

MALANSCHOLES
ATTORNEYS

PAIA MANUAL

TABLE OF CONTENTS

1	INTRODUCTION	1
2	COMPANY DETAILS	2
3	REGULATORS AND GUIDE ON HOW TO USE PAIA	2
4	RECORDS HELD BY MALAN SCHOLES	3
5	REQUEST PROCESS	7
6	INFORMATION OR RECORDS NOT FOUND.....	9
7	GROUND OF REFUSAL OF ACCESS	9
8	PROTECTION OF PERSONAL INFORMATION THAT IS PROCESSED BY MALAN SCHOLES	10

ANNEXURES

ANNEXURE A	REQUEST FOR ACCESS TO RECORD	12
ANNEXURE B	OUTCOME OF REQUEST AND OF FEES PAYABLE	13
ANNEXURE C	OBJECTION TO THE PROCESSING OF PERSONAL	
ANNEXURE D	INFORMATION IN TERMS OF SECTION 11(3) OF POPIA BY A	
	DATA SUBJECTERROR! BOOKMARK NOT DEFINED.	
	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.....	20

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	Shani Sieberhagen Telephone: +27 11 718 4600 E-mail: ssieberhagen@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:

Woodmead North Office Park

54 Maxwell Drive

Woodmead

Johannesburg

2191

E-mail:

Complaints: PAIAComplaints@inforegulator.org.za

General enquiries: enquiries@inforegulator.org.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://inforegulator.org.za/paia-forms/> 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 the requester consents to such an extension in writing; and

5.7.5 the parties agree in any other manner to such an extension.

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

5.9 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).

5.10 Where access is granted –

5.10.1 the Information Officer will by way of the prescribed form 3 accessible at <https://info regulator.org.za/paia-forms/> (with a copy being set out in Annexure A hereto) advise the requester of –

5.10.1.1 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);

5.10.1.2 the format in which access will be given; and

- 5.10.1.3 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
- 5.10.1.4 access to the record requested will be given as soon as reasonably possible.
- 5.11 The access and reproduction fees are detailed in prescribed form 3 accessible at <https://info regulator.org.za/paia-forms/> with copy being set out in Annexure A hereto. The requester may lodge an application to the Court against the tender or payment of the request fee (section 54(3)(b) of PAIA).
- 5.12 If the request for access is refused, the Information Officer shall advise the requester in writing of the refusal by way of the prescribed form 3 accessible at <https://info regulator.org.za/paia-forms/> (with a copy being set out in Annexure A hereto), 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).
- 5.13 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.

FORM 2
REQUEST FOR ACCESS TO RECORD
 [Regulation 7]

NOTE:

1. Proof of identity must be attached by the requester.
2. If requests made on behalf of another person, proof of such authorisation, must be attached to this form.

TO: The Information Officer

(Address)

E-mail address: _____

Fax number: _____

Mark with an "X"

- Request is made in my own name Request is made on behalf of another person.

PERSONAL INFORMATION	
Full Names	
Identity Number	
Capacity in which request is made <i>(when made on behalf of another person)</i>	
Postal Address	
Street Address	
E-mail Address	
Contact Numbers	Tel. (B): _____ Facsimile: _____
	Cellular: _____
Full names of person on whose behalf request is made <i>(if applicable)</i> :	
Identity Number	
Postal Address	

Street Address			
E-mail Address			
Contact Numbers	Tel. (B)		Facsimile
	Cellular		
PARTICULARS OF RECORD REQUESTED			
<i>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. (If the provided space is inadequate, please continue on a separate page and attach it to this form. All additional pages must be signed.)</i>			
Description of record or relevant part of the record:			
Reference number, if available			
Any further particulars of record			
TYPE OF RECORD <i>(Mark the applicable box with an "X")</i>			
Record is in written or printed form			
Record comprises virtual images <i>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)</i>			
Record consists of recorded words or information which can be reproduced in sound			
Record is held on a computer or in an electronic, or machine-readable form			

FORM OF ACCESS <i>(Mark the applicable box with an "X")</i>	
Printed copy of record <i>(including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form)</i>	
Written or printed transcription of virtual images <i>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)</i>	
Transcription of soundtrack <i>(written or printed document)</i>	
Copy of record on flash drive <i>(including virtual images and soundtracks)</i>	
Copy of record on compact disc drive <i>(including virtual images and soundtracks)</i>	
Copy of record saved on cloud storage server	

MANNER OF ACCESS <i>(Mark the applicable box with an "X")</i>	
Personal inspection of record at registered address of public/private body <i>(including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form)</i>	
Postal services to postal address	
Postal services to street address	
Courier service to street address	
Facsimile of information in written or printed format <i>(including transcriptions)</i>	
E-mail of information <i>(including soundtracks if possible)</i>	
Cloud share/file transfer	
Preferred language <i>(Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available)</i>	

PARTICULARS OF RIGHT TO BE EXERCISED OR PROTECTED	
<i>If the provided space is inadequate, please continue on a separate page and attach it to this Form. The requester must sign all the additional pages.</i>	
Indicate which right is to be exercised or protected	

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

FEES	
a)	A request fee must be paid before the request will be considered.
b)	You will be notified of the amount of the access fee to be paid.
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	

You will be notified in writing whether your request has been approved or denied and if approved the costs relating to your request, if any. Please indicate your preferred manner of correspondence:

Postal address	Facsimile	Electronic communication (Please specify)

Signed at _____ this _____ day of _____ 20 _____

Signature of Requester / person on whose behalf request is made

FOR OFFICIAL USE

Reference number:	
Request received by: (State Rank, Name And Surname of Information Officer)	
Date received:	
Access fees:	
Deposit (if any):	

Signature of Information Officer

FORM 3
OUTCOME OF REQUEST AND OF FEES PAYABLE
 [Regulation 8]

Note:

1. If your request is granted the—
 - (a) amount of the deposit, (if any), is payable before your request is processed; and
 - (b) requested record/portion of the record will only be released once proof of full payment is received.
2. Please use the reference number hereunder in all future correspondence.

TO: _____

Reference number: _____

Your request dated _____, refers.

1. You requested:

Personal inspection of information at registered address of public/private body (including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form) is free of charge. You are required to make an appointment for the inspection of the information and to bring this Form with you. If you then require any form of reproduction of the information, you will be liable for the fees prescribed in Annexure B.	
--	--

OR

2. You requested:

Printed copies of the information (including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form)	
Written or printed transcription of virtual images (this includes photographs, slides, video recordings, computer-generated images, sketches, etc)	
Transcription of soundtrack (written or printed document)	
Copy of information on flash drive (including virtual images and soundtracks)	
Copy of information on compact disc drive (including virtual images and soundtracks)	
Copy of record saved on cloud storage server	

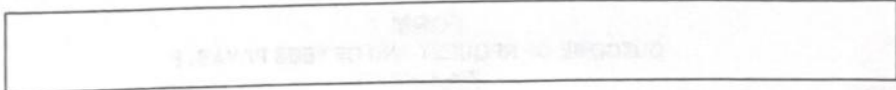
3. To be submitted:

Postal services to postal address	
Postal services to street address	
Courier service to street address	
Facsimile of information in written or printed format (including transcriptions)	
E-mail of information (including soundtracks if possible)	
Cloud share/file transfer	
Preferred language: (Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available)	

Kindly note that your request has been:

Approved

Denied, for the following reasons:



4. Fees payable with regards to your request:

Item	Cost per A4-size page or part thereof/item	Number of pages/items	Total
Photocopy			
Printed copy			
For a copy in a computer-readable form on:			
(i) Flash drive	R40.00		
• To be provided by requestor			
(ii) Compact disc	R40.00		
• If provided by requestor	R60.00		
• If provided to the requestor			
For a transcription of visual images per A4-size page	Service to be outsourced. Will depend on the quotation of the service provider		
Copy of visual images			
Transcription of an audio record, per A4-size	R24.00		
Copy of an audio record			
(i) Flash drive	R40.00		
• To be provided by requestor			
(ii) Compact disc	R40.00		
• If provided by requestor	R60.00		
• If provided to the requestor			
Postage, e-mail or any other electronic transfer:	Actual costs		
TOTAL:			

5. Deposit payable (if search exceeds six hours):

Yes

No

Hours of search	Amount of deposit (calculated on one third of total amount per request)

The amount must be paid into the following Bank account:

Name of Bank: _____
 Name of account holder: _____
 Type of account: _____
 Account number: _____
 Branch Code: _____
 Reference Nr: _____
 Submit proof of payment to: _____

Signed at _____ this _____ day of _____ 20 _____

Information officer

**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 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)	
E-mail address	
B	DETAILS OF RESPONSIBLE PARTY
Name(s) and surname/ registered name of Data Subject	
Residential, postal or business address	
Contact number(s)	
Email address	

C	REASONS FOR OBJECTION IN TERMS OF SECTION 11(1)(D) TO (F) (Please provide detailed reasons for the objection)

Signed atthis.....day of20.....

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.

SIGNED AT

THIS THE

DAY OF

202_.

SIGNATURE OF DATA SUBJECT