



PAIA MANUAL

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:

**ASH NAIDOO
ATTORNEY'S**



1. Definitions

- 1.1. "**Ash Naidoo Attorneys**" means Ash Naidoo Attorneys, Incorporation of practising attorneys working in concert to provide the services of a law firm;
- 1.2. "**Business**" means the business of Ash Naidoo Attorneys, being the provision of the services of a law firm, and which includes all matters reasonably connected thereto, including matters relating to legal and corporate governance;
- 1.3. "**Information**" means "personal information" and "special personal information" as defined in POPIA.
- 1.4. "**Information Officer**" means the person described in clause 13;
- 1.5. "**Information Regulator**" means the information regulator as that term is defined in Section 39 of POPIA;
- 1.6. "**Operator**" means a Person who Processes Information on behalf of Ash Naidoo Attorneys in terms of a contract or mandate, without coming under the direct authority of Ash Naidoo Attorneys and may include, without limitation, Ash Naidoo Attorneys' auditors, information technology service providers and related and/or inter-related persons as that term is defined in Section 2 of the Companies Act No. 71 of 2008;
- 1.7. "**Person**" means a person defined in POPIA, and "Persons" will have a corresponding meaning;
- 1.8. "**Policy**" means this policy and any amendments made to it from time to time;
- 1.9. "**POPIA**" means the Protection of Personal Information Act No. 4 of 2013;
- 1.10. "**Process**" and "**Processing**" means anything that is done by Ash Naidoo Attorneys in relation to its Stakeholders' Information, whether or not by automated means, including the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation, use, dissemination, distribution, merging, linking, restriction, degradation, erasure and/or destruction of Information;
- 1.11. "**Stakeholder**" means any Person whose Information Ash Naidoo Attorneys Processes, and this may include Information pertaining to Ash Naidoo Attorneys' employees, candidates for employment, customers, suppliers, officers, business associates, partners, clients and the like.

2. Background to POPIA

- 2.1. POPIA is South Africa's primary data protection law.
- 2.2. The purpose of POPIA is to promote the protection of Information that is Processed by any Person, by prescribing certain minimum requirements for the Processing of Information.
- 2.3. These minimum requirements must be met in order for a Person to Process Information and include those requirements set forth in clause 4 of this Policy.
- 2.4. It is the policy of Ash Naidoo Attorneys that it will comply with the minimum requirements set forth in clause 4 of this Policy at all times.



3. Purpose of this Policy

3.1. From time to time in the conduct of its Business, Ash Naidoo Attorneys will come into possession of and will concomitantly Process the Information of its Stakeholders.

3.2. The purpose of this Policy is to record how Ash Naidoo Attorneys will Process the Information of its Stakeholders and, in doing so, comply with the minimum requirements set forth in clause 4 of this Policy.

4. Minimum Requirements for Processing Information

In order for Ash Naidoo Attorneys to Process Information in a manner which is consistent with POPIA, Ash Naidoo Attorneys must:

4.1. Process the Information lawfully and in a reasonable manner that does not infringe the right to privacy of the Person whose Information is being Processed;

4.2. Process the Information for a specific, explicitly defined and lawful purpose related to a function or activity of Ash Naidoo Attorneys;

4.3. Process the Information only if, given the purpose for which it is Processed, it is adequate, relevant and not excessive and if:

4.3.1. the Person whose Information will be Processed has consented to its Information being Processed;

4.3.2. it is necessary to Process the Information to carry out actions for the conclusion or performance of a contract to which the Person whose Information will be Processed is a party; or

4.3.3. it is necessary to Process the Information to comply with an obligation imposed by law on Ash Naidoo Attorneys or to protect a legitimate interest of Ash Naidoo Attorneys, the Person to whom the Information is supplied and/or the Person whose Information will be Processed;

4.4. take reasonable steps to ensure that the Person whose Information will be Processed is aware of the Information that will be Processed, the source from which that Information will be collected and the purpose for which that Information will be Processed;

4.5. take reasonable steps to ensure that the Information that is Processed is complete, accurate, not misleading and updated where necessary;

4.6. take reasonable technical and organisational measures to secure the integrity and confidentiality of Information that is Processed so as to prevent the loss, damage or unauthorised destruction of Information and the unlawful access to or Processing of Information; and

4.7. take reasonable steps to ensure that the Person whose Information will be Processed is aware of its rights in and to their Information.

5. Purpose of and Processing Information

5.1. Ash Naidoo Attorneys will only Process Information for a specific, explicitly defined and lawful purpose related to a function or activity carried out by it.



5.2. Ash Naidoo Attorneys will accordingly Process the Information of its Stakeholders from time to time for the purpose of carrying on its Business and for good and lawful cause.

5.3. Ash Naidoo Attorneys will ensure that it only Processes the Information of its Stakeholders for the specific purpose referred to in clause 5.2 of this Policy and will take reasonable steps to ensure that its Stakeholders are aware of that purpose.

6. Source of Information

6.1. Ash Naidoo Attorneys will only Process Information that it receives directly from a Stakeholder, save where:

6.1.1. the Information is public record or has deliberately been made public by the Stakeholder;

6.1.2. the Stakeholder has consented to the collection by Ash Naidoo Attorneys of the Information from another source;

6.1.3. the collection of Information from a source other than the Stakeholder would not prejudice a legitimate interest of the Stakeholder, is necessary to maintain or comply with an obligation imposed on Ash Naidoo Attorneys by law or to maintain the legitimate interests of Ash Naidoo Attorneys or the Information will be used for legal proceedings;

6.1.4. it is not reasonably practicable in the circumstances of the particular case to collect the Information directly from a Stakeholder, or to do so would prejudice a lawful purpose of the collection, or

6.1.5. it has received the consent of a Stakeholder to Process Information about that Stakeholder that it receives from another source, in which event it may Process Information about a Stakeholder that it receives from another source.

7. Awareness and Consent

7.1. Ash Naidoo Attorneys is required to ensure that its Stakeholders are aware of the purpose for which their Information is being Processed, the manner in which it will be Processed and their rights in respect thereof. Ash Naidoo Attorneys will do this by:

7.1.1. publishing a copy of this Policy on its website at www.ashnaidoo.co.za.

7.1.2. making a copy of this Policy available for inspection at its principal place of business at:

391 Anton Lembede Street

Suite F 10-2, 10th Floor

Metropolitan Building

KwaZulu Natal

4001

7.1.3. using *bona fide* endeavours to communicate the existence of this Policy to those of its Stakeholders whose Information Ash Naidoo Attorneys has Processed prior to the date referred to



in Section 114(1) of POPIA; 7.1.4. referring to this Policy in its recruitment and/or job advertisements;

7.1.5. incorporating this Policy by reference into, *inter alia*, the following documents:

7.1.5.1 employment agreements;

7.1.5.2 terms of engagement; and

7.1.5.3 any other contracts or agreements that Ash Naidoo Attorneys may enter into with its Stakeholders.

7.2 Ash Naidoo Attorneys will, where it is necessary or appropriate to do so, obtain the written consent of its Stakeholders to Process their Information in accordance with POPIA, *inter alia*, by:

7.2.1 requesting its Stakeholders to consent to the Processing by Ash Naidoo Attorneys of their Information;

7.2.2. requiring applicable Stakeholders to sign any one or more of the documents contemplated in clause 7.1.5 of this Policy.

7.3. Ash Naidoo Attorneys will catalogue and store the record of consents that it obtains from its Stakeholders.

8. Retention and safeguarding of Information

8.1. Ash Naidoo Attorneys is required to store, retain and secure the integrity and confidentiality of its Stakeholders' Information by taking appropriate, reasonable technical and organisational measures to prevent the loss, damage or unauthorised destruction of their Information and to prevent any person from unlawfully accessing their Information.

8.2. Ash Naidoo Attorneys will accordingly secure the integrity and confidentiality of its Stakeholders' Information, *inter alia*, by ensuring that:

8.2.1. Information that is in printed form is dealt with only by those representatives of Ash Naidoo Attorneys who need to deal with that Information;

8.2.2. Information that is in printed form is stored in a secure cabinet or facility when it is not being Processed;

8.2.3. all employees and officers of Ash Naidoo Attorneys who have access to or Process Information keep their workstations tidy and free of Information which is not then being Processed to ensure that any Information that is visible at workstations, and is not being Processed, is not disseminated other than in accordance with the provisions of this Policy;

8.2.4. all Information in electronic form is stored in a database that is protected from unauthorised access by appropriate hardware and software;

8.2.5. any hardware on which Information is stored is secure and password protected;



8.2.6. employees and officers of Ash Naidoo Attorneys will ensure that Information is not displayed upon their computer hardware when they are not themselves Processing that Information on such hardware;

8.2.7. where any device on which Information is stored is lost or stolen, the Information Officer is immediately notified and will use reasonable endeavours to attempt to recover and/or delete any Information stored upon that device.

8.3. Ash Naidoo Attorneys will review the Information that it Processes and stores from time to time, and will destroy and/or delete any Information of its Stakeholders that is no longer required for the purpose in clause 5 of this Policy, or that it is no longer authorised or obliged to retain.

8.4. In the event that it comes to the attention of Ash Naidoo Attorneys that its Stakeholders' Information has been accessed, acquired or Processed by any unauthorised person:

8.4.1. the Information Officer will notify the applicable Stakeholder or Stakeholders and the Information Regulator as soon as reasonably possible; and

8.4.2. Ash Naidoo Attorneys will comply with such directions as the Information Regulator may prescribe.

9. Disclosure of Information

9.1. Ash Naidoo Attorneys will not hold its Stakeholders' Information as its own and will make no claim to ownership thereof, unless a Stakeholder agrees otherwise.

9.2. Ash Naidoo Attorneys will only disclose its Stakeholders' Information to those of its employees and officers who need to know for the purpose described in clause 5 above and will not disclose Information to any third party unless the consent of the applicable Stakeholder to do so has been obtained.

9.3. Notwithstanding the provisions of clause 9.2 of this Policy, Ash Naidoo Attorneys may disclose its Stakeholders' Information without first obtaining consent:

9.3.1. if Ash Naidoo Attorneys deems it appropriate to disclose that Information to an Operator for the purpose in clause 5 of this Policy; and/or

9.3.2. if Ash Naidoo Attorneys is required by any applicable law or any applicable regulator to disclose that Information.

9.4. Ash Naidoo Attorneys will not transfer the Information of any of its Stakeholders to any third party in any country in which Ash Naidoo Attorneys operates, other than South Africa, unless:

9.4.1. Ash Naidoo Attorneys has obtained the consent of the affected Stakeholder to do so;

9.4.2. the third party has agreed to Process that Information on substantially the same terms as those recorded in this Policy and/or in any agreement entered into between Ash Naidoo Attorneys and the Stakeholder;



9.4.3. the transfer is necessary for the conclusion or performance of a contract between the Stakeholder and Ash Naidoo Attorneys ;

9.4.4. the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the Stakeholder between Ash Naidoo Attorneys and a third party; or

9.4.5. the transfer is for the benefit of the Stakeholder, and it is not reasonably practicable to obtain the consent of the Stakeholder to that transfer or, if it were reasonably practicable to obtain such consent, the Stakeholder would, in Ash Naidoo Attorneys' view, likely give it.

10. Information Quality

10.1. Ash Naidoo Attorneys is required to take reasonably practicable steps to ensure that the Information of its Stakeholders that it Processes is complete, accurate, not misleading and updated where necessary.

10.2. Ash Naidoo Attorneys will accordingly ask its Stakeholders to verify the completeness and accuracy of the Information provided by them from time to time.

11. Unsolicited Information

In the event that a Stakeholder makes Information available to Ash Naidoo Attorneys which is gratuitous and/or not required for the purpose referred to in clause 5, this Policy (save in respect of this clause 11) will not apply, and Ash Naidoo Attorneys will use its *bona fide* efforts to secure that Information, and proceed to delete, erase or destroy that Information as soon as practicable after its receipt.

12. Stakeholder Participation and Rights in and to its Information

12.1 Each Stakeholder, after having provided adequate proof of identity to Ash Naidoo Attorneys, has the right to:

12.1.1. request that Ash Naidoo Attorneys confirms, free of charge, whether or not it holds Information about that Stakeholder;

12.1.2. request the record of or a description of the Information that Ash Naidoo Attorneys holds about that Stakeholder;

12.1.3. request that Ash Naidoo Attorneys correct or delete any Information in its possession or under its control about the Stakeholder that is inaccurate, irrelevant, excessive, out of date, incomplete or misleading, or destroy or delete a record of any Information about it that Ash Naidoo Attorneys is no longer authorised to retain;

12.1.4. withdraw its consent for Ash Naidoo Attorneys to Process its Information at any time, but the withdrawal of consent will not affect:

12.1.4.1. the Processing of its Information before the withdrawal of consent; and



12.1.4.2. the Processing of any of its Information that is required by Ash Naidoo Attorneys to comply with law and/or finalise the performance of any agreement that it has entered into with the Stakeholder concerned.

12.2. Should any Stakeholder wish to exercise any of the rights referred to above, it can do so by contacting the Information Officer who can be contacted in the manner described in clause 13 of this Policy, and the Information Officer will give effect to the Stakeholder's request or withdrawal.

13. Information Officer

13.1. Ash Naidoo Attorneys will appoint an Information Officer.

13.2. The name and contact details of the Information Officer can be obtained by visiting Ash Naidoo Attorneys' website, or by sending an email to the following email address: ash@ashnaidoo.co.za.

13.3. The Information Officer will be responsible for, *inter alia*:

13.3.1. ensuring that Ash Naidoo Attorneys Processes the Information of its Stakeholders in a lawful and reasonable manner that does not unreasonably infringe its Stakeholders' right to privacy;

13.3.2. providing regular training and support to the employees and officers of Ash Naidoo Attorneys who have access to or Process Information, so that they can do so lawfully and in terms of this Policy;

13.3.3. creating awareness about the provisions of this Policy, including by way of the mechanisms contemplated in clause 7 of this Policy; and

13.3.4. ensuring that it applies due diligence in the monitoring of developments in relation to the law pertaining to protection of Information, and in amending and/or updating Ash Naidoo Attorneys' approach to such protection, including by way of updating and/or amending this Policy.

13.4. The Information Officer will be trained appropriately to give effect to this Policy, and will address any reasonable queries or concerns that any Stakeholders may have regarding this Policy or the Processing of their Information as contemplated in it.

14. Information Regulator

In the event that a Stakeholder has any queries or concerns that cannot be addressed by the Information Officer, the Stakeholder has the right to contact the Information Regulator. The Information Regulator's details are as follows:

• Physical address: JD House, 27 Stiemens Street, Braamfontein, Johannesburg, 2001 • Postal address: P.O Box 31533, Braamfontein, Johannesburg, 2017 • Email address: complaints.IR@justice.gov.za and inforeg@justice.gov.za.

15. Status of Policy

This Policy has been adopted by and will apply to Ash Naidoo Attorneys

16. Amendments



Ash Naidoo Attorneys may alter or amend this Policy or any part thereof at any time. Ash Naidoo Attorneys will use reasonable endeavours not to change this Policy too often, and to bring to its Stakeholders' attention any material changes to it, but its Stakeholders will be required to ensure that they keep up to date with the latest version of the Policy that is available on Ash Naidoo Attorneys' website and at Ash Naidoo Attorneys' principal place of business.