

**PRIVACY MANUAL IN TERMS OF
THE PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000
AND
THE PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013
OF
HAY & SCOTT ATTORNEYS**

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1. INTRODUCTION

This manual is published in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 (“**PAIA**”) and in compliance with the Protection of the Personal Information Act 4 of 2013 (“**POPI**”) together with the regulations to POPI, published under Government Notice R1383 in Government Gazette 42110 dated 14 December 2018 (“**Regulations**”).

This manual applies to the legal firm of Hay & Scott Attorneys (“**Firm**”).

The Firm is registered with the Legal Practice Council (“**LPC**”) and is subject to the Legal Practice Act 28 of 2014 (“**Legal Practice Act**”) and the rules, regulations and code of conduct issued in terms of the Legal Practice Act and by the LPC.

This manual details the categories of information that the Firm holds, how this information is used and stored, the manner in which such information may be accessed and grounds for refusal of access to such information.

2. INFORMATION OFFICER

The Information Officer of the Firm is: Simon Rory Pennefather.

Contact number: 033-3424800

Email: simon@hayandscott.co.za

3. CONTACT DETAILS FOR THE FIRM

Name of Entity: Hay & Scott Attorneys

Physical address: Top Floor, 3 Highgate Drive, Redlands Estate, 1 George MacFarlane Lane,
Pietermaritzburg

Postal address: P.O. Box 12 000, Dorpspruit, 3206

Head of Entity: Paul Simon Hay

Telephone: 033-3424800

Email: info@hayandscott.co.za

4. AVAILABILITY OF THE MANUAL

4.1 This manual may be accessed directly from the Firm in the following manner:

4.1.1 this manual is available for inspection, free of charge, at the offices of the Firm, at the physical address detailed in clause 3 above;

4.1.2 copies of the manual may be obtained, subject to payment of the prescribed fees, at the offices of the Firm, at the physical address detailed in clause 3 above;

4.1.3 a copy of this manual is available in an electronic format on request from the Information Officer, on the details in clause 2 above; or

4.1.4 on the Firm's website: <http://www.hayandscott.com>.

5. GUIDE ON THE USE OF PAIA IN TERMS OF SECTION 10 OF PAIA

5.1 A guide on how to use PAIA has been compiled by the South African Human Rights Commission in terms of Section 10 of PAIA.

5.2 This guide is available in each of the official languages.

5.3 The guide may be accessed by requesting a copy through the following channels:

Postal address: Private Bag 2700, Houghton 2041

Physical address: Braampark Forum 3, 33 Hoofd Street, Braamfontein

Telephone: 011 877 3600

E-mail: info@sahrc.org.za

Website: www.sahrc.org.za

6. RECORDS AVAILABLE AND HELD IN ACCORDANCE WITH OTHER LEGISLATION

6.1 The Firm holds records in accordance with the following legislation, including all regulations issued in terms of such legislation (the below is not an exhaustive list):

- 6.1.1 Legal Practice Act 28 of 2014;
- 6.1.2 Consumer Protection Act 68 of 2008;
- 6.1.3 Competition Act 89 of 1998;
- 6.1.4 The Companies Act 71 of 2008;
- 6.1.5 The Labour Relations Act 66 of 1995;
- 6.1.6 Employment Equity Act 55 of 1998;
- 6.1.7 The Skills and Development Act 97 of 1998;
- 6.1.8 Electronic Communications and Transactions Act 25 of 2002;
- 6.1.9 Basic Conditions of Employment Act 75 of 1997;
- 6.1.10 Compensation for Occupational Injuries and Diseases Act 130 of 1993;
- 6.1.11 Financial Intelligence Centre Act 38 of 2001;
- 6.1.12 Income Tax Act 58 of 1962;
- 6.1.13 Occupational Health and Safety Act 85 of 1993;
- 6.1.14 Trust Property Control Act 57 of 1988;
- 6.1.15 Unemployment Insurance Act 63 of 2001; and
- 6.1.16 Value-added Tax Act 89 of 1991.

6.2 Certain information kept in terms of the above legislation is protected from disclosure in terms of such legislation. Any disclosure of requested information will be subject to the request procedure as detailed in clause 15 below and the grounds for refusal stipulated in clause 16 below.

7. RECORDS AUTOMATICALLY AVAILABLE TO THE PUBLIC

The following records are automatically available to the public, without having to submit a formal request to access the information in terms of clause 15 below:

- 7.1 All publication and information made available on the website of the Firm;
- 7.2 List of services provided by the Firm;

- 7.3 The standard terms and conditions of the Firm;
- 7.4 Consent forms;
- 7.5 Information request forms; and
- 7.6 Objection or correction request forms.

8. CATEGORIES AND TYPES OF RECORDS AND INFORMATION HELD BY THE FIRM

8.1 The following records and information are or may be collected, processed and held by the Firm:

8.1.1 FIRM RECORDS

- Firm registration documents
- Fidelity Fund Certificate
- Insurance policy documents

8.1.2 FINANCIAL RECORDS

- Annual Financial Statements
- Tax Returns and other tax records
- Accounting Records
- Banking Records
- Bank Statements
- Invoices and statements

8.1.3 EMPLOYEE RECORDS

- Employment contracts
- Tax information
- Bank account details
- Contact details and physical and postal addresses
- Name and Identity number
- Medical aid information
- Leave records
- Records of disciplinary action

8.1.4 **ADMINISTRATION & OPERATIONAL RECORDS**

- General Housekeeping information

8.1.5 **CLIENT DOCUMENTS AND MATTER RECORDS**

- Names and Identity numbers
- Entity names and registration numbers
- Contact details and residential and postal addresses
- Consent forms
- Financial and accounts information
- Research information
- Tax information
- The time, date and place of consultations
- Consultation notes
- Correspondence to and from the client and other parties involved in matters
- Any contracts / documents provided to the Firm by the client
- Court pleadings, notices and other documentation

The above is a non-exhaustive list.

8.2 The listing of the records kept by the Firm does not mean that all such information is available to the public. Certain records listed above are protected from disclosure in terms of legislation. Any disclosure of requested information will be subject to the request procedure as detailed in clause 15 below and the grounds for refusal stipulated in clause 16 below.

8.3 Anyone whose personal information is held by the Firm or where a client has provided their written consent to the processing of personal information, such person or client has the right to submit a request to the Firm to withdraw his or her consent or to object to the processing of his or her personal information on reasonable grounds. Such request must be submitted on prescribed Form 1, which is available on request from the Information Officer.

9. PURPOSE OF THE PROCESSING OF THE RECORDS KEPT BY THE FIRM

- 9.1 The Firm may process the records detailed in clause 8 above for the following purposes:
- 9.1.1 to comply with legislation.
 - 9.1.2 for retention of records as required by law or in terms of an agreement with a third party, i.e. service level agreement;
 - 9.1.3 to provide legal services;
 - 9.1.4 facilitate the collection of fees for the services provided by the Firm;
 - 9.1.5 the storage of the personal information with external storage and record management companies;
 - 9.1.6 the storage of the personal information in a secure cloud based storage facility; and
 - 9.1.7 to verify the accuracy, correctness, completeness of any information provided to the Firm.

10. CATEGORIES OF RECIPIENTS FOR PROCESSING THE PERSONAL INFORMATION

- 10.1 The Firm may, subject to authorization in terms of any applicable legislation or with the clients consent, share relevant personal information of a client with:
- 10.1.1 any statutory oversight bodies, regulators or judicial commissions of enquiry making a request for data (i.e. the Information Regulator, any ombudsman, the LPC etc.);
 - 10.1.2 any court, administrative or judicial forum;
 - 10.1.3 the Sheriff of the High Court and the Magistrates Court;
 - 10.1.4 the Master of the High Court;
 - 10.1.5 any Deeds Registry;
 - 10.1.6 any advocate instructed in the client's matter;
 - 10.1.7 any other firm of legal practitioners involved in the client's matter;
 - 10.1.8 South African Revenue Services;
 - 10.1.9 service providers rendering accounting and auditing services;
 - 10.1.10 service providers who capture, organize and store data; and
 - 10.1.11 a third party when required by law or authorised by court order.
- 10.2 The personal information will be shared in compliance with the legal obligation of the Firm to protect the integrity and confidentiality of the client's personal information and only to the extent absolutely necessary to achieve the purposes detailed in clause 9.

- 10.3 The sharing of a client's personal information will be subject to the obligation of confidentiality by virtue of the position held by the person with whom the personal information is shared or where such person's position does not impose such an obligation of confidentiality, in terms of a declaration or undertaking which the Firm shall secure with such person.

11. PLANNED TRANS-BORDER FLOW OF PERSONAL INFORMATION

The Firm does not have any planned trans-border flow of personal information. However, data may be transferred trans-border in order to (i) store data with third party cloud storage providers and/or (ii) to render services in respect of matters or transactions involving a party or parties located outside South Africa.

12. THE SUITABILITY OF THE INFORMATION SECURITY MEASURES

- 12.1 Personal information collected by the Firm in a physical form shall be stored:
- 12.1.1 securely at the offices of the Firm or at a secure off-site location;
 - 12.1.2 the offices of the Firm are locked at all times and has strict access control;
 - 12.1.3 the premises at which the Firm is located is protected by security systems and has a security guard posted at the entrance to the estate; and
 - 12.1.4 with offsite document storage and record management company, subject to strict security obligations.
- 12.2 Personal information collected by the Firm in an electronic format shall be stored:
- 12.2.1 on laptops / computers which are password protected;
 - 12.2.2 on data storage systems and emails which are password protected and only designated persons have the password to access such data storage systems and emails;
 - 12.2.3 the laptops / computers of the Firm have a secure setup of hardware and software making up the IT infrastructure, including Firewalls, Virus protection software and update protocols to prevent hacking; and
 - 12.2.4 electronic records are backed up to a third-party cloud storage provider on a password protected account.

13. RETENTION OF CLIENT RECORDS

- 13.1 In accordance with rule 54.9 of the rules issued under the Legal Practice Act, client records are to be kept for a minimum period of seven (7) years from the date of the last entry recorded in each particular book or other document of record or file.
- 13.2 All personal information collected by the Firm will only be kept for as long as the Firm is required by law to keep such personal information, whereafter the information will be destroyed in accordance with the procedure as detailed in clause 14 below.

14. DESTRUCTION OF PRIVATE AND CONFIDENTIAL RECORDS

When destroying personal information, the Firm makes use of such methods which shall render the documents unintelligible and incapable of reconstruction, which could include the shredding or incineration of all documents containing personal information.

15. ACCESS REQUEST PROCEDURE

- 15.1 To obtain access to information held by the Firm, the requester must complete Form C in full, and submit the completed form to the Information Officer detailed above, together with proof of payment of the fee payable as prescribed in terms of PAIA.
- 15.2 Form C may be requested from the Information Officer of the Firm, alternatively by following this link: https://www.justice.gov.za/forms/paia/J752_paia_Form%20C.pdf.
- 15.3 If a requester is unable to complete the prescribed form due to illiteracy or disability, the request may be made verbally to the Information Officer.
- 15.4 If the request is made on behalf of another person, proof must be submitted of the capacity in which the requester is making the request.
- 15.5 Proper identification must be provided before any information will be disclosed. The Firm may take further steps to confirm the authority and identity of the requester.

- 15.6 The Information officer will provide a response as soon as reasonably possible after receipt of the correctly completed Form C, but by no later than 30 days after the request has been received.
- 15.7 If the Information Officer grants the request for access to information, the Information Officer will advise the requester of the fees payable for access to the requested information (if any) and the form in which access will be given.
- 15.8 The fees payable for access to information are prescribed in terms of PAIA.
- 15.9 The Information Officer may refuse a request on the grounds stipulated in clause 16 below. In the event that the Information Officer refuses a request for information, the Information Officer shall provide the requester with written reasons for the refusal.
- 15.10 In the event that:
- 15.10.1 the Information Officer fails to respond within the 30 day period;
 - 15.10.2 the requesters request is refused; or
 - 15.10.3 the requester is dissatisfied with the access fee to be paid, the form of access granted, and / or the procedure for obtaining access,
- the requester may within 180 days of the expiry of the 30 day period, where the information officer has failed to respond, OR within 180 days of receipt by the requester of the notification of the decision of the Information Officer, submit a complaint to the Information Regulator or apply to any Magistrates' Court having jurisdiction, for relief.
- 15.11 Where a requester has been granted access to records, the requester may submit a request to the Information officer to correct or delete such record where the record is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or was obtained unlawfully. Such request must be submitted on prescribed Form 2, which is available on request from the Information Officer.

16. GROUNDS FOR REFUSAL TO ACCESS TO RECORDS - CHAPTER 4 OF PAIA

- 16.1 A request to access information must be refused by the Firm on the following grounds:

- 16.1.1 Mandatory protection of the privacy of a third party who is natural person;
 - 16.1.2 Mandatory protection of the commercial information of a third party;
 - 16.1.3 Mandatory protection of certain confidential information of a third party;
 - 16.1.4 Mandatory protection of safety of individuals, and protection of property;
 - 16.1.5 Mandatory protection of records privileged from production in legal proceedings;
 - 16.1.6 Commercial information of a private body; and
 - 16.1.7 Mandatory protection of research information of a third party, and protection of research information of a private body;
- 16.2 The Information Officer has the discretion to refuse access to information on the following grounds:
- 16.2.1 the disclosure of such information relating to a third party would prejudice the supply of similar information in the future;
 - 16.2.2 where the record contains information around crime prevention, detection and prosecution of alleged offenders;
 - 16.2.3 where the disclosure would unreasonably reveal consultative material obtained on account of deliberations over formulation of policy, exercise of power or performance of a duty; and
 - 16.2.4 where the request is frivolous or vexatious.
- 16.3 In terms of the code of conduct issued by the LPC, Legal Practitioners are obligated to maintain legal professional privilege and confidentiality regarding the affairs and information of present or former clients or employees. Rule 50.7 of the rules issued under the Legal Practice Act states that Legal Practitioners may not disclose any information received from a client, which he or she obtained in the performance of his or her duties as a legal practitioner, except in very limited circumstances. Such rules will be strictly applied in all requests for the personal information of a client.

17. PRESCRIBED FEES

Prescribed fees for access to records of private body:

1.	The request fee payable by a requester, other than a personal requester	R50.00
2.	The fee for reproduction of a record, is as follows:	
	a. For every photocopy of an A4-size page or part thereof	R1.10
	b. For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R0.75
	c. For a copy in a computer-readable form on a compact disc:	R70.00
	d. For a transcription of visual images, for an A4-size page or part thereof:	R40.00
	e. For a copy of visual images:	R60.00
	f. For transcription of an audio record, for an A4-size page or part thereof:	R20.00
	g. For a copy of an audio record	R30.00
	h. To search for and prepare the record for disclosure, R30,00 for each hour or part of an hour reasonably required for such search and preparation	

18. THE LATEST NOTICE IN TERMS OF SECTION 52(2)

To date, the Firm has not published any notice in terms of Section 52 (2) of PAIA.

19. COMPLAINT TO THE INFORMATION REGULATOR

19.1 Any person has the right to submit a complaint to the Information Regulator regarding the alleged interference with the protection of the personal information of any person whose information is collected by the Firm.

19.2 A complaint may be submitted to the Information Regulator through the following channels:

The Information Regulator (South Africa):

JD House, 27 Stiemens Street, Braamfontein, Johannesburg, 2001

Email: complaints.IR@justice.gov.za

Telephone: 012 406 4818

END OF MANUAL