

## **THE BENEFIT COUNSELLOR (PTY) LTD: MANUAL PREPARED IN ACCORDANCE WITH SECTION 51 OF THE PROMOTION OF ACCESS TO INFORMATION ACT NO. 2 OF 2000 (AS AMENDED)**

### **1 INTRODUCTION**

- 1.1 The Benefit Counsellor (Pty) Ltd ("**the Company**") has developed a software application and platform, being a financial empowerment solution for retirement fund members known as "**the Benefit Counsellor Product**", which online cloud-based platform can be accessed by retirement fund members at any time and on any online device for the purpose of receiving real-time retirement benefits counselling, effective communication between retirement funds and their members, and having access to educational material and a gamified rewards system aimed at encouraging responsible financial decision making. The Benefit Counsellor Product provides a platform for retirement fund members to gain insight into their savings/fund balances, contribution history and other benefits, plan for the future and receive retirement benefits counselling.
- 1.2 This Manual has been prepared in accordance with section 51 of the Promotion of Access to Information Act No.2 of 2000 ("**PAIA**").
- 1.3 The purpose of this Manual is to:
  - 1.3.1 provide general contact details of the Company and such other information as may be prescribed by PAIA;
  - 1.3.2 provide a description of records held by the Company;
  - 1.3.3 provide sufficient detail to facilitate a request for access to records held by the Company and a description of the subjects on which the Company holds records and categories of records held on each subject; and
  - 1.3.4 provide information as prescribed relating to the Protection of Personal Information Act 4/2013 ("**POPIA**"), including but not limited to the purpose of processing of personal information.
- 1.4 This Manual (and any amendments thereto, from time to time) shall be available on the Company Website; at the principal place of business of the Company for inspection during normal business hours; to any person on request and upon payment of a reasonable amount; and to the Information Regulator upon request.
- 1.5 A Requester is invited to contact the Information Officer(s) should he or she require any assistance in respect of the use or content of this Manual.

## 2 CONTACT DETAILS OF THE COMPANY

Name of Body:	The Benefit Counsellor Proprietary Limited
Physical & Postal Addresses:	Unit 1, On The Greens, Golf Village, De Beers Avenue, Somerset West, 7130
Head of Body:	Name: Jaco Wasserfall Email: jaco@benefitcounsellor.com Tel: 021 300 5729
Information Officer:	Name: Hayden Naidoo Email: hayden@benefitcounsellor.com Tel: 021 300 5729
Deputy Information Officers:	Name: Jaco Wasserfall Email: jaco@benefitcounsellor.com Tel: 021 300 5729

## 3 ACCESS TO RECORDS HELD BY THE COMPANY

3.1 Records held by the Company may be accessed on request only once the requirements for access have been met.

3.2 A requester is any person making a request for access to a record of the Company and in this regard, PAIA distinguishes between two types of requesters:

3.3 Personal Requester

3.3.1 A personal requester is a requester who is seeking access to a record containing personal information about the requester. Subject to the provisions of PAIA and applicable law, the Company will 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 by the Company.

3.4 Other Requester

3.4.1 This requester (other than a personal requester) is entitled to request access to information pertaining to third parties. However, the Company is not obliged to grant access prior to the requester fulfilling the requirements for access in terms of PAIA. The prescribed fee for reproduction of the information requested will be charged by the Company.

## **4 PROCESSING OF PERSONAL INFORMATION IN TERMS OF POPIA**

### 4.1 Purpose of the Company's Processing of Personal Information

4.1.1 The Company will only Process Personal Information for a specific, lawful and clear purpose/s (in accordance with the provisions of the Privacy Policy of the Company, and only with the consent of a data subject or where another legal basis applies.

4.1.2 The Company will retain Personal Information only for as long as is necessary to accomplish the Company's legitimate business purposes or for as long as may be permitted or required by applicable law.

4.1.3 The Company uses Personal Information for one or more of the following non-exhaustive purposes:

4.1.3.1 to enable data subjects who qualify as "Authorised Users" to access and use the Benefit Counsellor Product and the counselling tools and calculators provided thereby;

4.1.3.2 to operate, protect, improve and optimise the Benefit counsellor Product, counselling services tools provided, Authorised Users' experience and to provide customer service;

4.1.3.3 to help create and maintain a trusted and safer environment on the Company Website, such as detection and prevention of actual and potential fraud and other harmful activity, conducting investigations and risk assessments, enforcing the Terms and Conditions of Use, verifying specific information provided by Authorised Users and conducting checks against databases and information sources (such as but not limited to public government databases) for fraud detection and prevention, risk assessment and harm prevention purposes. In this regard, the Company may do any or all of the foregoing with or without further notifying Authorised Users;

4.1.3.4 to send Authorised Users service, support and administrative messages, reminders, notices, updates, security alerts and information requested by Authorised Users;

4.1.3.5 to send Authorised Users marketing, advertising, and promotional messages and other information that may be of interest, including information about the Company. Authorised Users may unsubscribe or "opt-out" from receiving these communications by emailing [info@benefitcounsellor.com](mailto:info@benefitcounsellor.com);

4.1.3.6 to comply with legal obligations or such other purposes as authorised in terms of applicable law.

- 4.2 Categories of Data Subjects and of the Personal Information relating thereto:
- 4.2.1 The Company collects Personal Information directly from the Data Subject and/or from third parties, and where the Company obtains Personal Information from third parties, the Company will ensure that it obtains the consent of the Data Subject to do so or will only Process the Personal Information without the Data Subject's consent where the Company is permitted to do so in terms of the applicable laws.
- 4.2.2 Data Subjects in respect of which Personal Information is Processed include clients of the Company ("**Authorised Users**"), employees, and service providers.
- 4.2.3 Examples of third parties from whom Personal Information is collected includes regulatory bodies; credit reference agencies; other companies providing services to the Company and where the Company makes use of publicly available sources of information.
- 4.3 Recipients or categories of recipients to whom Personal Information may be supplied:
- 4.3.1 The Company may share Personal Information to third parties/service providers engaged by the Company, or business partners of the Company, to assist to provide services to Authorised Users. Such third parties may include:
- 4.3.1.1 hosting, data storage or archiving service providers;
  - 4.3.1.2 professional advisors; and
  - 4.3.1.3 marketing and research agencies.
- 4.3.2 The Company may disclose Personal Information when disclosure is necessary to comply with the law or to protect the rights, property, or safety of the Company, our Clients, or others.
- 4.4 Information Security Measures:
- 4.4.1 The security and confidentiality of Personal Information is important to the Company, and the Company has implemented reasonable technical, administrative, and physical security measures to protect Personal Information from unauthorised access or disclosure and improper use.
- 4.4.2 In Processing any Personal Information, the Company shall comply with the following minimum technical and organisational security requirements:
- 4.4.2.1 treat Personal Information as strictly confidential, save where the Company is entitled to share it as set out in its Privacy Policy;
  - 4.4.2.2 take appropriate technical and organisational measures to ensure that Personal Information is kept secure and is protected against unauthorised or unlawful processing, accidental loss, destruction or damage, alteration, disclosure or

- access including, but not limited to, physical access control, unique user identifications and passwords, back-ups, malware protection and service reviews;
- 4.4.2.3 regularly evaluate and test the effectiveness of such measures to ensure that they are adequate and effective.
  - 4.4.2.4 provide Authorised Users with access to their Personal Information to view and/or update any details;
  - 4.4.2.5 promptly notify an Authorised User if the Company becomes aware of any unauthorised use, disclosure or processing of Personal Information;
  - 4.4.2.6 provide an Authorised User with reasonable evidence of the Company's compliance with its obligations under this Privacy Policy on reasonable notice and request; and
  - 4.4.2.7 upon request, promptly return or destroy any and all Personal Information of an Authorised User in the possession or control of the Company, save for that which the Company is legally obliged to retain.

## **5 INFORMATION HELD BY THE COMPANY: CATEGORIES AND DESCRIPTION OF RECORDS**

5.1 This section of the Manual sets out the categories and descriptions of records held by the Company. The inclusion of any category of records should not be taken to mean that records falling within that category will be made available under PAIA. In particular, certain grounds of refusal as set out in PAIA may be applicable to a request for such records.

### *5.2 Financial / Accounting records*

- 5.2.1 Annual financial statements
- 5.2.2 Tax returns
- 5.2.3 Audit reports conducted for the Company
- 5.2.4 Bank facilities and account details
- 5.2.5 Details of accounting officer or auditors
- 5.2.6 Formal books of account and other financial statements
- 5.2.7 Source documents
- 5.2.8 Banking records
- 5.2.9 Management reports

### *5.3 Company records*

- 5.3.1 Company name documents
- 5.3.2 Company registration documents

- 5.3.3 Founding statement or Memorandum of Incorporation
- 5.3.4 Share register and other statutory registers
- 5.3.5 Minutes of meetings
- 5.4 *Human Resources records*
  - 5.4.1 List of employees
  - 5.4.2 Contracts of employment with employees of the Company
  - 5.4.3 Personnel records of each employee of the Company
  - 5.4.4 Disciplinary records
  - 5.4.5 Compensation or redundancy payments
  - 5.4.6 Records relating to conditions of employment
  - 5.4.7 Employment Equity Plan of the Company
  - 5.4.8 Pension and provident fund records
  - 5.4.9 Employee tax information
  - 5.4.10 Agreements with clients of the Company
  - 5.4.11 Files relating to client matters
  - 5.4.12 Payroll records
  - 5.4.13 Internal policies and procedures
- 5.5 *Client records*
  - 5.5.1 Client documentation in terms of Financial Intelligence Centre Act No. 38 of 2001
  - 5.5.2 Correspondence with clients
  - 5.5.3 Correspondence with third parties
  - 5.5.4 Other information relating to, or held on behalf of the Company clients
- 5.6 *Intellectual property*
  - 5.6.1 Trade-marks, copyrights and designs held by the Company
  - 5.6.2 Software licenses
  - 5.6.3 Records relating to domain names
- 5.7 *Immovable and movable property records*
  - 5.7.1 Agreements for the lease of immovable property by the Company
  - 5.7.2 Agreements for the lease or sale of movable property by the Company
  - 5.7.3 Records regarding insurance in respect of movable property
  - 5.7.4 Records regarding insurance in respect of immovable property
  - 5.7.5 Asset register
- 5.8 *Information technology*

5.8.1 Records regarding computer systems and programmes held by the Company

5.9 *Marketing*

5.9.1 Website - the Company's website address is [www.benefitcounsellor.com](http://www.benefitcounsellor.com) and is accessible to anyone who has access to the Internet. The website contains various categories of information relating to the Company including areas of expertise; services; specialist fields; literature; news; directors' résumés and contact details.

5.10 *Personal Information*

5.10.1 Names and surnames

5.10.2 ID numbers

5.10.3 Nationalities

5.10.4 Tax numbers

5.10.5 Passwords

5.10.6 Email addresses, phone numbers

5.10.7 Pension/provident fund balance and contribution history

5.10.8 Pension/provident fund benefits

5.10.9 Pension/provident fund benefit statements

5.10.10 Third party contractors' details and the types of agreements that the Company has with them

5.10.11 Client chat information/records

**6 INFORMATION HELD BY THE COMPANY: APPLICABLE LEGISLATION**

6.1 Records are kept in accordance with legislation applicable to the Company, which includes but is not limited to, the following:

6.1.1 Basic Conditions of Employment Act No. 75 of 1997

6.1.2 Companies Act No.71 of 2008

6.1.3 Electronic Communications and Transactions Act No.25 of 2002

6.1.4 Employment Equity Act No.55 of 1998

6.1.5 Financial Intelligence Centre Act No. 38 of 2001

6.1.6 Income Tax Act No.58 of 1962 (Section 75)

6.1.7 Labour Relations Act No.66 of 1995

6.1.8 Promotion of Access to Information Act No.2 of 2000

6.1.9 Pension Funds Act No.24 of 1956

6.1.10 Protection of Personal Information Act No.4 of 2013

- 6.1.11 Tax Administration Act No.28 of 2011
  - 6.1.12 Tax on Retirement Funds Act No.38 of 1996
  - 6.1.13 Unemployment Insurance Act No. 63 of 2001
  - 6.1.14 Unemployment Insurance Contributions Act No. 4 of 2002
- 6.2 Records kept in terms of the above legislation 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 PAIA.

## **7 REQUEST PROCEDURES**

- 7.1 Records, whether specifically listed in this Manual or not, will only be made available subject to the provisions of PAIA and as further described below.
- 7.2 Form of request:
- 7.2.1 The Requester must use the prescribed form to make the request for access to a record, which form is attached hereto as Annexure "A". This must be made to the Information Officer at the address or electronic mail address set out in clause 2 above.
  - 7.2.2 The Requester must provide sufficient detail on the request form to enable the Information Officer to identify the record requested and the Requester. The Requester should also indicate which form of access is required and specify a postal address in South Africa. The Requester should also indicate if, in addition to a written reply, any other manner is to be used to inform the Requester and state the necessary particulars to be so informed.
  - 7.2.3 The Requester must identify the right that is sought to be exercised or protected and provide an explanation of why the requested record is required for the exercise or protection of that right.
  - 7.2.4 If a request is made on behalf of another person, the Requester must submit proof of the capacity in which the Requester is making the request to the satisfaction of the head of the private body.
- 7.3 Fees:
- 7.3.1 Request fees:
    - 7.3.1.1 The Information Officer must by notice require the Requester to pay the prescribed request fee (if any) before further processing the request.
  - 7.3.2 Access fees and fees for reproduction:



7.3.2.1 If access to a record/s is granted by the Company, the Requester may be required to pay an access fee for the search for and preparation of the records and for re- production of the record/s.

7.3.3 The request fees and access fees which apply are set out in the document attached as Annexure "B". The Company can refuse access until such access fees have been paid.

7.4 Decision on request:

7.4.1 After the Information Officer has made a decision on the request, the Requester will be notified using the required form.

7.4.2 If the request for access is granted, the notice will state:

7.4.2.1 The access fee (if any) to be paid upon access;

7.4.2.2 The form in which access will be given; and

7.4.2.3 The Requester may lodge an application to the court against the tender or payment of the access fee or the form of access granted.

7.4.3 If the request for access is refused, the notice will state:

7.4.3.1 Adequate reasons for the refusal, including the provisions of PAIA relied on;

7.4.3.2 Exclude, from any such reasons, any reference to content of the record;

7.4.3.3 The Requestor may lodge a complaint to the Information Regulator or make an application to court against the refusal of the request.

## **8 TIMELINES FOR CONSIDERATION OF A REQUEST**

8.1 Requests for access by a Requestor will be processed within 30 days, unless the request contains considerations that are of such a nature that an extension of the 30 (thirty)-day time limit is necessary. Such considerations include:

8.1.1 where the request is for a large number of records or requires a search through a large number of records (including where records that have been archived electronically need to be restored);

8.1.2 consultation among divisions of the Company or with another private body is necessary or desirable to decide upon the request that cannot reasonably be completed within the original 30 (thirty)-day period;

8.1.3 more than one of the circumstances contemplated in paragraphs 8.1.1 and 8.1.2, exist in respect of the request making compliance with the original period not reasonably possible; or

8.1.4 the Requester consents in writing to such extension.

8.2 If an extension is necessary, the Requester will be informed by the Information Officer. If the Information Officer fails to communicate a decision on a request, such a request is then deemed to have been refused.

## **9 GROUNDS FOR REFUSAL OF ACCESS TO RECORDS**

9.1 Requests for access by a Requestor must be refused by the Information Officer if:

9.1.1 the disclosure would involve the unreasonable disclosure of personal information about a third party, including a deceased individual;

9.1.2 the record contains (a) trade secrets of a third party, (b) financial, commercial, scientific or technical information, other than trade secrets, of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that third party, or (c) information supplied in confidence by a third party the disclosure of which could reasonably be expected to put that third party at a disadvantage in contractual or other negotiations; or to prejudice that third party in commercial competition;

9.1.3 the disclosure of the record would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement;

9.1.4 the disclosure could reasonably be expected to endanger the life or physical safety of an individual;

9.1.5 the record is privileged from production in legal proceedings unless the person entitled to the privilege has waived the privilege; or

9.1.6 the record contains information about research being or to be carried out by or on behalf of a third party, the disclosure of which would be likely to expose: (a) the third party; (b) a person that is or will be carrying out the research on behalf of the third party; or (c) the subject matter of the research, to serious disadvantage.

9.2 Requests for access by a Requestor may be refused by the Information Officer if:

9.2.1 the disclosure would be likely to prejudice or impair: (i) the security of: (aa) a building, structure or system, including, but not limited to, a computer or communication system; (bb) a means of transport; or (cc) any other property; or (ii) methods, systems, plans or procedures for the protection of: (aa) an individual in accordance with a witness protection scheme; (bb) the safety of the public, or any part of the public; or (cc) the security of property contemplated in subparagraph (i) (aa), (bb) or (cc);

9.2.2 the record:

9.2.2.1 contains trade secrets of the Company;

- 9.2.2.2 contains financial, commercial, scientific or technical information, other than trade secrets, the disclosure of which would be likely to cause harm to the commercial or financial interests of the Company;
- 9.2.2.3 contains information, the disclosure of which could reasonably be expected:
- 9.2.2.4 to put the Company at a disadvantage in contractual or other negotiations; or
- 9.2.2.5 to prejudice the Company in commercial competition; or
- 9.2.2.6 is a computer program, as defined in section 1(1) of the Copyright Act No. 98 of 1978, owned by the Company, except insofar as it is required to give access to a record to which access is granted in terms of PAIA; or

9.2.3 the record contains information about research being or to be carried out by or on behalf of the Company, the disclosure of which would be likely to expose: (a) the Company; (b) a person that is or will be carrying out the research on behalf of the Company; or (c) the subject matter of the research, to serious disadvantage.

## **10 REMEDIES AVAILABLE TO A REQUESTOR ON REFUSAL OF ACCESS**

**10.1** If a Requester is not satisfied with the outcome of a request, a complaint may be lodged with the Information Regulator within 180 (one hundred and eighty) days of the decision in the prescribed manner and form for appropriate relief, or when the Requestor is aggrieved by any decision of the Information Regulator an application may be made to a court of competent jurisdiction after the Requestor has exhausted the complaints procedure, within 180 (one hundred and eighty) days for the appropriate relief.

## **ANNEXURE**

### **PAIA INFORMATION REQUEST**

The PAIA Regulations prescribe the format in which persons may make an information request and the format in which the organisation is required to respond to the request.

To request information from our organisation in terms of the Promotion of Access to Information Act, please make use of the hyperlink (click on the section underlined in blue) in the following Form 02: [Request for Access to Record](#) [Regulation 7]

Our response will be given in the format of form Form 03: [Outcome of request and of fees payable](#) [Regulation 8]