



MANUAL IN TERMS OF THE OF PROMOTION OF ACCESS TO INFORMATION ACT, ACT 2 OF 2000

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TABLE OF CONTENTS

1.	Introduction	3
2.	Purpose	3
3.	Information Required under section 51 (1)(A) of PAIA	4
4.	Requirement in terms of PAIA	4
5.	The Process	6
6.	Fees	9
7.	Availability of the manual	11
8.	Annexure "A"	11
9.	Annexure "B"	15
10.	Annexure "C"	20
11.	Annexure "D"	21

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This document contains 21 pages

1. Introduction

- 1.1. VH Fibre Optics (Pty) Ltd Promotion of Access to Information Manual (“Manual”) is published in terms of Section 51 of the Promotion of Access to Information Act, No. 2 of 2000 (“PAIA”) and section 23 -25 of the Protection of Personal Information Act No.4 of 2014 (“POPIA”).
- 1.2. PAIA gives effect to the provisions of Section 32 of the Constitution, which provides for the right of access to information. This is information held by the State but also information held by any another person. A person that is entitled to exercise a right or who needs information for the protection of any right, is entitled to access that information, subject to certain restraints.
- 1.3. Section 51 of PAIA creates a legal right to access records (as defined in section 1 of PAIA) of a private body (both natural and juristic), however this right may be negated in circumstances as set out under Chapter 4 of Part 3 of PAIA. In addition, in compliance with POPIA a responsible party who processes personal information must notify the person to whom personal information relates (“Data Subject”) of the manner in which the Data Subject can access their personal information held by the responsible.

2. Purpose

- 2.1. The purpose of this manual is to facilitate requests for access to records (including records containing Personal Information (as defined in terms of VH Fibre Optic’s Privacy Policy)).
- 2.2. Where this Manual does not deal with a procedure provided for in PAIA, the Requester or any other interested party is to look at the Act for guidance in relation thereto. Same is to be included as part of the Manual.
- 2.3. A person requesting access to records from VH Fibre Optics (“the Requester”) is advised to familiarize themselves with the provisions of PAIA before making any requests to in terms of PAIA.
- 2.4. VH Fibre Optics makes no representation and gives no undertaking or warranty that any record(s) provided to a Requester is complete or accurate, or that such record is fit for any purpose. All users of such records shall use such records entirely at their own risk, and VH Fibre Optics shall not be liable for any loss, expense, liability, or claims, howsoever arising, resulting from the use of this Manual or of any record provided by VH Fibre Optics or any error therein.

2.5. All users and Requesters irrevocably agree to submit to the law of the Republic of South Africa and to the exclusive jurisdiction of the Courts of South Africa in respect of any dispute arising out of the use of this Manual or any records provided by VH Fibre Optics.

3. Information required under section 51 (1) (a) OF PAIA

Head of VH Fibre Optics	Johan Kleynhans (Managing Director)
Designated Information Officer	Sandra de Waal (Human Resources Manager)
Email address	info@vhfibre.co.za
Postal address	VH Fibre Optics (Pty) Ltd Postnet Suite #262 Private Bag X1 Jukskei Park 2153
Street address	Unit 9, Commercial Park, Aintree Avenue Northriding 2162
Phone number	(011) 791 4177
Website	www.vhfibre.co.za

4. Requirements in terms of PAIA

4.1 Description of guide referred to in section 10: section 51(1)(b)

The South African Human Rights Commission (as provided for in section 10 of PAIA) has compiled and published by a "Guide on How to Use the Promotion of Access to Information Act 2 of 200". This Guide will assist persons in using and understanding PAIA. The Guide can be accessed via the South African Human Rights website (www.sahrc.org.za).

4.2 Notice in terms of section 52(2) of the PAIA:

The following records are automatically available to any person requesting this information and it is therefore not necessary to apply for access thereto in terms of the Act:

- VH Fibre Optics and Company Annual Financial Statements.
- All other information freely available on VH Fibre Optic's website at www.vhfibre.co.za

Requests for the above-mentioned records may be sent to any of the addresses provided under Contact Details above and copies are available for a fee as prescribed. At this stage VH Fibre does not have any other categories of records which are automatically available without a person having to request access in terms of PAIA, and as such no notice has been published. All these categories of records of VH Fibre Optics require a formal request to access such records.

4.3 Records available in terms of other legislation: section 51(1)(d)

The following legislation creates the obligation to keep certain records:

- Basic conditions of Employment No. 75 of 1997
- Broad Based Black Economic Empowerment Act No. 53 of 2003
- Companies Act No. 71 of 2008
- Compensation for Occupational Injuries and Disease Act
- Consumer Protection Act No. 68 of 2008
- Customs and Excise Act No 91 of 1964
- Electronic Communication and Transaction Act No. 25 of 2002
- Employment Equity Act No. 55 of 1998
- Income Tax Act No. 95 of 1967
- Insolvency Act No. 24 of 1936
- Labour Relations Act No. 66 of 1955
- National Credit Act No. 34 of 2005
- Occupational Health and Safety Act No. 85 of 1993
- Skills Development Act No. 97 of 1998
- Trademarks Act No.194 of 1993
- Unemployment Insurance Act No. 63 of 2001
- Value Added Tax Act No. 89 of 1991

Such records will be made available to only those individuals/entities authorised to request access to such records in terms of the particular legislation. Any other persons must follow the request for access of records procedure as outlined in this Manual.

4.4. Subjects and categories of records held by VH Fibre Optics: section 51(1)(e)

PAIA requires that sufficient detail be provided to facilitate a request for access to a record of VH Fibre Optics. A description of the subjects on which VH Fibre Optics holds records and the categories of the records held by each subject can be found in **Annexure “A”** of this Manual, which forms an integral part of this Manual.

5. The Process

Introduction

- 5.1. Access to records held by VH Fibre Optics is not automatic and can be refused by VH Fibre Optics on any of the grounds for refusal contemplated in Chapter 4 of Part 3 of PAIA.
- 5.2. In order to request access to records held by VH Fibre Optics, the Requester must not only identify the right it is seeking to exercise or protect and explain why the record requested is required for the exercise or protection of that right but must also comply with all the procedural requirements set out in PAIA.
- 5.3. If the Requester requests information on behalf of a public body (i.e. state), the Requester must identify that the request for information is in the public’s interest by stipulating adequate reasons.
- 5.4. If the Requestor is making a request on behalf of another person, sufficient proof (to the satisfaction of VH Fibre Optics) of the capacity in which the Requestor is making the request/acting must be submitted. The type of proof required will be advised by VH Fibre Optics upon receipt of request.

Procedural Requirements

- 5.5. In order to facilitate such a request for access to records, the Requester needs to complete the prescribed access form attached hereto as Annexure “B”. Please note that the prescribed access form must be completed in full. If not, the process may be delayed until such additional information has been provided.
- 5.6. In terms of section 23(1) of POPIA, adequate proof of identity is required from the Requestor/Data Subject. Therefore, in addition to the prescribed access form, the Requestor will be required to supply a certified copy of their identification document or any other legally acceptable form of identification.
- 5.7. The request form and proof of identity must be provided to the Information Officer of VH Fibre Optics at the physical address or e-mail set out above. VH Fibre Optics may, in its sole discretion request that original certified copies be provided in certain circumstances such as if the electronic copies provided are not clear or are questionable.
- 5.8. The Requester must provide sufficient detail on the prescribed access form to enable the Information Officer to identify the record requested. When completing the prescribed access form, the Requester should also indicate:
- which form of access is required;
 - the right the Requester is seeking to exercise or protect and explain why the requested record is required for the exercise or protection of that right;
 - whether the Requester wishes to be informed of the decision in any other manner, in addition to a written reply, to state the manner and necessary particulars to be so informed; and
 - an email address, telephonic contact numbers and postal address in the Republic of South Africa.
- 5.9. If a request is made on behalf of another person, the Requester must show, to the reasonable satisfaction of the MD or the Information Officer, that he or she is duly authorised to make such request.

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- 5.10. If an individual is unable to complete the prescribed access form because of illiteracy or disability, such an individual may make the request verbally.
- 5.11. The prescribed access form must be adequately completed, with sufficient information particularly so that the Information Officer of VH Fibre Optics can identify and determine what the access fee will be, should access be granted.
- 5.12. A request will not be processed until the request fee has been paid.

Refusal in terms of PAIA

- 5.13. VH Fibre Optics may refuse access to the requested record of parts thereof as allowed in terms of Chapter 4, namely section 62 till 70 (inclusive) of PAIA.
- 5.14. In instances whereby a third party needs to be notified of request to authorize or decline access VH Fibre Optics MD undertakes to request same from the third party within 21 (twenty-one) days of receipt of the request and to include the required information provided for in terms of section 71(3) of PAIA.
- 5.15. In the event that the request is declined by the third party – VH Fibre Optics cannot be held responsible for same.

Notification of refusal or granting of access information

- 5.16. Requestors will be informed within 30 (thirty) days of receipt of the prescribed access form if VH Fibre Optics' decision is to refuse access to the information requested based on any of the grounds for refusal as contemplated in Chapter 4 of Part 3 of the PAIA. Take note that the 30 (thirty) day period may be extended for a further 30 (thirty) day period should more time be required to gather the requested information. The Requester will, however, be notified if the initial 30 (thirty) day notice period is to be extended for a

further 30 (thirty) days.

Refusal since the record cannot be found

5.17. If all reasonable steps have been taken by VH Fibre Optics to find the record requested by the Requester and same cannot be found for reasons justifiable as per section 55 of PAIA, the Information Officer shall provide an affidavit or affirmation to the Requester advising that it is not possible to give access to the record requested.

5.18. The affidavit or affirmation will comply with all the requirements provided for in terms of section 55(2) of the Act.

5.19. In the event the record is found subsequently, VH Fibre Optics undertakes to contact the Requester in order to gain access to same, subsequent to the payment of the applicable access fee.

6. Fees

6.1. There are two basic types of fees applicable in terms of PAIA – “request” and “access” fees.

Request Fee

6.2. The request fee is an administration fee that is payable on submission of the request for access to a record and must be paid before the request is considered (unless the request is to access the requestor’s personal information in which event there is no applicable fee). The request fee is not refundable if the request for access has been granted however it is refundable if the request for access has been denied by VH Fibre Optics.

6.3. The request fee is currently statutorily set at R50-00 (fifty rand) for a private body and is subject to change as announced in terms of PAIA.

6.4. In line with section 23(1)(a) of POPIA, a Data Subject (i.e. personal requestor) has a right to request VH Fibre

Optics to confirm, free of charge, whether or not VH Fibre Optics holds personal information about the Data Subject.

Access Fee

- 6.5. The access fee is payable prior to the Requester actually gaining of access to the records in the required form.
- 6.6. The access fee is intended to reimburse VH Fibre Optics for the costs involved in reproduction of documents, searching and preparing the record requested and for any time reasonable required (in excess of the prescribed hours) to search and prepare the record.
- 6.7. Should the preparation of the required record take more than 6 (six) hours, a deposit (which is 1/3 (one third)) of the access fee is payable before the request will be processed by VH Fibre Optics as a deposit.
- 6.8. VH Fibre Optics may withhold a record until the requester has paid the applicable fees (if any).
- 6.9. In accordance with Section 23(3) of the POPIA, VH Fibre Optics may charge an access fee to the Data Subject to enable VH Fibre Optics to respond to the request. In such instances VH Fibre Optics must provide the Data Subject with a written estimate of the fee before providing the services.
- 6.10. The MD or the Information Officer shall provide the Requester with a Notice in terms of section 54(3) of PAIA on initial receipt and consideration of the request for access. This notice is Annexure C
- 6.11. Once the request fee has been paid in full, the MD or the Information Officer will consider the request for access and will provide the Requester with its decision to the request. This notice is Annexure D.

7. Availability of manual

This manual is available at the offices of VH Fibre Optics, as well as on VH Fibre Optic's website at www.vhfibre.co.za

8. Annexure "A"

Subjects and categories of records held by the company: section 51(1)(e)

See VH Fibre Optics Privacy Policy for general categories of personal information collected by VH Fibre Optics together with the purposes for such collection

Companies Act Records

- Codes of Conduct
- Documents of Incorporation
- Legal Compliance Records
- Licenses of Copyrights
- Memorandum of Incorporation
- Minutes of Board of Directors Meetings
- Minutes of Manager's Meetings
- Policies
- Records relating to the appointment of directors/ auditors/ secretary/ public office and other officers
- Share Register and other statutory registers and/or records and/or documents

Financial Records

- Accounting Records
- Annual Financial Statements
- Asset Register
- Auditors' Report

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- Bank Payments and Transfers
 - Bank Statements
 - Banking Records
 - Detail of Auditors
 - Electronic Banking Records
 - Invoices
 - Rental Agreements
 - Tax Returns

Income Tax Records

- Documents issued to employees for income tax purposes
- PAYE Records
- Records of payments made to SARS on behalf of employees
- Value Added Tax Clearance Certificate
- All other statutory compliances:
 - i. Value Added Tax
 - ii. Skills Development Levies
 - iii. Unemployment Insurance Fund
 - iv. Workman's Compensation
- Customs and excise

Personnel Documents and records

- Attendance Registers
- Benefits Records – Medical Aid, Retirement and Group Life
- Contacts – Telephone and Cell Numbers and Addresses
- Disciplinary Code

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- Disciplinary Records
 - Employment Contracts
 - Employment Equity Plan
 - Leave Records
 - Records containing all employees' names and occupation
 - Salary Records
 - Sector Education and Training Authority Records
 - Training Manuals
 - Training Records

Client Records -Payroll Processing on behalf of the Companies

- Correspondence
- Service Agreements
- VH Fibre Optics Employees
- Personal information such as name, contact details, company information, work experience, educational history, race, gender.

Supplier Records

- The name of the supplier
- The address of the supplier
- A description of the goods
- The quantity or volume of the goods
- Proof of date of payment

Electronic Communication and Transactions Records

- Record of the personal information and the specific purpose for which the personal information was collected.

Insurance Records

- VH Fibre Optics Group - General Insurance
- Professional Indemnity Insurance
- Directors and Officers Insurance
- Cyber Security Insurance

Immovable and Movable Property Records

- Agreements for the lease of movable property
- Agreements for the lease or sale of land and/or other immovable property
- Other agreements for the purchase, ordinary sale, conditional sale, or hire of assets

Miscellaneous Records

- Agency, management and distribution agreements
- Agreements for the trading activities of the VH Fibre Optics business
- Agreements for the acquisitions and disposals of group companies

Third Party Records

- Records held by VH Fibre Optics pertaining to third parties, including, but not limited to financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about any contractors and / or suppliers;
- Records held by VH Fibre Optics pertaining to contractors, subsidiary companies, joint venture companies, special purpose vehicle companies and service providers. [In cases where information requested by the Requester may impact on a third party, the Information Officer is obliged to comply with the requirements as set out in terms of the Act (especially Sections 71 to 73 of the Act).

9. Annexure “B”

Request for Access to Record of Privacy Body

(Section 53(1) of the Promotion of Access to Information Act, 2000 Act 2 of 2000)

[Regulation 10]

a) Particulars of person requesting access to the record

The Head:

b) Particulars of person requesting access to the record

- *The particulars of the person who requests access to the record must be given below.*
- *The address and/or fax number in the Republic to which the information is to be sent must be given.*
- *Proof of the capacity in which the request is made, if applicable, must be attached.*

Full names and surname:

Identity number:

Postal address:

Fax number:

Telephone Number:

Email 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:

d) Particulars of record

- *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.*
- *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.*

Description of record or relevant part of the record:

Reference number, if available:

Any further particulars of record:

e) Fees

- *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.*
- *You will be notified of the amount required to be paid as the request fee.*
- *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.*
- *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>Mark the appropriate box with an X.</p> <p>Notes:</p> <p>a) Compliance with your request in the specified form may depend on the form in which the record is available.</p> <p>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.</p> <p>c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.</p>			
1. If the record is in written or printed form:			
<input type="checkbox"/>	copy of record*	<input type="checkbox"/>	inspection of record
2. If record consists of visual images: (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):			
<input type="checkbox"/>	view the images	<input type="checkbox"/>	Copy the images*
<input type="checkbox"/>		<input type="checkbox"/>	transcription of the images*
3. If record consists of recorded words or information which can be reproduced in sound:			
<input type="checkbox"/>	listen to the soundtrack(audio)	<input type="checkbox"/>	transcription of soundtrack* (written or printed document)
4. If record is held on computer or in an electronic or machine-readable form:			
<input type="checkbox"/>	printed copy of record*	<input type="checkbox"/>	printed copy of information derived from the record*
<input type="checkbox"/>		<input type="checkbox"/>	copy in computer readable form* (i.e. electronic copy)
*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		<input type="checkbox"/> YES	<input type="checkbox"/> NO

g) Particulars of right to be exercised or protected

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

The requester must sign all the additional folios.

Indicate which right is to be exercised or protected:

Explain why the record requested is required for the exercise or protection of the aforementioned right:

h) Notice of decision regarding request for access

Signed at _____ this _____ day of _____ 20__

Signature of requester/person on whose behalf request is made

10. Annexure "C"

VH Fibre Optics Notice in terms of Section 54(3) of PAIA

1. Please be advised the Requester is required to pay the prescribed request fee (if any), before further processing the prescribed access form is done.

2. Please be advised that in the event that:
 - (a) the search for the requested record for which a request for access by a Requester, has been made; and
 - (b) the preparation of the record for disclosure (including any arrangements contemplated in section 29 (2) (a) and (b) (i) and (ii) (aa)), would, in the opinion of VH Fibre Optics, require more than the hours prescribed, the Requester is herewith requested to pay as a deposit, one third of the access fee.
3. The Requester is herewith advised that the aforesaid instance is applicable and therefore a required deposit is payable. Such amounts totals _____ (which is one third of the access fee, which amount is _____).
4. In the event that the Requester finds the aforesaid unacceptable, the Requester may lodge a complaint to the Information Regulator or an application with a court against the tender or payment of the request fee in terms of subsection (1), or the tender or payment of a deposit in terms of subsection (2), as the case may be.
5. The procedure for lodging the complaint stated in subsection 4 is available in the PAIA and its Regulations.

DATE MIDRAND ON THE _____ DAY _____ 20 _____

From the desk of information Officer

11. Annexure “D”

VH Fibre Optics Decision Notice

Based on the prescribed access form, the Requested has requested access to documents stated therein and VH Fibre Optics hereby:

Declines

or

Grants

1. If VH Fibre Optics grants access to the record – the access fee payable is_(inwords).

2. The amount is calculated as following:

3. All exceptions, restrictions, and parameters regarding access:

4. In the event that the request is granted but with issue, the Requester may lodge a complaint with the Information Regulator or an application with a court against the access fee to be paid or the form of access granted.

5. In the event that VH Fibre Optics declines access

6. In the event that the request is declined, the Requester may lodge a complaint with the Information Regulator or an application with a court against the refusal of the request.