



DUNCAN WARNER

CONVEYANCER • NOTARY • ATTORNEY

MANUAL PREPARED IN ACCORDANCE WITH SECTION 51 OF THE PROMOTION
OF ACCESS TO INFORMATION ACT 2 OF 2000 AND THE PROTECTION OF
PERSONAL INFORMATION ACT 4 OF 2013 FOR DUNCAN WARNER ATTORNEYS

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1. Protection of Personal Information

1.1. Interpretation

1.1.1. In this Manual, unless inconsistent with or otherwise indicated by the context:

1.1.1.1. “this Manual” shall mean this document together with all of its annexures, as amended from time to time;

1.1.1.2. “Clients” include, but is not limited to, clients and dependants, debtors and creditors;

1.1.1.3. “the Company” shall mean Duncan Warner Attorneys;

1.1.1.4. “PAIA” shall mean the Promotion of Access to Information Act No. 2 of 2000, as amended from time to time, including the regulations promulgated in terms of PAIA;

1.1.1.5. “POPIA” shall mean the Protection of Personal Information Act No. 4 of 2013, as amended from time to time including the regulations promulgated in terms of POPIA;

1.1.1.6. “POPIA Regulations” shall mean the Regulations Relating to the Protection of Personal Information, 2017; and

1.1.1.7. "Information Officer" shall mean the designated Information Officer/s or head of the body, as described in this Manual, responsible for discharging the duties and responsibilities assigned to the Information Officer as prescribed in terms of PAIA and POPIA.

1.1.2. For purposes of this Manual, reference to “clients” include potential and existing clients.

1.1.3. Where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day from the following 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 subsequent day which is a business day.

1.1.4. In the event that this Manual conflicts with legislation, such legislation shall prevail.

1.1.5. this Manual is not exhaustive of or comprehensively deal with every procedure provided for in PAIA or POPIA. You are advised to familiarise yourself with the provisions of PAIA and POPIA before lodging any request with the Company.

1.2. Introduction

1.2.1. The Company, as part of its corporate ethos, seeks to promote transparency, accountability and effective governance. To this end, and pursuant to section 14 and 51 of PAIA, sections 23, 24 and 25 of POPIA and the POPIA Regulations, this Manual explains how to access, object to, request deletion or amendment of,

personal information held by the Company.

1.2.2. In the collection and the use or processing of data, the Company applies the principles of POPIA, by protecting data as outlined herein.

1.3. Business and contact details

Name of Business: Duncan Warner Attorneys
Head of Business: Mr Duncan Warner
Position: Sole Proprietor
Postal Address: PostNet Suite #342, Private Bag X20097, Lydenburg, 1120
Street Address: 588 Vletter Road, Dullstroom. Mpumalanga, South Africa, 1110
Phone Number: 083 381 2739
Fax Number: N/A
Email Address: Duncan@DuncanWarner.co.za
Website: www.DuncanWarner.co.za

Information Officer: Mr Duncan Warner
Position: Sole Proprietor
Postal Address: PostNet Suite #342, Private Bag X20097, Lydenburg, 1120
Street Address: 588 Vletter Road, Dullstroom. Mpumalanga, South Africa, 1110
Phone Number: 083 381 2739
Fax Number: N/A
Email Address: Duncan@DuncanWarner.co.za
Website: www.DuncanWarner.co.za

1.4. Personal information collected

1.4.1. The Company complies with section 10 of POPIA: “Personal Information may only be processed if, given the purpose for which it is processed, it is adequate, relevant and not excessive.”

1.4.2. The Company collects and processes client’s personal information pertaining to the client’s needs. The type of information will depend on the need for which it is collected and will be processed for that purpose only. Whenever possible, the Company will inform the client as to the information required and the information deemed optional. Examples of personal information we collect include, but is not limited to:

1.4.2.1. Name, surname, South African identity number, passport number, date of birth, age, marital status, citizenship, telephone numbers, email addresses, physical and postal addresses, income tax number, VAT registration number, race, disability, financial information, contractual agreements, banking information, payment particulars, accounting records and FICA documentation as these may be needed to fulfil the mandate given to us by the client.

1.4.2.2. CCTV images of persons visiting our premises. This is for our security and yours.

1.5. Utilization of personal information

1.5.1. Personal Information will only be used for the purpose for which it was

collected in the ordinary course of providing legal services to the client. This may include:

- 1.5.1.1. Providing products or services to clients and to carry out the services and transactions requested and to maintain and constantly improve our relationship;
 - 1.5.1.2. For sharing with other third parties, if necessary in the course of providing services;
 - 1.5.1.3. Confirming, verifying and updating client details;
 - 1.5.1.4. For the detection and prevention of fraud, crime, money laundering or other malpractices;
 - 1.5.1.5. For audit and record keeping purposes;
 - 1.5.1.6. For legal proceedings;
 - 1.5.1.7. Providing communication in respect of the Company and regulatory matters that may affect clients; and
 - 1.5.1.8. In connection with and to comply with legal and regulatory requirements or when it is otherwise allowed by law.
- 1.5.2. Personal information may only be processed if any of the following conditions are met:
- 1.5.2.1. The client's consents to the processing. Consent is obtained from clients during the introductory appointment;
 - 1.5.2.2. The processing is required in order to meet any or all of the requirements in clause 1.5.1 above;
 - 1.5.2.3. The processing is pursuant to an obligation imposed by law on the Company, or for the proper performance of a public duty by a public body;
 - 1.5.2.4. The processing protects a legitimate interest of the client;
 - 1.5.2.5. The processing is necessary for pursuing the legitimate interests of the Company or of a third party to whom the information is supplied.

1.6. Disclosure of personal information

- 1.6.1. The Company may disclose a client's personal information to any of the Company third party service providers whose services are necessary for the fulfilment of the Company's mandate from the client. The Company has agreements in place to ensure that compliance with confidentiality and privacy conditions.
- 1.6.2. The Company may also share client personal information with, and obtain information about clients from third parties for the reasons already discussed above.
- 1.6.3. The Company may also disclose a client's information where it has a duty or a

right to disclose in terms of applicable legislation, the law, or where it may be deemed necessary in order to protect the Company rights.

1.7. Safeguarding personal information

It is a requirement of POPIA to adequately protect personal information. The Company will continuously review its security controls and processes to ensure that personal information is secure.

The following procedures are in place in order to protect personal information:

- 1.7.1. The Company's Information Officer's details are listed in clause 1.3 above. The Information Officer is responsible for the compliance with the conditions of the lawful processing of personal information and other provisions of POPIA.
 - 1.7.1.1. This Manual has been put in place throughout the Company and training on this policy and the POPIA Act will be mandatory for any employees of the Company;
 - 1.7.1.2. Each new employee will be required to sign an employment contract containing relevant consent clauses for the use and storage of employee information, or any other action so required, in terms of POPIA;
 - 1.7.1.3. The Company archived client information is stored on site which is also governed by POPIA, access is limited to these areas to authorised personal.
 - 1.7.1.4. The Company's product suppliers, insurers and other third party service providers will be required to sign a service level agreement guaranteeing their commitment to the Protection of Personal Information; this is however an ongoing process that will be evaluated as needed.
 - 1.7.1.5. All electronic files or data are backed up by the Company which is also responsible for system security that protects third party access and physical threats. The Company is responsible for Electronic Information Security;
- 1.7.2. Consent to process client information is obtained from clients (or a person who has been given authorisation from the client to provide the client's personal information) during the introductory appointment.

1.8. Access and correction of personal information

- 1.8.1. Clients have the right to access their personal information held by the Company holds.
- 1.8.2. Clients also have the right to ask the Company to update, correct or delete their personal information on reasonable grounds.
- 1.8.3. Once a client objects to the processing of their personal information, the Company may no longer process said personal information.
- 1.8.4. The Company will take all reasonable steps to confirm its clients' identity before providing details of their personal information or making changes to their

personal information.

1.8.5. The details of the Company's Information Officer and Head Office available in clause 1.3 above.

2. How to request access to a record

- 2.1. To request a record in terms of PAIA, the requestor must complete the prescribed form attached to this manual as Annexure A. This request must be sent to the Information Officer at the addresses provided in 1.3 above.
- 2.2. For POPIA-related requests to object to the processing of personal information, correct or delete personal information, the request must be made in writing on the applicable prescribed Form 1 (objection) or Form 2 (correction or deletion), which are attached to this Manual as Annexure B.
- 2.3. The requestor must provide sufficient detail to enable the Information Officer to identify the record(s) requested and the requestor. The requestor must indicate which form of access is required, identify the right that he/she is seeking to exercise or protect and provide an explanation of why the requested record is required for the exercise or protection of that right.
- 2.4. If the request is made on behalf of another person, the requestor must submit proof of the capacity in which the requestor is making the request, to the reasonable satisfaction of the Information Officer.
- 2.5. PAIA makes provision for certain grounds upon which a request for access to information must be refused. On this basis, the Information Officer will decide whether to grant a request for access to information.

3. Payment of fees

- 3.1. PAIA provides for two types of fees, namely:
 - 3.1.1. a request fee, which will be a standard non-refundable administration fee, payable prior to the request being considered; and
 - 3.1.2. an access fee, payable when access is granted which must be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postal costs.
- 3.2. Subsequent to a request being made, the Information Officer, shall by notice require the requester, excluding personal requester, to pay the prescribed request fee (if any), before further processing of the request.
- 3.3. If the search for and preparation for disclosure of the record has been made, including arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the Company will request the requester to pay as a deposit the prescribed portion of the access fee which would be payable if the request is granted.
- 3.4. The Company may withhold a record until the requester has paid the fees as indicated in clause 11 below.

- 3.5. A requester whose request has been granted must pay the applicable access fee for reproduction, search, preparation and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the request form.
 - 3.6. In terms of POPIA, a data subject has the right to request the Company to confirm, free of charge, whether or it holds personal information about the data subject and request from the Company the record or a description of the personal information held, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information.
 - 3.7. POPIA further provides that where the data subject is required to pay a fee for services provided to them, the Company must provide the data subject with a written estimate of the payable amount before providing the service and may require that the requestor pay a deposit for all or part of the fee.
4. Applicable time-periods
 - 4.1. The Company will inform the requester within 30 days after receipt of the request of its decision whether or not to grant the request.
 - 4.2. The 30-day period may be extended by a further period of not more than 30 days if the request is for a large number of records or requires a search through a large number of records and compliance with the original period would unreasonably interfere with the activities of the Company or the records are not located at the Company' offices.
 5. Outcome of the request

Should the request be refused, the notice will state adequate reasons for the refusal, including the provisions of the PAIA relied upon; and that the requester may lodge an application with a Court against the refusal of the request.

6. Grounds for refusal of access to records
 - 6.1. In terms of Section 62 to 69 of PAIA access granted to a record may be refused on one or more of the following grounds:
 - 6.1.1. protection of privacy to a third party who is a natural person;
 - 6.1.2. protection of the commercial information of a third party;
 - 6.1.3. protection of certain confidential information of a third person;
 - 6.1.4. protection of the safety of individuals and the protection of property;
 - 6.1.5. the commercial information and activities of the Company;
 - 6.1.6. the protection of research information of a third party; and
 - 6.1.7. any other ground legally available on which to refuse access to the information requested.

6.2. Despite any provisions of PAIA, a request must be granted if the disclosure of the record would reveal evidence of substantial contravention of, or failure to comply with, the law or imminent and serious public safety or environment risk, and the public interest in the disclosure of the record clearly outweighs the harm contemplated in terms of section 70 of PAIA.

7. Remedies for refusal

Should the requester be dissatisfied with the Information Officer's decision to refuse access, that person may within 30 days after notification of the refusal apply to a Court for the appropriate relief.

8. Amendments to this policy

Amendments to, or a review of this Manual, will take place on an *ad hoc* basis or at least once a year. Clients are advised to access the Company's website periodically to keep abreast of any changes. Where material changes take place, clients will be notified directly or changes will be stipulated on the Company website.

9. Availability of this Manual

This manual is available in electronic and hard copies in English. The hard copies are available at the head office of the Company as listed in 1.3 above. The electronic version of this manual is available on the Company's website.

10. Records that cannot be located

If the Company searches for a record and it is believed that the record either does not exist or cannot be found, the requester will be notified by way of an affidavit or affirmation. This will include the steps that were taken the attempt to locate the record.

11. Prescribed forms and fees

The prescribed forms and fees are available on the website of the Department of Justice and Constitutional Development at www.doj.gov.za under the regulations section.

D. Particulars of record

- (a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.
- (b) If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

1. Description of record or relevant part of the record:

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2. Reference number, if available:

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3. Any further particulars of record:

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E. Fees

- (a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.
- (b) You will be notified of the amount required to be paid as the request fee.
- (c) The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.
- (d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:

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F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 below, state your disability and indicate in which form the record is required.

Disability:	Form in which record is required:
Mark the appropriate box with an X .	
NOTES:	
(a) Compliance with your request for access in the specified form may depend on the form in which the record is available.	
(b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.	
(c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.	

1. If the record is in written or printed form:					
	copy of record*		inspection of record		
2. If record consists of visual images - (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):					
	view the images		copy of the images*		transcription of the images*
3. If record consists of recorded words or information which can be reproduced in sound:					
	listen to the soundtrack (audio cassette)		transcription of soundtrack* (written or printed document)		
4. If record is held on computer or in an electronic or machine-readable form:					
	printed copy of record*		printed copy of information derived from the record*		copy in computer readable form* (stiffy or compact disc)

*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.	YES	NO
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G. Particulars of right to be exercised or protected

If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

1. Indicate which right is to be exercised or protected:

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.....

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

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.....

H. Notice of decision regarding request for access

You will be notified in writing whether your request has been approved / denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

.....

Signed at this day..... ofyear

.....
SIGNATURE OF REQUESTER /
PERSON ON WHOSE BEHALF REQUEST IS MADE

FORM 1
OBJECTION TO THE PROCESSING OF PERSONAL INFORMATION IN TERMS OF
SECTION 11(3) OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO.
4 OF 2013)

REGULATIONS RELATING TO THE PROTECTION OF PERSONAL INFORMATION, 2018
[Regulation 2]

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:	
	Code ()
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:	
	Code ()
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 day of20.....

.....
Signature of data subject/designated person

FORM 2

**REQUEST FOR CORRECTION OR DELETION OF PERSONAL INFORMATION OR
DESTROYING OR DELETION OF RECORD OF PERSONAL INFORMATION IN TERMS OF
SECTION 24(1) OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO.
4 OF 2013)**

**REGULATIONS RELATING TO THE PROTECTION OF PERSONAL INFORMATION, 2018
[Regulation 3]**

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 to this Form and sign each page.
3. Complete as is applicable.

Mark the appropriate box with an "x".

Request for:

Correction or deletion of the personal information about the data subject which is in possession or under the control of the responsible party.

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 THE DATA SUBJECT
Name(s) and surname / registered name of data subject:	
Unique identifier/ Identity Number:	
Residential, postal or business address:	
	Code ()
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:	
	Code ()
Contact number(s):	

Fax number/ E-mail address:	
C	INFORMATION TO BE CORRECTED/DELETED/ DESTROYED/ DESTROYED
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. <i>(Please provide detailed reasons for the request)</i>

Signed at this day of20.....

.....
Signature of data subject/ designated person