

PAIA MANUAL

Prepared in terms of section 51 of the Promotion of Access to Information Act 2 of 2000 (PAIA)



**HEROLD GIE AND BROADHEAD
INCORPORATED**

(Registration No: 1985/000891/21)

trading as

HEROLD GIE ATTORNEYS

(the “Company”)

1. LIST OF ACRONYMS AND ABBREVIATIONS

- | | | |
|-----|-------------|---|
| 1.1 | “CEO” | Chief Executive Officer |
| 1.2 | “IO“ | Information Officer; |
| 1.3 | “Minister” | Minister of Justice and Correctional Services; |
| 1.4 | “PAIA” | Promotion of Access to Information Act No. 2 of 2000; |
| 1.5 | “POPIA” | Protection of Personal Information Act No. 4 of 2013; |
| 1.6 | “Regulator” | Information Regulator; and |
| 1.7 | “Republic” | Republic of South Africa |

2. INTRODUCTION

- 2.1 **Herold Gie and Broadhead Incorporated** (Registration No: 1985/000891/21) is a personal liability company incorporated in accordance with the applicable laws of South Africa, trading under the name of **Herold Gie Attorneys** and constitutes a “*private body*” under PAIA.
- 2.2 Herold Gie Attorneys is a law firm that renders legal services to clients the full details of which are available on our website at <https://heroldgie.com>
- 2.3 PAIA requires the Information Officer of a private body to compile a PAIA Manual that contains information of the records it holds.

3. PURPOSE OF PAIA MANUAL

- 3.1 This PAIA Manual is useful for the public to:

- 3.1.1 check the categories of records held by Herold Gie Attorneys which are available without a person having to submit a formal PAIA request;
- 3.1.2 have a sufficient understanding of how to make a request for access to a record(s) held by Herold Gie Attorneys by providing a description of; (i) the subjects on which Herold Gie Attorneys hold records and (ii) the categories of records held on each subject;
- 3.1.3 know what type of records are held by Herold Gie Attorneys which are available in accordance with any other legislation;
- 3.1.4 access all the relevant contact details of the Information Officer and Deputy Information Officer (if applicable) who will assist the public with the records they intend to access;
- 3.1.5 be aware of the PAIA Guide as formulated and updated by the Information Regulator (from time to time), and how to obtain access to it;
- 3.1.6 know if Herold Gie Attorneys processes any Personal Information (as defined in POPIA) of data subjects;
- 3.1.7 know the purpose of processing of such Personal Information and the description of the categories of data subjects and the information or categories of information relating thereto;
- 3.1.8 know the recipients or categories of recipients to whom the Personal Information may be supplied;
- 3.1.9 know if Herold Gie Attorneys has planned to transfer or process Personal Information outside the Republic of South Africa (i.e. transborder flow of Personal Information); and
- 3.1.10 know whether Herold Gie Attorneys has appropriate security measures in place, to ensure the confidentiality, integrity and availability of the Personal Information which is to be processed.

4. KEY CONTACT DETAILS FOR ACCESS TO INFORMATION OF HEROLD GIE AND BROADHEAD INCORPORATED

4.1. Information Officer:

Name: Mr Pierre Le Roux
Tel: 021 464 4725
email: pleroux@heroldgie.co.za

4.2 Access to information (general contact):

Email: info@heroldgie.co.za
4.3 **Head Office:**

Postal Address: P.O. Box 105
Cape Town
8000

Physical Address: Wembley 3
80 McKenzie Street
Cape Town 8001

Telephone: 021 464 4700

Email: info@heroldgie.co.za

Website: <https://heroldgie.com>

5. **GUIDE ON HOW TO USE PAIA AND HOW TO OBTAIN ACCESS THERETO**

5.1. A Guide on How to Use the PAIA Act (the “**PAIA Guide**”) has been compiled in all of the official languages in RSA and updated by the Information Regulator in terms of section 10(1) of PAIA. The PAIA Guide contains information as may be reasonably required by a person wishing to exercise any of his/her rights contemplated by PAIA and POPIA.

5.2. The aforesaid PAIA Guide contains a description of:

5.2.1. the objects of PAIA;

5.2.2. the objects of POPIA;

5.2.3. the postal and street address, phone and fax number (if available) and electronic mail address of-

5.2.3.1. the Information Officer of every public body, and

- 5.2.3.2. every Deputy Information Officer of every public and private body designated in terms of section 17(1) of PAIA¹ and section 56 of POPIA²;
- 5.2.4 the manner and form of a request for-
 - 5.2.4.1 access to a record of a public body contemplated in section 11³;
 - 5.2.4.2 access to a record of a private body contemplated in section 50⁴;
- 5.2.5 the assistance available from the Information Officer of a public body in terms of PAIA and POPIA;
- 5.2.6 the assistance available from the Regulator in terms of PAIA and POPIA;
- 5.2.7 all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by PAIA and POPIA, including the manner of lodging-
 - 5.2.7.1 an internal appeal;
 - 5.2.7.2 a complaint to the Regulator; and
 - 5.2.7.3 an application with a court against a decision by the information officer of a public body, a decision on internal appeal or a decision by the Regulator or a decision of the head of a private body;

¹ Section 17(1) of PAIA- *For the purposes of PAIA, each public body must, subject to legislation governing the employment of personnel of the public body concerned, designate such number of persons as deputy information officers as are necessary to render the public body as accessible as reasonably possible for requesters of its records.*

² Section 56(a) of POPIA- *Each public and private body must make provision, in the manner prescribed in section 17 of the Promotion of Access to Information Act, with the necessary changes, for the designation of such a number of persons, if any, as deputy information officers as is necessary to perform the duties and responsibilities as set out in section 55(1) of POPIA.*

³ Section 11(1) of PAIA- *A requester must be given access to a record of a public body if that requester complies with all the procedural requirements in PAIA relating to a request for access to that record; and access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.*

⁴ Section 50(1) of PAIA- *A requester must be given access to any record of a private body if-*

- a) *that record is required for the exercise or protection of any rights;*
- b) *that person complies with the procedural requirements in PAIA relating to a request for access to that record; and*
- c) *access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.*

- 5.2.8 the provisions of sections 14⁵ and 51⁶ requiring a public body and private body, respectively, to compile a manual, and how to obtain access to a manual;
- 5.2.9 the provisions of sections 15⁷ and 52⁸ providing for the voluntary disclosure of categories of records by a public body and private body, respectively;
- 5.2.10 the notices issued in terms of sections 22⁹ and 54¹⁰ regarding fees to be paid in relation to requests for access; and
- 5.2.11 the regulations made in terms of section 92¹¹.
- 5.3. Members of the public may inspect or make copies of the PAIA Guide from the offices of the public and private bodies, including the office of the Regulator, during normal working hours.
- 5.4. The PAIA Guide may also be obtained-
- 5.4.1. upon request to the Information Officer; and/or

⁵ Section 14(1) of PAIA- The information officer of a public body must, in at least three official languages, make available a manual containing information listed in paragraph 4 above.

⁶ Section 51(1) of PAIA- The head of a private body must make available a manual containing the description of the information listed in paragraph 4 above.

⁷ Section 15(1) of PAIA- The information officer of a public body, must make available in the prescribed manner a description of the categories of records of the public body that are automatically available without a person having to request access

⁸ Section 52(1) of PAIA- The head of a private body may, on a voluntary basis, make available in the prescribed manner a description of the categories of records of the private body that are automatically available without a person having to request access

⁹ Section 22(1) of PAIA- The information officer of a public body to whom a request for access is made, must by notice require the requester to pay the prescribed request fee (if any), before further processing the request.

¹⁰ Section 54(1) of PAIA- The head of a private body to whom a request for access is made must by notice require the requester to pay the prescribed request fee (if any), before further processing the request.

¹¹ Section 92(1) of PAIA provides that –“The Minister may, by notice in the Gazette, make regulations regarding-

- (a) any matter which is required or permitted by this Act to be prescribed;
- (b) any matter relating to the fees contemplated in sections 22 and 54;
- (c) any notice required by this Act;
- (d) uniform criteria to be applied by the information officer of a public body when deciding which categories of records are to be made available in terms of section 15; and
- (e) any administrative or procedural matter necessary to give effect to the provisions of this Act.”

5.4.2. from the website of the Regulator at https://infoeregulator.org.za/wp-content/uploads/2020/07/PAIA-Guide-English_20210905.pdf

6. RECORDS HELD BY HEROLD GIE ATTORNEYS THAT ARE AUTOMATICALLY AVAILABLE IN TERMS OF SECTION 52(2) OF PAIA

6.1 Herold Gie Attorneys makes certain information automatically available to the public without a person having to request access thereto.

Type of Record	How to access
Memorandum of Incorporation	BizPortal
Directors' names	BizPortal and website
Documents of incorporation	BizPortal
Privacy Policy	Visit the Website
Banking Details	Request by email
Newsletters, circulars, Brochures etc	Request by email/ follow Herold Gie Attorneys on social medial platforms
Company Information	Visit Herold Gie Attorneys Website

7. RECORDS HELD BY HEROLD GIE ATTORNEYS THAT ARE NOT AUTOMATICALLY AVAILABLE

7.1 The following records are held by Herold Gie Attorneys in electronic or physical format that are not automatically available.

Category of Records	Types of records
Business Records	-Financial Statements -Annual Reports -Business Plans -Annual Performance Plans & Projections -Agreements with 3 RD Parties -Lease Agreements
Client Records	-Client documents in terms of Financial Intelligence

Category of Records	Types of records
	Act No.38 of 2001 -Confidential Client Information -Confidential Client Correspondence -Research conducted on behalf of clients of HG Attorneys -Confidential Client Files -Correspondence with third parties -Other information relating to and/or held on behalf of HG Attorneys clients.
Human Resource Records	<ul style="list-style-type: none"> - List of Employees - Employee and Personnel Records - HR internal policies, procedures & protocols - Employment Contracts - POPIA Employee Policy - Disciplinary records - Compensation or redundancy payments - Employment Equity Plan - Employee Tax Information - Pension and Provident Fund Records - Payroll records
Financial Records	<ul style="list-style-type: none"> - Annual Financial Statements - Management Accounts - Bank Statements - Balance Sheets - Financial Reports - Accounting Records - Audit Reports - Fidelity Fund Certificates - Invoices in respect of creditors and debtors of HG Attorneys - Bank facilities and account details - Banking records - Source Documents
Marketing Records	<ul style="list-style-type: none"> - Marketing & Social Media Material
Statutory Records	<ul style="list-style-type: none"> - Memorandum of Incorporation

Category of Records	Types of records
	<ul style="list-style-type: none"> - Company Documents - Board Resolutions - Minutes of Board meetings & Exco Meetings - Share Register
Miscellaneous	<ul style="list-style-type: none"> - Contracts with suppliers/third parties/contractors - Correspondence with Legal Practice Council - Internal correspondence of Herold Gie Attorneys - Security agreements, guarantees, etc.
Insurance Records	<ul style="list-style-type: none"> - Insurance Policies
Intellectual Property	<ul style="list-style-type: none"> - Trademark Registration Certificate, copyright, software licences, records relating to domain names. etc
Tax Records	<ul style="list-style-type: none"> - PAYE & UIF Records - Tax Returns - Documents issued to employees: IRP5's, etc. - Records of payments made to SARS on behalf of employees - Income Tax Numbers - VAT Numbers - Workmen's Compensation - Skills Development Levies
Library information	<ul style="list-style-type: none"> - Electronic and hard copy publications of books, periodicals, circulars and legislation.

8. RECORDS AVAILABLE IN TERMS OF LEGISLATION: Section 51 (1)(d)

8.1 Herold Gie Attorneys holds certain records that it is required to hold by law.

8.2 The following legislation creates the obligation to keep certain records:

- Administration of Estates Act No. 66 of 1965
- Basic Conditions of Employment Act No. 75 of 1997
- Companies Act No. 61 of 1973 (repealed, save for chapter 14)
- Companies Act No. 71 of 2008

- Compensation for Occupational Injuries and Disease Act No. 130 of 2008
- Constitution of the Republic of South Africa, 1996
- Consumer Protection Act No. 68 of 2008
- Copyright Act No.98 of 1978
- Debt Collectors Act No. 114 of 1998
- Electronic Communication and Transaction Act No. 25 of 2002
- Employment Equity Act No. 55 of 1998
- Financial Intelligence Centre Act No. 38 of 2001 (“**FICA**”)
- Income Tax Act No. 58 of 1962
- Insolvency Act No. 24 of 1936
- Labour Relations Act No. 66 of 1955
- Legal Practice Act No. 28 of 2014
- National Credit Act No. 34 of 2005
- Occupational Health and Safety Act & Regulations No. 85 of 1993
- Prevention of Organised Crime Act No. 121 of 1998
- Promotion of Access to Information Act No 2 of 2000
- Pension Funds Act No. 24 of 1956
- Protection of Personal Information Act No. 4 of 2013
- Skills Development Act No. 97 of 1998
- Tax Administration Act No. 28 of 2011
- Tax on Retirement Funds Act No 38 of 1996
- Trademarks Act No.194 of 1993
- Unemployment Insurance Act No. 63 of 2001
- Unemployment Insurance Contributions Act No.4 of 2002
- Value Added Tax Act No. 89 of 1991

Such records shall be made available only to those individuals/entities authorised to request access to such records in terms of the applicable legislation. All other persons shall follow the Request for Access of Records Procedure as outlined in this Manual.

9. HOW TO REQUEST ACCESS TO RECORDS HELD BY HEROLD GIE ATTORNEYS - SECTION 51(e)

9.1 Herold Gie Attorneys has appointed an Information Officer to deal with all matters relating to PAIA, in order comply with its obligations thereunder. To request access to a record, please complete **Form 2**.

9.2 Please submit the completed Form (together with the relevant request fee we explained below) to our Information Officer's email address or at our physical address.

9.3 Please ensure that the completed form contains the following information:

- 9.3.1 has enough information for the Information Officer to identify (i) you, (ii) the requested records and (iii) the form of access you require;
- 9.3.2 specifies your email address, postal address, or fax number (if applicable);
- 9.3.3 describes the right that you seek to exercise or protect;
- 9.3.4 explains why you need the requested record(s) to exercise or protect that right;
- 9.3.5 provides any other way you would like to be informed of our decision, other than in writing; and
- 9.3.6 provides proof of the capacity in which you are making the request if you are making it on behalf of someone else (Herold Gie Attorneys) shall decide whether this proof is satisfactory).

9.4 If you do not use the standard form, Herold Gie Attorneys may:

- 9.4.1 reject the request due to lack of procedural compliance;
- 9.4.2 refuse it if you do not provide sufficient information; or
- 9.4.3 delay it.

10. FORM OF ACEESS

- 10.1 Herold Gie Attorneys shall evaluate and consider all requests for information received. If Herold Gie Attorneys approves a request, it shall decide how to provide access to you, unless you have asked for access in a **specific** form.
- 10.2 Publication of this PAIA Manual does **not** give rise to any rights to access information or any records of Herold Gie Attorneys, except as contemplated in terms of PAIA.

11. PRESCRIBED FEES

11.1 Request Fee

- 11.1.1 When submitting a request for information, the requestor is required to pay Herold Gie Attorneys a Request Fee as the law prescribes.
- 11.1.2 A requestor shall pay the prescribed fee before Herold Gie Attorneys provides access to the information requested.
- 11.1.3 A requestor shall receive a notice from the Information Officer upon receiving a request, setting out the application procedure.

11.2 Access Fee

11.2.1 If Herold Gie Attorneys grants a request for access to information, the requestor shall also pay Herold Gie Attorneys an Access Fee (as prescribed by law) that includes a fee for the time it takes Herold Gie Attorneys to handle a specific request(s) and/or if the time has exceeded the prescribed hours, the time spent to search and prepare the record(s) for disclosure. The Information Officer shall notify the requestor if he/she needs to pay a deposit in respect of the Access fee. The deposit may be up to 1/3rd (one third) of the prescribed Access Fee.

11.2.2 The Access Fee shall provide for:

- the costs of making the record, or transcribing the record;
- a postal fee (if applicable); and
- the reasonable time the authorised employees of Herold Gie Attorneys require to search for the record(s) requested and prepare such record(s) for the requestor.

11.2.3 If the requestor paid the deposit and Herold Gie Attorneys refuses a request, Herold Gie Attorneys shall refund such deposit amount to the requestor. Until the requestor has paid all the applicable fees, Herold Gie Attorneys is entitled to withhold the records requested.

12 GROUNDS TO REFUSE ACCESS

12.1 Herold Gie Attorneys may refuse access to certain records in terms of PAIA to *inter alia* protect:

- a client/employee/third party's/Herold Gie Attorneys privacy;
- a client/employee/third party's/Herold Gie Attorneys confidential information;
- the safety of clients, individuals, and property of Herold Gie Attorneys;
- another company's commercial information; and/or
- records that are privileged from production in legal proceedings.

12.2 Decision on providing access to information:

Herold Gie Attorneys shall notify the requestor in writing whether his/her request has been approved or denied within 30 (thirty) calendar days after receiving such request. If Herold Gie Attorneys is unable to find a copy of the record requested, or it transpires that such record(s) does not exist, the Information Officer shall notify the requestor by way of affidavit that it is not possible to provide access to such record(s).

13 PROCESSING OF PERSONAL INFORMATION

13.1 **Purpose of Processing Personal Information**

Herold Gie Attorneys processes Personal Information (as defined in POPIA) of clients to enable Herold Gie Attorneys to provide the necessary legal and administrative services to its clients.

13.2 **Description of the categories of Data Subjects and Personal Information or categories of information relating thereto**

Categories of Data Subjects	Personal Information that may be processed
Clients	names, address(es), identity numbers, gender, employment status, bank details, confidential client information, confidential business information, trade-secrets. etc
Service Providers	names, registration numbers, vat numbers, address(es), trade-secrets, bank details, etc,
Employees	names, address(es), identity numbers, qualifications, employment status, medical information, gender, race, bank details etc.

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

Category of personal information	Recipients or Categories of Recipients to whom the personal information may be supplied
Identity number(s) and names for criminal checks of Clients and prospective & current Employees	South African Police Services
Qualifications for qualification verification & screening for integrity, competency, etc. of prospective & current Employees under FICA	South African Qualifications Authority and Financial Intelligence Centre
Credit and payment history, for credit information of Clients and Employees	Credit Bureaux and Financial Intelligence Centre
Identity number(s), email address(es), telephone numbers, physical address(es), bank details	Auditors and Financial Intelligence Centre

Category of personal information	Recipients or Categories of Recipients to whom the personal information may be supplied
etc. of Clients and Employees	

13.4 Planned Transborder Flows of Personal Information

It is recorded that some of the Personal Information of Clients is stored on Xneelo’s Server and iCloud and governed in accordance with POPIA and the European General Data Protection Regulations 2016/679. (“GDPR”)

13.5 General description of Information Security Measures to be implemented by the responsible party to ensure the confidentiality, integrity and availability of the information

Herold Gie Attorneys has implemented various security safeguards to ensure the confidentiality and integrity of the Personal Information under its care by implementing: Password Protection on all devices, End to End Encryption on messaging service between Clients and Herold Gie Attorneys, Anti-Virus Software, Anti Malware Solutions, Disaster Recovery & Business Continuity Plan, a POPIA Data Breach Policy and Response Plan, POPIA Policies, Employee Confidential Undertakings etc.

14 REMEDIES AVAILABLE IF HEROLD GIE ATTORNEYS ACCESS TO RECORDS

If Herold Gie Attorneys denies request for access to a record(s), then the requestor may apply to a court with appropriate jurisdiction or complain to the Information Regulator.

15 AVAILABILITY OF THE MANUAL

15.1 A copy of the Manual is available:

15.1.1 at the head office of Herold Gie Attorneys for public inspection during normal business hours;

15.1.2 to any person upon request and upon the payment of a reasonable prescribed fee; and

15.1.3 to the Information Regulator upon request.

15.2 A fee for a copy of the Manual, as contemplated in annexure B of the Regulations, shall be payable per each A4-size photocopy made.

16 UPDATING OF THE MANUAL

The Information Officer of Herold Gie Attorneys shall on a regular basis update this PAIA Manual.

Issued by

PIERRE LE ROUX
(Information Officer)



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

(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.

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

- 1. (i) 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.
- (ii) 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.

2. Description of record or relevant part of the record:

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3. Reference number, if available:

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4. Any further particulars of record:

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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

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 transcription of soundtrack* (audio cassette) (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*

* 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

G. Particulars of right to be exercised or protected:

copy in computer readable form*
(compact disc)

YES NO

If the provided space is inadequate, please continue on a separate folio and attach it to this form.

The requestor 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 OF RECORD OF PRIVATE BODY

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 REQUESTOR /
PERSON ON WHOSE BEHALF REQUEST IS MADE**