



HARRIS NUPEN MOLEBATSI INC.

(“HNM”)

**MANUAL PREPARED IN ACCORDANCE WITH SECTION 51 OF
THE PROMOTION OF ACCESS TO INFORMATION ACT NO. 2 OF
2000 (as amended)**

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1 INTRODUCTION

- 1.1 This Manual has been prepared in accordance with section 51 of the Promotion of Access to Information Act No.2 of 2000, as amended ("**PAIA**").
- 1.2 The aim of the Manual is to assist potential Requesters to request access to information (documents, records and/or Personal Information) from HNM as contemplated under PAIA.
- 1.3 The Manual may be amended from time to time and as soon as any amendments have been effected, the latest version of the Manual will be published and distributed in accordance with PAIA.
- 1.4 A Requester is invited to contact the Information Officer should he or she require any assistance in respect of the use or content of this Manual.
- 1.5 The definitions provided in this Manual are solely for the purpose of this Manual and are not to be taken as applicable to PAIA.

2 DEFINITIONS

The following words or expressions will bear the following meanings in this Manual:

- 2.1 "**Client**" means a natural or juristic person who or which receives services from HNM ;
- 2.2 "**Data Subject**" means the natural or juristic person to whom Personal Information relates;
- 2.3 "**Employee**" means any person who works for, or provides services to or on behalf of HNM and receives or is entitled to receive remuneration;
- 2.4 "**HNM**" means Harris Nupen Molebatsi Inc.
- 2.5 "**Information Officer**" means HNM's designated information officer described in paragraph 6 of this Manual;

- 2.6 **"Information Regulator"** shall bear the meaning ascribed thereto in POPIA;
- 2.7 **"Manual"** means this manual, together with all annexures thereto as amended and made available on the website of HNM and at the offices HNM from time to time;
- 2.8 **"PAIA"** means the Promotion of Access to Information Act No. 2 of 2000, together with any regulations published thereunder;
- 2.9 **"POPIA"** means the Protection of Personal Information Act No. 4 of 2013, together with any regulations published thereunder;
- 2.10 **"Personal Information"** has the meaning ascribed thereto under POPIA;
- 2.11 **"Processing"** means any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information, including –
- 2.11.1 the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- 2.11.2 dissemination by means of transmission, distribution or making available in any other form by electronic communications or other means; or
- 2.11.3 merging, linking, blocking, degradation, erase or destruction. For the purposes of this definition, **"Process"** has a corresponding meaning;
- 2.12 **"Requester"** means any person or entity (including any Data Subject) requesting access to a record that is under the control of HNM.; and
- 2.13 **"Third-Party"** means any independent contractor, agent, consultant, sub-contractor or other representative of HNM.

3 SCOPE OF THE MANUAL

- 3.1 This Manual has been prepared in compliance with section 51 of PAIA and Regulation 4 (c), made under section 112 (2) of POPIA.
- 3.2 The purpose of this Manual is to:

- 3.2.1 provide information to those who wish to request records from HNM in terms of PAIA; and
- 3.2.2 provide information on what Personal Information HNM collects, how the Personal Information is used, who it is being shared with and how it is protected in terms of POPIA.

4 HOW TO USE PAIA TO ACCESS INFORMATION

(Information provided in terms of section 51(1) of PAIA)

- 4.1 PAIA grants a Requester access to records of a private body if the record is required for the exercise or protection of any rights. If a public body lodges a request in terms of PAIA, the public body must be acting in the public interest.
- 4.2 Requests in terms of PAIA shall be made in accordance with the prescribed procedures, and at the prescribed fees.
- 4.3 The Regulator has, in terms of section 10(1) of PAIA, as amended, updated and made available the revised Guide on how to use PAIA ("**the Guide**"), 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.
- 4.4 The Guide is available in each of the official languages and in braille on the Information Regulator's website and/or at its offices. You may direct any queries to:

The Information Regulator of South Africa

Physical Address: JD House, 27 Stiemens Street, Braamfontein, Johannesburg, 2001

Postal Address: P.O Box 31533, Braamfontein, Johannesburg, 2017

E-mail: infoereg@justice.gov.za / complaints.IR@justice.gov.za

Website: <https://www.justice.gov.za/infoereg/>

Tel: 012 406 4818

Fax: 086 500 3351

- 4.5 Members of the public can also inspect or make copies of the Guide from the offices of the HNM, during normal working hours.

5 OVERVIEW OF THE STRUCTURE AND FUNCTIONS OF HNM

HNM is a limited liability company incorporated in the Republic of South Africa under registration number 2013/064975/21 and conducts its business as a law firm in compliance with section 34(7) of the Legal Practice Act, 2014.

6 CONTACT DETAILS

(Information required under section 51(1)(a) of PAIA)

Name of Body:	Harris Nupen Molebatsi Inc.
Physical & Postal Addresses:	Physical: 3 rd Floor, 1 Bompas Road, Dunkeld West Postal: PO Box 411268, Craighall 2024 Email: info@hnmattorneys.co.za
Information Officer	Name: Basetsana Molebatsi T: +27 11 017 3100 E: basetsana@hnmattorneys.co.za / info@hnmattorneys.co.za
Deputy Information Officer	Name: Suzanne O'Donnell T: +27 11 017 3100 E: suzanne@hnmattorneys.co.za / info@hnmattorneys.co.za

7 PROCESSING OF PERSONAL INFORMATION IN TERMS OF POPIA

(Information required under section 51(1)(c) of PAIA)

7.1 Purpose of HNM's Processing of Personal Information

7.1.1 HNM will process Personal Information only in ways that are for, or compatible with, the business purposes for which the data was collected or that are subsequently authorised by the relevant Data Subject.

7.1.2 HNM will retain Personal Information only for as long as is necessary to accomplish its legitimate business purposes or for as long as may be permitted or required by applicable law.

7.2 We use the Personal Information we collect to provide legal services and/or other related services, and may provide such information as a reference to market and promote our services. Please refer to the HNM Privacy Policy that can be found at: (www.hnmattorneys.co.za/privacy-policy). HNM will not use the Personal Information which we collect for any purposes other than those specified in paragraph 7.1 above and those listed in its Privacy Policy.

7.3 Categories of Data Subjects and of the Personal Information relating thereto

7.3.1 HNM collects Personal Information directly from the Data Subject and/or from Third Parties, and where HNM obtains Personal Information from Third Parties, HNM will ensure that it obtains the consent of the Data Subject to do so or will only Process the Personal Information without the Data Subject's consent where HNM is permitted to do so in terms of the applicable laws.

7.3.2 Examples of Third Parties from whom Personal Information is collected include our Clients when HNM handles Personal Information on their behalf; regulatory bodies; other companies providing services to HNM and where HNM makes use of publicly available sources of information.

- 7.3.3 The nature or categories of the personal information processed by HNM is set out below:

Categories of Data Subjects	Personal Information that may be processed
Clients	name, address, registration numbers or identity numbers, employment status or bank details
Service Providers	names, registration number, vat numbers, address, trade secrets and bank details
Employees	address, qualifications, gender and race

- 7.3.4 This is not an exhaustive list and HNM may amend the above list from time-to-time.

7.4 Recipients or categories of recipients to whom Personal Information may be supplied

- 7.4.1 HNM may be required to disclose Personal Information in response to a court order, subpoena, civil discovery request, other legal process, or as otherwise required by law as per statutory authorities and/or the lawful order of any Court or Tribunal. We may disclose Personal Information when we believe disclosure is necessary to comply with the law or to protect the rights, property, or safety of HNM, our Clients, or others.

- 7.4.2 HNM will comply with POPIA before transferring Personal Information to a Third-Party who is a contractor of HNM. Before transferring Personal Information to a Third-Party contractor, such as an authorised service provider, HNM will obtain assurances from the Third-Party that it will process Personal Information in a manner consistent with POPIA. Where HNM learns that a Third-Party contractor is using or disclosing Personal Information in a manner contrary to POPIA, HNM will take reasonable steps to prevent such use or disclosure.

7.5 **Planned Transborder Flows of Personal Information**

In carrying out any cross-border transfers, HNM shall adhere to the provisions of POPIA.

7.6 **Information Security Measures**

7.6.1 The security and confidentiality of Personal Information is important to HNM. We have implemented reasonable technical, administrative, and physical security measures to protect Personal Information from unauthorised access or disclosure and improper use.

7.6.2 We are committed to ensuring that our security measures which protect your Personal Information are continuously reviewed and updated where necessary.

7.6.3 In Processing any Personal Information, HNM shall comply with the following minimum technical and organisational security requirements –

7.6.3.1 **Physical Access** – Access to Personal Information is restricted in our offices only to those Employees who need the Personal Information to perform a specific job / task.

7.6.3.2 **Employee Training** – All Employees with access to Personal Information are kept up-to-date on our security and privacy practices. After a new policy is added, these Employees are notified and/or reminded about the importance we place on privacy, and what they can do to enhance protection for the Personal Information of all Data Subjects.

7.6.3.3 **Unique User Identification** – Employees each have a unique user ID, subject to strict confidentiality undertakings in terms of HNM's password and confidentiality policy.

7.6.3.4 **Passwords** – HNM shall ensure that there are passwords required for any access to Personal Information in line with its password policy.

- 7.6.3.5 **Physical access and privileges** – HNM ensures that access to Personal Information is limited to Employees on a "need to know" basis, and HNM Employees are required to strictly utilise their unique user ID and applicable passwords to access same. The access to such Personal Information shall be subject to a two-step authorization/authentication process.
- 7.6.3.6 **Back-ups** – HNM ensures that all Personal Information is backed-up regularly, based on operational or legal requirements, and that back up testing is conducted regularly in order to ensure that Personal Information can be recovered in the event that such Personal Information is lost, damaged or destroyed.
- 7.6.3.7 **Malware protection** – HNM ensures that its environment has comprehensive malware protection software employed, which software is specifically designed to protect HNM from the most recent malware infections.
- 7.6.3.8 **Vulnerability scanning** – HNM frequently conducts vulnerability scanning in order to assess whether Personal Information is adequately protected from external threats.
- 7.6.3.9 **Network configuration** – HNM continuously monitors all designated networks, employs intrusion detection systems and/or intrusion prevention systems, and records any security incidents.
- 7.6.3.10 **Systems Review** – HNM conducts regular reviews of its technical and organisational security measure system in order to ensure that all of the above security measures are functioning effectively and applied consistently.

8 INFORMATION HELD BY HNM IN TERMS OF PAIA

(Information required under section 51(1)(e) of PAIA)

- 8.1 This section of the Manual sets out the categories and descriptions of records held by HNM. The inclusion of any category of records should not be taken to mean that records falling within that category will be made available under PAIA. In particular,

certain grounds of refusal as set out in PAIA may be applicable to a request for such records.

8.2 Company records

- 8.2.1 Company registration documents;
- 8.2.2 Memorandum of Incorporation;
- 8.2.3 Licenses;
- 8.2.4 Licensing and franchising agreements;
- 8.2.5 Certification, professional qualifications and registration.

8.3 Accounting records

- 8.3.1 Details of accounting officer or auditors;
- 8.3.2 Formal books of account and financial statements;
- 8.3.3 Banking records;
- 8.3.4 Management reports; and
- 8.3.5 Company tax returns.

8.4 Customer records

Financial Intelligence Centre Act 38 of 2001 (“**FICA**”) onboarding (KYC)

documents;

8.5 Human Resources records

- 8.5.1 Employee policies;
- 8.5.2 Pension funds;

- 8.5.3 Recruitment;
- 8.5.4 Health and safety documentation; and
- 8.5.5 Workplace Skills Plans (WSP).

8.6 **Operations records**

- 8.6.1 Asset register; and
- 8.6.2 Corporate social investment / charity / BEE work done.

8.7 **Marketing**

- 8.7.1 Website; and
- 8.7.2 Marketing materials.

9 **INFORMATION KEPT IN ACCORDANCE WITH OTHER LEGISLATION**

(Information required under section 51(1)(b)(iii) of PAIA)

- 9.1 Records are kept in accordance with legislation applicable to HNM which includes but is not limited to, the following:
 - 9.1.1 Legal Practice Act 28 of 2014
 - 9.1.2 Basic Conditions of Employment Act 75 of 1997
 - 9.1.3 Companies Act 71 of 2008
 - 9.1.4 Constitution of the Republic of South Africa, 1996
 - 9.1.5 Consumer Protection Act 68 of 2008
 - 9.1.6 Electronic Communications and Transactions Act 25 of 2002
 - 9.1.7 Employment Equity Act 55 of 1998

- 9.1.8 Financial Intelligence Centre Act 38 of 2001 (**"FICA"**)
- 9.1.9 Income Tax Act 58 of 1962
- 9.1.10 Labour Relations Act 66 of 1995
- 9.1.11 Occupational Health and Safety Act 85 of 1993
- 9.1.12 Promotion of Access to Information Act 2 of 2000
- 9.1.13 Protection of Personal Information Act 4 of 2013
- 9.1.14 Skills Development Act 97 of 1998
- 9.1.15 Value Added Tax Act 89 of 1991

10 **REQUEST PROCEDURES**

- 10.1 Records, whether specifically listed in this Manual or not, will only be made available subject to the provisions of PAIA.

10.2 **Form of request**

- 10.2.1 The Requester must use the prescribed form to make the request for access to a record, which form is attached hereto as Annexure "**A**". This must be made to the Information Officer at the address or electronic mail address of the body concerned (*see s 53(1) of PAIA*).
- 10.2.2 The Requester must provide sufficient detail on the request 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 (*see s 53(2)(a) and (b) and (c) and (e) of PAIA*).

10.2.3 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 (*see s 53(2)(d) of PAIA*).

10.2.4 If a request is made on behalf of another person, the Requester must submit proof of the capacity in which the Requester is making the request to the satisfaction of the head of the private body (*See s 53(2)(f) of PAIA*).

10.3 Fees

10.3.1 Request fees:

10.3.1.1 The Information Officer must by notice require the Requester to pay the prescribed request fee (if any) before further processing the request (*see s 54(1) of PAIA*).

10.3.1.2 The fee that the Requester must pay to a private body is [R140]. The Requester may lodge an application to the court against the tender or payment of the request fee (*See section 54(3)(b) of PAIA*).

10.3.2 Access fees and fees for reproduction:

10.3.2.1 If access to a record/s is granted by HNM, the Requester may be required to pay an access fee for the search for and preparation of the records and for re-production of the record/s.

10.3.2.2 The access fees which apply are set out below. HNM can refuse access until such the applicable fees have been paid.

	Reproduction	Fee (Rand)
1.	Photocopy of an A4-size page or part thereof provided in hard copy or via scanned copy sent via email	R2.50 per page

2.	Printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form	R2.50 per page
3.	A copy of, in a computer readable form on compact disc	R70.00
4.	Transcription of visual images on an A4-size page or part thereof	Subject to the actual cost of transcription
5.	Copy of visual images	R60.00
6.	Transcription of an audio record on an A4-size page or part thereof	Subject to the actual cost of transcription
7.	Copy of an audio record	R30.00

10.4 Decision on request

10.4.1 After the Information Officer has made a decision on the request, the Requester will be notified using the required form.

10.4.2 If the request is granted then a further access fee must be paid for reproduction and for search and preparation and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure (*see s 54(6) of PAIA*).

11 TIMELINES FOR CONSIDERATION OF A REQUEST

11.1 Requests for access by a Requestor will be processed within 30 days, unless the request contains considerations that are of such a nature that an extension of the 30-day time limit is necessary. Such considerations include –

- 11.1.1 where the request is for a large number of records or requires a search through a large number of records (including where records that have been archived electronically need to be restored);
 - 11.1.2 where the request requires a search for records in, or collection of such records from, an office of HNM located far away from Johannesburg and Cape Town;
 - 11.1.3 consultation HNM with another private body is necessary or desirable to decide upon the request that cannot reasonably be completed within the original 30-day period;
 - 11.1.4 more than one of the circumstances contemplated in paragraphs 11.1.1, 11.1.2 and 11.1.3, exist in respect of the request making compliance with the original period not reasonably possible; or
 - 11.1.5 the Requester consents in writing to such extension.
- 11.2 If an extension is necessary, you will be notified with reasons for the extension. If the Information Officer fails to communicate a decision on a request, such a request is then deemed to have been refused.

12 GROUNDS FOR REFUSAL OF ACCESS TO RECORDS

- 12.1 Requests for access by a Requestor must be refused by the Information Officer if–
- 12.1.1 the disclosure would involve the unreasonable disclosure of personal information about a third party (natural person), including a deceased individual (see section 63 of PAIA);
 - 12.1.2 the record contains (a) trade secrets of a third party, (b) financial, commercial, scientific or technical information, other than trade secrets, of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that third party, or (c) information supplied in confidence by a third party the disclosure of which could reasonably be expected to put that third party at a disadvantage in contractual or other negotiations; or to prejudice that third party in commercial competition (see section 64 of PAIA);

- 12.1.3 the disclosure of the record would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement (see section 65 of PAIA);
- 12.1.4 the disclosure could reasonably be expected to endanger the life or physical safety of an individual (see section 66(a) of PAIA);
- 12.1.5 the record is privileged from production in legal proceedings unless the person entitled to the privilege has waived the privilege (see section 67 of PAIA); or
- 12.1.6 the record contains information about research being or to be carried out by or on behalf of a third party, the disclosure of which would be likely to expose: (a) the third party; (b) a person that is or will be carrying out the research on behalf of the third party; or (c) the subject matter of the research, to serious disadvantage (see section 69 of PAIA).
- 12.2 Requests for access by a Requestor may be refused by the Information Officer if–
- 12.2.1 the disclosure would be likely to prejudice or impair: (i) the security of: (aa) a building, structure or system, including, but not limited to, a computer or communication system; (bb) a means of transport; or (cc) any other property; or (ii) methods, systems, plans or procedures for the protection of: (aa) an individual in accordance with a witness protection scheme; (bb) the safety of the public, or any part of the public; or (cc) the security of property contemplated in subparagraph (i) (aa), (bb) or (cc) (see section 66(b));
- 12.2.2 the record:
- (a) contains trade secrets of HNM;
 - (b) contains financial, commercial, scientific or technical information, other than trade secrets, the disclosure of which would be likely to cause harm to the commercial or financial interests of HNM;
 - (c) contains information, the disclosure of which could reasonably be expected:

- (i) to put HNM at a disadvantage in contractual or other negotiations; or
 - (ii) to prejudice HNM in commercial competition; or
 - (d) is a computer program, as defined in section 1(1) of the Copyright Act No. 98 of 1978, owned by HNM except insofar as it is required to give access to a record to which access is granted in terms of PAIA; or
- 12.2.3 the record contains information about research being or to be carried out by or on behalf of HNM, the disclosure of which would be likely to expose: (a) HNM; (b) a person that is or will be carrying out the research on behalf of HNM; or (c) the subject matter of the research, to serious disadvantage.

13 REMEDIES AVAILABLE TO A REQUESTOR ON REFUSAL OF ACCESS

- 13.1 HNM does not have any internal appeal procedures that may be followed once a request to access information has been refused.
- 13.2 The decision of the Information Officer or deputy information officer is final.
- 13.3 If you are not satisfied with the outcome of your request, you are entitled to apply to a court of competent jurisdiction to take the matter further.

14 OTHER INFORMATION HELD BY HNM AS PRESCRIBED

(Other information as may be prescribed under section 51(1)(a)(ii))

The Minister of Justice and Constitutional Development has to date not made any regulations regarding disclosure of other information.

15 AVAILABILITY OF THE MANUAL

(Availability of Manual under section 51(3))

- 15.1 This Manual is available for inspection by the general public upon request, during office hours and free of charge, at the offices of HNM. Copies of the Manual may be made, subject to the prescribed fees.
- 15.2 The Manual is also posted on HNM's website referred to above.

Issued by:

HARRIS NUPEN MOLEBATSI INC.

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 (when made on behalf of another person)				
Postal Address				
Street Address				
E-mail Address				
Contact Numbers	Tel. (B):		Facsimile: <table border="1"><tr><td></td></tr></table>	
Cellular:				
Full names of person on whose behalf request is made (if applicable):				
Identity Number				
Postal Address				

Street Address			
E-mail Address			
Contact Numbers	Tel. (B)		Facsimile
	Cellular		
<p align="center">PARTICULARS OF RECORD REQUESTED</p> <p><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></p>			
Description of record or relevant part of the record:			
Reference number, if available			
Any further particulars of record			
<p align="center">TYPE OF RECORD</p> <p align="center"><i>(Mark the applicable box with an "X")</i></p>			
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)	<i>A request fee must be paid before the request will be considered.</i>
b)	<i>You will be notified of the amount of the access fee to be paid.</i>
c)	<i>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.</i>
d)	<i>If you qualify for exemption of the payment of any fee, please state the reason for exemption</i>
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