



Promotion of Access to Information Act

Manual

Prepared in terms of the section 51 of the Promotion of Access to Information Act 2 of 2000

1. Introduction

This Manual has been prepared in terms of section 51 of the Promotion of Access to Information Act 2 of 2000 (hereinafter referred to PAIA) and updated in the light of the Protection of Personal Information Act 4 of 2013 (hereinafter referred to as POPI).

Further this Manual is for Afken Wealth Management (Pty) Ltd (FSP No: 42984), Afken Risk Management (Pty) Ltd (FSP No: 42983) and Afken Advisory Services (Pty) Ltd who is a juristic representative of Discovery Life Limited (FSP No: 18147). These entities will collectively be referred to as “Afken”.

Afken strives to be client centric and to treat customers fairly, to understand the clients’ needs and to provide innovative, tailored solutions to fulfil those needs. At Afken we link our clients’ successes to our own and will continue to be accountable for our actions with the aim of building long-term relationships that improve peoples’ lives.

2. Purpose of PAIA

PAIA is an act that was passed to give effect to the constitutional right, held by everyone in South Africa, of access to information which is held by the State or by another person and which is required for the exercise or protection of any right. Where a request is made in terms of PAIA, the body to which the request is made is obliged to give access to the requested information, except where PAIA **expressly provides that the information may or must not be released.**

It is important to note that PAIA recognises certain limitations to the right of access to information, including, but not exclusively, limitations aimed at the reasonable protection of privacy, commercial confidentiality, and effective, efficient and good governance, and in a manner which balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

If a public body is the requester, the public body must be acting in the public interest.

POPI was enacted in November 2013, to promote the protection of personal information processed by public and private bodies. POPI amended certain provisions of PAIA, balancing the need for access to information against the need to ensure the protection of personal information.

3. Information manual

One of the main requirements specified in PAIA is the compilation of an information manual that provides information on both the types and categories of records held by a private body. This document serves as Afken's information manual. This Manual is compiled in accordance with section 51 of PAIA and the Schedule to POPI. It is intended to give a description of the records held by and on behalf of Afken, to outline the procedure to be followed and the fees payable when requesting access to any of these records in the exercise of the right of access to information, with a view of enabling requesters to obtain records which they are entitled to in a quick, easy and accessible manner.

This Manual is available for public inspection:

- at the physical address of Afken, recorded in paragraph 4 below, free of charge; and
- on this website, free of charge; and
- on request by any person (along with payment of a prescribed fee).

The Manual is available from the designated Information Officer, whose details appear below.

4. Contact details of the Information Officer of Afken

The responsibility for administration of, and compliance with, PAIA and POPI have been delegated to the Information Officer.

Requests pursuant to the provisions of PAIA and/or POPI should be directed to the Information Officer as follows:

Information Officer:	<u>Debbie Afonso</u>
Postal Address:	P.O. Box 3667 Dainfern 2055
Physical Address:	345 on Chestnut Crescent Blair Atholl Estate Lanseria 1739
Telephone Number:	(011) 032 8800
E-mail Address:	info@afken.co.za
Website:	www.afken.co.za

5. Information Regulator's Guide

In terms of Section 10 of PAIA the South African Human Rights Commission (SAHRC) published a guide in all the official languages of the Republic of South Africa. The guide contains information on how to make use of PAIA and to access information held by Private Bodies which impacts on a person's rights. The guide can be obtained from the SAHRC or from their website. Their contact details are as follows -

Postal Address: The South African Human Rights Commission
Head Office
Braampark Forum 3
33 Hoofd Street
Braamfontein

Telephone Number: (011) 877-3750

Fax Number: (011) 403-0668

E-mail Address: info@sahrc.org.za or paia@sahrc.org.za

Website: www.sahrc.org.za

6. Automatic disclosure

A private body may, on a voluntary basis, make available a description of categories of records that are automatically available without a person having to request access in terms of PAIA.

The only fee for access to these records may be a prescribed fee for reproduction.

- Brochures;
- Trade circulars;
- Pamphlets.

7. Types and categories of records

RECORDS HELD IN ACCORDANCE WITH OTHER LEGISLATION

A requester may also request information that is available in terms of other legislation, such as:

- The Companies Act 71 of 2008;
- Long Term Insurance Act 52 of 1998;
- The Financial Advisory and Intermediary Services Act 37 of 2002;
- Short Term Insurance Act 53 of 1998;
- The Labour Relations Act 66 of 1995;
- Employment Equity Act 55 of 1998;
- Basic Conditions of Employment Act 75 of 1997;

- Compensation for Occupational Injuries and Diseases Act 130 of 1993;
- Employment Equity Act 55 of 1998;
- Financial Intelligence Centre Act 38 of 2001;
- Income Tax Act 58 of 1962;
- Occupational Health and Safety Act 85 of 1993;
- Unemployment Insurance Act 63 of 2001;
- Value-added Tax Act 89 of 1991;
- Consumer Protection Act 68 of 2008;
- Protection of Personal Information Act 4 of 2013;
- Collective Investment Schemes Act 45 of 2002;

The above is not an exhaustive list of statutes that may require Afken to keep records.

SUBJECT CATEGORIES OF RECORDS

The information is classified and grouped according to records relating to the following subjects and categories:

7.1 Records available in terms of any other legislation

All records kept and made available in terms of legislation applicable to any of the entities listed in this Manual and the Financial Services Industry in general, as it applies to the specific environment in which the entity operates, are available in accordance with said legislation.

7.2 Records available without requesting access in terms of the Act

Afken may, on a voluntary and periodic basis, submit to the Minister a description of categories of records, which are automatically available without a person having to request access in terms of the Act. The Minister must publish any description so submitted by notice in the Gazette. The identified entities have not submitted any such description for publication in the Gazette. Certain records are however freely available on the Internet at www.afken.co.za

7.3 Records available on request

We set out below the subjects and categories of records that are, subject to access being denied as set out in PAIA, available for the purposes of PAIA:

Records are held on the following subjects:

- i. Administrative records;
- ii. Human Resource/ Personnel records;
- iii. Client-related records;
- iv. Financial records;
- v. Records in the possession of or pertaining to other parties.

i) Administrative records

The following are considered to include but not be limited to records, which pertain to Afken's own affairs:

- The Financial Services Provider's license;
- The Financial Services Provider's compliance manual;
- The Financial Services Provider's policies;
- The Financial Services Provider's internal rules and procedures;
- Any personal records provided to the Financial Services Provider by its personnel; or
- Any records which a third party has provided to the Financial Services Provider about any of its personnel.

(ii) Human Resource/ Personnel records

Personnel refers to any person who works for or provides services to or on behalf of Afken and receives or is entitled to receive any remuneration and any other person who assists in carrying out or conducting the business of Afken. This includes, without limitation, directors, executives, non-executives, all permanent, temporary and part-time staff as well as contract workers.

Personnel records include the following:

- Any personal records provided to Afken by their personnel;
- Any records a third party has provided to Afken about any of their personnel;
- Conditions of employment and other personnel-related contractual and quasi-legal records;
- Internal evaluation records; or
- Other internal records and correspondence.

iii) Client-related records

A client includes any natural or juristic entity, who receives services from Afken. Client related information, includes but is not limited to the following:

- Any records a client has provided to a third party acting for or on behalf of Afken;
- Any records a third party has provided to Afken;
- Records generated by or within Afken pertaining to the client, including:

- ❖ Transactional records;
- ❖ Advice records;
- ❖ Operational records;
- ❖ Databases;
- ❖ Information Technology;
- ❖ Marketing records;
- ❖ Internal correspondence;
- ❖ Product records;
- ❖ Statutory records; or
- ❖ Internal Policies and Procedures;

iv) Financial records

The following are considered to include but not be limited to records, which pertain to Afken's own affairs:

- Financial statements;
- Audit records; or
- Assets inventory

(v) Other parties

Afken may possess records pertaining to other parties, including without limitation: contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, service providers.

Alternatively, such other parties may possess records, which can be said to belong to Afken.

The following records fall under this category:

- Personnel, Client or Financial Services Provider records which are held by another party as opposed to being held by Afken; and
- Records held by Afken pertaining to other parties, including without limitation: Financial records, Correspondence, Contractual records, Records provided by the other party, and
- Records third parties have provided about the contractors/suppliers:
 - ❖ Service Level Agreement;
 - ❖ Financial records; or
 - ❖ Correspondence

8. Processing details

In terms of POPI, data must be processed for a specified purpose. The purpose for which data are processed by Afken will depend on the nature of the data and the particular data subject. This purpose is ordinarily disclosed, explicitly or implicitly, at the time the data are collected.

i) Purpose of the Processing

Personnel data -

Afken processes personnel data for business administration purposes. For example, personnel data are processed for payroll purposes. Personnel data are also processed to the extent required by legislation and regulation. For example, Afken discloses employees' financial information to the Commissioner for the South African Revenue Service, in terms of the Income Tax Act 58 of 1962 and employee's sensitive personal information in terms of the Employment Equity Act 55 of 1998.

Client related data -

Afken processes client related records as an integral party of its commercial services. For example, Afken processes client related records during the client application process, in assessing a client's profile and risk and in administering a client's health plan. Afken may also process data provided to it by credit bureaus or industry regulatory bodies (and other "sources", including a client's employer) in order to render sound and proper financial advice as well as conducting financial needs analysis or a medical needs analysis, complete comparison quotations, obtain information from the financial services exchange (Astute) or any other financial institution and for administration purposes.

This list of processing purposes is non-exhaustive.

In performing these various tasks, Afken may, amongst others, collect, collate, process, store and disclose personal information.

ii) Categories of Data Subjects

Afken holds information and records on the following category of data subject:

- Employees / personnel of Afken;
- Clients of Afken;
- Any third party with whom Afken conducts its business services;
- Contractors of Afken;
- Suppliers of Afken;
- Service providers of Afken.

This list of categories of data subjects is non-exhaustive.

iii) Recipients to Whom Personal Information will be Supplied

Depending on the nature of the data, Afken may supply information or records to the following categories of recipients:

- Statutory oversight bodies, regulators or judicial commissions of enquiry making a request for data (i.e. the National Credit Regulator in terms of the National Credit Act 34 of 2005);
- Any court, administrative or judicial forum, arbitration, statutory commission, or ombudsman making a request for data or Afken in terms of the applicable rules (i.e. the Competition Commission in terms of the Competition Act 89 of 1998);
- South African Revenue Services, or another similar authority;
- A contracted third party who requires this information to provide a healthcare service to a client or any dependant/s on the client's health plan;
- Third parties with whom Afken has a contractual relationship for the retention of data (for example, a third party archiving services);
- Research/ academic institutions;
- Auditing and accounting bodies (internal and external);
- Anyone making a successful application for access in terms of PAIA;
- Subject to the provisions of POPI and the National Credit Act 34 of 2005, Afken may share information about a client's creditworthiness with any credit bureau or credit providers industry association or other association for an industry in which Afken operates.

iv) Security Measures

Afken takes extensive information security measures to ensure the confidentiality, integrity and availability of personal information in Afken's possession. Afken takes appropriate technical and organizational measures designed to ensure that personal data remain confidential and secure against unauthorized or unlawful processing and against accidental loss, destruction or damage.

9. Grounds for refusal of access to records

Afken may refuse a request for information on the following basis:

- Mandatory protection of the privacy of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- Mandatory protection of the commercial information of a third party, if the record contains:
 - ❖ Trade secrets of that third party;

- ❖ Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party; and
 - ❖ Information disclosed in confidence by a third party to Afken, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition.
- Mandatory protection of confidential information of third parties if it is protected in terms of any agreement or legislation;
 - Mandatory protection of the safety of individuals and the protection of property;
 - Mandatory protection of records which would be regarded as privileged in legal proceedings;
 - The commercial activities of Afken, which may include:
 - ❖ Trade secrets of Afken;
 - ❖ Financial, Commercial, Scientific or Technical information which disclosure could potentially cause harm to the financial or commercial interest of Afken;
 - ❖ Information which, if disclosed, could put Afken at a disadvantage in negotiations or commercial competition;
 - ❖ A computer program which is owned by Afken and which is protected by copyright.
 - The research information of Afken or a third party, if its disclosure would disclose the identity of the institution, the researcher or the subject matter of the research and would place the research at a serious disadvantage;
 - Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused.

10. Access procedure

A requester is any person making a request for access to a record of, or held by, Afken. The requester is entitled to request access to information, including information pertaining to third parties, but Afken is not obliged to grant such access. Apart from the fact that access to a record can be refused based on the grounds set out in paragraph 9 above, in order to successfully access information the requester must fulfill the prerequisite requirements for access in terms of PAIA, including the payment of a request and access fee.

11. Access Request Procedure

A requester requiring access to information held by Afken must in writing request the specified documentation and submit it to the Information Officer at the postal or physical

address, fax number or electronic mail address recorded in paragraph 4 and pay a request fee (and a deposit, if applicable).

In order to facilitate a timely response to requests for access, all requesters should take note of the following when completing the Access Request Form:

- The Access Request Form must be comprehensively completed.
- Proof of identity is required to authenticate the identity of the requester. Therefore, in addition to the access request form, requesters will be required to supply a copy of their identification document.
- Every applicable question must be answered. If a question does not apply "N/A" should be stated in response to that question. If there is nothing to disclose in reply to a particular question "Nil" should be stated in response to that question.

The Access Request Form must be completed with enough particularity to enable the Information Officer to identify:

- The record or records requested;
- The identity number of the requester;
- The form of access required if the request is granted;
- Contact details of the requester;
- The requester must also state that he or she requires the information in order to exercise or protect a right, and clearly state the nature of the right to be exercised or protected. In addition, the requester must clearly specify why the record is necessary to exercise or protect such a right.

If a request is made on behalf of another person, then the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of the Information Officer.

If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.

Afken will process the request within 30 days (thirty), unless the requester has stated special reasons which would satisfy the Information Officer that the circumstances dictate that the above time period not be complied with.

The requester will be informed in writing whether access has been granted or denied. If, in addition, the requester requires the reasons for the decision in any other manner, he must state the manner and the particulars so required.

The requester must make payment of the prescribed fee, before any further processing will take place.

12. Payment of Fees

Payment details can be obtained from the Information Officer and can be made either via a direct deposit or a by bank guaranteed cheque. Proof of payment must be supplied to the Information Officer when the Access Request Form is submitted.

The following fees are (or may be) payable:

- Request fee
- Access fee
- Reproduction fee
- Deposit fee

Request fee

An initial “request fee” is payable on submission of the Access Request Form. The prescribed fee is set out below in **Annexure A**.

Note that the requester may lodge a complaint to the Information Regulator or an application with a court against the tender or payment of the request fee.

Access fee

If the request for access is successful, an access fee must be paid. This fee is for the search, reproduction and/or preparation of the record(s). The access fee will be calculated based on the prescribed fees set out below in **Annexure A**.

Note that the requester may lodge a complaint to the Information Regulator or an application with a court against the tender or payment of the access fee.

Reproduction fee

This fee is applicable in respect of documents/records which are voluntarily disclosed (see ‘Automatic Disclosure’ above). This is for reproduction, copying and transcribing the relevant documents / records. The reproduction fee will be calculated based on the prescribed fees set out below in **Annexure A**.

Deposit

If the search for, and the preparation of, the record for disclosure would, in the opinion of the Information Officer, **require more than 6 (six) hours**, the requester may be required to pay as a deposit one third of the access fee (the fee which will be payable if the request is granted).

Note that the requester may lodge a complaint to the Information Regulator or an application with a court against the tender or payment of the deposit.

If a deposit has been paid in respect of a request for access which is subsequently refused, then the Information Officer must refund the deposit to the requester.

The requester must pay the prescribed fee before any processing, or any further processing, can take place.

13. Third Party Notification

Afken must take all reasonable steps to inform a third party to whom or which a requested record relates if the disclosure of that records would -

- involve the disclosure of personal information about that third party;
- involve the disclosure of trade secrets of that third party; financial, commercial, scientific or technical information (other than trade secrets) of that third party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that third party; or information supplied in confidence by a third party, the disclosure of which could reasonably be expected to put that third party at a disadvantage in contractual or other negotiations; or to prejudice that third party in commercial competition;
- constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement; or
- involve the disclosure of information about research being, or to be, carried out by or on behalf of a third party, the disclosure of which would be likely to expose the third party, a person that is or will be carrying out the research on behalf of the third party, or the subject matter of the research, to serious disadvantage.

Afken will inform the third party as soon as reasonably possible, but in any event, within 21 (twenty one) days after that request is received.

Within 21 (twenty one) days of being informed of the request, the third party may-

- make written or oral representations to the Information Officer why the request for access should be refused; or
- give written consent for the disclosure of the record to the requester.

Afken will notify the third party of the outcome of the request. If the request is granted, adequate reasons for granting the request will be given.

The third party may lodge a complaint to the Information Regulator or an application with a court against the decision within 30 (thirty) days after notice is given, after which the requester will be given access to the record after the expiry of the 30 (thirty) day period.

13. Notification of decision

The Information Officer will, within 30 (thirty) days of receipt of the request, decide whether to grant or decline the request and give notice with reasons (if required) to that effect.

The 30(thirty) day period, within which Afken has to decide whether to grant or refuse the request, may be extended for a further period of not more than 30 (thirty) days if the information cannot reasonably be obtained within the original 30 (thirty) day period. For example, the time period may be extended if the request is for a large amount of information.

The Information Officer will notify the requester in writing should an extension be required. The requester may lodge a complaint to the Information Regulator or an application with a court against the extension.

14. Remedies Available When Afken Refuses a Request for Information

Internal Remedies

Afken does not have internal appeal procedures. Therefore, the decision made by the Information Officer is final. Requesters who are dissatisfied with a decision of the Information Officer will have to exercise external remedies at their disposal.

External Remedies

All complaints, by a requester or a third party, can be made to the Information Regulator or a court, in the manner prescribed below.

Complaints to the Information Regulator

The requester or third party, as the case may be, may submit a complaint in writing to the Information Regulator, within 180 days (one hundred and eighty) of the decision, alleging that the decision was not in compliance with the provisions of PAIA.

The Information Regulator will investigate the complaint and reach a decision - which may include a decision to investigate, to take no further action or to refer the complaint to the Enforcement Committee established in terms of POPI. The Information Regulator may serve an enforcement notice confirming, amending or setting aside the impugned decision, which must be accompanied by reasons.

Application to court

An application to court maybe brought in the ordinary course. For purposes of PAIA, any reference to an application to court includes an application to a Magistrates' Court.

ANNEXURE A: PRESCRIBED FEES

Reproduction fees -

Where Afken has voluntarily provided the Minister with a list of categories of records that will automatically be made available to any person requesting access thereto, the only charge that may be levied for obtaining such records, will be a fee for reproduction of the record in question.

The applicable fees for reproduction as referred to above are: R
(VAT inclusive)

1,25

For every photocopy of an A4-size page or part thereof held on a computer or in electronic or machine readable form.

For a copy in a computer-readable form on:

- Compact disc 79,80
- A transcription of visual images for an A4-size page or part thereof 45,60
- For a copy of visual images 68,40
- A transcription of an audio record, for an A4-size page or part thereof 22,80

- For a copy of an audio record 34,20

Request Fees -

Where a requester submits a request for access to information held by Afken on a person other than the requester himself/herself, the request fee is payable up-front before the institution will further process the request received. 50,00

Access Fees -

An access fee is payable in all instances where a request for access to information is granted, except in those instances where payment of an access fee is specially excluded in terms of the Act or an exclusion is determined by the Minister in terms of section 54(8). The applicable access fees which will be payable are:

The applicable fees which will be payable are: (VAT inclusive)

For every photocopy of an A4-size page or part thereof thereof held on a computer or in electronic or machine readable form 1,25

For a copy in a computer-readable form on:

- Compact disc 79,80
- A transcription of visual images for an A4-size page or part thereof 45,60
- For a copy of visual images 68,40
- A transcription of an audio record, for an A4-size page or part thereof 22,80
- For a copy of an audio record 34,20
- To search for a record that must be disclosed (per hour or part of an hour reasonably required for such search) 34,20

- Where a copy of a record needs to be posted the actual postal fee is payable.

Deposits -

Where Afken receives a request for access to information held on a person other than the requester himself/herself and the Information Officer upon receipt of the request is of the opinion that the preparation of the required record of disclosure will take **more than 6 (six) hours**, a deposit is payable to the requester.

The amount of the deposit is equal to 1/3 (**one third**) of the amount of the applicable access fee.

Please note: In terms of Regulation 8, Value Added Tax (VAT) must be added to all fees prescribed in terms of the Regulations. Therefore, the fees reflected above are VAT inclusive.