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**Privacy Policy**

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# Introduction

In its everyday business operations Fundi Capital (Pty) Ltd (Fundi) makes use of a variety of data about identifiable individuals, including data about:

* Current, past and prospective employees
* Customers
* Students
* Partners, Merchants and Institutions
* Users of its websites
* Subscribers
* Other stakeholders

In collecting and using this data, the organisation is subject to the Protection of Personal Information Act, 2013 (POPIA) controlling how such activities may be carried out and the safeguards that must be put in place to protect it.

The purpose of this policy is to set out the requirements of the legislation and to describe the steps Fundi is taking to ensure that it complies.

This control applies to all systems, people and processes that constitute the organisation’s information systems, including board members, directors, employees, suppliers and other third parties who have access to Fundi systems.

The following policies and procedures are relevant to this document:

* *Information Security Incident Response Procedure*
* Procedure for responding to data subject requests
* *Records Retention and Protection Policy*

Included as appendices in this Policy are the following:

* Website Privacy Policy (which is placed on the Fundi website);
* PAIA Manual, (which is placed on the Fundi website, and is available as hardcopy from Fundi Head Office

# Privacy Policy statement

**The Protection of Personal Information Act 2013**

The Protection of Personal Information Act, 2013, is one of the most significant pieces of legislation affecting the way that Fundi carries out its information processing activities. Significant fines are applicable if a breach is deemed to have occurred under the POPI Act, which is designed to protect the personal information of citizens of the Republic. It is Fundi’s policy to ensure that our compliance with the POPI Act and other relevant legislation is clear and demonstrable at all times.  

# Definitions

There are many definitions listed within the POPI Act and it is not appropriate to reproduce them all here. However, the most fundamental definitions with respect to this policy are as follows:

***Personal Information* is defined as:**

*any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;*

***‘processing’*means*:***

*any operation or set of operations which is performed on personal information or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;*

***‘responsible party’*means*:***

*the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal information; where the purposes and means of such processing are determined by the POPI Act.*

# Principles Relating to Processing of Personal information

There are a number of fundamental principles upon which the POPI Act is based.

These are as follows:

## Personal information shall be:

*(a)*  *processed lawfully, fairly and in a transparent manner in relation to the data subject (‘lawfulness, fairness and transparency’);*

*(b)*  *collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes (‘purpose limitation’);*

*(c)*  *adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (‘data minimisation’);*

*(d)*  *accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal information that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay (‘accuracy’);*

*(e)*  *kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal information are processed; personal information may be stored for longer periods insofar as the personal information will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the POPI Act in order to safeguard the rights and freedoms of the data subject (‘storage limitation’);*

*(f)*  *processed in a manner that ensures appropriate security of the personal information, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures (‘integrity and confidentiality’).*

# Compliance to the POPIA 8 Conditions for lawful processing

Fundi will implement the necessary controls and monitoring mechanisms to comply with the conditions for lawful processing:

## Accountability

Fundi will appoint an Information Officer (IO), and formally delegate responsibility to Deputy Information Officers (DIO) as required. The IO, DIO(s), and the Responsible Party Fundi will be registered with the Information Regulator. Departmental Champions/coordinators will be appointed in each functional area to ensure compliance.

Fundi must identify all personal information. Accountability will commence from the time when the information is received or requested, the purpose for processing determined and will thereafter apply throughout the lifecycle of the processing, until the record has been destroyed.

## Processing limitation

Personal information must be processed lawfully and in a manner that does not infringe the privacy of the Data Subject. Personal information may only be processed, if given the purpose; it is adequate, relevant and not excessive.

Personal information may only be processed if:

* the Data Subject or competent person where the Data Subject is a child has given consent, to the processing;
* processing is necessary to carry out actions for the conclusion of performance of a contract with the Data Subject;
* processing is necessary to comply with a legal obligation;
* processing is necessary to protect the legitimate interest of the Data Subject;
* processing is necessary to pursue the legitimate interests of Fundi
* processing is necessary for the performance of a public duty by a public body

Fundi bears the burden of proof of consent.

The Data Subject can withdraw consent at any time; however, such withdrawal will not affect the lawfulness of the processing of the personal information that has been processed before the withdrawal.

Fundi must ensure that personal information is collected directly from the Data Subject, unless:

* the information is contained in a public record or has deliberately been made public by the data subject;
* the data subject has consented or allowed the personal information to be collected from another person;
* the processing and collection by a third party does not prejudice the legitimate interest of the data subject;
* the collection of the information is necessary
  + to avoid prejudice to the maintenance of the law by any public body,
  + to comply with an obligation imposed by law,
  + for the conduct of proceedings in any court or tribunal that have commenced or are reasonably contemplated,
  + in the interests of national security, or
  + to maintain the legitimate interests of Fundi or of a third party to whom the information is supplied;
  + compliance would prejudice a lawful purpose of the collection; or
  + compliance is not reasonably practicable in the circumstances of the particular case.

The general rule, therefore, is that personal information must be collected directly from the data subject, unless one of the listed exceptions applies.

## Purpose specification

Collection of personal information must be for a specifically defined, lawful purpose related to a function or activity of Fundi.

The Data Subject must be informed of the purpose of processing information and why it is required.

The retention of personal information must not be for a period longer than necessary to achieve the purpose for which such personal information was processed.

Personal information can be retained for an extended period under the following conditions:

* when the prolonged retention is reasonably required or authorised by law;
* when prolonged retention is required due to contractual requirements between parties;
* when Fundi reasonably requires the record for lawful purposes related to is functions or activities;
* the data subject has consented to further retention of the information; or
* the Data Subject, or a competent person where the Data Subject is a child, has consented to the retention of the record.

Furthermore, records of personal information may be retained for periods in excess of those contemplated above for historical, statistical or research purposes if the necessary safeguards have been established against the records being used for any other purposes or alternatively the records have been anonymised.

The personal information that is collected and processed must be kept only for as long as is necessary. Any personal information that is no longer required must be destroyed or deleted. Destruction of the personal information must be in a manner that prevents reconstruction in an intelligible form.

## Further processing limitation

Further processing of personal information must be in accordance with or compatible with the purpose for which it was originally collected.

To assess whether further processing is compatible with the purpose of collection, Fundi will take into account:

* the relationship between the purpose of the intended further processing and the purpose for which the information has been collected;
* the nature of the information concerned;
* the consequences of the intended further processing for the data subject;
* the manner in which the information has been collected; and
* any contractual rights and obligations between the data subject and Fundi.

The further processing of personal information is not incompatible with the purpose of collection, if among other things:

* the data subject, or a competent person where the data subject is a child, has given consent to the further processing;
* the information was derived from a public record or has deliberately been made public by the data subject;
* further processing is necessary
  + to avoid prejudice to the maintenance of the law by any public body,
  + to comply with an obligation imposed by law,
  + for the conduct of proceedings in any court or tribunal that have commenced or are reasonably contemplated,
  + in the interests of national security, or
  + to maintain the legitimate interests of Fundi or of a third party to whom the information is supplied;
* further processing is necessary to avoid or mitigate serious harm or imminent threat
  + to public health or safety or
  + to the life or health of the data subject or another individual;
* the personal information is used for historical, statistical or research purposes and Fundi can ensure that it will not publish the information in an identifiable form;
* further processing is in accordance with an exemption granted by the Regulator.

## Information quality

Fundi must take reasonable steps to ensure that the personal information which is processed is correct, accurate, complete, reliable and updated where necessary.

The Data Subject must be informed of the right to update and correct any personal information belonging to him / her.

## Openness

Processing of personal information must be done in an open and transparent manner.

Fundi must retain documentation of all processing operations under its responsibility in terms of the Promotion of Access to Information Act, 2 of 2000.

Fundi must take reasonable steps to ensure that the Data Subject is aware of the type of personal information being collected, the purpose for which it is being collected, and if not collected directly from the Data Subject, from where it is being collected.

Fundi must record and provide the following details to the Data Subject:

* name and address of Fundi
* purpose of collection of the personal information and what it will be used for;
* whether the supply of the information by the Data Subject is voluntary or mandatory;
* any particular law authorising or requiring the collection of information collected;
* the consequences of failure to provide the personal information;
* where applicable, if Fundi intends to have the information transferred to another country or international organisation and the level of protection afforded to the information by that country or international organisation; and
* any other information which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.

The above steps must be taken:

* if the personal information is collected directly from the data subject, before the information is collected, unless the data subject is already aware of the information described above; or
* in any other case, before the information is collected or as soon as reasonably practicable after it has been collected.

## Security safeguards

All personal information held by Fundi must be kept safe and secure.

Fundi must ensure the integrity and confidentially of the personal information under its control, by taking appropriate, reasonable, technical and organisational measures to prevent loss, damage or destruction or unlawful access.

This includes the following:

* identify personal information (structured and unstructured) in all business processes;
* identify business processing manual controls, application systems and IT process controls, including procedures supporting the complete and accurate processing of personal information
* identify all reasonable, foreseeable internal and external risks;
* establish appropriate safeguards;
* regularly verify that safeguards are effectively implemented;
* maintain the capability to detect security breaches;
* regularly review contractual obligations of third parties;
* prohibit the processing of special personal information

Where services of third-party operators are used, a written contract must be in place which ensures that the Operator establishes and maintains the security measures required under POPIA.

Where Fundi acts as an Operator to other organisations, a written contract must be in place which ensures that the Company establishes and maintains the security measures required under POPIA.

Fundi has a duty should it become aware of, or where there are reasonable grounds to believe that the personal information of a Data Subject has been accessed or acquired by an unauthorised person, Fundi must notify:

* the Regulator;
* the Data Subject, unless the identity of the Data Subject cannot be established;

unless the identity of the data subject cannot be established or if a public body responsible for the prevention, detection or investigation of offences or the Regulator determines that notification will impede a criminal investigation by the public body concerned.

The notification must be in writing and must be made as soon as possible after the discovery of the compromise, taking into account the legitimate needs of law enforcement or any measures reasonably necessary to determine the scope of the compromise and to restore the integrity of Fundi’s information system.

The notification must provide sufficient information to allow the data subject to take protective measures against any potential consequences of the leak or infringement.

Where Fundi acts as an Operator to other organisations, POPIA requires that an Operator immediately notify the relevant Responsible Party that it become aware of, or where there are reasonable grounds to believe that, the personal information of a data subject has been accessed or acquired by an unauthorised person, where the Operator is processing personal information on behalf of that Responsible Party.

## Data Subject participation

A data subject is entitled to:

* obtain from Fundi, confirmation of whether or not Fundi has personal information relating to them;
* request a description of the personal information held by Fundi; and
* request information on or about all parties who have had access to the data subject's personal information.

Fundi must inform the data subject about the right to access personal information and the right to correct mistakes or inaccuracies. Fundi must inform the data subject how this information may be accessed, using the PAIA manual.

The PAIA manual should make specific mention of the rights of a data subject to request information and set out the procedures which should be followed.

Fundi, following a request to correct personal information, must correct or delete and personal information that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully.

# Exclusions

In accordance with POPIA, this policy does not affect or apply to the processing of personal information:

* carried out in the course of a purely personal or household activity;
* that has been deleted to the extent that it cannot be recovered or where such information has been de-identified;
* held or used by or for the State, if it involves national security, defence, public safety or the prevention of crime;
* held and used for exclusively journalistic purposes, by media companies that are subject to a code of ethics that has safeguards for the protection of personal information;
* held or used by the South African Cabinet, Provincial Executive Councils and Municipal Councils;
* if it relates to the exercise of judicial functions; and
* if it has been specifically exempted under POPIA; in cases where other legislation regulates the processing of that information.

# Rights of the Individual

The data subject also has rights under the POPI Act. These consist of:

* + The right to be informed
  + The right of access
  + The right to rectification
  + The right to erasure
  + The right to restrict processing
  + The right to data portability
  + The right to object
  + Rights in relation to automated decision making and profiling.

Each of these rights are supported by appropriate procedures within Fundi that allow the required action to be taken within the timescales stated in the POPI Act.

These timescales are shown in Table 1.

|  |  |
| --- | --- |
| **Data Subject Request** | **Timescale** |
| The right to be informed | When personal information is collected (if supplied by data subject) or within one month (if not supplied by data subject) |
| The right of access | One month |
| The right to rectification | One month |
| The right to erasure | Without undue delay |
| The right to restrict processing | Without undue delay |
| The right to data portability | One month |
| The right to object | On receipt of objection |
| Rights in relation to automated decision making and profiling. | Not specified |

*Table 1 - Timescales for data subject requests*

# Lawfulness of Processing

There are various alternative ways in which the lawfulness of a specific case of processing of personal information may be established under the POPI Act. It is Fundi policy to identify the appropriate basis for processing and to document it, in accordance with the Regulation. The options are described in brief in the following sections.

## Consent

Unless it is necessary for a reason allowable in the POPI Act, Fundi will always obtain explicit consent from a data subject to collect and process their personal information. In case of children below the age of 16 years, parental consent will be obtained. Transparent information about our usage of their personal information will be provided to data subjects at the time that consent is obtained and their rights with regard to their data explained, such as the right to withdraw consent. This information will be provided in an accessible form, written in clear language and free of charge.

If the personal information is not obtained directly from the data subject, then this information will be provided to the data subject within a reasonable period after the data are obtained and definitely within one month.

## Performance of a Contract

Where the personal information collected and processed are required to fulfil a contract with the data subject, explicit consent is not required. This will often be the case where the contract cannot be completed without the personal information in question e.g., a delivery cannot be made without an address to deliver to.

## Legal Obligation

If the personal information is required to be collected and processed in order to comply with the law, then explicit consent is not required. This may be the case for some data related to employment and taxation for example, and for many areas addressed by the public sector.

## Vital Interests of the Data Subject

In a case where the personal information is required to protect the vital interests of the data subject or of another natural person, then this may be used as the lawful basis of the processing. Fundi will retain reasonable, documented evidence that this is the case, whenever this reason is used as the lawful basis of the processing of personal data. As an example, this may be used in aspects of social care, particularly in the public sector.

## Task Carried Out in the Public Interest

Where Fundi needs to perform a task that it believes is in the public interest or as part of an official duty then the data subject’s consent will not be requested. The assessment of the public interest or official duty will be documented and made available as evidence where required.

## Legitimate interests

If the processing of specific personal information is in the legitimate interests of Fundi and is judged not to affect the rights and freedoms of the data subject in a significant way, then this may be defined as the lawful reason for the processing. Again, the reasoning behind this view will be documented.

# Privacy by Design

Fundi has adopted the principle of information privacy by design and will ensure that the definition and planning of all new or significantly changed systems that collect or process personal information will be subject to due consideration of privacy issues, including the completion of one or more personal information impact assessments.

The personal information impact assessment will include:

* Consideration of how personal information will be processed and for what purposes.
* Assessment of whether the proposed processing of personal information is both necessary and proportionate to the purpose(s).
* Assessment of the risks to individuals in processing the personal information.
* What controls are necessary to address the identified risks and demonstrate compliance with legislation.

Use of techniques such as data minimization and pseudonymisation will be considered where applicable and appropriate.

# Contracts Involving the Processing of Personal information

Fundi will ensure that all relationships it enters into that involve the processing of personal information are subject to a documented contract that includes the specific information and terms required by the POPI Act.

# Special Personal Information

The processing of special personal information is regulated in POPIA more stringently because of its sensitive nature.

Processing a Data Subject's special personal information is prohibited unless the processing:

* is carried out with the consent of the data subject;
* is necessary for the establishment, exercise or defence of a right or obligation in law;
* is necessary to comply with an obligation of international public law;
* for historical, statistical or research purposes to the extent that the purpose serves a public interest and the processing is necessary for the purpose concerned or it appears to be impossible or would involve a disproportionate effort to ask for consent and sufficient guarantees are provided for the ensure that the processing does not adversely affect the individual privacy of the data subject to a disproportionate extent;
* concerns special personal information which has deliberately been made public by the data subject; or
* a specific exemption exists in respect of a particular category of special personal information processed by Fundi.

# International Transfers of Personal information

Transfers of personal information outside the Republic will be carefully reviewed prior to the transfer taking place to ensure that they fall within the limits imposed by the POPI Act.

# Information Officer

A defined role of Information Officer (IO) is required under the POPI Act. The IO is required to be the most senior official in the organisation. The Information Officer will be formally appointed and delegate to a Deputy Information Officer. Both Officers will be registered with the Information Regulator.

# Breach Notification

It is Fundi’s policy to be fair and proportionate when considering the actions to be taken to inform affected parties regarding breaches of personal information. In line with the POPI Act, where a breach is known to have occurred which is likely to result in a risk to the rights and freedoms of individuals, the relevant supervisory authority will be informed without delay. This will be managed in accordance with our *Information Security Incident Response Procedure* which sets out the overall process of handling information security incidents.

Under the POPI Act the relevant Information Regulator has the authority to impose a range of fines for infringements of the regulations.

# Addressing Compliance to the POPI Act

The following actions are undertaken to ensure that Fundi complies at all times with the accountability principle of the POPI Act:

* The legal basis for processing personal information is clear and unambiguous
* An Information Officer is appointed with specific responsibility for personal information protection in the organisation
* All staff involved in handling personal information understand their responsibilities for following good personal information protection practice.
* Training in personal information protection has been provided to all staff.
* Rules regarding consent are followed.
* Routes are available to data subjects wishing to exercise their rights regarding personal information and such enquiries are handled effectively.
* Regular reviews of procedures involving personal information are carried out.
* Privacy by design is adopted for all new or changed systems and processes.
* The following documentation of processing activities is recorded:
* Organisation name and relevant details.
* Purposes of the personal information processing.
* Categories of individuals and personal information processed.
* Categories of personal information recipients.
* Agreements and mechanisms for transfers of personal information to other countries including details of controls in place.
* Personal information retention schedules.
* Relevant technical and organisational controls in place.

These actions are reviewed on a regular basis as part of the management process concerned with data protection.

# NOTES TO ANNEXURES

Annexure 1 and 2 are included in this policy for reference purposes. These are:

Annexure 1: Website privacy policy. This is a “privacy Notice” that is placed on the Fundi website and describes to visitors of the website the nature of information that Fundi may gather from users of the website. The website privacy policy refers to the Fundi PAIA Manual.

Annexure 2: Fundi PAIA manual. This is a required manual in terms of the Promotion of Access to Information Act, which contains further details of the nature of personal information processed by Fundi and rights of data subjects in accordance with the POPI Act. It also describes other (non-personal information) that Fundi manages, and which may be requested in terms of protection of an individual’s human rights.

# Annexure 1: Website Privacy Policy

# Privacy Notice

This privacy notice advises you of the personal information we collect from you when you use our website. In collecting this information, we are acting as a Responsible Party and, by law, we are required to provide you with information about us, about why and how we use your data, and about the rights you have over your data.

Who are we?

We are Fundi Capital (Pty) Ltd., including all entities and subsidiaries, Registration Number 1996/003961/07 (Fundi, us, we, it, or our). Our address is Corner 14th Avenue and Hendrik Potgieter Road, Constantia Office Park, Weltevreden Park, Johannesburg, 1751. You can contact us by post at the above address, by email at IO@fundi.co.za or by telephone on +27 11 670 6100.

You can also find out more about the information we process by reviewing our PAIA Manual on this website (www.fundi.co.za).

Retention of information

Any information you provide on the website will only be used for the purpose for which you provide it and will be destroyed once that purpose is finished.

How we use your information

* [When you use our website](bookmark://_When_you_use)
* [When you submit an enquiry via our website](bookmark://_When_you_submit)
* [When you purchase a product from our website](bookmark://_When_you_purchase)
* [When you sign up to receive our newsletter](bookmark://_When_you_sign)
* [When you download a sample document](bookmark://_When_you_download)
* Your rights as a data subject
* [Your right to complain](bookmark://_Your_right_to)
* [Updates to this privacy policy](bookmark://_Updates_to_this)

## When you use our website

When you use our website to browse our products and services and view the information, we make available a number of website cookies are used by us and by third parties to allow the website to function, to collect useful information about visitors and to help to make your user experience better.

## When you submit an enquiry via our website

When you submit an enquiry via our website, we ask you for your name, contact telephone number and email address.

We use this information to respond to your query, including providing you with any requested information about our products and services. We may also email you several times after your enquiry in order to follow up on your interest and ensure that we have answered your it to your satisfaction. We will do this based on our legitimate interest in providing accurate information prior to a sale.

We do not use the information you provide to make any automated decisions that might affect you.

## When you purchase a product from our website

When you purchase products from us online, we ask you for your name, address, contact telephone number, email address and credit card information. We also record your IP (Internet Protocol) address, which is the address of your computer on the Internet.

We will use your information to verify your credit card details for your purchase, process your order and to send you your products. We will also send you a receipt via email and we may use your telephone number to contact you regarding your purchase.

We require this information in order to process your payment, deliver your products or services and fulfil our contract with you. We record your IP address in order to show that the correct tax was applied to the sale, which we are required to do by law.

Your credit card details are passed to a third-party payment processor. We do not retain your credit card information.

We do not use the information you provide to make any automated decisions that might affect you.

## When you sign up to receive our newsletter

When you sign up to receive our newsletter, we ask for your name and your email address. We will ask for your consent to use your name and email address to email you our newsletter which contains information about our products and other information which we feel might be of interest to you.

You can withdraw your consent at any time, and we will stop sending you the newsletter.

We do not use the information you provide to make any automated decisions that might affect you.

We keep your personal data for as long as we produce and distribute our newsletter. If you withdraw your consent, we will mark your details so that they are not used and delete them after two years.

## When you download a sample document

When you request to download a sample document, we ask for your name, company name (which is optional) and your email address.

We use this information to email you a link to download the requested document. We may also email you after your download in order to follow up on your interest in our products and services. We will do this based on our legitimate interest in marketing to prospects for our products and services.

We do not use the information you provide to make any automated decisions that might affect you.

Your rights as a data subject

By law, you can ask us what information we hold about you, and you can ask us to correct it if it is inaccurate. If we have asked for your consent to process your personal information, you may withdraw that consent at any time.

If we are processing your personal information for reasons of consent or to fulfil a contract, you can ask us to give you a copy of the information in a machine-readable format so that you can transfer it to another provider.

If we are processing your personal information for reasons of consent or legitimate interest, you can request that your data be erased.

You have the right to ask us to stop using your information for if you believe we are not doing so lawfully. 

To submit a request regarding your personal data by email, post or telephone, please use the contact information provided above in the [Who Are We](bookmark://_Who_are_we?) section of this policy.

Your right to complain

If you have a complaint about our use of your personal information, we would prefer you to raise in with us in the first instance to give us the opportunity to put it right, but you can also contact the Information Regulator’s Office via their website at *www.justice.gov.za/inforeg/contact.html* by email at [inforeg@justice.gov.za](mailto:inforeg@justice.gov.za) or write to them at:

The Information Regulator (South Africa)

33 Hoofd Street

Forum III

3rd Floor Braampark

P.O Box 31533

Braamfontein

Johannesburg, 2017

Updates to this privacy policy

We regularly review and, if appropriate, update this privacy policy from time to time, and as our services and use of personal information evolves. If we want to make use of your personal information in a way that we haven’t previously identified, we will contact you to provide information about this and, if necessary, to ask for your consent.

We will update the version number and date of this document each time it is changed.

# Annexure 2: PAIA Manual

# Introduction

The Promotion of Access to Information Act (the “Act”), together with all relevant legislation, provides for the right of access to information held by public and private bodies when such information is requested for the exercise of protection of any rights.

This manual is to assist any potential requesters with the procedural and other requirements that a request for information must meet as prescribed by the Act.

Overview of Fundi Capital

Fundi is South Africa’s leading education finance and Fund Management Specialist. Positioned at the epicentre of technology, education and financial services. Fundi is a specialist in B2B education finance for your staff as well as cashless solutions for your business. We also provide fund management services to institutions at all levels, as well as Fund Management solutions for Corporate Bursary programmes. As its tailings business grew, Fundi Capital added other core businesses to its portfolio of operations. The Fundi Capital Group of companies now comprises four complementary businesses. Construction, Tailings RSA, Tailings Africa & International and Mineral Processing with centralised support services provided by Group Services.

Information Required in Terms of Section 51(1)(a) of the Act

**Registered Office**

Corner Hendrik Potgieter Road & 14th Ave

Weltevreden Park, Johannesburg

1751

**Bankers**

Standard Bank

**Auditors**

Nexia SAB & T, KPMG

**Legal Advisors**

Waldeck Attorneys, Webber Wentzel & Shultz- Demarthe Attorneys

Particulars in Terms of the Section 51 Manual

This manual has been compiled in accordance with the Act and applies to all the entities identified in 4 below.

The Information Officer (Chief Executive Officer) of Fundi Capital Holdings has delegated his powers in terms of the Act to the Deputy Information Officer, who will handle all requests in terms of the Act on his behalf.

Contact Details

The Chief Executive Officer is the Information Officer.

All queries in terms of PAIA should be made to:

Information Officer (Chief Executive Officer)

Fundi Capital

Corner Hendrik Potgieter Road & 14th Ave

Weltevreden Park, Johannesburg

1751

Telephone: +27 11 670 6100

Email: [support@fundi.co.za](mailto:support@fundi.co.za)

The Guide Referred to in Section 10 of the Act

In terms of Section 10 of the Act, the South African Human Rights Commission has compiled a guide to help people who wish to exercise any rights granted in the Act. The Guide is available for inspection, *inter alia*, at the offices of the Human Rights Commission or the Information Regulator:

**PAIA Unit**

**The Research and Documentation Department**

Physical address: 29 Princess of Wales Terrace

cnr York and St Andrews Street

Parktown,

Johannesburg, 2193

Postal address: Private Bag X2700

Houghton,

Johannesburg, 2041

Telephone: +27 11 877 3600

Fax: +27 11 403 0625

Website: [www.sahrc.org.za](http://www.sahrc.org.za)

Email: [dmalesa@sahrc.org.za](mailto:dmalesa@sahrc.org.za)

All queries relating to PAIA or POPIA may be directed to the Information Regulator, at:

**The Information Regulator**

Physical address: JD House,

27 Stiemens Street,

Braamfontein,

Johannesburg, 2001

Postal address: P. O Box 31533,

Braamfontein,

Johannesburg, 2017

Website: https://justice.gov.za/inforeg

Email: [**inforeg@justice.gov.za**](https://owa.justice.gov.za/owa/redir.aspx?C=inZ5uQahKFZ27cQNAZqgkxLqk2u5dpip-0xeuVGk-tJa4yFS_0fYCA..&URL=mailto%3ainforeg%40justice.gov.za)

Applicable Legislation: Section 51(1)(d)

Records are available in accordance with the following current South African legislation and any amendments thereof and regulations thereto (only to the extent that the relevant Act is applicable and which therefore makes disclosure of records compulsory):

|  |
| --- |
| * Auditing Profession Act, No. 26 of 2005 |
| * Basic Conditions of Employment Act, No. 75 of 1997 |
| * Broad-Based Black Economic Empowerment Act, No. 53 of 2003 |
| * Companies Act, No. 71 of 2008 |
| * Compensation of Occupational Injuries and Diseases Act, No. 130 of 1993 |
| * Competition Act, No. 89 of 1998 |
| * Consumer Affairs Act, No. 23 of 1999 |
| * Consumer Protection Act, No. 68 of 2008 |
| * Credit Agreements Act, No. 75 of 1980 |
| * Criminal Procedure Act, No. 51 of 1977 |
| * Customs and Excise Act, No. 91 of 1964, Section 101 and Regulation 1.04 - Government Gazette No 4040 R17770 dated 5 October 1973. |
| * Debt Collectors Act, No. 114 of 1998 |
| * Education Laws Amendment Act, 2007 |
| * Electronic Communications and Transactions Act, No. 25 of 2002 |
| * Employment Equity Act, No. 55 of 1998 |
| * Financial Advisory and Intermediary Services Act, No. 37 of 2002 |
| * Financial Intelligence Centre Act, No. 38 of 2001 |
| * Health Act, No. 63 of 1977 (Amended) and regulations |
| * HPCSA Booklet 14, Guidelines on the keeping of patient Records 2008 |
| * Income Tax Act, No. 58 of 1962 |
| * Insolvency Act, No. 24 of 1936 |
| * Intellectual Property Laws Amendment Act, No. 38 of 1997 |
| * Labour Relations Act, No. 66 of 1995 |
| * National Student Financial Aid Scheme Act 56 of 1999 |
| * Occupational Health and Safety Act, No. 85 of 1993 |
| * Pension Fund Act, No. 24 of 1956, Section 30L |
| * Promotion of Access to Information Act, No. 2 of 2000 |
| * Protection of Personal Information Act, No. 4 of 2013 * Public Finance Management Act No. 1 of 1999 |
| * Regulation of Interception of Communications and Provision of Communication-Related Information Act, No. 70 of 2002 |
| * SARS Notice 787 |
| * Securities Transfer Tax Administration Act, No. 26 of 2007 |
| * Skills Development Act, No. 97 of 1997 |
| * Skills Development Levies Act, No. 9 of 1999 |
| * Tax Administration Act, No. 28 of 2011 |
| * Transfer Duty Act, No. 40 of 1949 |
| * Unemployment Insurance Act, No. 63 of 2001 |
| * Value Added Tax Act, No. 89 of 1991 |

Although we have used our best endeavours to supply a complete list of applicable legislation, the above list may be incomplete. Wherever it comes to our attention that existing or new legislation allows a requester access on a basis other than that set out in the Act, we shall immediately update the list.

Schedule of Records Available: Section 51(1)(d)

**Statutory**

* Memoranda of Incorporation
* Company Registers
* Statutory Records and Returns
* Agreements
* Trademarks and Patents
* Title Deeds

**Finance and Accounting**

* Accounting Records
* Policies and Procedures
* Banking Details and Bank Statements
* Financial Statements
* Income Tax
* Loan records
* Balance sheets and income statements

**Human Resources**

* Policies and Procedures
* Employment Equity Plans
* Pension and Provident Fund Scheme details
* Skills Development Plans
* Records and Reports

**Operations**

* Policies and procedures
* Reports and supporting documentation
* Contractor, merchant, institution, student, funders, bursars, client and supplier agreements and information
* Student registration information
* Student funding records
* Student results and administration
* Debt management records
* Environmental, Health and Safety records
* Supplier onboarding and management records
* Project management
* Marketing campaigns
* Bursary support records
* Loan management records

**Information Technology**

* System documentation and manuals
* Policies and procedures
* Project, disaster recovery and implementation plans
* Information security incident response procedure

The categories of personal information held by Fundi

* Names
* Addresses
* Identity numbers
* Contact details
* Student cell numbers, usernames, passwords and PINs
* Company names
* VAT numbers
* Banking details
* Financial status
* ICT reports
* Employee information
* Student information
* BBEEE status
* Payslips
* Credit reports
* SARS compliance reports
* Certificates

The purpose of processing of personal information by Fundi

We process personal information for a variety of purposes, including but not limited to the following:

* to provide or manage any information, products and/or services requested by data subjects;
* to help us identify data subjects when they contact Fundi
* to maintain customer records;
* for recruitment purposes;
* for employment purposes;
* for apprenticeship purposes;
* for travel purposes;
* for general administration, financial and tax purposes;
* for legal or contractual purposes;
* for health and safety purposes;
* to monitor access, secure and manage our premises and facilities;
* to transact with our suppliers and business partners;
* to help us improve the quality of our products and services;
* to help us detect and prevent fraud and money laundering;
* to help us recover debts;
* to carry out analysis and customer profiling; and
* to identify other products and services which might be of interest to data subjects and to inform them about our products and services.

Procedure for Requests for Access: Section 51(1)(e)

* The requester must complete Form C and submit this form together with a request fee, to the Information Officer at his physical or postal address, or electronic mail address.
* The form must:
  + provide sufficient particulars to enable the Information Officer to identify the record/s requested and to identify the requester;
  + indicate which form of access is required;
  + specify a postal address or electronic mail address of the requester in the Republic;
  + identify the right that the requester is seeking to exercise or protect, and provide an explanation of why the requested record is required for the exercise or protection of that right;
  + if, in addition to a written reply, the requester wishes to be informed of the decision on the request in any other manner, state that manner and the necessary particulars to be informed in the other manner;
  + if the request is made on behalf of another person, submit proof of the capacity in which the requester is making the request, to the reasonable satisfaction of the Information Officer.
* The Information Officer will process the request within 30 days after receiving the request. The Information Officer may request an extension for a period of no more than 30 additional days for specific reasons, which include the request involving (1) a large volume of documents, (2) consultation with other public or private entities, or (3) if the requester has granted the extension in writing.
* The Information Officer will notify the requester in writing whether or not the application for access has been denied or granted. In the event that the application is refused, the requester will be given adequate reasons for the refusal and will be informed that the requester may lodge an application with a Court against the refusal of the application, as well as the procedure (including the period) for lodging such an application.
* Please note that the correct completion and submission of a Request for Access form does not automatically entitle or allow the requester access to the requested record. An application for access to a record is subject to certain limitations if the requested record falls within a category as specified in Part 3 Chapter 4 of the Act.
* Please further note that if it is reasonably suspected that an applicant has obtained access to a record on the basis of the submission of materially incorrect, false or misleading information, legal proceedings may be instituted against such applicant.
* In the event that a request for access is successful, an access fee will be payable for the search, reproduction and/or preparation of records and will be calculated based on the fee prescribed under the Act.
* If the Information Officer has searched for a record and it is believed that the record either does not exist or cannot be found, the requester will be notified by way of an affidavit or affirmation. This will include the steps that were taken to locate the record.
* If access is requested to a record that contains information about a third party, the Information Officer is obliged to attempt to contact the third party to inform them of the request. This enables the third party the opportunity to respond by either consenting to the access or by providing reasons why the access should be denied. In the event of the third-party furnishing reasons for the support or denial of access, the Information Officer will consider these reasons in determining whether access should be granted, or not.

Information security measures to protect personal information

* Reasonable technical and organisational measures have been implemented for the protection of personal information processed by Fundi and its operators. In terms of the POPI Act, operators are third parties that process personal information on behalf of Fundi.
* We continuously implement and monitor technical and organisational security measures to protect the personal information we hold, against unauthorised access, as well as accidental or wilful manipulation, loss or destruction.
* We will take steps to ensure that operators that process personal information on behalf of Fundi apply adequate safeguards as outlined above.

Trans-border flows of personal information

* We will only transfer personal information across South African borders if the relevant business transactions or situation requires trans-border processing, and will do so only in accordance with South African legislative requirements; or if the data subject consents to transfer of their personal information to third parties in foreign countries.
* We will take steps to ensure that operators are bound by laws, binding corporate rules or binding agreements that provide an adequate level of protection and uphold principles for reasonable and lawful processing of personal information, in terms of the POPI Act.
* We will take steps to ensure that operators that process personal information in jurisdictions outside of South Africa, apply adequate safeguards as outlined in Section 11.

Personal information received from third parties

* When we receive personal information from a third party on behalf of a data subject, we require confirmation that they have written consent from the data subject that they are aware of the contents of this PAIA manual and the Fundi Privacy Policy, and do not have any objection to our processing their information in accordance with this policy.

Prescribed Fees: Section 51(1)(f)

The following applies to requests (other than personal requests):

* A requester is required to pay the prescribed fee of R50.00 (fifty rand) before a request will be processed;
* If the preparation of the record requested requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee that would be payable if the request were granted);
* A requester may lodge an application with a court against the tender/payment of the request fee and/or deposit;
* Records may be withheld until the fees have been paid.
* The fees for accessing records of a private body are as follows:

|  |  |
| --- | --- |
| **Activity** | **Fee** |
| Copy per A4 Page | R1.10 |
| Printing per A4 page | R0.75 |
| Copy on a CD | R70.00 |
| Transcription of visual images per A4 page | R40.00 |
| Copy of a visual image | R60.00 |
| Transcription of an audio recording per A4 page | R20.00 |
| Copy of an audio recording | R30.00 |
| Search and preparation of the record for disclosure | R30 per hour or part thereof, excluding the first hour, reasonably required for the search and preparation |

* Postage fees have to be paid by the requester for the delivery of their records.
* The fee structure is also available on the website of the South African Human Rights Commission at [www.sahrc.org.za](http://www.sahrc.org.za).

Grounds for Refusal of Access to Records: Section 63 to 69 of the Act and the Protection of Personal Information Act, No. 4 of 2013

Access to certain records must be denied on the grounds set out in the Act. This includes:

* Mandatory protection of the privacy of a third party who is a natural person, including a deceased individual;
* Mandatory protection of commercial information of a third part;
* Mandatory protection of certain confidential information and confidential information of a third party;
* Mandatory protection of the safety of individuals, and protection of property;
* Mandatory protection of records privileged from production in legal proceedings;
* Mandatory protection of research information of a third

Access to records may be denied in the case of

* Commercial information if the record:
  + contains trade secrets
  + contains financial, commercial, scientific or technical information, the disclosure of which would be likely to harm the commercial of financial interests of the company
  + contains information, the disclosure of which would reasonably be expected to put the company at a disadvantage in contractual or other negotiations, or to prejudice the company in commercial competition; or
  + is a computer programme owned by the Company?
* “Manifestly frivolous or vexatious requests or substantial and unreasonable diversion of resources”.

All the protections afforded to information as detailed above falls away if the release of the information is in the public interest. In this way, the public interest test overrides all the other grounds of refusal of access to information.

The following test must be applied by the Information Officer before refusing to allow access to information that falls within the categories for non-disclosure listed above. If these conditions are met, then the information must be disclosed on the grounds of public interest.

Does the information demonstrate a serious breach of a law?

OR

Do the records in question contain information relating to an imminent and serious public safety or environmental risk?

AND

Does the public interest in disclosing the information clearly outweigh the potential harm?

Remedies

The company does not have internal appeal procedures regarding PAIA and POPI Act requests. As such, the decision made by the duly authorised person in section 5, is final. If a request is denied, the requestor is entitled to apply to a court with appropriate jurisdiction, or the Information Regulator, for relief.

Availability of the Manual

Copies of this manual are available for inspection at the offices of Fundi Capital Holdings, free of charge. Copies are also available from the Information Regulator, the South African Human Rights Commission and from the website at [www.fundi.co.za](http://www.fundi.co.za).

Updated on 28 July 2021

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**INFORMATION OFFICER**

**(CHIEF EXECUTIVE OFFICER)**