


<b>DATA SUBJECT ACCESS REQUEST POLICY &amp; PROCEDURE</b>	
<b>Classification</b>	POPIA / 05
<b>Responsible person</b>	Information Officer / deputy information officers
<b>Version</b>	2021/06
<b>Review date</b>	2022/06
<b>Guideline documents</b>	Werksmans Attorneys
<b>Author</b>	Nawhal Kock
<b>CEO Approval</b>	<b>Andre Els</b>
<b>Signature</b>	

## 1 INTRODUCTION

King Pie and BMO is required to comply with the requirements of the Protection of Personal Information Act, 2013 ("POPI") which gives data subjects the right to ask for a description of the personal information that both companies holds about them.

## 2 APPLICATION AND CONSEQUENCES OF NON-COMPLIANCE WITH THIS POLICY

- 2.1 This policy applies to all staff of King Pie and BMO, which includes all permanent and temporary staff and contractors who are subject to the conditions and scope of this policy. Failure to comply may lead to disciplinary action, including summary dismissal (without notice or a payment in lieu of notice) or termination of contract or engagement (as appropriate) for serious or repeated breaches of this policy.
- 2.2 It may also be the case that your conduct and or action(s) may be unlawful and the Business reserves the right to inform the appropriate authorities. Action(s) may result in civil or criminal proceedings. Staff should note that in some cases they may be personally liable for their actions and or conduct.

### **3 PURPOSE OF THIS DOCUMENT**

- 3.1 This document outlines the process for dealing with Subject Access Requests that are received by King Pie, BMO and covers:
- 3.1.1 how to identify a Subject Access Request;
  - 3.1.2 who is entitled to make one ;
  - 3.1.3 who within the business is responsible for dealing with them;
  - 3.1.4 the timescale for responding to one;
  - 3.1.5 how to assess whether a Subject Access Request is valid;
  - 3.1.6 how to set the scope of, and conduct any search for, information in response to a Subject Access Request;
  - 3.1.7 what information should be provided in response to the Subject Access Request; and
  - 3.1.8 What information may be withheld from a response to the Subject Access Request.
- 3.2 This document provides guidance only and in the event of a Subject Access Request please contact the Information Officer immediately - please see the list at the end of the note for contact details of the Information Officer.

### **4 RECEIPT OF SUBJECT ACCESS REQUESTS**

- 4.1 A Subject Access Request may be received by in the Information Officer and Deputy Information Officers in any of a number of different forms, including a telephone call, email or letter requesting access to personal information. Subject Access Requests generally tend to originate from current or past employees, job applicants, clients or third parties acting on their behalf (particularly where criminal or civil proceedings are involved).
- 4.2 In the first instance, it may not always be clear that a data subject is making a Subject Access Request. Therefore it is important to be familiar with this policy to be able to identify a Subject Access Request.
- 4.3 If you receive what you believe to be a Subject Access Request in any form then it is important that you forward a copy of the request to the Information Officer immediately, who will manage the Subject Access Request.

4.4 In the case of a telephone call, it is best practice to inform the data subject that his/her/its request for information must be made in writing and cannot be processed otherwise. You should also notify the Information Officer that the phone call has taken place.

4.5 Once you have passed the request on to the Information Officer and have received an acknowledgement that it has been received, responsibility for processing the Subject Access Request will be managed by the Information Officer and individuals from the relevant department within **30 days**.

## 5 TIME PERIOD FOR THE RESPONSE

5.1 The Information Officer must respond to a valid Subject Access Request within a reasonable period but always within 30 days.

5.2 Where a Subject Access Request is missing any of its required elements, it is essential that a prompt request for the missing part(s) is sent back to the data subject asking for the missing elements.

5.3 Once all of the requirements set out above have been met and the request has become a valid Subject Access Request, the stated period for providing a formal response must be complied with.

## 6 WHO IS ENTITLED TO MAKE A SUBJECT ACCESS REQUEST?

6.1 Any data subject is entitled to make a Subject Access Request to either King Pie and or BMO , A deputy information Officer will typically receive Subject Access Requests:

6.1.1 from its employees or former employees or job applicants;

6.1.2 from an individual working for a supplier;

6.1.3 from a customer who is an individual;

- 6.1.4 from a member; or
- 6.1.5 From an individual that has used the King Pie website.

6.2 These individuals have a right to be informed by the Information Officer and or Deputy Information officers whether personal information about them is being processed. If personal data is being processed in almost any way by the company then the data subject is entitled to be given any of the following information:

- 6.2.1 a description of the personal information held; and
- 6.2.2 An indication of all the third parties or categories of third parties who have or have had of access to the information.

## **7 VALIDITY OF A SUBJECT ACCESS REQUEST**

- 7.1 It is necessary to confirm that the Subject Access Request is valid. The validity of a Subject Access Request will depend on the format and content of the Request. A valid Subject Access Request:
  - 7.1.1 is in writing to the Information Officers business physical or postal address, fax number or e-mail address;
  - 7.1.2 provides sufficient information to allow the identification of the individual requesting the personal information and the information requested;
  - 7.1.3 indicates the form in which the information should be provided;
  - 7.1.4 specifies an address, fax number or email address of the data subject in South Africa; and
  - 7.1.5 Includes sufficient identification of the individual to which the Subject Access Request relates.

## **8 IDENTIFICATION AND SEARCH TERMS**

- 8.1 The Information Officer must confirm the identity of the individual making the request - i.e. to confirm the person is who the person says it is.

- 8.2 Where the Subject Access Request is made by an employee or a former employee then this will normally be straightforward.
- 8.3 Where the Subject Access Request is made by someone other than an employee or a former employee then you should send a letter requesting confirmation of identity and also requesting, if necessary, further information to be provided to assist in focussing the search for information.

## 9 SETTING THE SCOPE AND CONDUCTING THE SEARCH

- 9.1 Subject Access Requests sometimes clearly identify specific information sought by the individual. This permits a simple and targeted search for that information.
- 9.2 However, other requests are expressed more widely and may, for example, simply request all information held about them (e.g. "Please send me a copy of all the information you have on me"). Such a wide-ranging request would be difficult and onerous to comply with given the volume of information that would have to be reviewed.
- 9.3 When a wide-ranging request is made then the first step is always to contact the individual and try to obtain clarifications about the information that they actually want. This may often result in a much more specific request leading to a much more targeted search.
- 9.4 Typically, requests may focus on copies of interview notes, employment application forms, personnel files, appraisal information, and holiday and leave information, CCTV footage and emails.
- 9.5 In most cases:
- 9.5.1 the search should include any centrally-held personnel files about the individual (such as employee personnel file);
  - 9.5.2 General and non-specific requests (e.g. for the provision of "all" information held about an individual) are not acceptable. The request must relate to specific personal information;
  - 9.5.3 if the search relates to emails then it should only apply to a limited number of email accounts over a limited period. Keyword searching may also be used; and

9.5.4 it is not necessary to restore back-up information in order to respond to the request unless the individual has a real need for specific information contained in the back-ups.

9.6 In general, when setting the parameters for a search, you must consider whether this constitutes a reasonable and proportionate search. This will generally depend on the circumstances but you should consider:

9.6.1 The likelihood that the information exists (i.e. is it just a "fishing expedition?");

9.6.2 the value or importance of the information to the individual;

9.6.3 the cost of locating and reviewing the information; and

9.6.4 Whether the information is intended for use in litigation (while pending litigation doesn't invalidate a Subject Access Request, it may be more appropriate for disclosure to be made during discovery).

## 10 THE DEFAULT SEARCH PARAMETERS FOR INFORMATION

10.1 The Default Search Parameters attempt to take into account the above to provide a reasonable and proportionate response so searches for a general request for access to personal information should generally be based on the following parameters (noting that the specific facts on each request may dictate other search factors), however this may vary from request to request:

10.2 a copy of the data subject's personnel file should be provided (in the case of an employee or a former employee);

10.3 pre-defined keywords should be used to search email;

10.4 There should be no restoration of back up data without the prior approval of the Information Officer.

10.5 It is important to note that any emails sent internally about the Subject Access Request itself will usually not need to be included in the response, on the basis that they may be legally privileged.

## **11 IT DEPARTMENT ASSISTANCE FOR ELECTRONIC RECORDS**

11.1 The search may require the assistance of other departments, such as the IT department for tracking.

11.2 The Information Officer should define a specific form to be used when requesting assistance from other department, which should set out clearly:

11.2.1 the names of the inbox owners;

11.2.2 the date range (no longer than [6 months] from the date that the valid Subject Access Request was received); and

11.2.3 Relevant search terms and parameters.

## **12 WHICH INFORMATION THAT IS FOUND IN THE SEARCH MUST BE DISCLOSED AND WHAT THE COMPANY CAN REFUSE TO DISCLOSE?**

12.1 A Subject Access Request only entitles the individual to access personal information about himself/herself. In general, personal information about an individual is required to be disclosed if it identifies that individual.

12.2 However there are important exemptions which may apply. These exemptions apply to very specific information and are complex in its interpretation. The Information Officer will analyse the retrieved personal information and shall apply any relevant exemption.

12.3 Such exemptions may, for example, include information:

12.3.1 that is subject to legal professional privilege; or

12.3.2 that reveals the identity of a third party individual.

**13 OTHER INFORMATION TO BE INCLUDED IN THE RESPONSE**

The individual is also entitled to information about the third parties or categories of third parties who have or have had access to his / her personal information.

**14 CONSEQUENCES OF NON-COMPLIANCE**

It is essential that all staff comply with all relevant parts of this policy. Any failure to comply with this policy could have serious consequences for King Pie, BMO and its employees. Failure to comply may lead to: disciplinary action, including summary dismissal (without notice or a payment in lieu of notice) for serious or repeated breaches; civil or criminal proceedings; and/or personal liability for those responsible.

**15 POLICY REVISION**

This policy has been reviewed and approved by the Information Officer, and is subject to change without prior notice.

**16 CONTACT DETAILS OF THE INFORMATION OFFICER**

16.1 Name: Andre Els

16.2 Address: Eastside Corporate Close, 807 Richards Drive, Midrand, 1685

16.3 E-mail address: [ElsFA@kingpie.co.za](mailto:ElsFA@kingpie.co.za)

16.4 Telephone number: 011 564 9701



## **PROCEDURE FOR DATA SUBJECT OBJECTION TO THE PROCESSING OF PERSONAL INFORMATION**

### **1 INTRODUCTION**

- 1.1 This procedure sets out the procedure applicable to King Pie and BMO relating to the manner and form in which a data subject may object to processing of its personal information held by the company.
- 1.2 The Protection of Personal Information Act 4 of 2013 ("POPI") read with the Regulations relating to the Protection of Personal Information ("POPI Regulations")<sup>1</sup> provides that a data subject have the right to be informed of his/her/it's right to object. This means that a data subject, on reasonable grounds, can object to the processing of his/her/it's personal information by in certain circumstances.

### **2 WHEN MAY A DATA SUBJECT OBJECT TO THE PROCESSING OF YOUR PERSONAL INFORMATION**

- 2.1 POPI grants data subjects the right to object, on reasonable grounds relating to his/her/it's particular situation, to the processing of personal information in the following circumstances –
- 2.1.1 When the responsible party processes your personal information for direct marketing purposes other than direct marketing by means of unsolicited electronic communications as contained in section 69 of POPI;
- 2.1.2 when the data subject previously consented to processing;
- 2.1.3 when the responsible party processes personal information based on your legitimate interest of the data subject; and

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<sup>1</sup> GNR.1383 of 14 December 2018: Regulations relating to the Protection of Personal Information (Government Gazette No: 42110).

- 2.1.4 When the responsible party processes personal information to pursue its legitimate interest or that of a third party to whom the information is supplied to.

### 3 HOW MUST AN OBJECTION BE LODGED

- 3.1 A data subject of who wishes to object to processing his/her/it's personal information in terms of section 11(3)(1) of POPI must submit the objection in the prescribed manner and form as required in terms of Regulation 2 of the POPI Regulations.
- 3.2 The applicable objection form is entitled Form 1 in the POPI Regulations, which form is attached hereto as **Annexure A**. This form must be completed in sufficient detail and must address the following –
- 3.2.1 the identity of the data subject and proof thereof;
- 3.2.2 the contact details of the data subject, including contact numbers, emails, and fax numbers;
- 3.2.3 the reasons, in sufficient detail, for the objection based on the data subject's particular circumstances in order to allow the information officer to assess the validity of such objection; and
- 3.2.4 Any documentary evidence supporting the objection.
- 3.3 The objection procedure above coupled with any reasonable necessary assistance that Company / Information officer may provide to the data subject is done free of charge.

#### 4 PROCEDURE AFTER AN OBJECTION IS LODGED

Upon receipt of an objection, the Information officer will assess the validity of the data subject's objection and, if satisfied, will within a reasonable time cease processing the data subject's personal information and will render proof to the data subject to this effect. In the event that an objection is manifestly unfounded, excessive and/or does not accord with the dictates of POPI, the Information Officer may refuse the objection, please see **Annexure C**.

#### 5 REQUEST FOR CORRECTION, DELETION OR DESTRUCTION OF PERSONAL INFORMATION

5.1 A data subject who wishes to request a correction or deletion of personal information or deletion of a record of personal information in terms of section 24(1) of POPI must submit such request in the prescribed manner and form as required in terms of Regulation 3 of the POPI Regulations.

5.2 The applicable objection form is entitled Form 2 in the POPI Regulations, which form is attached hereto as **Annexure B**. This form must be completed in sufficient detail and must address the following –

5.2.1 the identity of the data subject and the proof thereof;

5.2.2 the contact details of the data subject, including contact numbers, emails and fax numbers;

5.2.3 an identification of the specific information which the data subject wishes to be corrected, deleted, destructed or destroyed; and

5.2.4 the reasons, in sufficient detail, for the request for –

5.2.4.1 the correction or deletion of the personal information of the data subject in terms of section 24(1)(a) of POPI; and/or

5.2.4.2 the destruction or deletion of a record of personal information about the data subject in terms of section 24(1)(b) of POPI.

5.3 The procedure to correct, delete or destruct a data subjects personal information coupled with any reasonable necessary assistance that Reasonable party may provide to the data subject is free of charge.

## **6. PROCEDURE AFTER A REQUEST FOR CORRECTION, DELETION OR DESTRUCTION OF PERSONAL INFORMATION IS LODGE**

Upon receipt of a request for correction, deletion or destruction of a data subjects personal information, Information officer will assess the validity of such request and as soon as reasonably practicable –

5.4 correct the personal information;

5.5 destroy or delete the person information;

5.6 notify the relevant third parties who the personal information of the data subject to either correct, destroy or delete the personal information; and

5.7 Provide the data subject, to his or her satisfaction, with credible evidence in support of the information.

## **6 COMPLAINTS**

Any complaints in terms of the above procedure can be made to the office of the Information Regulator whose contact details are as follows –

**The Information Regulator**

33 Hoofd Street

Forum III, 3<sup>rd</sup> Floor Braampark

P.O Box 31533

Complaints email: [complaints.IR@justice.gov.za](mailto:complaints.IR@justice.gov.za)

General enquiries email: [infoereg@justice.gov.za](mailto:infoereg@justice.gov.za)

Website: <https://www.justice.gov.za/infoereg>

## ANNEXURE A

### OBJECTION TO THE PROCESSING OF PERSONAL INFORMATION

*Note*

1. *Affidavits or other documentary evidence as applicable in support of the objection may be attached.*
2. *If the space provided for in this Form is inadequate, submit information as an Annexure to this Form and sign each page.*
3. *Complete as is applicable*

A	DETAILS OF DATA SUBJECT
Name(s) and surname/ registered name of data subject:	
Unique Identifier/ Identity Number	
Residential, postal or business address:	
	Code ( )
Contact number(s):	
Fax number / Email address:	
B	DETAILS OF RESPONSIBLE PARTY
Name(s) and surname/ Registered name of responsible party:	
Residential, postal or business address:	
	Code ( )
Contact number(s):	
Fax number/ Email address:	
C	REASONS FOR OBJECTION IN TERMS OF SECTION 11 (1) (d) to (f) (Please provide detailed reasons for the objection)

Signed at this                      day of                      20.....

\_\_\_\_\_

Signature of data subject/designated person

**ANNEXURE B**

**REQUEST FOR CORRECTION OR DELETION OF PERSONAL INFORMATION OR  
DESTROYING OR DELETION OF RECORD OF PERSONAL INFORMATION**

*Note:*

1. Affidavits or other documentary evidence as applicable in support of the request may be attached.
2. If the space provided for in this Form is inadequate, submit information as an Annexure to this Form and sign each page.
3. Complete as is applicable.

Mark the appropriate box with an "x".

**Request for:**

- Correction or deletion of the personal information about the data subject which is in possession or under the control of the responsible party.
- Destroying or deletion of a record of personal information about the data subject which is in possession or under the control of the responsible party and who is no longer authorised to retain the record of information.

A	DETAILS OF THE DATA SUBJECT	
Name(s) and surname/ registered name of data subject:		
Unique identifier/ Identity Number:		
Residential, postal or business address:		
	Code ( )	
Contact number(s):		
Fax number/E-mail address:		
B	DETAILS OF RESPONSIBLE PARTY	
Name(s) and surname / registered name of responsible party:		
Residential, postal or business address:		
		Code
Contact number(s):		
Email address:		
C	INFORMATION TO BE CORRECTED/DELETED/ DESTROYED/DESTROYED	





## ANNEXURE C

### RESPONSE TO A DATA PROCESSING OBJECTION

Dear [data subject name or requester name]

RE: Response to [Processing Objection Dated: [DATE] OR [REFERENCE NUMBER]]

7 We write in response to the above-referenced processing objection. The Protection of Personal Information Act 4 of 2013 ("POPI") grants data subjects the right to object to the processing of their personal information when we process it for the following reasons, subject to certain limited exceptions –

7.1 when the responsible party processes your personal information for direct marketing purposes other than direct marketing by means of unsolicited electronic communications as contained in section 69 of POPI;

7.2 when you previously consented to the responsible party processing your personal information;

7.3 when the responsible party processes your personal information based on your legitimate interest; and

7.4 when the responsible party processes your personal information to pursue its legitimate interest or that of a third party to whom the information is supplied to.

8 We have assessed your objection[s] and have determined that we are unable to verify your legal authority to make the request on the data subject's behalf and therefore we cannot meet your processing objection. [On [DATE] we requested additional information to verify your legal authority to make the request. However, the information you provided was insufficient.

**OR**

9 After conducting a diligent search for records relating to your processing objection, we have determined that [we do not process personal data about [you OR the data subject on whose

behalf you made the request] **OR** we have destroyed, erased, or made the personal data anonymous in accordance with our record retention obligations and practices.]

**OR**

- 10 We have assessed your request and determined that your right to object to data processing does not apply because we do not process personal data for purposes that require us to identify you. As a result, we cannot identify you or your data to respond to your request.

**OR**

- 11 We have reviewed your objection[s] and unfortunately we are unable to act in accordance with your request for the following reason[s]: we are processing your personal information based on a legitimate interest that outweighs your right to object **OR** have determined that applicable law allows or requires us to deny your request for the following reason[s]: [REASON(S) FOR CONCLUSION]].

**OR**

- 12 We have reviewed your objection[s] made in terms of POPI and we have stopped processing the personal information.
- 13 If you have any additional questions, please contact Andre Els C.E.O/ Information Officer at 011 564 9701 or [ElsFA@kingpie.co.za](mailto:ElsFA@kingpie.co.za)
- 14 Yours sincerely,

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[SENDER NAME] [AND JOB TITLE]

For and on behalf of Responsible party