

POLICY ON ACCESS TO INFORMATION IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000

1. PURPOSE OF THE POLICY

This policy outlines the procedures that must be followed by any individual or entity seeking to request access to records held by **Ismail and Dahya Attorneys** ("the Firm") in terms of the Promotion of Access to Information Act 2 of 2000 (PAIA). This policy aims to ensure compliance with PAIA and promote transparency while protecting sensitive and privileged information.

It further outlines the categories of information available, the process for lodging a request, applicable fees, and the grounds on which a request may be refused.

This Policy is a resource for individuals seeking transparency and accountability from entities and is a key instrument in promoting open access to information.

2. SCOPE OF APPLICATION

This policy applies to all records held by the Firm, including records held on behalf of clients, and is applicable to all persons making requests for access to such records in terms of PAIA. However, the right to access may be subject to justifiable limitations, such as the protection of privacy, confidentiality, and other rights as set out in the Act.

3. DEFINITIONS

- **Act** refers to the Promotion of Access to Information Act 2 of 2000 (PAIA).
- **Requestor** refers to any person (natural or juristic) requesting access to information in terms of PAIA.
- **Information Officer** refers to the person designated in terms of PAIA as responsible for processing and managing access to information requests within the Firm.

4. GUIDE TO USING THIS POLICY

Step 1: Identify the Information Needed

Determine the specific information required and ensure it is necessary for exercising or protecting a legal right.

Step 2: Complete the Request Form (Form C)

The PAIA Policy includes or references *Form C*, which must be completed to make an information request. This form requires the requester's details, a description of the record sought, and proof of the right they are exercising or protecting.

Step 3: Submit the Request and Pay Applicable Fees

The policy provides details on where to submit the request and any associated fees. Fees may vary based on the nature of the request and the type of information.

Step 4: Await Response

The organization will provide a response within 30 days, either granting access to the requested information or giving reasons for any refusal.

5. ACCESS TO THE PAIA POLICY

This PAIA Policy is available in the following formats:

- **Website:** The firm's Official website will have the policy available as well as Form C.
- **In-Person:** A hard copy may be accessed at the firm's head office or main administrative office.
- **Request a Copy:** Individuals can request a digital or printed copy of the manual via email or post from the firm's PAIA Information Officer.

6. INFORMATION OFFICER

The Firm has appointed an Information Officer who is responsible for processing all PAIA requests. The Information Officer's contact details are as follows:

- Name: Arshad Mosam
- Address: 77 Rietfontein Road, Boksburg, 1459
- Telephone: 010 035 0915
- Email: arshad@idalaw.co.za

7. PROCEDURE TO REQUEST ACCESS TO RECORDS

7.1 Submission of Requests

All requests for access to records must be submitted in writing using the prescribed form (Form C). This form is available on the Information Regulator's website or may be requested from the Firm's Information Officer.

7.2 Form C Requirements

The request must:

- Provide sufficient particulars to enable the Information Officer to identify the record(s) requested.
- Include full details of the requestor, including name, contact details, and identity document number or registration number (if applicable).
- Specify the form of access required (e.g., inspection of records, copies of documents, etc.).
- State whether the requestor wishes to be informed of the decision regarding the request in another manner, and if so, specify the manner and contact details.
- Indicate the right the requestor is seeking to exercise or protect, and explain why the record is required to exercise or protect that right.

7.3 Delivery of Requests

The completed Form C must be delivered to the Information Officer by hand, email, or registered post to the contact details provided above.

7.4 Assistance for Requestors

If the requestor is unable to complete the prescribed form due to illiteracy, disability, or other reasons, the Information Officer will assist in completing the form.

8. FEES PAYABLE

8.1 Request Fee

The requestor must pay a non-refundable request fee, as prescribed under PAIA, unless the requestor is seeking access to their personal records.

8.2 Access Fee

If access is granted, an access fee may be charged for the reproduction, preparation, and time spent searching for the requested records.

8.3 Fee Waiver

In certain circumstances, requestors may apply for the waiver of fees. This waiver is at the discretion of the Information Officer, as provided for under PAIA.

9. DECISION-MAKING PROCESS

9.1 Decision Timeline

Upon receipt of a valid request, the Firm will notify the requestor in writing within 30 days whether access to the record has been granted or refused.

9.2 Extension of Time

The Firm may extend the period for responding to a request by a further 30 days if more time is required to gather the requested information or consult with relevant third parties.

9.3 Refusal of Access

Access to information may be refused under circumstances as set out in PAIA, such as:

- Where the record contains privileged legal communications.

- If the disclosure would result in the unreasonable disclosure of personal information about a third party.
- If the release would compromise commercial confidentiality or endanger the life or physical safety of individuals.
- For other justifiable grounds provided in PAIA.

10. REMEDIES IN CASE OF REFUSAL

If access is refused, the Information Officer will provide written reasons for the refusal and inform the requestor of their right to lodge an internal appeal or seek recourse in a court of law.

11. CATEGORIES OF THE FIRM'S RECORDS AVAILABLE WITHOUT APPLYING IN TERMS OF PAIA

The following categories of records are available without a formal request under the Promotion of Access to Information Act (PAIA).

11.1. Firm Profile and Structure

- Foundational documents, including the law firm's registration and incorporation details.
- Organizational structure, including directors and key legal practitioners.
- Law firm's mission statement, vision, and values.

11.2 Public Relations Material

- Marketing brochures, leaflets, and general information about legal services offered.
- Newsletters, press releases, and announcements.
- Published articles or case studies authored by members of the firm.
- Website content and blog posts.

11.3 Services and Practice Areas

- Information on legal services provided, including areas of specialization like conveyancing, litigation, corporate law, etc.
- General service terms, including hourly rates, fee structures, and billing practices (often available in broad outline without specific case details).

11.4 Policies and Procedures

- Broad organizational policies, including compliance with the Protection of Personal Information Act (POPIA).
- Employment equity policies and statements on diversity, equity, and inclusion.
- Code of conduct, ethics policy, and anti-corruption policy.

11.5 Regulatory and Compliance Information

- Professional indemnity insurance details.
- Information on affiliations and accreditations with professional bodies (e.g., Law Society of South Africa or Legal Practice Council).
- Regulatory compliance confirmations, including adherence to the Legal Practice Act and other legal requirements.

11.6 Client Assistance Information

- Information on how to lodge a complaint or query with the firm.
- Access to the firm's PAIA Manual, which provides a guide for formally requesting information.
- Frequently asked questions (FAQs) about engaging the firm's services.

11.7 Employment and Recruitment Information

- Job vacancy notices and application procedures.
- Graduate recruitment and training program information.

12. CATEGORIES OF RECORDS IN TERMS OF LEGISLATION AVAILABLE WITHOUT APPLYING IN TERMS OF PAIA

Under the **National Credit Act, 34 of 2005 (NCA)**, consumers in South Africa have the right to access certain records from credit providers or entities carrying out services on behalf of credit providers without going through the formal PAIA request process.

Section 129 Notice (Default Notice)

- **Mandatory Pre-Legal Notice:** Before initiating legal proceedings, the credit provider or the law firm acting on their behalf must provide the consumer with a **Section 129 Notice**. This notice informs the consumer of

their default and offers options to resolve the debt, such as making payment arrangements, seeking debt counseling, or considering alternative dispute resolution.

Credit Agreement Documentation

- **Copy of the Credit Agreement:** The consumer has the right to a copy of the original credit agreement upon which the debt is based. This document outlines the terms, conditions, and obligations initially agreed upon and is crucial for verifying the validity of the debt.
- **Pre-Agreement Statement and Quotation:** If requested, consumers can also access the pre-agreement statement and quotation provided at the time of entering into the credit agreement, which includes details on the interest rate, fees, and payment schedule.

Statements of Account and Payment History

- **Account Statements:** The law firm must provide the consumer with an up-to-date statement of account, detailing the outstanding balance, payments made, interest charged, and any fees or penalties added. The consumer is entitled to one free statement per year and can request additional statements at a nominal fee.
- **Payment History:** Consumers are entitled to see their payment history, including any arrears or late payments that have accumulated and contributed to the debt balance.

Record of Fees and Charges

- **Breakdown of Fees:** Consumers can access a detailed breakdown of all fees and charges added to the debt by the credit provider or law firm. This includes legal fees, collection costs, interest on arrears, administration fees, and any other amounts that have been added to the outstanding debt balance.
- **Interest Rate Information:** If the debt is accruing interest, consumers are entitled to know the current interest rate applied and any changes to this rate since the initiation of the credit agreement.

Settlement Amount and Certificate of Balance

- **Certificate of Balance:** Consumers have the right to request a certificate of balance from the credit provider or law firm. This document specifies

the exact amount owed at a given date, providing clarity on the total debt.

- **Settlement Amount:** Upon request, the law firm should provide a settlement amount that, if paid, would fully satisfy the debt. This amount should include all outstanding principal, interest, fees, and charges up to the proposed settlement date.

Record of Communication

- **Copies of All Correspondence:** Consumers may request copies of all notices, letters, and other communications sent by the credit provider or law firm in relation to the debt. This includes any notices of default, legal demands, and other collection attempts.

Right to Information About Credit Bureau Listings

- **Credit Bureau Listing Information:** If the credit provider or law firm has reported the consumer to a credit bureau, the consumer has the right to know details of the listing, including the date of listing, the amount owed, and the status of the account. This helps consumers track any adverse listings resulting from the debt collection process.

Debt Counseling and Legal Relief Information

- **Debt Review Status and Options:** If the consumer is under debt review, the law firm must provide information on how this affects the collection process and may need to coordinate with the consumer's debt counselor.
- **Available Remedies:** The law firm should provide information on alternative dispute resolution and the consumer's right to approach the National Credit Regulator (NCR) or court if they believe there has been unfair or unlawful collection activity.

13. DESCRIPTION OF DATA SUBJECTS AND CATEGORIES OF RECORDS HELD

The firm deals with the following data subjects and records held on each.

- **Individuals:** Employees, customers, debtors or clients whose personal data, such as addresses, ID numbers, contact details and financial information, is processed by the firm.

- **Companies or Other Entities:** A business whose information, like registration number, address, financial information or director details, is processed by the firm (although personal information for juristic persons is subject to limited protection compared to individuals).

14. VERIFICATION OF PAIA REQUESTS.

The **Act** sets out the procedure for verifying a request for access to information to ensure that only authorized individuals access records.

14.1 Submission and Initial Review of the Request

- The requester submits the access request using the prescribed **Form C**
- The request form must include the requester's full name, identity number, contact details, the specific records requested, and the purpose for requesting the information.
- The request should be submitted with proof of identity (e.g., a certified copy of an ID or passport) to ensure the identity of the requester matches the request form.

14.2 Verification of Identity and Authority

- **Individual Requester:** If the requester is requesting information on their own behalf, the information officer should confirm the requester's identity.
- **Authorized Representative:** If a requester is acting on behalf of another person or entity (e.g., a legal guardian, attorney, or executor), additional documentation is needed, such as:
 - A letter of authorization or power of attorney.
 - Proof of relationship or legal status if acting on behalf of a minor, a deceased estate, or an incapacitated person.

14.3 Confirmation of the Request Scope and Purpose

- The request must be clearly defined, with specific records or types of information identified to avoid ambiguity.
- The information officer may reach out to the requester to clarify the purpose or scope if the request is too broad or vague, ensuring it aligns with the intent of PAIA and does not infringe on the rights of third parties.

14.4 Verification of Compliance with PAIA Requirements

- **Compliance with PAIA:** The information officer must verify that the request meets all requirements under PAIA, such as:
 - **Purpose of the Request:** Determining if the request is in pursuit of a right and that the information is necessary for exercising or protecting this right.
 - **Fees and Deposits:** Confirming that the requester has paid any applicable request or access fees, if required. A deposit may be required if the information request will require extensive search and preparation time.

14.5 Third-Party Notification and Consent (If Applicable)

- If the requested records contain information about a third party, the information officer is required to notify the third party and obtain their input or consent. This ensures that sensitive information about other individuals or entities is handled in accordance with PAIA's guidelines on privacy and confidentiality.

14.6 Decision on the Request and Communication to the Requester

- After verifying the requester's identity, authority, and the request's compliance with PAIA, the information officer makes a decision to grant or deny access.
- The information officer communicates this decision to the requester in writing within **30 days** of receiving the request, detailing any applicable conditions, reasons for denial (if applicable), and the process for appeal if the request is denied.

15. RECORD-KEEPING AND PROTECTION OF PERSONAL INFORMATION

The Firm will keep a record of all requests received, and ensure that personal information processed during the request is handled in accordance with the Protection of Personal Information Act 4 of 2013 (POPIA).

16. PROCESSING OF PERSONAL INFORMATION

16.1 CONDITION 1: ACCOUNTABILITY

16.1.1 The Company undertakes to process all personal information in terms of the conditions set out herein.

16.1.2 The Company undertakes to clearly define the purpose of collecting any personal information:

16.1.2.1 where the Company is required to process personal information by legislation, the purpose of such processing would be compliance with such statutory obligation;

16.1.2.2 the purpose of any other processing of personal information must be clearly defined.

16.1.3 The Company acknowledges that it will exclusively process personal information for the intended purpose it was processed for.

16.1.4 The Company undertakes to create a register or log of all categories and/or types of information which it has processed and/or which it intends on processing.

16.1.5 The Company acknowledges its duty to inform all persons whose personal information is collected of:

16.1.5.1 the purpose of the processing of the personal information;

16.1.5.2 which personal information is being collected;

16.1.5.3 who is collecting the personal information;

16.1.5.4 manner in which the personal information is collected;
and

16.1.5.5 how personal information would be transmitted and/or shared (if any).

16.2 CONDITION 2: PROCESSING LIMITATION

16.2.1 The Company undertakes to solely process personal information in the following instances:

16.2.1.1 where the Company is obliged by statute to process personal information;

16.2.1.1.1 where the Company has to process personal information in compliance with a contractual obligation;

16.2.1.1.2 where the Company has a legitimate interest to process such personal information; and/or

16.2.1.1.3 where the person(s) whose personal information have been processed consents thereto.

16.2.1.2 The Company recognises that it shall only process personal information:

16.2.1.2.1 in a lawful manner, as envisaged in paragraphs 16.2.1, and its subparagraphs; and

16.2.1.2.2 in a reasonable manner that does not infringe on the individual(s)' right to privacy.

16.2.2 Where the Company has a statutory obligation to process personal information of its clients', the consent of such individual is not needed for the processing of such personal information, this personal information includes, amongst others:

- 16.2.2.1 full names;
- 16.2.2.2 identity numbers and/or passport numbers;
- 16.2.2.3 residential address and mailing address;
- 16.2.2.4 telephone numbers;
- 16.2.2.5 email or other electronic addresses (if any) and;
- 16.2.2.6 other legally privileged information as part of the services of the Company.

16.2.3 In instances where the Company does not have a statutory duty, contractual obligation and/or legitimate interest in processing personal information (as envisaged in paragraph 16.2.1), The Company undertakes to obtain consent before such processing.

16.2.4 The Company undertakes to solely process personal information in terms of its intended purpose and to the extent that such processing is adequate, relevant and not excessive.

16.3 CONDITION 3: PURPOSE SPECIFICATION

16.3.1 The Company undertakes to solely process personal information for a specific, explicitly defined, and lawful process relating to the services of the Company.

16.3.2 The Company undertakes to process the minimum personal information required in compliance with its duties and functions.

16.3.3 The Company may not retain such personal information any longer than is required to achieve the purpose of the processing thereof, which includes prescribed periods of retention in legislation.

16.3.4 In instances where the Company is unable to comply with the paragraphs above, for whatsoever reason, The Company acknowledges that the person's consent is required for such deviation from POPIA.

16.4 CONDITION 4: FURTHER PROCESSING LIMITATION

16.4.1 The Company undertakes in instances where secondary processing of personal information occurs, that such secondary processing is in accordance and compatible with the purpose as contained in paragraphs 16.1.5 and 16.2.1 hereinabove.

16.5 CONDITION 5: INFORMATION QUALITY

16.5.1 The Company undertakes that any personal information processed by the Company will be:

16.5.1.1 complete to such an extent that the Company adheres to its statutory obligation and/or to achieve the purpose for which the personal information is processed;

16.5.1.2 accurate; and

16.5.1.3 regularly updated, where necessary.

16.5.2 The Company recognises that its clients', suppliers' and/or any other person(s)' right to request that the Company:

16.5.2.1 corrects any personal information which is inaccurate and/or incomplete; and

16.5.2.2 destroy and/or remove any personal information which is irrelevant, excessive and/or obtained unlawfully.

16.5.3 The Company undertakes to attempt to obtain the personal information directly from the client or supplier.

16.5.4 Should the Company be unable to obtain such personal information directly from the client or supplier, the Company may obtain such information from another source, provided that:

16.5.5 paragraph 16.2.1 hereinabove is complied with in such instances.

16.6 CONDITION 6: OPENNESS

16.6.1 The requirements of openness and transparency are well known principles as vested in a democratic system of South African governance.

16.6.2 In the context of the POPIA, this means that compliance with the condition of transparency may be equated with compliance with the conditions for processing which is dealt with in conditions 2, 3 and 4 above.

16.6.3 The Company undertakes to have a general policy of openness regarding developments, practices and policies relating to POPIA and PAIA.

16.6.4 The Company undertakes to make means available in order to establish the existence and nature of the personal information, the main purpose of its use and the usual residence of the Company.

16.6.5 The two elements of openness in terms of the POPIA are:

16.6.5.1 that documents of all processing operations are maintained; and

16.6.5.2 clients and suppliers are notified when personal information is processed, which has been more fully elaborated on in condition 1 hereinabove.

16.7 CONDITION 7: INFORMATION SECURITY

16.7.1 The Company recognises that it must safeguard the personal information of its clients and suppliers against damage and loss; loss of access; and unauthorised destruction, access and use.

16.7.2 In order to safeguard such personal information the Company undertakes to implement technical and organisational measures.

16.7.3 Technical measures may include, amongst others:

- 16.7.3.1 encrypted email servers;
- 16.7.3.2 anti-virus software;
- 16.7.3.3 firewalls;
- 16.7.3.4 encrypted software;
- 16.7.3.5 password protected servers;
- 16.7.3.6 individual password protected user access

16.7.4 Organisational measures may include, amongst others:

- 16.7.4.1 internal policies and procedures; and/or
- 16.7.4.2 training.

16.7.5 The directors in conjuncture with the information officer shall determine, from time to time, which technical and organisational measures it deems necessary to safeguard the personal information of its clients and suppliers.

APPROVAL

<u>DATE:</u>	<u>PERSON:</u>	<u>DESIGNATION</u>
31 October 2024	PREPARED BY: WAHID ISMAIL	DIRECTOR
31 October 2024	APPROVED BY: WAHID ISMAIL & ATISH DAHYA	DIRECTORS

REVIEW

<u>DATE:</u>	<u>PERSON:</u>	<u>DESIGNATION</u>
31 October 2024	REVIEWED AND APPROVED BY: WAHID ISMAIL & ATISH DAHYA	DIRECTORS

NEXT REVIEW DATE

01 MARCH 2025

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:

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2. Reference number, if available:

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3. Any further particulars of record:

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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:

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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 below, 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 for access 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)		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* (stiffy or compact disc)

*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.	YES	NO
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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:

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2. Explain why the record requested is required for the exercise or protection of the aforementioned right:

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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 the 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?

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Signed at this day..... ofyear

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SIGNATURE OF REQUESTER /
PERSON ON WHOSE BEHALF REQUEST IS MADE