

**MANUAL PREPARED BY CHERRYWOOD HOUSE (PTY) LTD IN TERMS OF
SECTION 51 OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2 OF 2000**

DEFINITIONS

- 1.1 **“Data subject”** means the person to whom personal information relates;
- 1.2 **“Information officer”** means the designated Information Officer of Cherrywood House as identified in this manual who is responsible for discharging the duties and responsibilities assigned to the Information Officer in terms of PAIA and POPIA;
- 1.3 **“PAIA”** means the Promotion of Access to Information Act, 2 of 2000;
- 1.4 **“Personal information”** means information relating to an identifiable, living, natural person, and where it is applicable, and identifiable, existing juristic person, including but not limited to –
 - 1.4.1 Information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth;
 - 1.4.2 Information relating to the education or the medical, financial, criminal or employment history of the person;
 - 1.4.3 Any identifying number, symbol, e-mail address, physical address, telephone number, location number, online identifier or other particular assignment to the person;
 - 1.4.4 The biometric information of the person;

- 1.4.5 The personal opinions, views or preferences of the person;
- 1.4.6 Correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- 1.4.7 The views or opinions of another individual about the person; and
- 1.4.8 The name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;

1.5 “**POPIA**” means the Protection of Personal Information Act, 4 of 2013.

INTRODUCTION

- 2 This manual is published in terms of section 51 of the Promotion of Access to Information Act, 2 of 2000 (“**PAIA**”).
- 3 It is intended to guide members of the public who wish to exercise a legitimate entitlement to access documentation held by Cherrywood House. It also explains how and for what purpose Cherrywood House processes personal information as contemplated in the Protection of Personal Information Act, 4 of 2013 (“**POPIA**”).
- 4 Members of the public will find this manual useful for the following purposes:
 - 4.1 Establishing which documents and information are held by Cherrywood House and for what purpose.

- 4.2 Understanding the data security measures implemented by Cherrywood House to ensure the protection and integrity of personal/confidential information which it holds.
- 4.3 Understanding the process that must be followed to submit a request for access to records or other information held by Cherrywood House.
- 4.4 Understanding the extent of the entitlement to access records or other information.
- 4.5 Understanding the process that must be followed in order to object to the processing of personal information or request that personal information recorded by Cherrywood House is corrected or deleted.
- 5 This document does not purport to be exhaustive of or comprehensively deal with every procedure provided for in the PAIA or the POPIA. A requester is advised to familiarise his/her/itself with the provisions of the PAIA and the POPIA before lodging any request with Anker Huis.
- 6 The Information Regulator has made available a guide on how to use the PAIA as it is required to do in terms of section 10 of the Act. This guide can be accessed at <https://www.justice.gov.za/infoereg/>. Any information or queries related to the guide, or to PAIA or POPIA should be directed to –

The Information Regulator	Telephone: 012 406 4818 Email: infoereg@justice.gov.za
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PAIA AND POPIA

- 7 The PAIA is national legislation enacted to give effect to the constitutional right of access to information. It entitles any member of the public to access a record or records held by a private body if that person can demonstrate that: (a) they require the document to exercise or protect a right; and (b) none of the statutory grounds of refusal listed in chapter 4 of PAIA apply to the record/s in issue.
- 8 Private institutions such as Cherrywood House are required to appoint an “information officer” to handle requests for records submitted in terms of PAIA and must also publish a manual explaining how its records can be accessed.¹
- 9 The POPIA imposes a range of obligations and limitations on organisations which undertake “processing”² of personal information. Broadly, companies are required to handle personal information in a manner that is accountable, accurate, secure, consensual and done for a specified purpose.
- 10 In terms of section 17 of the POPIA, a private body must document the systems by which it processes personal information in the manual contemplated in section 51 of PAIA.
- 11 Both the PAIA and the POPIA are administered by the Information Regulator.

¹ PAIA, section 51.

² Defined in section 1 of POPIA to mean “any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use; (b) dissemination by means of transmission, distribution or making available in any other form; or (c) merging, linking, as well as restriction, degradation, erasure or destruction of information.”

OVERVIEW OF CHERRYWOOD HOUSE

- 12 Cherrywood House is an addiction treatment facility providing residential care to people who suffer from substance abuse disorders or process disorders. The standard period for residential treatment is 8 weeks.
- 13 The admission of patients to Cherrywood House is subject to an admission policy with set exclusion criteria. Every prospective patient must undergo an initial assessment during which information is collected concerning the nature and extent of their addiction, relevant medical history and any criminal records.
- 14 The facility subscribes to an evidence-based treatment approach, meaning that the treatment programme consists of a combination of individual and group therapy, as well as ancillary recovery-oriented activities. Each patient is allocated an individual counsellor to manage their process and engage in a process of talk therapy.

CHERRYWOOD HOUSE INFORMATION OFFICER

- 15 The Cherrywood House information officer is its Managing Director Shelagh Wood. Any queries or processes arising from the POPIA or the PAIA may be directed to her.

Shelagh Wood	Tel: 082 775 5973 Email: info@cherrywoodhouse.com
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RECORDS HELD BY CHERRYWOOD HOUSE

Automatically available information

- 16 At the time of publication of this guideline, no notices have been promulgated in terms of PAIA stipulating the categories of records which must be made automatically available without the necessity of a request.
- 17 Accordingly, the information which Cherrywood House makes freely available is that which is displayed on its website (www.cherrywoodhouse.com).

Legislation in terms of which Cherrywood House holds records

- 18 Cherrywood House holds a variety of records pursuant to compliance with the following statutes:
- 18.1 The Basic Conditions of Employment Act 75 of 1997;
 - 18.2 The Companies Act, 71 of 2008;
 - 18.3 The Compensation for Occupational Injuries and Diseases Act, 130 of 1993;
 - 18.4 The Income Tax Act, 58 of 1962;
 - 18.5 The Labour Relations Act, 66 of 1995;
 - 18.6 The Skills Development Levies Act, 9 of 1999;
 - 18.7 The Skills Development Act, 9 of 1999;

18.8 The Unemployment Insurance Act, 63 of 2001;

18.9 The Mental Health Care Act, 17 of 2002.

18.10 The National Health Act, 61 of 2003;

18.11 The Value Added Tax Act, 89 of 1991.

Categories of records held by Cherrywood House

19 The table below describes the types of documents held by Cherrywood House in relation to distinct aspects of the business. These documents are not automatically available and a person wishing to access them must first submit a request in terms of the PAIA.

Statutory records	<ul style="list-style-type: none">• Company incorporation documents• Share register• Memorandum of Incorporation• Minutes of meetings of the board of directors• Records relating to the appointment of directors, auditors, and other officers
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<p>Clinical documents</p>	<ul style="list-style-type: none">• Pre-admission assessment• Contemporaneous clinical notes kept by counsellors, general medical practitioners and psychiatrists• Medication charts and medication error reports• Incident reports• Discharge reports
<p>Income tax</p>	<ul style="list-style-type: none">• Pay-as-you-earn records• Documents issued to employees for income tax purposes• Records of payments made to South African Revenue Services on behalf of employees• All or any statutory compliance• Value Added Tax• Skills development levies

	<ul style="list-style-type: none">• Unemployment Insurance Fund
Labour relations	<ul style="list-style-type: none">• Personnel documents and records• Employment contracts• Disciplinary records• Salary records• Disciplinary code and/or procedures• Leave records• Training records• Training manuals
Finance	<ul style="list-style-type: none">• Receipts and payments• Bank statements• A list of the company's debtors and creditors• Budgets

	<ul style="list-style-type: none"> • Management accounts • Invoices • Minutes of meetings • Correspondence
Risk and compliance	<ul style="list-style-type: none"> • Policies and procedures • Contractual forms and other documentation completed by clients upon admission and departure
Other	<ul style="list-style-type: none"> • Client logs • Visitor information

HOW TO MAKE A REQUEST IN TERMS OF PAIA

- 20 A person wishing to request a record held by Anker Huis must submit the prescribed form (**Annexure A** to this manual) to the information officer at the email address provided above.
- 21 The request must provide sufficient detail to enable the information officer to identify the record/s sought; identify the desired format of the documents; clearly describe a

legitimate right that he/she is seeking to exercise of protect; and provide an explanation of why the record in issue is required for the exercise or protection of the right.

- 22 If the request is made on behalf of another person, the requestor must submit proof of the capacity in which he or she is making the request.

Fees

- 23 Anker Huis reserves the right to charge an administrative fee for the provision of a record or records in terms of PAIA. The fee will not exceed those which are prescribed in terms of PAIA.

Decision on request

- 24 Cherrywood House will inform a requester within 30 days whether or not his or her request has been granted. If the request is for a large number of records or records which are not easily accessible, this period may be extended by a further 30 days.
- 25 The request will be considered in accordance with the framework of rights and limitations established in PAIA.
- 26 If the information sought by the requestor falls under a relevant ground of refusal in terms of chapter 4 of part 3 of the PAIA, it may be refused. The applicable grounds of refusal are as follows:
- 26.1 protection of privacy of a third party who is a natural person;
- 26.2 protection of the commercial information of a third party;

- 26.3 protection of information disclosed by a third party in confidence;
 - 26.4 protection of the safety of individuals and the protection of property;
 - 26.5 protection of records privileged from production in legal proceedings;
 - 26.6 protection of sensitive commercial information;
 - 26.7 protection of research information of Anker Huis or of third party.
- 27 The above-listed grounds of refusal will not apply where the record reveals evidence of a substantial contravention of the law or an imminent and serious public safety or environmental risk, and the public interest in the disclosure of the record clearly outweighs the harm occasioned by disclosure.

Remedy in the event of refusal

- 28 If the requester is dissatisfied with the outcome of his or her request, he or she may lodge a complaint with the Information Regulator in terms of section 77 of PAIA. If the outcome of that process is not satisfactory to the requester, he or she may appeal to the Western Cape High Court against the decision of Cherrywood House as set out in sections 78 to 82 of PAIA.

PROCESSING OF PERSONAL INFORMATION

Purposes for which personal information is processed by Cherrywood House

29 In the ordinary course of its operations, Cherrywood House processes personal information in the following ways:

Patients:

29.1 Information concerning the medical history, current medical condition, criminal history and patterns of substance abuse of prospective patients is collected at the time of the pre-admission assessment.

29.2 Identifying particulars such as age, identification/passport numbers, physical address, email address, telephone number, medical aid details and next of kin is collected in pre-admission documentation which the patient must complete prior to admission. Details of relevant medical and treatment history is solicited once again in this documentation.

29.3 Cherrywood House clinicians (counsellors, psychologists, psychiatrists and general medical practitioners) keep contemporaneous notes pertaining to their treatment of patients which will typically contain a range of protected personal information, including particulars of the patients physical/psychiatric condition, details of medications prescribed and administered, observations about the patients general mental health, opinions and beliefs, life experiences and general psychological profile.

29.4 When a patient discharges from Cherrywood House, a discharge report is produced by clinicians at the facility which provides relevant information concerning the patient's programme and treatment at Cherrywood House

and recommendations for treatment going forward.

- 29.5 In some cases, a patient's file is transmitted to a partner institution which administers "after care" treatment directed at helping the patient establish a sober lifestyle.

Staff:

- 29.6 Cherrywood House collects identifying particulars of its employees including identity numbers, marital status, national origin, home address, contact details and bank account details.

- 29.7 Cherrywood House maintains a file in respect of every member of staff containing disciplinary records and performance review reports.

- 29.8 Cherrywood House outsources its payroll function to a third party. This process entails processing salaries, issuing payslips, ensuring payment of statutory deductions such as skills development levies, unemployment insurance fund payments etc., and the maintenance of records in this regard.

External third parties:

- 29.9 Personal information may be processed pursuant to transacting with suppliers – i.e. managing contracts, orders, deliveries, invoices etc.

Categories of data subject

- 30 It follows from the above that the data subjects in respect of whom personal

information is processed are as described in the table below:

Data subject	Type of information processed
Employees and prospective employees	<ul style="list-style-type: none">• Name• South African or other identification number contact details• Physical and postal address• Date of birth• Age• Marital status• Race• Disability• Employment• Criminal background checks• Education history• Banking details

	<ul style="list-style-type: none"> • Income tax reference number • Remuneration • Employee performance and disciplinary record
Directors	<ul style="list-style-type: none"> • Names • Identification number • Income tax reference number • Physical address • Company documentation
Service providers / consultants	<ul style="list-style-type: none"> • Company registration details (in respect of juristic persons) • Identity numbers (in respect of natural persons) • VAT registration details • Bank account numbers and invoices • Agreements,

	<ul style="list-style-type: none"> • Addresses and contact details
Patients	<ul style="list-style-type: none"> • Name • Identification number • Address • Contact details • Medical aid details • Medical history • Criminal history (where applicable) • Contemporaneous clinical notes • General updates and observations recorded by staff

Disclosure of information to third parties

31 The circumstances in which information is disclosed to third parties are as follows:

31.1 Employee information is disclosed to a third-party providing pay roll

services.

31.2 Patient information, including identifying particulars and medical history and information, is routinely provided to third party organisations in the Netherlands who deliver extended “after care” to persons recovering from addiction.

31.3 Patient information is routinely provided to external consultants engaged by Anker Huis to provide medical or psychiatric treatment to patients.

Transborder flows of personal information

32 As stated above, patients’ identifying particulars and relevant medical history is routinely provided to organisations in Europe who provide “after care” treatment to people recovering from addiction.

33 These organisations are subject to a stringent regulatory regime for the protection of personal information under the General Data Protection Regulation (Regulation (EU) 2016/679 and the Dutch GDPR Implementation Act, which regime is administered by the Autoriteit Persoonsgegevens (the Dutch data protection authority).

34 Patients are appraised of the transfer and its purpose and provide written consent in advance.

Data security

35 Cherrywood House ensures that personal information is handed in a manner that

affords full protection to the rights and interests of patients, while also enabling necessary information exchange within the multi-disciplinary team.

36 The system of record-keeping and information exchange is informed by and complies with:

36.1 National Health Act, 61 of 2003

36.2 Protection of Personal Information Act, 4 of 2013

36.3 HPCSA Ethical rules of conduct for practitioners registered under the Health Professions Act

36.4 HPCSA Guidelines for Good Practice in the Health Care Professions: Confidentiality (Booklet 5)

36.5 HPCSA Guidelines for Good Practice in the Health Care Professions: The Keeping of Patient Records (Booklet 9)

37 Every client completes pre-admission documentation in which they are pre-appraised of and consent to the recording and sharing of their sensitive/medical information within the multi-disciplinary team.

38 Comprehensive records are maintained in respect of each individual patient, ensuring:

38.1 That a complete account of all relevant information on patients' treatment and health status is available within the multi-disciplinary team and for reference by future health care providers.

- 38.2 That confidential client information is kept securely and is not accessed by unauthorised persons.
- 39 The system is strictly implemented, with ultimate responsibility for its administration resting with the appointed information officer and deputy information officer in terms of the Protection of Personal Information Act (respectively, the managing director and the clinical co-ordinator).
- 40 Personal information is used only for purpose in connection with which it was originally collected. It is used for secondary purposes only in exceptional circumstances and only to the extent that such purpose serves a legitimate interest of the data subject and is closely aligned with the original purpose for the collection of the information.
- 41 In addition to the obligation of confidentiality imposed by relevant professional codes, every person in the employ of Cherrywood House is required to sign a document in which they undertake to maintain strict confidentiality in respect of all information and documents which they have accessed in the course of their work.

Objections to procession of personal information

- 42 A person may at any time object to the processing of his or her personal information by CherrywoodHouse if he or she considers it to be unlawful. Any such objection should be made on the form provided in **Annexure B** to this manual.

Requests in terms of POPIA

- 43 Any person is entitled to inquire whether his or her personal information is held by Cherrywood House, and to be provided with a description of that personal information, including the identity of third parties who have had access to that information.

- 44 A person whose personal information is held by Cherrywood House may request correction or deletion of that information in circumstances where the record is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully. A person wishing to make such a request should do so on the form provided in **Annexure C** to this manual.

ANNEXURE A

**Request for access to a record of Cherrywood House
(section 53(1) of PAIA; regulation 10)**

PARTICULARS OF PERSON REQUESTING ACCESS
Full name:
Identity number:
Telephone number:
Email address:
Postal address:
Capacity in which request is made (if made on behalf of another person):

PARTICULARS OF PERSON ON WHOSE BEHALF REQUEST IS MADE (IF APPLICABLE)
Full name:
Identity number:
Telephone number:
Email address:
Postal address:

PARTICULARS OF RECORD	
Description of record or relevant part of record/s:	
Record reference number (if applicable):	
Any further identifying particulars of the record:	

MANNER OF ACCESS TO RECORD	
<i>Please indicate your preferred manner of access with an “x”</i>	
Personal inspection of record	
Postal service	
Courier service	
Email	
Cloud share/file transfer	
<i>Depending on the form of access sought, a fee may be charged in accordance with the limits prescribed in Annexure B to the Regulations Relating to Promotion of Access to Information, 2021 (GNR. 757 of 27 August 2021).</i>	

TYPE OF RECORD	
<i>Please mark with “x” as appropriate</i>	
Record is in written or printed form	

Record comprises virtual images (including photographs, slides, video recordings, computer-generated images, sketches, etc)	
Record consists of recorded words or information which can be reproduced in sound	
Record is held on a computer or in an electronic, or machine-readable form	
Other (please specify details):	

PARTICULARS OF RIGHT TO BE EXERCISED OR PROTECTED <i>If space provided is insufficient, please continue on a separate page</i>
Please state the right in issue:
Please explain why the record requested is required for the exercise or protection of the aforementioned right:

SIGNED AT (place) THIS DAY OF (month and year).

.....
Signature of requester/person on whose behalf request is made

You will be notified in writing whether your request has been approved or denied and if approved the costs relating to your request, if any.

ANNEXURE B

**Objection to the processing of personal information
(section 11(3) of POPIA; regulation 2(1) of the POPIA Regulations)**

- 1. Affidavits or other documentary evidence in support of the objection must be attached.
- 2. If the space provided to address the questions in this Form is inadequate, please submit information as an annexure.

A. DETAILS OF DATA SUBJECT	
Name and surname:	
Street address:	
Contact number:	
Email Address:	

B. REASONS FOR THE OBJECTION <i>(Please provide detailed reasons for the objection)</i>

SIGNED AT (place) THIS DAY OF
..... (month and year).

.....

Signature of requester/person on whose behalf request is made

**Request for correction or deletion of personal information or destruction of record
(section 24(1) of POPIA; regulation 3(2) of the POPIA Regulations)**

1. Affidavits or other documentary evidence in support of the objection must be attached.
2. If the space provided to address the questions in this Form is inadequate, please submit information as an annexure.

<i>Please Mark the appropriate box with an "x"</i>	
Requester seeks correction or deletion of personal information contained in record	<input type="checkbox"/>
Requester seeks destruction of record	<input type="checkbox"/>

A. DETAILS OF DATA SUBJECT	
Name and Surname:	
Identity number:	
Street address:	
Contact number:	
Email Address:	

A. REASONS FOR THE OBJECTION <i>(Please provide detailed reasons for the objection)</i>

SIGNED AT (place) THIS DAY OF
..... (month and year).

.....

Signature of requester/person on whose behalf request is made