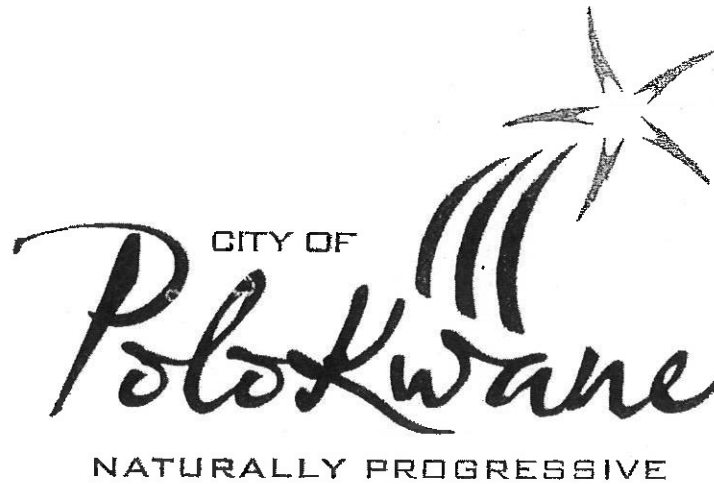


(Draft February 2023)



**POLOKWANE MUNICIPALITY PROTECTION OF PERSONAL  
INFORMATION POLICY  
(PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013)**



## Table of contents

1	Definitions	3
2	Purpose of this policy	4
3	Process of collecting personal information	4
4	Lawful processing of personal information	5
5	Special personal information and information of children	6
6	Purpose for processing of personal information	6
7	Keeping personal information accurate	7
8	Storage and processing of personal information	8
9	Retention of personal information	9
10	Failure to provide personal information	10
11	Safe-keeping of personal information	10
12	Breaches of personal information	11
13	Provision of personal information to third party service providers	12
14	Access to personal information	13
15	Changes to this policy	15

## 1. DEFINITIONS

In this Policy (as defined below), unless the context requires otherwise, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –

- 1.1 "Child" means any natural person under the age of 18 (eighteen) years;
- 1.2 "Data Breach" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Information under the control of or in the possession of the Municipality;
- 1.3 "Data Subject" has the meaning ascribed thereto under POPIA;
- 1.4 "Employees" means any employee of the Municipality;
- 1.5 "The Municipality" means Polokwane Local Municipality;
- 1.6 "Operator" means a person or entity who Processes Personal Information for a Responsible Party in terms of a contract or mandate, without coming under the direct authority of that Responsible Party;
- 1.7 "Personal Information" has the meaning ascribed thereto under POPIA and specifically includes any form of information that can be used to identify a Data Subject;
- 1.8 "Policy" means this Privacy Policy;
- 1.9 "POPIA" means the Protection of Personal Information Act No. 4 of 2013;
- 1.10 "Processing" has the meaning ascribed thereto under POPIA. "Process" has a corresponding meaning;
- 1.11 "Regulator" means the Information Regulator established in terms of the Act;
- 1.12 "Responsible Party" means a public or private body or any other person which alone or in conjunction with others, determines the purpose of and means for Processing Personal Information;
- 1.13 "Special Personal Information" means Personal Information concerning a Data Subject's religious or philosophical beliefs, race or ethnic origin, trade union membership, political opinions, health, sexual life, biometric information or criminal behavior; and
- 1.14 "Third Party" means any independent contractor, agent, consultant, sub-contractor or other representative of THE MUNICIPALITY.

## **2. PURPOSE OF THIS POLICY**

- 2.1 The purpose of this Policy is to inform Data Subjects about how The Municipality Processes their Personal Information.
- 2.2 The Municipality, in its capacity as Responsible Party [and/or Operator], shall strive to observe, and comply with its obligations under POPIA as well as accepted information protection principles, practices and guidelines when it Processes Personal Information from or in respect of a Data Subject.
- 2.3 This Policy applies to Personal Information collected by the Municipality in connection with the services which the Municipality provides and offers. This includes information collected directly from you as a Data Subject, as well as information we collect indirectly through our service providers who collect your information on our behalf.

## **3. PROCESS OF COLLECTING PERSONAL INFORMATION**

- 3.1 The Municipality collects Personal Information directly from Data Subjects, unless an exception is applicable (such as, for example, where the Data Subject has made the Personal Information public or the Personal Information is contained in or derived from a public record).
- 3.2 The Municipality will always collect Personal Information in a fair, lawful and reasonable manner to ensure that it protects the Data Subject's privacy and will Process the Personal Information based on legitimate grounds in a manner that does not adversely affect the Data Subject in question.
- 3.3 The Municipality often collects Personal Information directly from the Data Subject and/or in some cases, from Third Parties. Where The Municipality obtains Personal Information from Third Parties, The Municipality will ensure

that it obtains the consent of the Data Subject to do so or will only Process the Personal Information without the Data Subject's consent where The Municipality is permitted to do so in terms of clause 3.1 above.

- 3.4 An example of such Third Parties include: (i) recruitment agencies; (ii) other companies providing services to The Municipality; and (iii) where The Municipality makes use of publicly available sources of information.

#### 4. **LAWFUL PROCESSING OF PERSONAL INFORMATION**

4.1 Where The Municipality is the Responsible Party, it will only Process a Data Subject's Personal Information (other than for Special Personal Information) where

4.1.1 Consent of the Data Subject (or a competent person, where the Data Subject is a Child) is obtained;

4.1.2 Processing is necessary to carry out the actions for conclusion of a contract to which a Data Subject is party;

4.1.3 Processing complies with an obligation imposed by law on The Municipality;

4.1.4 Processing protects a legitimate interest of the Data Subject; and/or

4.1.5 Processing is necessary for pursuing the legitimate interests of The Municipality or of a third party to whom the information is supplied.

4.2 The Municipality will only Process Personal Information where one of the legal bases referred to in paragraph 4.1 above are present.

4.3 The Municipality will make the manner and reason for which the Personal Information will be processed clear to the Data Subject.

4.4 Where The Municipality is relying on a Data Subject's consent as the legal basis for Processing Personal Information, the Data Subject may withdraw his/her/its consent or may object to The Municipality Processing of the Personal Information at any time. However, this will not affect the lawfulness of any Processing carried out prior to the withdrawal of consent or any Processing justified by any other legal ground provided under POPIA.

4.5 If the consent is withdrawn or if there is otherwise a justified objection against the use or the Processing of such Personal Information, The Municipality will ensure that the Personal Information is no longer processed.

## 5. SPECIAL PERSONAL INFORMATION AND PERSONAL INFORMATION OF CHILDREN

5.1 Special Personal Information is sensitive Personal Information of a Data Subject and The Municipality acknowledges that it will generally not Process Special Personal Information unless –

5.1.1 Processing is carried out in accordance with the Data Subject's consent;

5.1.2 Processing is necessary for the establishment, exercise or defense of a right or obligation in law;

5.1.3 Processing is for historical, statistical or research purposes, subject to stipulated safeguards;

5.1.4 Information has deliberately been made public by the Data Subject; or

5.1.5 Specific authorization applies in terms of POPIA.

5.2 The Municipality acknowledges that it may not Process any Personal Information concerning a Child and will only do so where it has obtained the consent of the parent or guardian of that Child or where it is permitted to do so in accordance with applicable laws.

## 6. PURPOSE FOR PROCESSING OF PERSONAL INFORMATION

6.1 The Municipality understands its obligation to make Data Subjects aware of the fact that it is Processing their Personal Information and inform them of the purpose for which The Municipality Processes the Personal Information.

6.2 The Municipality will only Process a Data Subject's Personal Information for a specific, lawful and clear purpose (or for specific, lawful and clear purposes) and

will ensure that it makes the Data Subject aware of such purpose(s) as far as possible.

6.3 It will ensure that there is a legal basis for the Processing of any Personal Information. Further, The Municipality will ensure that Processing will relate only to the purpose for and of which the Data Subject has been made aware (and where relevant, consented to) and will not Process any Personal Information for any other purpose(s).

6.4 The Municipality will generally use Personal Information for purposes required to operate and manage its normal business operations and these purposes include one or more of the following non-exhaustive purposes –

6.4.1 For the purpose of onboarding its members and service providers;

6.4.2 For purposes of implementing contractual agreements;

6.4.3 For the execution of payment processing functions;

6.4.4 For employment-related purposes such as recruiting staff, administering payroll, background checks, etc.

6.4.5 For internal audit purposes (i.e., ensuring that the appropriate internal controls are in place in order to mitigate the relevant risks, as well as to carry out any investigations where this is required);

6.4.6 For complying with tax laws;

6.4.7 For external audit purposes. For this purpose, THE MUNICIPALITY engages external service providers and, in so doing, shares Personal Information of the Data Subjects with Third Parties;

6.4.8 For keeping accounts of records;

6.4.9 For such other purposes to which the Data Subject may consent from time to time; and

6.4.10 For such other purposes as authorised in terms of applicable law.

## **7. KEEPING PERSONAL INFORMATION ACCURATE**

- 7.1 The Municipality will take reasonable steps to ensure that all Personal Information is kept as accurate, complete and up to date as reasonably possible depending on the purpose for which Personal Information is collected or further processed.
- 7.2 The Municipality may not always expressly request the Data Subject to verify and update his/ her/its Personal Information unless this process is specifically necessary.
- 7.3 The Municipality, however, expects that the Data Subject will notify the Municipality from time to time in writing of any updates required in respect of his/her/its Personal Information.

## **8. STORAGE AND PROCESSING OF PERSONAL INFORMATION BY THE MUNICIPALITY AND THIRD PARTY SERVICE PROVIDERS**

- 8.1 The Municipality may store your Personal Information in hardcopy format and/or in electronic format using The Municipality's own secure on-site servers or other internally hosted technology. Your Personal Information may also be stored by Third Parties, via offsite hosted services or other technology, with whom The Municipality has contracted with, to support The Municipality's business operations.
- 8.2 The Municipality's Third Party service providers, including data storage and processing providers, may from time to time also have access to a Data Subject's Personal Information in connection with purposes for which the Personal Information was initially collected to be Processed.
- 8.3 The Municipality will ensure that such Third Party service providers will process the Personal Information in accordance with the provisions of this Policy, all other relevant internal policies and procedures and POPIA.
- 8.4 These Third Parties do not use or have access to your Personal Information other than for purposes specified by us, and the Municipality requires such parties to



employ at least the same level of security that the Municipality uses to protect your personal data.

- 8.5** Your Personal Information may be Processed in South Africa or another country where the Municipality, its affiliates and their Third Party service providers maintain servers and facilities and the Municipality will take steps, including by way of contracts, to ensure that it continues to be protected, regardless of its location, in a manner consistent with the standards of protection required under applicable law.

## 9. RETENTION OF PERSONAL INFORMATION

- 9.1 The Municipality may keep records of the Personal Information it has collected, correspondence, or comments in an electronic or hardcopy file format.
- 9.2 In terms of POPIA, the Municipality may not retain personal information for a period longer than is necessary to achieve the purpose for which it was collected or processed and is required to delete, destroy (in such a way that it cannot be reconstructed) or de-identify the information as soon as is reasonably practicable once the purpose has been achieved. This prohibition will not apply in the following circumstances –
- 9.2.1 where the retention of the record is required or authorized by law;
- 9.2.2 The Municipality requires the record to fulfil its lawful functions or activities;
- 9.2.3 retention of the record is required by a contract between the parties thereto;
- 9.2.4 the data subject (or competent person, where the data subject is a child) has consented to such longer retention; or
- 9.2.5 the record is retained for historical, research or statistical purposes provided safeguards are put in place to prevent use for any other purpose.
- Accordingly, the Municipality will, subject to the exceptions noted in this Policy, retain Personal Information for as long as necessary to fulfil the purposes for which that Personal Information was collected and/or as permitted or required by applicable law.
- 9.3 Where the Municipality retains Personal Information for longer periods for statistical, historical or research purposes, the Municipality will ensure that appropriate safeguards have been put in place to ensure that all recorded Personal Information will continue to be Processed in accordance with this Policy and applicable laws.
- 9.4 Once the purpose for which the Personal Information was initially collected and Processed no longer applies or becomes obsolete, the Municipality will ensure that the Personal Information is deleted, destroyed or de-identified sufficiently so that a person cannot re-identify such Personal Information.

In instances where we de-identify your Personal Information, the Municipality may use such de-identified information indefinitely.

## **10. FAILURE TO PROVIDE PERSONAL INFORMATION**

- 10.1 Should the Municipality need to collect Personal Information by law or under the terms of a contract that the Municipality may have with you and you fail to provide the personal data when requested, the Municipality may be unable to perform the contract it has or is attempting to enter into with you.
- 10.2 In such a case, the Municipality may have to decline to provide or receive the relevant services, and you will be notified where this is the case.

## **11. SAFE-KEEPING OF PERSONAL INFORMATION**

- 11.1 The Municipality shall preserve the security of Personal Information and, in particular, prevent its alteration, loss and damage, or access by non-authorized third parties.
- 11.2 The Municipality will ensure the security and integrity of Personal Information in its possession or under its control with appropriate, reasonable technical and organizational measures to prevent loss, unlawful access and unauthorized destruction of Personal Information.
- 11.3 The Municipality has implemented physical, organizational, contractual and technological security measures (having regard to generally accepted information security practices or industry specific requirements or professional rules) to keep all Personal Information secure, including measures protecting any Personal Information from loss or theft, and unauthorized access, disclosure, copying, use or modification.
- 11.4 Further, the Municipality maintains and regularly verifies that the security measures are effective and regularly updates same in response to new risks.

## 12. BREACHES OF PERSONAL INFORMATION

- 12.1 A Data Breach refers to any incident in terms of which reasonable grounds exist to believe that the Personal Information of a Data Subject has been accessed or acquired by any unauthorized person.
- 12.2 A Data Breach can happen for many reasons, which include: (a) loss or theft of data or equipment on which Personal Information is stored; (b) inappropriate access controls allowing unauthorized use; (c) equipment failure; (d) human error; (e) unforeseen circumstances, such as a fire or flood; (f) deliberate attacks on systems, such as hacking, viruses or phishing scams; and/or (g) alteration of Personal Information without permission and loss of availability of Personal Information.
- 12.3 The Municipality will address any Data Breach in accordance with the terms of POPIA.
- 12.4 The Municipality will notify the Regulator and the affected Data Subject (unless the applicable law requires that we delay notification to the Data Subject) in writing in the event of a Data Breach (or a reasonable belief of a Data Breach) in respect of that Data Subject's Personal Information.
- 12.5 The Municipality will provide such notification as soon as reasonably possible after it has become aware of any Data Breach in respect of such Data Subject's Personal Information.
- 12.6 Where the Municipality acts as an 'Operator' for purposes of POPIA and should any Data Breach affect the data of Data Subjects whose information the Municipality Processes as an Operator, The Municipality shall (in terms of POPIA) notify the relevant Responsible Party immediately where there are reasonable grounds to believe that the Personal Information of relevant Data Subjects has been accessed or acquired by any unauthorized person.

### 13. PROVISION OF PERSONAL INFORMATION TO THIRD PARTY SERVICE PROVIDERS

13.1 The Municipality may disclose Personal Information to Third Parties and will enter into written agreements with such Third Parties to ensure that they Process any Personal Information in accordance with the provisions of this Policy, and POPIA.

13.2 The Municipality notes that such Third Parties may assist the Municipality with the purposes listed in paragraph 6.4 above – for example, service providers may be used, inter alia,

13.2.1 For data storage;

13.2.2 To assist the Municipality with auditing processes (external auditors);

13.2.3 For providing outsourced services to the Municipality, including in respect of its  
(i) ICT, (ii) legal, (iii) data storage requirements and upskilling of its Employees;  
and/or

13.2.4 To notify the Data Subjects of any pertinent information concerning the Municipality.

13.3 The Municipality will disclose Personal Information with the consent of the Data Subject or if the Municipality is permitted to do so without such consent in accordance with the applicable laws.

13.4 Further, the Municipality may also send Personal Information to a foreign jurisdiction outside of the Republic of South Africa, including for Processing and storage by Third Parties.

13.5 When Personal Information is transferred to a jurisdiction outside of the Republic of South Africa, the Municipality will obtain the necessary consent to transfer the Personal Information to such foreign jurisdiction or may transfer the Personal Information where the Municipality is permitted to do so in accordance with the provisions applicable to cross-border flows of Personal Information under POPIA.

13.6 The Data Subject should also take note that the Processing of Personal Information in a foreign jurisdiction may be subject to the laws of the country in which the Personal Information is held, and may be subject to disclosure to the

governments, courts of law, enforcement or regulatory agencies of such other country, pursuant to the laws of such country.

## 14. ACCESS TO PERSONAL INFORMATION

14.1 POPIA read with the relevant provisions of the Promotion of Access to Information Act, No. 2 of 2000 ("PAIA") confers certain access rights on Data Subjects.

The Municipality's PAIA Manual can be found [[http://www.theMunicipality.org.za/Documents/THE Municipality\\_PAIA\\_Manual\\_June2018\\_%28Ver1%29.pdf](http://www.theMunicipality.org.za/Documents/THE_Municipality_PAIA_Manual_June2018_%28Ver1%29.pdf)] ("PAIA Manual"). These rights include –

14.1.1 A right of access: a Data Subject having provided adequate proof of identity has the right to: (i) request a Responsible Party to confirm whether any Personal Information is held about the Data Subject; and/or (ii) request from a Responsible Party a description of the Personal Information held by the Responsible Party including information about Third Parties who have or have had access to the Personal Information. A Data Subject may request:

14.1.1.1 The Municipality to confirm, free of charge, whether it holds any Personal Information about him/her/it; and

14.1.1.2 To obtain from the Municipality the record or description of Personal Information concerning him/her/it and any information regarding the recipients or categories of recipients who have or had access to the Personal Information. Such record or description is to be provided:

14.1.1.2.1 Within a reasonable time; and

14.1.1.2.2 In a reasonable manner and format and in a form that is generally understandable.

14.1.2 A right to request correction or deletion: a Data Subject may also request the Municipality to –

- 14.1.2.1 correct or delete Personal Information about the Data Subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
- 14.1.2.2 destroy or delete a record of Personal Information about the Data Subject that the Municipality is no longer authorised to retain records in terms of POPIA's retention and restriction of records provisions. On receipt of such a request, the Municipality is required to, as soon as is reasonably practicable –
  - 14.1.2.2.1 Correct the information;
  - 14.1.2.2.2 Delete or destroy the information;
  - 14.1.2.2.3 Provide the Data Subject with evidence in support of the information; or
  - 14.1.2.2.4 Where the Data Subject and Responsible Party cannot reach an agreement on the request and if the Data Subject requests this, the Municipality will take reasonable steps to attach to the information an indication that correction has been requested but has not been made;
- 14.1.3 A right to withdraw consent and to object to processing: a Data Subject that has previously consented to the Processing of his/her/its Personal Information has the right to withdraw such consent and may do so upon providing the Municipality with notice to such effect at the address set out in paragraph 18. Further, a Data Subject may object, on reasonable grounds, to the Processing of Personal Information relating to him/her/it.
- 14.2 Accordingly, the Municipality may request the Data Subject to provide sufficient identification to permit access to, or provide information regarding the existence, use or disclosure of the Data Subject's Personal Information.
- 14.3 Any such identifying information shall only be used for the purpose of facilitating access to or information regarding the Personal Information.

- 14.4 The Data Subject can request in writing to review any Personal Information about the Data Subject that the Municipality holds including Personal Information that the Municipality has collected, utilised or disclosed.
- 14.5 The Municipality shall respond to these requests in accordance with POPIA and PAIA and will provide the Data Subject with any such Personal Information to the extent required by law and any of the Municipality's policies and procedures which apply in terms of the PAIA.
- 14.6 The Data Subject can challenge the accuracy or completeness of his/her/its Personal Information in the Municipality's records at any time in accordance with the process set out in the PAIA Manual for accessing information.
- 14.7 If a Data Subject successfully demonstrates that their Personal Information in the Municipality's records is inaccurate or incomplete, the Municipality will ensure that such Personal Information is amended or deleted as required (including by any Third Parties).
- 14.8 The Municipality will respond to each written request of a Data Subject not later than 30 (thirty) days after receipt of such requests. Under certain circumstances, the Municipality may, however, extend the original period of 30 (thirty) days once for a further period of not more than 30 (thirty) days.
- 14.9 A Data Subject has the right to make a complaint to the Municipality in respect of this time limit by contacting the Municipality using the contact details provided in paragraph 18 below.
- 14.10 The prescribed fees to be paid for copies of the Data Subject's Personal Information are listed the PAIA Manual.

## 15. CHANGES TO THIS POLICY

- 15.1 The Municipality reserves the right to make amendments to this Policy from time to time and will use reasonable efforts to notify Data Subjects of such amendments.
- 15.2 The current version of this Policy will govern the respective rights and obligations between you and the Municipality each time that you access and use our site.