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## POPI & PAIA MANUAL

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This manual was prepared in accordance with section 51 of the Promotion of Access to Information Act, 2000, and to address requirements of the Protection of Personal Information Act, 2013

This Manual applies to:

LS Mashifane Attorneys Incorporated – Registration Number: 2020/513763/21

(hereinafter referred to as “LS Mashifane Inc”)

## 1. BACKGROUND TO THE PROMOTION OF ACCESS TO INFORMATION ACT

- 1.1 The Promotion of Access to Information Act, No. 2 of 2000 (the “Act”) was enacted on 3 February 2000, giving effect to the constitutional right in terms of section 32 of the Bill of Rights contained in the Constitution of the Republic of South Africa 108 of 1996 (the “Constitution”) of access to any information held by the state and any information that is held by another person and that is required for the exercise or protection of any rights.
- 1.2 In terms of section 51 of the Act, all Private Bodies are required to compile an Information Manual (“PAIA Manual”).
- 1.3 This Manual has been prepared in accordance with section 51 of the Promotion of Access to Information Act No.2 of 2000 (“PAIA”).
- 1.4 The aim of the Manual is to assist potential Requesters to request access to information (documents, records and/or Personal Information) from LS Mashifane Inc and all associated entities as contemplated under PAIA.
- 1.5 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.
- 1.6 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.
- 1.7 The definitions provided in this Manual are solely for the purpose of this Manual and are not to be taken as applicable to PAIA.
- 1.8 Where a request is made in terms of the Act, the body to whom the request is made is obliged to release the information, subject to applicable legislative and / or regulatory

requirements, except where the Act expressly provides that the information may be withheld when requesting information from a public or private body.

## 2. LS MASHIFANE INC

2.1 LS Mashifane Incorporated ("LS Mashifane Inc" or "we" or "us" or "our") conducts its business as a law firm with offices in Johannesburg at 4 Fir Drive, Suite 302, LAK house, Northcliff.

2.2 LS Mashifane Inc conducts its operations in compliance with all legal and regulatory requirements.

2.3 This document, "the Manual," is intended to ensure that LS Mashifane Inc complies with Section 51 of the Promotion of Access to Information Act 2 of 2000 (Private Body).

2.4 The Manual is available at its premises at 4 Fir Drive, Suite 302, LAK House, Northcliff and on its website.

2.5 Mr Lehlohonolo Mashifane has been duly appointed by as the Information Officer for LS Mashifane Inc and is the person to whom requests for access to information must be made in terms of PAIA and in terms of the Protection of Personal Information Act 4 of 2013 ("POPIA").

## 3. DEFINITIONS & INTERPRETATION

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

3.1 "LS Mashifane Inc" means LS Mashifane Attorneys Incorporated (registration number 2020/513763/21), a professional company which renders legal services including legal advice and legal representation to individual clients, businesses and organisations;

- 3.2 "Client" means a natural or juristic person who or which receives services and/or products from LS Mashifane Inc.
- 3.3 "Correspondence" means any written and/or electronic communication exchanged between two or more parties;
- 3.4 "Data Subject" means the natural or juristic person to whom Personal Information relates;
- 3.5 "Employee" means any person who works for, or provides services to, or on behalf of LS Mashifane Inc, and receives or is entitled to receive remuneration;
- 3.6 "Information Officer" means LS Mashifane Inc's designated information officer described in paragraph 5 of this Manual;
- 3.7 "Manual" means this manual, together with all annexures thereto as amended and made available on the website of LS Mashifane Inc and at the offices of LS Mashifane Inc from time to time;
- 3.8 "PAIA" means the Promotion of Access to Information Act No. 2 of 2000, together with any regulations published thereunder;
- 3.9 "POPIA" means the Protection of Personal Information Act No. 4 of 2013, together with any regulations published thereunder;
- 3.10 "Personal Information" has the meaning ascribed thereto under POPIA;
- 3.11 Processing means any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information, including –
- 3.11.1 the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;

3.11.2 dissemination by means of transmission, distribution or making available in any other form by electronic communications or other means; or

3.11.3 merging, linking, blocking, degradation, erasure or destruction. For the purposes of this definition, "Process" has a corresponding meaning;

3.12 "Requester" means any person or entity (including any Data Subject) requesting access to a record that is under the control of LS Mashifane Inc; and

3.13 "Third-Party" means any independent contractor, agent, consultant, subcontractor or another representative of LS Mashifane Inc.

#### 4. **PURPOSE OF PAIA MANUAL**

4.1 The purpose of PAIA is to promote the right of access to information, to foster a culture of transparency and accountability within LS Mashifane Inc by giving the right to information that is required for the exercise or protection of any right and to actively promote a society in which the people of South Africa have effective access to information to enable them to exercise and protect their rights.

4.2 In order to promote effective governance of private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights in relation to public and private bodies.

4.3 Section 9 of the Act recognises that the right to access information cannot be unlimited and should be subject to justifiable limitations, including, but not limited to: limitations aimed at the reasonable protection of privacy, commercial confidentiality, effective, efficient and good governance and in a manner which balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

4.4 This PAIA Manual complies with the requirements of the guide mentioned in section 10 of the Act and recognises that upon commencement of the Protection of Personal Information Act 4 of 2013, that the appointed Information Regulator will be responsible to regulate compliance with the Act and its regulations by private and public bodies.

## 5. THE INFORMATION OFFICER

5.1 The Act prescribes the appointment of an Information Officer for public bodies where such Information Officer is responsible to, inter alia, assess request for access to information. The head of a private body fulfils such a function in terms of section 51. LS Mashifane Inc has opted to appoint an Information Officer to assess such a request for access to information as well as to oversee its required functions in terms of the Act.

5.2 The Information Officer appointed in terms of the Act also refers to the Information Officer as referred to in the Protection of Personal Information Act 4 of 2013.

5.3 The Information Officer oversees the functions and responsibilities as required for in terms of both this Act as well as the duties and responsibilities in terms of section 55 of the Protection of Personal Information Act 4 of 2013 after registering with the Information Regulator.

5.4 The Information Officer may appoint, where it is deemed necessary, Deputy Information Officers, as allowed in terms of section 17 of the Act, as well as section 56 of the Protection of Personal Information Act 4 of 2013. This is in order to render LS Mashifane Inc as accessible as reasonably possible for requesters of its records and to ensure fulfilment of its obligations and responsibilities as prescribed in terms of section 55 of the Protection of Personal Information Act 4 of 2013. All requests for information in terms of this Act must be addressed to the Information Officer.

5.5 Contact Details of The Information Officer:

Information Officer:	Lehlohonolo Sainty Mashifane
Postal Address:	4 Fir Drive, Suite 302, LAK House, Northcliff
Telephone Number:	061 505 5782
Email address:	Lmashifane@mashifanelaw.co.za

6. **GUIDE OF SA HUMAN RIGHTS COMMISSION (SECTION 51(1) (B))**

6.1 The Act 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, the public body must be acting in the public interest.

6.2 Requests in terms of the Act shall be made in accordance with the prescribed procedures, at the rates provided. The forms and tariff are dealt with in paragraphs 6 and 7 of the Act.

6.3 Requesters are referred to the Guide in terms of Section 10, which has been compiled by the South African Human Rights Commission, which will contain information for the purposes of exercising Constitutional Rights. The Guide is available from the SAHRC.

6.4 The contact details of the Commission are:

Contact Body	The South African Human Rights Commission
Physical Address	PAIA Unit  29 Princess of Wales Terrace Cnr York and Andrew Streets, Parktown

Postal Address	Private Bag 2700, Houghton 2041
Telephone Number:	+27 11 877 3600
Email address:	PAIA@sahrc.org.za
Website	www.sahrc.org.za

## 7. RECORDS AVAILABLE WITHOUT A PERSON HAVING TO REQUEST ACCESS

Records made available by LS Mashifane Inc without a person having to request access in terms of PAIA:

### 7.1 Publicly available information about LS Mashifane Inc:

- 7.1.1 on LS Mashifane Inc's website, including LS Mashifane Inc's profile, areas of expertise, specialist profiles, news and publications, press releases and LS Mashifane Inc's Terms of Business);
- 7.1.2 brochures and marketing material; and
- 7.1.3 B-BBEE certificate.

## 8. RECORDS AVAILABLE IN TERMS OF OTHER LEGISLATION

### 8.1 Records maintained by LS Mashifane Inc in terms of other legislation include, but are not limited to, the:

- 8.1.1 Basic Conditions of Employment Act 75 of 1997;
- 8.1.2 Broad-Based Black Economic Empowerment Act 53 of 2003;
- 8.1.3 Compensation for Occupational Injuries and Diseases Act 130 of 1993;

- 8.1.4 Electronic Communications and Transactions Act 25 of 2002;
- 8.1.5 Employment Equity Act 55 of 1998;
- 8.1.6 Financial Intelligence Centre Act 38 of 2001;
- 8.1.7 Income Tax Act 58 of 1962;
- 8.1.8 Labour Relations Act 66 of 1995;
- 8.1.9 Legal Practice Act 28 of 2014;
- 8.1.10 Occupational Health and Safety Act 85 of 1993;
- 8.1.11 Pension Funds Act 24 of 1956;
- 8.1.12 Promotion of Access to Information Act 2 of 2000;
- 8.1.13 Protection of Personal Information Act 4 of 2013;
- 8.1.14 Skills Development Act 97 of 1998;
- 8.1.15 Unemployment Insurance Contributions Act 4 of 2002;
- 8.1.16 Unemployment Insurance Act 30 of 1996; and
- 8.1.17 Value Added Tax Act 89 of 1991.

## 9. SUBJECTS AND CATEGORIES OF INFORMATION HELD BY LS MASHIFANE INC

*The subjects and categories of records held by LS Mashifane Inc are as follows:*

*Note: This section of the Manual sets out the subject and categories of records held by LS Mashifane. The inclusion of any subject or category of records should not be taken as an indication that records falling within those subjects and/or categories will be made available under PAIA. In particular, certain grounds of refusal set out in PAIA may be applicable to a request for such records.*

### 9.1 Incorporation and constitutional documents of LS Mashifane Inc

9.1.1 Memorandum of Incorporation of LS Mashifane Inc

### 9.2 Financial Records of LS Mashifane Inc

9.2.1 Accounting records, books and documents of LS Mashifane Inc.

9.2.2 Interim and annual financial reports of LS Mashifane Inc.

9.2.3 Details of auditors of LS Mashifane Inc.

9.2.4 Auditors' reports in respect of audits conducted on LS Mashifane Inc.

9.2.5 Invoices in respect of both creditors and debtors of LS Mashifane Inc.

9.2.6 Tax returns of LS Mashifane Inc.

9.2.7 Other documents and agreements relating to taxation.

9.2.8 Other financial records of LS Mashifane Inc.

### 9.3 Banking details of LS Mashifane Inc

- 9.3.1 Indebtedness to bankers.
- 9.3.2 Bank facilities and accounts details.
- 9.3.3 Bank statements.
- 9.3.4 The level of overdraft and other borrowings of LS Mashifane Inc.
- 9.3.5 Other financial commitments of LS Mashifane Inc.
- 9.3.6 Other banking records.

9.4 **Human resources / employment records**

- 9.4.1 List of employees.
- 9.4.2 Contracts and/or documentation pertaining to arrangements with partners.
- 9.4.3 Contracts of employment with employees of LS Mashifane Inc.
- 9.4.4 Personnel files in respect of each employee of LS Mashifane Inc.
- 9.4.5 Disciplinary records and documentation pertaining to disciplinary proceedings.
- 9.4.6 Documents relating to employee benefits.
- 9.4.7 Compensation or redundancy payments.
- 9.4.8 Tax information of employees.
- 9.4.9 Employment Equity Plan of LS Mashifane Inc.
- 9.4.10 Skills development programme of LS Mashifane Inc.

9.4.11 Training manuals and rosters.

9.4.12 Employee policies and procedures.

9.4.13 Other information relating to employees of LS Mashifane Inc.

## 9.5 **Intellectual Property**

9.5.1 Trademarks, copyrights and designs held by LS Mashifane Inc.

9.5.2 Records relating to domain names held by LS Mashifane Inc.

9.5.3 Licences relating to intellectual property rights.

9.5.4 Other agreements relating to intellectual property rights.

## 9.6 **Information pertaining to clients of LS Mashifane Inc**

9.6.1 Agreements with clients of LS Mashifane Inc.

9.6.2 Documentation and other information received from clients, including documentary information required in compliance with the Financial Intelligence Centre Act 38 of 2001.

9.6.3 Documentation and other information received from third parties.

9.6.4 Correspondence with clients.

9.6.5 Correspondence with third parties.

9.6.6 Research conducted on behalf of clients of LS Mashifane Inc.

9.6.7 Information prepared by partners and employees of LS Mashifane Inc for clients, including opinions, memoranda and reports.

9.6.8 Records pertaining to legal proceedings involving clients of LS Mashifane Inc.

9.6.9 Other information relating to, or held on behalf of, clients of LS Mashifane Inc.

9.7 **Library and know-how information**

9.7.1 Precedent agreements, opinions and litigation documents.

9.7.2 Information circulars.

9.7.3 Publications.

9.7.4 Other information held by the library of LS Mashifane Inc.

9.8 **Insurance records**

9.8.1 Group life assurance and disability income protection insurance;

9.8.2 Insurance in respect of the property occupied by LS Mashifane Inc.

9.8.3 Insurance in respect of the movable property of LS Mashifane Inc.

9.8.4 Professional Indemnity Insurance in respect of LS Mashifane Inc.

9.8.5 Fidelity Insurance in respect of trust monies and client investment monies held by LS Mashifane Inc.

9.8.6 Third-party insurance in respect of passengers in vehicles driven by LS Mashifane Inc staff.

9.9 **Immovable and movable property**

- 9.9.1 Agreements for the lease of immovable property by LS Mashifane Inc.
- 9.9.2 Agreements for the lease or sale of movable property by LS Mashifane Inc.
- 9.9.3 Credit sale agreements and/or hire purchase agreements.
- 9.9.4 Other agreements for the purchase, ordinary sale, conditional sale or hire of assets.

9.10 **Information Technology**

- 9.10.1 Computer software, support and maintenance agreements.
- 9.10.2 Other documentation pertaining to computer systems and computer programmes held by LS Mashifane Inc.

9.11 **Website**

Information contained on our website: [www.mashifanelaw.co.za](http://www.mashifanelaw.co.za) including:

- 9.11.1 Firm profile;
- 9.11.2 Areas of expertise;
- 9.11.3 Specialist profiles;
- 9.11.4 News and publications;
- 9.11.5 Careers; and
- 9.11.6 Coverage.

9.12 **Miscellaneous agreements of LS Mashifane Inc**

- 9.12.1 Loans from third parties (including banks).

- 9.12.2 Loans to third parties.
- 9.12.3 Suretyship agreements.
- 9.12.4 Security agreements, guarantees and indemnities.
- 9.12.5 Agency, management and distribution agreements.
- 9.12.6 Marketing agreements.
- 9.12.7 Agreements with suppliers of LS Mashifane Inc.
- 9.12.8 Confidentiality and/or non-disclosure agreements.
- 9.12.9 Any other relevant agreements.

9.13 **Correspondence**

- 9.13.1 Correspondence of LS Mashifane Inc, including internal and external memoranda.

9.14 **Information relating to legal proceedings**

- 9.14.1 Records relating to legal proceedings involving LS Mashifane Inc.

10. **THE REQUEST PROCEDURE**

- 10.1 A request for access to a record in terms of PAIA must substantially correspond with Form 2 of Annexure A to the Regulations Relating to the Promotion of Access to Information Act, 2021 (please refer to Annexure A, alternatively, access the request form on <https://info regulator.org.za/paia-forms/>).The request must be made to the Information Officer. This request must be made to the address, fax number or electronic mail address of the Information Officer.

- 10.2 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. The requester should also indicate if he or she wishes to be informed in any other manner and state the necessary particulars to be so informed.
- 10.3 The requester must identify the right that he or she is seeking to exercise or protect and provide an explanation as to why the requested record is required for the exercise or protection of that right.
- 10.4 If a request is made on behalf of a person, the requester must submit proof of the capacity in which the requester is making the request to the satisfaction of the Information Officer.

## 11. FEES

- 11.1 The Information Officer must notify the requester (other than a personal requester) by notice, requiring the requester to pay the relevant fee before further processing the request. A personal requester does not pay such fee.
- 11.2 The requester may lodge an application to the court against the tender or payment of the request fee.
- 11.3 The Information Officer will then make a decision on the request and notify the requester in the required form.
- 11.4 If the request is granted, then a further access fee must be paid for the search, reproduction, preparation and for any time that had exceeded the prescribed hours to search and prepare the record for disclosure.

## 12. REMEDIES AVAILABLE WHEN LS MASHIFANE INC REFUSES A REQUEST

### *Internal remedies*

- 12.1 LS Mashifane Inc does not have internal appeal procedures. The decision made by the Information Officer is final. Requesters will have to exercise such external remedies at their disposal if the request for information is refused, and the requestor is not satisfied with the answer supplied by the Information Officer.

### *External Remedies*

- 12.2 If a requestor that is dissatisfied with the Information Officer's refusal to disclose information, may, within 30 (thirty) days of notification of the decision, may apply to a Court for relief. A third party dissatisfied with the Information Officer's decision to grant a request for information may, within 30 (thirty) days of notification of the decision, apply to a Court for relief.
- 12.3 A third party dissatisfied with the Information Officer's decision to grant a request for information, may, within 30 (thirty) days of notification of the decision, apply to a Court for relief. For purposes of the Act, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status and a Magistrate's Court designated by the Minister of Justice and Constitutional Development, and which is presided over by a designated Magistrate.

## 13. ACCESS TO RECORDS HELD BY LS MASHIFANE INC

- 13.1 Records held by LS Mashifane Inc may be accessed by requests only once the prerequisite requirements for access have been met.

13.2 A requester is any person making a request for access to a record of LS Mashifane Inc. There are two types of requesters:

a. Personal Requester

- (i) A personal requester is a requester who is seeking access to a record containing personal information about the requester.
- (ii) LS Mashifane Inc will voluntarily provide the requested information or give access to any record with regard to the requester's personal information. The prescribed fee for reproduction of the information requested will be charged.

b. Other Requester

- (i) This requester (other than a personal requester) is entitled to request access to information on third parties.
- (ii) In considering such a request, LS Mashifane Inc will adhere to the provisions of the Act. Section 71 requires that the Information Officer take all reasonable steps to inform a third party to whom the requested record relates of the request, informing him/her that he/she may make a written or oral representation to the Information Officer why the request should be refused or, where required, give written consent for the disclosure of the Information.

13.3 LS Mashifane Inc is not obliged to voluntarily grant access to such records. The requester must fulfil the prerequisite requirements, in accordance with the requirements of the Act and as stipulated in Chapter 5, Part 3, including the payment of a request and access fee.

14. **DECISION – TIME ALLOWED TO INSTITUTION**

14.1 LS Mashifane Inc will, within 30 (thirty) days of receipt of the request, decide whether to grant or decline the request and give notice with reasons (if required) to that effect.

14.2 The 30 (thirty) day period within which LS Mashifane Inc has to decide whether to grant or refuse the request, may be extended for a further period of not more than (30) thirty days if the request is for a large number of information, or the request requires a search for information held at another office of LS Mashifane Inc and the information cannot reasonably be obtained within the original 30 (thirty) day period.

14.3 LS Mashifane Inc will notify the requester in writing should an extension be sought.

15. **Availability of the manual**

15.1 This PAIA Manual is made available in terms of Regulation Number R.187 of 15 February 2002. LS Mashifane Inc will update this PAIA Manual at such intervals as may be deemed necessary.

15.2 This PAIA Manual of LS Mashifane Inc is available to view at its premises and on its website.

15.3 The manual is available for inspection at the Johannesburg offices of LS Mashifane Inc free of charge.

15.4 Copies are also available on LS Mashifane Inc's website. [www.mashifanelaw.co.za](http://www.mashifanelaw.co.za)

16. **PRESCRIBED FEES**

The prescribed fees for requests to private bodies are set out in Annexure B to the Regulations Relating to the Promotion of Access to Information Act, 2021.

17. **CHANGES TO THIS MANUAL**

This Manual may be amended and updated from time to time, provided that if LS Mashifane Inc does so, it will ensure that such changes are carried out subject to and published in accordance with PAIA and POPIA.