

MANUAL

OF

BUSINESS PARTNERS LIMITED PENSION FUND

Prepared in accordance with Section 51 of the Promotion of Access to Information Act,
No 2 of 2000.

(Private Body)

Last Updated: 30 March 2017

Information Officer

Date:

1 INTRODUCTION

1.1 The Promotion of Access to Information Act, No 2 of 2000 ("*the Act*") was enacted on 3 February 2000, giving effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights. Where a request is made in terms of the Act, the body to whom the request is made is obliged to release the information, **except where the Act expressly provides that the information may or must not be released**. The Act sets out the requisite procedural issues attached to such request.

1.2 PURPOSE OF THE MANUAL:

This manual is intended to foster a culture of transparency and accountability.

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 the Act in order for them to exercise their rights in relation to public and private bodies.

Section 9 of the Act however recognises that such right to access to 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.

Wherever reference is made to "Private Body" in this manual, it will refer to Business Partners Ltd Pension Fund, which operates as a defined benefit pension fund and for whom this manual is drafted.

PART I

2 CONTACT DETAILS

2.1	Information Officer:	KGOMOTSO RAMOENYANE
	Postal address:	P O Box 7780, Johannesburg, 2000
	Physical Address:	37 West Street, Houghton Estate, Johannesburg, 2198
	Tel:	(011) 713 6600 (national) +27 11 713 6600 (international)
	Fax:	(011) 713 6650
	E-mail:	enquiries@businesspartners.co.za

2.2 GENERAL INFORMATION

2.2.1	Name of Private Body:	Business Partners Limited Pension Fund
2.2.2	Postal Address:	P O Box 7780, Johannesburg, 2000
2.2.3	Physical Address:	37 West Street, Houghton Estate, Johannesburg, 2198
2.2.4	Telephone Number:	(011) 713 6600 (national) +27 11 713 6600 (international)
2.2.5	Chairman of Board of Trustees:	B Bierman
2.2.6	Facsimile number:	(011) 713 6650
2.2.7	E-mail:	enquiries@businesspartners.co.za
2.2.8	Website:	www.businesspartners.co.za

PART II

3 GUIDE OF SOUTH AFRICAN HUMAN RIGHTS COMMISSION

The South African Human Rights Commission has compiled the guide contemplated in Section 10 of the Act. The guide contains such information as may reasonably be required by a person who wishes to exercise any right contemplated in the Act. Any enquiries regarding this guide should be directed to:

The South African HUMAN RIGHTS COMMISSION,

at PAIA Unit (THE RESEARCH AND DOCUMENTATION DEPARTMENT),

Private Bag X2700, HOUGHTON, 2041;

Telephone Number: (011) 877 3600;

Facsimile Number: (011) 403 0684;

Website: www.sahrc.org.za;

E-mail Address: PAIA@sahrc.org.za.

PART III

3.1 RECORDS AUTOMATICALLY AVAILABLE (IF ANY)

At this stage no notice(s) has/have been published on the categories of records that are automatically available without a person having to formally request access to a record of the company in terms of the Act.

3.2 RECORDS OF BUSINESS PARTNERS LIMITED PENSION FUND

This clause serves as a reference to the records that the administrator or the fund holds in order to facilitate a request in terms of the Act.

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

It is recorded that the accessibility of the documents listed herein below is subject to the grounds of refusal set out in the Act.

3.2.1 MEMBER RECORDS

3.2.1.1 Member records provided by personnel;

3.2.1.2 Member files with salary status;

3.2.1.3 Records provided by a third party relating to personnel;

3.2.1.4 Conditions of employment and other personnel-related contractual and quasi-legal records;

3.2.1.5 Correspondence relating to members; and

"Member" refers to a member of the private body.

3.2.2 PRIVATE BODY RECORDS

3.2.2.1 INCORPORATION DOCUMENTS AND RECORDS:

3.2.2.1.1 Founding documents;

- 3.2.2.1.2 Minutes of meetings;
- 3.2.2.1.3 Constitution of business; and
- 3.2.2.1.4 Supply agreements.

- 3.2.2.2 FINANCIAL RECORDS:
 - 3.2.2.2.1 Financial statements;
 - 3.2.2.2.2 Investment account;
 - 3.2.2.2.3 Management accounts.

- 3.2.2.3 OPERATIONAL RECORDS:
 - 3.2.2.3.1 Written policies regarding business plan/activities;
 - 3.2.2.3.2 Database of customers;
 - 3.2.2.3.3 Application and nomination forms; and
 - 3.2.2.3.4 Correspondence with customers.

- 3.2.2.4 Databases;
- 3.2.2.5 Information Technology records;
- 3.2.2.6 Internal correspondence;
- 3.2.2.7 Statutory records;
- 3.2.2.8 Internal Policies and Procedures;
- 3.2.2.9 Treasury-related records; and
- 3.2.2.10** Records held by officials of the fund.

PART IV

4 GROUNDS FOR REFUSAL OF ACCESS TO RECORDS

The grounds for refusal are set out in the Act. The main grounds for the company to refuse a request for information relate to the -

- 4.1 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;
- 4.2 mandatory protection of the commercial information of a third party, if the record contains –
 - 4.2.1 trade secrets of that third party;
 - 4.2.2 financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
 - 4.2.3 information disclosed in confidence by a third party to the company, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- 4.3 mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- 4.4 mandatory protection of the safety of individuals and the protection of property;
- 4.5 mandatory protection of records which would be regarded as privileged in legal proceedings;
- 4.6 the commercial activities of the company, which may include –
 - 4.6.1 trade secrets of the company;
 - 4.6.2 financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of the company;
 - 4.6.3 information which, if disclosed could put the company at a disadvantage in negotiations or commercial competition;
 - 4.6.4 a computer program which is owned by the company, and which is protected by copyright.

- 4.7 the research information of the company or a third party, if its disclosure would disclose the identity of the company, 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.

5 REMEDIES AVAILABLE WHEN THE COMPANY REFUSES A REQUEST FOR INFORMATION

5.1 INTERNAL REMEDIES

The company does not have an internal appeal procedure. As such, the decision made by the information officer is final, and requesters will have to exercise such external remedies at their disposal if the request for information is refused, and the requester is not satisfied with the answer supplied by the information officer.

5.2 EXTERNAL REMEDIES

A requester that is aggrieved with an information officer's refusal to disclose information, or aggrieved with an information officer's decision in respect of fees; an extension of the period to deal with a request; or the form in which access will be given, may within 180 days of notification of the decision, apply to a Court by way of an application for appropriate relief in terms of the Act

Likewise, a third party aggrieved with an information officer's decision to grant a request for information, may within 180 days of notification of the decision, apply to a Court by way of an application for appropriate relief in terms of the Act.

For purposes of the Act, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status and the Magistrate's Court for any district or for any regional division within whose area of jurisdiction – (i) the decision of the information officer or the head of the private body has been taken; (ii) the private body concerned has its principal place of administration or business; or (iii) the requester or third party concerned is domiciled or ordinary resident.

6 REQUEST PROCEDURE

- 6.1 The requester must comply with all the procedural requirements contained in the Act relating to the request for access to a record of the company.
- 6.2 The requester must complete the prescribed form enclosed herewith in **Appendix 1**, and submit same as well as payment of a request fee and a deposit, if applicable to the Information Officer at the postal or physical address, fax number or electronic mail address as stated in 2.1 or 2.2 above.
- 6.3 The prescribed form must be filled in with enough particularity to at least enable the Information Officer to identify –
- 6.3.1 the record or records requested;
 - 6.3.2 the identity of the requester,
 - 6.3.3 which form of access is required, if the request is granted;
 - 6.3.4 the postal address or fax number of the requester.
- 6.4 The requester must state whether he or she requires the information in order to exercise or protect a right, and clearly state what the nature of the right is so to be exercised or protected. In addition, the requester must clearly specify why the record is necessary to exercise or protect such a right.
- 6.5 The company will process the request as soon as reasonably possible, but in any event within 30 days after the prescribed request form has been received or after the particulars required in terms of this paragraph 6 have been received, unless the requester has stated special reasons which would satisfy the Information officer that circumstances dictate that the above time periods not be complied with.
- 6.6 The requester shall be informed whether access is granted or denied. If, in addition, the requester requires the reasons for the decision in any other manner, he or she must state the manner and the particulars so required.
- 6.7 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.
- 6.8 If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.

- 6.9 The requester must pay the prescribed fee, before any further processing can take place.

7 ACCESS TO RECORDS HELD BY THE COMPANY

- 7.1 Records held by the company may be accessed by requests only once the prerequisite requirements for access have been met.

- 7.2 A requester is any natural or juristic person making a request for access to a record of the company. A requester also refers to the person who is making a request for access to a record of the company on behalf of a natural or juristic person. There are two types of requesters:

7.2.1 PERSONAL REQUESTER

- 7.2.1.1 A personal requester is a requester who is seeking access to a record containing personal information about the requester.

- 7.2.1.2 The company will voluntarily provide the requested information, or give access to any record with regard to the requester's personal information. The prescribed fee for reproduction of the information requested will be charged.

7.2.2 OTHER REQUESTER

- 7.2.2.1 This requester (other than a personal requester) is entitled to request access to a record of the company including information pertaining to third parties. Third parties refers to any natural or juristic person who is not the requester for access to a record of the company, nor the body to whom the request is made. However, the company is not obliged to voluntarily grant such access. Apart from the fact that access to a record can be refused based on the grounds set out in paragraph 4 above, in order to successfully access information the requester must fulfil the prerequisite requirements for access in terms of the Act, including the payment of a request and access fee.

8 FEES

- 8.1 The following fees are (or may be) payable as indicated in and enclosed herewith in **Appendix 2**, namely:
- 8.1.1 Reproduction fee
- 8.1.2 Request fee;
- 8.1.3 Access fee;
- 8.2 When the request is received by the Information Officer, such officer shall by notice require the requester, other than a personal requester, to pay the prescribed request fee (if any), before further processing of the request.
- 8.3 If the search for the record has been made and the preparation of the record for disclosure, including an arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the information officer shall notify the requester to pay as a deposit the prescribed portion of the Access fee which would be payable if the request is granted.
- 8.4 The information officer shall withhold a record until the requester has paid the fees as indicated in **Appendix 2**.
- 8.5 A requester whose request for access to a record has been granted, must pay an access fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the request form.
- 8.6 A requester may lodge an application with a court against the tender or payment of the applicable fees and/or deposit.
- 8.7 If a deposit has been paid in respect of a request for access, which is refused, then the information officer concerned must repay the deposit to the requester.

9 DECISION

- 9.1 The company will, as soon as reasonably possible, but in any event within 30 days of receipt of the prescribed request form or after the particulars required in terms of paragraph 6 above have been received, decide whether to grant or decline the request and give notice with reasons (if required) to that effect.
- 9.2 The 30 day period within which the company has to decide whether to grant or refuse the request, may be extended for a further period of not more than thirty 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 a search for information held at another office of the company and the information cannot reasonably be obtained within the original 30 day period. The company will notify the requester in writing should an extension be sought.

10 LIST OF APPLICABLE LEGISLATION:

- 10.1 A table of legislation setting out a description of the records of the company which are kept in accordance with other legislation, is annexed hereto marked **Appendix 3**.
- 10.2 This table is not an exhaustive list of legislation that may require the company to keep records.
- 10.3 Records kept in respect hereof, may in certain instances (and insofar as the information contained therein is of a public nature) be available for inspection without a person having to request access thereto in terms of the Act.

11 AVAILABILITY OF THE MANUAL

- 11.1 This manual is available for inspection by the general public upon request, during office hours and free of charge, at the offices of the company. Copies of the manual may be made, subject to the prescribed fees.
- 11.2 Copies may also be requested from the South African Human Rights Commission.
- 11.3 The manual of the company will also be available on the website of the company.

PRESCRIBED FORM TO BE COMPLETED BY A REQUESTER

FORM C

REQUEST FOR ACCESS TO RECORDS OF PRIVATE BODY

(Section 53(1) of the Promotion of Access to Information Act, No 2 of 2000)

(Regulation 10)

A. Particulars of private body

The Head:

B. Particulars of Person requesting access to the record

(a) *The particulars of the person who requests access to the records must be recorded below.*

(b) *Furnish an address and/or fax number in the Republic to which information must be sent.*

(c) *Proof of the capacity in which the request is made, if applicable, must be attached.*

Full Name and Surname: _____

Identity Number: _____

Postal Address:

Telephone Number: _____

Fax Number: _____

E-mail address: _____

Capacity in which request is made, when made on behalf of another person:

C. Particulars of person of whose behalf request is made:

This section must be completed only if a request for information is made on behalf of another person

Full names and Surname:

Identity Number: _____

D. Particulars of Record:

- (a) *Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.*
- (b) *If the provided space is inadequate please continue on a separate folio and attach it to this form. **The requester must sign all the additional folios***

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

2. Reference number, if available:

2. Any further particulars of the record:

E. Fees:

- (a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a **request fee** has been paid.
- (b) You will be notified of the amount of the request fee.
- (c) The **fee payable for access** to a record depends on the form in which the access is required and the reasonable time required to search for and prepare a record.
- (d) If you qualify for exemption of the payment of any fee, please state the reason therefore.

Reason for exemption of payment of the fee:

F. Form of Access to the 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:
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>

Mark the appropriate box with an "X"

NOTES:

- (a) Your indication as to the required form of access depends on the form in which the record is available.
- (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.
- (c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.

1. If the record is in written or printed form:			
	Copy of record *		Inspection of record

2. If the 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 the 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 the 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? A postal fee is payable.	YES	NO
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G. Particulars of right to be exercised or protected:

If the provided space is inadequate, please continue on separate folio and attach it to this form. <i>The requester must sign all the additional folios</i>

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

2. Explain why the requested record is required for the exercising 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 thereof 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 _____ 200_____

SIGNATURE OF REQUESTER/

PERSON ON WHOSE BEHALF REQUEST IS MADE

REPRODUCTION FEES

A reproduction fee will be applicable in respect of documents/records which have been voluntarily disclosed and automatically made available by the company in terms of paragraph 3.1 in the above company manual. For example, where the institution 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 reproducing, copying and transcribing the relevant documents/records and will be calculated based on the applicable fees for reproduction of the record in question.

THE APPLICABLE FEES FOR REPRODUCTION AS REFERRED TO ABOVE ARE:

	R
• For every photocopy of an A4-size page or part thereof	1,10
• For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form	0,75
• For a copy in a computer-readable form on	
- Stiffy disc	7,50
- Compact disc	70,00
• A transcription of visual images, for an A4-size page or part thereof	40,00
• For a copy of visual images	60,00
• A transcription of an audio record, for an A4-size page or part thereof	20,00
• For a copy of an audio record	30,00

Request fees:

Where a requester submits a request for access to information held by an institution on a person other than a personal requester seeking access to a record containing personal information about the requester himself/herself, a request fee in the amount of R50,00 is payable up-front before the institution will further process the request received.

Access fees:

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 the Act or an exclusion is determined by the Minister in terms of Section 54 (8). This fee is for the search, reproduction and/or preparation time and cost as well as postal costs of the record(s) and will be calculated based on the applicable fees for access.

The applicable access fees which will be payable are:

	R
• For every photocopy of an A4-size page or part thereof	1,10
• For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form	0,75
• For a copy in a computer-readable form on	
- Stiffy disc	7,50
- Compact disc	70,00
• A transcription of visual images, for an A4-size page or part thereof	40,00
• For a copy of visual images	60,00
• A transcription of an audio record, for an A4-size page or part thereof	20,00
• For a copy of an audio record	30,00
• To search for and prepare the record to be disclosed per Hour or part of an hour reasonably required for such search and preparation.	30,00
• Where a copy of a record needs to be posted the actual postal fee is payable.	

Deposits:

Where the institution receives a request for access to information held on a person other than a personal requester seeking access to a record containing personal information requester himself/herself 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 6 (six) hours, a deposit is payable by the requester.

The amount of the deposit is equal to $\frac{1}{3}$ (one third) of the amount of the applicable access fee.

Note: In terms of Regulation 8, Value Added Tax (VAT) must be added to all fees prescribed in terms of the Regulations. The fees reflected above are VAT exclusive.

Table of Legislation

Legislation	Specific Section/ regulation	Description of Documents
Insolvency Act No. 24 of 1936	Section 21	7 Before awarding any creditor a share in the proceeds, the trustee may require the creditor to lodge with him, within a period to be determined by the Master, an affidavit, supported by such evidence as may be available, setting forth the result of such excussion and disclosing the balance of his claim which remains unpaid
	Section 44	4 Every claim shall be proved by affidavit which may be made by the creditor or by any person fully cognisant of the claim. The said affidavit or a copy thereof and any documents submitted in support of the claim shall be delivered at the office of the officer who is to preside at a meeting of creditors
	Section 152	If at any time after the sequestration of the estate of a debtor and before his rehabilitation, the Master is of the opinion that the insolvent or the trustee of that estate or any other person is able to give any information which the Master considers desirable to obtain concerning the insolvent or concerning his estate or the administration of the estate or concerning any claim or demand made against the estate he may by notice in writing delivered to such other person summon him to appear before the Master or before a magistrate or an officer in the public service mentioned in such notice at a place and on a date and hour stated in such notice and to furnish the Master or other officer before him he is summoned to appear with all the information within his knowledge concerning the insolvent or concerning the insolvent's estate or the administration of the estate
Constitution of SA Act No. 108 of 1996	Section 32	1(b) Everyone has the right to access to any information that is held by another person and that is required for the exercise or protection of any rights. The rights in terms of the constitution are limited in terms of sec 36.

<p>Pension Funds Act No. 24 of 1956</p>	<p>Sections 15 and 35</p>	<p>(a) The Act provides for the registration, incorporation, regulation and dissolution of pension funds and for matters incidental thereto.</p> <p>(b) Section 15(1) provides that every registered fund shall within six months as from the expiration of every financial year furnish to the registrar such statements in regard to its revenue, expenditure and financial position as may be prescribed by regulation, duly audited and reported on by the auditor of the fund.</p> <p>(c) Section 35 (1) provides that every registered fund shall deliver to any member on demand by such member, and on payment of such sum as may be determined by the rules of the fund, a copy of any of the following documents, that is to say-</p> <ol style="list-style-type: none"> (1) the rules of the fund; (2) The last revenue account and the last balance sheet prepared in terms of sub-section (1) of section fifteen. <p>(d) Section 35 (2) provides that any member shall be entitled to inspect without charge at the registered office of a registered fund, a copy of any of the following documents and make extracts therefrom, that is to say-</p> <ol style="list-style-type: none"> (1) the documents referred to in sub-section (1); (2) the last report (if any) by a valuator prepared in terms of section sixteen; (3) the last statement (if any) and report thereon prepared in terms of section seventeen; (4) any scheme which is being carried out by the fund in accordance with the provisions of section eighteen.
<p>Electronic Communication and Transaction Act 25 of 2002</p>	<p>Section 51</p>	<p>Personal information and the purpose for which the data was collected must be kept by the person who electronically requests, collects, collates, processes or stores the information for as long as such information is used, and at least 1 year thereafter. A record of any third party to whom the information was disclosed must be kept for as long as the information is used and at least 1 year thereafter. All personal data which has become obsolete must be destroyed</p>

<p>Protection of Personal Information Act 4 of 2008</p>	<p>Section 14</p>	<p>Personal information must not be retained for any longer than is necessary to achieve the purpose for its collection. If there is no legal requirement to keep the information, it should be deleted. The Act therefore places an obligation on the person collecting the data to delete or remove it at a certain time. Records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed, unless:</p> <ul style="list-style-type: none"> (a) retention of the record is required or authorised by law; (b) the responsible party reasonably requires the record for lawful purposes related to its functions or activities; (c) retention of the record is required by a contract between the parties thereto; or (d) the data subject or a competent person where the data subject is a child has consented to the retention of the record.
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