



Promotion of Access to Information Act, 2 of 2000 & Protection of Personal Information Act, 4 of 2013 Manual

This document was prepared and made available in accordance with Section 14 of PAIA and forms part of the responsibilities of the Information Officer in terms of Regulation 4(c) of the Regulations Relating to the Protection of Personal Information, as published by the Information Regulator, under section 112(2) of POPIA, Government Gazette No. 42110 of 14 December 2018.

Approved by Information Officer on : DAVID DE JAGER



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1. Preface

The **Promotion of Access to Information Act, 2 of 2000** (PAIA) gives effect to the public's right to information from public and private bodies as contained in section 32 of the Constitution of the Republic of South Africa, 1996 (the Constitution) and to advance and increasingly focus on the development of good corporate governance.

Bearing in mind –

That the right of access to any information held by the Kouga Local Municipality may be limited to the extent that the limitations are reasonable and justifiable in an open and democratic environment based on human dignity, equality and freedom as contemplated in Section 36 of the Constitution and also as specified in Part 2, Chapter 4, of PAIA.

The **Protection of Personal Information Act, 4 of 2013** (POPIA) aims to promote the protection of personal information processed by public and private bodies; to introduce certain conditions to establish minimum requirements for the processing of personal information; to regulate the flow of personal information across the borders and to provide for matters connected therewith.

2. Introduction

This Manual has been compiled for the Kouga Local Municipality and is a requirement in terms of section 14 of PAIA and Regulation 4(c) of the Regulations Relating to the Protection of Personal Information. This Manual aims to give effect to the public's right of access to information held by a public body and the protection of personal information processed by a public body.

One of the objectives of PAIA is to promote transparency, accountability and effective governance. These objectives forms part of the Kouga Local Municipality's strategy to achieve developmental and participatory local government in the Eastern Cape. The Kouga Local Municipality also strives to be accessible by *inter alia* providing information.

The purpose of the manual is:

- To assist in fostering a culture of transparency and accountability;
- To enable people to exercise their rights in terms of the applicable legislation; and
- To create an understanding of the functions performed and records and/or personal information kept and/or processed by the Kouga Local Municipality.

3. Purpose and scope of PAIA

Section 14 of PAIA obliges the Information Officer (Municipal Manager) of public bodies like the Kouga Local Municipality, to compile a manual which would assist a person to obtain access to information held by such public body and stipulates the minimum requirements such manual has to comply with.

In accordance with the relevant legislation, this Manual contains the following information:

- A description of the Municipality's structure and functions;
- The postal and street address, phone number, fax number and electronic mail address of the Information Officer as well as of the Deputy Information Officer designated;
- A description of the Guide compiled by the South African Human Right Commission and how to access it;
- Sufficient detail to facilitate a request for access to a record of the Municipality;
- A description of the subjects on which the Municipality holds records and the categories of records held on each subject;
- Categories of records of the Municipality which are available without a person having to request access;
- A description of the services available to members of the public from the Municipality and how to gain access to those services;
- A description of any arrangement or provision for a person by consultation, making representations or otherwise, to participate in or influence the formulation of policy;
- The exercise of powers or performance of duties by the Municipality;
- A description of all remedies available in respect of an act or a failure to act by the Municipality;
- List of personal information kept and the collection thereof;
- Utilisation of personal information and reasons for keeping personal information;
- Sharing, safeguarding and retention of personal information;

- Data subjects right to access & maintenance personal information; and
- Such other information as may be prescribed.

4. Description of the Structure & Functions

Structure

The Kouga Local Municipality was established by the relevant Establishment Notice, issued by the MEC (Minister) of Local Government of the Province of the Eastern Cape, in terms of section 12 of the Local Government: Municipal Structures Act, 1998.

Kouga Local Municipality was established vide Provincial Notice No. 199 of 2000 as published in Provincial Gazette No. 633 dated on 9 August 2000 (Principle Notice). The original Establishment Notice was amended on various occasions since 2000. The Consolidated Establish Notice was amended on 29 November 2000.

The municipality comprises of its administration and the Council consisting of 30 Councillors of both elected (15 ward representatives) and proportional (15 councillors) representation. The party representation is set out below:

- 16 Democratic Alliance Councillors (9 Wards, 7 PR)
- 11 African National Congress Councillors (6 Wards, 5 PR)
- 1 FF+ Councillor (PR Cllr)
- 1 EFF Councillor (PR Cllr)
- 1 PA Councillor (PR Cllr)

The Municipality has an executive Mayor, Deputy Mayor and a Speaker who is also the Chairperson of the Municipal Council. The day-to-day functioning and decision making of the municipality takes place through its Municipal Manager, as head of the administration. Kouga Local Municipality has the following portfolio committees, established in terms of section 80 of the Local Government: Municipal Structures Act, Act 117 of 1998:

- Corporate and Digital Services Portfolio Committee
- Infrastructure and Engineering Portfolio Committee
- Community Services Portfolio Committee
- Planning, Development and Tourism Portfolio Committee
- Finance Portfolio Committee

In addition, Council has established the following Committees in terms of Section 79 of the Municipal Structures Act:

- Municipal Public Accounts Committee
- Rules and Ethics Committee
- Municipal By-Laws and Policy Committee
- Monitoring & Evaluation Committee

Functions

The Kouga Local Municipality has legislative and executive authority and is empowered to govern, on its own initiative, the local governmental affairs of its community, subject to the national and provincial legislation, as provided for in the Constitution.

The municipality operates within a legislative framework which consists of various statutes, which inter alia include:

- Local Government: Transitional Act (Act 209 of 1993);
- Local Government: Municipal Systems Act (Act 32 of 2000) as amended by Local Government: Municipal Systems Amendment Act 3 of 2022;
- Local Government: Municipal Structures Act (Act 117 of 1998) as amended by Local Government: Municipal Structures Amendment Act 3 of 2021
- The Constitution of the Republic of South Africa (Act 108 of 1996); and
- Local Government: Municipal Finance Management Act (Act 56 of 2003).

Other statutes which impact on the governance of the municipality include (the list is not exhaustive)

Water Services Act	Act 108 of 1997
National Water Act	Act 36 of 1998
Electoral Act	Act 73 of 1998
Promotion of Local Government Affairs Act	Act 91 of 1983
Electricity Act	Act 41 of 1987
Promotion of Access to Information Act	Act 2 of 2000
Promotion of Administrative Justice Act	Act 3 of 2000
National Health Act	Act 61 of 2003
Occupational Health & Safety Act	Act 85 of 1993
Labour Relations Act	Act 66 of 1995
Basic Conditions of Employment Act	Act 75 of 1997
Employment Equity Act	Act 55 of 1998
Skills Development Act	Act 97 of 1998
Unemployment Insurance Act	Act 63 of 2001
Pension Funds Act	Act 24 of 1956
The Removal of Restrictions Act	Act 84 of 1967
Expropriation Act	Act 63 of 1975
Arbitration Act	Act 42 of 1965
Public Audit Act	Act 25 of 2004
National Road Traffic Act	Act 93 of 1996
Housing Act	Act 107 of 1997
Prevention of Illegal Eviction from and Unlawful Occupation of Land Act	Act 19 of 1998

The municipality's functions are to carry out its constitutional mandate, by striving within its financial and administrative capacity, to achieve the objects of local government, viz:

- to promote social and economic development.
- to promote a safe and healthy environment; to provide democratic and accountable government for local communities;
- to ensure the provision of services to communities in a sustainable manner; and
- to encourage the involvement of communities and community organisations in the matters of local government.

In terms of the aforesaid statutes the powers and functions of Kouga Local Municipality includes, *inter alia*:

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- a) solid waste disposal sites;
- b) promotion of local tourism;
- c) ensuring integrated development planning;
- d) provision of potable water supply systems;
- e) the establishment, conduct and control of cemeteries;
- f) the receipt, allocation and distribution of grants made to the municipality;
- g) provision of bulk sewage purification works and main sewage disposal systems;
- h) provision of municipal public works relating to any of above functions or any other functions assigned to the municipality;
- i) the imposition and collection of taxes, levies and duties as related to the above functions or as may be assigned in terms of national legislation; and
- j) bulk supply of electricity, which includes for the purposes of such supply, the transmission, distribution and the generation of electricity.

5. Contact details of Kouga Local Municipality

Physical Address:

33 Da Gama Street
Jeffreys Bay
6330

Postal Address:

Box 21
Jeffreys Bay
6330

Telephone Number: 042 200 2200

Website Address: www.kouga.gov.za

Email Address: registry@kouga.gov.za

6. Contact Details of Information Officer & Deputy Information Officer

INFORMATION OFFICER :

Name & Designation: Charl Du Plessis- Municipal Manager
Postal Address: Box 21, Jeffreys Bay, 6330
Physical Address: 33 Da Gama Street, Jeffreys Bay, 6330
Telephone Number: 042 200 2200
Email address: registry@kouga.gov.za

DEPUTY INFORMATION OFFICER:

Name & Designation: David de Jager-Deputy Municipal Manager
Postal Address: Box 21, Jeffreys Bay, 6330
Physical Address: 33 Da Gama Street, Jeffreys Bay, 6330
Telephone Number: 042 200 2200
Email address: registry@kouga.gov.za

7. The Human Rights Commission & the Information Regulator

Previously the Human Rights Commission was responsible for certain functions as provided for in PAIA. As of 30 June 2021, the Information Regulator took over the regulatory mandate functions relating to PAIA. This follows a proclamation, by the President, of sections 110 and 114(4) of POPIA, which provided for the amendment of

PAIA and the effective transfer of certain functions currently performed by the South African Human Rights Commission to the Information Regulator on 30 June 2021.

Chapter 5 of POPIA deals with the establishment of the Information Regulator and section 40 outlines the powers, duties and functions of the Regulator, which *inter alia* includes:

- handling of compliant;
- issuing of codes of conduct;
- consultations with interested parties; and
- the monitoring and enforcement of compliance with POPIA.

8. Description of subjects & categories of records held

"Records" of the municipality refer to those records created or received in the course of official business and which are kept as evidence of the municipality's functions, activities and transactions.

There are different forms of records, for example **correspondence files, maps, plans, registers, agendas and minutes, by-laws and tariffs, policy documents, etc.**, which could be available in different media formats, i.e. paper or electronic. **Annexure "A"** gives a description of the subjects on which the municipality holds records, as well as the categories held on each subject.

9. Records held & access to records held

The method of managing records in the municipality is in accordance with provincial archive requirements. It should be noted that inclusion in the following list of records does not mean that the files or records are necessarily accessible under PAIA. The latter legislation prohibits a public body from allowing access, and/or allows the public body to refuse access, to certain types of information. Chapter 4 of PAIA deals with the grounds for refusal of access to records.

Information to be formally requested in terms of PAIA includes *inter alia*:

- Tenders;
- Cheque returns;
- Salary Advices;
- UIF Returns;
- Annual financial reports;
- Management reports;
- Financial Records;
- Employees' Leave Records;
- Internal Policies and Procedures;
- Correspondence on General Files;
- Documentation on disciplinary matters;
- Internal correspondence Statutory Documents;
- Documentations on Policies and Conditions of Employment;
- Records obtained from third parties held by the Municipality;
- Various agreements entered into between the Municipality and third parties;
- Documents pertaining to tenders and other procurement related matters;
- Minutes of the Municipality and its various committees and sub-committees;

- Data base of service recipients, including but not limited to residents, customers, suppliers, etc.;

10. Voluntary Disclosure and Automatic Availability of Certain Records

(Section 15)

The records as set out in **Annexure "B"** are automatically available without a person having to request access in terms of PAIA, but where appropriate, remain subject to review by the Information Officer or Deputy Information Officer in terms of Section 15 (4).

All other records must be formally requested as provided for in this manual. The only fee payable, if any, for access to these records is the prescribed fee for reproduction.

Where a request for information cannot be met, a requester shall be:

- Informed of his/her right to make a formal application under PAIA.
- Informed of the fact that certain types of requests for information may be refused.
- Informed of his/her right to appeal if a request is initially refused.

11. Request for Access (Section 11)

Access given

When a record/information is requested in terms of PAIA, the requester must be given access thereto, if the requester complies with the following:

"All the procedural requirements in the Act, relating to the request for access to a record; and Access to the record is not refused on any ground of refusal mentioned in the Act."

Form of Request (Section 18(1))

Access to information which is not automatically available must be requested in writing on the prescribed form (Form A), attached hereto as **Annexure "C"** and be forwarded to the Information Officer or Deputy Information Officer.

The application form must be accompanied by the prescribed request fee.

The application should clearly state what information is required and if the request is for a copy of a record, or whether the requester would like to view the record at the office of the municipality.

If a person asks for access in a particular form, the requester would be given access in the manner that has been asked for, unless doing so would interfere unreasonably with the running of the municipality or would damage its records or infringe a copyright not owned by the municipality.

If the requester wishes to be informed of the decision regarding the request in any other manner, e.g., telephonically, by fax or e-mail, in addition to a written reply, it must be indicated as such. In cases where the requester is asking for information on behalf of somebody else, the capacity in which the request is being made should be indicated and proof hereof provided. When a requester is unable to read or write or has a disability, the request can be made orally, in which event the Information Officer or Deputy Information Officer will complete the form on behalf of the requester.

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If for practical reasons access cannot be given in the requested manner but in an alternative manner, then the fee for access will be calculated according to the manner that the requester had requested.

The Information Officer or Deputy Information Officer will render such reasonable assistance, free of charge, as is necessary to enable that requester to comply with section 18(1) of PAIA.

If a requester has made a request for access that does not comply with section 18(1), the Information Officer/Deputy Information Officer concerned may refuse the request if he/she has:

Notified the requester of an intention to refuse the request and stated in the notice:

- The reasons for the contemplated refusal and that the Information Officer/Deputy Information Officer, or another official, would assist that requester in order to make the request in a form that would remove the grounds for refusal, giving the requester a reasonable opportunity to seek such assistance as far as reasonably possible, furnished the requester with any information that would assist the making of the request in that form; and given the requester a reasonable opportunity to confirm the request or alter it to comply with section 18(1) of PAIA.

Transfer of requests (section 20)

If a request for access is made for information which is not in the possession of the municipality, or if the information is more closely connected to another public body, the Information Officer/Deputy Information Officer will assist the requester to make the request to the relevant Information Officer of the other body, or transfer the request to the other body within 14 (fourteen) days after the request has been received.

Fees payable (Section 22)

In terms of PAIA, two types of fees are required to be paid, namely the **request fee** and the **access fee**.

A requester who seeks access to a record containing personal information about him or herself, the requester, is not required to pay the request fee. Every other requester must pay the relevant request fee.

The Information Officer/Deputy Information Officer will notify the requester to pay the prescribed fee, if any, before further processing the request. The prescribed request fee payable is set out in **Annexure "D"**. The requester may also be notified to pay a deposit under certain circumstances.

The requester may lodge an internal appeal or an application to the court against the payment of the request fee. Certain persons, as set out in **Annexure "E"**, are exempted from paying access fees.

Records not found/non-existing (Section 23)

In cases where records cannot be found or do not exist and all reasonable steps have been taken to find the requested record, the Information Officer/Deputy Information Officer will by means of an affidavit/affirmation, inform the requester, accordingly, giving full reasons.

Deferral of Access (Section 24)

Requests may be deferred until information becomes available. The requester will be notified accordingly and requested to make representations within 30 (thirty) days as to why the information is required prior to it becoming public.

Decisions and Notice (Section 25)

The municipality will respond to the request within 30 (thirty) calendar days, unless the request contains considerations that are of such a nature that an extension of the 30-day time limit is necessitated. Where an extension of the 30-day time limit is required, the requester shall be notified accordingly, together with an explanation why such extension was necessitated. The time limit may be extended only once, for a further period of 30 days (Section 26).

If the Information Officer/Deputy Information Officer fails to give the decision on a request for access to the requester within the periods as set out here above, the Information Officer/Deputy Information Officer is regarded as having refused the request (Section 27).

If the request is granted, a further access fee as set out in **Annexure "D"** must be paid for the search, preparation and reproduction of the record, where applicable. The requester will be given the required information, if available, within a reasonable time after receipt of the application form and prescribed fee.

Language of Access (Section 31)

The record will be made available in the language preferred by the requester, if it exists in that language, or, if it does not exist in that language or the requester has no preference or has not indicated a preference, in any language it exists in.

12. Refusal of Access to Certain Records

As indicated here above, the right of access to information is subject to justifiable limitations, including but not limited to limitations aimed at the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance and in a manner which balances that right with any other right, including the Bill of Rights in Chapter 2 of the Constitution.

Section 9 (b)(ii) of PAIA recognises that the right to access to information must be given effect to in a manner which balances the right with any other rights, including such rights contained in the Bill of Rights in the Constitution. The Information Officer/Deputy Information Officer may refuse access to certain records under the circumstances as provided for in sections 33 to 46 in Chapter 4 of PAIA (See **Annexure "F"**).

Kouga Local Municipality may refuse to grant access to records on the following grounds:

- Mandatory protection of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- Mandatory protection of the commercial information of a third party, if the record contains:
- Trade secrets of that third party;

- Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- Information disclosed in confidence by a third party to Kouga Local Municipality if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- Mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- Mandatory protection of the safety of individuals, and protection of property;
- Mandatory protection of records which would be regarded as privileged in legal proceedings;
- The commercial activities of Kouga Local Municipality, which may include:
 - Trade secrets of Kouga Local Municipality;
 - Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of Kouga Local Municipality;
 - Information which, if disclosed could put Kouga Local Municipality at a disadvantage in negotiations or commercial competition;
 - A computer programme which is owned by Kouga Local Municipality, and which is protected by copyright;
 - The research information of Kouga Local Municipality or a third party, if its disclosure would disclose the identity of Kouga Local Municipality, the researched or the subject matter of the research and would place the research at a serious disadvantage.
 - Request for information that are clearly frivolous, or vexatious, or which involve an unreasonable diversion of resources in terms of section 45 of the PAIA.

Third Party Notification and Intervention (Chapter 5)

Notice to third parties (Section 47)

The Information Officer/Deputy Information Officer considering a request for access to a record of a third party must take all reasonable steps to inform a third party to whom or which the record relates of the request as soon as reasonably possible, but in any event, within 21 (twenty-one) days after the request is received, by the fastest means reasonably possible.

The third party may, within 21 (twenty-one) days after being so informed, make written or oral representations to the Information Officer/Deputy Information Officer why the request should be refused or may give written consent for the disclosure of the record to the requester.

Decision on representations by third parties (section 49)

The Information Officer must, within 30 (thirty) days, decide whether to grant the request for access and notify the third party accordingly. If the request for access is granted, the notice must state:

- Adequate reasons for granting the request, including the provisions of this Act relied upon;
- That the third party may lodge an internal appeal or an application, as the case may be, against the decision within 30 (thirty) days after notice is given, and the procedure for lodging the internal appeal or application;

- That the requester will be given access to the record after expiry of the applicable period; and
- Unless such internal appeal or application with a court is lodged within that period.

13. Internal Appeals against decisions of Information Officers

14. (Part 4 of PAIA)

Right of internal appeal (section 74)

A requester may lodge an internal appeal with the municipality against a decision of the Information Officer or Deputy Information Officer, if:

- A request for access is refused;
- The fees charged are unacceptable;
- The period within which a decision with regard to access to a record must be made, is extended;
- Access to a record is not provided in the requested form; and
- A third party may lodge an internal appeal with the municipality against a decision by the Information Officer, Deputy Information Officer to disclose information relating to a third party.

Appeal procedure and fees (section 75)

An internal appeal must be lodged on the prescribed form (**Form B**), which is attached as **Annexure "G"**, within the following periods:

- A period of 60 (sixty) days;
- If notice to a third party is required in terms of section 49 (1) (b), within 30 (thirty) days after notice is given to the appellant of the decision appealed against or, if notice to the appellant is not required, after the decision was taken.

The internal appeal

An internal appeal must:

- be delivered, posted, faxed or sent electronically to the Information Officer or Deputy Information Officer;
- state the manner in which the applicant wishes to be informed of the decision on the internal appeal, in addition to a written reply;
- identify the subject of the internal appeal and give reasons for the appeal;
- if applicable, be accompanied by the prescribed appeal fee(s); and
- specify a postal address, fax number or e-mail address.

The Information Officer or Deputy Information Officer must, within ten (10) working days after the receipt of an internal appeal, submit it, together with his/her reasons for the decision, to the Relevant Authority, namely the Speaker or any other person designated by the Municipal Council in writing, for consideration.

If an internal appeal is considered against the refusal of a request for access to a record of a third party, the third party to whom or which the record relates, must be informed of the internal appeal and he/she may, within 21 days after being so informed, make written representations why the request for access should not be granted or give written consent for the disclosure of the record to the requester concerned. Late appeals may be allowed, if good cause can be shown.

Decision on internal appeal and notice thereof (section 77)

When deciding on the internal appeal the Relevant Authority may confirm the decision appealed against or substitute a new decision for it, within 30 days after the internal appeal is received by the Information Officer/Deputy Information Officer.

The Relevant Authority will immediately after the decision on an internal appeal give notice of the decision to the appellant and any relevant third party, state adequate reasons for the decision, and that the appellant, third party or requester, as the case may be, may lodge an application with a court against the decision on internal appeal within 60 days; or, if notice to a third party is required, within 30 days after notice is given, and also state the procedure for lodging the application.

If the Relevant Authority fails to give notice of the decision on an internal appeal to the appellant within the periods indicated here above, it is regarded as having dismissed the internal appeal.

Applications to Court (Part 4, Chapter 2 of PAIA)

A requester or third party may make an application to a Court regarding the decisions of the Information Officer/Deputy Information Officer, but only after the internal appeal process has been exhausted. A requester may make an application to a Court, if he/she is:

- Aggrieved by the decision of the Information Officer or Deputy Information Officer to disallow the late lodging of an internal appeal;
- Aggrieved by the decision of an Information Officer or Deputy Information Officer of a public body, other than the Information Officer of a national department, provincial administration or municipality to refuse a request for access;
- Aggrieved by the decision of an Information Officer or Deputy Information Officer relating to fees required to be paid, the extension of the period within which to deal with the request or the form of access in which the information will be furnished.
- Apply to a Court by way of an application for appropriate relief in terms of section 82, within 30 days.

15. Arrangement allowing for public participation

16. (Section 14(1)(G))

Section 14(1)(g) of PAIA requires the municipality to make arrangements or provisions for a person, by consultation, to make representations to participate in or influence the formulation of policy or the exercise of powers or performance of duties by the municipality.

Public participation in a local government context is governed by the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) and the Municipal Structures Act, (Act 117 of 1998). The purpose of the public participation process is to ensure that the Municipality, as well as the broader community, co-owns the public participation process and the end product.

The municipality seeks actively to facilitate the engagement of the community in its planning and policy making processes, through public hearings and ward based public meetings in the annual review of its Integrated Development Plan (IDP). This is also used as an opportunity to provide feedback on the performance levels achieved by the municipality. A municipal unit has been formed to concentrate on involving

the community public processes and planning, such as the finalisation of the annual budget and the annual IDP review.

The municipality may use any of the following methods to engage in public participation:

- Surveys;
- Public meetings;
- Formal public hearings;
- Newspaper advertisements;
- Development of a public participation structure; and
- Distribution of documents in public places for comment;

Other Information as prescribed in terms of Section 14(1) (l) – PAIA

There is currently no information available from the Minister of Justice and Constitutional Development, in terms of Section 92, to be placed hereunder.

17. Protection of Personal Information Act – No 4 of 2013

17.1. Definitions

For purposes of this manual, unless the context indicates otherwise-

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

“Data subject” means the person to whom 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;

“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, email address, 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; and
- (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;

“Processing” means any operation of activity or any set of operations, whether or 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 other form; or
- (c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

“Public record” means a record that is accessible in the public domain, and which is in the possession of or under the control of a public body, whether or not it was created by that public body.

“Responsible party” means a public or private body or any other person which, alone or in conjunction with other, determines the purpose of and means for processing personal information.

17.2. List of personal information kept

The municipality collects personal information for various reasons in order to fulfil its mandate as government institution in terms of the Constitution of the Republic of South Africa. The residents expecting essential and other services from the municipality are obliged to share their personal information with the municipality as the withholding and/or refusal of personal information may impact on the municipality's ability to render effective and sufficient services.

Employees are also obliged to share their personal information with the municipality as it is needed for human resource management.

Depending on the nature of the services required, the relationship between the individual and the municipality and the reasons why certain information is required, personal information that may be obtained includes but is not limited to:

- (a) qualifications;
- (b) contact details;
- (c) remuneration details;
- (d) forenames and last names;
- (e) identification or passport number;
- (f) biometric and geographic information;
- (g) demographic information such as age, gender, physical and postal address;
- (h) medical information;
- (i) declaration of interest;
- (j) next of kin information;
- (k) bidder's information etc.;
- (l) employment information;
- (m) ownership or rental information;
- (n) vehicle details i.e. vehicle number plate;

17.3. Collection of personal information

The municipality collects information to support its service delivery mandate.

Personal information is collected directly from data subjects where practical and should be in compliance with POPIA.

Personal information may be collected through a variety of channels and may include the following:

- surveys;
- websites;
- building control;
- application forms;
- tender and contracts;
- social media platforms;
- town planning compliance;

- responding to questionnaires;
- through third party service providers;
- through surveillance cameras (with facial recognition technology);

17.4. Reasons for keeping personal information

The municipality may collect and process personal information for the following reasons:

- disclosures;
- audit reports;
- debt recovery;
- rendering accounts
- registering of services;
- reports to council on bad debt;
- closing agreements and contracts;
- security background checks (vetting)
- community consultation and feedback;
- process benefits i.e. medical aid and pension
- respond to inquiries; complaints and requests;
- considering bids in terms of tenders and quotations;
- communication; sending and sharing of important information;
- employment and remuneration and other Human Resources needs;
- maintaining data base for essential services, indigent support, housing; and
- understanding the needs and priorities of the community and other stakeholders;

17.5. Utilisation of personal information

The municipality will use personal information only for the intended purposes it was collected for unless the data subject grants consent for additional uses.

17.6. Sharing of personal information

As a principle, the municipality shall only share personal information if the municipality has obtained consent from the data subject.

Personal information may be shared with the indicated stakeholders and in the manner as follows:

- SARS;
- medical aids, pension funds;
- financial institutions for payments;
- financial institutions for remuneration purposes;
- where necessary to comply with judicial proceedings, court orders;
- where consent in writing has been contained from the data subject for sharing;
- business partners, vendors, or contractors to provide requested services or facilitate transactions;
- in response to a request for information by a legitimate authority in accordance with, or required by any applicable law, regulation, or legal process;
- to protect the rights, property, or safety of the municipality or others, or as otherwise required by an applicable law.

17.7. Safeguarding of personal information

- (a) The municipality is committed to protect personal information from misuse, loss, theft, unauthorized access, modification, or disclosure by:
 - using electronic and physical defences; and
 - contractually requiring that third parties to whom personal information is disclosed to do the same.
- (b) Due to the insecurity and security breaches of online channels, the municipality cannot fully guarantee the security or interception from external sources of any personal information that are being submitted or posted online.
- (c) The municipality have robust security controls and further threat detection solutions in place.

17.8. Retention of personal information

- (a) The municipality shall retain personal information for as long as it is necessary to fulfil the purposes for which it was collected and to comply with any legislative and or archive requirements where after it shall be deleted/disposed of. Depending on the purpose, retention periods shall vary.
- (b) The following criteria will determine retention periods:
 - legal or contractual, or other obligations to retain personal data;
 - data necessary for or as part of an investigation or for litigation purposes; and;
 - in order to maintain accurate records, in line with relevant legislation.

17.9. Data subjects right to access & maintenance personal information

- (a) The data subject may request the municipality to access, correct, update, block, or delete personal information that the municipality holds, subject to legislative requirements that make it compulsory for the municipality to keep such personal information.
- (b) The Information Officer will acknowledge receipt of any such request within three (3) days of the date of submission.
- (c) Any such requests will be dealt with by the Information Officer who shall respond within a reasonable period and no later than thirty (30) days of the date of the request.
- (d) Where the municipality processes legally obtained personal information, the data subject may withdraw consent at any time for future processing;
- (e) The data subject may request access to, and correction of personal data which is held by the municipality at any time by submitting a written request to the designated Information Officer.
- (f) The data subject may object to the processing of personal data at any time.
- (g) On any suspicion that personal information has been unlawfully processed and rights relating to protection of your personal information were violated or that personal information has been compromised, the data subject shall contact the Information Officer and if not satisfied, may lodge a complaint with the Information Regulator.
- (h) In the event of an information breach that the municipality becomes aware of, the municipality shall notify the data subject.

- (i) The data subject may request the municipality to access, correct, update, block, or delete personal information that the municipality holds, subject to legislative requirements that make it compulsory for the municipality to keep such personal information.
- (j) The Information Officer will acknowledge receipt of any such request within three (3) days of the date of submission.
- (k) Any such requests will be dealt with by the Information Officer who shall respond within a reasonable period and no later than thirty (30) days of the date of the request.
- (l) Where the municipality processes legally obtained personal information, the data subject may withdraw consent at any time for future processing;
- (m) The data subject may request access to, and correction of personal data which is held by the municipality at any time by submitting a written request to the designated Information Officer.
- (n) The data subject may object to the processing of personal data at any time.
- (o) On any suspicion that personal information has been unlawfully processed and rights relating to protection of your personal information were violated or that personal information has been compromised, the data subject shall contact the Information Officer and if not satisfied, may lodge a complaint with the Information Regulator.
- (p) In the event of an information breach that the municipality becomes aware of, the municipality shall notify the data subject.

17.10. Objection to processing of personal information

A data subject who wishes to object to the processing of personal information in terms of section 11(3)(a) of POPIA, must submit the objection to the responsible party on **Form 1**, annexed as **Annexure H**, as enclosed to this Manual. The responsible party / the municipality must render such reasonable assistance as is necessary, free of charge, to enable the data subject to make an objection on **Form 1**.

17.11. Request for correction/deletion of personal information or destruction/deletion of record of personal information

A data subject who wishes to request a correction or deletion of personal information or the destruction or deletion of a record of personal information in terms of section 24(1) of POPIA, must submit a request to the municipality on **Form 2**, annexed as **Annexure I**.

The municipality, or a designated person, must render such reasonable assistance, as necessary free of charge, to enable a data subject to complete **Form 2**.

18. Application for issuing code of conduct

A private or public body which is sufficiently representative of any class of bodies, or of any industry, profession, or vocation that wishes to apply for the issuing of a code of conduct in terms of section 61 of POPIA, must submit an application to the Regulator on **Form 3**, annexed as **Annexure J**.

19. Request for data subject's consent to process personal information

A responsible party who wishes to process personal information of a data subject for the purpose of direct marketing by electronic communication must in terms of section 69(2) of POPIA, submit a request for written consent to that data subject on **Form 4**, annexed as **Annexure K**.

20. Submission of complaints

Any person who wishes to submit a complaint contemplated in section 74(1) of POPIA, must submit such a complaint to the Regulator on **Part 1 of Form 5**, annexed as **Annexure L**.

A responsible party, like the municipality, who wishes to submit a complaint, must submit such a complaint to the Regulator on **Part II of Form 5**, annexed as **Annexure L**.

21. Monitor and Review

The Deputy Information Officer shall monitor and review the implementation and compliance with this manual. This manual shall be updated as and when legislation or administrative changes requires it, or at least once a year to ensure that it always reflects current practices.

22. Adoption and Implementation

The implementation date of this manual is with effect from the date of the approval of the Municipal Manager.

The manual must be adopted by all staff throughout the Kouga Local Municipality.