

## **PROMOTION OF ACCESS TO INFORMATION ACT MANUAL**

**SolomonHolmes Attorneys Incorporated**

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**Frequency of Review:** Annually or when there are changes to legislation, whichever date occurs sooner.

**Date of Last Review:**

### **1. DEFINITIONS**

- 1.1. **"Client"** means any prospective, new or existing Client of the Firm;
- 1.2. **"Day"** means a calendar day, including Saturdays, Sundays and public holidays, unless the context indicates otherwise;
- 1.3. **"Data Subject"** includes all living individuals and juristic persons about whom the Firm holds Personal Information;
- 1.4. **"DIO"** means the Deputy Information Officer appointed as such by the Firm in terms of section 56 of POPIA and who will support the IO;
- 1.5. **"Device" and "Mobile Device"** means tablets, mobile or cellular phones, smartphones, handheld computers, PDAs, and laptop or notebook computers, including any accompanying software or hardware;
- 1.6. **"Employee"** means any person who works for or provides services to or on behalf of the Firm and receives or is entitled to receive any remuneration and any other person who assists in carrying out or conducting the business of the Firm. This includes partners, directors, all

permanent, temporary and part-time Employees as well as consultants, independent consultants, agency workers and contract workers;

- 1.7. **"Firm"** means SolomonHolmes Attorneys Incorporated;
- 1.8. **"Image", "Photograph" and "video images"** refer to any kind of image capture, still or moving, obtained by any photographic device including still image cameras, video cameras, webcams and photographic enabled mobile telephones, and any other type of image capture device not specified here, whether digital or not, using technology existent from time to time, the Processing (including storage) of such images includes film negative, film positive (e.g. transparencies and slides, movies, etc.), photographic paper, digital media, magnetic tape and any other kind of storage method able to be used for the storage of images, still or moving, available now or in the future;
- 1.9. **"IO"** means the Information Officer appointed as such by the Firm in terms of section 56 of POPIA and who will have the ultimate responsibility to ensure that the Firm complies with the provisions of POPIA;
- 1.10. **"PAIA"** means the Promotion of Access to Information Act, 2000, including any regulations under that Act;
- 1.11. **"Personal Information"** means information relating to an identifiable, living, natural person, and (where applicable) an identifiable, existing juristic person in particular by reference to an identification number or to one or more factors specific to physical, physiological, mental, economic, cultural or social identity, including the name, race, gender, marital status, address and identifying number of a person, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person, recruitment details, financial history and the like. It also

includes opinions about individuals as well as facts and also applies to corporate contacts;

1.12. **“POPIA”** means the Protection of Personal Information Act, 2013, including any regulations under that Act;

1.13. **“Processing”** refers to any activity that involves use of Personal Information. It includes any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information, including:

- the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- dissemination by means of transmission, distribution or making available in any other form; or
- merging, linking, as well as restriction, degradation, erasure or destruction of Personal Information;

1.14. **“Record”** means any recorded information:

- regardless of form or medium, including any of the following:
  - writing on any material;
  - information produced, recorded or stored by means of any tape- recorder, computer equipment, whether hardware or software or both, or other Device, and any material subsequently derived from information so produced, recorded or stored;
  - label, marking or other writing that identifies or describes anything of which

it forms part, or to which it is attached by any means;

- book, map, plan, graph or drawing;
- photograph, film, negative tape, or other Device in which one or more visual Images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced;

- in the possession or under the control of a Responsible Party;
- whether or not it was created by a Responsible Party; and
- regardless of when it came into existence;

1.15. **"Responsible Party"** is the person who or organisations which determine the purposes for which, and the manner in which, any personal information is processed. They have a responsibility to establish practices and policies in line with POPIA. The Firm is the responsible party of all Personal Information used in its business; and

1.16. **"Special Personal Information"** includes Personal Information concerning the religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health, sex life or biometric information of a Data Subject, or the criminal behaviour of a Data Subject to the extent that such information relates to the alleged commission by a Data Subject of any offence; or any proceedings in respect of any offence allegedly committed by a Data Subject or the disposal of such proceedings.

## 2. INTRODUCTION

2.1. This Manual has been prepared in accordance with section 51 of PAIA and the POPIA.

2.2. The purpose of this Manual is to facilitate requests for access to Records held by the Firm and to provide information regarding the Processing of Personal Information by the Firm.

## 3. NATURE OF BUSINESS

The Firm is a specialist employment and labour law practice based in Johannesburg, South Africa.

## 4. CONTACT DETAILS OF THE INFORMATION OFFICER AND DEPUTY INFORMATION OFFICER

<b>IO Name:</b>	Anthony Solomon
<b>DIO Name:</b>	Theresa Achada
<b>Physical Address:</b>	Le Val Westcliff 45 Jan Smuts Avenue Westcliff Randburg 2193
<b>Postal Address:</b>	P.O. Box 72181 Parkview 2122
<b>Telephone:</b>	+27 11 646 4235
<b>Email address of IO:</b>	solly@solomonholmes.co.za
<b>Email address of DIO:</b>	theresa@solomonholmes.co.za

**Website:** www.solomonholmes.co.za

## 5. GUIDE ON HOW TO USE PAIA

A guide on how to use PAIA is available from the *Information Regulator* <https://inforegulator.org.za/paia/>. Contact details of the Information Regulator:

**Physical Address:** JD House  
27 Stiemens Street  
Braamfontein  
Johannesburg  
0001

**Telephone:** +27 010 023 5200

**Email address:** enquiries@inforegulator.org.za

**Website:** www.inforegulator.org.za

## 6. RECORDS AVAILABLE WITHOUT A PAIA REQUEST

6.1. The following records are automatically available without a requestor having to formally request access thereto in terms of this Manual. Such information is obtainable via the Firm's website:

6.1.1. This PAIA Manual

6.1.2. Privacy Notice

6.1.3. Employment opportunities

6.1.4. General information published on the Firm's website

6.1.5. Contact details

6.1.6. Press releases or publications

6.1.7. Various other marketing and promotional material

## **7. RECORDS HELD BY THE FIRM IN TERMS OF POPIA**

7.1. The Firm may collect all types of Personal Information such as identification information, contact information, employment information, financial information, educational information, litigation-related information, correspondence and Special Personal Information where legally permissible relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including but not limited to –

- 7.1.1. name, address (including proof of address), other contact details (e.g. email and telephone numbers), gender, marital status, date and place of birth, nationality, employer, job title, financial records and employment history, and family details;
- 7.1.2. identification numbers issued by government bodies or agencies, such as Clients identity number, passport number, tax identification number and driving licence number and company registration number;
- 7.1.3. demographic information such as addresses, preferences and interests;
- 7.1.4. information relevant to the provision of the Firm's legal services;
- 7.1.5. information relevant to the procurement of products and services from suppliers;
- 7.1.6. bank account or payment card details, income or other financial information;
- 7.1.7. information provided to the Firm as part of the Firm providing legal services, which depends on the nature of the instructions;
- 7.1.8. special or sensitive personal information as defined in applicable data protection legislation, including information about health, racial or ethnic origin, political opinions, religious or philosophical beliefs and trade union membership; genetic and biometric information;
- 7.1.9. relevant information as required by applicable laws, including anti-money laundering legislation and as part of the Firm's onboarding procedures, including evidence of source of funds; and

7.1.10. information provided to the Firm for the purposes of attending meetings and events, including dietary requirements which may reveal information about the persons' health or religious beliefs.

## 8. PROCESSING OF PERSONAL INFORMATION

### *Categories of Data Subjects*

The Firm may Process Personal Information relating to:

<b>DATA SUBJECT</b>	<b>PERSONAL INFORMATION THAT MAY BE PROCESSED</b>
<b>Clients</b>	Personal Information of Clients  Client files  Instructions and mandates  Correspondence  Pleadings  Opinions  Agreements  Investigation reports  Arbitration records  Court documents
<b>Job applicants and employees of the Firm</b>	Employment contracts  Personnel records  Leave records  Payroll records  Performance records

	<p>Disciplinary records</p> <p>Training records</p>
<b>The Firm's Internal Records</b>	<p>Memorandum of Incorporation</p> <p>Shareholder records</p> <p>Statutory registers</p> <p>Corporate governance records</p> <p>Tax records</p> <p>Financial statements</p> <p>Accounting records</p> <p>Trust account records</p> <p>Invoices</p> <p>Banking records</p>
<b>Service providers &amp; Contractors</b>	<p>Identification and Contact Information</p> <p>Business and Professional Information</p> <p>Financial and Banking Information</p> <p>Contractual Information</p> <p>Compliance and Due Diligence Information</p> <p>Access, Security and IT Information</p>
<b>Any third party with whom the Firm conducts business</b>	<p>Identification and contact details</p> <p>Business and professional information</p> <p>Banking and financial information</p> <p>Tax and regulatory information</p>

	<p>Contractual records</p> <p>Due diligence information</p> <p>Correspondence and communication records</p> <p>Any other information reasonably required to establish, manage or terminate a business relationship</p>
<b>Opposing parties</b>	<p>Identification and Contact Information</p> <p>Employment and Business Information</p> <p>Litigation and Dispute-Related Information</p> <p>Financial Information</p>
<b>Witnesses</b>	<p>Identification and Contact Information</p> <p>Employment and Professional Information</p> <p>Evidence and Matter-Related Information</p>
<b>Visitors</b>	<p>Identification and Contact Information</p> <p>Access and Security Information</p> <p>Health and Safety Information</p>

***The purpose of Processing Personal Information***

8.1. Personal Information is Processed for *inter alia*:

- 8.1.1. Provision of legal services and related matters
- 8.1.2. Employment administration
- 8.1.3. Client relationship management
- 8.1.4. Compliance with legal obligations
- 8.1.5. Litigation and dispute resolution

8.1.6. Regulatory reporting

8.1.7. Business administration

## **9. RECIPIENTS OF PERSONAL INFORMATION**

9.1. Depending on the nature of the Personal Information, the Firm may supply information of Records to the following category of recipients:

9.1.1. Courts and tribunals, including but not limited to, the CCMA and bargaining councils

9.1.2. Government departments

9.1.3. Regulatory authorities

9.1.4. Counsel and expert witnesses

9.1.5. Service providers

9.1.6. Auditors

9.1.7. Insurers

9.1.8. Banks

9.1.9. Professional advisers

9.1.10. Where required by law or Client mandate

## **10. CROSS-BORDER TRANSFERS**

10.1. The Firm may transfer Personal Information outside South Africa where *inter alia*:

10.1.1. Required for the provision of legal services;

10.1.2. Necessary for cloud-based technology solutions; and

10.1.3. Required by law.

10.2. When the Firm transfers Data Subject's Personal Information to another country, it will fully comply with applicable South African data protection legislation including POPIA and PAIA.

## **11. SECURITY MEASURES**

- 11.1. The Firm takes appropriate information security measures to ensure the confidentiality, integrity and availability of Personal Information in its possession.
- 11.2. The Firm maintains appropriate technical and organisational measures to protect Personal Information against unauthorised and unlawful Processing and against accidental loss, destruction or damage, including but not limited to:
  - 11.2.1. Security policies, procedures and standards
  - 11.2.2. Access controls
  - 11.2.3. Password protection
  - 11.2.4. Multi-factor authentication
  - 11.2.5. Secure document storage
  - 11.2.6. Regular data backups
  - 11.2.7. Use of anti-virus and anti-malware solutions
  - 11.2.8. Confidentiality obligations
  - 11.2.9. Employee training
  - 11.2.10. Physical security controls
  - 11.2.11. Data retention and destruction procedures

## **12. REQUEST PROCEDURE**

- 12.1. Requests for access to a Record must:
  - 12.1.1. Be made in writing;
  - 12.1.2. Be addressed and emailed to the Information Officer and Deputy Information Officer;
  - 12.1.3. Be submitted using the prescribed form. Please refer to *Form 02 Request for Access to Record [Regulation 7]*; <https://inforegulator.org.za/paia-forms/>

12.1.4. Provide sufficient particulars to identify the requested Record.

12.2. Requests for Records should be fully motivated.

12.3. The Firm will process requests in accordance with PAIA.

12.4. Requests which do not comply with the formalities as prescribed by PAIA will be returned to the requester.

### ***Proof of Identity***

12.5. Proof of identity (as required under paragraph 1 of *Form 02 Request for Access to Record* [Regulation 7]; <https://inforegulator.org.za/paia-forms/> is required to authenticate the Data Subject's identity and the request.

12.6. The Data Subject will, in addition to this prescribed form, be required to submit acceptable proof of identity such as a certified copy where applicable of their identity document or other legal forms of identity.

### ***Payment of the prescribed fees***

12.7. There are two categories of fees which are payable:

12.7.1. The request fee: R140.00 (one hundred and forty Rand);

12.7.2. The access fee: This is calculated by taking into account reproduction costs, search and preparation costs, as well as postal costs. These fees are set out in fees in respect of private bodies.

12.8. Section 54 of PAIA entitles the Firm to levy a charge or to request a fee to enable it to recover the cost of Processing a request and providing access to Records. The fees that may be charged are set out in Regulation 9(2)(c) promulgated under PAIA.

12.9. Where a decision to grant a request has been taken, the Record will not be disclosed until the necessary fees have been paid in full.

### ***Timelines for consideration of a request***

12.10. Requests will be processed within 30 (thirty) days.

12.11. If the Record is held by a third party, access may be granted within 60 (sixty) days of the request being made.

12.12. Should an extension be required, the requestor will be notified, together with reasons explaining why the extension is necessary.

### **13. GROUNDS FOR REFUSAL**

13.1. Access to records may be refused on grounds recognised by PAIA, including but not limited to:

13.1.1. Legally privileged information;

13.1.2. Confidential commercial information of a third party (example, trade secrets; financial, commercial, scientific or technical information that may harm the commercial or financial interests of a third party);

13.1.3. The protection of Personal Information of third parties from unreasonable disclosure;

13.1.4. Records relating to litigation;

13.1.5. Safety and security concerns; and

13.1.6. Other statutory grounds for refusal.

13.2. Section 70 of PAIA contains an overriding provision. Disclosure of a Record is compulsory if it would reveal:

13.2.1. a substantial contravention of, or failure to comply with the law; or

13.2.2. there is an imminent and serious public safety or environmental risk; and

13.2.3. the public interest in the disclosure of the Record in question clearly outweighs the harm contemplated by its disclosure.

13.3. If the request for access to information affects a third party, then such third party must first be informed within 21 (twenty-one) days of receipt of the request. The third party would then have a further 21 (twenty-one) days to make representations and/or submissions regarding the granting of access to the Record.

### **14. REMEDIES AVAILABLE TO A REQUESTER ON REFUSAL OF ACCESS**

- 14.1. All requests for access will be evaluated on a case-by-case basis and in accordance with the provisions of PAIA. The Firm takes the protection of third-party confidential information seriously and all requests for Records will be carefully considered. The decision made by the IO after a request to access of information is final.
- 14.2. Where a third party is affected by the request for access and the IO has decided to grant access to the Record, the third party has 30 (thirty) days in which to appeal the decision in a court of competent jurisdiction. If no appeal has been lodged by the third party within 30 (thirty) days, access to the Record must be granted.

## **15. AVAILABILITY OF THIS MANUAL**

15.1. This Manual is available:

15.1.1. On the Firm's website; and

15.1.2. At the Firm's offices.