



**INFORMATION  
REGULATOR  
(SOUTH AFRICA)**

*Ensuring protection of your personal information  
and effective access to information*

**THE LEGAL AND COMPLIANCE COMMITTEE**

## 1. **PURPOSE**

- 1.1 The function of the Legal and Compliance Committee is to ensure compliance by public and private bodies in line with the provisions of the Protection of Access to Information Act 2 of 2000 (PAIA) and Protection of Personal Information Act 4 of 2013 (POPIA).
- 1.2 In respect of the POPIA, the Committee must:
  - 1.2.1 Ensure the development of the Compliance Policies, Strategies, Procedures, Framework and Programmes and the monitoring thereof and recommend to the Members for approval;
  - 1.2.2 Ensure the development of a strategy in relation to research and monitoring of information processing, computer technology and the effects of such developments in relation to the protection of the personal information of data subjects and recommend to Members for approval;
  - 1.2.3 Ensure the examination of any proposed legislation, subordinate legislation, or any proposed policy that may affect the protection of personal information of data subjects and recommend to Members for approval;
  - 1.2.4 Ensure the development of processes and mechanisms for the assessment of public and private bodies in respect of the processing of personal information and the lawful processing of such information, the monitoring of the implementation thereof and recommend to Members for approval;

- 1.2.5 Ensure the development of systems to monitor the use of unique identifiers of data subjects, and to ensure compilation of a report to be submitted to Parliament on the result of monitoring and recommend to Members for approval;
- 1.2.6 Ensure the development of a policy framework for the issuing, amending and revocation of the codes of conduct in terms of sections 60,61, and 62 of the Act and recommend to Members for approval;
- 1.2.7 Ensure the development of guidelines to assist private and public bodies to develop or to apply the codes of conduct in terms of section 63 of the Act and recommend to Members for approval;
- 1.2.8 Ensure that processes and mechanisms are in place for the review of the adjudicator's determinations under the approved codes;
- 1.2.9 Ensure the development of a procedure for dealing with the complaints relating to the breach of the codes of conduct in terms of section 63(1) and (2) of the Act and recommend to Members for approval;
- 1.2.10 Advise Members on policy matters affecting the protection of the personal information of data subjects, the need for or the desirability of taking legislative, administrative, other action, to give protection to the personal information of a data subject and to ensure the compilation of a report to be submitted to Parliament on the result of the monitoring and recommend to Members for approval;

- 1.2.11 Ensure the drafting of reports on all activities in terms of the Act, and compilation of a report to be submitted to Parliament on such activities and recommend to Members for approval;
- 1.2.12 Ensure the maintenance, publication, availability, provision of copies of registers and the monitoring thereof;
- 1.2.13 Ensure the examination of any proposed legislation that makes provision for the collection of personal information by any private or public body or the disclosure of such personal information for the purposes of information matching programmes in terms of section 44(2) of the Act;
- 1.2.14 Ensure the development of mechanisms for addressing the representations received from members of the public for recommendation to Members for approval;
- 1.2.15 Ensure the development of guidelines in terms of section 65 (a) (c) of the Act to assist bodies to develop and apply approved codes of conduct and where necessary advise Members on whether to approve a code of conduct, a variation or revocation of an approved code of conduct and recommend to Members for approval;
- 1.2.16 Ensure the development of written guidelines in terms of section 65(2) of the Act when considering the approval of a code of conduct for the processing of personal information for journalistic purposes where the responsible party is not subject to a code of ethics referred to in terms of section 7 (1) of the Act and further ensure that the guideline complies with section 7(3) a-d of the Act and recommend to Members for approval;

- 1.2.17 Ensure the publication of guidelines in the Gazette in terms of section 65(4) of the Act and recommend to Members for approval;
- 1.2.18 Ensure the development of systems for safekeeping of the register of approved codes of conduct in terms of section 66(1) (2)(3) and (4) of the Act and recommend to Members for approval;
- 1.2.19 Ensure the development of a process for the review of the operation of the approved codes of conduct in terms of section 67 (1) (2)(3) of the Act and recommend to Members for approval;
- 1.2.20 Ensure the development of processes and procedures for the request and the access to personal information of data subjects in terms of section 23 of the Act and recommend to Members for approval;
- 1.2.21 Ensure the development of processes and procedures for the processing of personal information of a data subject for the purposes of direct marketing, compliance with section 69 of the Act and recommend to Members for approval;
- 1.2.22 Ensure the development of mechanisms of safeguarding the personal information of data subjects who are subscribers to a printed or electronic directory of subscribers available to the public in terms of section 70 of the Act and recommend to Members for approval;
- 1.2.23 Ensure the development of processes and procedures for automated processing of personal information in terms of section 71 of the Act and recommend to Members for approval;

- 1.2.24 Ensure the development of systems and procedures regulating the transfer of personal information of data subjects in terms of section 72 of the Act and recommend to Members for approval;
- 1.2.25 Ensure the development of procedures and mechanisms in terms of section 89 of the Act for determining the assessment on whether the processing of personal information complies with the Act and recommend to Members for approval;
- 1.2.26 Ensure the development of a procedure to assess whether the processes of request in terms of section 90 of the Act for the issuing of the information notice complies with the Act and recommend to Members for approval;
- 1.2.27 Ensure the development of a process for reporting of the result of the assessment in terms of section 91 of the Act and make recommendations to the Members for approval;
- 1.2.28 Ensure the development of the procedures and guidelines for appeal process in the High Court in terms of section 97 of the Act and recommend to the Members for approval; and
- 1.2.29 Advise the Members on the civil remedies to be instituted against a responsible party for breach of any provision of the Act in terms of section 99 of the Act.
- 1.3 In respect of the PAIA, the Committee must:
- 1.3.1 Ensure the development of processes and mechanisms for the updating and

publishing the Guide referred to in terms of section 10 of the Act on how to use the Act and recommend to Members for approval;

1.3.2 Advise Members on the process of monitoring compliance with section 14 of the Act for public bodies;

1.3.3 Ensure the making of Regulations relating to voluntary disclosures referred to in section 15 of the Act for approval by Members;

1.3.4 Adopt and develop a procedure in terms of section 83 (3)(h) of the Act for the submission of complaints lodged with the Public Protector in respect of the Act, the nature and outcome of those complaints, monitor the implementation thereof and recommend to Members for approval; and

1.3.5 Ensure compliance with section 51 and section 32 of the Act.

## **2. AUTHORITY**

The Committee must make recommendations to the Members.

## **3. COMPOSITION OF THE COMMITTEE**

3.1 The Committee must be composed of at least two Members. The CEO and his or her designated representative and other Executive members of staff are ex officio members.

3.2 In the event a Member is not able to attend a meeting, such Member may designate another Member to attend a meeting on his or her behalf.

#### **4. DURATION OF THE COMMITTEE**

The Committee will be established for the duration of three years.

#### **5. MEETINGS OF THE COMMITTEE**

##### **5.1 Frequency of Meetings**

5.1.1 The meetings of the Committee must be convened frequently as deemed appropriate and as determined by the Chairperson of the Committee;

5.1.2 Special meetings may be convened in cases of emergency; or where the matter has to be dealt with by the Committee on an urgent basis and cannot stand over to the next meeting;

5.1.3 Reasonable notice of the Committee meetings must be given to all members of the Committee;

5.1.4 Meetings may be held in person or through electronic means such as e-mail, tele-conference or video conference;

5.1.5 Every member present at a Committee meeting must sign an attendance register; and

5.1.6 An agenda and supporting documents must be prepared and circulated at least 5 days before the intended date of a meeting to the members of the Committee (or such other period as agreed by Committee members).

##### **5.2 Chairing of Meetings**

5.2.1 The Chairperson of the Committee is appointed by the Members.

5.2.2 The Chairperson must convene and Chair the meetings.



5.2.3 If the Chairperson is unable to attend a meeting the Members will appoint a Chairperson for that meeting.

### 5.3 Quorum

5.3.1 At least two Members must be present in the meeting.

5.3.2 A Committee meeting may, however, proceed with its business irrespective of the number of Members present, but may not take a decision on any matter when there is no quorum

### 5.4 Decision – Making

5.4.1 The decisions are taken by consensus. Dissenting views must be recorded and referred to the Members;

5.4.2 Resolutions adopted at the Committee meeting are binding on all Committee members.

### 5.5 Right to Vote

Only Members have the right to vote.

## 6. **SECRETARIAT**

6.1 The Chairperson, in consultation with the CEO must, designate employees to assist the Committee with the administrative and secretarial work arising from or connected with the performance of the functions of the Committee.

6.2 Minutes of all Committee meetings must be kept by the duly appointed secretariat of the meeting.


- 6.3 Minutes of the meetings of the Committee must record in sufficient detail the matters considered by the Committee and decisions reached, including any concerns and views raised by members.
- 6.4 Draft and final versions of minutes of such meetings should be sent to members of the Committee for comment and record respectively.
- 6.5 Adopted minutes must be signed by the Chairperson of the Committee.

**7. REPORTING**

The Committee must report to Members through its Chairperson.

**8. REVIEW AND EVALUATION**

The Committee members must annually review and evaluate the adequacy of its Committee and recommend any proposed changes to the Members for approval.

Signed by Chairperson 

on the day 18 of APRIL 2017