

Sean Brown Attorneys Incorporated POPIA Manual

1. Purpose of this Manual

This Manual has been prepared to ensure compliance by Sean Brown Attorneys Incorporated (**SBA**) with its obligations under the Promotion of Access to Information Act, 2000 (“**PAIA**”) and the Protection of Personal Information Act, 2013 (“**POPIA**”).

PAIA provides a mechanism to individuals or juristic persons to require, *inter alia*, private organisations to provide information in their possession in order to exercise or protect their rights. On request, a private body is obliged to release such information unless the Act expressly states that the records containing such information may or must not be released. This manual informs persons requesting such information of the procedural and other requirements with which a request must comply as prescribed by **PAIA**.

POPIA provides for the safeguarding of personal information which is processed by a public or private body and sets out the conditions for the lawful processing of personal information including the security safeguards with regard to such personal information.

2. Information about Sean Brown Attorneys

Sean Brown Attorneys is an incorporated firm of attorneys.

Sean Brown Attorneys’s details are as follows:

Name of Body:	Sean Brown Attorneys Incorporated
Chief Executive Officer:	Sean Nolan Edmund Brown
Information Officer:	Sean Nolan Edmund Brown
E-mail:	sb@seanbrownattorneys.co.za
Deputy Information Officer:	Stephanie van Zyl
E-mail:	steph@sfslegal.co.za
Physical Address:	16 Upper Mountain Road, Golden Hill, Somerset West Cape Town
Postal Address:	P.O. Box 67, Somerset West, 7129
Telephone Number:	+27 79 943 3201
Email Address:	sb@seanbrownattorneys.co.za

3. The exercise of PAIA

A guide to **PAIA** (in accordance with section 10 of **PAIA**) is available from the South African Human Rights Commission. The guide contains information which will assist a person who wishes to exercise any right provided for in **PAIA**. The Human Rights Commission can be approached to obtain this guide at:

The South African Human Rights Commission:
PAIA Unit (the Research and Documentation
Department)

Postal address: Private Bag 2700, Houghton, 2041

Telephone: +27 11 484-8300

Fax: +27 11 484-7146

Website: <https://www.sahrc.org.za>

E-mail: PAIA@sahrc.org.za.

4. Categories of Records held by SBA in terms of section 51(1) of PAIA

4.1. Statutory Returns

- VAT
- Workmen's compensation
- UIF
- Regional Services Levies
- Attorneys' fidelity fund certificate

4.2. Companies Act Records

- Company Incorporation documentation
- Names of Directors
- Minutes of Board Meetings
- Records relating to the appointment of directors

4.3. Financial Records

- Financial Statements
- Company Management accounts
- A list of **SBA's** Creditors and Debtors

4.4. Agreement or Contract Records

- Fee Mandate Agreement
 - **SBA** Fee Schedules
 - Contracts or documentation relating to **SBA** agreements with Suppliers
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4.5. Employees (automatically available on request by the employee for his/her information)

- List of Employees
- Personal Information of Employees and employment history
- Employee Contracts of Employment
- Salaries of Employees
- Leave Records of Employees
- Information relating to Skills Development

4.6. Customer Information

- Customer Details
- Contact details of contact persons within Customers
- Communications with Customers

4.7. Marketing Department and Support Services

- Company Brochures
- List of **SBA** Suppliers

5. Access to records held by SBA

Records held by Sean Brown Attorneys Incorporation **SBA** may be obtained on request on compliance with the requirements for access set out in PAIA.

A requester is any person making a request for access to a record of **SBA** and in this regard, PAIA distinguishes between two types of requesters:

5.1. Personal Requester

A personal requester is a requester who is seeking access to a record containing personal information about the requester. Subject to the provisions of **PAIA** and applicable law, **SBA** will provide the requested information, or give access to any record about the requester's personal information. The prescribed fee for reproduction of the information requested will be charged by **SBA**.

5.2. Other Requester

This requester is a party which is entitled to request access to information pertaining to third parties. **SBA** is not obliged to grant access to a record unless the requester fulfils the requirements for access in terms of **PAIA**. The prescribed fee for reproduction of the information requested will be charged by **SBA**.

5.3. Request Procedure

A requester must comply with all the procedural requirements contained in **PAIA** relating to a request for access to a record. A requester must complete the request form attached hereto as **Form A** and submit it, as well as the payment of a request fee, if applicable to the Information Officer at the physical address, or electronic mail address as stated herein. The request form must be completed with enough information to enable the Information Officer to identify:

- The record or records requested
- The identity of the requester
- What form of access is required?
- The postal address or email address of the requester.

A requester must state whether he or she requires the information to exercise or protect a right, and clearly indicate the nature of the right sought to be exercised or protected. The requester must also provide an explanation of why the requested record is required for the exercise or protection of that right.

SBA will process a request within 30 days, unless the requestor has stated special reasons which would satisfy the information officer that circumstances require that this period not be complied with.

The requester shall 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 or she must state the manner the reason are required. If a request is made on behalf of another person, the requester must then submit proof of the capacity in which and the authority the requester is making the request to the 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 to the Information Officer.

5.4. Decision

SBA will decide whether to grant or decline a request and give notice with reasons (if required) to that effect. The 30-day period within which **SBA** has to decide whether to grant or refuse a request, may be extended for a further period of not more than 30 days if the request is for a large quantity of information, or the request requires a search for information which has been backed-upped and stored offsite and the information cannot reasonably be obtained within the original 30-day period. The Information Officer will notify the requester in writing should an extension be necessary.

5.5. Grounds For Refusal of Access to Records in terms Of PAIA

The following are the grounds on which **SBA** may, subject to the exceptions contained in Chapter 4 of **PAIA**, refuse a Request for Access in accordance with Chapter 4 of **PAIA**:

- 5.5.1. Mandatory protection of the privacy of a third party who is a natural person, including a deceased person, where such disclosure of Personal Information would be unreasonable;
 - 5.5.2. Mandatory protection of the commercial information of a third party, if the records contain:
 - 5.5.2.1. Trade secrets of that third party;
 - 5.5.2.2. Financial, commercial, scientific, or technical information of the third party, the disclosure of which could likely cause harm to the financial or commercial interests of that third party; and/or
 - 5.5.2.3. Information disclosed in confidence by a third party to **SBA**, the disclosure of which could put that third party at a disadvantage in contractual or other negotiations or prejudice the third party in commercial competition;
 - 5.5.3. Mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
 - 5.5.4. Mandatory protection of the safety of individuals and the protection of property;
 - 5.5.5. Mandatory protection of Records that would be regarded as privileged in legal proceedings;
 - 5.5.6. Protection of the commercial information of **SBA**, which may include:
 - 5.5.6.1. Trade secrets;
 - 5.5.6.2. Financial/commercial, scientific, or technical information, the disclosure of which could likely cause harm to the financial or commercial interests of **SBA**;
 - 5.5.6.3. Information which, if disclosed, could put **SBA** at a disadvantage in contractual or other negotiations or prejudice **SBA** in commercial competition; and/or
 - 5.5.6.4. Intellectual Property held by **SBA** and which are protected by copyright and intellectual property laws.
 - 5.5.7. Research information of **SBA** or a third party, if such disclosure would place the research or the researcher at a serious disadvantage, and
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- 5.5.8. Requests for Records that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources.

5.6. Remedies Available To the Requester upon Refusal of a Request for Access of PAIA

5.6.1. Internal remedies

SBA does not have internal appeal procedures. As such, the decision made by the Information Officer is final, and Requester will have to exercise such external remedies at his/her disposal if the Request for Access is refused.

5.6.2. External remedies

In accordance with sections 56(3) (c) and 78 of **PAIA**, a Requestor may apply to a court for relief within 180 days of notification of the decision for appropriate relief.

5.7. Fees

The Act provides for two types of fees which can be viewed in **Form B** attached hereto. Firstly, a request fee, (which will be a standard fee) and, secondly, an access fee, which must be calculated by considering reproduction costs, search and preparation time and cost, as well as postal costs where applicable. When a request is received by the information officer of **SBA**, the information officer shall by notice require the requester, other than a personal requester, to pay the prescribed request fee, if any, before further processing of the request can take place. If a search for the information is necessary and the preparation and disclosure of the information for disclosure, requires more time than prescribed in the regulations for this purpose, the information officer shall notify the requester to pay a deposit if the request is granted.

The information officer shall withhold information until the requester has paid the fee or fees indicated. A requester whose request for access to information has been granted, must pay an access fee reproduction, for search, preparation, and for any time in excess of the prescribed hours to prepare the information for disclosure including making arrangements to make it available in the request form. If a deposit has been paid in respect of a request for access, which is refused, then the Information Officer shall repay the deposit to the requester.

6. Protection of Personal Information processed by SBA

6.1. Conditions of Processing

Chapter 3 of **POPIA** provides the conditions for the lawful processing of Personal Information by a Responsible Party.

As a Responsible Party, **SBA** may not depart from these conditions in the absence of specific exclusions set out in **POPIA**. The eight Conditions for lawful processing of Personal Information set out in **POPIA** are summarised below:

- 6.1.1. Accountability (section 8): the Responsible Party has an obligation to ensure that there is compliance with **POPIA** in respect of the Processing of Personal Information;
- 6.1.2. Processing limitation (sections 9 to 12): Personal Information must be collected directly from a Data Subject to the extent applicable; must only be processed with the consent of the Data Subject and must only be used for the purposes for which it was obtained, subject the qualification when the processing of a contract to which the data subject is a party;
- 6.1.3. Purpose specification (sections 13 to 14): Personal Information must only be processed for the specific purpose for which it was obtained and must not be retained for any longer than it is needed to achieve such purpose;
- 6.1.4. Further processing limitation (section 15): further processing of Personal Information must be compatible with the initial purpose for which the information was collected;
- 6.1.5. Information quality (Section 16): the Responsible Party must ensure that Personal Information held is accurate and updated regularly and that the integrity of the information is maintained by appropriate security measures;
- 6.1.6. Openness (Sections 17 to 18): there must be transparency between the Data Subject and the Responsible Party;
- 6.1.7. Security safeguards (Sections 19 to 22): a Responsible Party must take reasonable steps to ensure that adequate safeguards are in place to ensure that Personal Information is being processed responsibly and is not unlawfully accessed;
- 6.1.8. Data Subject participation (Sections 23 to 25) - the Data Subject must be made aware that their information is being processed and must have provided their informed consent to such processing.

6.2. Purpose of the Processing of Personal Information by SBA

As set out in paragraph 6.1.3 above, Personal Information may only be processed for a specific purpose. The purposes for which **SBA** processes or will Process Personal Information, as set out below:

- Rendering of legal services to clients
 - Invoicing for legal services rendered and collection of invoices
 - Office and business administration
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- Administration of employees and payment of salaries
- Compliance with Taxation Laws
- Keeping of records of clients in compliance with, inter alia, **SBA's** statutory obligations under, *inter alia*, the Attorneys Act and FICA.

6.3. Categories of Data Subjects and their Personal Information

The table below sets out the various categories of Data Subjects with regard to which **SBA** processes Personal Information and the types of Personal Information which **SBA** processes in relation thereto.

Data Subject	Information Processed
Clients – Natural Persons	Names, contact details, postal address, date of birth, ID number, proof of residence, tax related information, nationality, gender, confidential correspondence
Clients – Juristic Persons / Entities	Names of contact persons, Name of Legal Entity, Physical and Postal address and contact details, Registration Number, Founding documents, tax related information, authorised representatives, ultimate beneficial owners
Service Providers	Names of contact persons; Name of Legal Entity, Physical and Postal address and contact details, Registration Number, Founding document, Tax related information, authorised representatives
Vendors	Names of contact persons; Name of Legal Entity, Physical and Postal address and contact details, Registration Number, Founding document, Tax related information, authorised representatives
Employees / Directors	Gender, Pregnancy, Marital Status, Ethnicity, Age, Language, Education information, Financial Information, Employment History, ID number, Physical and Postal address, Contact details, Well-being

6.4. General Description of Information Security Measures

SBA makes use of appropriate technology and other measures to ensure that security safeguards protect the confidentiality and integrity of the Personal Information held by it. Technical and organisational measures employed by **SBA** to prevent loss or damage to or unlawful access to or processing of Personal Information include:

6.4.1. Information Technology safeguards, comprising:

- 6.4.1.1. Anti-virus protection;
- 6.4.1.2. Automatic scanning of emails by anti-virus and anti-spam software;
- 6.4.1.3. Firewalls.

6.4.2. Awareness training of SBA employees, comprising:

- 6.4.2.1. Training sessions alerting employees to their obligations to protect the confidentiality of personal information of **SBA's** clients and employees;
- 6.4.2.2. Notification that deliberate or negligent failure to comply with **POPIA** constitutes a disciplinary offence.

6.4.3. Physical Security and Access Control of personal information, comprising:

- 6.4.3.1. Access control to physical areas of **SBA's** offices where confidential information is held in physical/hard copy form;
- 6.4.3.2. Employees shall only be exposed to and provided with personal information strictly necessary to fulfil the task assigned to them in the course of their employment.

6.4.4. Organisational Control, comprising:

- 6.4.4.1. Policies and procedures to ensure **SBA's** compliance with **POPIA**;
- 6.4.4.2. Limitations on the processing and further processing of Personal Information.

6.5. Cross-Border Flows of Personal Information

Section 72 of **POPIA** provides that Personal Information may only be transferred out of the Republic of South Africa:

- If the recipient country can offer such data an “adequate level” of protection. This means that its data privacy laws must be substantially like

the Conditions for Lawful Processing as contained in **POPIA**; or

- If the Data Subject consents to the transfer of their Personal Information; or
- If the transfer is necessary for the performance of a contractual obligation between the Data Subject and the Responsible Party; or
- If the transfer is necessary for the performance of a contractual obligation between the Responsible Party and a third party, in the interests of the Data Subject; or
- If the transfer is for the benefit of the Data Subject, and it is not reasonably practicable to obtain the consent of the Data Subject, and if it were, the Data Subject, would likely provide such consent.

SBA does not conduct any Cross-Border transfers of any Personal Information relating to employees, clients, companies, or organisations as a matter of course but, if required to do so, it shall obtain the consent thereto of the data subject and ensure compliance with section 72 of **POPIA**.

6.6. Request for correction or deletion of Personal Information

Section 24 of **POPIA** and regulation 3 of the **POPIA** Regulations provides that a Data Subject may request for their Personal Information to be corrected/deleted in the prescribed form attached as **Form C** to this Manual.

6.7. Objection to the Processing of Personal Information by a Data Subject

Section 11 (3) of **POPIA** and regulation 2 of the **POPIA** Regulations provides that a Data Subject may, at any time object to the Processing of his/her/its Personal Information in the prescribed form attached to this manual as **Form D** subject to exceptions contained in **POPIA**.

FORM A

Request for Access to the Record to Be Completed by A Requester

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 a 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 of South Africa 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:

Mark the appropriate box with an X.

NOTES:

- (a) Compliance with your request in the specified form may depend on the form in which the record is available.
- (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 to 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 Record*			Inspection of Record	
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*
3. If record consists of recorded words or information which can be reproduced in sound:					
	listen to the soundtrack (audio cassette, CD, DVD, or digital audio format)			Transcription of soundtrack* (written or printed document)	
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* (CD, DVD, or digital audio format)
*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.					

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 that 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 _____ this _____ day _____ of 20_____

Signature of Requester/Person on whose behalf request is made

FORM B

Applicable Fees in Respect of Private Bodies in Relation to PAIA

Fees in respect of Private Bodies

1. The fee for a copy of the manual as contemplated in regulation 9 (2) (c) is R0,00 for every photocopy of an A4-size page or part thereof.
2. The fees for reproduction referred to in regulation 11 (1) are as follows:

a) For every photocopy of an A4-size page or part thereof	R
b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R
c) For a copy in a computer-readable form on:	R
I. Compact Disc	R
II. DVD	R
III. Digital Audio Format	R
IV. For a transcription of visual images, for an A4-size page or part thereof	R
V. For a copy of visual images	R
VI. For a transcription of an audio record, for an A4-size page or part thereof	R
VII. For a copy of an audio record	R

3. The request fee payable by a requester, other than a personal requester, referred to in regulation 11 (2) is R0,00.
4. The access fees payable by a requester referred to in regulation 11 (3) are as follows:

a) For every photocopy of an A4-size page or part thereof	R
b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R
c) For a copy in a computer-readable form on:	R
VIII. Compact Disc	R
IX. DVD	R
X. Digital Audio Format	R
XI. For a transcription of visual images, for an A4-size page or part thereof	R
XII. For a copy of visual images	R
XIII. For a transcription of an audio record, for an A4-size page or part thereof	R
XIV. For a copy of an audio record	R
d) 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.	R
1. For purposes of section 54 (2) of the Act, the following applies:	R
a) Six hours as the hours to be exceeded before a deposit is payable; and	
b) one third of the access fee is payable as a deposit by the requester.	
2. The actual postage is payable when a copy of a record must be posted to a requester.	

FORM C

Request for Amendment, Correction or Erasure of Personal Data

Section 24 of POPIA and regulation 3 of the POPIA Regulations provides that a Data Subject may request for their Personal Information to be corrected/deleted as held by us.

As a main rule, your request will be handled free of charge. However, if we were to find your request to be manifestly unfounded, excessive, or repetitive, we may charge a reasonable fee based on the administrative cost of providing the information and not exceeding R0.00.

Please fill out the details below and we will get back to you 30 calendar days upon receipt of a fully completed form, proof of identity and other required documents, if applicable. The aforementioned documentation should be sent to the following address: Information Officer, Transaction Junction (Pty) Ltd, 2nd Floor, Block 3, 1 Waterhouse Place, Century City, 7741.

Details of the person requesting Amendment, Correction or Erasure	
Full Name	
Address	
Date of Birth	
E-mail Address	
Phone Number	

Your Role	
	I am the data subject
	I am not the data subject, though I am acting on behalf of the data subject by virtue of a power of attorney
	I am not the data subject, but I am acting on behalf of a data subject as its parent or legal guardian.

Proof of Identity and Authority Submitted	
	Driving License
	Passport
	Identity Document
	Power of Attorney
	Evidence of parental responsibility or legal guardianship

Amendment	
	I wish to amend my personal data (proof of identity must be provided).
	I wish to amend personal data concerning a data subject that I am acting on behalf of (proof of identity of the representative, a power of attorney and proof of identity of the data subject must be provided).
	I wish to amend personal data concerning a data subject to whom I am a parent or legal guardian (proof of identity and evidence of parental responsibility or legal guardianship must be provided).
Type of personal data you wish to amend:	
Describe the amendment:	

Correction	
	I wish to correct my personal data (proof of identity must be provided).
	I wish to correct personal data concerning a data subject that I am acting on behalf of (proof of identity of the representative, a power of attorney and proof of identity of the data subject must be provided).
	I wish to correct personal data concerning a data subject to whom I am a parent or legal guardian (proof of identity and evidence of parental responsibility or legal guardianship must be provided).
Type of personal data you wish to correct:	
Describe the correction:	

Erasure	
	I wish to erase my personal data (proof of identity must be provided).
	I wish to erase personal data concerning a data subject that I am acting on behalf of (proof of identity of the representative, a power of attorney and proof of identity of the data subject must be provided).
	I wish to erase personal data concerning a data subject to whom I am a parent or legal guardian (proof of identity and evidence of parental responsibility or legal guardianship must be provided).
Describe the type of personal data you wish to erase:	

By signing this form, you certify that the information you have provided is correct to the best of your knowledge and that you are the person to whom it relates or that you are legally entitled to act on behalf of such person. You understand that it may be necessary to obtain further information in order to comply with this request.

Signature: _____

Date: _____

Form D

Form To Object To the Processing Of Personal
Information In Terms Of POPIA

Objection to the Processing Of Personal Information In
Terms Of Section 11(3) Of the Protection of Personal
Information Act, 2013 (Act No. 4 of 2013)

Regulations Relating To the Protection of
Personal Information, 2017, Regulation 2(1)

Please Note:

- a. Affidavits or other documentary evidence in support of the object needs to be attached to this form.
- b. If more space is required add additional pages as appendices to this form.

Details of Data Subject	
Name and Surname	
Address	
Phone Number	
Fax Number	
E-mail	
Details of Responsible Party	
Name and Surname of the Responsible Person, Public, or Private Body	
Address	
Phone Number	
Fax Number	
E-mail	

Reasons for Objection (Please provide full details)

Signed at _____ this _____ day of _____ 20 _____

Signature of Applicant (Data Subject) _____