

MALANSCHOLES
ATTORNEYS

PAIA MANUAL

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1 INTRODUCTION

- 1.1 Malan Scholes Incorporated (Registration No. 2006/028137/21) (“**Malan Scholes**”). Malan Scholes is a professional services firm providing legal services, including legal advice and representation to individuals and businesses.
- 1.2 As part of its operations and services, Malan Scholes holds certain records (information and documents), including personal information. The Promotion of Access to Information Act 2 of 2000 (“**PAIA**”) and the Protection of Personal Information Act 4 of 2013 (“**POPIA**”) provide for certain records and/or information to be accessed where certain circumstances are met and in accordance with certain procedures and at prescribed fees, giving effect to the right of access to information in terms of the Constitution of the Republic of South Africa.
- 1.3 This PAIA Manual (“**the Manual**”), which includes all annexures and amendments thereto as made available by Malan Scholes from time to time has been prepared in accordance with section 51 of PAIA as read with POPIA. It provides an overview of the records (information and documents) held by Malan Scholes and details of how such records may be accessed, including in relation to giving effect to the rights granted under POPIA terms of which a data subject may access its personal information, object to processing and request the correction of any of its personal information held by Malan Scholes.
- 1.4 Malan Scholes may amend this manual from time to time. It is available and accessible on the Malan Scholes website (<https://www.malanscholes.co.za>) or on request to Malan Scholes’ designated Information Officer (being the person duly authorised by and appointed by Malan Scholes to act in this capacity).
- 1.5 Malan Scholes has appointed an Information Officer in accordance with POPIA. In addition to its obligations prescribed under POPIA, the designated Information Officer is also responsible for assessing any requests to Malan Scholes for access to information in terms of PAIA as well as to oversee any other obligations which Malan Scholes may have under PAIA. The Information Officer may appoint Deputy Information Officers to assist it in the fulfilment of its obligations.

2 COMPANY DETAILS

(Information to be provided in terms of section 51(1)(a) of PAIA)

2.1	Name	Malan Scholes Incorporated
2.1.1	Physical Address	First Floor, One-on-Jameson, 1 Jameson Avenue, cnr Glenhove Road, Melrose Estate, Johannesburg
2.2	Post Address	Postnet Suite 324, Private Bag X1, Melrose Arch, 2076
2.3	Head and Information Officer	Serika Singh Telephone: +27 11 718 4600 E-mail: ssingh@malanscholes.co.za
2.4	Deputy Information Officer	Ana Smith Telephone: +27 11 718 4600 Email: admin@malanscholes.co.za

3 REGULATORS AND GUIDE ON HOW TO USE PAIA

3.1 The Information Regulator is responsible for PAIA and POPIA respectively and can be contacted as follows:

Physical address:

JD House

27 Stiemens Street

Braamfontein

Johannesburg

2001

Postal address:

PO Box 31533

Braamfontein

Johannesburg

2017

E-mail:

Complaints: complaints.IR@justice.gov.za

General enquiries: inforeg@justice.gov.za

- 3.2 The South African Human Rights Commission (SAHRC) has issued a guide on how to use the Act (as prescribed by section 10 of PAIA) and is available on the SAHRC website (www.sahrc.org.za). This Manual complies with the requirements of the guide and recognises that the Information Regulator established under POPIA will be responsible for regulating compliance with PAIA, POPIA and their regulations.

4 RECORDS HELD BY MALAN SCHOLES

4.1 Records which are freely available (section 51(b)(ii) of PAIA)

- 4.1.1 The following records are automatically available to the general public and need not be requested in accordance with the procedure outlined in this Manual –

4.1.1.1 brochures relating to Malan Scholes and prepared for the purposes of dissemination; and

4.1.1.2 information available on Malan Scholes' website.

4.2 Records held by Malan Scholes in terms of other legislation (section 51(1)(b)(iii) of PAIA)

- 4.2.1 Malan Scholes retains a number of records in accordance with legislation which applies to it, including but not limited to –

- 4.2.1.1 Basic Conditions of Employment Act, No 75 of 1997;
- 4.2.1.2 Broad-Based Black Economic Empowerment Act, No 53 of 2003;
- 4.2.1.3 Companies Act, No. 71 of 2008;
- 4.2.1.4 Compensation for Occupational Injuries and Diseases Act, No. 130 of 1993;
- 4.2.1.5 Consumer Protection Act, No 68 of 2008;
- 4.2.1.6 Electronic Communications and Transactions Act, No 25 of 2002;
- 4.2.1.7 Employment Equity Act, No. 55 of 1998;
- 4.2.1.8 Financial Intelligence Centre Act, No. 38 of 2001;
- 4.2.1.9 Income Tax Act, No. 58 of 1962;
- 4.2.1.10 Labour Relations Act, No. 66 of 1995;
- 4.2.1.11 Occupational Health and Safety Act, No. 85 of 1993;
- 4.2.1.12 Protection of Personal Information Act, No.4 of 2013;
- 4.2.1.13 Regulation of Interception of Communications and Provision of Communication Related Information Act, No. 70 of 2002;
- 4.2.1.14 Skills Development Act, No.97 of 1998;
- 4.2.1.15 Skills Development Levies Act, No 9 of 1999;
- 4.2.1.16 Unemployment Insurance Act, No. 63 of 2001;
- 4.2.1.17 Value Added Tax Act, No. 89 of 1991.

- 4.2.2 Where any information contained in any records retained by Malan Scholes in terms of the above legislation is of a public nature, such records may be available for inspection without a person having to request access thereto in terms of PAIA.

4.3 **Records held by Malan Scholes (section 51(1)(b)(iv) of PAIA)**

The records held by Malan Scholes include but are not necessarily limited to –

4.3.1 **Human Resources**

4.3.1.1 Employee information including personal information, employment history and health records that Malan Scholes may hold from time to time;

4.3.1.2 Disciplinary records;

4.3.1.3 Employment Equity Plan;

4.3.1.4 Training and development information;

4.3.1.5 General files containing information on employee recruitment and selection information;

4.3.1.6 List of employees;

4.3.1.7 Employment contracts;

4.3.1.8 Tax records;

4.3.1.9 Training records;

4.3.1.10 Payroll;

4.3.1.11 Applicable internal policies and procedures.

4.3.2 **Client related records**

4.3.2.1 FICA records;

4.3.2.2 Correspondence.

4.3.3 **Property**

4.3.3.1 Lease agreements;

4.3.3.2 Insurance records;

4.3.3.3 Asset register.

4.3.4 **Operations**

4.3.4.1 Function records and related costings;

4.3.4.2 Stock sheets;

4.3.4.3 List of suppliers;

4.3.4.4 Supplier Agreements.

4.3.5 **Information technology**

4.3.5.1 Licence agreements;

4.3.5.2 Records relating to systems;

4.3.5.3 Domain information;

4.3.5.4 Usage statistics;

4.3.5.5 Equipment details;

4.3.5.6 Costings of hardware and software.

4.3.6 **Company**

4.3.6.1 Company secretarial records;

4.3.6.2 Incorporation documents, including Memorandum of Incorporation.

4.3.7 **Finance/Accounts Department**

4.3.7.1 Accounting records;

4.3.7.2 Annual financial statements;

4.3.7.3 Tax returns;

- 4.3.7.4 A list of the company's creditors and debtors;
- 4.3.7.5 Invoices;
- 4.3.7.6 Salary information;
- 4.3.7.7 Banking records;
- 4.3.7.8 Bank account details;
- 4.3.7.9 Fixed asset register;
- 4.3.7.10 Audit reports;
- 4.3.7.11 Fidelity Fund certificates.

4.3.8 **Marketing**

- 4.3.8.1 Company brochure and publications; and
- 4.3.8.2 Documents relating to public relation events.

5 **REQUEST PROCESS**

- 5.1 Any requests for access to records of Malan Scholes are subject to PAIA and, in respect of personal information, POPIA.
- 5.2 In terms of PAIA, a request for access is to be made on the prescribed form accessible at <https://www.justice.gov.za/infoereg/docs/forms/InfoRegSA-PAIA-Form02-Reg7.pdf> with a copy being set out in **Annexure A** to this Manual. The request is to be made to the Information Officer addressed to the contact details set out above (section 53(1) of PAIA).
- 5.3 The requester must provide sufficient detail on the form to enable the Information Officer to identify the record and the requester. The requester should also indicate which form of access is required and specify a postal address, fax number in the Republic or email address. The requester should also indicate if, in addition to a written reply, any other manner is to be used to inform the requester and state the necessary particulars to be so informed of that right (section 53(2)(e) of PAIA).

- 5.4 The requester must identify the right that is sought to be exercised or protected and provide an explanation of why the requested record is required for the exercise or protection of that right (section 53(2)(d) of PAIA).
- 5.5 In circumstances where the request for access is being made on behalf of another person, the requester is obliged to prove the capacity in which the request is being made, with any submissions in support thereof being subject to the satisfaction of Malan Scholes (section 53(2)(f) of PAIA). Section 71 of PAIA makes provision for a request for information or records about a third party. In considering such a request, Malan Scholes will adhere to the provisions of sections 71 to 73 of the Act. The requester is to note the provisions of Chapter 5 of Part 3 of PAIA in terms of which Malan Scholes is obliged, in certain circumstances, to advise third parties of requests lodged in respect of information applicable to or concerning such third parties. In addition, the provisions of Chapter 2 of Part 4 of PAIA entitle third parties to dispute the decisions of Malan Scholes by referring the matter to the High Court.
- 5.6 The Information Officer will decide on whether or not to grant the request as soon as is reasonably possible (but in any event within thirty days of the request having been submitted) and notify the requester accordingly.
- 5.7 The Information Officer may decide to extend the period of thirty days for another period of not more than thirty days if –
- 5.7.1 the request is for a large number of records;
 - 5.7.2 the search for the records is to be conducted at premises not situated in the same town or city as the head office of Malan Scholes;
 - 5.7.3 consultation among divisions or departments, as the case may be, of Malan Scholes is required;
 - 5.7.4 more than one of the circumstances contemplated in paragraphs 5.7.1, 5.7.2 and 5.7.3 exist in respect of the request making the compliance with the original period not reasonably possible;
 - 5.7.5 the requester consents to such an extension in writing; and
 - 5.7.6 the parties agree in any other manner to such an extension.

Should Malan Scholes require an extension of time, the requester shall be informed as required in terms of section 57(3) of PAIA.

5.8 If the Information Officer fails to respond (or extend the period within which to respond) within thirty days after a request has been received, it will, in terms of PAIA, be deemed to have refused the request (section 58 read together with section 56(1) of PAIA).

5.9 Where access is granted –

5.9.1 the Information Officer will advise the requester of –

5.9.1.1 the access fee to be paid for the information prior to Malan Scholes being able to process the request and grant the access (section 54(1) of PAIA);

5.9.1.2 the format in which access will be given; and

5.9.1.3 the fact that the requester may lodge a complaint to the Information Regulator or an application with a Court of competent jurisdiction against the access fee charged or the format in which access is to be granted (section 54(3)(b) of PAIA); and

5.9.1.4 the procedure (including the time period allowed) for lodging a complaint to the Information Regulator or the application;

5.9.1.5 access to the record requested will be given as soon as reasonably possible.

5.10 The following access and reproduction fees apply –

5.10.1 the request fee payable by a requester, other than a personal requester (being a requester who seeks access to a record containing personal information about that requester) is R140,00. The requester may lodge an application to the Court against the tender or payment of the request fee (section 54(3)(b) of PAIA;

5.10.2 where the Information Officer is of the opinion that the number of hours required to search, reproduce and/or prepare the information requested will exceed 6 hours, it may require that a deposit be paid, calculated in accordance with PAIA.

5.10.3

Access and Reproduction fees respectively –

Item	Description	Amount
1	The request fee payable by every requester	R140.00
2	Photocopy/printed black & white copy of A4-size page	R2.00 per page or part thereof.
3	Printed copy of A4-size page	R2.00 per page or part thereof.
4	<p>For a copy in a computer-readable form on –</p> <p>4.1 Flash drive (to be provided by requestor);</p> <p>4.2 Compact disc –</p> <p>4.2.1 If provided by requestor;</p> <p>4.2.2 If provided to the requestor.</p>	<p>R40.00</p> <p>R40.00</p> <p>R60.00</p>
5	For a transcription of visual images per A4-size page	Service to be outsourced. Will depend on quotation from Service provider.
6	Copy of visual images	
7	Transcription of an audio record, per A4-size page	R24.00
8	<p>Copy of an audio record on –</p> <p>8.1 Flash drive (to be provided by requestor);</p> <p>8.2 Compact disc –</p>	R40.00

	8.2.1	If provided by the requestor;	R40.00
	8.2.2	If provided to the requestor.	R60.00
9	9.1	To search for and prepare the record for disclosure for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation.	R145.00
	9.2	To not exceed a total cost of	R435.00
10	Deposit: If search exceeds 6 hours		One third of amount per request calculated in terms of items 2 to 8.
11	Postage, e-mail or any other electronic transfer		Actual expense, if any.

5.11 If the request for access is refused, the Information Officer shall advise the requester in writing of the refusal, including adequate reasons for the refusal and that the requester may lodge a complaint to the Information Regulator or an application with a Court of competent jurisdiction against the refusal of the request (section 56(3) of PAIA).

5.12 Upon the refusal by the Information Officer, any deposit paid by the requester will be refunded.

6 INFORMATION OR RECORDS NOT FOUND

6.1 If a record cannot be found or if the records do not exist, the Information Officer shall notify the requester (providing full details of steps taken to find the record or determine its existence) that it is not possible to give access to the requested record.

- 6.2 If the record in question should later be found, the requester shall be given access to the record unless access is refused by the Company.

7 GROUNDS OF REFUSAL OF ACCESS

- 7.1 Malan Scholes must refuse to grant access on certain grounds, including (but not limited to) the following (Part 3, Chapter 4 of the PAIA) –
- 7.1.1 that the record constitutes privileged information for the purposes of legal proceedings or is subject to professional privilege;
 - 7.1.2 to protect the commercial information or the confidential information of a third party or the Company;
 - 7.1.3 that it is necessary to protect the safety of individuals or property;
 - 7.1.4 that it is necessary to protect the research information of a third party or the Company; and
 - 7.1.5 that granting access would result in the unreasonable disclosure of personal information about a third party.

8 PROTECTION OF PERSONAL INFORMATION THAT IS PROCESSED BY MALAN SCHOLES

- 8.1 Malan Scholes only processes personal information in compliance with applicable laws, including POPIA and has implemented a number of measures to ensure that the security of your personal information is maintained.
- 8.2 The terms on which Malan Scholes processes personal information is set out in its privacy policy accessible at (<https://malanscholes.co.za/>) which sets out details in respect of –
- 8.2.1 sharing of personal information and the rules which we apply thereto including –
 - 8.2.1.1 the transfer of personal information to third party service providers;

- 8.2.1.2 the measures we have adopted to ensure compliance with the requirements under POPIA where we transfer your data outside of South Africa.
- 8.2.2 the means and purposes of processing, including the way in which we collect personal information;
- 8.2.3 our retention of personal information;
- 8.2.4 a Data Subject's (as defined in POPIA) rights.
- 8.2.5 We note that –
 - 8.2.5.1 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 **Annexure B** subject to exceptions contained in POPIA; and
 - 8.2.5.2 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 **Annexure C**;
- 8.2.6 our complaints procedure.

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 7]**

A Particulars of private body

Malan Scholes Incorporated

Marked for the attention of: The Information Officer: Serika Singh

E-mail address: **ssingh@malanscholes.co.za**

Physical address: First floor, One-on-Jameson, 1 Jameson Avenue, corner Glenhove Road, Melrose Estate, Johannesburg

Postal Address: Postnet Suite 324, Private Bag X1, Melrose Arch, 2076

B Particulars of person requesting access to the record

- | |
|---|
| <p>a) The particulars of the person who requests access to the record must be given below;</p> <p>b) The address and/or fax number in the Republic to which the information is to be sent must be given.</p> <p>c) Proof of the capacity in which the request is made, if applicable, must be attached.</p> |
|---|

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:

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.

Description of record or relevant part of the record:

Reference number, if available:

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 the 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
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 for the record, if any, will be determined partly by the form in which access is requested.	

1. If the record is in written of 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 image*		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 record*		Copy in computer readable form* (stiffy or compact disc)
If you requested a copy of or transcription of a record (above), do you wish the copy or transaction to be posted to you? Postage is payable.		YES	NO	

G Particulars or 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.

- a) Indicate which right is to be exercised or protected:
- b) 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 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?

SIGNED AT

THIS THE

DAY OF

2021.

SIGNATURE OF REQUESTER / PERSON ON
WHOSE BEHALF REQUEST IS MADE

**OBJECTION TO THE PROCESSING OF PERSONAL INFORMATION IN TERMS OF
SECTION 11(3) OF POPIA BY A DATA SUBJECT**

Regulations relating to the protection of Personal Information, 2018

Note:

1. Affidavits or other documentary evidence as applicable in support of the objection may be attached.
2. If the space provided for in this Form is inadequate, submit information as an annexure to this Form and sign each page.
3. Complete as is applicable.

A	Details of Data Subject
Name(s) and surname/registered name of data subject	
Unique identifier/identity number	
Residential, postal or business address	
Contact number(s)	
Fax number/e-mail address	
B	Details of Responsible Party
Name(s) of surname/registered name of data subject	
Residential, postal or business address	
Contact number(s)	

Fax number / e-mail address	
C	Reasons for objection in terms of Section 11(1)(d) to (f). Please provide detailed reasons for the objection.

SIGNED AT

THIS THE

DAY OF

2021.

SIGNATURE OF DATA SUBJECT

**REQUEST FOR CORRECTION OR DELETION OF PERSONAL INFORMATION OR
DESTROYING OR DELETION OF RECORD OF PERSONAL INFORMATION IN TERMS
OF SECTION 24(1) OF POPIA**

Regulations relating to the protection of Personal Information, 2018

Note:

1. Affidavits or other documentary evidence as applicable in support of the request may be attached.
2. If the space provided for in this Form is inadequate, submit information as an Annexure.
3. Complete as is applicable.

Mark the appropriate box with an "X".

Request for:

- a) Correction or deletion of the Personal Information about the Data Subject which is in possession or under the control of the Responsible Party.
- b) Destroying or deletion of a record of Personal Information about the Data Subject which is in possession or under the control of the Responsible Party and who is no longer authorised to retain the record of information.

A	Details of Data Subject
Name(s) and surname/registered name of Data Subject	
Unique identified/identity number	
Residential, postal or business address	
Contact number(s)	

Fax number/e-mail address	
B	Details of responsible party
Name(s) and surname/registered name of responsible party	
Residential, postal or business address	
Contact number(s)	
Fax number/e-mail address	
C	Reasons for objection in terms of Section 11(1)(d) to (f). Please provide details reasons for the objection.
D	Reasons for correction or deletion of the Personal Information about the Data Subject in terms of Section 24(1)(a) which is in possession or under the control of the Responsible Party and/or reasons for destruction or deletion of a record of Personal Information about the Data Subject in terms of Section 24(1)(b) which the Responsible Party is no longer authorised to retain. Please provide detailed reasons to this request.