


What should you be asking?

Protection of Personal Information (POPIA) Act No. 4 of 2013. Gazetted in late 2013, came into full effect on 1 July 2020.

The NWU will commence with the development of a sustainable POPIA programme.



POPIA IS LAW

Does the POPIA apply to the University?



Yes,

the POPIA is applicable to every business in South Africa (including Higher Education Institutions) that collects, uses, stores or destroys personal information of a data subject (see definition below), which is entered into a record by the business using automated and non-automated means.



Does the University have to register an Information Officer?

This Act requires every business to register an Information Officer with the Information Regulator. The Registrar (or his or her delegate) is appointed as the University's Information Officer.

What is a data subject?

A data subject is the person to whom the personal information relates.

What is personal information?

Personal information is extremely wide stated and is information relating to an identifiable, living natural person or juristic person and includes, but is not limited to:

Contact details:

email,
telephone,
address,
etc.

Biometric information:
blood type,
fingerprints
etc.

History:
employment,
financial,
educational,
criminal,
medical history

Demographic information:
age, sex,
race, birth date,
ethnicity
etc.

Private correspondence
etc.

Opinions of and about a person



So where is the “stick and carrot” for the POPIA?



The University has twelve months to become fully compliant or face the prospect of some potentially stiff penalties (including fines of up to R10 million) or worse, reputational damage and loss of customers. That's the “stick” part of the deal.

The “carrot” aspect is the opportunity to boost confidence in the University by demonstrating the way sensitive personal data is managed. This means showing that the University has processes and procedures in place to handle effectively and securely all aspects of what's covered in the POPIA.

only to collect information that you need for a specific purpose

apply reasonable security measures to protect it

ensure it is relevant and up to date

only hold as much as you need, and only for as long as you need it

allow the data subject of the information to access it upon request

What are the obligations for the University under POPIA?

Some of the obligations are:



What is processing?

Processing personal information is very widely stated and includes a vast number of activities, whether or not undertaken by automatic means,

What is the information processing principles?

The information processing principles which form the core of the POPIA are:

03 Purpose specification:

Personal information must be collected for a specific, explicitly defined and lawful purpose relating to a function or activity of the University;

04 Further processing limitation:

This is where personal information is received from a third party and passed on to the responsible party for processing;

06 Security safeguards:

the University must secure the integrity of personal information in its possession or under its control by taking prescribed measures to prevent loss of, damage to or unauthorised destruction of personal information and unlawful access to or processing of personal information.

07 Data subject participation:

A data subject has the right to request the University, free of charge:

1. whether or not the University holds personal information about the data subject and can request the record or a description of the personal information held;
2. to correct or delete personal information that is inaccurate, irrelevant, excessive, misleading or obtained unlawfully; and
3. destroy or delete a record of personal information that the University is no longer authorised to retain.

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01 Accountability:

the University must ensure that the information processing principles are complied with;

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02 Processing limitation:

processing must be lawful and personal information may only be processed if it is adequate, relevant and not excessive given the purpose for which it is processed;

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05 Openness:

Certain prescribed information must be provided to the data subject by the University including what information is being collected, the name and address of the responsible party, the purpose for which the information is collected and whether or not the supply of the information by the data subject is voluntary or mandatory.

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Can I send personal information overseas and can personal information be returned to South Africa?

Yes, but there are restrictions. The applicable restrictions will depend on the laws of the country to whom the data is transferred or from where the data is returned, as the case may be.



Do I need to provide an opt in or opt out for direct marketing?

Yes. The University should make use of both opt in and opt out options to make sure that the data subject understands and knows what he or she is consenting and objecting to.

For how long do I need to retain the personal information?

Personal information must not be retained (any) longer than (is) necessary for achieving the purpose for which the information was collected.



What is the sanction for non-compliance with POPIA?

Sanctions include some potentially stiff penalties (including fines of up to R10 million) or imprisonment.

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Ignore POPIA, it won't go away!

Put off your compliance efforts because you have a twelve month grace period.

Underestimate the amount of work that is required to change the University's policies, processes and procedures and systems.

Panic! POPIA compliance is more like climbing Table Mountain than Mount Everest.

Rush into your compliance efforts; take structured, project-based approach to make your compliance efforts effective.