



**LIBERTY**

**LIBERTY GROUP LIMITED**

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(\*Executive Director, \*\* British)  
Company Secretary: J M Parratt

*Liberty - an Authorised Financial Services Provider in terms of the FAIS Act (Licence No. 2409). Liberty Group Limited - Reg. No. 1957/002788/06*

Ms. Amilah Abd-Al-Rashid  
South African History Archive (SAHA)  
Per email: [foip@saha.org.za](mailto:foip@saha.org.za)

31 January 2019

Dear Ms. Amilah Abd-Al-Rashid

**RE: REQUEST FOR ACCESS TO RECORDS**

1. We refer to the South African History Archive (**SAHA**) request in terms of the Promotion of Access to Information Act 2 of 2000 (**PAIA**) for access to information and records held by Liberty Holdings Limited.
2. Kindly note that Liberty Holdings is not an administrator of retirement funds. Liberty Group Limited (**Liberty**), a wholly owned subsidiary of Liberty Holdings Limited, is an approved retirement fund administrator. Therefore Liberty hereby responds to the request.
3. Best interests of beneficiaries
  - 3.1 Liberty takes the issue of unclaimed benefits very seriously and offers its assistance to SAHA, the pensioners and beneficiaries in order to determine whether any Liberty administered fund owes a benefit to those pensioners and beneficiaries.
  - 3.2 If SAHA has details of "pensioners and other beneficiaries that have been unable to access their benefits [for whom] these records will provide the public a substantial advantage in exercising their right to receive a pension". Liberty invites SAHA to provide those details to Liberty, or to make arrangements with Liberty to introduce those pensioners and beneficiaries to Liberty, in the interest of ensuring that pensioners and beneficiaries receive any unclaimed benefit that may be due to them.
  - 3.3 Kindly note – and kindly inform any pensioners or beneficiaries with whom you have contact - that any person who believes that he or she may have an unclaimed retirement benefit may access the central unclaimed benefits data base on the Financial Sector Conduct Authorities website to ascertain whether or not any unclaimed benefits are due to them

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(<https://www.fsca.co.za/Customers/Pages/Unclaimed-Benefits.aspx>.) Alternatively they may contact our call center on 011 588 2999.

4. SAHA has requested copies "of any records related to the FBS's dealing with Liberty Holdings Limited, in particular" [sic]:

- "1. All policies, directives, guidelines, orders, or similar records related to the submission of requests for the deregistration of pension funds administered by Liberty and made by Liberty Holdings Limited, or parties contracted by Liberty Holdings Limited, to the FSB between 2007 and 2014.
2. Copies of any and all records, or part of records related to Liberty's accounting for financial provisions for dormant and/or inactive pension funds of which Liberty was the administrator.
3. Copies of any and all insurance policies issued by Liberty to wholly underwritten pension funds of which Liberty was the administrator.
4. A copy of the report dated 8 February 2012 by KPMG on its investigation into the merits of the allegations made by Michelle Mitchley to the FSB in 2011 in regard to the conduct of Liberty employees and contractors and FSB employees;
5. A copy of each report by Liberty to the FSB/FSCA on the conduct of Liberty's 'Backlog Project'."

5. Response to PAIA Request

5.1 SAHA does not make the request on behalf of another person. Liberty has no contractual relationship with SAHA in terms of which SAHA could exercise or protect any contractual right relating to a pension, and there is no statutory right to a pension in South African law other than in relation to the State Old Age Grant and certain public sector pension arrangements, which Liberty does not administer, and therefore in respect of which it holds no records.

5.2 If SAHA does represent any third party who has a contractual right relating to a pension that was or is administered by Liberty, SAHA is required to identify the third party and also to demonstrate SAHA's mandate to represent that person in making a request relating to that person's rights and records, so that Liberty is able to consider that request.

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- 5.3 SAHA does not have a right to the records requested in the “general public interest”, as Liberty does not hold records that pertain to the public in general (only records in respect of particular companies, funds and individuals, even though they may be many), and PAIA is not to be abused as a mechanism to make available private records to the general public which does not have an interest in them.
- 5.4 SAHA is required under section 53(2)(a) of PAIA *“to provide sufficient particulars to enable the head of the private body concerned to identify (i) the record or records concerned, and (ii) the requester”*. SAHA has not provided sufficient particulars to enable Liberty to identify the records referred to under paragraph 1, 2, 3, and 5 of Part D of Form C.
- 5.5 The PAIA Request, as formulated, is unduly vague and excessively broad. The excessive broad nature of the PAIA Request will cause Liberty to unreasonably and substantially divert its resources in order to, amongst other things, obtain and consider thousands of documents, in order to ascertain whether or not, any “policies, directives, guidelines, orders or similar records” were submitted to the Financial Services Board (as it was known at the time). In addition, the excessively broad nature of the PAIA Request will cause Liberty to unreasonably and substantially divert its resources to identify all retirement funds it had previously administered and any insurance policies issued to those retirement funds.
- 5.6 For the reasons set out above, SAHA has not satisfied the requirements of section 50(1) and section 53 of PAIA and therefore the request is refused.
- 5.7 Liberty’s decision is final and it does not have an internal appeal process. SAHA may lodge an application with a court against the refusal of the request within 180 days of receipt of this notice for appropriate relief in terms of section 82 of PAIA. The procedure for lodging an application is set out in the “Rules of Procedure for Application to Court in terms of the Act” published in terms of section 79 of PAIA.
- 5.8 Despite Liberty’s rejection of SAHA’s PAIA request for the reasons given above, Liberty is prepared to meet with SAHA to discuss the context of SAHA’s request.

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Yours sincerely

**Mr Ismail Mamoojee**

**Group Privacy Officer**

**Liberty Holdings Limited**