

**MALCOLM LYONS & BRIVIK INC.**  
SPECIALIST ATTORNEYS IN PERSONAL INJURY & LABOUR LAW  
SINCE 1965



# PRIVACY POLICY

*Created for purposes of compliance with the  
Protection of Personal Information Act 4 of 2013*

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CREATED BY:	J LAMPRECHT
APPROVED BY:	T BRIVIK

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## 1. INTRODUCTION

1.1 This Privacy Policy governs the manner in which we process your personal information. It is designed to inform you of the types of information we collect from data subjects, how we use that information, and the circumstances under which we will share it with third parties.

1.2 We at Malcolm Lyons & Brivik Inc respect your privacy and your personal information and thus take all reasonable measures, in accordance with this Policy, to protect your personal information and to keep it confidential as envisaged by the Protection of Personal Information Act 4 of 2013 (hereafter "*POPIA*").

## 2. BACKGROUND AND PURPOSE

2.1 POPIA is South Africa's data protection law. The purpose of POPIA is to protect people from harm by protecting their personal information. POPIA was enacted to protect the privacy of all stakeholders and to give effect to section 14 of the Constitution of the Republic of South Africa, 1996, which provides that everyone has the right to privacy. To achieve this, the POPIA sets conditions for when it is lawful for someone to process someone else's personal information.

2.2 Where applicable, this privacy policy applies in addition to any other agreement that you enter into with us, including the agreements and letters of engagement that you sign when you become our client.

## 3. DEFINITIONS

3.1 "*Personal information*", is defined in POPIA the General Data Protection Regulation 2016/679 ("*the GDPR*") and includes any information about a person that can be used to identify a person directly or indirectly. It includes:

- (a) 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 the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;
- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views or preferences of the person;
- (f) 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;
- (g) the views or opinions of another individual about the person; and
- (h) 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.

3.2 We may collect, use, store and transfer different kinds of personal data about you which we have grouped together as follows:

- (a) "*Identity Data*" includes first name, maiden name, last name, username or similar identifier, marital status, title, date of birth and gender.
- (b) "*Contact Data*" includes billing address, delivery address, email address and telephone numbers.
- (c) "*Financial Data*" includes bank account and payment card details.
- (d) "*Technical Data*" includes internet protocol (IP) address, browser type and version, time zone setting and location, browser plug-in types and versions, operating system and platform, and other technology on the devices you use to access this website.

(e) *“Usage Data”* includes information about how you use our website, products and services.

(f) *“Marketing and Communications Data”* includes your preferences in receiving marketing from us and our third parties and your communication preferences.

3.3 *“The data subject”* refers to the natural or juristic person to whom Personal Information relates, such as an individual client, customer or a company that supplies the Company with products or other goods.

3.4 *“The responsible party”* is the entity that needs the Personal Information for a particular reason and determines the purpose of and means for processing the Personal Information. In this case, Malcolm Lyons & Brivik Inc is the Responsible Party.

3.5 *“The operator”* means a person who processes Personal Information for a Responsible Party in terms of a contract or mandate, without coming under the direct authority of that party. For example, a third party service provider that has contracted with the Company to shred documents containing Personal Information. When dealing with an Operator, it is considered good practice for a Responsible Party to include an indemnity clause.

3.6 *“Special Personal Information”* refers to details about your religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health or sex life, biometric information or information about your criminal offences or convictions.

#### 4. COLLECTION OF INFORMATION

4.1 Malcolm Lyons & Brivik Inc collects personal information in various instances, including when:

4.1.1 data subjects contact us or request information or services;

4.1.2 when we provide services to data subjects;

- 4.1.3 when persons apply for employment at our offices;
- 4.1.4 when persons use our website or engages with us through social media; and
- 4.1.5 we may collect the information directly from a data subject or from third parties.

4.2 We also collect, use and share *Aggregated Data* such as statistical or demographic data for any purpose. Aggregated Data could be derived from your personal data but is not considered personal data in law as this data will not directly or indirectly reveal your identity. For example, we may aggregate your Usage Data to calculate the percentage of users accessing or engaging with a specific website campaign. However, if we combine or connect Aggregated Data with your personal data so that it can directly or indirectly identify you, we treat the combined data as personal data which will be used in accordance with this privacy policy.

4.3 In certain circumstances we may collect certain Special Personal Information. The processing of Special Personal Information requires higher levels of protection. We need to have further justifications for processing Special Personal Information. We have implemented appropriate policies and safeguards to maintain and process Special Personal Information. We will generally not process particularly Special Personal Information about you unless it is necessary for establishing, exercising, or defending a right or obligation in law, or where we have obtained your consent to do so. On rare occasions, there may be other reasons for processing your Special Personal Information, such as where the information has been deliberately made public by yourself.

## 5. PURPOSE FOR PROCESSING PERSONAL INFORMATION

5.1 Malcolm Lyons & Brivik Inc may process personal information to provide services to clients, to comply with legal or regulatory obligations, if a data subject has provided their consent, or if the processing is allowed by law. We may use your personal information for any legitimate business purposes relating to our services and/or

business activities. Some of the purposes for which we use your personal information include:

- 5.1.1 responding to your queries posted on our website or emailed to us;
- 5.1.2 onboarding you as a client and verifying your identity (as required by law);
- 5.1.3 providing you with our services;
- 5.1.4 referring you to other service providers with your consent;
- 5.1.5 improving our website and services by analysing certain information collected, including cookies and other related information;
- 5.1.6 sending you information (in the form of our newsletter) and inviting you to events; and/or
- 5.1.7 complying with our regulatory or other obligations.

## 6. LAWFUL BASIS

In respect of the processing of personal information as provided for above, Malcolm Lyons & Brivik Inc will adhere to the conditions for the lawful processing of personal information, based on its desire to provide data subjects services in their best interests as well as a legitimate interest of Malcolm Lyons & Brivik Inc to achieve its business objectives.

## 7. RETENTION OF PERSONAL INFORMATION

7.1 Malcolm Lyons & Brivik Inc retains personal information for as long as may be reasonably necessary to fulfil the purpose of collection, including for the purposes of satisfying any legal, regulatory, tax, accounting or reporting requirements. We may retain your personal data for a longer period in the event of a complaint or if we reasonably believe there is a prospect of litigation in respect to our relationship with you.

7.2 To determine the appropriate retention period for personal data, we consider the amount, nature and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of your personal data, the purposes for which we

process your personal data and whether we can achieve those purposes through other means, and the applicable legal, regulatory, tax, accounting, or other requirements.

## 8. CHILDREN'S PERSONAL INFORMATION AND SPECIAL PERSONAL INFORMATION

We do not intentionally collect or use personal information of children (persons under the age of 18 years) unless we are in possession of the express consent of a parent or guardian or if the law otherwise allows or requires us to process such personal information.

## 9. SHARING AND TRANSFER OF PERSONAL INFORMATION

9.1 Malcolm Lyons & Brivik Inc may release personal information or disclose it to third parties in certain circumstances. These include, but are not limited to:

- 9.1.1 if we are required or authorised to do so by law or a court order;
- 9.1.2 in order for us to enforce its rights; and
- 9.1.3 in order for us to provide services to its clients.

9.2 The third parties to whom we disclose personal information include, but are not limited to:

- 9.2.1 government authorities and registries, organs of state, regulators, courts, tribunals and law enforcement agencies;
- 9.2.2 advocates and other parties involved in legal services;
- 9.2.3 medical specialists;
- 9.2.4 third party service providers to Malcolm Lyons & Brivik Inc or our clients;
- 9.2.5 third parties who provide research services to Malcolm Lyons & Brivik Inc or our clients.

9.3 We require the aforementioned third parties to take appropriate, reasonable technical, and organisational measures to keep your personal information secure.

9.4 There is a possibility that the personal information that we collect from you may have to be transferred to, and stored at, a destination outside of the Republic of South Africa (for example, by a third-party data hosting service provider).

9.5 Insofar as your information may be transferred outside of South Africa, we will take reasonable organisational and/or contractual measures to ensure that your personal information is processed by such third party service providers for the purposes for which it has been provided to us and that the required levels of protection have been implemented by such third party service providers to safeguard your personal information.

## 10. SECURITY

10.1 We will take all appropriate, reasonable technical and organisational measures to safeguard your personal information to prevent loss of, damage to or unauthorised destruction of your personal information or unlawful access to or processing of your personal information. Our technical and organisational personal data security measures include:

10.1.1 the storage of your personal data under password-secured databases;

10.1.2 the restriction of access to your personal data to specific staff/personnel who are designated and mandated to manage your personal data;

10.1.3 the restriction of access to all our premises where your personal data is stored in physical or digital form; and

10.1.4 the binding of any third parties who handle your personal data to confidentiality obligations with respect to the same.

## 11. LINKS ON OUR WEBSITE

We may include links to other third party websites which do not fall under our supervision. We cannot accept any responsibility for your privacy or the content of these websites, but we display these links to make it easier for you to find information about specific subjects.

## 12. MARKETING

12.1 When you become a client, you will be added to our mailing list. We use this mailing list to send you important information about our business, the services we offer, legal developments, news and event invitations. You can also add yourself to our mailing list on our website.

12.2 You can unsubscribe from our mailing list at any time which will result in us no longer marketing to you. We include a link in every marketing communication allowing you to unsubscribe from marketing communication and you can email us to ask us to remove you from our mailing list.

12.3 If you unsubscribe from our mailing list, we may still contact you in other instances, such as in the course of providing you with services or to collect outstanding fees. In these instances, the relevant practitioner will contact you directly and not through the mailing list.

## 13. DATA SUBJECT RIGHTS

13.1 Data subjects have the right to request that we provide them with access to their personal information, to rectify or correct their personal information, erase personal information, or restrict the processing of personal information, including refraining from sharing it or otherwise providing it to any third parties. Data subjects also have the right to raise complaints with the Information Regulator. The foregoing rights may be subject to certain limitations pursuant to applicable law. Data subjects are encouraged to contact Malcolm Lyons & Brivik Inc in order to update their personal information as and when necessary.

13.2 If you believe we are using your personal information unlawfully, please let us know first (on [cape.office@lyonsbriviklaw.com](mailto:cape.office@lyonsbriviklaw.com) or (021) 425 5570). You may lodge a

complaint to the Information Regulator (South Africa) with the following contact details:

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

Address: SALU Building, 316 Thabo Sehume Street, Pretoria

Contact number: 012 406 4818

Fax number: 086 500 3351

Email: [infoereg@justice.gov.za](mailto:infoereg@justice.gov.za)

#### 14. CHANGES TO THIS POLICY

We reserve the right, in our sole discretion to amend (including without limitation, by the addition of new terms and conditions) this Privacy Policy from time to time. You agree to review the Privacy Policy whenever you visit this website for any such amendments. Save as expressly provided to the contrary in this Privacy Policy, the amended version of the Privacy Policy shall supersede and replace all previous versions thereof.

#### 15. CONTACT DETAILS

We have appointed an Information Officer who is responsible for overseeing questions in relation to this privacy policy. If you have any questions about this privacy policy, including any requests to exercise your legal rights, please contact the Information Officer at the details set out below.

Information Officer: Tzvi Brivik  
Email address: [cape.office@lyonsbriviklaw.com](mailto:cape.office@lyonsbriviklaw.com)  
Telephone number: (021) 425 5570  
Address: Suite 501, 5th Floor, The Colosseum  
3 St Georges Mall  
Cape Town  
8001