

# AJ JOHNSTON & Partners

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**PAIA MANUAL**

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# 1. CONTACT DETAILS OF THE INFORMATION OFFICER (“IO”)

Information Officer  
Elaine Johnston  
elaine@johnstonkzn.co.za  
068 141 7766

Deputies:  
Bronwyn Pretorius  
Rebecca Johnston  
Thabisa Ngcobo

Appointment Date - 21/10/21

## 2. MANUAL OBJECTIVES

The objectives of this Manual are:

- to provide a list of all records held by Johnston & Partners;
- to record the requirements with regard to who may request information in terms of PAIA as well as the grounds upon which a request may be denied;
- to define the manner and form in which a request for information must be submitted; and
- to comply with the additional requirements imposed by POPIA.

## 3. PROCEDURE REQUESTS

- A request for information may only be made if the information is required for the exercise of a legitimate right.
- Information requests will not be approved unless the requester can satisfy the IO that a legitimate right exists in relation to the information sought and the reasons why the information is required to exercise / protect that right.
- The exercise of an individual's rights is subject to justifiable limitations including the reasonable protection of privacy, commercial confidentiality etc.
- No requests for information relating to criminal or civil proceedings shall be granted.
- All requests in terms of PAIA and this Manual must be addressed to the IO using the details above.

## 4. INFORMATION AVAILABLE IN TERMS OF POPIA

In terms of POPIA, Personal Information must be processed for a specified purpose. The purpose for which Personal Information is processed by Johnston and Partners depends on the nature of the information and the particular data subject it relates to. This purpose is ordinarily disclosed, explicitly or implicitly, at the time the Personal Information is collected. Please also refer to Johnston & Partners' Privacy Policies for further information.

### Categories of Personal Information collected by Johnston & Partners:

Johnston & Partners may collect all types of Personal Information, including Special Personal Information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person.

### The purpose of Processing Personal Information:

- In terms of POPIA, Personal Information must be processed for a specified purpose.
- The purpose for which Personal Information is processed by Johnston & Partners will depend on the nature of the Personal Information and the particular Data Subject. This purpose is ordinarily disclosed, explicitly or implicitly, at the time the Personal Information is collected.
- In general, Personal Information is processed for purposes of, inter alia, on-boarding Clients and suppliers, service or product delivery, Record management, security, employment, giving effect to professional instructions received and related matters.

### A description of the categories of Data Subjects:

Johnston & Partners holds information and Records on the following categories of Data Subjects:

- Employee(s) of Johnston & Partners
  - Clients of Johnston & Partners
  - any Third Party with whom Johnston & Partners conducts business;
- (This list of categories of Data Subjects is non-exhaustive)

## 4. INFORMATION AVAILABLE IN TERMS OF POPIA CONTINUED

### The recipients or categories of recipients to whom the Personal Information may be supplied:

Depending on the nature of the Personal Information, Johnston & Partners may supply information or Records to the following categories of recipients:

- statutory oversight bodies, regulators or judicial commissions of enquiry making a request for Personal Information;
- any court, administrative or judicial forum, arbitration, statutory commission, or ombudsman making a request for Personal Information or discovery in terms of the applicable rules;
- South African Revenue Services, or another similar authority;
- anyone making a successful application for access in terms of PAIA or POPIA; and
- subject to the provisions of POPIA and other relevant legislation, Johnston & Partners may share information about a Client's creditworthiness with any credit bureau or credit providers industry association or other association for an industry in which Johnston & Partners operates.

### A general description of information security measures to be implemented by Johnston & Partners:

- Johnston & Partners takes appropriate information security measures to ensure the confidentiality, integrity and availability of Personal Information in its possession. Our technical and organisational measures are designed to ensure that Personal Information remains confidential and secure against unauthorised or unlawful Processing and against accidental loss, destruction or damage.

## 5. CATEGORIES OF RECORDS AVAILABLE UPON REQUEST

- Please note that the recordal of a category or subject matter in this Manual does not imply that a request for access to such Records would be granted. All requests for access will be evaluated on a case by case basis in accordance with the provisions of PAIA.

### **Internal Records**

- Business-related records;
- Financial Records;
- Operational Records;
- Intellectual property;
- Marketing Records;
- Internal correspondence;
- Service Records;
- Internal policies and procedures;
- Minutes of meetings;
- IT records, including computer software, support and maintenance Agreements.

### **Employee records**

- Personal records
- Contractual employment-related records
- Employment policies and procedures;

### **Client-related records**

- Attorney client mandates;
- Fee agreements;
- Contracts entered into by and with Johnston & Partners;
- File contents;
- Financial Records;
- Indemnities and guarantees;
- Personal Information
- Correspondence

### **Third party records**

- Employee, Client, or our Records which are held by a Third Party as opposed to being held by Johnston & Partners and
- Financial records, correspondence, contractual records

## 6. PHYSICAL DATA SECURITY

Johnston & Partners takes every measure in physically securing data in its hardcopy format and in its electronic format. Our measures include inter alia:

- Access controlled office entrance
- Locked filing cabinets and drawers
- Access controlled server room
- Employee training on security measures
- Archiving facilities through third parties
- Password protection
- Remote access for laptops with Password protection

## 7. REQUEST PROCEDURE

POPIA provides that a Data Subject may object, at any time, to the Processing of Personal Information by Johnston & Partners on reasonable grounds relating to his/her particular situation, unless legislation provides for such Processing.

A Data Subject may also request Johnston & Partners to correct or delete Personal Information about the Data Subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or destroy or delete a Record of Personal Information about the Data Subject that Johnston & Partners is no longer authorised to retain in terms of POPIA's retention and restriction of Records provisions.

Prescribed form completion steps:

- Any request for access to a Record in terms of PAIA must substantially correspond with Form C of Government Notice No. R.187 dated 15 February 2002 and should be specific in terms of the Record requested.
- Any request for access to a Record in terms of POPIA must substantially correspond to the Data Subject Access Request Form.

# 7. REQUEST PROCEDURE CONTINUED

## A Data Subject that wishes to:

- object to the Processing of their Personal Information must complete Form 1; and
- request a correction or deletion of Personal Information or the destruction or deletion of a Record of Personal Information must complete Form 2 and submit it to the IO.
- A request for access to information which does not comply with the formalities as prescribed by PAIA will be returned to you.

## Proof of identity:

- Proof of identity is required to authenticate the Data Subject's identity and the request. The Data Subject will, in addition to this prescribed form, be required to submit acceptable proof of identity such as a certified copy of their identity document or other legal forms of identity.

## Payment of the prescribed fees:

There are two categories of fees which are payable:

- The request fee: R50.00 (fifty rand)
- The access fee: This is calculated by taking into account reproduction costs, search and preparation costs, as well as postal costs. These fees are set out in Fees in Respect of Private Bodies.
- Section 54 of PAIA entitles Johnston & Partners to levy a charge or to request a fee to enable it to recover the cost of Processing a request and providing access to Records.
- The fees that may be charged are set out in Regulation 9(2)(c) promulgated under PAIA.
- Where a decision to grant a request has been taken, the Record will not be disclosed until the necessary fees have been paid in full.

## Timelines for consideration of a request for access:

- Requests will be processed within 30 (thirty) days, unless the request contains considerations that are of such a nature that an extension of the time limit is needed.
- Should an extension be required, you will be notified, together with reasons explaining why the extension is necessary.



# 7. REQUEST PROCEDURE CONTINUED

## Grounds for refusal of access and protection of information:

There are various grounds upon which a request for access to a Record may be refused. These grounds include:

- the protection of Personal Information of a Third Party from unreasonable disclosure;
- the protection of commercial information of a Third Party (for example: trade secrets; financial, commercial, scientific or technical information that may harm the commercial or financial interests of a Third Party);
- If it is Client-attorney privileged or confidential information. For example, any record subject to the relationship between an attorney and their Client is protected under PAIA;
- if disclosure would result in the breach of a duty of confidence owed to a Third Party;
- if disclosure would jeopardise the safety of an individual or prejudice or impair certain property rights of a third person;
- if the Record was produced during legal proceedings, unless that legal privilege has been waived;
- if the Record contains trade secrets, financial or sensitive information or any information that would put Johnston & Partners at a disadvantage in negotiations or prejudice it in commercial competition; and/or
- if the Record contains information about research being carried out or about to be carried out on behalf of a Third Party or by Johnston & Partners
- Section 70 of PAIA contains an overriding provision. Disclosure of a Record is compulsory if it would reveal (i) a substantial contravention of, or failure to comply with the law; or (ii) there is an imminent and serious public safety or environmental risk; and (iii) the public interest in the disclosure of the Record in question clearly outweighs the harm contemplated by its disclosure.
- If the request for access to information affects a Third Party, then such Third Party must first be informed within 21 (twenty one) days of receipt of the request. The Third Party would then have a further 21 (twenty one) days to make representations and/or submissions regarding the granting of access to the Record.

## 7. REQUEST PROCEDURE CONTINUED

### REMEDIES AVAILABLE TO A REQUESTER ON REFUSAL OF ACCESS

- If the IO decides to grant access to the particular Record, such access must be granted within 30 (thirty) days of being informed of the decision unless that Record is held by a Third Party, in which case such access must be granted within 60 (sixty) days of the request being made.
- The decision made by the IO after a request to access of information is final. However, in the event that you are not satisfied with the outcome of the request, you are encouraged to engage Johnston & Partners senior management with a view to resolving the matter.
- Where a Third Party is affected by the request for access and the IO has decided to grant access to the Record, the Third Party has 30 (thirty) days in which to appeal the decision in a court of competent jurisdiction. If no appeal has been lodged by the Third Party within 30 (thirty) days, access to the Record must be granted.

## 8. PRIVACY NOTICE

Johnston & Partners has made the Privacy Notice and Policy available to all external stakeholders through our website [www.johnstonkzn.co.za](http://www.johnstonkzn.co.za) and by hardcopy on request. Our Privacy Policy is reviewed periodically as per the POPI Compliance Manual management and maintenance SOP.

## 9. TRAINING, AWARENESS AND COMPLIANCE

Johnston & Partners takes a proactive approach in effectively stressing the importance of data security to its stakeholders and to our employees and their active role in mitigating risk through our training initiatives and policies.

## 10. AVAILABILITY OF THIS MANUAL

This Manual is available for inspection, free of charge, at the offices of Johnston & Partners and on its website



## REGISTRATION CERTIFICATE

**Registration Number: 0001334/2023-2024-IRRT/PR**

This is to certify that **Elaine Johnston** has been registered as the **Information Officer** and **Rebecca Johnston, Bronwyn Pretorius , Thabisa Ngcobo** have been registered as **Deputy Information Officers** with the Information Regulator by **Johnston & Partners**, in terms of section 55(2) of the Protection of Personal Information Act 4 of 2013 with effect from **09 February 2023**.

  
Chief Executive Officer  
INFORMATION REGULATOR

**NB:** Please note that it is your responsibility to ensure that the particulars of an Information Officer and/or Deputy Information Officer(s) are correct and updated on an annual basis or as when it becomes necessary.

**CLIENT CONSENT IN TERMS OF THE PROTECTION OF INFORMATION ACT 4 OF 2013  
("POPI ACT")**

<b>Client full names &amp; surname</b>	
<b>ID Number</b>	

Dear Client,

1. The personal information which is processed by JOHNSTON & PARTNERS ("the Firm") in the course of your engagement of the Firm's services falls within the ambit of the POPI Act.
2. The purpose of this document is to obtain your consent to process your personal information.
3. By your signature hereto, you confirm that you are aware of the fact that you are under no obligation to consent to the processing of your personal information by the Firm and that your consent relates only to the processing of your personal information pertaining to the matters stated herein.
4. You also confirm that you understand that by failing and/or refusing to provide consent to the Firm, that the Firm will not be able to fulfil its obligations towards you or continue with the business relationship, depending on the nature of the information to which you object, unless you grant your consent to process your personal information.
5. For purposes of defining "personal information", you are advised that such information may include your:
  - full names, surname and identity number/passport details (for natural persons);
  - Company name/Close Corporation name/Institution name, registration details and other details regarding the Company/Close Corporation/Institution;
  - contact details, such as e-mail address, website address, postal address, landline and mobile contact numbers, geographic location;
  - nationality (natural persons);
  - demographic information such as age, race, ethnicity or gender;
  - place of residence/place of business;
  - employment details;
  - bank account details;
  - all information relating to the requirements set out in the Financial Intelligence Centre Act, 38 of 2001, as amended, with which the firm is obliged to comply; and
  - any other information requested by Firm and voluntarily provided by you for purposes of performing the services in accordance with your mandate to the Firm.

*Note: The client is to take note that race is referred to as special personal information in terms of Section 26 of the POPI Act. There is a difference between personal information and special personal information. The Firm therefore processes both general and special personal information of its clients.*

6. Your personal information will only be processed for the purpose for which it was collected, and as agreed ("the services"), which includes, but is not limited to, the following:

- General legal services
- Property conveyancing services
- Labour and dispute resolution services
- Criminal litigation
- Civil litigation
- Divorce and related family law matters
- Accounting and invoicing
- Commercial legal services
- Deceased estate administration
- Trust and company administration
- Estate planning
- Other fiduciary legal services, such as Will drafting

7. By signing this document, you agree to the Firm:-

- ❖ processing your personal information for the purposes of rendering the services;
- ❖ recording, storing, updating, modifying, and retrieving your personal information for the purposes of rendering the services.
- ❖ sharing your personal information amongst the Firm's internal departments for the purposes of rendering the services.
- ❖ collecting your personal information from a third party or source for the purposes of rendering the services.
- ❖ transmitting your personal information to a third party in the Republic of South Africa for the purposes of rendering the services. The Firm will ensure that technical security requirements are met in order to secure the confidentiality of the information.
- ❖ transmitting your personal information to a third party in a foreign country (who provides an adequate level of protection for the processing of personal information as referred to in Section 72 of the POPI Act) for the purposes of rendering the services. The Firm will ensure that technical security requirements are met in order to secure the confidentiality of the information.
- ❖ retain your personal information for the duration of the business relationship and for such period after the termination of the business relationship as stipulated in the relevant legislation applicable to the Firm.

8. By signing this document, you also confirm that you understand and agree to the following:

- ❖ That you are obliged to inform the Firm of any correction or deletion of your personal information or destroying or deletion of any records of your personal information in terms of Section 24(1) of the POPI Act, by submitting Form 2 of the Regulations Relating to the POPI Act.
- ❖ The contents hereof and accept this consent as adequate notification of the collection and processing of your personal information by the Firm.
- ❖ The destruction or deletion of your personal information once the information is no longer required and the retention period required by legislation has lapsed. The Firm will shred any personal information/data of the client in accordance with the POPI Act in order to preserve the confidentiality of the information/data.

- ❖ The consequences of failing and/or refusing to provide consent to the Firm and that the Firm will not be able to fulfil its obligations towards you or continue with the business relationship, depending on the nature of the information to which you object, unless you grant your consent to process your personal information.
- ❖ That you may withdraw your consent or object to the processing of your personal information at any time by giving written notification to the Firm's POPI Information Officer, Elaine Johnston, [elaine@johnstonkzn.co.za](mailto:elaine@johnstonkzn.co.za)
- ❖ That you are aware of your right to lodge a complaint with the Information Regulator, whose contact details are as follows:

Address: SALU Building, 316 Thabo Sehume Street, Pretoria  
Tel: 012 406 4818  
Fax: 086 500 3351  
Email: [infoereg@justice.gov.za](mailto:infoereg@justice.gov.za)

*Note: The Firm may be required by law and certain legislation to disclose your information to a third party or institution from time to time without being obliged to obtain your consent.*

SIGNED at \_\_\_\_\_ on \_\_\_\_\_ 2023|

For and behalf of

\_\_\_\_\_  
Client name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Signatory (if not Client)