



HIV SA NON-PROFIT COMPANY

Registration number: 2002/006774/08 ("HIVSA")

PAIA MANUAL

Prepared in terms of Section 51 of the requirements of the
PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000 ("PAIA")

and to further address the requirements of the
PROTECTION OF PERSONAL INFORMATION ACT, 2013 ("POPIAA").

1. INTRODUCTION

PAIA gives effect to the constitutional right of access to any information held by either a private or public body, subject to certain limitations, that is required for the exercise or protection of rights.

POPIA affords Data Subjects (“DS”) the right to access, in accordance with the provisions of PAIA, to their Personal Information (“PI”) from any Responsible Party (“RP”).

The Promotion of Access to Information Act, 2000 (the “Act”) gives third parties the right to approach private bodies and the government to request information held by them, which is required in the exercise and/or protection of any rights. On request, the private body or government is obliged to release such information unless the Act expressly states that the records containing such information may or must not be released. This manual informs requestors of procedural and other requirements which a request must meet as prescribed by the Act.

HIVSA is categorised as a private body and thus undertakes to provide the outline the above in its manual, including any additional information that is deemed appropriate to be a transparent and responsible corporate citizen. It is HIVSA’s policy to conduct its business in compliance with all legal and regulatory requirements. This manual therefore regulates access to information and of the records owned, and otherwise held or under the control of HIVSA, and the release of any such information or records of any of HIVSA’s directors, officers, employees, agents, subsidiaries, associates or anyone acting on its behalf.

2. MANDATORY PAIA GUIDE – HUMAN RIGHTS COMMISSION

A Guide has been compiled in terms of Section 10 of PAIA by the Human Rights Commission. It contains information required by a person wishing to exercise any right, contemplated by PAIA.

Enquiries to be directed to:

The South African Human Rights Commission - PAIA Unit
The Research and Documentation Department
Private Bag X2700, Houghton, 2041.
Email: PAIA@sahrc.org.za
Tel: (011) 877 3600
Fax: (011) 484 7146

3. COMPANY DETAILS

Name of private body: HIVSA NPC

Registration number: 2002/006774/08

Chief Executive Officer: Yashmita Naidoo

Information Officer: Yashmita Naidoo

Physical Address: 1st Floor, Block 1, Omni Park
66 Sailor Malan Avenue
Aeroton
2013

Postal address: P O Box 3869
Southgate
2082

Telephone number: (011) 494 1900
Fax number: 086 528 6248

Email address: naidooy@hivsa.com

Website: www.hivsa.com

Directors: 1 Ms Yashmita Naidoo (CEO) - executive
2 Ms Judith Chinkumbi (Chair) – non-executive
3 Ms Neo Mohajane - executive
4 Mr Lawrence Nachito – non-executive
5 Mr Kevin Pather – non-executive
6 Mr Sirraj Adams – non-executive

4. NATURE OF HIVSA ACTIVITIES

HIVSA is a Non Profit Company which develops support programmes for community based projects for people living with HIV and AIDS in the greater Soweto District, provides training and support to counsellors to assist people living with AIDS in the greater Soweto District, support fund raising in order to pay for training of people living with HIV and supports eradication and advocacy activities around HIV issues.

5. HIVSA INFORMATION IN TERMS OF APPLICABLE LEGISLATION.

Records available in terms of legislation are as follows:

Basic Conditions of Employment Act 75 of 1997
Broad-based Black Economic Empowerment Act 53 of 2003
Compensation for Occupational Injuries and Disease Act 61 of 1997
Companies Act 71 of 2008
Employment Equity Act 55 of 1998
Financial Intelligence Centre Act 38 of 2001
Income Tax Act 58 of 1962
Labour Relations Act 66 of 1995

Occupational Health and Safety Act 85 of 1993
Promotion of Access to Information Act 2 of 2000
Skills Development Act 97 of 1998
Skills Development Levy Act 9 of 1999
Unemployment Insurance Act 63 of 2001
Unemployment Insurance Contributions Act 4 of 2002
Value Added Tax Act 89 of 1991

6. SCHEDULE OF RECORDS HELD

The information is classified and grouped according to records relating to the following subjects and categories.

6.1 Company Secretarial Records

- Documents of incorporation
- Memorandum and Articles of Association
- Documents lodged at Registrar of Companies subsequent to incorporation
- Minutes of meetings
- Records relating to the appointment of directors/auditor/secretary/public officer and other officers
- Share register and other statutory registers
- Share certificates

6.2 Financial Records

- Annual Financial Statements
- Accounting Records
- Banking Records
- Bank Statements
- Paid Cheques
- Electronic banking records
- Asset Register
- Invoices

6.3 Income Tax Records

- PAYE Records
- Income Tax Records
- Documents issued to employees for income tax purposes
- Records of payments made to SARS on behalf of employees
- VAT returns Regional Services Levy returns
- Skills Development Levies
- UIF returns
- Workmen's Compensation

6.4 Personnel Documents and Records

- Employment contracts
- Forms and applications
- Standard letters and notices
- Payroll reports
- Pay slips
- IRP5's
- Medical Aid records
- Pension Fund records
- Disciplinary Code
- Grievance Procedure
- Salary records

- SETA records
- Disciplinary code
- Leave records
- Training records
- Employee benefits arrangements rules and records
- Safety, Health and Environment records

6.5 Records relating to Partners, Suppliers, Trainees and Programme Beneficiaries

- Correspondence
- Contracts and agreements
- Consent forms
- Personal information relating to health, HIV/AIDS status, treatment and health related lifestyle choices of programme beneficiaries
- Training records
- Partner, supplier, programme
- Marketing and promotional material

6.6 Immovable Property

- Lease agreements

7. DECISION ON REQUEST AND NOTICE THEREOF

The Head of HIVSA or the designated Information Officer to whom the request is made must, as soon as reasonably possible, and within 30 days, after the request has been received decide in accordance with the Act whether to grant the request; and notify the requester of the decision.

8. GRANTING OR REFUSAL OF REQUESTS

All requests which comply with the requirements of the PAIA and POPIA Acts will be processed and considered timeously once the prescribed fees have been provided.

If the request for access is granted, then HIVSA will advise the Requester on the following:

- the prescribed fee for accessing the information or documentation;
- payable deposit fee and balance outstanding
- the form in which access will be given; and
- the right to lodge an internal appeal against the access fee to be paid or the form of access to be granted.

HIVSA will give the Requester a written notice of the decision within 30 days after the decision is made. In case of a request being refused, the notification will include the reasons for the refusal. This period is subject to extensions in terms of PAIA.

9. GROUND FOR REFUSAL OF ACCESS TO RECORDS

If the request for access is refused, then HIVSA will advise the Requester about the reasons for refusal of access and may advise the Requester to lodge an application with the court against the refusal of the request after the Requester has exhausted all the internal appeal processes.

The PAIA stipulates the following grounds for refusing requests for information: These grounds of refusal are also endorsed under POPIA.

- protection of the privacy of a third party who is a natural person;
- protection of commercial information of a third party;
- protection of certain confidential information of a third party;
- protection of safety of individuals and protection of property;

- protection of records privileged from production in legal proceedings;
- commercial information of HIVSA; and
- protection of research information of a third party and of HIVSA.

10. MANNER OF OBJECTION TO THE PROCESSING OF PERSONAL INFORMATION

A Data Subject (DS) may object in writing to the processing of Personal Information, by submitting the objection on Form 1 (attached in this manual) to the Responsible Party (RP). The RP, or a person designated for that purpose by the RP, must then proceed to assist the Data Subject (DS) to the best of his or her ability with the completion of Form 1.

11. REQUEST FOR CORRECTION OR DELETION OF PERSONAL INFORMATION OR DESTROYING OR DELETION OF RECORD OF PERSONAL INFORMATION

A DS may request a RP, on the prescribed form, to correct or delete any information about the DS that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or that which was obtained unlawfully. Further, the RP must delete or destroy the information of a DS which it is no longer authorized to retain.

A DS must object on Form 2 (attached in this manual) to the RP. The RP, or a person designated for that purpose by the RP, must then proceed to assist the DS to the best of his or her ability with the completion of Form 1.

12. APPEAL/ LODGMENT OF COMPLAINTS PROCEDURE

The Act makes provision for the lodgement of complaint against:

- Access fee charged, or the form of access granted;
- Refusal of the request to grant access;
- Decision to extend the 30 days' period for granting the requested access; or
- Form in which access is granted.

A Requester aggrieved by HIVSA's decision or who wishes to lodge a complaint or appeal must follow this process: A compliant or an internal appeal must:

- be lodged within 30 days after the decision is communicated to the Requester;
- be delivered or sent to the address, fax or electronic mail address contained in section 3 above;
- identify the subject of the complaint or internal appeal and state the reasons for the complaint or internal appeal;
- be accompanied by the prescribed appeal fee as prescribed; and
- specify a postal address, fax number or electronic mail for the return of the decision.

13. FEES IN RESPECT OF PRIVATE BODIES

The Act entitles a private body to levy a prescribed request fee to a Requester before further processing the request. The fees that may be charged have been published by the Minister of Justice and Constitutional Development and are displayed below. According to POPIA a RP is entitled to levy a prescribed fee for the provision of PI about the DS in its possession.

The fees for reproduction are as follows:

- For every photocopy of an A4 - size page or part thereof: R1,10
- For every printed copy of an A4 - size page or part thereof held on a computer or in electronic or machine - readable form: R0,75
- For a copy in a computer - readable form on:
 - stiffer disc: R7,50
 - compact disc or flash drive: R70,00

- a transcription of visual images
 - for an A4 - size page or part thereof: R40,00
 - for a copy of visual images: R60,00
- For a transcription of an audio record
 - for an A4 - size page or part thereof: R20,00
 - for a copy of an audio record: R30,00

The request fee payable by a requester, other than a personal requester, referred to in regulation 11(2) is R50,00.

For purposes of section 54(2) of the Act, the following applies:

- six hours as the hours to be exceeded before a deposit is payable;
- one third of the access fee is payable as a deposit by the requester.

The actual postage is payable when a copy of a record must be posted to a requester. HIVSA reserves the right to waive the fees at its discretion.

14. **MANUAL AVAILABILITY**

In addition to the availability of this Manual at the South African Human Rights Commission, this Manual is also available from the Information Officer of HIVSA, by means of the different forms of request as detailed above, as well as on the HIVSA website, at www.hivsa.com. The Manual is also available at the HIVSA office and is available for inspection during normal business hours, free of charge.

15. **DEFINITIONS**

The following words shall bear the same meaning as under the PAIA as follows:

“Private body” means any former or existing juristic person; but excludes a public body.

“Public body” means-

- (a) any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or
- (b) any other functionary or institution when-
 - i) exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or
 - ii) exercising a public power or performing a public function in terms of any legislation.

“Record” of, or in relation to, a public or private body, means any recorded information-

- a) regardless of form or medium;
- b) in the possession or under the control of that public or private body, respectively; and
- c) whether or not it was created by that public or private body, respectively.

“Requester”, in relation to a private body, means-

- a) any person, including, but not limited to, a public body or an official thereof, making a request for access to a record of that private body; or
- b) or any person acting on behalf of the person contemplated in subparagraph (a).

“Third party”, in relation to a request for access to- a record of a private body, means any person (including, but not limited to, a public body) other than the requester.

The following words shall bear the same meaning as under POPIAA as follows:

“Consent” means a voluntary, specific and informed expression of will in terms of which a DS agrees to the processing of PI relating to him or her.

“Data Subject” or **“DS”** means the person to whom personal information relates.

“Minister” means the Minister of Justice and Constitutional Development.

“Personal information” or **“PI”** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person including:

- a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
- b) information relating to the education or the medical, financial, criminal or employment history of the person;
- c) any identifying number, symbol, e-mail address, physical address, telephone number or other particular assignment to the person;
- d) the blood type or any other biometric information of the person; e) the personal opinions, views or preferences of the person;
- f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- g) the views or opinions of another individual about the person; and
- h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

“Private body” means a natural person who carries or has carried on any trade, business or profession in that capacity, a partnership or juristic person.

“Processing” means any operation or activity or any set of operations, whether by automatic means, concerning personal information, including:

- a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- b) dissemination by means of transmission, distribution or making available in any other form; or
- c) merging, linking, as well as blocking, degradation, erasure or destruction of information.

“Public body” means any department or state or administration in the national, provincial or local sphere of government or functionary exercising public power.

“Responsible party” or **“RP”** means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing Personal Information.

“Submit” means submit by—

- a) registered post;
- b) electronic mail;
- c) facsimile; or
- d) personal delivery.

Approved by: Yashmita Naidoo
(Name & Surname)

Signature: _____



Designation: Chief Executive Officer

Date: 09 June 2021



J752

REPUBLIC OF SOUTH AFRICA

FORM C
REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY
(Section 53(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))
[Regulation 10]

A. Particulars of private body

The Head:

B. Particulars of person requesting access to the record

- | |
|--|
| <p>(a) The particulars of the person who requests access to the record must be given below.
 (b) The address and/or fax number in the Republic to which the information is to be sent must be given.
 (c) Proof of the capacity in which the request is made, if applicable, must be attached.</p> |
|--|

Full names and surname:

Identity number:

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Postal address:

Telephone number: (.....) Fax number: (.....)

E-mail address:

Capacity in which request is made, when made on behalf of another person:

C. Particulars of person on whose behalf request is made

This section must be completed ONLY if a request for information is made on behalf of another person.

Full names and surname:

Identity number:

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FORM C: REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

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:

.....
.....
.....
.....

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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.....

FORM C: REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

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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.....
.....

FORM C: REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

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 of 20.....

.....
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