

Confidential

# MOPANI DISTRICT MUNICIPALITY



## PROTECTION OF PERSONAL INFORMATION POLICY FOR MOPANI DISTRICT MUNICIPALITY

In Terms of the Protection of Information Act No 4 OF 2013

Version 1

## **Protection of Personal Information policy**

### **Foreword**

In compiling this policy of Protection of Personal Information, it has been the desire of both the Council and the Management of the Mopani District Municipality to generate a sense of responsibility and accountability in the minds of the Councillors and the employees of the Municipality alike. The Policy has been compiled to also instil a sense of integrity which we believe may increase the moral standards and norms and take the principle of the Batho Pele to a higher level.

We should always ask ourselves what the Protection of Personal Information Policy is all about. By raising such a question, we will be able to always understand the value for such a policy and observe the requirements that go together with its implementation. We can also ask ourselves how this policy will assist in creating a sense of responsibility and accountability as mentioned above. To answer this legitimate question, the following requirements, need to be observed by everyone who is working within the Mopani District Municipality or has association with the Municipality.

- No personal information which is on the Council Agendas must be divulged to anyone who has nothing to do with Municipal Council
- No information on Municipal Management Agendas must be divulged to any person who has no association with Management of Mopani District Municipality
- No personal information on any document marked Confidential/Secret must be divulged in any form whether electronic or manual

Any further information can be obtained from the Records and Information Manager.

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## 1. INTRODUCTION

Section 14 of the Constitution provides that everyone has the rights to privacy which includes the rights to protection against the unlawful collection, retention, dissemination and use of (PI) personal information.

Protection of Personal Information Act (POPIA) is enacted to amongst others;

- To ensure that no unnecessary prevention of the free flow of information, including, PI is practiced.
- To regulate and protect personal information in the hands of public and private bodies.
- To prescribe the minimum requirements for processing and preserving personal information.

## 2. OBJECTIVE OF THE POLICY

2.1 To give effect to constitutional rights to privacy, by safeguarding personal information when processed by a responsible party subject to justifiable limitations

2.2 To regulate the manner in which personal information may be processed, by establishing conditions in harmony with international standards that prescribe the minimum threshold requirements for the lawful processing of personal information.

2.3 To provide persons with rights and remedies to protect their personal information from processing that which is not in accordance with the Act and,

2.4 To establish voluntary and compulsory measures, including the establishment of an Information regulator, to ensure respect for and promote, enforce and fulfil the rights protected by the Act.

## 3. DEFINITION OF TERMS

The following definitions of terms used in this document are drawn from the Protection of Personal Information Act, 2013 (POPIA Act):

**Competent person** refers to any person who is legally capable to consent to any action or decision being taken in respect of any matter concerning a child

**Child** means natural person under the age of 18 who is considered not legally competent

**Data subject** means person to whom personal information relates

**Personal Information:** Information relating to an identifiable, living, natural person, including but not limited to.

- information relating to race, gender, marital status, ethnic, address, sexual orientation, age, health etc.

**Person:** Natural person or juristic person.

**Regulator:** Information Regulator—Juristic person who.

- has jurisdiction throughout the Republic
- is independent and is subject only to the constitution and to the law.
- is accountable to the National Assembly

**Direct marketing** means to approach a data subject, either in person or by mail or electronic communication, for the direct or indirect purpose of promoting or offering to supply, in the ordinary course of business, any goods or services to the data subject or requesting the data subject to donate any kind for any reason.

**Information officer** means in relation to public body means an information officer or deputy information officer as contemplated in terms of section 1 of the Act.

**Public record** means a record that is accessible in the public domain, and which is in possession of or under the control of a public body, whether was created by that public body or not,

**Processing** means any operation or activity concerning personal information.

**Record** means any recorded information, regardless of when it came into existence.

**Responsible party** means a public or private body or any other person which determines the purpose of and means for processing personal information.

#### **4. LEGAL FRAMEWORK**

The policy complies with the following acts, regulations and best practice standards:

- The Constitution of the Republic of South Africa (Act No 108, 1996)
- The Protection of Information Act (Act No 84, 1984)
- The Labour Relations Act (No.66 of 1995)
- The National Archives and Records Service Act (No. 43 of 1996 as amended)
- The Basic Conditions of Employment Act (No.75 of 1997)
- The Employment Equity Act (Act No 55, 1998)
- The Promotion of Access to Information Act (No. 2 of 2000)
- The Promotion of Administrative Justice Act (No. 3 of 2000)
- Northern Province Archives Act (Act no.5 of 2001)
- The National Minimum Information requirements (NMIR), DPSA Circular no.4 of 2001
- The Electronic Communication and Transactions Act (No. 25 of 2002)
- The Municipal Finance Management Act (Act No 56, 2003)
- The Skills Development Act (Act No 31, 2003)
- The Minimum Information Security Standard (MISS)

#### **5. ESTABLISHMENT OF THE INFORMATION REGULATOR**

Information regulator established in terms of Section 39 of Protection of Personal Information Act No. 4 of 2013 (POPIA), which states that:

- 5.1. Regulator to be independent and impartial and to perform its function and exercise its powers without fear, favour or prejudice.
- 5.2. As an independent institution reporting to the National Assembly
- 5.3. Exercise its powers and perform its functions in accordance with the Act and PAIA.

## **6 DUTIES OF THE INFORMATION REGULATOR**

In terms of Section 40 of the Act, the duties and power of information regulator are as follows:

- 6.1. To provide education by promoting an understanding and acceptance of conditions for the lawful processing of personal information
- 6.2. To monitor and enforce compliance by public and private with the provision of the act and submitting reports to parliament within five months of the end of each financial year
- 6.3. To provide and advice minister on the issues public or private body upon request or on its own initiative
- 6.4. To handle complains in line with the Act
- 6.5. Conduct research and to report to parliament

## **7 RIGHTS OF THE DATA SUBJECTS**

Data subject had the right to have his/her personal information processed in accordance with the condition for the lawful processing of personal information, including the right to:

- 7.1. To be notified that personal information about his/her personal information has been accessed.
- 7.2. To object the processing of his, her or its personal information.
- 7.3. To request the correction, destruction of deletion of his, her or its personal information
- 7.4. To submit a complaint in writing to the regulator regarding the alleged interference with the protection of the personal information

## **8 APPOINTMENT OF INFORMATION OFFICER**

Promotion of Access to Information Act or PAIA; automatically designates a Municipal Manager as the Information Officer of the municipality. Municipal Manager is appointed in terms of section 82 of the Local Government Municipal Structures Act,

1998. Municipal Manager shall in writing delegate/designate Deputy Information Officers.

## **9 THE ROLES OF DEPUTY INFORMATION OFFICERS**

- 9.1. To raise awareness among the employees/staff
- 9.2. To encourage compliance with conditions for the lawful processing of personal information.
- 9.3. To deal with requests made pursuant to POPIA
- 9.4. To work with the Regulator in relation to investigations conducted related to prior authorisations (pursuant to Chapter 6 in relation to the body)
- 9.5. To ensure compliance by the body with the provisions of POPIA,
- 9.6. To develop, implement, and monitor a compliance framework,
- 9.7. To ensure that a personal information impact assessment is done to ensure that adequate measures and standards exist,
- 9.8. To develop, monitor, maintain and make available a PAIA manual
- 9.9. To develop internal measures and adequate systems to process requests for access to information
- 9.10. To ensure that internal awareness sessions are conducted

## **10 RECORDS MANAGEMENT**

Mopani District Municipality established records management unit to ensure that all municipal records are properly managed, easily accessible and traceable. Personal Information that is kept shall be in the form of data in databases or systems, and the rest shall be in the form of documents or records. Protection of personal information requires that Mopani District Municipality manage its records effectively and efficiently.

## **11 RECORDS RETENTION**

Protection of Personal Information policy requires that records are captured, kept, and maintained as follows: -

- 11.1. Only those which are relevant to purpose
- 11.2. And only for the period for which they are required
- 11.3. Records are to be updated on regular basis

11.4. Records are used for the purpose for which they were gathered

## **12 RECORDS DISPOSAL**

- 12.1.** In terms of section 13(2) of the Northern Province Archives Act, “no public records under the control of a governmental body may be transferred to an archives repository, destroyed, erased, dumped on the corridors or otherwise disposed of without a written disposal authority issued by Provincial Archivist”.
- 12.2.** Mopani District Municipality shall implement disposal programme in accordance with Archives Act. It is highly risky under POPIA to keep records and not destroy them when their purpose has lapsed.
- 12.3.** During disposal processes, records manager must ensure that all duplicates are also destroyed as they are also Personal Information. Municipality will develop and adopt a process of identifying and removing duplicates.

## **13 FILE PLAN OR CLASSIFICATION SYSTEM**

The municipality must develop and implement classification system or file plan so that records can be easily identified, stored, retrieved, and managed. The file plan should be designed to cater for records on all formats and in all locations.

## **14 THE EIGHT CONDITIONS FOR THE LAWFUL PROCESSING OF PERSONAL INFORMATION**

### **14.1. Accountability**

MDM will ensure that the processing of the personal information of staff, customers, providers or any other individuals is in compliance with the applicable data protection rules as set out in the POPI Act.

### **14.2. Processing Limitation**

Personal information may only be processed in a fair and lawful manner and only with the consent of the data subject.

#### **14.3. Purpose Specific**

Personal information may only be processed for specific, explicitly defined, and legitimate reasons.

#### **14.4. Further Processing Limitation**

Personal information may not be processed for a secondary purpose, unless that processing is compatible with the original purpose.

#### **14.5. Information Quality**

Personal information shall be complete, accurate, not misleading, and updated where necessary.

#### **14.6. Openness**

The data subject whose information is collected must be aware about the purpose for which such personal information is collected and to be used for.

#### **14.7. Security and Safeguards**

Personal information shall be kept secure against the risk of loss, unlawful access, interference, modification, unauthorized destruction, and disclosure.

#### **14.8. Data Subject Participation**

Data subjects do have a right access to their personal information.

### **15 EXEMPTIONS AND EXCLUSIONS FROM PROTECTION OF PERSONAL INFORMATION**

In accordance with the Act this policy does not apply to the processing of personal information

- 15.1. Which is purely personal or for household usage.
- 15.2. That has been de-identified to the extent that it cannot be re-identified again
- 15.3. By the cabinet and its committees or the executive council of the provinces
- 15.4. Relating to the Judicial function of the court

15.5. For the purpose of journalistic, literary or artistic expression

## **16. TRANSFER LIMITATION OBLIGATION**

MDM shall not transfer client's personal information outside of South Africa except in accordance with the requirements of POPIA.

## **17. COMPLIANCE WITH THIS POLICY**

**17.1.** MDM shall implement this Policy using proper procedures and staff training to ensure compliance with this Policy.

**17.2.** MDM shall ensure that all staff members and any representatives who deal with personal information are aware of the standards of this Policy.

**17.3.** MDM shall require that all its staff and representatives with access to personal information maintain confidentiality concerning that personal information.

**17.4.** MDM procedures for handling personal information shall be developed to implement the standards of this Policy.

**17.5.** MDM shall train its staff members in the proper conduct of those procedures that are relevant to their duties.

## **18. COMPLAINTS HANDLING PROCEDURE**

**18.1.** Should a client be unhappy with our treatment of their personal information, or they believe there has been a breach of this Policy, they must please contact the Information Officer and clearly set out the nature of client's concern.

**18.2.** Complaints may be initially made orally, or in writing. Where a complaint is made orally, a client must confirm the complaint in writing as soon as possible. If they require assistance in lodging a complaint, they must please contact our office.

**18.3.** Clients' complaint will be reviewed, and they will be provided with a written response within fourteen (14) working days.

## 19. REVIEW OF POLICY

Protection of personal Information policy will be reviewed every five years in line with term of the council and or when needs arise to align it with the prevailing operational processes of the Municipality.

## 20. ENQUIRIES

Enquiries regarding this policy should, in the first instance, be directed to:

Deputy Manager: Administration

Telephone : 015 811 6300

Email : Mokharit@mopani.gov.za

Postal address : Private Bag X9687  
GIYANI  
0826

Physical Address : Government Building  
Main Road  
GIYANI  
0826

## 21. APPROVAL

**APPROVED BY COUNCIL.:**

<b>Policy Number:</b>	<b>Approved Date:</b>
<b>Effective Date:</b>	<b>Council Resolution no:</b>

**APPROVED BY:**

\_\_\_\_\_  
**MUNICIPAL MANAGER**

\_\_\_\_\_  
**DATE**