



### **POPIA Manual**

MANUAL PREPARED IN ACCORDANCE WITH SECTION 51 OF THE PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000 AND THE PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013 FOR GARLICKE & BOUSFIELD INCORPORATED.

Dated	01 September 2022
Author	Graeme Palmer
Revised By	Lyndall Blaikie

## 1. Introduction

The Protection of Personal Information Act, 2013 (“POPIA”) provides for:

- a) the promotion of the protection of personal information processed by public and private bodies;
- b) certain conditions so as to establish minimum requirements for the processing of personal information;
- c) the establishment of an Information Regulator to exercise certain powers and to perform certain duties and functions in terms of POPIA and PAIA;
- d) the issuing of codes of conduct;
- e) the rights of persons regarding unsolicited electronic communications and automated decision making;
- f) the regulation of the flow of personal information across the borders of the Republic; and
- g) matters connected therewith.

Section 14 of the Constitution of the Republic of South Africa, 1996, provides that everyone has the right to privacy. The right to privacy includes a right to protection against the unlawful collection, retention, dissemination and use of personal information.

POPIA provides data subjects with the right to:

- (A) request that a responsible party correct or delete personal information about the data subject which information is in the data subject’s possession or under the data subject’s control and is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
- (B) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain or access; and/or
- (C) request the correction or deletion of any personal information held about them that may be inaccurate, misleading or outdated.

The purpose of this document is to serve as the POPIA Manual for Garlicke & Bousfield Inc. and may be amended from time to time.

## 2. Definitions

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

**“POPIA” or “the Act”** means the Protection of Personal Information Act, No. 4 of 2013;

**“PAIA”** means the Promotion of Access to Information Act No. 2 of 2000, together with any regulations published thereunder;

**"Garlicke & Bousfield" or “the firm”** means Garlicke & Bousfield Incorporated, structured as an incorporated professional firm which renders legal services, including legal advice and legal representation, to clients;

**"Information Officer"** means the designated information officer/s described in this Manual;

**"Manual"** means this Manual, together with all annexures thereto as amended and made available by Garlicke & Bousfield from time to time;

**"SAHRC"** means the South African Human Rights Commission;

**“you”** refers to any person making a request for access to a record that is under the control of Garlicke & Bousfield.

**"data subject"** means the person to whom personal information relates;

**"personal information"** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to

- a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, wellbeing, 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, email address, physical address, telephone number, location information, online identifier or other particular assignment to the person;

- d) the 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.

**"processing"** means any operation or activity or any set of operations, whether or not 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 restriction, degradation, erasure or destruction of information;

### 3. Contact details of Garlicke & Bousfield

Name:	Garlicke & Bousfield Incorporated
Registration number:	1977/003506/21
Chief Executive Officer:	Yvonne Boden
Chairman:	Bongani Mgaga
Designated Information Officer:	Sandrisha Rajbunsie
Email:	sandrisha.rajbunsie@gb.co.za
Physical Address:	7 Torsvale Crescent La Lucia Ridge Office Estate 4051 KwaZulu-Natal
Postal address:	P.O. Box 1219 Umhlanga Rocks 4320 KwaZulu-Natal
Telephone:	+27 31 570 5300
Email:	mailur@gb.co.za
Website:	www.gb.co.za

#### **4. PAIA and POPIA**

As of 1 July 2021, the Information Regulator will assume the functions of the South African Human Rights Commission (“SAHRC”) and will be responsible for PAIA and POPIA queries.

As part of its functions, the Information Regulator will publish a guide on how to use PAIA and POPIA in the new dispensation. The Information Regulator has not yet published a guide to this effect.

The SAHRC has previously developed a guide with information on how to use PAIA. This guide is available on the SAHRC website <https://www.sahrc.org.za>.

Any information or queries related to the guide, or to PAIA or POPIA should be directed to:

Information Regulator

Telephone no: (012) 406 4818

Email: [infoereg@justice.gov.za](mailto:infoereg@justice.gov.za)

Fax no: (086) 500 3351

Website: [www.justice.gov.za/infoereg](http://www.justice.gov.za/infoereg)

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

Physical address: JD House 27 Stiemens Street Braamfontein Johannesburg 2001

#### **5. Purpose for the processing of personal information**

Garlicke & Bousfield uses the personal information under its control in the following ways:

- a) the provision of legal services and continuing to advise and assist clients;
- b) management of fees and payments;
- c) collection and recovery of moneys owed either to it or to its clients;
- d) prevention of fraud;
- e) undertaking necessary identity checks to comply with anti-money laundering legislation;
- f) dissemination of marketing information;
- g) in order to engage with the opposing party in a matter in which Garlicke & Bousfield has been instructed on behalf of a client;

- h) conducting staff administration;
- i) in order to monitor communications with the firm so as to comply with laws and internal policies;
- j) by the recording of CCTV images which are recorded for security purposes and for the prevention of crime.

The categories of data subjects about which personal information is held include clients, service providers, staff, suppliers and contractors. For further information on the purpose and legal basis for which personal information is processed, please see Annexure C.

### **Transborder flow of information**

Insofar as the transborder flow of information is concerned, the firm does not transfer personal information outside of South Africa, except where required in certain matters and where the firm has the client's express permission to do so, save when acting in terms of a Court Order or any other legal requirement to do so. Where a client's personal information is transferred outside of South Africa, the firm will seek to ensure that there are laws or rules in place to ensure adequate levels of protection, subject to the proviso that it is obliged to comply with any Court Order or other lawful process requiring it to disclose that information.

### **General description of security measures**

The firm employs the following technology and security measures to ensure the confidentiality and integrity of personal information:

- a) firewalls;
- b) virus protection software and update protocols;
- c) logical and physical access controls;
- d) secure setup of hardware and software making up the IT infrastructure;
- e) any outsourced service providers who process personal information on behalf of the firm are contracted to implement security controls.

## **6. Making a request for records held by Garlicke & Bousfield**

When making a request for information from Garlicke & Bousfield, the requester must –

- a) obtain and complete the prescribed form (Form C) attached to this Manual (Annexure D).
- b) submit the completed form to the Information Officer by email or delivered physically to Garlicke & Bousfield's offices.
- c) ensure that the Information Officer is provided with sufficient detail to identify the information requested.
- d) indicate the form of information access required if access is granted.
- e) provide the requester's telephone number, postal address and email address, if available.
- f) indicate which right is being exercised or protected and explain why the information requested is required in order to exercise or protect the right.
- g) indicate how the outcome of the decision must be communicated. The decision will be communicated in writing, so there is a choice of physical delivery or email. If it is to be communicated in a manner additional to this, the additional manner must be indicated and details provided and must be satisfactory to Garlicke & Bousfield.
- h) if the request is being made on behalf of another person, proof must be provided of the capacity of the person making the request on another's behalf. The proof must be sufficient to satisfy Garlicke & Bousfield.
- i) pay the applicable fees, and a deposit where necessary.

If the information requested exists and allowing access to it does not affect a third party, the request will be processed within 30 days. This period may be extended once in certain circumstances.

It should be noted that any and all records, whether specifically listed herein or not, shall only be made available subject to the provisions of the Act. An application for access to the information requested will not automatically be granted. There are certain grounds on which an application for access to information may be refused under the Act. More information on this is provided in section 6, below.

One of the grounds of refusal is where access to a record would involve the unreasonable disclosure of personal information about a third party (section 34 of the Act).

Processing of personal information is regulated by POPIA. In terms of POPIA, Garlicke & Bousfield will be obliged to use information in its possession only for the purpose for

which it was collected and to keep information only for as long as it is required by law. Garlicke & Bousfield will also be required to delete personal information records once they are no longer needed for the purpose for which they were collected.

## 7. Refusal of access to records

This list is not comprehensive and covers many of the exemptions applicable to individuals. Further exemptions can be found in the Act.

The Information Officer **must** refuse a request for access to a record if disclosure of the information by Garlicke & Bousfield would:

- a) involve the unreasonable disclosure of personal information;
- b) disclose a third party's trade secrets;
- c) disclose information that would be likely to cause harm to the commercial or financial interests of a third party;
- d) constitute an action for breach of a duty of confidence owed to a third party in terms of the law or in terms of an agreement;
- e) reasonably be expected to endanger the life or physical safety of an individual;
- f) in the case of a record containing information about research, be likely to cause serious disadvantage;
- g) involve disclosure of a record that is privileged from production in legal proceedings, unless the person entitled to privilege has waived the privilege.

The Information Officer **may** refuse a request for access to a record if disclosure of the information by Garlicke & Bousfield would:

- a) be likely to prejudice or impair the security of a building, structure or system, including a computer or communication system, a means of transport or any other property;
- b) be likely to prejudice or impair methods, systems, plans or procedures for the protection of an individual, the safety of the public, any part of the public or the security of property.

Access to a record **may not** be refused if consent has been granted to you in writing.



Access to a record **must** be granted if:

- a) it would reveal a substantial contravention of, or failure to comply with the law, or imminent and serious public safety or environmental risk, and
- b) the public interest in the disclosure outweighs the harm contemplated by the disclosure.

If a third party will be affected by the disclosure of information requested, that third party must be informed within 21 days that such a request has been made. The third party then has 21 days to make representations as to why the request should be refused, or to grant the request.

## **8. Remedy for refusal to access records**

Once all submissions have been heard by the Information Officer, a decision will be made as to whether or not access will be granted. Should access be granted, the record must be made available within thirty days of the requester being informed of the decision.

If access is not granted to the record, the decision may be appealed in the High Court. The appeal must be lodged within thirty days. Garlicke & Bousfield will furnish reasons as to why the request was not granted.

## **9. Retention and destruction of personal information**

Records of personal information are not retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed, unless:

- a) retention of the record is required or authorised by law;
- b) Garlicke & Bousfield reasonably requires the record for lawful purposes related to its functions or activities;
- c) retention of the record is required by a contract between the parties thereto; or
- d) the data subject, or a competent person where the data subject is a child, has consented to the retention of the record.

When personal information is no longer required for the purposes for which it was collected, it will either be destroyed in a manner appropriate for the form that it takes, or it will be stored for the remainder of the period legally required.

## **Electronic records**

The following methods are used to destroy or delete personal information in an electronic form:

Electronic media includes computers, servers, USBs, CDs, portable devices and the like.

Personal information stored electronically is erased in accordance with industry best practices. Documents are deleted using a secure deletion utility that ensures that the information cannot be retrieved.

Insofar as business smartphones or tablets are concerned, all data will be wiped remotely:

- a) as soon as possible upon termination of employment or contract; and
- b) as soon as possible after the device is known to be lost or stolen.

## **Paper records**

All paper records of the firm are destroyed using cross-cut shredders.

Garlicke & Bousfield is responsible for ensuring the secure disposal of paper records.

**This manual was last updated on:** 15 September 2021

## Annexure A

Garlicke & Bousfield keeps records in accordance with the following legislation. This is not an exhaustive list:-

Currency and Exchanges Act 9 of 1933  
Insolvency Act 24 of 1936  
Pension Funds Act 24 of 1956  
Income Tax Act 58 of 1962  
Administration of Estates Act 66 of 1965  
National Building Regulations and Building Standards Act 103 of 1977  
Copyright Act 61 of 1978  
Legal Practice Act 28 of 2014  
Regional Services Councils Act 109 of 1985  
Trust Property Control Act 57 of 1988  
Value Added Tax Act 89 of 1991  
Occupational Health and Safety Act 85 of 1993  
Compensation for Occupational Injuries and Diseases Act 130 of 1993  
Trade Marks Act 194 of 1993  
Labour Relations Act 66 of 1995  
Tax on Retirement Funds Act 38 of 1996  
Basic Conditions of Employment Act 75 of 1997  
Employment Equity Act 55 of 1998  
Competition Act 89 of 1998  
Skills Development Act 97 of 1998  
Debt Collectors Act 114 of 1998

Prevention of Organised Crime Act 121 of 1998  
Medical Schemes Act 131 of 1998  
Skills Development Levies Act 9 of 1999  
Financial Intelligence Centre Act 38 of 2001  
Unemployment Insurance Act 63 of 2001  
Unemployment Insurance Contributions Act 4 of 2002  
Electronic Communications and Transactions Act 25 of 2002  
National Credit Act 34 of 2005  
Companies Act 71 of 2008  
Consumer Protection Act 68 of 2008  
Tax Administration Act 28 of 2011  
Promotion of Access to Information Act 2 of 2000

Records kept in terms of the above legislation may, in certain instances (and insofar as the information contained therein is of a public nature), be available for inspection without a person having to request access thereto in terms of the Act.

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## **Annexure B**

Records kept by Garlicke & Bousfield:

### **Company secretarial and legal records**

Memorandum of incorporation  
Annual financial statements  
Records relating to appointment of directors and auditors  
Statutory registers and records  
Minute book of directors'/shareholders' meetings and resolutions  
Contracts and agreements

### **Financial records**

Electronic accounting records  
Taxation records  
Asset registers  
Annual financial statements  
Banking records (relating to business and trust accounts held)

### **Operational documents and records**

Operating procedure Manuals  
Internal phone lists  
Address lists  
Company policies  
Directives to staff

Minutes of meetings  
General housekeeping information  
Commercial contracts  
Employment contracts  
Employment equity report  
Skills development report

**Human resource information (including internal policies and procedures)**

Garlicke & Bousfield employee records  
Personal information relating to past, present and prospective employees  
Directors' insurance policies  
Rules and regulations relating to the pension fund and/or provident fund  
Information relating to Garlicke & Bousfield marketing, business plans, systems and procedures  
Requisitions, permits, licences, authorisations, approvals, applications, consents required for the day to day running of Garlicke & Bousfield  
Records relating to information technology (hardware, software and data collection and storage)  
Rules and regulations relating to the Medical Aid and Provident Fund  
Marketing records

**Client records**

Client data base (consisting of personal client details; commercial and financial information, information relating to agreements, proposals and intellectual and other property rights of clients)

**Human resources**

Employee records  
Employment contracts  
Payroll records

Employment equity records  
UIF records  
Medical aid records  
Provident Fund records  
Legal services  
Client matter/trust records

### **Information technology (IT)**

IT contracts and operational records  
Asset and policy records

### **Communications**

Correspondence between persons within and without Garlicke & Bousfield not covered by the records described above. This includes supplier and service records, correspondence with clients and internal correspondence.

### **Website**

Garlicke & Bousfield's website is [www.gb.co.za](http://www.gb.co.za) and is accessible to anyone who has access to the Internet. The website contains various categories of information relating to the firm, including areas of expertise; legal services; specialist fields; editorials; literature; careers; directors' resumes; and contact details

### **Other sources of information**

Garlicke & Bousfield maintains a library containing books, periodicals and other publications of a legal and/or commercial nature.

**Annexure C**

<b>type of personal information</b>		<b>purpose</b>	<b>legal basis for processing</b>
Identification details	Name, title, proof of identity (identity or passport number), company registration number, date of birth, physical address, job title, employer details, signatures.	This enables us to: <ul style="list-style-type: none"> <li>- provide you with legal services;</li> <li>- to continue to advise and assist you;</li> <li>- manage fees and payments;</li> <li>- collect and recover money owed to us;</li> <li>- process payments and prevent fraud;</li> <li>- to carry out necessary identity checks to comply with anti-money laundering legislation to prevent fraud.</li> </ul>	Legitimate interests –  to deliver legal services to our clients.  in order to enter into a contract with you.  in order to comply with our legal obligations.
Personal and/or business contact details	Home and/or business address, telephone numbers, cell phone number, email address, organisation details		
Employment information			
Education and qualification information			
Family information	Marriage, divorce, adoption, surrogacy, dependants, child settlement, relatives' names		
Immigration and travel information			



Wills and inheritance information			
Information on property ownership, company records			
Financial and payment information	Financial information: tax number, VAT number, banking details, and other payment data (including the source of funds)		
Special personal information, where permitted by law	Religious or philosophical beliefs; race or ethnic origin; trade union membership; political persuasion; health or sex life; biometric information; or criminal behaviour.		
Credit reporting, where permitted by law			
Matter-related information	Information relating to the matter for which you are seeking advice or representation and any other proceedings against you or a third party related to you.		

Identification details, contact details.	Name, title, address, telephone number, mobile number, email address,	To send marketing information, like monthly newsletters.	Consent.
	Organisation details and details of the enquiry.	To enable us to respond to your enquiry or because you referred us to someone.	Legitimate interests
Identification details, contact details, financial information, other personal information concerning you and/or your business.		When you are the other party to a matter on which we have been instructed	Legitimate interests – to provide legal services to our clients
IT logs and online identifiers	Communications we send to you electronically, details of incoming and outgoing emails and telephone calls, and other IT logs	Use of our IT systems and access to secure office areas is automatically logged. Communications may be monitored for compliance with laws and internal policies.	Legitimate interests – to improve safety and security. in order to comply with our legal obligations.
CCTV images	These are images captured by our CCTV cameras	The images are recorded for security purposes and for the prevention of crime.	Legitimate interests – to improve safety and security.

**Annexure D**

Form for requesting access to record

<b>Form C</b>	
REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY	
<b>A. Particulars of private body</b>	
The Head:	
<b>B. Particulars of person requesting access to the record</b>	
<p>(a) <i>The particulars of the person who requests access to the record must be given below.</i></p> <p>(b) <i>The address and/or fax number in the Republic to which the information is to be sent must be given.</i></p> <p>(c) <i>Proof of the capacity in which the request is made, if applicable, must be attached.</i></p>	
Full names and surname:	
Identity number:	
Postal address:	
Telephone number:	
Fax number:	
Email:	
Capacity in which request is made, when made on behalf of another person:	
<b>C. Particulars of person on whose behalf request is made</b>	
<i>This section must be completed ONLY if a request for information is made on behalf of another person.</i>	
Full names and surname:	
Identity number:	
<b>D. Particulars of record</b>	

(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:

2. Reference number, if available:

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:

**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 hereunder, state your disability and indicate in which form the record is required.*

Disability:

Form in which record is required:

<p><i>Mark the appropriate box with an X. NOTES:</i></p> <p>(a) <i>Compliance with your request in the specified form may depend on the form in which the record is available.</i></p> <p>(b) <i>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.</i></p>		
<p><b>1. If the record is in written or printed form:</b></p>		
<input type="checkbox"/> Copy of record	<input type="checkbox"/> inspection of record	
<p><b>2. If record consists of visual images</b> (this includes photographs, slides, video recordings, computer generated images, sketches, etc.):</p>		
<input type="checkbox"/> view the images	<input type="checkbox"/> copy of the images	<input type="checkbox"/> transcription of the images
<p><b>3. If record consists of recorded words or information which can be reproduced in sound:</b></p>		

<p><b>4. If record is held on computer or in an electronic or machine-readable form:</b></p> <p>*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.</p>		
<input type="checkbox"/> Yes	<input type="checkbox"/> No	

<p><b>G. Particulars of right to be exercised or protected</b></p>		
<p><i>If the provided space is inadequate, please continue on a separate folio and attach it to this form. <b>The requester must sign all the additional folios.</b></i></p>		
<p>1. Indicate which right is to be exercised or protected:</p>		
<p>2. Explain why the record requested is required for the exercise or protection of the aforementioned right:</p>		

<p><b>H. Notice of decision regarding request for access</b></p>		
<p><i>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.</i></p>		
<p>How would you prefer to be informed of the decision regarding your request for access to the record?</p>		
Signed at	this      day of	20

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Signature of Requester/Person on whose behalf request is made