

# Promotion of Access to Information (PAIA) and Protection of Personal Information (POPI) Manual

For Dr Cornelius J Victor, Clinical & Research Psychologist

This manual is published in terms of Section 51 of the Promotion of Access to Information Act, 2000 (Act 2 of 2000) (PAIA; “the Act”) and to address the requirements of the Protection of Personal Information Act, 2013 (Act 4 of 2013) (“POPIA”).

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# 1 INTRODUCTION

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The Promotion of Access to Information Act (Act 2 of 2000) (“PAIA” or “the Act”) gives 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, including amendments made in The Protection of Personal Information Act (Act 4 of 2013).

Specifically, section 51(1) of the Act, read with the Protection of Personal Information Act of 2013, requires a private body to compile a manual that must contain information as specified and required by both PAIA and POPI. In addition, the PAIA manual must set out the formal procedure that a person must follow to request to view, update or delete personal information held by the private body.

This private practice falls within the definition of a “private body”, and this manual has been compiled in accordance with the said provisions and to fulfil the requirements of the Act.

In terms of the Act, where a request for information is made to a body, there is an obligation to provide the information, except where the Act expressly provides that the information may not be released. In this context, Section 9 of the Act recognises that access to information can be limited. In general the limitations relate to circumstances where such release would pose a threat to the protection of privacy, commercial confidentiality, and the exercising of efficient governance.

Accordingly, this manual provides a reference to the records held and the process that needs to be adopted to access such records.

## 2 BUSINESS AND CONTACT DETAILS

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Name of Business: Dr Cornelius J Victor, Clinical & Research Psychologist

Business Description: The business is a private practice involved in various aspects of Psychology, including psychotherapy, counselling, training, policy and programme development

Business Entity: Sole Proprietor

Head of Business / Information Officer: Dr Cornelius (Niel) Victor. He is a registered Clinical & Research Psychologist and subject to the rules and regulations of the Health Professions Council of South Africa (HPCSA)

Postal Address: Palm Tree Wellness Centre, 17 Pentz Drive, Table View, Cape Town, Western Cape, 7441

Physical Address: Palm Tree Wellness Centre, 17 Pentz Drive, Table View, Cape Town, Western Cape, 7441

Phone Number: +27 21 556 5255

Email Address: [info@victorpsychology.co.za](mailto:info@victorpsychology.co.za)

Website: [www.victorpsychology.co.za](http://www.victorpsychology.co.za)

### 3 GUIDE FOR USERS (SECTION 51(1) OF PAIA)

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3.1 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.

3.2 Requests in terms of the Act must be made in accordance with the prescribed procedures, at the rates provided. The forms and tariff are dealt with in regulations 6 and 7 of the Act.

3.3 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. The Guide is available from the SAHRC.

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](http://www.sahrc.org.za)

Email: [PAIA@sahrc.org.za](mailto:PAIA@sahrc.org.za)

### 4 RECORDS AVAILABLE IN TERMS OF SECTION 52(2) OF THE ACT

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Not applicable.

## 5 RECORDS AVAILABLE WITHOUT A REQUEST TO ACCESS IN TERMS OF THE ACT

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The following information is available without having to fill out a form to request access in terms of the act:

- Documents and information on website
- Fees and payment options
- General practice terms and policies
- Publicly available articles and presentations by Dr Cornelius J Victor, Clinical & Research Psychologist

## 6 APPLICABLE LEGISLATION / STATUTORY RECORDS

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Information is available in terms of the following legislation, subject to conditions set by such laws. As legislation changes from time to time, and new laws may stipulate new matters and extend the scope of access by persons specified in such entities, this list should be read as not being a final and complete list.

At present these include records (if any) held in terms of:

- Income Tax Act 95 of 1967
- Protection of Personal Information Act 4 of 2013
- Promotion of Access to Information Act 2 of 2000
- Promotion of Access to Information Amendment Act 54 of 2002
- The National Health Act 61 of 2003
- Medicines and Related Substances Act 101 of 1965
- Children's Act 38 of 2005
- Mental Healthcare Act 17 of 2002
- Choice on Termination of Pregnancy Act 92 of 1996

- Sterilisation Act 44 of 1998
- Medical Schemes Act 131 of 1998
- Health Professions Act No. 56 of 1974

## 7 RECORDS THAT ARE HELD AT THE OFFICES OF THE BUSINESS

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The following list is a reference to the categories of information held by the business, ordered by subject.

It must be noted that, in the health sector, personal and patient information are protected by legislation and ethical rules, and disclosure can only take place, if at all, within those frameworks.

Subject	Category
Financial Records	Accounting records General reconciliation Asset register Bank statements Banking details and bank accounts Invoices issued and debtor reports Creditor invoices Contractor and supplier agreements Tax returns
Patient / client documents	Patient / client lists and details Health records Medical reports Agreements and consent forms Assessment results and reports Financial and accounts information

Operations	Marketing material IT policies and procedures Confidentiality policies and procedures Medical Aid agreements Current forms and rates of medical aids
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## 8 INFORMATION REQUEST PROCEDURE

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The requester must use the prescribed form to make the request for access to a record. A copy of the form is attached as Appendix A: Form C. The form is also available from the website of the Information Regulator (South Africa) at <https://justice.gov.za/inforeg/docs2-f.html>.

The request must be made to the Head of Business named in Section 2 above. This request must be made to the address, fax number or electronic mail address of the business.

- The requester must provide sufficient detail on the request form to enable the Head of Business to identify the record and the requester. The requester should also indicate which form of access is required. The requester should also indicate if any other manner should be used to inform the requester. If this is the case, please furnish the necessary particulars to be so informed
- The requester must identify the right that is sought to be exercised or to be protected and must provide an explanation of why the requested record is required for the exercise or protection of that right
- If a request is made on behalf of another person, the requester must submit proof of the capacity in which the requester is making the request to the satisfaction of Head of Business aforesaid
- The request fee, as prescribed by law, must be attached
- We will respond to your request within 30 days of receiving the request by indicating whether your request for access has been granted or denied
- Please note that the successful completion and submission of a request for access form does not automatically allow the requestor access to the requested record

Access will be granted to a record only if the following criteria are fulfilled:

- The record is required for the exercise or protection of any right; and
- The requestor complies with the procedural requirements set out in the Act relating to a request; and
- Access to the record is not refused in terms of any ground for refusal as contemplated in Chapter 4 of Part 3 of the Act.

## 9 REFUSAL OF ACCESS TO RECORDS

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Access can be denied by the business based on the following

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

- The commercial activities (section 68) of a private body, such as Dr Cornelius J Victor, Clinical & Research Psychologist, which may include:
  - Trade secrets of the private practice
  - Financial, commercial, scientific, or technical information which disclosure could likely cause harm to the financial or commercial interests of the private practice
  - Information which, if disclosed could put the private practice at a disadvantage in negotiations or commercial competition
  - A computer program which is owned by the private practice, and which is protected by copyright
  - The research information (section 69) of the private practice or a third party, if its disclosure would disclose the identity of the private practice, the researcher or the subject matter of the research and would place the research at a serious disadvantage
- Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused
- All requests for information will be assessed on their own merits and in accordance with the applicable legal principles and legislation
- If a requested record cannot be found or if the record does not exist, the Information Officer shall, by way of an affidavit or affirmation, notify the requester that it is not possible to give access to the requested record. Such a notice will be regarded as a decision to refuse a request for access to the record concerned for the purpose of the Act. If the record should later be found, the requester shall be given access to the record in the manner stipulated by the requester in the prescribed form, unless the Information Officer refuses access to such record

If access to a record or any other relevant information is denied, our response will include:

- Adequate reasons for the refusal; and
- Notice that you may lodge an application with the court against the refusal and the procedure including details of the period for lodging the application

## 10 FEES

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The applicable fees are prescribed in terms of the Regulations promulgated under the Act. There are two basic types of fees payable in terms of the Act.

### Request Fee

The non-refundable request fee is payable on submission of any request for access to any record. This does not apply if the request is for personal records of the requestor. No fee is payable in such circumstances.

### Access Fee

The access fee is payable prior to being permitted access to the records in the required form.

The applicable fees are prescribed in terms of Part III of Annexure A as identified in Government Notice Number 187, Regulation 11.

## 11 PROCESSING OF PERSONAL INFORMATION AS PER POPIA (2013)

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### 11.1 PURPOSE OF PROCESSING

The purpose of processing information from data-subjects (natural or juristic person) includes:

- Obtaining information necessary to provide contractually agreed services to patients and clients
- For retention of records as required by law
- To provide healthcare services,
- To access health products / benefits
- Collection of fees for the services so provided.

## 11.2 CATEGORIES OF DATA SUBJECTS

Data subjects are patients / clients of the business

## 11.3 RECIPIENTS TO WHOM INFORMATION MAY BE SUPPLIED

- Patients / clients of the business
- With written consent of patients / clients – unless emergency and consent waived, the following recipients:
  - Patient / client family of origin or family of choice
  - Healthcare providers
  - Medical Aids
- Testifying in a Court of Law based on Court Order

## 11.4 CATEGORIES OF PERSONAL INFORMATION PROCESSED

- Identifying particulars: Preferred pronoun, names, physical and postal addresses, ID number, telephone number and e-mail address, gender identify with
- Personal details: Occupation, Home language, Highest qualification
- Family details: Marital status, number of children and age / gender for each, name and contact details of person in case of emergency
- Payment details: Person responsible for account, medical aid details
- Referral source

## 11.5 CATEGORIES OF SPECIAL INFORMATION PROCESSED

- Physical / mental health details

## 11.6 TRANS-BORDER / CROSS BORDER FLOWS OF PERSONAL INFORMATION

It may be required from time to time need to share personal information of data subjects with third parties in other countries. Any sharing of personal information of data subjects with third parties in other countries will be done only if the recipient of the information is subject to a law, binding corporate rules or binding agreement which provide an adequate level of protection which effectively upholds principles for reasonable processing of the information that are substantially similar to the conditions for the lawful processing of

personal information relating to a data subject who is a natural person and, where applicable, a juristic person, as set out in the Protection of Personal Information Act and the data subject consents to the transfer.

Any such transfer will have to be shown to be necessary for the performance of a contract between the data subject and the recipient in question, or for the implementation of pre-contractual measures taken in response to the data subject's request.

## 11.7 GENERAL DESCRIPTION OF INFORMATION SECURITY MEASURES

We continuously establish and maintain appropriate, reasonable technical and organisational measures to ensure that the integrity of the Personal Information which may be in our possession or under our control, is secure and that such information is protected against unauthorised or unlawful processing, accidental loss, destruction or damage, alteration or access by having regard to the requirements set forth in law, in industry practice and generally accepted information security practices and procedures applicable. Current measures include:

### Physical Records:

- Physical records are kept in patient / client files in a filing cabinet in the private practice office that is locked at the end of the day, with the key kept by Dr Cornelius J Victor
- Spare key is kept at Dr Cornelius J Victor's residence in a fireproof metal safe
- The Palm Tree Wellness Centre's office building is locked at night, with alarm armed response
- No copies of physical records kept
- Dr Cornelius J Victor keeps a physical diary which is always on his person

### Electronic Records:

- Electronic records are stored on a password-protected laptop. The software on the laptop is regularly updated to protect against hacking, unauthorised access, tampering, and the like

- Electronic records are backed up to an external hard drive that is kept at Dr Cornelius J Victor's residence in a fireproof metal safe. Back-ups are only conducted by Dr Cornelius J Victor himself
- The practice's email accounts are password protected and is accessed through either a laptop or mobile phone, both of which are password protected. Vincent Victor, an independent contractor manages the security and access to the email accounts
- An electronic diary system is utilised that is password protected, and available only to Dr Cornelius J Victor and the Palm Tree Wellness Centre receptionist.
- The practice has its own mobile phone, with client contact information stored on it. The mobile phone is password protected and only used by Dr Cornelius J Victor and the receptionist. The phone is stored in a locked filing cabinet in the practice office outside working hours.
- Patient / client billing is done by Daphne Dykman at the residence of Dr Cornelius J Victor. All records remain at the residence and the billing programme, Panacea, has significant data protection measures in place
- Electronic records are only accessed via secure, and password protected WIFI connections
- Up-to-date technology is used to ensure the confidentiality, integrity, and availability of the personal information under his care. Measures include:
  - Firewalls
  - Virus protection software and update protocols
  - Logical and physical access control
  - Secure setup of hardware and software making up the IT infrastructure
- Any breaches to the integrity or security of patients' confidential information (e.g., damage or theft) will be communicated with the relevant patient(s) as soon as possible
- The two independent contractors (Vincent Victor – website, e-mail, and social media manager & Daphne Dykman – patient / client billing) as well as Palm Tree Wellness Centre's receptionist have signed agreements including non-disclosure, confidentiality as well as information security commitments

## 11.8 RETENTION OF PATIENT RECORDS

In accordance with Booklet 9 of the HPCSA, Guidelines on the Keeping of Patient Records, patient records are kept for a minimum period of six (6) years as from the date they become dormant, except where:

- “The patient is a minor, in which case records will be kept until the minor’s twenty-first birthday, or
- The patient is mentally incompetent, in which case records are kept for the duration of the patient’s lifetime.” (Section 9.3)

Any other exceptions to the minimum period of 6 years laid out in Booklet 9, Section 9: Duration for the Retention of Health Records, including any future amendments made by the HPCSA to this document, will be adhered to.

## 11.9 DESTRUCTION OF PRIVATE AND CONFIDENTIAL RECORDS

In relation to destroying patient records, Dr Cornelius J Victor makes use of industry guidelines and standards and/or will act according to directions and guidelines provided by the HPCSA.

# 12 MANUAL AVAILABILITY

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A copy of this manual is available:

- On our website: [www.victorpsychology.co.za](http://www.victorpsychology.co.za)
- At the practice office situated at Palm Tree Wellness Centre, 17 Pentz Drive, Table View, Cape Town, Western Cape
- On request from the Information Officer (see details above)

Any transmission costs or postage required in respect of hard copies of the Manual, will be for the account of the requester.

# 13 APPENDIX A: FORM C

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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

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:                      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:

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: Compliance with your request in the specified form may depend on the form in which the record is available. 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 for 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:					
	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.

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

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 .....20

SIGNATURE OF REQUESTER / PERSON ON  
WHOSE BEHALF REQUEST IS MADE