

Covering note to accompany Policy and Procedures

Data Privacy Law is a globally expanding field of law that is increasing in importance as data becomes a highly-valued commodity amid rapid advancements in technology. It is a relatively young field of practice in South Africa, gaining importance as South African businesses gear up towards becoming compliant with South Africa's first piece of comprehensive legislation concerned with data privacy and protection, the Protection of Personal Information Act (POPIA), by 1 July 2021.

POPIA aims to give effect to the constitutional right to privacy by introducing measures that regulate every step of how Personal Information belonging to both individuals and juristic entities is collected, processed and used by both private and public bodies from the moment of collection until the moment of destruction in order to ensure that Personal Information is processed and managed in a fair, transparent, and secure manner.

POPIA introduces regulatory changes into the South African business landscape that will have a significant effect on a business' accountability over the Personal Information it processes, as well as its business practices, processes, information security, documentation and agreements in almost every industry.

How does POPIA apply to our business?

POPIA generally applies to all processing of Personal Information that is stored in our Records (both electronic and hard copy). POPIA therefore applies to all our processes for our clients (and related parties), employees and suppliers.

What do you need to do to as an Employee?

You need to attend all training that will be provided and ensure that you have read the Lawtons Data Privacy Policy and Procedures, prior to the commencement of the Act on 1 July 2020, and ensure that the Privacy Policy and Procedures are applied continuously when processing Personal Information in the course and scope of your employment.

Our POPIA Steering Committee consists of: Jeff, Veronica, Dimitra, Lindi, Shaz, Winnie, May-Elaine, Leon, Juanita and Chris.

Lawtons Africa - Data Privacy Policy

1. Introduction

Lawtons conducts business in a manner that is compliant with applicable laws and adheres to the highest legal and ethical standards in all business engagements with all stakeholders. POPIA has provided an important framework within which Lawtons is required to operate certain aspects of its business and this Policy aims to set out this framework.

For purposes of this Policy and the Data Protection Procedure, the following terms shall have the respective meanings as below:

- 1.1 **"Data Protection Procedure"** means the Data Protection Procedure adopted by Lawtons on 28 July 2021 as amended from time to time;
- 1.2 **"Data Subject"** means an existing and identifiable natural or juristic person to whom Personal Information relates. Data Subjects include Lawtons clients, employees and any other service providers or suppliers;
- 1.3 **"Deputy Information Officer"** means the Deputy Information Officer appointed by Lawtons to manage the protection of the Personal Information it Processes and its compliance with the provisions of POPIA, as duly appointed in accordance with the provisions of POPIA and PAIA;
- 1.4 **"Employee"** means, for the purposes of this Policy, all shareholders, directors, employees and consultants, and independent contractors working or providing services at or for Lawtons;
- 1.5 **"HR Disciplinary Code"** means the purpose of a disciplinary code and procedure is to regulate standards of conduct and incapacity of employees within the firm. The aim of discipline is to correct unacceptable behavior and adopt a progressive approach in the workplace.
- 1.6 **"Information Officer"** means the Information Officer appointed by Lawtons to manage the protection of the Personal Information it Processes and its compliance with the

provisions of POPIA and PAIA, as duly appointed in accordance with the provisions of POPIA and PAI.

- 1.7 **“Information Regulator”** means the “regulator” established in terms of section 39 of POPIA as amended from time to time;
- 1.8 **“Personal Information”** shall have the meaning in section 1 of POPIA which, for the purposes of this Policy, is any information about an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to information about:
- 1.8.1 race, gender, sex, pregnancy, marital status, nationality, ethnicity or social origin; colour; sexual orientation; age; physical or mental health, well-being, disability;
 - 1.8.2 religion, conscience, belief, culture, language and birth;
 - 1.8.3 education, medical information, financial information, criminal or employment history;
 - 1.8.4 any identifying number or symbol;
 - 1.8.5 e-mail address, physical address, telephone number, location information, or any online identifier or other particular assignment to a Person;
 - 1.8.6 biometric information;
 - 1.8.7 personal opinions, views or preferences of a Person;
 - 1.8.8 correspondence of private or confidential nature;
 - 1.8.9 views or opinions of another individual about the Person;
 - 1.8.10 the name of a 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.
- 1.9 **“Processing” “Process” or “Processed”** shall have the meaning given to the term “Processing” in section 1 of POPIA which, for the purposes of this Policy, is any operation

or activity or any set of operations or activities, whether or not by automatic means, concerning Personal Information, including:

1.9.1 collection, receipt, recording, organisation, collation and storage;

1.9.2 updating or modification, retrieval and alteration;

1.9.3 consultation;

1.9.4 use and dissemination;

1.9.5 merging, blocking, distribution, destruction or deletion.

1.10 **“PAIA”** means the Promotion of Access to Information Act, 2 of 2000, as amended from time to time, including any Regulations and Guidance Notes published in respect thereof;

1.11 **“Policy”** means this Data Privacy Policy, as amended from time to time;

1.12 **“POPIA”** means the Protection of Personal Information Act 4 of 2013 as amended from time to time including any Regulations and Guidance Notes published in respect thereof;

1.13 **“Record”** shall have the meaning given to the term in section 1 of POPIA which, for the purposes of this Policy, is any information recorded, regardless of the form or medium, which is in the possession or under the control of the Responsible Party, whether or not it was created by the Responsible Party and regardless of when it came into existence, including any of the following:

1.13.1 writing on any material;

1.13.2 information produced, recorded or stored by means of any tape-recorder, computer equipment (hardware or software or both), or other device, and any material subsequently derived from information so produced, recorded or stored;

1.13.3 label, marking or other writing that identifies or describes anything of which it forms part of, or is attached to by any means;

1.13.4 a book, map, plan, graph or drawing;

1.13.5 a photograph, film, negative, tape or other device in which one or more visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced;

1.14 “**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. For the purposes of this Policy, Lawtons is the Responsible Party; and

1.15 “**Special Personal Information**” shall have the meaning given the term in section 1 of POPIA which, for the purposes of this Policy, is Personal Information concerning:

1.15.1 The religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health or sex life, or biometric information of a Data Subject; or

1.15.2 The criminal behaviour of a Data Subject, to the extent that such information relates to (a) the alleged commission by a Data Subject of any offence, or (b) any proceedings in respect of any offence allegedly committed by a Data Subject or the disposal of such proceedings.

2. Scope

This Policy and its accompanying Procedures applies to all aspects of Lawtons’ operations and all Employees (as defined in paragraph 1.4 above) who Process Personal Information for or on behalf of Lawtons.

3. Purpose and Objectives

The purpose of this Policy is to assist Lawtons’ Employees to comply with POPIA whenever they act on behalf of Lawtons. This Policy acknowledges that every person has the right to privacy, which includes a right to protection against the unlawful collection, retention, dissemination, use and Processing of Personal Information. This Policy seeks to regulate, the Processing of Personal Information by Lawtons, as the Responsible Party in terms of POPIA.

The Objectives of this Policy are to:

- Establish a culture of security and privacy for the benefit of all Data Subjects that Lawtons Processes Personal Information about. In doing so, it is vital that the security standards

and processes put in place by Lawtons are complied with for the protection of Personal Information. This will ensure that all Personal Information Processed by Lawtons is kept secure.

- Encourage the participation and support of all Employees who Process Personal Information towards protecting all Records (both electronic and hard copy) that contain Personal Information. All Employees within Lawtons must familiarise themselves with the provisions of this Policy and all related processes and procedures.
- Regulate the manner in which Personal Information is dealt with by Lawtons and all Employees Processing Personal Information on behalf of Lawtons.
- Set out the statutory standards for the Processing Personal Information.
- Ensure that Personal Information is Processed in accordance with the provisions of POPIA.

4. Policy

POPIA regulates the manner in which Personal Information must be Processed by Lawtons, from the moment it is collected until the moment it is destroyed. The concept of Processing is broad and includes, *inter alia*, any operation or activity concerning the collection, receipt, storage, updating, use, distribution, and destruction of Personal Information.

Lawtons adheres to the conditions for the lawful Processing of Personal Information set out in POPIA. These are as follows:

- **Processing Limitation:** Personal Information must be Processed lawfully, in a reasonable manner that does not infringe on the privacy of the Data Subject, and in a manner that is adequate, relevant and not excessive given the purpose that it is being Processed for. Personal Information can only be processed where there is a lawful basis permitting Lawtons to Process the Personal Information (section 11 of POPIA). Personal Information should be collected directly from the Data Subject, as far as possible (and except as permitted in section 12(2) of POPIA);
- **Purpose Specification:** Personal Information must be collected for a specific, explicitly defined and lawful purpose related to a function or activity of Lawtons, and the Data Subject must be made aware of the purpose(s) that the Personal Information is being

collected for. Personal Information must not be retained for any longer than is necessary to achieve the purpose that it has been collected for, unless otherwise permitted by section 14 of POPIA, for example where the Personal Information Record is required to be retained by law, or for the lawful purposes related to our functions or activities;

- **Further Processing Limitation:** Any further Processing of Personal Information must be in accordance with or compatible with the purpose for which it was originally collected;
- **Information Quality:** Personal Information Records must be complete, accurate, not misleading and updated where necessary;
- **Openness:** Lawtons must be open and transparent about how we use and Process Personal Information. When collecting Personal Information from a Data Subject (or at the start of a contractual relationship) the Data Subject must be notified and made aware of how their Personal Information will be used and Processed by us;
- **Security Safeguards:** The integrity and confidentiality of Personal Information must be secured. Appropriate and reasonable technical and organisational measures must be implanted and maintained to prevent i) loss of, damage to, or unauthorised destruction of Personal Information, and ii) unlawful access to or Processing of Personal Information. Security compromises (otherwise termed “data breaches”) must be notified to the Information Regulator and to the affected Data Subjects, and measures must be put in place to manage third party service providers and suppliers (“Operators”) that Process Personal Information for or on behalf of Lawtons;
- **Data Subject Participation:** Data Subjects have a number of rights under POPIA, which enables them to participate in how their Personal Information is used and Processed. These include the right to have access to their Personal Information and to request the correction, deletion or destruction of their Personal Information records, subject to the limitations set out in POPIA and PAIA; and
- **Accountability:** Lawtons and its Employees are responsible for ensuring that these conditions for lawful Processing are complied with and that measures are implemented to give effect to these conditions. Lawtons must be able to demonstrate its compliance with these conditions.

For further information on each of these principles, please consult the Data Protection Procedure.

5. Special Personal Information and Children’s Personal Information

Special Personal Information

Special Personal Information (refer to the definition of Special Personal Information in paragraph 1.15 of this Policy), cannot be Processed unless POPIA authorises it, either in terms of a general authorisation or a specific authorisation.

Unless there is a general authorisation or specific authorisation allowing Lawtons to Process Special Personal Information, the Consent of the Data Subject must be obtained before Lawtons is allowed to Process that information. The general and specific authorisations are set out in sections 27 to 33 of POPIA).

Children’s Personal Information

POPIA defines a child as any person under the age of 18 years.

Children’s Personal Information cannot be Processed unless POPIA authorises it. Section 35 of POPIA sets out the instances in which Children’s Personal Information may be Processed. Unless there is a general authorisation allowing Lawtons to Process a Child’s Personal Information, the Consent of a competent person (usually the child’s parent or legal guardian) must be obtained before Lawtons is allowed to Process that Child’s Personal Information.

6. Processing by third-party Service Providers (“Operators”)

An Operator is any Person who Processes Personal Information for or on behalf of Lawtons (as a Responsible Party) in terms of a contract or mandate, without coming under the direct authority of Lawtons.

Lawtons is accountable and responsible for ensuring that all Operators who Process Personal Information on behalf of Lawtons are POPIA have and maintain appropriate security safeguards in place to protect the Personal Information they Process on behalf of Lawtons and that they maintain those security safeguards throughout Lawtons relationship with them.

7. Direct Marketing

Both POPIA and the Consumer Protection Act (CPA) regulate Direct Marketing. The CPA regulates all forms of direct marketing, while POPIA regulates direct marketing done through any form of

electronic communication (including but not limited to automatic calling machines, recorded call centre calls, fax, SMS or email).

Direct marketing is considered as approaching a person, either in person or by electronic communication, for the direct or indirect purpose of (i) promoting or offering to supply goods or services, or (b) requesting a donation of any kind for any reason.

All forms of Direct Marketing must be done through Lawtons marketing team, as set out in the Data Protection Procedure.

8. Trans-border Information Flows

POPIA places certain compliance obligations on Lawtons where Personal Information is transferred outside of the borders of South Africa.

Lawtons is not permitted to transfer any Personal Information about a Data Subject to a third party who is in another country unless the requirements as set out in section 72 of POPIA have been complied with.

9. Non-Compliance

Any contravention of POPIA may have a serious and adverse effect on Lawtons as well as the individual concerned, including significant fines as well as possible criminal and civil law sanctions. No Employee may act contrary to the provisions of POPIA or authorise others to act in contravention of POPIA.

Breaches of obligations contained in this Policy and the Data Protection Procedure will not be tolerated and are subject to disciplinary and other actions as detailed in the HR Disciplinary Code.

10. Implementation

10.1. Training and awareness

All Employees will be required to attend training scheduled regarding compliance with POPIA, when required to do so. Periodic POPIA reviews will be conducted to ensure and monitor adherence to this Policy and the Data Protection Procedure.

Directors are expected to use all reasonable efforts to ensure awareness of, and compliance with, this Policy and the Data Protection Procedure. Such reasonable efforts include, but are not limited to, frequent communications with their teams.

It is the responsibility of the HR team to ensure that all new Employees are made aware of this Policy and the Data Protection Procedure. To enable ongoing Data Privacy awareness within Lawtons, compliance messages and updates regarding POPIA developments and information security awareness will be delivered to Employees to prevent contraventions of POPIA. Employees must ensure that they read these messages.

10.2. Lawtons Deputy Information Officer

From time to time, Lawtons shall appoint a Deputy Information Officer in terms of POPIA, who is responsible for Lawtons' compliance with POPIA and for monitoring compliance with this Policy and the Data Protection Procedure.

The Deputy Information Officer shall be responsible for updating this Policy from time to time.

10.3. Whistleblowing

If any Employees have been involved in, or become aware of, any violation of this Policy or the Data Protection Procedure by another Employee, it is the Employee's responsibility to report it to the Lawtons Deputy Information Officer or head of HR as soon as possible.

To the extent possible and practical, Lawtons will endeavour to maintain the confidentiality and anonymity of the report. If an Employee fears reprisal, he or she should express this concern at the time of the report. In such circumstances the Employee's identity will be kept confidential.

Retaliation, retribution or harassment against any Employee who in good faith reports a violation of this Policy or the Data Protection Procedure is strictly prohibited and, where applicable, constitutes grounds for disciplinary action, including dismissal.

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