

Access to Information & Privacy Protection Manual

In terms of The Promotion of Access to Information Act No. 2 of 2000 (“PAIA”) and the Protection of Personal Information Act No. 4 of 2013 (“PoPIA”) in respect of Speirs Aumann Inc (Registration number 2012/214467/21) (“Speirs Aumann”).

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1. Purpose

This Manual has been prepared in terms the Promotion of Access to Information Act 2 of 2000 (“PAIA”) and the Protection of Personal Information Act 4 of 2013 (“PoPIA”).

2. The Purpose behind PAIA

2.1 Section 32 of the Constitution states:

“Everyone has a right of access to any information held by the state and any information held by another person that is required for the exercise or protection of any rights”.

2.2 PAIA was enacted to give effect to that constitutional right of access to information. PAIA came into operation on 9 March 2001.

2.3 Where a request is made in terms of PAIA, the body to which the request is made is obliged to give access to the requested information, except where:

2.3.1 the Act expressly provides that the information may or must not be released;

2.3.2 certain limitations to the right of access to information are reached: e.g. limitations aimed at the reasonable

2.3.3 protection of privacy, commercial confidentiality, and effective, efficient and good governance.

3. The purpose behind PoPIA

3.1 PoPIA was enacted in November 2013, to promote the protection of personal information processed by public and private bodies.

3.2 PoPIA amended certain provisions of PAIA, balancing the need for access to information and the need to ensure the protection of personal information. PoPIA also affords data subjects (juristic or natural persons) to have access to their personal information that is held by a responsible party.

4. Scope of this Manual

4.1 This Manual pertains to records owned or otherwise under the control of Speirs Aumann and the protection of privacy in connection to such records.

5. Access to Manual

5.1 This Manual is available from the designated Information Officer whose details are:

5.1.1 Information Officer: Carol Speirs

5.1.2 Email address: carol@speirsaummann.co.za

5.1.3 Telephone: 021 422 1120

5.1.4 Physical address: Unit 66, Roeland Square
60 Drury Lane,
Gardens, Cape Town.

5.1.5 Website: <https://www.speirsaumann.co.za>

5.2 The Manual is available for public inspection at the physical address of Speirs Aumann or on Speirs Aumann's website, free of charge.

5.3 A hardcopy of the Manual may be provided to any person upon payment of a prescribed fee.

5.4 The Manual will be updated from time to time and made available on Speirs Aumann's website.

6. Section 10 of PAIA

6.1 The Act provides a requester access to the records of a private body, if the record is required to the exercise or protection of any rights. If a public body lodges a request, the public body must be acting in the public interest.

6.2 Requests made in terms of the Act shall be made in accordance with the prescribed procedures and at the rates provided.

6.3 Section 10 of PAIA provides that:

(1) The Human Rights Commission must, within three years after the commencement of this section, compile in each official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right contemplated in this Act. [Sub-s. (1) substituted by s. 20 of Act 55 of 2003 (wef 31 March 2005).]

- (2) The guide must, without limiting the generality of subsection (1), include a description of-
- (a) the objects of this Act;
 - (b) the postal and street address, phone and fax number and, if available, electronic mail address of-
 - (i) the information officer of every public body, and
 - (ii) every deputy information officer of every public body designated in terms of section 17 (1); [Sub-para. (ii) amended by s. 24 of Act 42 of 2001 (wef 7 December 2001).]
 - (c) such particulars of every private body as are practicable;
 - (d) the manner and form of a request for-
 - (i) access to a record of a public body contemplated in section 11; and
 - (ii) access to a record of a private body contemplated in section 50;
 - (e) the assistance available from the information officer of a public body in terms of this Act;
 - (f) the assistance available from the Human Rights Commission in terms of this Act;
 - (g) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act, including the manner of lodging-
 - (i) an internal appeal; and
 - (ii) an application with a court against a decision by the information officer of a public body, a decision on internal appeal or a decision of the head of a private body;
 - (h) the provisions of sections 14 and 51 requiring a public body and private body, respectively, to compile a manual, and how to obtain access to a manual;
 - (i) the provisions of sections 15 and 52 providing for the voluntary disclosure of categories of records by a public body and private body, respectively;

(j) the notices issued in terms of sections 22 and 54 regarding fees to be paid in relation to requests for access; and

(k) the regulations made in terms of section 92.

6.4 Requesters are therefore referred to the Guide in terms of the above Section 10 which has been compiled by the South African Human Rights Commission (SAHRC) which will contain information for the purposes of exercising Constitutional Rights.

6.5 The Guide is available from the Commission at:

6.5.1 www.sahrc.org.za/home/21/files/Section%2010%20guide%202014.pdf

6.5.2 Postal Address: Private Bag 2700, Houghton, 2041

6.5.3 Telephone: 011 877 3600

6.5.4 Fax Number: 011 403 6025

6.5.5 Website: www.sahrc.org.za

7. Records

7.1 Voluntary Disclosure and availability of certain records

7.1.1 Human Resources: Jobs / Positions

7.1.2 Operations: Company contact information;

7.1.3 Marketing: News and Information

7.2 Records available according to legislation

7.2.1 The following legislation provides details of when certain records are required to be made available, we urge you to have cognisance of the terms of the said legislation which are available online:

7.2.1.1 The Basic Condition of Employment Act 75 of 1997;

7.2.1.2 The Broad Based Black Economic Empowerment Act 53 of 2003;

7.2.1.3 The Consumer Protection Act 68 of 2008;

7.2.1.4 The Companies Act 61 of 1973;

7.2.1.5 The Copyright Act 98 of 1978;

7.2.1.6 The Electronic Communications Act 36 of 2005;

7.2.1.7 The Electronic Communications and Transaction Act 25 of 2002;

7.2.1.8 The Employment Equity Act 55 of 1998;

7.2.1.9 The Financial Intelligence Centre Act 38 of 2001;

7.2.1.10 The Labour Relations Act 66 of 1995;

7.2.1.11 The National Credit Act 34 of 2005;

7.2.1.12 Occupational Health and Safety Act 65 of 1993;

7.2.1.13 The Protection of Personal Information Act (PoPIA) 4 of 2013;

7.2.1.14 The Promotion of Access to Information Act 2 of 2000;

7.2.1.15 The Prevention and Combatting of Corrupt Activities Act 12 of 2004;

7.2.1.16 The Regulation of Interception of Communications and Provision of Communication Related Information (RICA) 70 of 2002;

7.2.1.17 The Skills Development Levies Act 9 of 1999; and

7.2.1.18 The Unemployment Insurance Act 30 of 1996;

8. Records that can be requested

8.1.1 We confirm that in terms of Section 51(1e) of the PAIA Act the following records can be requested from Speirs Aumann using the process detailed in paragraph 9 below. Speirs Aumann reserves the right to allow or deny access depending on the circumstances.

8.1.1.1 Operations:	Memorandum of Incorporation;
8.1.1.2 Documentation:	Client documentation;
8.1.1.3 Compliance:	Internal Policies and Procedures;
8.1.1.4 Finance:	Company Financial and Tax Records;
8.1.1.5 Human Resources:	Job descriptions, Employee records.

9. Manner in which to request records

9.1 Any person may make a request for access to a record of Speirs Aumann in the following manner:

9.1.1 A form described as Annexure A attached hereto must be completed and send the request to the person detailed in clause 5.1 above.

9.1.2 The person must provide a certified copy of their Identity Document or Passport;

9.1.3 The person must provide an Affidavit to prove the capacity in which the person makes such request if the request is not made on their own behalf;

9.1.4 The person must provide proof of payment of the fee (if required).

- 9.2 Speirs Aumann will send one request for further information in response to incomplete requests made in terms of clause 8.1 above, should Speirs Aumann not receive a response 30 days thereafter, the request will be discarded.

10. Request outcome

- 10.1 In the event of the request for access being granted, Speirs Aumann will inform the person within 30 days:

10.1.1 The access fee which is required to be paid;

10.1.2 The form in which access will be granted;

10.1.3 Knowledge of the fact that the person may lodge an application with a court against the tender or payment of the request fee or the tender or payment of a deposit.

- 10.2 In the event of the request for access being denied, Speirs Aumann will inform the person within 30 days:

10.2.1 Whilst Section 70 provides that Speirs Aumann must disclose information if in public interest, the reasons for such denial according to section 63 to 69 of PAIA which include:

10.2.1.1 The mandatory protection of privacy of a third party natural person;

10.2.1.2 The mandatory protection of the commercial information of a third party;

10.2.1.3 The mandatory protection of certain confidential information of a third party;

10.2.1.4 The mandatory protection of the safety of individuals and protection of property;

10.2.1.5 The mandatory protection of records privileged from production in legal proceedings;

10.2.1.6 The protection of commercial information of a private body; and

10.2.1.7 The mandatory protection of research information of a third party or private body.

10.2.2 Should the request be denied in circumstances where the person has paid the fee, Speirs Aumann will refund the person the fee paid in connection thereto.

10.2.3 The person requesting the information may lodge an application with the Information Regulator or a Magistrates Court against the refusal of the request who will investigate the matter and provide a decision thereon.

11. Prescribed Fees

11.1 Section 54 of PAIA entitles Speirs Aumann to charge a prescribed fee before responding to the request.

11.2 In requests where we believe it will require more than six hours to gather the information requested, we may request that the person pay a deposit being equal to one third of the fee.

11.3 The South African Human Rights Commission Notice setting out the prescribed fees and the prescribed fee set out in Regulation 11(3) is annexed hereto marked "B".

12. Privacy Policy

12.1 Speirs Aumann is a boutique legal firm that provides legal services and we are committed to providing such services in compliance with PoPIA.

13. Personal Information

13.1 Personal information means to any information which relates to our clients and specifically includes a client's identification details, contact details, company details, your phone number, all of which we are required to keep on file in terms of not only providing legal services but also in compliance with the Financial Intelligence Centre Act 38 of 2001.

14. Information Collected

14.1 Section 22 of the Financial Intelligence Centre Act 38 of 2001 provides that Speirs Aumann must keep the following information on file:

14.1.1 The identity of the client;

- 14.1.2 If the client is acting on behalf of another person – then the identity of the person on whose behalf the client is acting and the client’s authority to act on behalf of that other person;
- 14.1.3 If another person is acting on behalf of the client – then the identity of that other person, and the other person’s authority to act on behalf of the client;
- 14.1.4 The manner in which the identity of the persons referred to in paragraph 11.3.1 to 11.3.3 was established;
- 14.1.5 The nature of the business relationship or transaction;
- 14.1.6 The amount involved and the parties to the transaction;

- 14.2 Speirs Aumann is furthermore required to obtain a client’s Tax number held with SARS and their proof of address not being more than three months old from the date of provision to Speirs Aumann;

- 14.3 Speirs Aumann retains the full history of the legal matter in respect of which the client has instructed Speirs Aumann to act on their behalf.

- 14.4 Clients are at liberty to refuse providing the aforesaid personal information and should they not be willing to provide the required information or should you withdraw consent for Speirs Aumann to have access to your personal information which you are entitled to do at any time, we will not be able to provide you with our services.

- 14.5 Should any person provide Speirs Aumann with information of a third party it is the persons responsibility to inform the third party that you intend to disclose the information to Speirs Aumann and notify them of our Privacy Policy. Should any person who discloses third party information without

having the authority to do so, the person concerned indemnifies Speirs Aumann against any claim from that third party regarding our access or use of their information.

15. Date of Information Collection

15.1 Speirs Aumann collects information from a client when:

15.1.1 A person becomes a client;

15.1.2 A credit check is required to be performed;

15.1.3 A person telephones a member of Speirs Aumann requesting assistance with a legal matter

15.1.4 A person applies for employment with Speirs Aumann

16. Information use

16.1 Speirs Aumann uses the information obtained from a client or person in one of the following ways:

16.1.1 Legal services

16.1.1.1 We provide you with our mandate and upon signature, the person becomes a client;

16.1.1.2 We provide you with legal services required.

16.1.2 Human Resources

16.1.2.1 To enter into the interview process and an employment contract with a person to provide services to our company.

17. Protection of your information

- 17.1 Speirs Aumann use computer security software to ensure that our computers are protected. There is an inherent risk due to cyber crime and we do therefore inform all persons interacting with ourselves to take the appropriate precautions.
- 17.2 The information a person provides will be stored with Speirs Aumann for the period of your legal matter with us and we shall archive your file and retain such information on file for seven years after the completion of your matter whereafter we are required to destroy in a prescribed manner.
- 17.3 Should you wish to terminate our business relationship, the information provided will either be delivered to the client upon the settlement of any outstanding accounts, alternatively be archived and destroyed after seven years.

18. Third party access to information

- 18.1 Should we use a third party to provide our services to you such as tracing agents, advocates, judicial, regulatory or law enforcement bodies for the purposes of instituting or defending claims, disputes or obtaining legal advice, we will not grant access to any information that is not strictly within the scope of work of those parties nor will we grant them access to any information than that which in our opinion is necessary.

19. Right to Report

19.1 Should a client or person wish to lodge a complaint with the supervisory authority regarding the manner in which we handled your information, you have the right to lodge a complaint with the Information Regulator whose contact details are as follows:

19.1.1 Address: JD House, 27 Stiemens Street, Braamfontein,
Johannesburg

19.1.2 Complaints email: complaints.IR@justice.gov.za

19.1.3 General Enquiries: inforeg@justice.gov.za

20. Contact

20.1 Should you have any questions or concerns please contact Speirs Aumann Information Security Officer at:

20.1.1 Email address: carol@speirsbaumann.co.za

20.1.2 Telephone: 021 422 1120

20.1.3 Physical address: Unit 66, Roeland Square
60 Drury Lane,
Gardens, Cape Town.

20.1.4 Website: <https://www.speirsbaumann.co.za>

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:

.....

.....

.....

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

Physical Address
33 Hoofd Street
Braampark Forum 3
Braamfontein
2198

Postal Address
Private Bag X 2700
Houghton
2041

"B"

NOTICE IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION 2 OF 2000
RE: FEES ASSOCIATED WITH PAIA REQUESTS ARE DETERMINED BY THE
REGULATIONS ONLY AND NOT THROUGH OTHER APPLICABLE LAWS OR POLICIES

This Notice serves to state that the South African Human Rights Commission (the Commission) hereby confirms that the costs associated with all requests made under the Promotion of Access to Information Act 2 of 2000 (PAIA) are determined by the Regulations relating to PAIA only, and not by any other laws or regulations. Therefore, any demands made by a public or private body for the payment of additional fees with respect to PAIA requests are invalid.

The Commission is an independent public body currently mandated under PAIA to monitor the implementation of the Act. In accordance with its responsibilities to ensure compliance with PAIA, the Commission issues this notice to bring clarity to all interested parties that it is *only* the Minister of Justice and Constitutional Development who has the power to make decisions regarding fees associated with PAIA requests. The Commission further confirms that Value-Added Tax (VAT) is only payable by institutions who have registered as VAT vendors.

1. The Promotion of Access to Information Act

PAIA gives effect to the constitutional right to access of information, as provided for under section 32 of the Constitution. Although responding to requests and reproducing records in an accurate and orderly manner takes time and resources, section 9 of the Act specifically calls for the establishment of mandatory mechanisms and procedures to ensure that access to records of both public and private bodies is "as swiftly, *inexpensively* and effortlessly as reasonably possible." [emphasis added].

Furthermore, section 92 of the Act grants the Minister of Justice and Constitutional Development the power to make regulations pertaining to fees associated with requests made to both public and private bodies.

2. Regulations to PAIA

In February 2002, the Minister of Justice and Constitutional Development published a schedule of fees for PAIA requests in the Gazette, which provided for the following:

Fees for Requesting Records

Requesters are required to pay a fee for requesting access to records from both public and private bodies. The fee for requesting records from a public body is R35, while the fee for requesting records from a private body is R50. It is important to note that people who are requesting access to their personal information are exempt from paying a fee. Furthermore, people who earn less than R14,712 per annum (if single) and R27,192 per annum (if married or have a life partner), are also exempt from paying the request fees.

Fees for Accessing Records

Requesters are also required to pay fees for accessing the records of public and private bodies, which include fees associated with the search for, preparation of, and reproduction of documents. The breakdown of fees for requests to both public and private bodies are as follows:

Public Bodies:

- Copy per A4 page – 60 cents
- Printing per A4 page – 40 cents
- Copy on a CD – R40
- Transcription of visual images per A4 page – R22
- Copy of a visual image – R60
- Transcription of an audio recording per A4 page – R12
- Copy of an audio recording – R17
- Search and preparation of the record for disclosure – R15 per hour or part thereof, excluding the first hour, reasonably required for the search and preparation
- Actual postage fee

Private Bodies:

- Copy per A4 page – R1.10
- Printing per A4 page – 75 cents
- Copy on a CD – R70
- Transcription of visual images per A4 page – R40
- Copy of a visual image – R60
- Transcription of an audio recording per A4 page – R20
- Copy of an audio recording – R30
- Search and preparation of the record for disclosure – R30 per hour or part thereof, excluding the first hour, reasonably required for the search and preparation
- Actual postage fee

3. Registered VAT Vendors

The Commission further confirms that Value-Added Tax (VAT) is only payable by institutions who have registered as VAT vendors, as required under section 23 of the Value-Added Tax Act of 1991.

Sincerely,

Advocate L M Mushwana

Chair of the South African Human Rights Commission

Transforming society. Securing rights. Restoring dignity.

PRESCRIBED FEES

(Section 54(7) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)) [Regulation 11 (3)]	
1 PLEASE NOTE THAT ALL PRICES LISTED BELOW ARE INCLUSIVE OF VALUE-ADDED TAX (VAT)	
(a) For every photocopy of an A4-size page or part thereof	R 1.25
(b) For every printed copy of an A4-size page of part thereof held on a computer or in an electronic or machine-readable form	R 0.85
(c) For a copy in a computer-readable form on	
(i) stiffy disc	R 8.55
(ii) compact disc	R79.80
(d) (i) For a transcription of visual images, for an A4-size page or part thereof	R45.60
(ii) For a copy of visual images	R68.40
(e) (i) For a transcription of an audio record, for an A4-size page or part thereof	R22.80
(ii) For a copy of an audio record	R34.20
(f) To search for and prepare the record for disclosure – R34.20 for each hour or part thereof reasonably required for such search and preparation.	
[Section 54(2) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)] [Regulation 11 (3)]	
2 PLEASE NOTE THAT ALL PRICES FOR THE ITEMS LISTED BELOW ARE INCLUSIVE OF VALUE-ADDED TAX (VAT)	
(a) Six hours as the hours to be exceeded before a deposit is payable; and	
(b) One third of the access fee is payable as a deposit by the requester.	
[Section 54(7) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)] [Regulation 11 (3)]	
3 PLEASE NOTE THAT THE PRICE FOR THE ITEMS LISTED BELOW IS INCLUSIVE OF VALUE-ADDED TAX (VAT)	
The actual postage fee is payable when a copy of a record must be posted to a requester.	

ADDITIONAL PRESCRIBED INFORMATION

The Minister of Justice has prescribed no additional information.

End of Document