



Section 51 Manual

In terms of

The Promotion of Access to Information Act, No 2 of 2000

Watermeyer & Van der Merwe (Pty) Ltd. (hereinafter W&M Occupational Therapists)

Private Body



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Version Control

Version	Date	Author/Reviewer	Comment
1.0	08042020	Adv. Frikkie Marais	Finalised for publication, effective from 16 April 2020

PART A: INTRODUCTION

A.1. What is the purpose of this Manual?

Under the Promotion of Access to Information Act 2000 (“PAIA”), **W&M Occupational Therapists** is required to grant individuals access to records held by **W&M Occupational Therapists** if that record is required by the individual to exercise or protect any legal right that individual enjoys under the law.

Additionally, under the Protection of Personal Information 2013 (“POPI”), **W&M Occupational Therapists** is required to be open and transparent about how **W&M Occupational Therapists** handles personal information and allow individuals to access and correct their personal information. We await the commencement (or effective) date of POPI and will update this manual as soon as the date is announced by proclamation.

The purpose of this Manual is to set out the information which **W&M Occupational Therapists** is legally required to disclose under PAIA and POPI, and to explain how you can exercise your statutory rights under PAIA and POPI with respect to records and personal information handled by **W&M Occupational Therapists**.

A.2. What is the status and scope of this Manual?

This Manual (version 1.1) was last updated on 8 April 2020 and will become effective on **16 April 2020**. This Manual may be revised from time to time to reflect changes in laws and regulations, or changes in **W&M Occupational Therapists’** business operation.

A.3. Introduction to the practice

This private practice is the practice of **W&M Occupational Therapists**. We run our occupational therapy medical practice according to the requirements set by the Health Professions Act No. 56 of 1974, and are subject to the authority of the Health Professionals Council of South Africa (HPCSA). Our business is to provide therapeutic intervention within the scope and ambit of our competence and training, as defined from time to time. We are bound by a number of ethical rules issued by the HPCSA, most notably the duty to preserve patient confidentiality, unless legislation or a court order compels us to breach this duty. Requesters should note that commercial information and financial information may be withheld on the grounds of sections 63-70

A.4. What are my rights under the Promotion of Access to Information Act

A.4.1. On 9 March 2001, the Promotion of Access to Information Act, became operative, giving effect to the constitutional right 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; and to provide for matters connected therewith.

A.4.2. Under PAIA, everyone has the right to access

- a) any information held by the state; and

- b) any information that is held by another person and that is required for the exercise or protection of any rights.
- A.4.3. A public body may make a request for information under PAIA only if, in making the request, the public body is acting in the public interest.
- A.4.4. Records made available by **W&M Occupational Therapists** under PAIA are described in **Part C** of this Manual. If you wish to make a request under PAIA to **W&M Occupational Therapists**, please follow the procedure described in Section B of this Manual. Please note that your request will be subject to the applicable charges set out in Section B.4.
- A.4.5. You can learn more about your rights under PAIA by contacting the South African Human Rights Commission (“**SAHRC**”) at:
- South African Human Rights Commission
Braampark Forum 3
33 Hoofd Street
BraamfonteinSouth Africa
- Email: info@sahrc.org.za
Web: <http://www.sahrc.org.za>
Tel: +27 11 877 3600
- A.4.6. SAHRC has produced a detailed guidance on how to exercise your rights under PAIA. This guidance (known as PAIA Section 10 Guide) is available from SAHRC, and can be accessed on SAHRC’s website.

A.5. Availability of this manual [S 51(1)(b) – Promotion of Access to Information Act]

- A.5.1. A copy of this manual is available to the public for inspection at our website/registered offices as listed below or on request from the designated contact person
- A.5.2. **Contact Details [S 51(1)(a)]** - This contact person is responsible for the administration of and compliance with the Act in a fair objective and unbiased manner.

Contact person name: Tatum Shand

Physical Address: 47 4th Avenue, Newton Park, Port Elizabeth
South Africa
[Map It](#)

Postal Address: As Above

Telephone number: +27 41 582 1663 or +27 41 582 4003

Email address: tatum@wmoccupationaltherapists.co.za

Web Site: <https://www.wmoccupationaltherapists.co.za/>

A.6. Description of the guide referred to in section 10, if available, and how to obtain access to it: [S 51(1)(b)(i)]

- A.6.1. The Act grants a requester access to records of a private body, if the record is required for the exercise or protection of any rights. If a public body lodges a request, the public body must be acting in the public interest.
- A.6.2. Requests in terms of the Act shall be made in accordance with the prescribed procedures, at the rates provided.
- A.6.3. Requesters are referred to the Guide in terms of Section 10 which has been compiled by the South African Human Rights Commission, which will contain information for the purposes of exercising Constitutional Rights.
- A.6.4. The Guide is available from the SAHRC.
- A.6.5. The contact details of the Commission are:

Postal Address:	Private Bag 2700, Houghton, 2041
Telephone Number:	+27-11-877 3600
Fax Number:	+27-11-403 0625
Website:	www.sahrc.org.za

A.7. Records that are automatically available without a person having to request access in terms of this Act [S 51(1)(c)]

- | | |
|---|--|
| 1. Inspection in terms of legislation other than this Act | None |
| 2. Purchase or copying from us | None |
| 3. From us free of charge | Health related brochures, information leaflets |

A.8. Description of the records of the body which are available in accordance with any other legislation [S 51(1)(d)]

- A.8.1. Records are kept in accordance with the following legislation (this list is not exhaustive):
- (a) Basic Conditions of Employment Act 75 of 1997
- record containing the following information Section 31):
- employee's name and occupation;
 - time worked (attendance register);
 - remuneration paid (wages register);
 - date of birth if under 18 years of age.
- (b) Occupational Health and Safety Act 85 of 1993
- A copy of the Occupational Health and Safety Act 85 of 1993
- (c) Compensation for Occupational Injuries and Diseases Act 130 of 1993

- All records required by the Act
- (d) Employment Equity Act 55 of 1998
 - Summary of the Employment Equity Act, 55 of 1998, issued in terms of Section 25(1)
- (e) Income Tax Act 58 of 1962
 - All records required by the Act
- (f) Labour Relations Act 66 of 1995
 - Records of disciplinary hearings (if any)
- (g) Unemployment Insurance Act 30 of 1966
 - Records detailing the contributions by contributors employed by the employer in respect of earnings paid, time worked, payments made for piece work and overtime
- (h) Value Added tax Act 58 of 1962.
 - All records required by the Act
- (i) All records required by related health legislation, including the Health Professions Act and the Medical Schemes Act.

Part B: Make a Request under PAIA

B.1. How can I make a request to W&M Occupational Therapists under PAIA [S 53(1)]

B.1.1. In order to facilitate a timely response to requests for access, all requesters should take note of the following when completing the Access Request Form:

B.1.2. To facilitate the processing of your request, kindly:

1. Complete the Request Form which is embedded in Part D of this Manual, also available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at www.sahrc.org.za (copy attached hereto as an example)
2. Address your request to the Head of this practice – W&M Occupational Therapists.
3. Provide sufficient details to enable us to identify:
 - (a) The record(s) requested;
 - (b) The requester (and if an agent is lodging the request, proof of capacity);
 - (c) The form of access required;
 - (d)
 - i. The postal address or fax number of the requester in the Republic;
 - ii. If the requester wishes to be informed of the decision in any manner (in addition to written) the manner and particulars thereof;
 - (e) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.
 - (f) **Payment of Fees:**
 - i. Pay the applicable Request Fee described in Section B4.4. below. Payment can be made via:
 - a. EFT (direct bank transfer). If you wish to pay the applicable Request Fee via EFT, you will need to send the proof of payment together with your request.

You can obtain the details required for EFT by contacting W&M Occupational Therapists (see Section A.5 above for contact details), or

- b. Payment can be made via credit card or debit card at our registered offices. (see Section A.5 above for physical address details)
 - c. This fee is not applicable to Personal Requesters, referring to any person seeking access to records that contain their personal information.
- ii. The completed Access Request Form together with a copy of the identity document must be submitted either via conventional mail, e-mail or fax and must be addressed to the contact person as indicated above.

B.2. How will my PAIA request be processed by W&M Occupational Therapists?

- B.2.1. W&M Occupational Therapists will process your request when the completed Request Form is received and any applicable Request Fee is paid. Subject to Section B2.2. below, your request will normally be processed within 30 days of receipt of the completed Request Form, provided that all of the required details are properly set out in the completed Request Form.
- B.2.2. If it turns out that it will take more than 30 days to process your request (e.g. due to the volume of records/personal information that must be processed, or difficulty in accessing the relevant record/personal information), W&M Occupational Therapists may extend the aforementioned 30 day period in processing your request. Should this become necessary, W&M Occupational Therapists will notify you.
- B.2.3. Once a decision on your request is reached, W&M Occupational Therapists will notify you in writing. Where W&M Occupational Therapists decides to:
 - a. grant access to the record/personal information requested, W&M Occupational Therapists will notify you how the access will be granted and what Access Fees are payable, and release the requested record/personal information upon receipt of the applicable Access Fee;
 - b. deny access to the record/personal information requested, W&M Occupational Therapists will notify you of the reasons why access is denied;
 - c. comply with your request to correct or delete your personal information, confirm how your request has been or will be actioned; and
 - d. deny your request to correct or delete your personal information, confirm why your request has been denied.
- B.2.4. Where your request was a request for confirmation as to whether or not W&M Occupational Therapists handles your personal information (i.e. you make a request under POPI s23(1)(a)), W&M Occupational Therapists will give you the confirmation.

B.3. What if I'm not happy about how W&M Occupational Therapists handled my PAIA/POPI request?

- B.3.1. If you are not satisfied about the way in which your request was handled by W&M Occupational Therapists (including where you are not happy about the Access Fee charged by W&M Occupational Therapists or the length of time W&M Occupational Therapists is taking to process your request), you can make an application for relief to the Constitutional Court, the High Court or another court of similar status.
- B.3.2. Please note that if you wish to make an application to the court, you will need to do so within 180 days of receiving the relevant decision made by W&M Occupational Therapists.

B.4. What are the charges applicable to my PAIA/POPI request?

- B.4.1. There are two types of fees which are payable under PAIA, namely Request Fee, and Access Fee.
- B.4.2. Request Fee is payable upon making a request to access records/personal information, and it is **R57.00** (inclusive of VAT) for each request. You do not have to pay a Request Fee if:
- You are a private individual requesting access to your own records/personal information;
 - You are single and earning less than R14,812 p/a; or
 - You are married (or in a life partnership), and earning less than R27,192 p/a.
- B.4.3. Access Fee is payable in respect of records/personal information which are produced in response to your request. Access Fee is payable by everyone who makes a request. The rate of Access Fees are as follows:

Type of activity involved in producing the record or personal information	Rate (inc. VAT)
For every photocopy of an A4-size page or part thereof.	R1.25
For every printed copy of an A4-size page or part thereof. Held on a computer or in electronic or machine readable form.	R0.86
For a copy in a computer-readable form on stiffy disk.	R8.55
For a copy in a computer-readable form on CD.	R79.80
For a transcription of visual images, for an A4-size page or part thereof.	R45.60
For a copy of visual images.	R68.40
For a transcription of an audio record, for an A4-size page or part thereof.	R22.80
For a copy of an audio record.	R34.20
Each hour or part of an hour (excluding the first hour) reasonably required to search for and prepare the record/personal information for disclosure.	R34.20
For posting the record/personal information.	Actual postage incurred
For confirming whether or not W&M Occupational Therapist handles personal information of the requestor (POPI s23(1)(a) request)	Free of charge

B.4.4. Please note that:

- a. where Request Fee is payable, your request will not be processed until you pay the Request Fee;
- b. where Access Fee is payable, the record/personal information you requested will not be released until the Access Fee is paid; and

B.4.5. Please also note that if you are not a private individual and if the search for and preparation of the record requested is in **W&M Occupational Therapists** 's view likely to require more than 6 hours of work, W&M Occupational Therapists reserves the right to require you to pay 1/3rd of the Access Fee up front as a deposit.

B.5. Protection of Personal Information Act

B.5.1. Purpose of the processing [S 51(1)(c)(i)] – Not yet applicable

B.5.2. Categories of data subjects and of the information or categories of information relating thereto [S 51(1)(c)(ii)] – Not yet applicable

B.5.3. Recipients or categories of recipients to whom the personal information may be supplied [S 51(1)(c)(iii)] – Not yet applicable

B.5.4. Planned transborder flows of personal information [S 51(1)(c)(iv)] – Not yet applicable

B.5.6. General description allowing a preliminary assessment of the suitability of the information security measures to be implemented by the responsible party to ensure the confidentiality, integrity and availability of the information which is to be processed [S 51(1)(c)(v)] – Not yet applicable

Part C: Records W&M Occupational Therapists makes available under PAIA

C.1. What records does W&M Occupational Therapists held?

C.1.1. You can request access to different types of records maintained by W&M Occupational Therapists , including the following:

- (a) Client Records
 - Client Contracts
 - Client Correspondence
 - Billing Records
 - Electronic Data Backups
- (b) Finance and Administration
 - Accounting Records
 - Annual Financial Statements
 - Banking Records
 - Correspondence
 - Invoices and Statements

- Tax Records and Returns
- SARS Returns
- (c) Human Resources
 - Accounting and Payroll Records
 - Letters of Employment
 - Leave Records
 - Returns to UIF
- (d) Information Management and Technology
 - Contracts and Agreements
 - Licences
 - Data bases

C.1.2. Description of the records of the body which are available in accordance with any other legislation [S 51(1)(d)]

- (a) See paragraph A.8.1 above.

C.2. When Access to Information may be Refused

There are various grounds under which an access to information request **may** or **must** be refused by an Information Officer of a private body, including but not limited to:

C.2.1. Protection of the privacy of a third party - An Information Officer of a private body **must not allow access to personal information of a natural person, including a deceased individual, except where:**

- a. Personal information of an individual who has given consent for this information to be released;
- b. Personal information which has already been made public;
- c. Personal information about a child under the age of 18 where the disclosure of such information is in the best interest of the child, and the requester is the child's carer (i.e. parent or guardian);
- d. Personal information of a deceased person to a requester who is the individual's next of kin, or who has been authorised (written consent) by the next of kin;
- e. Personal information of a deceased person who has been deceased for a period of more than 20 years;
- f. Personal information of an individual who is or was an official in a public or private body and where the information relates to their position as an official.

C.2.2. Protection of commercial information - **must refuse access to information if releasing that information would cause harm to the commercial or financial interests of the business. **PAIA** lists the following commercial information which cannot be disclosed by an Information Officer:**

- a. Trade secrets;

- b. Financial, commercial, scientific, research or technical information about us which, if released, would cause harm to us;
 - c. Information which had been supplied in confidence to us.
- C.2.3. Protection of confidential information - **PAIA** provides that an information officer **must** refuse access to a record if the release of the record will amount to a breach of a duty of confidence owed to a third party in terms of an agreement or contract.;
- C.2.4. Protection of the safety of individual and property - This section states that an information officer **must** refuse access to a record if the disclosure of the record could reasonably be expected to compromise the safety of an individual or property;
- C.2.5. Protection of information in legal proceedings – An Information Officer must refuse access to reports compiled for an insurance house when the assessment and report is paid for by the insurer. The requestor would be required to obtain access directly from the insurer. All assessing Therapists provide consent for release of the report to claimants, however requestors would be required to request it directly from the insurer. This refusal of access would additionally apply to reports compiled for medico-legal cases;
- C.2.6. Protection of Research Information - An Information Officer of a public or private body must refuse access to records which contain information relating to research which is or will be undertaken by the public or private body in question or a third party. This refusal of access to information is in circumstances where the disclosure of the record will expose the research of the third party or public or private body, the individual or institution carrying out the research, or the subject matter of the research to a serious disadvantage.

Part D: Forms

D.1. Access Request Form [A S 51(1)(b)(iv) & 51(1)(e)]



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:														
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:													

D. Particulars of record

(a) 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.
 (b) 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.

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

2. Reference number, if available:

3. Any further particulars of record:

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:

--

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 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 (audio cassette)		transcription of soundtrack* (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*		copy in computer readable form* (stiffy or compact disc)

*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	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.

1. Indicate which right is to be exercised or protected:

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

H. Notice of decision regarding request for access

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 of
.....year.....

.....

SIGNATURE OF REQUESTER /
PERSON ON WHOSE BEHALF REQUEST IS MADE

FEES

S 51(1)(e) Prescribed Fees

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY Section 54(7) of the Promotion of Access to Information Act No 2 of 2000. Regulation 11(3)

1 PLEASE NOTE THAT ALL PRICES LISTED BELOW ARE INCLUSIVE OF VALUE-ADDED TAX (VAT)

a	For every photocopy of an A4-size page or part thereof	R 1.25
b	For every printed copy of an A4-size page or part thereof held on a computer or in a electronic or machine-readable form	R .85
c	For a copy in a computer-readable form on	R 8.55
	(i) stiffy disc	R79.80
	(ii) compact disc	
d	(i) For a transcription of an aL record, for an A4-size page or part thereof	R45.60
	(ii) or a copy of an audio record	R68.40
e	(i) For a transcription of a record, for an A4-size page or part thereof	R22.80
	(ii) For a copy of an audio record	R34.20
f	To search for and prepare the record for disclosure - R34,20 for each hour or part thereof reasonably required for such search and preparation	

Section 54(2) of the Promotion of Access to Information Act No 2 of 2000.

Regulation 11(3)

2 PLEASE NOTE THAT ALL PRICES LISTED BELOW ARE INCLUSIVE OF VALUE-ADDED TAX (VAT)

- (a) Six hours as the hours to be exceeded before a deposit is payable; and
- (b) One third of the access fee is payable as a deposit by the requester.

Section 54(7) of the Promotion of Access to Information Act No 2 of 2000.
Regulation 11(3)

PLEASE NOTE THAT ALL PRICES LISTED ABOVE ARE INCLUSIVE OF VALUE-ADDED TAX (VAT)
The actual postage fee is payable when a copy of a record must be posted to a requester