

HSRC POPIA MANUAL

This manual was prepared to address the requirements of the Protection of Personal Information Act, 2013 (POPIA).

This manual will be updated at such intervals as may be deemed necessary and will be made available at the HSRC's premises and on its website.

Manual operational date	July 2021
Prepared by	Phumela Mona

Relevant Definitions

“**child**” means a natural person under the age of 18 years who is not legally competent, without the assistance of a competent person, to take any action or decision in respect of any matter concerning him- or herself;

“**competent person**” means any person who is legally competent to consent to any action or decision being taken in respect of any matter concerning a child;

“**consent**” means any voluntary, specific and informed expression of will in terms of which permission is given for the processing of personal information;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996

“**data subject**” means the person to whom the personal information relates;

“**information officer**” of, or in relation to a

- a) Public body means an information officer or deputy information officer as contemplated in terms of section 1 or 17; or
- b) Private body means the head of a private body as contemplated in section 1, of the Promotion of Access to Information Act;

“**operator**” means a person who processes personal information for the responsible party in terms of a contract or mandate, without coming under the direct authority of that party;

“**person**” means a natural or juristic person;

“**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;

“**personal information**” means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to–

- a) information relating to 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 addresses, 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.
- 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.

“**private body**” means-

- a) natural person who carries or has a carried on any trade, business or profession, but only in such capacity;
- b) a partnership which carries or has carried any trade, business or profession;
- c) any former or existing juristic person, but excludes a public body.

“processing” means any operation or activity or any set of operations whether or not by automatic means concerning personal information, including:

- a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation, or use;
- b) dissemination by means of transmission, distribution or making available in any form; or
- c) merging, linking, as well as restriction, degradation, erasure or destruction of the information.

“public body” means—

- a) any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or
- b) any other functionary or institution when—
 - i. exercising a power or performing a duty in terms of the constitution; or
 - ii. exercising a public power or performing a public function in terms of any legislation.

1. Introduction and Purpose of the manual

In order to promote effective governance of public and private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights in relation to public and private bodies.

The POPI Act is intended to promote the right to privacy as stipulated in the Constitution, while at the same time protecting the flow of information and advancing the right of access to and protection of information.

The POPI Act establishes the rights and duties that are designed to safeguard personal information. In terms of the POPI Act, the legitimate needs of the HSRC to collect and use personal information to execute its mandate are balanced against the right of individuals to have their privacy, in the form of their personal information, respected. This manual sets out the rules and practices which must be followed when processing personal information and the granting of rights to individuals in respect of their information.

The purpose of this manual is to enable the HSRC to:

- comply with the law in respect of the personal information it holds about individuals;
- follow good practice;
- protect HSRC's staff and other individuals;
- protect the organisation from the consequences of a breach of its responsibilities.

Further, the purpose of this manual is to ensure that the public is aware of:

- how the HSRC will handle personal information;
- the kind of personal information that the HSRC processes;
- how complaints can be made in relation to the processing of their personal information.

2. Particulars of the HSRC

Mandate of the HSRC

The Human Sciences Research Council (HSRC) is one of South Africa's statutory research councils. Established in terms of the 1968 Human Sciences Research Council Act (Act 23 of 1968) and preserved under the 2008 Human Sciences Research Council Act (Act 17 of 2008). The HSRC is listed as a Schedule 3 public entity as per the provisions of the Public Finance Management Act (Act 1 of 1999) as amended.

Functions of the HSRC

The core business of the Human Sciences Research Council (HSRC) is to conduct large-scale, policy-relevant, social-scientific research for public-sector users, non-governmental organisations and international development agencies. This is done in partnership with researchers globally, but specifically in Africa. The HSRC supports development nationally, as well as in the Southern African Development Community (SADC) and in Africa.

As the national social science council of South Africa, the HSRC serves as a knowledge hub to bridge the gap between research, policy and action; thus increasing the impact of research. This is achieved through collaboration with key constituencies, including government, other research organisations, multinational agencies, universities, non-government organisations, and donor and development organisations.

The HSRC's staff complement numbers almost 500 and consists of professional researchers as well as technical and administrative support staff based in four different provinces across South Africa.

Types of personal information processed by the HSRC

The HSRC may process the following types of personal information:

- information relating to 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;
- information relating to the education or the medical, financial, criminal, or employment history of the person;
- any identifying number, symbol, e-mail addresses, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- the biometric information of the person;
- the personal opinions, views or preferences of the person;
- 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;
- the views or opinions of another individual about the person;
- 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.

HSRC's purposes for processing personal information

As stated above, the HSRC's core business is to conduct large-scale, policy-relevant, social-scientific research. Therefore, the primary reason for processing personal information is research purposes.

However, the HSRC also processes personal information for the following purposes

- human resources;
- to assess the HSRC's website popularity and improve it;
- communications;
- building security.

Research undertaken by the HSRC will be done in compliance with the POPI Act Code of Conduct for Research being developed by ASSAf.

3. Information Officer

The Information Officer oversees the functions, responsibilities and duties required in terms of Condition 1, and Chapter 5, Part B of the POPI Act.

The Information Officer may appoint, where it is deemed necessary, Deputy Information Officers, as allowed in terms of section 56 of the POPI Act.

Information Officer Responsibilities

The Information Officer has the following responsibilities:

- Developing, publishing and maintaining a POPI Manual, which addresses all relevant provisions of the POPI Act, including but not limited to the following:
- Reviewing the POPI Act and periodic updates as published;
- Ensuring that POPI Act training takes place for all staff;
- Ensuring that periodic communication to promote awareness on POPI Act responsibilities takes place;
- Ensuring that Privacy Notices for internal and external purposes are developed and published;
- Handling data subject access requests;
- Approving unusual or controversial disclosures of personal data;
- Ensuring that appropriate policies and controls are in place for ensuring the Information Quality of personal information;
- Ensuring that appropriate Security Safeguards in line with the POPI Act for personal information are in place;
- Handling all aspects of the relationship with the Regulator as foreseen in the POPI Act;
- Provide direction to any Deputy Information Officers if and when appointed.

Contact details of Information Officer and Deputy Information Officers

Designation	Name and address	e-mail
Information Officer – HSRC	Prof Leickness Simbayi – Acting CEO of the HSRC Street Address HSRC Building, 134 Pretorius Street, Pretoria, 0002 Postal Address Private Bag X41, Pretoria, 0001	infoofficer@hsrc.ac.za
Deputy Information Officer – HSRC	Ashley Latchu Head: IT Street Address HSRC Building, 134 Pretorius Street, Pretoria, 0002 Postal Address Private Bag X41, Pretoria, 0001	infoofficer@hsrc.ac.za

The details regarding the subsidiary Information Officers are provided in Annexure A.

4. Accountability

The HSRC undertakes to comply with the POPI Act, Condition 1, and ensure that the conditions and all the measures set out in the POPI Act that give effect to such conditions, are complied with at the time of the determining the purpose and means of the processing

5. Processing Limitation

The HSRC undertakes to comply with the POPI Act, Condition 2 in terms of processing limitation, sections 9 to 12. The HSRC will ensure that it gains written consent where appropriate; alternatively, a recording will be kept of verbal consent. Personal information will only be processed in a fair and lawful manner and only with the consent of the data subject. Only information that is required for the specific purpose for which it is gathered will be stored.

6. Purpose specification

The HSRC undertakes to comply with the POPI Act, Condition 3 in terms of Purpose specification, sections 13 and 14. The HSRC will ensure that personal information may only be processed for specific, explicitly defined and legitimate lawful reasons.

7. Further processing limitation

The HSRC undertakes to comply with the POPI Act, Condition 4 in terms of processing limitation, section 15.

8. Information quality

The HSRC will comply with all of the aspects of Condition 5, section 16, and will regularly review its procedures to ensure that its records remain accurate and consistent and, in particular:

- ICT systems will be designed, where possible, to encourage and facilitate the entry of accurate data.
- Data on any individual will be held in as few places as necessary, and all staff will be discouraged from establishing unnecessary additional data sets.
- Effective procedures will be in place so that all relevant systems are updated when information about any individual changes.
- Staff who keep more detailed information about individuals will be given additional guidance on accuracy in record keeping.

The HSRC will review all personal information on an annual basis. Archived electronic records of the HSRC are stored securely in an off-site facility.

Paper record archiving takes place through the use of Metrofile and in Strong Rooms within the HSRC Building, Pretoria, which are restricted to authorised personnel only.

Records will be kept of all archived documents that are destroyed.

9. Openness

In line with Conditions 6 and 8 of the Act, the HSRC is committed to ensuring that in principle Data Subjects are aware that their data is being processed and

- for what purpose it is being processed;
- what types of disclosure are likely; and
- how to exercise their rights in relation to the data.

Data Subjects will generally be informed through this manual and through the HSRC Privacy Notice.

Whenever data is collected, the number of mandatory fields will be kept to a minimum and Data Subjects will be informed which fields are mandatory and why.

10. Security Safeguards

This section of the manual only addresses security issues relating to personal information. It does not cover security of the building, business continuity or any other aspect of security.

In terms of Condition 7, the lawful processing of personal information requires responsible parties to ensure that personal information collected by the responsible party is kept secure at all times to protect against security breaches. Access to information on the main HSRC computer system is controlled. The HSRC will ensure that necessary controls are in place at all times in terms of access to personal information.

Further guidance is provided in the following IT Policies

- IT Security Policy
- Server Security Policy
- Firewall Policy
- Incident Response Policy

11. Data Subject Participation

Data subjects may request whether their personal information is held, as well as the correction and/or deletion of any personal information held about them. Section 5 of the POPI Act lists the following rights that data subjects have with regards to their personal information – the right to

- to be notified that personal information about him, her or it is being collected as provided for in terms of section 18; or his, her or its personal information has been accessed or acquired by an unauthorised person as provided for in terms of section 22;
- establish whether a responsible party holds personal information of that data subject and to request access to his, her or its personal information as provided for in terms of section 23;
- request, where necessary, the correction, destruction or deletion of his, her or its personal information as provided for in terms of section 24;
- object, on reasonable grounds relating to his, her or its particular situation to the processing of his, her or its personal information as provided for in terms of section 11(3)(a);
- object to the processing of his, her or its personal information at any time for purposes of direct marketing in terms of section 11(3)(b); or in terms of section 69(3)(c);
- not to have his, her or its personal information processed for purposes of direct marketing by means of unsolicited electronic communications except as referred to in section 69(1);
- not to be subject, under certain circumstances, to a decision which is based solely on the basis of the automated processing of his, her or its personal information intended to provide a profile of such person as provided for in terms of section 71;

- to submit a complaint to the Regulator regarding the alleged interference with the protection of the personal information of any data subject or to submit a complaint to the Regulator in respect of a determination of an adjudicator as provided for in terms of section 74; and
- institute civil proceedings regarding the alleged interference with the protection of his, her or its personal information as provided for in section 99.

Any data subject access requests will be handled by the Deputy Information Officer in terms of Condition 8.

Data subject access requests must be in writing. All staff are required to pass on anything that might be a subject access request to the Deputy Information Officer without delay.

Requests for access to personal information will be handled in compliance with the POPI Act and in compliance with the Promotion of Access to Information Act (PAIA), as defined in the HSRC PAIA Manual.

Where the individual making a subject access request is not personally known to the Deputy Information Officer their identity will be verified before handing over any information.

Fees for access to personal information will be handled in compliance with the PAIA Act. Procedures for access to personal information will be handled in compliance with the PAIA Act, as defined in the HSRC PAIA Manual.

12. Processing of Special Personal Information

The prohibition on the processing of special personal information is provided for in Section 26. Special personal information includes information relating to the health, political persuasion, race or ethnic origin, or criminal behaviour of the data subject. There is a similar ban on the processing of personal information relating to a child.

This prohibition does not apply where the processing is for historical, statistical or research purposes. In such instances, the HSRC will ensure that the purpose for processing special personal information serves a public interest and the processing is necessary for the purpose concerned. Further, the HSRC guarantees that the processing will not adversely affect the individual privacy of the data subject to a disproportionate extent.

13. Prior Authorisation

The HSRC undertakes to comply with the POPI Act, Chapter 6 section 57, in terms of obtaining prior authorisation before processing any unique identifiers, information on criminal behaviour, unlawful or objectionable conduct of third parties, process information for the purposes of credit reporting, transfer of personal information as referred to in section 26 and 34 to a third party in a foreign country that does not have adequate level of protection for the processing.

14. Trans-border information flows

Personal Information may be transmitted trans-border to HSRC research partners/ collaborators in other countries, and personal information may be stored in data servers hosted outside South Africa. The HSRC will endeavour to ensure that its research partners/ collaborators will make all reasonable efforts to secure the said data and personal information. Compliance with section 72 will be achieved through the use of the necessary contractual agreements from the relevant research partners/collaborators.

15. POPI Act Complaints Resolution Procedure

The POPI Act deals with complaints in some length under chapter 10 (Enforcement). In terms of section 74, any person may submit a complaint to the Regulator in the prescribed manner and form alleging interference with the protection of the personal information of a data. A complaint to the Regulator must be made in writing.

If a responsible party or data subject feels that the HSRC has acted outside of the requirements of the POPI Act or in terms of the conditions by which the HSRC had processed a data subjects' personal information, such a person may address their complaint to us in writing. Please see complaint procedure below (Annexure B).

Annexure A – Subsidiary Deputy Information Officers

Designation	Name	e-mail
Deputy Information Officer – Legal	Phumela Mona Intellectual Property Manager – Legal	pgantsho@hsrc.ac.za
Deputy Information Officer - HR	Erika Lewis Director - Human Resources	ELewis@hsrc.ac.za
Deputy Information Officer - REC	Khutso Sithole Manager: Research Governance, Ethics & Integrity	kslithole@hsrc.ac.za
Deputy Information Officer - Communications	Manusha Pillai Director – Engagement & Communications	mpillai@hsrc.ac.za
Deputy Information Officer - eResearch Knowledge Centre (eRCK)	Lucia Lötter Director – eRCK	llotter@hsrc.ac.za

Annexure B - Complaints Process Flow

A Complaint must be lodged with the Deputy Information Officer.

1. If the complaint is not in writing, HSRC to request that the complaint be in writing (see Complaint Form below) and to be submitted along with the necessary supporting documentation;
2. Where a complaint is sent to a staff member, the staff member must pass on the complaint form to Deputy Information Officer.
3. The complaint will be validated and recorded on Complaints Register;
4. The Deputy Information Officer will acknowledge receipt of complaint in writing within 5 business days;
5. The complaint will be assigned to a staff member by the Deputy Information Officer and investigated;
6. The complaint must be resolved immediately or the necessary action must be taken and the complainant will be advised of the steps taken and expected date of resolution;
7. The assigned staff member must update the Complaints Register with all developments/ activities;
8. The assigned staff member will forward the resolution of the complaint and the outcome to the Deputy Information Officer who will notify the complainant of the final outcome. This must be within 4 weeks of receiving the complaint.
9. The Deputy Information Officer will notify the complainant if the complaint is not resolved within 4 weeks and advise the complainant on status of the complaint;
10. The Deputy Information Officer will advise the complainant of other options if complaint could not be resolved.

Contact Details	
Name & Surname	
Email	
Contact Number	
Particulars Of Complainant	
Name & Surname	
Identity Number	
Contact Details	
Email	
Details of Complaint <i>(Please specify your details of complaint below. You may attach an additional page if space provided is not sufficient)</i>	
Desired Outcome	
Signature	Date

I hereby declare that the information stated above is truthful and accurate.

We are committed to safeguarding your privacy and the confidentiality of your personal information and are bound by the Protection of Personal Information Act.

If we are unable to resolve the complaint to your satisfaction, you have the right to complain to the Information Regulator.

The Information Regulator contact details:

Physical Address:	Email	Website:
SALU Building, 316 Thabo Sehume Street, Pretoria	infoereg@justice.gov.za	https://justice.gov.za/infoereg/