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PAIA/POPIA MANUAL

**Prepared in terms of section 51 of the Promotion
of Access to Information Act 2 of 2000 (as
amended)**

and

**Policies and procedures pertaining to the Protection
of Personal Information act, 4 of 2013.**

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1. Definitions and Interpretation

In this document,

- 1.1. **“Client”** means any person of whom records are being kept in the Practice;
- 1.2. **“Guide”** means the Revised Guide on how to use PAIA as made available by the Information Regulator and updated from time to time;
- 1.3. **“Head of Practice”** means Ms Shani Senekal, a clinical psychologist duly registered with the HPCSA under number PS 0146447 and practising under Board of health care funders (BHF) number 1038206
- 1.4. **“HPA”** means the Health Professions Act, 56 of 1974;
- 1.5. **“HPCSA”** means the Health Professions Council of South Africa;
- 1.6. **“Information Officer”** means, for purposes of POPIA, the Head of Practice who is duly registered as such in terms of Section 55(2) of POPIA;
- 1.7. **“Information Regulator”** means the information regulator brought in existence by Section 39 of POPIA;
- 1.8. **“Minister”** means the Minister of Justice and Correctional Services;
- 1.9. **“PAIA”** means the Promotion of Access to Information Act, 2 of 2000;
- 1.10. **“Personal Information”** carries the same meaning as ascribed to this phrase in Section 1 of POPIA;
- 1.11. **“POPIA”** means the Protection of Personal Information Act, 4 of 2013;

- 1.12. **“Practice”** means the professional psychology practice conducted by the Head of Practice as a sole proprietorship and the private body (for purposes of PAIA) to which this manual relates;
- 1.13. **“Practice Contact Details”** means all or any of the following:
- 1.13.1. Postal Address: 44 Monte Vista Boulevard,
Monte Vista,
Cape Town,
7460;
- 1.13.2. Street Address: 604 Touchstone House,
7 Bree Street,
,
City Centre,
Cape Town,
8000
- 1.13.3. Phone number: 0608335621;
- 1.13.4. e- mail address: info@shanisenekal.co.za;
- 1.14. **“Practice Website”** means the website of the Practice to be found at <https://www.shanisenekal.co.za>;
- 1.15. **“Regulations”** mean Regulation no R.757 published in Government Gazette No. 45057, dated 27 August 2021, in accordance with Section 92 of PAIA and as amended from time to time;
- 1.16. In this manual:
- 1.16.1. capitalised words and phrases (apart from the normal spelling rules and unless the context within which such words and phrases clearly indicate the contrary) carry the meaning ascribed to them in the definitions section of this clause 1;
- 1.16.2. the clause headings are for convenience and shall be disregarded in construing this manual;
- 1.16.3. unless the context indicates a contrary intention, the singular shall include plural and *vice versa*;

- 1.16.4. any reference to a statute, regulation or other legislation shall be a reference to that statute, regulation, or other legislation as at the signature date of this manual; and
- 1.16.5. where any number of days is to be calculated from a day, such number shall be calculated as excluding such day and commencing on the next business day. If the last day of such number so calculated falls on a day which is not a business day, the last day shall be deemed to be the next succeeding day which is a business day.

2. How to contact the Practice

The Practice should be contacted through its Information Officer at any of the Contact Details.

3. Purpose of this PAIA Manual

This PAIA Manual is useful for the public to-

- 3.1. check the categories of records held by a body which are available without a person having to submit a formal PAIA request;
- 3.2. have a sufficient understanding of how to make a request for access to a record of the body, by providing a description of the subjects on which the body holds records and the categories of records held on each subject;
- 3.3. know the description of the records of the body which are available in accordance with any other legislation;
- 3.4. access all the relevant contact details of the Information Officer and Deputy Information Officer who will assist the public with the records they intend to access;
- 3.5. know the description of the guide on how to use PAIA, as updated by the Regulator and how to obtain access to it;
- 3.6. know if the body will process personal information, the purpose of processing of personal information and the description of the categories of data subjects and of the information or categories of information relating thereto;

- 3.7. know the description of the categories of data subjects and of the information or categories of information relating thereto;
- 3.8. know the recipients or categories of recipients to whom the personal information may be supplied;
- 3.9. know if the body has planned to transfer or process personal information outside the Republic of South Africa and the recipients or categories of recipients to whom the personal information may be supplied; and
- 3.10. know whether the body has appropriate security measures to ensure the confidentiality, integrity and availability of the personal information which is to be processed.

4. Availability of this PAIA Manual

- 4.1. A copy of this PAIA Manual is available-
 - 4.1.1. from the Practice Website;
 - 4.1.2. from the Practice at its street address for public inspection during normal business hours; and
 - 4.1.3. to any person upon request and upon the payment of a reasonable prescribed fee.
- 4.2. A copy of this PAIA Manual is also available to the Information Regulator upon request.
- 4.3. A fee for a copy of the Manual, as contemplated in annexure B of the Regulations, shall be payable per each A4-size photocopy made.

5. Guide on how to use PAIA and how to obtain access to the Guide

- 5.1. The Regulator has made available the Guide on how to use PAIA, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right contemplated in PAIA and POPIA.
- 5.2. The Guide is available in each of the official languages and in braille.
- 5.3. The Guide contains the description of-
 - 5.3.1. the objects of PAIA and POPIA;

- 5.3.2. the postal and street address, phone, and fax number and, if available, electronic mail address of-
- 5.3.2.1. the Information Officer of every public body, and
- 5.3.2.2. every Deputy Information Officer of every public and private body designated in terms of section 17(1) of PAIA¹ and section 56 of POPIA²;
- 5.3.3. the manner and form of a request for-
- 5.3.3.1. access to a record of a public body contemplated in section 11³; and
- 5.3.3.2. access to a record of a private body contemplated in section 50⁴;
- 5.3.4. the assistance available from the information officer of a public body in terms of PAIA and POPIA;
- 5.3.5. the assistance available from the Information Regulator in terms of PAIA and POPIA;
- 5.3.6. all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by PAIA and POPIA, including the manner of lodging-

¹ Section 17(1) of PAIA- For the purposes of PAIA, each public body must, subject to legislation governing the employment of personnel of the public body concerned, designate such number of persons as deputy information officers as are necessary to render the public body as accessible as reasonably possible for requesters of its records.

² Section 56(a) of POPIA- Each public and private body must make provision, in the manner prescribed in section 17 of the Promotion of Access to Information Act, with the necessary changes, for the designation of such a number of persons, if any, as deputy information officers as is necessary to perform the duties and responsibilities as set out in section 55(1) of POPIA

³ Section 11(1) of PAIA- A requester must be given access to a record of a public body if that requester complies with all the procedural requirements in PAIA relating to a request for access to that record; and access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.

⁴ Section 50(1) of PAIA- A requester must be given access to any record of a private body if-

- a) that record is required for the exercise or protection of any rights;
- b) that person complies with the procedural requirements in PAIA relating to a request for access to that record; and
- c) access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.

- 5.3.6.1. an internal appeal;
- 5.3.6.2. a complaint to the Information Regulator; and
- 5.3.6.3. an application with a court against a decision by the information officer of a public body, a decision on internal appeal or a decision by the Information Regulator or a decision of the head of a private body;
- 5.3.7. the provisions of sections 14⁵ and 51⁶ requiring a public body and private body, respectively, to compile a manual, and how to obtain access to a manual;
- 5.3.8. the provisions of sections 15⁷ and 52⁸ providing for the voluntary disclosure of categories of records by a public body and private body, respectively;
- 5.3.9. the notices issued in terms of sections 22⁹ and 54¹⁰ regarding fees to be paid in relation to requests for access; and
- 5.3.10. the regulations made in terms of section 92¹¹.

⁵ Section 14(1) of PAIA- The information officer of a public body must, in at least three official languages, make available a manual containing information listed in paragraph 4 above.

⁶ Section 51(1) of PAIA- The head of a private body must make available a manual containing the description of the information listed in paragraph 4 above.

⁷ Section 15(1) of PAIA- The information officer of a public body, must make available in the prescribed manner a description of the categories of records of the public body that are automatically available without a person having to request access.

⁸ Section 52(1) of PAIA- The head of a private body may, on a voluntary basis, make available in the prescribed manner a description of the categories of records of the private body that are automatically available without a person having to request access.

⁹ Section 22(1) of PAIA- The information officer of a public body to whom a request for access is made, must by notice require the requester to pay the prescribed request fee (if any), before further processing the request.

¹⁰ Section 54(1) of PAIA- The head of a private body to whom a request for access is made must by notice require the requester to pay the prescribed request fee (if any), before further processing the request.

¹¹ Section 92(1) of PAIA provides that – “The Minister may, by notice in the Gazette, make regulations regarding-

- (a) any matter which is required or permitted by this Act to be prescribed;
- (b) any matter relating to the fees contemplated in sections 22 and 54;
- (c) any notice required by this Act;

5.4. Members of the public can inspect or make copies of the Guide from the offices of the Practice (available in English and Afrikaans) as well as at the office of the Information Regulator, during normal working hours.

5.5. The Guide can also be obtained-

5.5.1. upon request to the Information Officer; and

5.5.2. from the website of the Information Regulator at (<https://www.justice.gov.za/infoereg/>).

6. Categories of records of the Practice which are available without a person having to request access (Section 52 of PAIA)

The Practice does not have any records, as contemplated in section 52 of PAIA, that are automatically available without a person having to request access in terms of PAIA.

7. The Practice's records kept in accordance with national legislation (Section 51(1)(b), (d) and (e) of PAIA)

7.1. The Practice maintains applicable records in accordance with, *inter alia*, the following legislation (which are not automatically available without a request in terms of this Act):

7.1.1. Income Tax Act, 95 of 1967;

7.1.2. HPA;

7.1.3. PAIA; and

7.1.4. POPIA.

7.2. The Practice has *inter alia* the following records (which are not automatically available without a request in terms of this Act):

7.2.1. Clients

(d) uniform criteria to be applied by the information officer of a public body when deciding which categories of records are to be made available in terms of section 15; and

(e) any administrative or procedural matter necessary to give effect to the provisions of this Act."

- 7.2.1.1. Confidential Client records and related information kept in accordance with the provisions of the HPA, the HPCSA and POPIA;
- 7.2.2. Communication
 - 7.2.2.1. Promotion of Access to Information Act Manual;
 - 7.2.2.2. Relevant internal and external correspondence; and
 - 7.2.2.3. Official Guide from the Information Regulator pertaining to the exercise of any right in terms of PAIA (in Afrikaans and English).
- 7.2.3. Financial Information
 - 7.2.3.1. Financial Statements;
 - 7.2.3.2. Other Financial and Tax Records;
 - 7.2.3.3. Asset Register & Insurance information; and
 - 7.2.3.4. Banking details.
- 7.2.4. Operational Information
 - 7.2.4.1. Client Information (other than confidential client records);
 - 7.2.4.2. General Contract Documentation;
 - 7.2.4.3. Guidelines, Policies and Procedures;
 - 7.2.4.4. Statutory Records; and
 - 7.2.4.5. General Operational Information.
- 7.2.5. Website
 - 7.2.5.1. Organisation, personal profiles; and
 - 7.2.5.2. News and Publications from time to time.

8. Processing of Personal Information

- 8.1. Purpose of obtaining and processing Personal Information:
 - 8.1.1. The very nature of the business conducted by the Practice requires the gathering of Personal Information from a Client and other relevant person/s (the latter being case dependent). Without such Personal

Information, the services requested from the Practice would not be possible;

8.2. Description of the categories of persons and of the information or categories of information relating thereto:

8.2.1. the applicable categories of persons and related information will always be case related and may accordingly vary to some extent;

| Categories of Data Subjects | Personal Information that may be processed |
|---|---|
| Clients | name, address, registration numbers or identity numbers, employment status and employer details (where applicable), medical information, other health related information, religious- and sex life information, medical aid details, payment details and bank details |
| Persons responsible for the payment of services rendered (other than clients) | name, address, registration numbers or identity numbers, employment status, medical aid details, payment details and bank details |
| Service Providers | names, address, registration number, VAT numbers, address, trade information and bank details |

8.3. Confidentiality and security measures:

8.3.1. By virtue of the provisions of Section 32(1)(a) of POPIA, most, if not all, Personal Information gathered from and regarding Clients will be exempt from the general POPIA provisions prohibiting the collection and processing of such Personal Information. It is, however, a policy of the Practice to obtain the consent of all relevant parties before gathering and/or processing Personal Information;

- 8.3.2. All Client related Personal Information is subject to an obligation of confidentiality by virtue of the profession under which the Practice falls, as well as South African legislation. As such, all Personal Information provided will be treated as strictly confidential, with the following exceptions:
- 8.3.2.1. with a Client's express consent;
 - 8.3.2.2. where Personal Information is required by the Client's medical aid or other person responsible for payment of the Practice's professional fees (where applicable) to process claims for treatment provided by the Practice or for the Practice's administration. It is important to note that medical aids require a diagnosis of clients/patients, expressed as a so-called ICD-10 code. The Practice has no control over the management and utilization of ICD-10 codes by medical aids;
 - 8.3.2.3. where the Practice is obliged by law to divulge information;
 - 8.3.2.4. where consultation with other mental health professionals is viewed as being necessary;
 - 8.3.2.5. where the Client poses a danger to him- or her- self, or another person;
 - 8.3.2.6. where the Client's referral source or family doctor require feedback regarding his or her treatment. In such a case, information will only be supplied once discussed with the Client or guardian (where applicable); or
 - 8.3.2.7. in the case of a deceased Client, with the written consent of the next of kin or the executor of the deceased's estate;
- 8.3.3. The Head of Practice is responsible for maintaining the security of Personal Information collected;
- 8.3.4. All Clients' Personal Information is collected by the Head of Practice, during consultations or, in exceptional circumstances, from other relevant persons indicated by the Client;

- 8.3.5. In some instances, Personal Information can also be provided *via* the Practice's website for which all reasonable protective measures have been taken;
- 8.3.6. The Practice website is secured by means of SSL encryption and is only accessible through https:// (hypertext transfer protocol secure);
- 8.3.7. All Personal Information is stored in a safe environment and, where applicable, in encrypted electronic format;
- 8.3.8. All Personal Information collected will be stored for a period of 6 (six) years as from the date on which the Client ceases receiving treatment from the Practice or as otherwise directed by the HPCSA. Hereafter, the Personal Information will be destroyed, again in accordance with the guidelines provided by the HPSCA;
- 8.3.9. Should the Practice experience a Personal Information breach, affected Clients as well as the Information Regulator will be advised thereof as soon as practically possible;
- 8.3.10. Clients' Personal Information gathered will only be shared with persons outside of the Practice after discussion and with the consent of the Client;
- 8.3.11. All health-related Personal Information collected will be used exclusively to direct the Client's treatment to reach a mutually agreed upon desired outcome;
- 8.3.12. Drafting of reports, letters, etc, for third parties will only be done on receipt of the express written request and consent of the Client; and
- 8.3.13. Clients will be given access to their Personal Information only upon receipt of an express written request and/or consent (given by the Client) to disclose the Personal Information concerned to a person nominated in the written document.
- 8.4. General:

- 8.4.1. All personal information is provided on a voluntary basis. However, withholding information will likely have a negative impact on the services provided;
- 8.4.2. No transborder flow of Personal Information will be undertaken without the Client's instruction and consent;
- 8.4.3. Persons who wish to obtain more information regarding the Personal Information security protocols followed in the Practice can lodge a request with the Information Officer at the Contact details. The Information Officer will then decide whether to provide the requested information on a case-by-case basis;
- 8.4.4. Clients who are not satisfied with the way the Practice deals with their personal information is entitled to lodge a complaint with the Information Regulator at <https://www.justice.gov.za/inforeq/contact.html>.

9. Procedure in terms of PAIA for a request for access to records

- 9.1. The procedure for a formal request for access to records of the Practice is set out in the Guide. In summary, any person who contemplates requesting medical information of Clients of the Practice, should first consider the implications of:
 - 9.1.1. Section 61 (access to health and other records),
 - 9.1.2. Section 63 (mandatory protection of privacy),
 - 9.1.3. Section 65 (mandatory protection of confidential information), as well as
 - 9.1.4. The remainder of Chapter 4 (grounds for refusal of access to records) of PAIA.
- 9.2. The requester must follow the procedure set out in the Guide. In summary, the requester must complete Form C as published in accordance with Section 53 of PAIA and submit this form, together with the specified request fee, to the Information Officer at any of the relevant Contact Details;
- 9.3. The requester must ensure that Form C:

- 9.3.1. provides sufficient particulars to enable the Head of Practice to properly identify -
 - 9.3.1.1. the requester; and
 - 9.3.1.2. the record/s requested;
- 9.3.2. indicate which form of access is required,
- 9.3.3. specify a postal address or fax number of the requester in the Republic;
- 9.3.4. identify the right that the requester is seeking to exercise or protect, and
- 9.3.5. provide an explanation of why the requested record is required for the exercise or protection of that right;
- 9.4. If in addition to a written reply, the requester wishes to be informed of the decision on the request in any other manner, Form C must clearly state that manner and provide the necessary particulars to be informed in such other manner;
- 9.5. If the request is made on behalf of another person, the requester must (in addition to Form C) submit documentary proof, to the reasonable satisfaction of the Head of the Practice, of the capacity in which he/she is making the request; and
 - 9.5.1. if such request is made on behalf of a Client, the Client's original written consent to provide the requested records to the requester. The authenticity of such written consent shall be proved to the reasonable satisfaction of the Head of Practice.
- 9.6. The requester will be notified by the Head of Practice of the amount of the prescribed fee to be paid and a request will only be further processed upon receipt of such prescribed fee.

9.7. The prescribed forms and fees for requests to private bodies are available on the website of the Information Regulator at (<https://www.justice.gov.za/infoereg/>).

10. Updating of this PAIA Manual

The head of Practice will on a regular basis update this manual.



Head of Practice

Compiled and signed on 29.06.2023