

Malcor Medical Aid Scheme Manual to Accessing Information

This Manual has been prepared in terms of section 51 of the Promotion of Access to Information Act 2 of 2000 ("PAIA") and updated in the light of the Protection of Personal Information Act 4 of 2013 ("POPIA").

1. Introduction

This manual is for the Malcor Medical Aid Scheme, registration number 1547, registered with the Council for Medical Schemes.

2. Purpose of PAIA

PAIA is an act that was passed to give effect to the constitutional right, held by everyone in South African, of access to information which is held by the State or by another person and which is required for the exercise or protection of any right. Where a request is made in terms of PAIA, the body to which the request is made is obliged to give access to the requested information, except where the Act expressly provides that the information may or must not be released.

It is important to note that PAIA recognises certain limitations to the right of access to information, including, but not exclusively, 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.

POPIA was enacted in November 2013, to promote the protection of personal information processed by public and private bodies. POPIA amended certain provisions of PAIA, balancing the need for access to information against the need to ensure the protection of personal information.

3. Information manual

One of the main requirements specified in PAIA is the compilation of an information manual that provides information on both the types and categories of records held by a private body. This document serves as the Malcor Medical Aid Scheme's information manual. This Manual is compiled in accordance with section 51 of PAIA and the Schedule to POPIA. It is intended to give a description of the records held by and on behalf of the Malcor Medical Aid Scheme; to outline the procedure to be followed and the fees payable when requesting access to any of these records in the exercise of the right of access to information, with a view of enabling requesters to obtain records which they are entitled to in a quick, easy and accessible manner.

This Manual is available for public inspection:

- at the registered address of the Malcor Medical Aid Scheme as set out in the Rules of the Scheme, free of charge; and
- on this website, free of charge; and
- on request by any person (along with payment of a prescribed fee).

The Manual is available from the designated Information Officer of the Malcor Medical Aid Scheme; whose details appear below.

4. Contact details of the Information Officer of the Malcor Medical Aid Scheme

The responsibility for administration of, and compliance with, PAIA and POPIA have been delegated to the Information Officer.

Requests pursuant to the provisions of PAIA and/or POPIA should be directed to the Information Officer as follows:

Information Officer: Peter Dorfan
Postal Address: P.O. Box 8012
Greenstone
1616
Registered Address: 1 Discovery Place Sandton
2196
E-mail Address: pdorfan@gmail.com
Website: www.malcormedicalaid.co.za

5. Information Regulator's Guide

An official Guide has been compiled which contains information to assist a person wishing to exercise a right of access to information in terms of PAIA and POPIA. This Guide is made available by the Information Regulator (established in terms of POPIA). Copies of the updated Guide are available from Information Regulator in the manner prescribed.

Postal Address: The Information Regulator (South Africa)
P.O Box 31533
Braamfontein
Johannesburg
2017

Complaints email: complaints.IR@justice.gov.za
General enquiries email: infoereg@justice.gov.za

6. Automatic disclosure

A private body may, on a voluntary basis, make available a description of categories of records that are automatically available without a person having to request access in terms of PAIA.

The only fee for access to these records may be a prescribed fee for reproduction.

- Brochures;
- Trade circulars;
- Pamphlets.

7. Types and categories of records

RECORDS HELD IN ACCORDANCE WITH OTHER LEGISLATION

A requester may also request information that is available in terms of other legislation, such as:

- The Medical Schemes Act 131 of 1998 (where it applies to the Administrator of Medical

- Schemes);
- The Financial Advisory and Intermediary Services Act 37 of 2002;
 - The Labour Relations Act 66 of 1995;
 - Employment Equity Act 55 of 1998;
 - Basic Conditions of Employment Act 75 of 1997;
 - Compensation for Occupational Injuries and Diseases Act 130 of 1993;
 - Employment Equity Act 55 of 1998;
 - Financial Intelligence Centre Act 38 of 2001;
 - Income Tax Act 58 of 1962;
 - Occupational Health and Safety Act 85 of 1993;
 - Unemployment Insurance Act 63 of 2001;
 - Consumer Protection Act 68 of 2008;
 - The above is not an exhaustive list of statutes that may require the Malcor Medical Aid Scheme to keep records.

SUBJECT CATEGORIES OF RECORDS

The information is classified and grouped according to records relating to the following subjects and categories:

PERSONNEL RECORDS

"Personnel" refers to any person who works for or provides services to or on behalf of the Malcor Medical Aid Scheme and receives, or is entitled to receive, remuneration and any other person who assists in carrying out or conducting the business of the Malcor Medical Aid Scheme. It includes, without limitation, trustees, all permanent, temporary and part-time staff, as well as contract workers.

Personal records provided by personnel include:

- Records provided by a third party relating to the Malcor Medical Aid Scheme personnel;
- Conditions of employment and other personnel-related contractual and quasi-legal records, including job applications;
- Internal evaluation records and other internal records;
- Correspondence relating to, or emanating from, personnel (internal and external to the organization); and
- Training schedules and material;
- Payment records (and beneficiary payments), including banking details.

CLIENT RELATED RECORDS

"Client" refers to any natural or juristic entity that receives services from the Malcor Medical Aid Scheme, with the inclusion of member records held by Discovery Health (Proprietary) Limited who administers the Malcor Medical Aid Scheme. This includes prospective clients who submit applications to the Malcor Medical Aid Scheme, but which or who ultimately do not become the Malcor Medical Aid Scheme clients.

Requests for records pertaining to the diagnosis, treatment or health of members of the medical schemes administered by Discovery Health (Proprietary) Limited, is requested from the Malcor Medical Aid Scheme directly by following the Malcor Medical Aid Scheme PAIA prescribed process on the Malcor Medical Aid Scheme 's website.

Client related records include:

- Records provided by a client to a third party acting for or on behalf of the Malcor Medical Aid Scheme;
- Records provided by a third party (for example, records from a medical practitioner or financial

- adviser);
- Records generated by or within the Malcor Medical Aid Scheme and its administrator, Discovery Health (Proprietary) Limited, relating to its clients;
 - Transactional records and recorded call centre calls;
 - Correspondence with a client that is implicitly or explicitly of a private or confidential nature
 - Records pertaining to a client retrieved from "other sources", such as any credit bureau or credit providers' industry association.

PRIVATE BODY RECORDS

These records include, but are not limited to, the records which pertain to the Malcor Medical Aid Scheme 's own affairs. These include:

- Financial records;
- Operational records;
- Information technology;
- Communication;
- Administrative records, such as contracts and service level agreements;
- Product records;
- Statutory records; and
- Policies and procedures; and
- Terms of References.

OTHER PARTY RECORDS

These records include:

- Records held by the Malcor Medical Aid Scheme pertaining to other parties, including without limitation, financial records, correspondence, contractual records, records provided by the other party (for example third party beneficiaries or employees of a client), and records third parties have provided about the Malcor Medical Aid Scheme 's contractors / suppliers.
- the Malcor Medical Aid Scheme may possess records pertaining to other parties including, but not limited to, contractors, suppliers, and service providers and such other parties may possess records that can be said to belong to the Malcor Medical Aid Scheme.

8. Processing details

In terms of POPIA, data must be processed for a specified purpose. The purpose for which data are processed by the Malcor Medical Aid Scheme will depend on the nature of the data and the particular data subject. This purpose is ordinarily disclosed, explicitly or implicitly, at the time the data are collected.

PURPOSE OF THE PROCESSING AND ACCESS TO DATA

PERSONNEL DATA

the Malcor Medical Aid Scheme has access to and may process personnel data for business administration purposes. For example, personnel data are processed for payroll purposes. Personnel data are also processed to the extent required by legislation and regulation. For example, the Malcor Medical Aid Scheme may disclose employees' financial information to the Commissioner for the South African Revenue Service, in terms of the Income Tax Act 58 of 1962 and employee's sensitive personal information in terms of the Employment Equity Act 55 of 1998.

CLIENT RELATED DATA

The Malcor Medical Aid Scheme has access to and may process client related records as an integral

party of its services to its members. For example, the Malcor Medical Aid Scheme has access to client related records during the client application process, in assessing a client's profile and risk, in administering a client's health plan, and for academic research purposes. the Malcor Medical Aid Scheme may also gain access to data provided to it by credit bureaus or industry regulatory bodies (and other "sources", including a client's employer) to consider a client's application, to conduct underwriting or risk assessments, or to consider a claim for medical expenses to be processed by the Malcor Medical Aid Scheme 's administrator, Discovery Health (Proprietary) Limited.

This list of access of data for processing purposes is non-exhaustive.

THIRD PARTY DATA

The Malcor Medical Aid Scheme has access to and may process data of third party records for administration purposes.

OTHER PARTY DATA

The Malcor Medical Aid Scheme has access to and may process "other party" records for business administration purposes. For example, personnel data maybe processed in order to effect payment to contractors and / or suppliers.

In performing these various tasks, the Malcor Medical Aid Scheme may, amongst others, collect, collate, process, store and disclose personal information.

CATEGORIES OF DATA SUBJECTS

The Malcor Medical Aid Scheme has access to information and records on the following category of data subject:

- Employees / personnel of the Malcor Medical Aid Scheme;
- Clients of the Malcor Medical Aid Scheme;
- Any third party with whom the Malcor Medical Aid Scheme conducts its business services;
- Contractors of the Malcor Medical Aid Scheme;
- Suppliers of the Malcor Medical Aid Scheme;
- Service providers of the Malcor Medical Aid Scheme.

This list of categories of data subjects is non-exhaustive.

RECIPIENTS TO WHOM PERSONAL INFORMATION WILL BE SUPPLIED

Depending on the nature of the data, the Malcor Medical Aid Scheme may supply or give permission to supply information or records to the following categories of recipients:

- Statutory oversight bodies, regulators or judicial commissions of enquiry making a request for data (i.e. the National Credit Regulator in terms of the National Credit Act 34 of 2005);
- Any court, administrative or judicial forum, arbitration, statutory commission, or ombudsman making a request for data or discovery in terms of the applicable rules (i.e. the Competition Commission in terms of the Competition Act 89 of 1998);
- South African Revenue Services, or another similar authority;
- A contracted third party who requires this information to provide a healthcare service to a client or any dependant/s on the client's health plan;
- Third parties with whom the Malcor Medical Aid Scheme has a contractual relationship for the retention of data (for example, a third party archiving services);
- Research/ academic institutions;
- Auditing and accounting bodies (internal and external);
- Anyone making a successful application for access in terms of PAIA;

- Subject to the provisions of POPIA and the National Credit Act 34 of 2005, the Malcor Medical Aid Scheme may agree to share information about a client's creditworthiness with any credit bureau or credit providers industry association or other association for an industry in which the Malcor Medical Aid Scheme operates.

PLANNED TRANSBORDER FLOWS OF PERSONAL INFORMATION

Malcor Medical Aid Scheme may transfer and/or give permission to transfer personal information to a third party who is in a foreign country in order to administer certain services, but may only do so subject to the provisions of POPIA. For example, academic / market research may be conducted or by a contracted research and survey provider, which may be inside or outside South Africa. Thus internal cross-border transfers, as well as external cross-border transfers of information are envisaged, subject to the provisions of POPIA.

SECURITY MEASURES

Malcor Medical Aid Scheme ensures that extensive information security measures are taken and obtain such extensive information security confirmations from its service providers and contracted providers, to ensure the confidentiality, integrity and availability of personal information remain confidential. The Malcor Medical Aid Scheme obtain confirmation that appropriate technical and organizational measures is designed to ensure that personal data remain confidential and secure against unauthorized or unlawful processing and against accidental loss, destruction or damage.

9. Grounds for refusal of access to records

Malcor Medical Aid Scheme may refuse to agree to a request for information on the following basis:

- Mandatory protection of the privacy of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- Mandatory protection of the commercial information of a third party, if the record contains:
 - Trade secrets of that third party;
 - Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party; and
 - Information disclosed in confidence by a third party to the Malcor Medical Aid Scheme, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition.
- Mandatory protection of confidential information of third parties if it is protected in terms of any agreement or legislation;
- Mandatory protection of the safety of individuals and the protection of property;
- Mandatory protection of records which would be regarded as privileged in legal proceedings;
- The commercial activities of the Malcor Medical Aid Scheme, which may include:
 - Trade secrets of the Malcor Medical Aid Scheme;
 - Financial, which, if disclosed, could put the Malcor Medical Aid Scheme at a disadvantage in negotiations or commercial competition;
 - A computer program which is owned by the Malcor Medical Aid Scheme and which is protected by copyright.
- The research information of the Malcor Medical Aid Scheme or a third party, if its disclosure would disclose the identity of the institution, 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.

10. Access procedure

A requester is any person making a request for access to a record of, or held on behalf of the Malcor Medical Aid Scheme. The requester is entitled to request access to information, including information pertaining to third parties, but the Malcor Medical Aid Scheme is not obliged to grant such access. Apart from the fact that access to a record can be refused based on the grounds set out in paragraph 9 above, in order to successfully access information, the requester must fulfill the prerequisite requirements for access in terms of PAIA, including the payment of a request and access fee, where required by the Malcor Medical Aid Scheme.

ACCESS REQUEST PROCEDURE

A requester requiring access to information held by the Malcor Medical Aid Scheme must complete the prescribed form, enclosed herewith as [Annexure 2 \("Access Request Form"\)](#), and submit it to the Information Officer at the address provided and pay a request fee (and a deposit, if applicable). 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:

- The Access Request Form must be comprehensively completed.
- Proof of identity is required to authenticate the identity of the requester. Therefore, in addition to the access request form, requesters will be required to supply a copy of their identification document.
- Every applicable question must be answered. If a question does not apply "N/A" should be stated in response to that question. If there is nothing to disclose in reply to a particular question "Nil" should be stated in response to that question.

The Access Request Form must be completed with enough particularity to enable the Information Officer to identify: The record(s) requested;

- The identity number of the requester;
- The form of access required if the request is granted;
- The postal address or fax number of the requester.
- The requester must also state that he or she requires the information in order to exercise or protect a right, and clearly state the nature of the right to be exercised or protected. In addition, the requester must clearly specify why the record is necessary to exercise or protect such a right.

If a request is made on behalf of another person, then the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of the Information Officer.

If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.

The requester will be informed in writing whether access has been granted or denied. If, in addition, the requester requires the reasons for the decision in any other manner, he must state the manner and the particulars so required.

ACCESS TO HEALTH INFORMATION OR RECORDS

Where a request is made for access to information or a health record about the physical or mental health or well-being ("health information or records") of the requester or person acting on behalf of a person to whom a record relates, and the Information Officer is of the opinion that the direct disclosure of such health information or record would cause serious harm to the requester's physical and/or mental health or well-being, the Information Officer may, before granting the request for access, consult with a health practitioner nominated by the requester.

If the requester is

- under the age of 16 years, then a person having parental responsibilities must nominate the health practitioner; or
- incapable of managing his or her affairs, then a *curator bonis* or other person appointed by the court to manage his or her affairs must nominate the health practitioner.

If the health practitioner is of the opinion that the disclosure of the health information or record would likely cause serious harm to the requester's physical and/or mental health or well-being, the Information Officer may only grant access to the health information or record if the requester proves, to the satisfaction of the Information Officer, that adequate provision has been made for counselling or other arrangements before, during or after the disclosure of the health information or record to alleviate or avoid the harm to the requester.

Before the requester is given access to the health information or record, the person responsible for such counselling or arrangements must be given access to the health information or record.

PAYMENT OF FEES

Where applicable, payment details can be obtained from the Information Officer and can be made via a direct deposit. Proof of payment must be supplied when the Access Request Form is submitted.

The following fees are (or may be) payable:

- Request fee
- Access fee
- Reproduction fee
- Request fee

REQUEST FEE

Where required, an initial "request fee" is payable on submission of the Access Request Form. The prescribed fee is set out below in Annexure 1. Note that the requester may lodge a complaint to the Information Regulator or an application with a court against the tender or payment of the request fee.

ACCESS FEE

If the request for access is successful, an access fee could be payable. This fee is for the search, reproduction and/or preparation of the record(s). The access fee will be calculated based on the prescribed fees set out below in Annexure 1. Note that the requester may lodge a complaint to the Information Regulator or an application with a court against the tender or payment of the access fee.

REPRODUCTION FEE

This fee may be payable and is applicable in respect of documents/records which are voluntarily disclosed (see 'Automatic Disclosure' above). This is for reproduction, copying and transcribing the relevant documents / records. The reproduction fee will be calculated based on the prescribed fees set out below in Annexure 1.

DEPOSIT

If the search for, and the preparation of, the record for disclosure would, in the opinion of the Information Officer, require more than 6 hours, the requester may be required to pay as a deposit one third of the access fee (the fee which will be payable if the request is granted). Note that the requester may lodge a complaint to the Information Regulator or an application with a court against the tender or payment of the deposit.

If a deposit has been paid in respect of a request for access which is subsequently refused, then the Information Officer must refund the deposit to the requester.

The requester, where required, must pay the prescribed fee before any processing, or any further processing, can take place.

THIRD PARTY NOTIFICATION

Malcor Medical Aid Scheme must ensure that all reasonable steps are taken to inform a third party to whom or which a requested record relates if the disclosure of that records would -

- involve the disclosure of personal information about that third party;
- involve the disclosure of trade secrets of that third party; financial, commercial, scientific or technical information (other than trade secrets) of that third party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that third party; or information supplied in confidence by a third party, the disclosure of which could reasonably be expected to put that third party at a disadvantage in contractual or other negotiations; or to prejudice that third party in commercial competition;
- constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement; or
- involve the disclosure of information about research being, or to be, carried out by or on behalf of a third party, the disclosure of which would be likely to expose the third party, a person that is or will be carrying out the research on behalf of the third party, or the subject matter of the research, to serious disadvantage.

Malcor Medical Aid Scheme will inform the third party as soon as reasonably possible, but in any event, within 21 days after that request is received.

Within 21 days of being informed of the request, the third party may-

- make written or oral representations to the Information Officer why the request for access should be refused; or
 - give written consent for the disclosure of the record to the requester.
- the Malcor Medical Aid Scheme will notify the third party of the outcome of the request. If the request is granted, adequate reasons for granting the request will be given.

The third party may lodge a complaint to the Information Regulator or an application with a court against the decision within 30 days after notice is given, after which the requester will be given access to the record after the expiry of the 30-day period.

11. Notification of decision

The Information Officer will, within 30 days of receipt of the request, decide whether to grant or decline the request and give notice with reasons (if required) to that effect.

The 30-day period, within which the Malcor Medical Aid Scheme has to decide whether to grant or refuse the request, may be extended for a further period of not more than 30 days if the information cannot reasonably be obtained within the original 30-day period. For example, the time period may be extended if the request is for a large amount of information, or the request requires the Malcor Medical Aid Scheme to search for information held at another office of Discovery.

The Information Officer will notify the requester in writing should an extension be required. The requester may lodge a complaint to the Information Regulator or an application with a court against the extension.

12. Resolutions available when the Malcor Medical Aid Scheme refuses a request for information

INTERNAL

Malcor Medical Aid Scheme does not have internal appeal procedures. Therefore, the decision made by the Information Officer is final. Requesters who are dissatisfied with a decision of the Information Officer will have to exercise external options or alternatives at their disposal.

EXTERNAL

All complaints, by a requester or a third party, can be made to the Information Regulator or a court, in the manner prescribed below.

COMPLAINTS TO THE INFORMATION REGULATOR

The requester or third party, as the case may be, may submit a complaint in writing to the Information Regulator, within 180 days of the decision, alleging that the decision was not in compliance with the provisions of PAIA.

The Information Regulator will investigate the complaint and reach a decision - which may include a decision to investigate, to take no further action or to refer the complaint to the Enforcement Committee established in terms of POPIA. The Information Regulator may serve an enforcement notice confirming, amending or setting aside the impugned decision, which must be accompanied by reasons.

APPLICATION TO COURT

An application to court may be brought in the ordinary course. For purposes of PAIA, any reference to an application to court includes an application to a Magistrates' Court.

ANNEXURE 1: PRESCRIBED FEES

REPRODUCTION FEES

Where the Malcor Medical Aid Scheme has voluntarily provided the Minister with a list of categories of records that will automatically be made available to any person requesting access thereto, the only charge that may be levied for obtaining such records, will be a fee for reproduction of the record in question.

The applicable fees for reproduction as referred to above are: (VAT inclusive)	R
For every photocopy of an A4-size page or part thereof	1,25
For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form	
For a copy in a computer-readable form on:	
Stiffy disc	8,55
Compact disc	79,80
A transcription of visual images for an A4-size page or part thereof	45,60
For a copy of visual images	68,40
A transcription of an audio record, for an A4-size page or part thereof	22,80
For a copy of an audio record	34,20

REQUEST FEES

Where a requester submits a request for access to information held on behalf of 50,00 the Malcor Medical Aid Scheme on a person other than the requester himself/herself, the request fee is payable up-front before the institution will further process the request received.

ACCESS FEES

An access fee may be 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 the Act or an exclusion is determined by the Minister in terms of section 54(8). The applicable access fees which will be payable are:

The applicable fees which will be payable are: (VAT inclusive)	1,25
For every photocopy of an A4-size page or part thereof	
For every printed copy of an A4-size page or part thereof held on a computer or inelectronic or machine readable form	0,85
For a copy in a computer-readable form on:	
Stiffy disc	8,55
Compact disc	79,80
A transcription of visual images for an A4-size page or part thereof	45,60
For a copy of visual images	68,40
A transcription of an audio record, for an A4-size page or part thereof	22,80
For a copy of an audio record	34,20
To search for a record that must be disclosed (per hour or part of an hour reasonablyrequired for such search)	34,20

Where a copy of a record needs to be posted the actual postal fee is payable.

DEPOSITS

Where the Malcor Medical Aid Scheme receives a request for access to information held on a person other than the requester himself/herself and the Information Officer upon receipt of the request is of the opinion that the preparation of therequired record of disclosure will take more than 6 hours, a deposit is payable to the requester.

The amount of the deposit is equal to 1/3 of the amount of the applicable access fee.

Please note: In terms of Regulation 8, Value Added Tax (VAT) must be added to all fees prescribed in terms of theRegulations. Therefore, the fees reflected above are VAT inclusive.