



## PAIA Manual

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## 1. INTRODUCTION TO THE MARKETING CODE AUTHORITY

The Marketing Code Authority (“MCA”) is a non-profit self-regulatory body with voluntary membership drawn from manufacturers of medicines, medical devices and in vitro diagnostics (“IVDs”) and associate members drawn from stakeholders. The MCA has prepared and maintains the South African Code of Marketing Practice for Health Products (“the Code”), which lays down ethical rules for the marketing of health products (medicines, complementary medicines, medical devices and IVDs) by its members. The MCA’s functions include membership management as well as Code maintenance, enforcement and certification.

## 2. CONTACT DETAILS OF THE MCA

**Executive Officer:** Ms. V. Beaumont

**Information Officer:** Ms. V. Beaumont

**Physical Address:** c/o Unit 7 Boskruijn Business Park, Bosbok Rd, Randpark Ridge. 2169

**Postal Address:** PO Box 55311, Northlands, 2116

**Telephone Number:** +27 (0)63 044 5200

**E-mail address:** [info@marketingcode.co.za](mailto:info@marketingcode.co.za)

**Website address:** <http://www.marketingcode.co.za>

## 3. GUIDE OF THE SA HUMAN RIGHTS COMMISSION / INFORMATION REGULATOR

The South African Human Rights Commission (“SAHRC”) / Information Regulator compiled a Guide, in terms of Section 10 of the Promotion of Access to Information Act 2 of 2000 (“PAIA”), to assist persons wishing to exercise their rights in terms of this Act. This Guide contains, amongst others, the following information:

- The purpose of PAIA;
- The manner, form and costs of a request for access to information held by a body;
- Legal remedies when access to information is denied;
- When access to information may be denied; and
- The contact details of Information Officers in the national, provincial and local government.

The Guide is available in all the official languages on the website of the SAHRC at <https://www.sahrc.org.za/home/21/files/Section%2010%20guide%202014.pdf> or can be obtained from the Information Regulator at:

**Physical address:** JD House, 27 Stiemens Street, Braamfontein, Johannesburg, 2001

**Postal address:** PO Box 31533, Braamfontein, Johannesburg, 2017

**Telephone:** +27 (0) 10 023 5207 / +27 (0) 82 746 4173

**E-mail address:** [infoereg@justice.gov.za](mailto:infoereg@justice.gov.za)

**Website:** <https://www.justice.gov.za/infoereg/>

The publication of the Guide will become the responsibility of the Information Regulator with effect from 30 June 2021.

#### **4. RECORDS HELD BY THE MCA**

The MCA holds the following categories of records:

##### **4.1 Association records:**

Constitution of the MCA; governance documents (e.g., minutes of meetings); documents related to the nomination and appointment or election of board, committee and panel members; and other related documents.

##### **4.2 Membership records:**

Application forms and supporting documentation; and other membership-related documents.

##### **4.3 Code records:**

The Code, including Guidelines and supporting documents; Code certification records; Code enforcement records; and related documents.

##### **4.4 Employment records:**

Recruitment records; employment contracts; conditions of employment and work place policies; skills development plans and training records; salary register; relevant tax records; leave records; and related documentation.

##### **4.5 Financial records:**

Financial statements; auditors' reports; accounting records; bank statements; invoices, statements and receipts; VAT records; tax returns and related documentation.

##### **4.6 Records related to assets:**

Asset register and related records.

**4.7 Agreements:**

Agreements and related documentation with trade associations, contractors, consultants, suppliers, vendors and other relevant persons and entities.

**4.8 Public and private body (e.g., regulators and trade associations) records:**

Records, include business engagements, official documents published and correspondence.

**4.9 Legal records:**

Records related to legal advice and proceedings.

**4.10 Insurance records:**

Policies and related records.

**5. INFORMATION AVAILABLE IN TERMS OF LEGISLATION**

5.1 The MCA holds records as may be required in terms of the following legislation subject to the specific protection offered by these laws:

5.1.1 Basic Conditions of Employment Act 75 of 1997;

5.1.2 Compensation for Occupational Injuries and Diseases Act 130 of 1993;

5.1.3 Disaster Management Act 57 of 2002;

5.1.4 Electronic Communications and Transactions Act 25 of 2002;

5.1.5 Employment Equity Act 55 of 1998;

5.1.6 Income Tax Act 58 of 1962;

5.1.7 Labour Relations Act 66 of 1995;

5.1.8 Occupational Health and Safety Act 85 of 1993;

5.1.9 Promotion of Access to Information Act 2 of 2000;

5.1.10 Protection of Personal Information Act 4 of 2013;

5.1.11 Skills Development Levies Act 9 of 1999;

5.1.12 Skills Development Act 97 of 1998;

5.1.13 Unemployment Contributions Act 4 of 2002;

5.1.14 Unemployment Insurance Act 63 of 2001; and

5.1.15 Value Added Tax Act 89 of 1991.

**6. RECORDS AUTOMATICALLY AVAILABLE**

No notice has been submitted by the MCA to the Minister of Justice and Correctional Services regarding the categories of records, which are available without a person having to request access in terms of Section 52(2) of PAIA. However, the information on the website of the MCA, which includes the Code and supporting documents, is automatically available. Access and usage of the information on the website are subject to the Website Terms and Conditions as well as the Privacy Policy of the MCA.

## **7. PURPOSE OF PROCESSING PERSONAL INFORMATION**

7.1 The MCA processes personal information of data subjects for the following purposes:

- 7.1.1 to meet the MCA's objects, such as promoting and enforcing the Code as well as performing Code certification;
- 7.1.2 to enrol members, administer membership, collect membership fees and provide membership services;
- 7.1.3 for Code compliance purposes;
- 7.1.4 for governance purposes;
- 7.1.5 for communication purposes;
- 7.1.6 to engage with regulators and relevant public bodies on behalf of members;
- 7.1.7 for marketing purposes;
- 7.1.8 to facilitate the supply of services to the MCA;
- 7.1.9 for historical, statistical and research purposes;
- 7.1.10 for enforcement of the MCA's rights; and
- 7.1.11 any other lawful purpose related to the MCA's business.

## **8. DATA SUBJECTS, THEIR PERSONAL INFORMATION AND POTENTIAL RECIPIENTS OF INFORMATION**

The MCA holds the personal information in respect of the categories of data subjects specified below as may be relevant in the circumstances. The potential recipients of this information are also specified. Information and records are only disclosed to recipients as may be necessary in the circumstances and authorised in terms of the law or otherwise with the consent of the relevant data subject.

### **8.1 Members**

**Categories of personal information:**

Names and contact details of relevant persons at members such as the chief executive officers and compliance officers; information supplied on membership application forms, including members' annual turnovers according to broad fee bands; membership fees; payment-related information; VAT numbers; logos; information related to complaints, including complaint adjudication and appeals; regulatory information; health products; market segment; and correspondence.

**Potential Recipients:**

Board members; relevant employees; relevant committee and panel members; members; South African Revenue Service ("SARS"); relevant statutory and other public bodies banks; trade associations; members of the public (information accessible on the website); legal and professional advisers; debt collectors / attorneys; insurers; law enforcement structures; auditors; and relevant MCA service providers.

8.2 Board, Committee and Panel Members, Nominators and Nominees**Categories of personal information:**

Full names and surnames; title; contact details; identity numbers; gender; nationality; qualifications; members represented; employers; positions at members; signatures of official signatories; proof of residence of signatories; records created in the performance of their duties; and correspondence.

**Potential Recipients:**

Board members; relevant employees; relevant committee and panel members; members; SARS; relevant statutory and other public bodies; members of the public (information accessible on the website); banks; trade associations; legal and professional advisers; insurers; law enforcement structures; auditors; and relevant MCA service providers.

8.3 Employees**Categories of personal information:**

Full names and surnames; titles; contact details; identity numbers; race; gender; nationality; qualifications; registered professions; employment-related information; position and job descriptions; relevant health information; references; other information included in curriculum vitae ("CV"); health and safety-related incidents; records created in the performance of their duties; leave records; remuneration; employment benefits; absenteeism information; bank

details; tax numbers and related tax information; next-of-kin details; and correspondence.

***Potential Recipients:***

Members; board members; relevant employees; SARS; relevant statutory and other public bodies; members of the public (information accessible on the website); banks; trade associations; legal and professional advisers; insurers; law enforcement structures; auditors; executors of estates; and relevant MCA service providers.

8.4 Job Applicants

***Categories of personal information:***

Full names and surnames; contact details; identity numbers; age; race; gender; nationality; qualifications; registered professions; employment history and related information; relevant health information; information included on CVs; interview notes; references and correspondence.

***Potential Recipients:***

Board members; relevant employees; legal and professional advisers; auditors; law enforcement structures; and relevant MCA service providers.

8.5 Participants at MCA Events, Enrolees on Courses, Presenters and Recipients of Newsletters

***Categories of personal information:***

Organisation's name and contact details; full names and surname, titles, identity numbers and contact details of participants at events and enrolees in courses; course completion results and certification records as may be applicable; information submitted during registration processes (such as dietary requirements and SAAP membership); invoices and payment information; presenters' names, surnames, contact information and bank details; email addresses of newsletter recipients; and correspondence.

***Potential Recipients:***

Board members; relevant employees; relevant committee members; members / entities where individuals are employed; members of the public (information accessible on the website); banks; auditors; legal and professional advisers; trade associations; law enforcement structures; and relevant MCA service providers.



## 8.6 Contractors, Vendors, Suppliers and Service Providers

### ***Categories of personal information:***

Names and surnames; organisation names and details; relevant employees' / office bearers' / contact persons' details; contact details; website addresses; opinions; correspondence; market information; price structures; financial arrangements and VAT numbers.

### ***Potential Recipients:***

Board members; relevant employees; relevant committee members; banks; auditors; legal and professional advisers; trade associations; law enforcement structures; and relevant MCA service providers.

## 8.7 Insurers

### ***Categories of personal information:***

Names and contact details; premiums; benefits; payment-related information and correspondence.

### ***Potential Recipients:***

Board members; relevant employees; relevant committee and panel members; members; auditors; legal and professional advisers; relevant public bodies; banks; law enforcement structures; and relevant MCA service providers.

## 8.8 Public and Private Bodies (e.g., Regulators, Funders, Trade Associations)

### ***Categories of personal information:***

Names; contact details; office bearers / representatives; information published; and correspondence.

### ***Potential Recipients:***

Board members; relevant employees; relevant committee and panel members; members; members of the public (information accessible on the website); legal and professional advisers; auditors; law enforcement structures; and relevant MCA service providers.

## **9. PERSONAL INFORMATION SENT ACROSS THE BORDERS OF THE REPUBLIC OF SOUTH AFRICA**

The MCA stores electronic information, including personal information of data subjects, in the 'cloud'. Due care is taken in the selection of appropriate 'cloud' service providers to ensure compliance with the law and protection of the privacy of data subjects. The MCA currently uses Mailchimp (based in the United States of America [USA]) for the distribution of its newsletters. The e-mail addresses of recipients of the newsletters are stored by Mailchimp and as such in the USA. Relevant personal information may be sent across the borders of the RSA, if it must, for example, be sent to the compliance officers of companies (e.g., members) who are based in other countries. The MCA is not planning to send any other personal information to any other third party in a foreign country. Should this be required, relevant data subject consent will be obtained, if required, and transfers of such information will occur in accordance with the requirements of the law.

## **10. SECURITY MEASURES TO PROTECT PERSONAL INFORMATION**

The MCA is committed to ensuring the security of the personal information in its possession and under its control in order to protect it from unauthorised processing and access as well as loss, damage or unauthorised destruction. It continually reviews and updates its information protection measures to ensure the security, integrity and confidentiality of this information in accordance with industry best practices. The measures it adopts to ensure the security of personal information, includes technical and organisational measures and internal policies to prevent unauthorised access, loss or use of personal information, for example, password control to access electronic records and cloud storage. In addition, only those board and committee members and employees that require access to the information to discharge their functions are permitted access to the relevant information and only if they have concluded agreements with or provided undertakings to the MCA requiring them to implement appropriate security measures and to maintain the confidentiality of the information. Suppliers, service providers and vendors are required to adhere to the strict policies and processes implemented by the MCA, including duties related to confidentiality and protection of information, and are subject to sanctions for any security breach. All security breaches are taken seriously and are addressed in accordance with the law.

## **11. PROCEDURE TO OBTAIN ACCESS TO RECORDS OR INFORMATION**

The fact that information and records are held by the MCA as listed in this Manual should not

be construed as conferring upon any requester any right to that information or record. PAIA grants a requester access to records of a private body, if the record is required for the exercise or protection of any right. If a public body lodges a request, the public body must be acting in the public interest. Access to records and information (other than that listed on the MCA's website) is not automatic. Any person, who would like to request access to any of the above records or information, is required to complete a request form, which is available from the Information Officer of the MCA or the Information Regulator at the contact details stipulated above.

The requester must provide sufficient detail on the request form to enable the Information Officer to identify the record and the requester. The requester must identify the right he/she is seeking to exercise or protect and explain why the record requested 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 request is made to the satisfaction of the Information Officer. Access to the requested records or information or parts of the records or information may be refused in terms of the law. Requesters will be advised of the outcome of their requests.

## **12. FEES PAYABLE TO OBTAIN THE REQUESTED RECORDS OR INFORMATION**

Fees may be charged for requesting and accessing information and records held by the MCA. These fees are prescribed in terms of PAIA. Details of the fees payable may be obtained from the Information Officer. The fees are also available from the Information Regulator.

## **13. AVAILABILITY OF THIS MANUAL**

A copy of this Manual is available for inspection, free of charge, at the MCA's offices and on its website. A copy of the Manual may also be requested from the Information Officer against payment of a fee as may be applicable.