

# The Role of the Information Officer

## Complying with the Protection of Personal Information Act

The Protection of Personal Information Act will require every public and private body to make provision for an Information Officer. For a private body this is the head of the private body, as contemplated in section 1 of the Promotion of Access to Information Act (i.e. the chief executive officer or equivalent officer of the juristic person or any person duly authorised by that officer).

### Overview

Information Officers are required to take up their duties once registered with the Regulator.

An information officer's responsibilities include:

- ❖ the encouragement of compliance, by the body, with the conditions for the lawful processing of personal information
- ❖ dealing with requests made to the body pursuant to the Protection of Personal Information Act
- ❖ working with the Regulator in relation to investigations conducted pursuant to a need for prior authorisation from the Regulator
- ❖ otherwise ensuring compliance by the body with the provisions of this Act.

Responsible parties are required to register their "Information Officers" with the Information Regulator who will maintain, publish and make available these details.

### Processing subject to Prior Authorisation from the Information Regulator

The responsible party must obtain prior authorisation from the Regulator, prior to processing, if it plans to:

- ❖ process any unique personal identifies for a purpose other than that specifically collected
- ❖ link personal information together with information processed by other responsible parties
- ❖ process information on criminal behaviour or unlawful/objectionable conduct on behalf of third parties
- ❖ process information for the purpose of credit reporting
- ❖ transfer special personal information or personal information of children to a third party in a country that does not have adequate an adequate level of protection

The responsible party may not carry out any processing that has been notified before the Regulator has completed its investigation, unless four weeks have passed.

The Information Officer is required to assist the Regulator investigate processing that necessitates prior authorisation.

### Complying with the Conditions for the lawful processing of personal information

Every responsible party, i.e. all public and private bodies must safeguard personal information and comply with eight conditions for the lawful processing of personal information:

- ❖ Accountability
- ❖ Processing limitation
- ❖ Purpose specification
- ❖ Further processing limitation
- ❖ Information quality
- ❖ Openness
- ❖ Security safeguards
- ❖ Data subject participation

The Information Officer's responsibility is to encourage responsible parties to comply with the provisions of the Act.

### Working with the Regulator

The Information Officer is responsible for ensuring that the organisation's PAIA manual includes details of the purpose for the processing of personal information by the body, categories of information, categories of recipients of personal information, trans-border flows and details of applicable information security arrangements.

The Information Officer is also to:

- ❖ assist the Regulator conduct an audit for the purpose of ascertaining whether or not information is maintained according to the conditions for the lawful processing of personal information
- ❖ assist the Regulator with any investigations it conducts
- ❖ provide the Regulator with information for the purpose of determining whether the responsible party has interfered with the personal information of a data subject
- ❖ respond to information and enforcement orders.

### Deal with requests made to the body

It is the Information Officer's responsibility to deal with requests made to the body pursuant to this Act. Requests will be made by the Regulator and by data subjects.

The Regulator is likely to make a variety of requests relating to the processing of personal information by a body, including:

- ❖ the auditing of personal information maintained by that body for the purpose of ascertaining whether or not the personal information is processed according to the eight conditions for lawful processing of personal information
- ❖ acting as mediator between opposing parties on any matter that concerns the need for, or the desirability of, action by a responsible party in the interests of the protection of the personal information of a data subject.

Data subjects will make requests to the body for access to information in the manner described in the PAIA manuals.

### Ensuring compliance by the body with provisions of the Act

The Information Officer's responsibility is to encourage responsible parties to respond positively to requests from data subjects for access to information within a reasonable period.

#### Records that cannot be found or do not exist

If all reasonable steps have been taken to find a record requested and there are reasonable grounds for believing that the record is in the private body's possession but cannot be found: or does not exist, the head of the private body must, by way of affidavit or affirmation, notify the requester that it is not possible to give access to that record. The affidavit or affirmation referred to in subsection must give a full account of all steps taken to find the record in question or to determine whether the record exists, as the case may be, including all communications with every person who conducted the search on behalf of the head.