

PAIA Manual

This is the Promotion of Access to Information Manual (hereinafter referred to as “PAIA Manual”) of SHEQ 365 (Pty) Ltd (hereinafter referred to as “SHEQ 365”) prepared in accordance with Section 51 of the Promotion of Access to Information Act No 2 of 2000 (hereinafter referred to as “PAIA”).

Capitalised terms used in this PAIA Manual shall have the meanings assigned to them herein, unless otherwise specified. Any capitalised terms not defined in this PAIA Manual shall be interpreted in accordance with their commonly understood meaning within the context in which they are used. Unless the context indicates otherwise, (a) singular terms shall include the plural and vice versa, (b) references to any gender shall include all genders, and (c) references to persons shall include both natural and legal persons. Headings and numbering are included for ease of reference only.

1. Background to PAIA

- 1.1. PAIA was enacted on 3 February 2000, giving effect to the constitutional right in terms of Section 32 of the Bill of Rights contained in the Constitution of the Republic of South Africa 108 of 1996 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.
- 1.2. In terms of Section 51 of PAIA, all private bodies are obligated to compile a manual to access information held by those private bodies.
- 1.3. Where a request is made in terms of PAIA, the body to whom the request is made is obliged to release the information, subject to applicable legislative and/or regulatory requirements, except where PAIA expressly provides that the information may or must not be released. PAIA sets out the relevant procedure to be adopted when requesting information from a public or a private body.

2. Overview of SHEQ 365

- 2.1. SHEQ 365 is a provider of information technology services to professionals, home and small businesses, schools, churches, and non-profit organisations.
- 2.2. This PAIA Manual is available to view at SHEQ 365's premises:

**68 Hertzog Ave,
Pierre van Ryneveld,
0157**

and on the SHEQ 365 website at <https://www.sheq365.co/terms-and-conditions/>

3. Purpose of this PAIA Manual

- 3.1. This PAIA Manual is intended to ensure that SHEQ 365 complies with PAIA and to foster a culture of transparency and accountability within SHEQ 365 by giving effect to the right to information that is required for the exercise or protection of any right and to actively promote a society in which the people of South Africa have effective access to information to enable them to exercise and protect their rights.
- 3.2. In order to promote effective governance of private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights in terms of PAIA in order for them to exercise their rights in relation to public and private bodies.
- 3.3. Section 9 of PAIA recognises that the right to access information cannot be unlimited and should be subject to justifiable limitations, including, but not limited to:
 - Limitations aimed at the reasonable protection of privacy;

- Commercial confidentiality; and
- Effective, efficient, and good governance.

and in a manner which balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

4. Contact Details of the Managing Director

Managing Director: **Rudie Coetzee**
Registered Address: **68 Hertzog Ave, Pierre van Ryneveld, 0157**
Postal Address: **68 Hertzog Ave, Pierre van Ryneveld, 0157**
Telephone Number: **0826195838**
Website: <https://www.sheq365.co/>
E-mail Address: info@sheq365.co

5. The Information Officer (Section 51(1)(8))

- 5.1. PAIA prescribes the appointment of an Information Officer for public bodies, where such Information Officer is responsible for, among other things, assessing requests for access to information. The head of a private body fulfils this function in terms of Section 51. In the case of SHEQ 365, the Managing Director also serves as the Information Officer.
- 5.2. The Information Officer also refers to the Information Officer as referred to in the Protection of Personal Information Act 4 of 2013 ("POPIA"). The Information Officer is responsible for managing the obligations set forth by both PAIA and POPIA's Section 55, after registering with the Information Regulator. The officer ensures that all duties and responsibilities are properly carried out in accordance with these regulations.
- 5.3. The Information Officer may appoint Assistant or Deputy Information Officers, where deemed necessary, as allowed by Section 17 of PAIA and Section 56 of POPIA. SHEQ 365 aims to be as reasonably accessible as possible to Requesters seeking its records, in order to fulfill its obligations and responsibilities as mandated by Section 55 of POPIA. All requests for information under PAIA must be directed to the Information Officer.
- 5.4. Contact details of the Information Officer: Name:

Managing Director: **Rudie Coetzee**
Registered Address: **68 Hertzog Ave, Pierre van Ryneveld, 0157**
Postal Address: **68 Hertzog Ave, Pierre van Ryneveld, 0157**
Telephone Number: **0826195838**
Website: <https://www.sheq365.co/>
E-mail Address: info@sheq365.co

6. Guide of the South African Human Rights Commission

- 6.1. The South African Human Rights Commission has compiled a Guide as required in terms of Section 10 of PAIA ("Guide"). The Guide is designed to provide the necessary information to individuals who wish to exercise their rights under PAIA. As such, the Guide:
 - 6.1.1. contains information on understanding and how to use PAIA;
 - 6.1.2. includes:
 - the objectives of PAIA;
 - particulars of every public and private body;

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- the manner and form for requests;
- contents of the Regulations promulgated under PAIA.

6.1.3. will be updated and published every two years.

6.2. The Guide is available in all the official languages of the Republic of South Africa.

6.3. Any enquiries regarding this Guide should be directed to: The South African Human Rights Commission

PAIA Unit (The Research and Documentation Department) Private Bag X2700 Houghton 2041

Telephone Number: 011 877 3803
Fax Number: 011 403 0625
Website: <https://www.sahrc.org.za>
E-mail Address: section51.paia@sahrc.org.za

6.4. The Guide is available for inspection at the offices of the Human Rights Commission at 29 Princess of Wales Terrace, corner York and St. Andrews Street, Parktown and on its website at <https://www.sarhc.org.za/>.

(Please note: Section 6 applies to the Guide, not this PAIA Manual).

7. Latest Notice (Section 52(2))

7.1. At this time, no notice(s) has/have been published on the categories of records that are automatically available without a person having to request access in terms of PAIA.

8. Records available upon Request to Access in terms of PAIA (Section 51(1)(0))

8.1. Records held by SHEQ 365

For the purposes of this clause, "Personnel" refers to any person who is employed by or provides services on behalf of SHEQ 365 and receives or is entitled to receive remuneration and any other person who assists in carrying out or conducting the business of SHEQ 365. This includes but is not limited to directors (executive and non- executive), all permanent, temporary, and part-time staff, as well as contract workers.

8.1.1. Personnel records

- Personal records provided by Personnel.
- Records provided by a third party relating to Personnel.
- Conditions of employment and other Personnel-related contractual and quasi-legal records.
- Internal evaluation records and other internal records.
- Correspondence relating to Personnel.
- Training schedules and material.

8.1.2. Customer related records

For purposes of this clause, "Customer" refers to any natural or legal person that purchases products and services from SHEQ 365.

- Records provided by a Customer to a third party acting for or on behalf of SHEQ 365.
- Records provided by a third party.
- Records generated by or within SHEQ 365 relating to its Customers, including transactional records.

8.1.3. Private body records

- Financial records.
- Operational records.

- Databases.
- Information Technology.
- Marketing records.

8.1.4. Internal correspondence

- Product and service records.
- Statutory records.
- Internal Policies and Procedures.
- Records held by officials.

8.1.5. Third party records

- Personnel, Customer, or Private body records which are held by a third party, as opposed to the records held by SHEQ 365 itself.
- Records held by SHEQ 365 pertaining to other parties, including but not limited to financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about the contractors/suppliers.
- SHEQ 365 may possess records pertaining to other parties, including but not limited to contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, and service providers. It is possible that other parties may hold records that can be considered the property of SHEQ 365.

8.2. Please note that the accessibility of the records may be subject to the grounds of refusal set out in this PAIA Manual. Among other things, records deemed confidential on the part of a third party will require permission from the third party concerned, in addition to normal requirements, before SHEQ 365 will consider granting access.

9. Records available Without a Request to Access in terms of PAIA

- 9.1. Records of a public nature, typically those disclosed on the SHEQ 365 website and in its various annual reports, may be accessed without the need to submit a formal application.
- 9.2. Other non-confidential records, such as statutory records maintained at the Companies and Intellectual Property Commission (CIPC), may also be accessed without the need to submit a formal application. However, please note that an appointment to view such records will still have to be made with the Information Officer.

10. Records available in terms of Other Legislation

- 10.1. Where applicable to its operations, SHEQ 365 keeps records and documents in accordance with the legislation listed below.
- 10.2. Unless disclosure is prohibited by legislation, regulations, contractual agreement or otherwise, records that are required to be made available in terms of these acts will be made available for inspection by interested parties in accordance with the requirements and conditions of PAIA; the below-mentioned legislation; and applicable internal policies and procedures if such interested parties are entitled to such information. A request for access must be made in accordance with the prescriptions of PAIA.

Applicable legislation:

- Attorneys Act No. 53 of 1979;
- Basic Conditions of Employment Act No. 75 of 1997;
- Broad-Based Black Economic Empowerment Act, 2003;
- Business Act No. 71 of 1991;
- Companies Act No. 71 of 2008;
- Compensation of Occupational Injuries and Diseases Act No. 130 of 1993;
- Competition Act. No. 71 of 2008;
- Constitution of the Republic of South Africa 2008;

- Copyright Act No. 98 of 1978;
- Customs and Excise Act No. 91 of 1964;
- Debt Collectors' Act No. 114 of 1998;
- Designs Act No. 195 of 1993;
- Electronic Communications Act No. 36 of 2005;
- Electronic Communications and Transaction Act No. 25 of 2002;
- Employment Equity Act No. 55 of 1998;
- Financial Intelligence Centre Act No 38 of 2001;
- Identification Act No.68 of 1997;
- Income Tax Act No. 58 of 1962;
- Intellectual Property Laws Amendment Act 38 of 1997;
- Labour Relations Act No. 66 of 1995;
- Machinery and Occupational Safety Act No. 6 of 1983;
- National Credit Act No. 34 of 2005;
- National Road Traffic Act 93 of 1996;
- National Environmental Management Act No 107 of 1998;
- Occupational Health and Safety Act No. 85 of 1993;
- Patents Act No. 57 of 1978;
- Pension Funds Act No. 24 of 1956;
- Prescription Act No. 68 of 1969;
- Prevention of Organised Crime Act No. 121 of 1998;
- Promotion of Access to Information Act No. 2 of 2000;
- Protection of Personal Information Act No. 4 of 2013;
- Road Transportation Act. No. 74 of 1977;
- Skills Development Levies Act No. 9 of 1999;
- Tax Administration Act No. 28 of 2011;
- Trademarks Act No. 194 of 1993;
- Unemployment Contributions Act 63 of 2001;
- Unemployment Insurance Act No. 30 of 1966;
- Value Added Tax Act 89 of 1991.

10.2 It is further recorded that the accessibility of documents and records may be subject to the grounds of refusal set out in this PAIA Manual.

11. Request Procedure

11.1. The person making the request ("Requester") must comply with all the procedural requirements contained in PAIA relating to the request for access to a record.

11.2. The Requester must complete the prescribed form enclosed herewith and submit same as well as payment of a request fee and a deposit (if applicable) to the Information Officer or the Deputy Information Officer at the postal or physical address or e-mail address noted herein.

11.3. The prescribed form must be filled in with sufficient information to enable the Information Officer to identify:

11.3.1. the record or records requested; and

11.3.2. the identity of the Requester;

11.4. The Requester should indicate which form of access is required and specify a postal address and other contact information in the Republic of South Africa.

11.5. The Requester must state that they require the information to exercise or protect a right, and clearly state what the nature of the right is so to be exercised or protected.

11.6. The Requester must clearly specify why the record is necessary to exercise or protect such a right (Section 53(2)(d)).

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- 11.7. SHEQ 365 will process the request within thirty (30) days, unless the Requester has stated special reasons to the satisfaction of the Information Officer that circumstances dictate that the above time periods are not complied with.
- 11.8. The Requester will be advised whether access is granted or denied in writing. If the Requester wishes to receive the reasons for the decision in a specific manner, they must specify the desired method and provide any necessary details.
- 11.9. If a request is made on behalf of another person, then the Requester must submit proof of their capacity in which they are making the request to the reasonable satisfaction of the Information Officer (Section 53(2)(f)).
- 11.10. If a person is unable to complete the prescribed form due to illiteracy or disability, such person may make an oral request which shall be reduced to writing by SHEQ 365.
- 11.11. The Requester must pay the prescribed fee before any further processing can take place.
- 11.12. All information as listed in Clause 11 herein should be provided and failing which the process will be delayed until the required information is provided. The time periods prescribed by law will not begin until the Requester has provided all necessary and required information. If possible, the Information Officer will separate the requested record and grant access only to the portion that is not prohibited from disclosure.

12. Refusal of Access to Records

12.1. A private body such as SHEQ 365 is entitled to refuse a request for information.

12.1.1. The main grounds for SHEQ 365 to refuse a request for information relates to:

- mandatory protection of the privacy of a third party who is a natural person or a deceased person (Section 63) or a legal person, as included in POPIA, which would involve the unreasonable disclosure of personal information of that natural or legal 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 POPIA;
- mandatory protection of the commercial information of a third party (Section 64), if the record contains:
 - (a) trade secrets of the third party;
 - (b) financial, commercial, scientific, or technical information that could potentially harm the financial or commercial interests of the third party;
 - (c) information disclosed in confidence by a third party to SHEQ 365 if the disclosure could put the 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).
- commercial activities (Section 68) of a private body, including SHEQ 365, which may include:
 - (a) trade secrets of the private body;

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- (b) financial, commercial, scientific, or technical information, the disclosure of which could potentially harm the financial or commercial interests of the private body;
 - (c) information which, if disclosed, could put the private body at a disadvantage in negotiations or commercial competition.
 - (d) a computer program and other intellectual property which is owned by SHEQ 365, and which is protected by copyright.
 - (e) the research information (Section 69) of SHEQ 365 or a third party, if its disclosure would disclose the identity of SHEQ 365, the researcher or the subject matter of the research and would place the research at a serious disadvantage.
- requests for information that are deemed to be frivolous or vexatious, or that would require an unreasonable diversion of resources.

12.1.2. All requests for information will be assessed on their own merits and in accordance with the applicable legal principles and legislation.

12.1.3. If a requested record cannot be found or if the record does not exist, the Information Officer will, 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 PAIA. If the record should later be found, the Requester will 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.

13. Remedies Available when SHEQ 365 Refuses a Request

13.1. Internal Remedies

13.1.1. SHEQ 365 does not have internal appeal procedures. The decision made by the Information Officer is final.

13.1.2. If a request for information is denied and the Requester is not satisfied with the response provided by the Information Officer, the Requester may pursue external remedies that are available to them.

13.2. External remedies

13.2.1. A Requester that is dissatisfied with the Information Officer's refusal to disclose information may within thirty (30) days of notification of the decision apply to a Court for relief.

13.2.2. A third party dissatisfied with the Information Officer's decision to grant a request for information may within thirty (30) days of notification of the decision apply to a Court for relief.

13.2.3. For purposes of PAIA, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status and a Magistrate's Court designated by the Minister of Justice and Constitutional Development, and which is presided over by a designated Magistrate.

14. Access to Records held by SHEQ 365 - Prerequisites

14.1. Records held by SHEQ 365 may be accessed by Requesters only once the prerequisite requirements for access have been met.

14.2. There are two types of Requesters:

14.2.1. Personal Requester

- A personal Requester is a person making a request who is seeking access to a record containing personal information about themselves.

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- SHEQ 365 will voluntarily provide the requested information or give access to any record with regard to the personal Requester's personal information. The prescribed fee for reproduction of the information requested will be charged.

14.2.2. Other Requester

- This Requester is entitled to request access to information on third parties.
- In considering such a request, SHEQ 365 will adhere to the provisions of the Act. Section 71 requires that the Information Officer take all reasonable steps to inform a third party to whom the requested record relates of the request, informing them that they may make a written or oral representation to the Information Officer why the request should be refused or, where required, give written consent for the disclosure of the Information.

15. Fees Provided for by PAIA

15.1. PAIA provides for two types of fees, namely:

15.1.1. A Request Fee (refer to Clause 16.1), which is an administration fee paid by all persons making requests except personal Requesters before the request is considered and is not refundable; and

15.1.2. An Access Fee (refer to Clause 16.2), which is paid by all Requesters in the event that a request for access is granted and includes costs involved in obtaining and preparing a record for delivery to the Requester.

15.2. When SHEQ 365 receives a request from someone other than a personal Requester, they require them to pay the prescribed request fee before further processing their request (Section 54(1)).

15.3. If preparing a record for disclosure requires more than thirty (30) hours prescribed in regulations for this purpose, SHEQ 365 notifies them to pay as a deposit the prescribed portion of the access fee which would be payable if their request were granted.

15.4. SHEQ 365 will withhold the record until the Requester has paid all fees due.

15.5. A Requester whose request has been granted must pay an access fee calculated to include where applicable, reproduction and search fees and any time reasonably required in excess of thirty (30) hours to search for and prepare records for disclosure, including to arrange to make them available in the requested form.

15.6. If they refuse their request for access after they have paid a deposit, SHEQ 365 must repay it.

16. Fees

16.1. Request Fees

16.1.1. Where a Requester submits a request for access to information held by an institution on a person other than the Requester themselves, a request fee in the amount of R50 is payable up-front before SHEQ 365 will further process the request received.

16.2. Access Fees

16.2.1. An access fee is payable in all instances where a request for access to information is granted except in those instances where payment of an access fee is specially excluded in terms of PAIA, or the Minister determines an exclusion in terms of Section 54(8).

16.2.2. The applicable access fees which will be payable are:

- Information in an A4 size page photocopy or part thereof – R1.10
- A printed copy of an A4-size page or part thereof – R0.75
- A copy in computer-readable format, e.g., flash drive or CD/DVD – R75

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- A transcription of visual images, in an A4-size page or part thereof – R40
- A copy of visual images – R60
- A transcription of an audio record for an A4-size page or part thereof – R20
- A copy of an audio record – R75
- A search for a record that must be disclosed – R50 per hour or part of an hour reasonably required for such search
- Where a copy of a record needs to be posted – the postal fee is payable.

16.3. Deposits

- 16.3.1. Where SHEQ 365 receives a request for access to information held on a person other than the Requester themselves and the Information Officer upon receipt of the request is of the opinion that the preparation of the required record of disclosure will take more than six (6) hours, a deposit is payable by the Requester.
- 16.3.2. The amount of the deposit is equal to one third (1/3) of the amount of the applicable access fee.

16.4. Collection Fees

- 16.4.1. The initial “request fee” of R50 should be deposited into the bank account below and a copy of the deposit slip, application form and other correspondence/documents forwarded to the Information Officer via e-mail.
- 16.4.2. The officer will collect the initial “request fee” of applications received directly by the Information Officer via e-mail. 16.5.3 All fees must be deposited into the following bank account:

Bank:	First National Bank
Account Name:	SHEQ 365
Account Type:	Cheque
Account Number:	62821986124
Branch Code:	255355

- 16.5. All fees are subject to change as allowed for in PAIA and therefore such escalations may not always be immediately available at the time of the request being made. Requesters shall be informed of any changes in the fees prior to making a payment.

17. Decision

- 17.1. Upon receiving the request, SHEQ 365 will decide to either approve or reject it within a period of thirty (30) days. SHEQ 365 will then provide notification of its decision, along with any necessary explanations.
- 17.2. The thirty (30) day period within which SHEQ 365 has to decide whether to grant or refuse the request may be extended for a further period of not more than thirty (30) days if the request is for a large number of information or the request requires a search for information held at another office of SHEQ 365 and the information cannot reasonably be obtained within the original thirty (30) day period.
- 17.3. SHEQ 365 will notify the Requester in writing should an extension be sought.

18. Availability and Updating of the PAIA Manual under Regulation Number R.187 of 15 February 2002

- 18.1. This PAIA Manual is made available in terms of Regulation Number R.187 of 15 February 2002. SHEQ 365 will update this PAIA Manual at such intervals as may be deemed necessary.
- 18.2. This PAIA Manual is available to view at SHEQ 365's premises:

**68 Hertzog Ave,
Pierre van Ryneveld,
0157**

and on the SHEQ 365 website at <https://www.sheq365.co/terms-and-conditions/>

19. Prescribed Form C – Request for Access to Record of Private Body

19.1. The prescribed form may be obtained from the Information Officer, or can be downloaded from https://helloworld.co.za/policies/J752_PAIA_Form_C.pdf