

## Promotion of Access to Information Act (PAIA) manual

### 1 Background

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

- The Promotion of Access to Information Act, No.2 of 2000 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 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.
- In terms of section 51 of the Act, all private bodies are required to compile an information manual ("PAIA Manual").
- 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 adopted when requesting information from a public or private body.

### 2 Purpose and objective

BrightRock is committed to fostering a culture of transparency and accountability within the organisation. This manual gives effect to the right to access information that is required for the exercise or protection of any right. In order to promote the effective governance of all private institutions, BrightRock recognises the fundamental requirement that everyone is empowered and educated to understand their rights in relation to public and private bodies.

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; and
- Effective, efficient, and good governance.

And this must be in a manner that balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

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

### 3 What you need to know

#### 3.1 Contact details (Section 51(1)(a) of the Act)

<b>Name of body:</b>	BrightRock Life Ltd
<b>Executive Directors:</b>	Schalk Malan, Sean Hanlon
<b>Address:</b>	165 West Street, Sandton, Johannesburg
<b>Telephone:</b>	0860 00 77 44
<b>Website:</b>	www.brightrock.co.za

## 3.2 The Information Officer

3.2.1 The Act prescribes that public bodies must appoint an Information Officer. The Information Officer is responsible for assessing requests for access to information. The head of a private body fulfils such a function in terms of section 51. 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. 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.

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<b>BrightRock Information Officer:</b>	Lindie van Wyk
<b>Physical address:</b>	165 West Street, Sandton, Johannesburg
<b>Telephone number:</b>	0860 00 77 44
<b>Email:</b>	informationofficer@brightrock.co.za

## 3.3 South African Human Rights Commission Guide (Section 51(1)(b))

3.3.1 In terms of Section 10 of the Act, a guide will be compiled by the South African Human Rights Commission containing information that may be required by a person who wishes to exercise any right contemplated in the Act.

3.3.2 The guide will be available in all of South Africa's official languages and can be obtained from the SAHRC.

3.3.3 South African Human Rights Commission's details:

<b>Contact body:</b>	The South African Human Rights Commission
<b>Physical address:</b>	PAIA Unit, 29 Princess of Wales Terrace, Cnr York and Andrew Streets, Parktown
<b>Postal address:</b>	Private Bag 2700, Houghton 2041
<b>Telephone number:</b>	+27 11 877 3600
<b>Email:</b>	PAIA@sahrc.org.za
<b>Website:</b>	www.sahrc.org.za

## 3.4 Information and documents available in accordance with other legislation (Section 51(1)(b)(iii) of the Act)

BrightRock keeps information and documents in line with the following legislation (please note that this isn't an exhaustive list):

3.4.1 Corporate and financial institution governance legislation:

- Companies Act, Nr. 71 of 2008.
- Long-term Insurance Act 52 of 1998 – Policyholder Protection Rules.
- No valuable information (banking details, maturity values, debit order and banking details, etc.) will be given to anyone, except the policyholder and it is always provided in written format (letter, fax or email).
- Financial Advisory and Intermediaries Act 37 of 2002.
- Inspection of Financial Institutions Act 80 of 1998.

3.4.2 Prevention of organised crime, terrorism and money laundering legislation:

- Prevention of Organised Crime Act 121 of 1998.
- Financial Intelligence Centre Act 38 of 2001.

3.4.3 Tax-related legislation:

- Income Tax Act 58 of 1962.
- Value-Added Tax Act 89 of 1991.
- Skills Development Levies Act, Nr. 9 of 1999.

3.4.4 Labour protection legislation:

- Labour Relations Act 66 of 1995.
- Section 31 of the Basic Conditions on Employments Act, Nr. 75 of 1997.
- Section 26 of the Employment Equity Act, Nr. 55 of 1998.
- Skills Development Act, Nr. 97 of 1998.
- Unemployment Insurance Act, Nr. 63 of 2001.

3.4.5 Equality-related legislation:

- The Employment Equity Act 55 of 1998.
- Broad Based Black-Economic Empowerment Act 53 of 2003.
- Constitution of South Africa 108 of 1996.

3.4.6 Privacy-related legislation:

- Protection of Personal Information Act 4 Of 2013.
- Electronic Communications and Transactions Act 25 of 2002.

**3.5 Documents and information held by BrightRock in terms of the Act (Section 51)(1)(e) of the Act)**

3.5.1 Details relating to the operational, commercial, and financial interests of BrightRock.Commercial contracts.

3.5.2 Client data base (personal information of clients, commercial and financial information, information on agreements, proposals, and intellectual property of such clients).

3.5.3 Personnel report:

- Standard employment contracts;
- Human resources (personal information of past, present, and prospective employees and partners/directors).

3.5.4 Insurance policies: Rules and regulations relating to the medical scheme.

3.5.5 The BrightRock website address is [www.brightrock.co.za](http://www.brightrock.co.za) and it is accessible to anyone with access to the internet. It contains a profile on BrightRock, its contact information, services rendered, and field of expertise.

3.5.6 It is recorded that any and all documents/information requested will only be made available to a requestor subject to the provisions of the Act.

3.5.7 None of the information held by BrightRock is automatically available without a person having to request access to it in terms of, and subject to, the provisions of the Act.

3.5.8 A request for information should be in the prescribed form, addressed to the Information Officer and submitted against payment of the prescribed fee.

3.5.9 BrightRock has compiled a schedule of the types of information it holds and categories as to the circumstances under which access to this information may be given. The schedule is annexed and marked as "A".

### **3.6 Availability of the manual (Section 51(3) of the Act)**

- 3.6.1 This manual is available for inspection at BrightRock's offices, free of charge.
- 3.6.2 Copies of the manual may be obtained, subject to the prescribed fees, at BrightRock's offices.
- 3.6.3 The manual can also be accessed on the websites of the SAHRC ([www.sahrc.org.za](http://www.sahrc.org.za)) and the BrightRock website ([www.brightrock.co.za](http://www.brightrock.co.za)) and will be published in the Government Gazette.
- 3.6.4 The manual accessible on the website of the SAHRC and in the Government Gazette does not include the request forms or fee structure. The request forms and fee structure can be obtained on the SAHRC website ([www.sahrc.org.za](http://www.sahrc.org.za)) or the website of the Department of Justice and Constitutional Development ([www.doj.gov.za](http://www.doj.gov.za)) (under "regulations").

### **3.7 Details on how to request access to a BrightRock record (Section 51(1) (e))**

- 3.7.1 The requester must comply with all the procedural requirements contained in the Act relating to the request to access a record.
- 3.7.2 The requester must complete the prescribed form available on the website and submit it as well as pay the request fee and a deposit (if applicable) at the postal or physical address, or email address as noted in clause 4 above.
- 3.7.3 The form must be filled in with sufficient information to enable the Information Officer to identify:
- the record or records requested; and
  - the identity of the requester.
- 3.7.4 The requester should indicate which form of access they require and specify their postal address in South Africa.
- 3.7.5 The requester must state that they require the information in order to exercise or protect a right, and clearly state what the nature of the right is. The requester must clearly specify why the record is necessary to exercise or protect such a right (section 53(2)(d)).
- 3.7.6 BrightRock will process the request within 30 days, unless the requester has stated special reasons – to the satisfaction of the Information Officer – why this should be changed.
- 3.7.7 The requester will be advised whether access is granted or denied in writing. If, in addition, the requester requires the reasons for the decision in any other manner, they need to state which manner and the particulars required.
- 3.7.8 If a request is made on behalf of another person, then the requester must submit proof of the capacity in which they're making the request to the reasonable satisfaction of the Information Officer (section 53(2)(f)).
- 3.7.9 If an individual is unable to complete the prescribed form because of illiteracy or disability, they can make the request orally.
- 3.7.10 The requester must pay the prescribed fee, before any further processing can take place.
- 3.7.11 All information listed in clause 9 should be provided – the process will be delayed until the requester has given BrightRock all the necessary information. The Information Officer will split a record, if possible, and grant only access to that portion requested and which is not prohibited from being disclosed.

### **3.8 Refusal to access records**

A private body such as **BrightRock** is entitled to refuse a request for information.

#### **Grounds to refuse access**

3.8.1 The main grounds for BrightRock to refuse a request for information relate to the:

- Mandatory protection of the privacy of a third party who is a natural person or a deceased person (section 63) or a juristic person, as included in the Protection of Personal Information Act 4 of 2013, which would involve the unreasonable disclosure of personal information of that natural or juristic person.
- Mandatory protection of personal information and for disclosure of any personal information to, in addition to any other legislative, regulatory or contractual agreements, comply with the provisions of the Protection of Personal Information Act 4 of 2013.
- Mandatory protection of the commercial information of a third party (section 64) if the record contains:
  - trade secrets of the third party;
  - financial, commercial, scientific or technical information, where disclosure could likely cause harm to the financial or commercial interests of that third party;
  - information disclosed in confidence by a third party to BrightRock if the disclosure could put that third party at a disadvantage in negotiations or commercial competition.
- Mandatory protection of confidential information of third parties (section 65) if it is protected in terms of any agreement.
- Mandatory protection of the safety of individuals and the protection of property (section 66).
- Mandatory protection of records, which would be regarded as privileged in legal proceedings (section 67).

3.8.2 The commercial activities (section 68) of BrightRock, which may include:

- Trade secrets;
- Financial, commercial, scientific or technical information, where disclosure could likely cause harm to the financial or commercial interests of BrightRock;
- Information which, if disclosed, could put BrightRock at a disadvantage in negotiations or commercial competition;
- A computer program, which BrightRock owns, and which is protected by copyright;
- The research information (section 69) of BrightRock or a third party, if its disclosure would disclose the identity of BrightRock, the researcher or the subject matter of the research and would place the research at a serious disadvantage.
- Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources will be refused.
- All requests for information will be assessed on their own merits and in accordance with the applicable legal principles and legislation.
- If a requested record cannot be found or if the record does not exist, the Information Officer will, through an affidavit or affirmation, notify the requester that it is not possible to give access to the requested record. This notice will be regarded as a decision to refuse a request to access the record concerned for the purpose of the Act. If the record is later found, the requester will be given access to the record in the manner they stipulated in the prescribed form, unless the Information Officer refuses access to such record.

### **3.9 Remedies available when BrightRock refuses a request**

3.9.1 BrightRock doesn't have internal appeal procedures. The decision made by the Information Officer is final. Requesters will have to use the external remedies at their disposal if the request for information is refused, and the requester is not satisfied with the answer supplied by the Information Officer.

3.9.2 A requester that is dissatisfied with the Information Officer's refusal to disclose information, may within 30 days of notification of the decision, apply to a court for relief.

3.9.3 A third party dissatisfied with the Information Officer's decision to grant a request for information, may within 30 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 Magistrates' Court designated by the Minister of Justice and Constitutional Development and which is presided over by a designated Magistrate.

### 3.10 Prescribed fees

3.10.1 The Act provides for two types of fees, namely:

- A request fee, which is a form of administration fee to be paid by all requesters, except personal requesters, before the request is considered (this fee isn't refundable); and
- An access fee, which is paid by all requesters in the event that a request for access is granted. This fee is inclusive of costs incurred by the private body in obtaining and preparing a record for delivery to the requester.

3.10.2 When the Information Officer receives the request, they will notify the requester, other than a personal requester, to pay the prescribed request fee, before further processing of the request (section 54(1)).

3.10.3 If the search for the record has been done and the preparation of the record for disclosure, including an arrangement to make it available in the requested form, requires more time than the hours prescribed in the regulations for this purpose, the Information Officer will notify the requester that they need to pay the prescribed portion of the access fee before the request is granted.

3.10.4 The Information Officer will withhold a record until the requester has paid the fees as indicated below.

3.10.5 A requester whose request for access to a record has been granted, must pay an access fee that is calculated to include, where applicable, the request fee, the process fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure, including making arrangements to make it available in the requested form.

3.10.6 If a deposit has been paid, and the request is refused, then the Information Officer will repay the deposit to the requester.

3.10.7 Where BrightRock has voluntarily provided the minister with a list of categories of records that will automatically be available to any person requesting access to records, the only charge that may be levied for obtaining such records, will be a fee for reproduction of the record in question.

3.10.8 Where a requester submits a request for access to information held by an institution on a person other than the requester themselves, a request fee of R50 is payable up-front.

3.10.9 An access fee is payable in all instances where a request for access to information is granted, except in those instances where payment of an access fee is specially excluded in terms of the Act or an exclusion is determined by the minister in terms of section 54(8). The applicable access fees, which will be payable are:

Access fees	Charge
Information in an A-4 size page photocopy or part thereof	R 1,10
A printed copy of an A4-size page or part thereof	R 0,75
A copy in computer-readable format, for example: Compact disc	R 70
A transcription of visual images, in an A4-size page or part thereof	R 40
A copy of visual images	R 60
A transcription of an audio record for an A4-size page or part thereof	R 20
A copy of an audio record (*per hour or part of an hour reasonably required for such search)	R 30*

*Where a copy of a record needs to be posted, the actual postal fee is payable.*

- 3.10.10 Where BrightRock receives a request for access to information held on a person other than the requester themselves and the Information Officer is of the opinion that the preparation of the required record of disclosure will take more than six hours, a deposit is payable by the requester. The amount of the deposit is equal to one-third of the amount of the applicable access fee.
- 3.10.11 The initial request fee of R50 should be deposited into the bank account provided by the Information Officer and a copy of the deposit slip, application form and other correspondence or documents, must be forwarded to the Information Officer.
- 3.10.12 All fees are subject to change as allowed for in the Act – as a consequence, these increases may not always be immediately available at the time of the request being made. Requesters will be informed of any changes in the fees prior to making a payment.

### **3.11 Decision**

- 3.11.1 BrightRock will, within 30 days of receiving of the request, decide whether to grant or decline the request and give notice with reasons (if required).
- 3.11.2 This 30-day period may be extended for a further period of not more than 30 days if the request is for a large volume of information, or the request requires BrightRock to search for the information at another BrightRock office and the information cannot reasonably be obtained within the original 30-day period. BrightRock will notify the requester in writing of the extension.

### **3.12 Protection of personal information that is processed by BrightRock**

- 3.12.1 Chapter 3 of POPIA provides for the minimum conditions for lawful processing of personal information by a responsible party. These conditions may not be derogated from unless specific exclusions apply as outlined in POPIA.
- 3.12.2 BrightRock needs personal information relating to both individual and juristic persons in order to carry out its business and organisational functions. The manner in which this information is processed and the purpose for which it is processed is determined by BrightRock. BrightRock is accordingly a responsible party for the purposes of POPIA and will ensure that the personal information of a data subject:
- Is processed lawfully, fairly and transparently. This includes the provision of appropriate information to data subjects when their data is collected by BrightRock, in the form of privacy or data collection notices. BrightRock must also have a legal basis (for example, consent) to process personal information;
  - Is processed only for the purposes for which it was collected;
  - Will not be processed for a secondary purpose unless that processing is compatible with the original purpose;
  - Is adequate, relevant and not excessive for the purposes for which it was collected;
  - Is accurate and kept up to date;
  - Will not be kept for longer than necessary;
  - Is processed in accordance with integrity and confidentiality principles. This includes physical and organisational measures to ensure that personal information, in both physical and electronic form, is subject to an appropriate level of security when stored, used and communicated by BrightRock, in order to protect against access and acquisition by unauthorised persons and accidental loss, destruction or damage;
  - Is processed in line with the rights of data subjects, where applicable. Data subjects have the right to:
    - Be notified that their personal information is being collected by BrightRock. The data subject also has the right to be notified in the event of a data breach;
    - Know whether BrightRock holds personal information about them, and to access that information. Any request for information must be handled in line with the provisions of this manual;
    - Request the correction or deletion of inaccurate, irrelevant, excessive, out of date, incomplete, misleading or unlawfully-obtained personal information;
    - Object to BrightRock's use of their personal information and request the deletion of such personal information (BrightRock will delete this information in line with its record-keeping requirements);

- Object to the processing of personal information for the purposes of direct marketing by means of unsolicited electronic communications; and
- Complain to the Information Regulator regarding an alleged infringement of any of the rights protected under POPIA and to institute civil proceedings regarding the alleged non-compliance with the protection of their personal information.

### 3.12.3 Cross-border flows of personal information.

Section 72 of POPIA provides that personal information may only be transferred out of the Republic of South Africa if the:

- Recipient country can offer such data an “adequate level” of protection. This means that its data privacy laws must be substantially similar to the conditions for lawful processing as contained in POPIA; or
- Data subject consents to the transfer of their personal information; or
- Transfer is necessary in performing contractual obligations between the data subject and the responsible party; or
- Transfer is necessary in performing contractual obligations between the responsible party and a third party, in the interests of the data subject; or
- The transfer is for the benefit of the data subject, and it is not reasonably practicable to obtain the consent of the data subject, and if it were, the data subject would in all likelihood provide such consent.

3.12.4 Section 11 (3) of POPIA and Regulation 2 of the POPIA Regulations provides that a data subject may, at any time, object to the processing of their personal information and they can do this in writing by emailing [InformationOfficer@brightrock.co.za](mailto:InformationOfficer@brightrock.co.za).

3.12.5 Section 24 of POPIA and Regulation 3 of the POPIA Regulations provides that a data subject may request for their personal information to be corrected or deleted and they can do this by using the prescribed form available on the BrightRock website at [www.brightrock.co.za](http://www.brightrock.co.za).



## Annexure A

### Records held by BrightRock

#### Organisation record classification key

Classification No	Access	Classification
1	May be disclosed	Public access document
2	May be disclosed	Subject to copyright
3	Limited disclosure	Personal information belonging to the requester of the information
4	May not be disclosed	Unreasonable disclosure of personal information
5	May not be disclosed	Request after the commencement of criminal proceedings
6	May not be disclosed	Would breach duty of confidence owed to a third party
7	May not be disclosed	Could harm the commercial or financial interests of a third party
8	May not be disclosed	Could harm the organisation or third party in contract or other negotiations
9	May not be disclosed	Could compromise the safety of individuals or protection of property
10	May not be disclosed	Legally privileged document
11	May not be disclosed	Commercial information of BrightRock

## Organisational records

Area	Subject	Classification
Websites	<ul style="list-style-type: none"> <li>Organisational and divisional profiles</li> <li>News and publications</li> <li>Organisational structure</li> </ul>	2
Communication	<ul style="list-style-type: none"> <li>Public product information</li> <li>Media releases</li> <li>Promotion of Access to Information Act manual</li> </ul>	2
Human resources	<ul style="list-style-type: none"> <li>Staff records</li> <li>Employment contracts</li> <li>Policies and procedures</li> <li>Information pertaining to provident funds</li> <li>Information pertaining to staff benefits</li> </ul>	<b>3, 4, 10, 11</b> <b>(dependent on the nature of the information requested)</b>
Financial information	<ul style="list-style-type: none"> <li>Financial statements</li> <li>Financial and tax records (organisational and employee)</li> <li>Asset register</li> </ul>	11
Legal records	<ul style="list-style-type: none"> <li>Trademarks</li> <li>Statutory records (including income tax)</li> <li>Record keeping in terms of IFRS</li> <li>Agreements and contracts</li> <li>Policy records</li> </ul>	<b>2, 6, 7, 8, 11</b> <b>(dependent on the nature of the information requested)</b>
Operational records	<ul style="list-style-type: none"> <li>Minutes of meetings</li> <li>Voice recordings or other electronic recordings of meetings</li> <li>Policy documents</li> <li>Sales records</li> <li>Policyholder records</li> <li>Security records</li> <li>Internal communications records</li> <li>Supplier records</li> <li>Member records</li> </ul>	<b>2, 3, 6, 7, 8, 11</b> <b>(dependent on the nature of the information requested)</b>