents informing same, banking records and tax records, including records relating to the provisions and requirements of the Income Tax Act, 58 of 1962, as amended, the South African Revenue Services Act, no 34 of 1997, as amended, and the Value-Added Tax Act, no 89 of 1991, as amended;

4.1.4. employee records (some of which is protected by the provisions of POPI), and statutory human resources records, including records relating to the provisions and requirements of the Basic Conditions of Employment Act, no 75 of 1997, as amended, the Employment Equity Act, no 55 of

1998, as amended, the Labour Relations Act, no 66 of 1995, as amended, and the Occupational Health and Safety Act, no 85 of 1993, as amended;

- 4.1.5. meeting records, including notices, agenda, resolutions and minutes;
 - 4.1.6. general correspondence (and which is not the subject of attorney and client privilege in South Africa);
 - 4.1.7. such records as are required to be held in terms of the Constitution of the Republic of South Africa, no 3 of 1994, as amended.
- 4.2. Certain of the records of the Body held in terms of the aforementioned legislation can be accessed without a person having to request access in terms of PAIA.

5. **REQUEST FOR ACCESS TO A RECORD OF THE BODY (SECTION 51(1)(e) OF PAIA)**

- 5.1. When a request for access to a record of the Body is made, such request must be made in writing in the prescribed format, being Form C attached hereto as **Annexure "A"**. The online version of this form can be found at: <https://www.sahrc.org.za/home/21/files/Form%20C.doc> or a hard copy can be collected from the street address set out in clause 2.1 hereof.
- 5.2. Form C must be completed clearly and completely in block letters. In the event that Form C does not have sufficient space on which to answer a question, such question can be answered on a separate page that is clearly marked and properly referenced.
- 5.3. The completed Form C must be sent to the head of the Body (who, as stated above, shall serve as the Body's Information Officer) by delivery thereof to the street address set out in clause 2.1 hereof or by electronic mail to the email address set out in clause 2.1 hereof. In both instances, proof of payment of the prescribed Request Fee (as set out in clause 5.3.1 hereof) must accompany such written request.
- 5.4. In terms of the Regulations to PAIA, published in February 2002, the Body is entitled to charge the following fees in respect of any requests for records made in terms of PAIA:
 - 5.4.1. Request Fee of R57,50 (incl VAT) (subject to clause 5.4 hereof);
 - 5.4.2. Access Fee for accessing the Body's records, which includes fees associated with the search for, preparation of and the reproduction of documents. Such fees are (excl VAT):

5.4.2.1.	Copy per A4 page	R1,10
5.4.2.2.	Printing per A4 page	R0.75
5.4.2.3.	Copy on CD (or on memory stick provided by the person requesting the record(s) in question)	R70.00
5.4.2.4.	Transcription of visual images per A4 page	R40.00
5.4.2.5.	Copy of a visual image	R60.00
5.4.2.6.	Transcription of an audio recording per A4 page	R20.00
5.4.2.7.	Copy of an audio recording	R30.00
5.4.2.8.	Search and preparation of the record for disclosure	R30,00 per hour or part thereof, excluding the first hour, reasonably required for the search and preparation
5.4.2.9.	Actual postage fee	

5.5. Request Fees are not required to be paid if the request is being made by a person:

5.5.1. who is requesting access to their own personal information;

5.5.2. earning less than R14 712.00 per annum if the person is single;

5.5.3. earning less than R27 192.00 *per annum* if the person is married or has a life partner

5.6. In terms of section 22(1) of PAIA, No request for information will be processed unless and until the Request Fee is paid.

5.7. The completion and submission of Form C does not automatically allow the requestor access to the requested record.

5.8. The Information Officer shall, within 30 days of receipt of the request, advise the requestor of whether the request for access has been granted. In this regard:

- 5.8.1. an application for access to information can be refused in the event that the application does not comply with the procedural requirements of PAIA;
- 5.8.2. an application for access to information will be granted only if:
 - 5.8.2.1. the requested record is required for the exercise or protection of any right;
 - 5.8.2.2. the application complies with the procedural requirements of PAIA;
 - 5.8.2.3. such access is not refused in terms of any grounds for refusal as set out in Chapter 4 of Part 3 of PAIA, such grounds being, briefly, the mandatory protection of, *inter alia*:
 - 5.8.2.3.1. the privacy of a third party who is a natural person (section 34 of PAIA), including the personal information relating to the Body's members and the residents of the Eagle Canyon Golf Estate;
 - 5.8.2.3.2. certain records of the South African Revenue Services (section 35 of PAIA);
 - 5.8.2.3.3. commercial information of a third party (section 36 of PAIA), including any company's trade secrets, financial information, working product information, and other confidential information;
 - 5.8.2.3.4. certain confidential information and protection of certain confidential information of a third party (section 37 of PAIA);
 - 5.8.2.3.5. the safety of individuals and the protection of property (section 38 of PAIA);
 - 5.8.2.3.6. records privileged from production in legal proceedings (section 40 of PAIA).
 - 5.8.2.4. If the requested records relate to the information of third parties, the Body is obliged to attempt to contact the third party in question to inform them of the request, and to give them an opportunity to respond to such a request by either consenting to access to the information requested, or by providing reasons why access to the information requested should be denied. In the event the third party provides reasons for why access to the information requested should be denied, such reasons shall be considered by the Information Officer in determining whether access to the information requested should be granted or denied.
- 5.9. In the event the Information Officer advises the requestor that his/her/its request for access to a record or information is granted, the Information Officer shall, in his response, set out:

- 5.9.1. an indication of the Access Fee that will be payable upon gaining such access;
- 5.9.2. an indication of the form in which access will be granted;
- 5.9.3. a notice that the requestor may lodge an application with the court against the Access Fee to be paid or the form of the access, including guidance on the procedure for lodging the application.

- 5.10. In the event that access to the requested record or information is granted, such access shall only be gained as soon as is reasonably possible and upon payment, in full of the Access Fee as indicated by the Information Officer in terms of clause 5.9.1 hereof.

- 5.11. In the event the Information Officer advises the requestor that his/her/its request for access to a record or information is denied, the Information Officer shall, in his response, set out:
 - 5.11.1. adequate reasons for the refusal;
 - 5.11.2. a notice that the requestor may lodge an application with the court against the refusal, and the procedure, including the period, for lodging the application.

- 5.12. Chapter 2 of Part 4 of PAIA sets out the details on such procedure.

6. REMEDIES IF THE PROVISIONS OF PAIA ARE NOT COMPLIED WITH

Part 4 of PAIA sets out the provisions applicable to internal appeals against decisions of the Information Officer.

7. UPDATING THE MANUAL

In terms of section 51(2) of PAIA, the head of the Body shall update this manual on a regular basis.

8. AVAILABILITY OF THE MANUAL

This Manual is available from the Body at the address referred to in clause 2 hereof, and from the South African Human Rights Commission (Contact person: Tshepang Sebulela - Tel: 011 877 3645 and email address: tsebulela@sahrc.org.za)

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.

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:	Form in which record is required
<p>Mark the appropriate box with an X.</p> <p>NOTES:</p> <p>(a) Compliance with your request in the specified form may depend on the form in which the record is available.</p>	

(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
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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*
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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
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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)
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'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
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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..... on this..... day of20

SIGNATURE OF REQUESTER / PERSON ON
WHOSE BEHALF REQUEST IS MADE