



MANUAL IN TERMS OF
SECTION 10 & 51 OF THE
PROMOTION OF ACCESS
TO INFORMATION ACT,
2000, **READ TOGETHER
WITH SECTION 4 OF THE
REGULATIONS RELATING
TO THE PROTECTION OF
PERSON INFORMATION**

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1. PURPOSE OF THE MANUAL

For the purposes of Promotion of Access to Information Act 2 of 2000 (“PAIA”), this manual explains the procedure on how citizens or people can get access to the records held by the Diale Mogashoa Attorney and the manner in which a request for access will be facilitated by the Information Officer/ or and Deputy.

For the purposes of Protection of Personal Information Act 4 of 2013 (“POPIA”), amongst other things, this manual outlines the purpose for which Personal Information may be processed, a description of the categories of Data Subjects for whom the body processes Personal Information as well as the categories of Personal Information relating to such Data Subjects and the recipients to whom Personal Information may be supplied.

2. STRUCTURE

Diale Mogashoa Attorneys (DM-INC) is a law firm registered with registration number 2012/007603/21 and in good standing with the Legal Practice Council. The Legal Practice Council is a statutory body established in terms of Section 4 of the Legal Practice Act 28 of 2014.

The Firm comprises of the following organisational structure:

- Managing Director;
- Finance Director;
- Board of Directors;
- Office Management; and
- Legal Costs, Billing and Recoveries.

3. CONTACT PARTICULARS

Physical Address:

Main Office

Menlyn Corner
1st and 2nd Floors
87 Frikkie de Beer Street
Menlyn
Pretoria

Branch Office:

8th Floor
Convention Tower

Corner Heerengracht and Walter Sisulu Avenue

Foreshore

Cape Town

Postal Address:

Postnet Suite 101

Private Bag x15

Menlo Park

0102

Docex 49

Brooklyn

Switchboard: +27 (12) 346 5436/5939

Fax: +27 (12) 346 5962

Email: info@dm-inc.co.za

Information Officer: Mr Madimpe Mogashoa

E-mail: Madimpe@dm-inc.co.za

Deputy Information Officer (1): Mr Pieter Jacobus de Beer

E-mail: Kobus@dm-inc.co.za

Deputy Information Officer (1): Mrs Nelisiwe Monashane

E-mail: Nelisiwe@dm-inc.co.za

Website: www.dm-inc.co.za

4. DEFINITIONS

PAIA – The Promotion of Access to Information Act, 2000 (often referred to as “PAIA”)

POPIA – The Protection of Personal Information Act, 2013 (often referred to as “POPIA”)

DM-INC – Diale Mogashoa Attorneys

INFORMATION REGULATOR – The Information Regulator (South Africa) is an independent body established

in terms of Section 39 of The Protection of Personal Information Act 4 of 2013.

HUMAN RIGHTS COMMISSION – The South African Human Rights Commission is the national institution established to support constitutional democracy. It is committed to promote respect for, observance of and protection of human rights for everyone without fear or favour. The Commission is observing regulations issued by government.

VAT – Value-Added Tax

CEO – A Chief Executive Officer, (CEO) is the highest-ranking executive in a company

5. SOUTH AFRICAN HUMAN RIGHTS COMMISSION GUIDE

Any person who wishes to exercise any right contemplated in the Promotion of Access to Information Act, 2000 (“PAIA”), may obtain a copy of the information guide issued by the Human Rights Commission in the above-mentioned official languages, from:

The Human Rights Commission Private Bag 2700

Houghton 2041

Telephone: 011-484 8300

Facsimile: 011-484 7149

Website: www.sahrc.org.za

The Commission continues to work with the Information Regulator to ensure a smooth handover of PAIA functions by 30 June 2021 or as soon as reasonably possible thereafter.

6. THE INFORMATION REGULATOR

The Information Regulator (South Africa) is an independent body established in terms of Section 39 of The Protection of Personal Information Act 4 of 2013. It is subject only to the Law and The Constitution and it is accountable to the National Assembly.

The Information Regulator is, among others, empowered to monitor and enforce compliance by Public and Private bodies with the provisions of The Promotion of Access to Information Act, 2000 (Act 2 of 2000), and The Protection of Personal Information Act, 2013 (Act 4 of 2013).

7. DESCRIPTION OF RECORDS HELD

Information, which is not readily available, may be requested in accordance with the procedure prescribed in terms of the Promotion of Access to Information Act.

Copies of the prescribed forms to be completed for submitting a request are available from the Information Officers of the firm as well on our website as indicated above.

Information held:

7.1 Finance (Legal Costs, Billing and Recoveries.)

- Past and current Financial Statement
- Past and Current Bills of Costs

7.2 Office Management

- Organogram
- Personal particulars of staff members, Structured salaries and benefits payable
- Disciplinary profile of staff members,
- Human Resources & Administration Policies
- Past and current leases Agreements
- Employment Equity Plan
- Contracts with Suppliers and Service Providers - HR
- Funding Agreements - HR

7.4 Board of Directors

- Organisational and business plans
- Memoranda of understanding
- Occupational health and safety plans

8. SECTION 52 NOTICE

Contains categories of records and a description of those records that are automatically available:

- For inspection in terms of any legislation other than **PAIA**;
- For purchase or copying from the public body; and
- From the public body free of charge.

The information is available on the website of Diale Mogashoa Inc: www.dm-inc.co.za

9. SERVICES WE OFFER

The services we offer is found on the website of Diale Mogashoa Inc: www.dm-inc.co.za

10. PROCEDURES FOR THE REQUEST OF INFORMATION

A requester must comply with all the procedural requirements contained in section 53 relating to a request for access to a record. A requester must complete the prescribed Form C enclosed herewith in Appendix 1 and submit same as well as payment of a request fee and a deposit, if applicable to the information officer at the postal or physical address, fax number or electronic mail address stated herein. The prescribed form must be filled in with enough particularity to at least enable the information officer to identify:

- The record or records requested;
- The identity of the requester;
- What form of access is required; and
- The postal address or fax number of the requester in the Republic.

A requester must state that he or she requires the information in order to exercise or protect a right, and clearly state what the nature of the right is so 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.

Diale Mogashoa Attorneys Information Officer will process a request within 30 (thirty) days, unless the requestor has stated special reasons which would satisfy the information officer that circumstances dictate that this time 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 and the particulars so required.

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

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

When a requester is not satisfied by a decision made by the Information Officer, for example for refusing access, for imposing access fees, or for extending the time period in which the response is due, the requester may apply to court for relief within 180 days of receiving the decision that has caused the grievance. The decision of the Information Officer will be reviewed by a court and a decision will be made by the courts as to whether or not to provide access.

PART: B – IN TERMS OF POPIA

Prepared in terms of section 10 & 51 of the Promotion of Access to Information Act, 2000 and read together with Sec 4(1) (C) of the POPI Regulations, 2013, to address requirements of the Protection of Personal Information Act, 2013.

Objection to the processing of personal information in terms of POPIA

- A data subject who wishes to object to the processing of personal information in terms of section 11(3)(a) of the Act, must submit the objection to the responsible party on **Form 1**.

- The responsible party, or a designated person, must render such reasonable assistance as is necessary, free of charge, to enable the data subject to make an objection on **Form 1**.

Request for correction or deletion of personal information or destruction or deletion of record of personal information in terms of POPIA

- A data subject who wishes to request a correction or deletion of personal information or the destruction or deletion of a record of personal information in terms of section 24(1) of the Act, must submit a request to the responsible party on **Form 2**.

- The responsible party, or a designated person, must render such reasonable assistance, as is necessary free of charge, to enable a data subject to complete **Form 2**.

Request for data subject's consent to process personal information in terms of POPIA

- A responsible party who wishes to process personal information of a data subject for the purpose of direct marketing by electronic communication must in terms of section 69(2) of the Act submit a request for written consent to that data subject on **Form 4**.

Submission of complaint in terms of POPIA

- Any person who wishes to submit a complaint contemplated in section 74(1) of the Act must submit such a complaint to the Regulator on **Part I of Form 5**.

- A responsible party or a data subject who wishes to submit a complaint contemplated in section 74(2) of the Act must submit such a complaint to the Regulator on **Part II of Form 5**.

Regulator acting as conciliator during investigation in terms of POPIA

- If during the investigation of a complaint the Regulator decides to act as a conciliator in terms of section 76(1)(b) of the Act, and convene a conciliation meeting, the Regulator must, as soon as it is practically possible, inform the data subject and the responsible party implicated in the complaint on **Form 6** of the following:
 - (a) the Regulator's decision to act as a conciliator in the matter; and
 - (b) the date, time and place of the conciliation meeting.

- The Regulator-
 - (a) may consolidate separate complaints, which are alleged to relate to the same interference with the protection of personal information by the same responsible party, in order to deal with the complaints in the same conciliation proceedings;
 - (b) must ensure that all persons entitled to attend the conciliation meeting are notified within a reasonable time, of the date, time and place of the meeting;
 - (c) may request all the relevant documentation relating to the complaint from the data subject and the responsible party; and
 - (d) may confer with the parties in person, by electronic communication means, or by any other means as is deemed appropriate.

- Where a conciliation meeting fails to take place, the Regulator must arrange for an alternative date and notify the persons entitled to attend the conciliation meeting accordingly.

- The Regulator must issue a conciliation certificate on **Form 7** within a reasonable time after the date of the conclusion of the conciliation meeting.

- If the complaint is not resolved, or either or both of the parties did not attend a conciliation meeting, the Regulator must proceed with the complaint as provided for in terms of section 76 of the Act.

Pre-investigation proceedings of Regulator in terms of POPIA

- If the Regulator intends to investigate any matter contemplated in Chapter 10 of the Act, the Regulator must in terms of section 79 of the Act, notify the parties to whom the investigation relates of such intention on **Part I of Form 8** prior to conducting the investigation.

- The Regulator must inform the responsible party to whom the investigation relates on **Part II of Form 8** of the complaint, or the subject matter of the investigation, and must inform the responsible party of the right to submit a written response to the complaint or the subject matter of the investigation within the time allocated by the Regulator.

Settlement of complaints in terms of POPIA

- If it appears from a complaint or any written reply to the complaint under section 79(b)(ii) of the Act or during a conciliation meeting, that it may be possible to secure a settlement between the parties and if appropriate, satisfactory assurances as contemplated in section 80 of the Act, the Regulator may confer with the parties in person, by electronic communication means, or by any other means as is deemed appropriate to endeavour to obtain a settlement and if appropriate, satisfactory assurances as contemplated in section 80 of the Act.

- If during the process referred to in sub-regulation (1) the Regulator decides to convene a settlement meeting, the Regulator must, as soon as it is practically possible, inform the data subject and the responsible party on **Form 9** of the date, time and place of the settlement meeting.

- For the purpose of settlement proceedings, the Regulator has the same powers of a conciliator contemplated in sub-regulations (2) to (3) of Regulation 8.

- The Regulator must issue a settlement certificate on **Form 10** within a reasonable time after the date of the conclusion of the settlement meeting.

- If no settlement and assurance is secured or if either or both of the parties did not wish to attend a settlement meeting, the Regulator must proceed with the matter as provided for in terms of section 76 of the Act.

Assessments in terms of POPIA

- A request for an assessment in terms of section 89(1) of the Act must be submitted to the Regulator on **Part 1 of Form 11**

- The Regulator must inform the requester on **Part II of Form 11** if it has decided to conduct an assessment on-
 - (a) its own initiative; or
 - (b) as requested in terms of sub-regulation (1);
 - within a reasonable time from the date that the decision was made,

- The period of assessment will be determined by the Regulator on a case-by-case basis.

- The Regulator must notify the requester or the responsible party (if not the requester) of any decision made, or action taken, or view formed on **Form 12** within a reasonable time from the date that the decision was made or action taken or view formed.

Informing the parties of developments regarding investigation in terms of POPIA

- During the course of an investigation, the Regulator must within a reasonable time from the date of a decision being made or action being taken-
 - (a) keep the complainant, the data subject (if not the complainant) and the responsible party informed of the developments of the investigation; and
 - (b) inform the complainant, data subject (if not complainant) and the responsible party of the result of the investigation.

- The notifications contemplated in sub-regulation (1) must be served at the designated addresses of the complainant, the data subject and the responsible party advising—
 - (a) on **Form 13** that an enforcement notice will not be issued in terms of section 94(a) of the Act;
 - (b) on **Form 14** that the complaint has been referred to the Enforcement Committee in terms of section 92 of the Act;
 - (c) on **Form 15** that an enforcement notice has been served in terms of section 95 of the Act;
 - (d) on **Form 16** that an enforcement notice had been cancelled or varied in terms of section
 - (e) on **Form 17** that an appeal has been lodged against an enforcement notice for cancellation or variation of the notice in terms of section 97 of the Act;
 - (f) on **Form 18** that an appeal against an enforcement notice has been allowed and that an enforcement notice has been substituted in terms of section 98 of the Act; or
 - (g) on **Form 19** that an appeal has been dismissed in terms of section 98 of the Act.

11. PRESCRIBED FEES

Information, other than that readily available on the Diale Mogashoa Attorney website, is available in hard copy only at a fee as reflected below plus VAT plus postage.

The request fee payable to Private bodies is R50. Requesters who earn less than R14, 712 per year (if single) and R27,192 per year (if married or in a life partnership), do NOT have to pay request fees.

The breakdown of fees for accessing records of a private body are:

Activity	Fee
Copy per A4 Page	R1.10
Printing per A4 page	75 cents
Copy on a CD	R70

Transcription of visual images per A4 page	R40
Copy of a visual image	R60
Transcription of an audio recording per A4 page	R20
Copy of an audio recording	R30
Search and preparation of the record for disclosure	R30 per hour or part thereof, excluding the first hour, reasonably required for the search and preparation.

If the request is granted then a further access fee must be paid for the search, preparation, reproduction and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure.

12. REMEDIES

If a request for information in terms of PAIA issued by DM-INC, the requester may, within 60 days and in the prescribed form and against payment of the prescribed appeal fee, lodge an internal appeal against the decision of the information officer in accordance with the provisions of section 75 of PAIA. If an internal appeal is lodged after expiry of the prescribed period, DM-INC will, on good cause shown, allow such late lodging.

13. PERSONAL INFORMATION PROCESSING

Section 1 of POPIA states as follows:

“Processing” means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including:

- The collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- Dissemination by means of transmission, distribution or making available in any other form; or
- Merging, linking as well as restricting, degradation, erasure or destruction or information.

DM-INC uses the Personal Information under its care in the following ways:

- Rendering service according to instructions given by clients
- Staff administration
- Keeping of accounts and records
- Complying with tax laws

Categories of Data Subjects and their Personal Information DM-INC may possess records relating to:

- Suppliers
- Shareholders
- Contractors service providers
- Staff
- Clients

DM-INC may supply the Personal Information to service providers who render the following services:

- Capturing and organising of data
- Storing of data
- Sending of emails and other correspondence to clients
- Conducting due diligence checks
- Administration of the Collective Investment Schemes

Actual or Planned Trans border Flows of Personal Information

- The Company may transfer data trans-border in order to store data with third party cloud storage providers.

General Description of Information Security Measures: DM-INC employs up to date technology to ensure the confidentiality, integrity and availability of the Personal Information under its care. Measures include:

- Firewalls
- Virus protection software and update protocols
- Logical and physical access control
- Secure setup of hardware and software making up the IT infrastructure
- Outsourced Service Providers who process Personal Information on behalf of DM-INC are contracted to implement security controls.

14. FORMS/ ANNEXURES

1.1 APPENDIX – PAIA

- a. Form C – Request Form;**
- b. Form E – Request Form Automatically Available Records;**
- c. PAIA Prescribed fees Gazette Notice**

1.1 **APPENDIX - POPIA**

- d. **Form 1** - Objection of processing of personal information;
- e. **Form 2** - Request for correction or deletion of personal information;
- f. **Form 4** - Direct marketing by electronic communication consent;
- g. **Form 5 (Part 1 & Part 2)** - Complaint regarding interference with Protection of Person Information;
- h. **Form 6** - Regulator acting as a Conciliator;
- i. **Form 7** - Notice to parties- Conciliation;
- j. **Form 8 (PART 1 & Part 2)** - Notice to parties of intention of Regulator to investigate a complaint;
- k. **Form 9** - Notice to parties: settlement meeting;
- l. **Form 10** - Settlement certificate;
- m. **Form 11** - Request for an assessment;
- n. **Form 12** - outcome or decision made;
- o. **Form 13** - Enforcement notice;
- p. **Form 14** - Referral to Enforcement Committee;
- q. **Form 15** - Section 95 enforcement notice;
- r. **Form 16** - Cancelled enforcement notice;
- s. **Form 17** - Appeal lodged against an enforcement notice;
- t. **Form 18** - Setting aside of enforcement notice; and
- u. **Form 19** - Notice of dismissal of appeal.

Availability of the Manual

The manual is available for inspection, on reasonable prior notice, at the office of DM-INC free of charge. Copies of the manual of DM-INC are also available from the Information Regulator.

Approved



Madimpe Mogashoa

Managing Director (Information Officer)

SIGNED ON BEHALF OF DIALE MOGASHOA ATTORNEYS ON THIS 1ST DAY OF JULY 2021.