



# CARNALABUSCHAGNE

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## PRIVACY POLICY

### 1. Introduction

The purpose of our privacy notice is to inform you that we process personal information of data subjects from time to time. Therefore, we are obliged to comply with the Protection of Personal Information Act No. 4 of 2013 (“POPIA”) as well as the Promotion of Access to Information Act No. 2 of 2000 (“PAIA”). In our policy, we will inform you of the type of personal information (data) that we collect (use, disclose and destroy) when you use our website, the reason why we collect, your rights to the data you give us and how you can participate in the process. We strive to protect data subjects’ privacy and we are committed to using the data appropriately, transparently, securely and in accordance with applicable laws.

In addition to this policy, we developed a manual and made it available as prescribed under the PAIA. Where parties/requesters submit requests for information disclosure in terms of this manual, internal measures have been developed together with adequate systems to process requests for information or access thereto.

### 2. Definitions

“Biometric information” means the physical, physiological or behavioural identification, including finger printing, amongst others.

“Personal information” means information relating to an identifiable, living natural person, and where applicable juristic person, including 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, education or the medical, criminal, employment or financial history of a person, identifying number, email address, telephone and physical address, online identifier, biometric information, personal opinions, views or preferences, explicitly or implicitly private or confidential correspondence, views of others about a person, name if name would reveal information.

“Processing” means collection, receipt, recording organisation, collation, storage, updating, modification, retrieval, alteration, consultation or use; dissemination by means of transmission, distribution or making available in any form; merging, linking, erasure or destruction of information.

“PAIA” means the Promotion of Access to Information Act No. 2 of 2000

“POPIA” means the Protection of Personal Information Act No 4 of 2013

“Information Regulator” means the Information Regulator established in terms of the POPIA.



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### 3. Collection Of Personal Information

We collect and process various information pertaining to data subjects. The information collected is based on need and it will be processed for that need/purpose only. Whenever possible, we will inform the relevant party of the information required (mandatory) and which information is deemed optional.

The data subject will be informed of the consequence/s of failing to provide such personal information and any prejudice which may be incurred due to non-disclosure. For example, we may not be able to employ an individual without certain personal information relating to that individual or the organisation may not be in a position to render services to a data subject in the absence of certain information which is required.

We will process information in a manner that is lawful and reasonable. Where consent is required for the processing of information, such consent will be obtained.

Information will be processed under the following circumstances:

- When carrying out actions for the conclusion or performance of a contract
- When complying with an obligation imposed by law on the company
- For the protection of a legitimate interest of the data subject
- Where necessary, for pursuing the legitimate interests of the company or of an authorised third party to whom the information is supplied.

Examples of the personal information we collect includes, but is not limited to:

- 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 of an employee.
- Information relating to the education or the medical, financial, criminal or employment history (this includes disciplinary action) of an employee.
- Banking and account information.
- Contact information.
- Trade union membership and political persuasion.
- Any identifying number, symbol, email address, telephone number, location information, online identifier or other assignment to the data subject
- The biometric information of a data subject
- The personal opinions, views or preferences of a data subject (also performance appraisals or correspondence) and the views or opinions of another individual about the person



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We will not process special personal information without complying with the specific provisions of the POPIA. Special information includes personal information concerning:

- the religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health, sex life or biometric information of a data subject; or
- the criminal behaviour of a data subject, where such information relates to the alleged commission by a data subject of any offence committed or the disposal of such proceedings.

Please note that, when necessary, we may collect from a responsible adult personal information relating to a child of any age, but we do not knowingly collect any such information directly from children. Collection and processing of personal information of children will be done subject to section 34 and 35 of POPIA.

Collection of employee information:

For the purposes of this Policy, employees include our potential, past and existing employees. Independent contractors are treated on the same basis where the collection of information is concerned.

When appointing new employees/contractors, we require information, including, but not limited to that listed above, from prospective employees/contractors, in order to process the information on the system/s. Such information is reasonably necessary for record purposes, as well as to ascertain if the prospective employee/contractor meets the requirements, for the position which he/she/it is being appointed/contracted and is suitable for appointment.

We will use and process such employee information, as set out below for including, but not limited to, its employment records and to make lawful decisions in respect of that employee and its business.

Use of employee information: Employees' personal information will only be used for the purpose for which it was collected and intended. This includes, but is not limited to:

- Submissions to the Department of Labour
- Submissions to the Receiver of Revenue
- For audit and recordkeeping purposes
- In connection with legal proceedings
- In connection with and to comply with legal and regulatory requirements
- In connection with any administrative functions of the Company
- Disciplinary action or any other action to address the employee's conduct or capacity.
- In respect of any employment benefits that the employee is entitled to

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Carna Labuschagne (*LLB UP*)

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- Pre- and post-employment checks and screening
- Any other relevant purpose to which the employee has been notified.

Should information be processed for any other reason; the employee will be informed accordingly.

Collection of Member / Client / Supplier information:

For purposes of this Policy, clients include potential, past and existing members, and clients. Suppliers include all vendors which contract with us, whether once off or recurring, in respect of products and services.

We collect and process its members', clients', and suppliers' personal information, such as that mentioned hereunder. The type of information will depend on the need for which it is collected and will be processed for that purpose only. Further examples of personal information collected from clients include, but is not limited to:

- Identity number, name, surname, address, postal code
- Residential and postal address
- Contact information
- Banking details
- Company registration number
- Full name of the legal entity
- Tax and/or VAT number
- Details of the person responsible for the account

We also collect and process member/clients personal information for marketing purposes to ensure that its products and services remain relevant to our clients and potential clients.

Use of member/client/supplier information: The member/client/supplier's personal information will only be used for the purpose for which it was collected and as agreed. This may include, but not be limited to:

- Providing products or services to members/clients
- In connection with sending accounts and communication to a member/client in respect of services rendered.
- Payment of suppliers and communication in respect of services rendered.
- Referral to other service providers
- Confirming, verifying and updating member/client/supplier details
- Conducting market or customer satisfaction research
- For audit and record keeping purposes

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- In connection with legal proceedings
- In connection with and to comply with legal and regulatory requirements or when it is otherwise allowed by law.

## Disclosure of personal information

We may share employees' and member/clients/suppliers' personal information with authorised third parties as well as obtain information from such third parties for reasons set out above.

We may also disclose employees' or member/clients/suppliers' information where there is a duty or a right to disclose in terms of applicable legislation, the law or where it may be necessary to protect the rights of the organisation, or it is in the interests of the data subject.

## 4. Safeguarding of Personal Information and Consent

We will review our security controls and processes on a regular basis to ensure that personal information is secure.

We will take appropriate, reasonable technical and organisational measures to prevent loss or damage or unauthorised destruction of personal information, and unlawful access to or processing of personal information. This will be achieved by –

- Identifying internal and external risks
- Establishing and maintaining appropriate safeguards
- Regularly verifying these safeguards and their implementation
- Updating the safeguards
- Implementing generally accepted information security practices and procedures.

We have appointed an Information Officer and/or Deputy Information Officer who is/are responsible for compliance with the conditions of the lawful processing of personal information and other provisions of POPIA.

Information Officer details:

Name:	Carna Labuschagne
Telephone number:	0128815184
Postal address:	Postnet Suite 19, Private Bag X1, The Willows 0041

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Email address:	<a href="mailto:carna@clalaw.co.za">carna@clalaw.co.za</a>

The specific responsibilities of the Information Officer and his/her Deputy include –

- The development, implementation, monitoring and maintenance of a compliance framework.
- The undertaking of a personal information impact assessment to ensure that adequate measures and standards exist to comply with the conditions for the lawful processing of personal information.
- The development, monitoring and maintenance of a manual, as well as the making available thereof, as prescribed in section 51 of PAIA
- The development of internal measures, together with adequate systems to process requests for information or access thereto; and
- To ensure that company staff awareness sessions are conducted regarding the provisions of the Act, regulations made in terms of the Act, codes of conduct, or information obtained from the Regulator.
- Employment contracts/addendums thereto, containing relevant consent clauses for the use and storage of employee information, or any other action so required, in terms of POPIA are signed by every employee.
- On an ongoing basis, all suppliers, insurers and other third-party service providers are required to sign a service level agreement guaranteeing their commitment to the Protection of Personal Information.
- Consent to process client/member/supplier information is obtained from clients/members/suppliers (or a person who has been given authorisation from the client/member to provide the member/client's personal information) and suppliers at sign on/appointment/contracting.

### 5. Direct Marketing

We will ensure that:

We do process any personal information for the purpose of direct marketing (by means of any form of electronic communication, including automatic calling machines, SMS's or e-mail) unless the data subject has given his, her or its consent to the processing or is an existing customer.

We will only approach data subjects, whose consent is required and who have not previously withheld such consent, once in order to request the consent. This will be done in the prescribed manner and form.



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The data subjects will only be approached for the purpose of direct marketing of our own similar products or services. In all instances, the data subject shall be given a reasonable opportunity to object, free of charge and in a manner free of unnecessary formality, to such use of his, her or its electronic details at the time when the information is collected.

Any communication for the purpose of direct marketing will contain details of the identity of the sender or the person on whose behalf the communication has been sent and an address or other contact details to which the recipient may send a request that such communications cease.

## 6. Transfer of Information Outside of South Africa

We will not transfer personal information about a data subject to a third party who is in a foreign country unless one or more of the following apply:

- the third party is subject to a law, binding corporate rules or a binding agreement which provides an adequate level of protection of personal information and effectively upholds principles for reasonable processing of the information.
- the data subject consents to the transfer
- the transfer is necessary for the performance of a contract between the data subject and the company
- the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between the company and a third party; or
- the transfer is for the benefit of the data subject, and it is not reasonably practicable to obtain the consent of the data subject to that transfer and if it were reasonably practicable to obtain such consent, the data subject would be likely to give it

## 7. Surveillance Systems

Video footage and/or voice/telephone calls that have been recorded, processed and stored via CCTV camera or other surveillance systems constitute personal information. As such we will make all employees, members, clients or data subjects aware as to the use of CCTV/other surveillance on the premises.

## 8. Security Breaches

Should we detect a security breach on any of its systems that contain personal information, it shall take the required steps to assess the nature and extent of the breach in order to ascertain if any information has been compromised.



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We will notify the affected parties should it have reason to believe that their information has been compromised. Such notification shall only be made where the organisation can identify the data subject to which the information relates. Where it is not possible it may be necessary to consider website publication and whatever else the Information Regulator prescribes.

Notification will be provided in writing by means of either:

- email
- registered mail
- the organisation's website

The notification shall provide the following information where possible:

- Description of possible consequences of the breach
- Measures taken to address the breach
- Recommendations to be taken by the data subject to mitigate adverse effects.
- The identity of the party responsible for the breach

In addition to the above, we will notify the Information Regulator of any breach and/or compromise to personal information in its possession and work closely with and comply with any recommendations issued by the Information Regulator.

The following will apply in this regard:

- The Information Officer will be responsible for overseeing the investigation.
- The Information Officer will be responsible for reporting to the Information Regulator within 3 working days of a breach/ compromise to personal information.
- The Information Officer will be responsible for reporting to the data subject(s) within 3 working days, as far as is reasonable and practicable, of a breach/ compromise to personal information.
- The timeframes above are guidelines and depending on the merits of the situation may require earlier or later reporting.

### 9. Access and Correction of Personal Information

Employees and members/clients have the right to request access to any personal information that we hold about them.

Employees and members/clients have the right to request us to update, correct or delete their personal information on reasonable grounds. Such requests must be made to the Information Officer (see details above) or to our head office (see details below).



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Where an employee or member/client objects to the processing of their personal information, we may no longer process said personal information. The consequences of the failure to give consent to process the personal information must be set out before the employee or client confirms his/her objection.

The member/client or employee must provide reasons for the objection to the processing of his/her personal information.

Head office details:

Name:	Carna Labuschagne
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Physical address:	560 Harrop-Allin Avenue, Die Wilgers, Pretoria, Gauteng 0184
Email address:	<a href="mailto:carna@clalaw.co.za">carna@clalaw.co.za</a>

### 10. Retention of Records

We are obligated to retain certain information, as prescribed by law. This includes but is not limited to the following:

- With regard to the Legal Practice Act, Act 28 of 2014, all client records must be retained for 7 years.
- With regard to the Companies Act, Act 71 of 2008 and the Companies Amendment Act No 3 of 2011, hard copies of the documents mentioned below must be retained for 7 years:
  - Any documents, accounts, books, writing, records or other information that a company is required to keep in terms of the Act.
  - Notice and minutes of all meetings, including resolutions adopted.
  - Copies of reports presented at the annual general meeting.
  - Copies of annual financial statements required by the Act and copies of accounting records as required by the Act.
- The Basic Conditions of Employment No. 75 of 1997, as amended, requires the organisation to retain records relating to its staff for a period of no less than 3 years.

### 11. Amendments to This Policy

Amendments to this Policy will take place from time to time subject to our discretion and pursuant to any changes in the law. Such changes will be brought to the attention of employee's, members and clients where it affects them.



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## 12. Requests for Information

In terms of requests to be processed under POPIA, the following forms shall be used –

- Objection to the processing of personal information – A data subject who wishes to object to the processing of personal information in terms of section 11(3)(a) of the Act, must submit the objection to the responsible party on Form 1. **[Download Form 1 here](#)**
- Request for correction or deletion of personal information or destruction or deletion of record of personal information – A data subject who wishes to request a correction or deletion of personal information or the destruction or deletion of a record of personal information in terms of section 24(1) of the Act, must submit a request to the responsible party on Form 2. **[Download Form 2 here](#)**
- Request for data subject's consent to process personal information – A responsible party who wishes to process personal information of a data subject for the purpose of direct marketing by electronic communication must submit a request for written consent to that data subject, on Form 4. **[Download Form 4 here](#)**
- Submission of complaint – Any person who wishes to submit a complaint contemplated in section 74(1) of the Act must submit such a complaint to the Regulator on Part I of Form 5. A responsible party or a data subject who wishes to submit a complaint contemplated in section 74(2) of the Act must submit such a complaint to the Regulator on Part II of Form 5. **[Download Form 5 here](#)**

In terms of requests for information under PAIA, the provisions of the PAIA Sec 51 Manual must be complied with and Form C completed. **[Download Form C here.](#)**

Any requests and/ or advice can be directed to the Information Officer set out in this policy and in the Sec 51 PAIA manual.