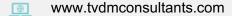
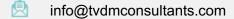
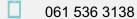
POPIA IS HERE – NOW WHAT?

A PRACTICAL GUIDE TO THE IMPLEMENTATION OF THE ACT

Leigh-Anne Harrison | RPA Property Administrators Advocate Louis Nel | Louis-the-Lawyer













Summary – Part 1

- What is the POPIA The Protection of Personal Information Act 4 of 2013
- The purpose of POPIA the promotion and protection of an individual's right to privacy
- Cut off date for compliance 30 June 2021
- Who is POPIA applicable to? Any person who processes personal information (including a community scheme – BC or HOA)
- There are eight (8) conditions that a person has to comply with when processing personal information
- Importance of compliance and consequences for a breach in terms of POPIA (fine, imprisonment, damages claim)
- What are the next steps??



Five Practical Steps – Compliance with POPIA

- 1. Information Officer
- 2. Personal Information
- 3. Security Measures
- 4. Direct Marketing
- 5. Procedures & Training



1. Information Officer

- Identify an Information Officer
- They are responsible for ensuring compliance with POPIA and will be held liable should a breach occur
- Head of an Organisation Building / Estate Manager OR Chairperson or Trustee
- Register the Information Officer with the Information Regulator via the online portal (https://justice.gov.za/inforeg/portal.html) or via email (registration.lR@justice.gov.za)
- Link to the guidance note released by the Information Regulator
 https://www.justice.gov.za/inforeg/docs/InfoRegSA-GuidanceNote-IO-DIO-20210401.pdf
- Role of the Managing Agent?



Role of the Managing Agent

- We have established that a BC or HOA processes personal information, thus POPIA is applicable.
- What is the role of the MA??
- A community scheme delegates their responsibilities from an administrative, financial and compliance perspective to the Managing Agent BUT the scheme is ultimately still the one responsible to its members
- That is why the scheme is the one that **processes personal** information, and not the Managing Agent.
- The responsibility is delegated, but first and foremost it rests on the scheme



2. Personal Information

- Assess what Personal Information is held, how it is held and why it is held
- In order to collect and process information lawfully, you need to show that you are acting lawfully, reasonably and in a manner that doesn't infringe on a data subject's privacy.
- You must show that you are processing information for a specific purpose only related to your business activities only and can only be retained so long as you legitimately need to or are allowed to keep it.
- A person's POPIA manual highlights the above and is required POPIA states that a person must develop a framework / manual that guides compliance
- A Privacy Policy must also be developed and placed on a person's website

 document contained on a website that explains how a website or organisation
 will collect, store, protect, and utilise personal information provided by its users



3. Security Measures

- One MUST take reasonable technical and organisational measures to prevent loss
 of, damage to, unauthorised access or destruction of personal information
- POPIA doesn't prescribe HOW, just that you MUST secure personal information
- Brainstorm with your team all possible vulnerabilities and patch them
- Any actual or suspected breaches must be reported "as soon as reasonably possible" to both the Information Regulator and the data subject/s involved.

Consequence – trust relationship with client and future business



4. Direct Marketing

- Direct marketing any approach to a data subject 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
- Example emailing or WhatsApping a client about a product, service or a special offer
- Requirements:
 - One can market to existing customers in respect of "similar products or services"
 - one must be "opt-out" at any stage
 - potential new customers can only be marketed with their consent, i.e. on an "opt-in" basis.



5. Procedures & Training

- In an organisation, identify and assess how information is collected, stored, for how long and for what purpose.
- One is much less likely to have a POPIA problem if everyone in an organisation understands the Act and its applicability.
- This is a complex topic there is no substitute for tailored professional advice





TVDM Consultants
info@tvdmconsultants.com
061 536 3138

