



PAIA MANUAL

for

BRAND *et al* (Pty) Ltd

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This PAIA Manual (hereinafter referred to as “the Manual”) has been prepared in terms of Section 51 of the Promotion of Access to Information Act No. 2 of 2000 (hereinafter referred to as “PAIA”), with careful consideration of the provisions of the Protection of Personal Information Act No. 4 of 2013 (hereinafter referred to as “POPIA”).

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1. INTRODUCTION

The Bill of Rights in Chapter 2 of the Constitution of the Republic of South Africa, Act 108 of 1996 (hereinafter referred to as “the Constitution”) define the rights of the people and provide to whom, and how the rights apply, and also regulate when and how the rights may be limited.

Section 14 of the Constitution protects the right to privacy, and the Protection of Personal Information, Act 4 of 2013 is the primary instrument used to regulate data protection in South Africa.

In order to empower the people of South Africa to fully exercise and protect all of their rights, and specifically the right to privacy as provided for in Section 32(1) of the Constitution; the Promotion of Access to Information Act No. 2 of 2000 actively enables access to records and/ or information held by a governmental body and/ or any information held by another person (juristic or natural in nature).

In other words, by accessing the information held by another person (juristic or natural in nature) each person can protect their privacy by managing what Personal Information is shared and how it is processed.

2. INTERPRETATION

2.1. In this Manual, words shall be interpreted as defined in the Promotion of Access to Information Act No. 2 of 2000.

2.2. For ease of reference only, **BRAND et al** includes the following definitions contained in the abovementioned legislation:

2.2.1. “Personal Requester” means a natural person requesting access to a Record which contains personal information about himself or herself;

2.2.2. “Personal Information” means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to:

2.2.2.1. information relating to the race, gender, sex, pregnancy, marital status, national, ethnic, or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;

2.2.2.2. information relating to the education or the medical, financial, criminal or employment history of the person;

2.2.2.3. any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier, or other particular assignment to the person;

2.2.2.4. the biometric information of the person;

2.2.2.5. the personal opinions, views, or preferences of the person;

2.2.2.6. correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;

2.2.2.7. the views or opinions of another individual about the person; and

2.2.2.8. the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;

2.2.3. “Record” means any recorded information, in any form or medium in possession of the **BRAND et al**; and

2.2.4. “Requester” means any person requesting access to a record held by the **BRAND et al**.

3. PURPOSE OF THE MANUAL

3.1. This Manual provides a description of Records held by the **BRAND et al**, and the purpose for which personal information is processed.

3.2. It furthermore provides guidance as to the procedure for requesting access to such Records, and how such a request for access should be dealt with by the **BRAND et al**.

3.3. Although **BRAND et al** acknowledges the Requester’s right (whether Private or not), to have access to records kept by **BRAND et al**, the aforesaid access shall be strictly limited by prudent application of the provisions of POPIA. **BRAND et al** implements extensive security measures to ensure the confidentiality and integrity of Personal Information in its possession.

3.4. The Manual also contains the list of grounds upon which **BRAND et al** may rely in refusing access to a Record held by same.

4. GUIDE ON THE APPLICATION OF PAIA

- 4.1. The South African Human Rights Commission (hereinafter referred to as “the SAHRC”) has, in terms Section 10 of PAIA, compiled a guide providing information to members of the public who wish to exercise their right of access to information, on how to use PAIA, and the guide is available in all the official South African languages at various public information centres as prescribed in terms of PAIA.
- 4.2. The aforementioned guide can also be accessed through the SAHRC’s website on www.sahrc.org.za, or queries can be directed to:

The South African Human Rights Commission: PAIA Unit The Research and Documentation Department	
Postal address:	Private Bag 2700
Physical address:	Braampark Forum 3 Hoofd Street Braamfontein Johannesburg
Telephone:	+27 11 877 3622
Website:	www.sahrc.org.za
E-mail:	PAIA@sahrc.org.za info@sahrc.org.za

5. RECORDS KEPT IN TERMS OF LEGISLATION APPLICABLE TO BRAND ET AL

- 5.1. **BRAND et al** keeps records as required by the following legislation:

- 5.1.1. Labour Relations Act (Act no. 66 of 1995)
- 5.1.2. Basic Conditions of Employment Act (Act no. 75 of 1997)
- 5.1.3. Employment Equity Act (Act no. 55 of 1998)

- 5.1.4. Unemployment Insurance Contributions Act (Act no. 4 of 2002)
- 5.1.5. Unemployment Insurance Act (Act no. 63 of 2001)
- 5.1.6. Skills Development Levies Act (Act no. 9 of 1999)
- 5.1.7. Skills Development Act (Act no. 97 of 1998)
- 5.1.8. Compensation for Occupational Injuries and Diseases Act (Act no. 130 of 1993)
- 5.1.9. Occupational Health and Safety Act (Act no. 85 of 1993)
- 5.1.10. Companies Act (Act no. 71 of 2008)
- 5.1.11. Income Tax Act (Act no. 95 of 1967)
- 5.1.12. Value Added Tax Act (Act No. 89 of 1991)
- 5.1.13. Long Term Insurance Act (Act no. 52 of 1998)
- 5.1.14. Short Term Insurance Act (Act no. 53 of 1998)
- 5.1.15. Copyright Act (Act no. 98 of 1978)
- 5.1.16. Trade Marks Act (Act no. 194 of 1993)
- 5.1.17. National Credit Act (Act no. 34 of 2005)
- 5.1.18. Electronic Communications and Transactions Act (Act no. 25 of 2002)
- 5.1.19. Intellectual Property Laws Amendment Act (Act no. 28 of 2013)

6. CATEGORISATION OF RECORDS

6.1. The Records kept by the **BRAND et al** are categorised as follows:

6.1.1. Administration and Management:

6.1.1.1. Company Records;

6.1.1.2. Statutory Records;

6.1.1.3. **BRAND et al** policies and procedures;

6.1.1.4. Minutes of internal meetings;

6.1.1.5. Risk insurance and insurance Records; and

6.1.1.6. Commercial contracts.

6.1.2. Financial Records:

6.1.2.1. Annual financial statements;

6.1.2.2. Asset Registers;

6.1.2.3. Auditor's reports;

6.1.2.4. Banking records;

6.1.2.5. Creditors and debtors' Records;

6.1.2.6. Invoices and statements; and

6.1.2.7. Tax Returns.

6.1.3. Operational Records:

6.1.3.1. PAYE Records;

6.1.3.2. Documents issued to employees for income tax purposes;

6.1.3.3. Records of payment made to SARS on behalf of employees;

6.1.3.4. VAT Records;

6.1.3.5. Skills development levies;

6.1.3.6. Records of Unemployment Insurance Fund contributions;

6.1.3.7. Workmen's compensation Records; and

6.1.3.8. Service Level Agreements.

6.1.4. Employee Records:

6.1.4.1. List of Employees;

6.1.4.2. Appointment Records and employment contracts;

- 6.1.4.3. Payroll Records;
- 6.1.4.4. Health and safety records;
- 6.1.4.5. Internal policies and administrative forms;
- 6.1.4.6. Training schedules; and
- 6.1.4.7. Personnel Records including personal details, disciplinary records, performance and assessment Records.

6.1.5. Information Technology:

- 6.1.5.1. Computer software;
- 6.1.5.2. User statistics; and
- 6.1.5.3. Software licenses.

6.1.6. Records pertaining to clients:

- 6.1.6.1. Limited Personal Information which is required to perform services to the client;
- 6.1.6.2. Client's historical interaction with **BRAND et al**; and
- 6.1.6.3. Client's marketing preferences regarding products and services.

7. INFORMATION OFFICER

- 7.1. The responsibility for the administration of, and compliance with, the provisions of PAIA and POPIA have been delegated by the Chief Executive Officer of the **BRAND et al** to its Information Officer.
- 7.2. A Requester who wishes to acquire further information in regard to the use of this Manual and/or procedure to be followed to obtain access to a Record, may direct enquiries to the Information Officer at the following contact details:

Chief Executive Officer:	Dr. P.C. Van der Westhuizen
Information Officer:	Marcelle White
Postal address:	PO Box 2931 Faerie Glen 0043
Physical address:	Boardwalk Office Park c/o Solomon Mahlangu & Haymeadow Faerie Glen Pretoria
Website:	http://www.etal.co.za
Telephone:	(012) 991 7810
E-mail:	marcelle@etal.co.za

8. PROCESSING OF PERSONAL INFORMATION

- 8.1. In terms of POPIA, Personal Information may only be processed for a specific purpose.
- 8.2. **BRAND et al** may process Personal Information as part of its internal commercial administration which includes employee administration and compliance with tax laws and any other applicable legislative and regulatory requirements.
- 8.3. Furthermore, **BRAND et al** processes Personal Information of clients when rendering services to same which includes details of clients' accounts.
- 8.4. **BRAND et al** explicitly discloses the purpose for processing of Personal Information at the time the Personal Information is collected, and only proceeds with the processing thereof once consent has been given by the person whose Personal Information is collected.
- 8.5. **BRAND et al** may process Personal Information and retain Records relating to natural or juristic persons who fall within the following non-exhaustive categories:

- 8.5.1. Contracted service providers;
 - 8.5.2. Clients;
 - 8.5.3. Suppliers;
 - 8.5.4. Employees;
 - 8.5.5. Directors; and
 - 8.5.6. Any third party with whom **BRAND et al** conducts business.
- 8.6. **BRAND et al** may supply Personal Information to the following recipients:
- 8.6.1. Statutory oversight bodies, regulators or judicial commissions of enquiry making a request for the Records;
 - 8.6.2. Any court, administrative or judicial forum, arbitration, statutory commission, or ombudsman making a request therefor in terms of the applicable rules;
 - 8.6.3. The South African Revenue Services, or another similar authority;
 - 8.6.4. Third parties with whom **BRAND et al** have a contractual relationship for the capturing, organising, storage and/or retention and archiving of data; and
 - 8.6.5. Anyone making a successful application for access in terms of PAIA.
- 8.7. Subject to the provisions of POPIA and the National Credit Act (Act no. 34 of 2005), **BRAND et al** may share information about a client's creditworthiness with any credit bureau or credit provider's industry association or other association for an industry in which **BRAND et al** operates.
- 8.8. **BRAND et al** may only transfer Personal Information of a client (whether a natural or juristic person) to a third party domiciled in a foreign country for the purpose of rendering certain commercial services to that client, if the recipient of the Personal Information is subject to a law, binding corporate rules or binding agreement which provide an adequate level of protection that effectively upholds the principles for processing of the information that are substantially similar to the conditions for the lawful processing of Personal Information in South Africa. This transfer remains subject in the first instance to the client's consent to transfer the information. In addition hereto, the transfer must be necessary for the performance in terms of a contract concluded in the interest of the client between **BRAND et al** and a third party.

9. SUBMITTING A REQUEST FOR ACCESS TO A RECORD

- 9.1. A request for access to any of the Records held by **BRAND et al** in terms of Section 50 of PAIA must be made in writing by completing the form contained in the Regulations regarding the Promotion of Access to Information, 2002 (Form C).
- 9.2. A copy of the form is attached as Annexure A to this Manual. The request must be made to the Information Officer at the address, or email address, specified in this Manual.
- 9.3. A Requester must pay the prescribed fee before processing of the request will take place.
- 9.4. The requester must provide sufficient detail on the prescribed form to allow **BRAND et al** to identify the Record or Records which have been requested and to identify the Requester. If a request is made on behalf of another person or entity, the Requester must submit details and proof of the capacity in which the requester is making the request, which must be reasonably satisfactory to **BRAND et al**. The Requester is also required to indicate the form of access to the relevant record that is required, and to provide his, her or its contact details in the Republic of South Africa.
- 9.5. The Requester is required to identify the right he, she or it is seeking to exercise or protect by accessing records held by **BRAND et al** and to explain why the particular record or records requested is or are required for the exercise or protection of that right.
- 9.6. **BRAND et al** may, and must in certain instances, refuse access to records on any of the grounds set out in Chapter 4 of Part 3 of PAIA which includes that access would result in the unreasonable disclosure of Personal Information about a third party.
- 9.7. **BRAND et al** is required to inform a Requester in writing of its decision in relation to a request.
- 9.8. **BRAND et al** will make a decision in relation to a request for access to records within 30 (thirty) days of receipt of the request, unless third parties are required to be notified of the request or the thirty-day period is extended as provided for in PAIA and will notify the Requester accordingly.
- 9.9. A Requester aggrieved by the Information Officer's decision either to refuse a request for access, a decision regarding the payment of an access fee, or a decision regarding the form of access to be granted, may submit a complaint to the Information Regulator of South Africa within 30 (thirty) days after the date of the decision by **BRAND et al's** Information Officer. Further information about the aforesaid Information Regulator can be obtained from <https://www.informationcommissioners.org/south-africa>.

10. FEES

10.1. The request fee payable by a Requester, other than a Personal Requester, is R50.00 (fifty rand).

10.2. The Information Officer will notify the Requester in writing, to pay the prescribed fee (if any) before further processing the request.

10.3. The access fee payable for searching for the Record for disclosure is R30.00 (thirty rand) for each hour or part of an hour reasonably required for such search. In addition, if the Requester requires printed copies of records, the fees as per Form 3 will apply.

10.4. If the Information Officer is of the opinion that 6 (six) hours will be exceeded to search, reproduce and or prepare the information requested, a deposit is payable equal to one third of the access fee referred to in paragraph 10.3 above.

11. INFORMATION OR RECORDS NOT FOUND

11.1. If all reasonable steps have been taken to find a Record and such a Record cannot be found or if the Records sought do not exist, then the Information Officer shall inform the Requester, by way of an affidavit or affirmation, that it is not possible to give access to the Record requested.

11.2. The affidavit or affirmation shall provide a full account of all steps taken to find the Record or to determine the existence thereof, including the details of all communications by the Information Officer with the persons who conducted the search.

11.3. If the Record in question is to be found at a later stage, the Requester shall be given access to the Record in the manner stipulated by the Requester in the prescribed form unless access is refused by the Information Officer.

12. GROUNDS FOR REFUSAL OF ACCESS

12.1. Mandatory protection of privacy of third party who is a natural person, including a deceased individual.

12.2. Mandatory protection of commercial information of third party.

12.3. Mandatory protection of certain confidential information and protection of certain confidential information of a third party.

12.4. Mandatory protection of safety of individuals, and protection of property.

- 12.5. Mandatory protection of Records privileged from production in legal proceedings.
- 12.6. Economic interests and commercial activities of **BRAND et al.**
- 12.7. Mandatory protection of research information of a third party, and protection of research information of **BRAND et al.**
- 12.8. Operations of **BRAND et al.**
- 12.9. Manifestly frivolous or vexatious requests, or substantial and unreasonable diversion of resources of **BRAND et al.**

13. AMENDMENT AND UPDATING OF MANUAL

- 13.1. This Manual shall be annually revised and updated if necessary or at such intervals as may be prescribed amendments to legislation.
- 13.2. As and when amendments are affected, the latest version of the Manual will be made public.

14. AVAILABILITY OF THE MANUAL

- 14.1. This Manual is available for inspection at the offices of **BRAND et al.**, located at Boardwalk Office Park, corner of Solomon Mahlangu Road and Haymeadow Street, Faerie Glen, Pretoria, free of charge.
- 14.2. Copies of the Manual may be obtained, subject to the payment of the prescribed fees in paragraph 10, at the offices of **BRAND et al.**
- 14.3. The Manual can also be accessed online at <http://www.etal.co.za>.

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 <i>(when made on behalf of another person)</i>			
Postal Address			
Street Address			
E-mail Address			
Contact Numbers	Tel. (B):		Facsimile: <input type="text"/>
	Cellular:		
Full names of person on whose behalf request is made <i>(if applicable)</i> :			
Identity Number			
Postal Address			

Street Address			
E-mail Address			
Contact Numbers	Tel. (B)		Facsimile
	Cellular		
PARTICULARS OF RECORD REQUESTED			
<i>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.)</i>			
Description of record or relevant part of the record:			
Reference number, if available			
Any further particulars of record			
TYPE OF RECORD <i>(Mark the applicable box with an "X")</i>			
Record is in written or printed form			
Record comprises virtual images <i>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)</i>			
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 <i>(including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form)</i>	
Written or printed transcription of virtual images <i>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)</i>	
Transcription of soundtrack <i>(written or printed document)</i>	
Copy of record on flash drive <i>(including virtual images and soundtracks)</i>	
Copy of record on compact disc drive <i>(including virtual images and soundtracks)</i>	
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 <i>(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)</i>	
Postal services to postal address	
Postal services to street address	
Courier service to street address	
Facsimile of information in written or printed format <i>(including transcriptions)</i>	
E-mail of information <i>(including soundtracks if possible)</i>	
Cloud share/file transfer	
Preferred language <i>(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)</i>	

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)	<i>A request fee must be paid before the request will be considered.</i>
b)	<i>You will be notified of the amount of the access fee to be paid.</i>
c)	<i>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.</i>
d)	<i>If you qualify for exemption of the payment of any fee, please state the reason for exemption</i>
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 <i>(Please specify)</i>

Signed at _____ this _____ day of _____ 20 _____

Signature of Requester / person on whose behalf request is made

FOR OFFICIAL USE

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

Signature of Information Officer

FORM 3
OUTCOME OF REQUEST AND OF FEES PAYABLE
 [Regulation 8]

Note:

1. If your request is granted the—
 - (a) amount of the deposit, (if any), is payable before your request is processed; and
 - (b) requested record/portion of the record will only be released once proof of full payment is received.
2. Please use the reference number hereunder in all future correspondence.

Reference number: _____

TO: _____

Your request dated _____, refers.

1. You requested:

Personal inspection of information at registered address of public/private body (<i>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</i>) is free of charge. You are required to make an appointment for the inspection of the information and to bring this Form with you. If you then require any form of reproduction of the information, you will be liable for the fees prescribed in Annexure B.	
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OR

2. You requested:

Printed copies of the information (<i>including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form</i>)	
Written or printed transcription of virtual images (<i>this includes photographs, slides, video recordings, computer-generated images, sketches, etc</i>)	
Transcription of soundtrack (<i>written or printed document</i>)	
Copy of information on flash drive (<i>including virtual images and soundtracks</i>)	
Copy of information on compact disc drive (<i>including virtual images and soundtracks</i>)	
Copy of record saved on cloud storage server	

3. To be submitted:

Postal services to postal address	
Postal services to street address	
Courier service to street address	
Facsimile of information in written or printed format (<i>including transcriptions</i>)	
E-mail of information (<i>including soundtracks if possible</i>)	
Cloud share/file transfer	
Preferred language: (<i>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</i>)	

Kindly note that your request has been:

Approved

Denied, for the following reasons:

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4. Fees payable with regards to your request:

Item	Cost per A4-size page or part thereof/item	Number of pages/items	Total
Photocopy			
Printed copy			
For a copy in a computer-readable form on:			
(i) Flash drive	R40.00		
• To be provided by requestor			
(ii) Compact disc	R40.00		
• If provided by requestor			
• If provided to the requestor	R60.00		
For a transcription of visual images per A4-size page	Service to be outsourced. Will depend on the quotation of the service provider		
Copy of visual images			
Transcription of an audio record, per A4-size	R24.00		
Copy of an audio record			
(i) Flash drive	R40.00		
• To be provided by requestor			
(ii) Compact disc	R40.00		
• If provided by requestor			
• If provided to the requestor	R60.00		
Postage, e-mail or any other electronic transfer:	Actual costs		
TOTAL:			

5. Deposit payable (if search exceeds six hours):

Yes

No

Hours of search	Amount of deposit (calculated on one third of total amount per request)

The amount must be paid into the following Bank account:

Name of Bank: _____
 Name of account holder: _____
 Type of account: _____
 Account number: _____
 Branch Code: _____
 Reference Nr: _____
 Submit proof of payment to: _____

Signed at _____ this _____ day of _____ 20 _____

 Information officer