



PRIVACY POLICY

(2025)

OFFICIAL SIGN OFF:

Policy prepared by:

Ligaseree Pillay
Legal Services

18 June 2025
DATE

Policy reviewed and endorsed by:

Tshepo Masoeu
CHIEF DIRECTOR:
CORPORATE STRATEGY MANAGEMENT

25/06/2025
DATE

Policy approved by:

SHARON ANN MAASDORP
HEAD OF DEPARTMENT

26/06/2025
DATE



Table of Contents

INTRODUCTION	3
PURPOSE	3
DUTIES OF THE INFORMATION OFFICER AND DEPUTY INFORMATION OFFICER(S).....	9
THE RIGHTS OF DATA SUBJECTS	11
OBJECTION TO THE PROCESSING OF PERSONAL INFORMATION	13
COLLECTION OF PERSONAL INFORMATION FOR A SPECIFIC PURPOSE	13
THE 8 CONDITIONS FOR THE LAWFUL PROCESSING OF PERSONAL INFORMATION	17
Condition 1: Accountability.....	17
Condition 2: Processing Limitation	17
Condition 3: Purpose Specification.....	19
Condition 4: Further Processing Limitation	20
Condition 5: Information Quality	21
Condition 6: Openness	22
Condition 7: Security Safeguards	22
Condition 8: Data Subject Participation	23
TRANSBORDER INFORMATION FLOWS	25
INSTITUTIONAL ARRANGEMENT	26
POLICY REVIEW.....	26



INTRODUCTION

1. Section 14 of the Constitution of the Republic of South Africa, 1996, provides that everyone has the right to privacy¹, which right to privacy includes a right to protection against the unlawful collection, retention, dissemination and use of personal information.² As with all rights in the Bill of Rights, the State must respect, protect, promote and fulfil the right to privacy.
2. The Protection of Personal information Act 4 of 2013 (POPIA) which came into full force and effect on 1 July 2021 aims to protect, promote and fulfil the right to privacy as it relates to the protection of personal information processed by public and private bodies.³
3. The Department of Education, Eastern Cape (ECDoE), as a Public Body and as a Responsible Party, as defined in POPIA, must therefore comply with the prescripts set out therein for the lawful processing of personal information.

PURPOSE

4. The purpose of this Privacy Policy is to give effect to the provisions of POPIA in ECDoE, thereby informing not only employees of Education, but also members of the public and entities or organisations which may have dealings with Education and who make their personal information available to ECDoE in any form and under any circumstances, of the purpose of POPIA, their rights in terms thereof and the manner in which their personal information must be lawfully processed by ECDoE to ensure compliance with POPIA.

¹ Sections 14 of the Constitution of the Republic of South Africa, 1996 reads:

Everyone has the right to privacy, which includes the right not to have-

(a) their person or home searched;

(b) their property searched;

(c) their possessions seized; or

(d) the privacy of their communications infringed.

² Preamble of the Protection of Personal Information Act 4 of 2013.

³ Different dates for the commencement of different provisions were published. However, most provisions which directly impact XXX commenced on 1 July 2021.



5. The purpose of POPIA is to:
 - 5.1 Give effect to the constitutional right to privacy by safeguarding personal information when processed by a responsible party, subject to justifiable limitations that are aimed at balancing the right to privacy against other rights, particularly the right of access to information and protecting important interests, including the free flow of information within the Republic and across international borders. This Policy must be read together with other Education policies which, inter alia, govern Knowledge & Records Management, Security Management, and Information Communication Technology Management processes.
 - 5.2 Regulate the manner in which personal information may be processed, by establishing conditions, in harmony with international standards, that prescribe the minimum threshold requirements for the lawful processing of personal information.
 - 5.3 Provide persons with rights and remedies to protect their personal information from processing that is not in accordance with POPIA.
 - 5.4 Establish voluntary and compulsory measures, including the establishment of the Information Regulator (Regulator), to ensure respect for and to promote, enforce and fulfil the rights protected by POPIA.
6. All the above therefore apply to the ECDoE and form the basis on which this Privacy Policy is based.

DEFINITIONS

7. Unless the context indicates otherwise, the following words have the following meanings:

- 7.1 **“Consent”** means any voluntary, specific and informed expression of will in terms of which permission is given for the processing of personal information.
- 7.2 **“Data message”** means data generated, sent, received or stored by electronic means and includes:
- 7.2.1 Voice, where the voice is used in an automated transaction.
- 7.2.2 A stored record.
- 7.3 **“Data subject”** means the person to whom personal information relates. This includes, but is not limited to employees of Education, persons (natural and juristic) who submit tenders to Education and service providers who contract with Education. Other examples are people who petition the Honourable Premier or apply to participate in funded projects through Education.
- 7.4 **“De-identify”** in relation to personal information of a data subject means to delete any information that identifies the data subject that can be used or manipulated by a reasonably foreseeable method to identify the data subject or that can be linked by a reasonably foreseeable method to other information that identifies the data subject.
- 7.5 **“Deputy Information Officer” or “DIO”** means the person(s) who is/are designated and delegated as such by the Information Officer in terms of section 17 of PAIA, to make Educations Policies as accessible as reasonably possible for requesters of its records and for the proper implementation of POPIA. Full particulars of the Deputy Information Officer (s) are set out in Education's PAIA Manual.
- 7.6 **“ECTA”** means the Electronic Communications and Transactions Act, Act 25 of 2002.



- 7.7 **“Electronic communication”** means a communication by means of data messages.
- 7.8 **“Information Officer”** or **“IO”** means the Head of Department of the Department of Education- Eastern Cape as set out in section 1 of PAIA and in terms of Column 2 of Schedule 1 of the Public Service Act, 1994 (Proclamation 103 of 1994), with the duties, responsibilities and powers assigned to him in sections 55 and 56 of POPIA. Full particulars of the Information Officer are set out in Education’s PAIA Manual available on the ECDoE website.
- 7.9 **“Information Regulator”** or **“Regulator”** means a juristic person established in terms of section 39 of POPIA, with the powers, duties and functions as set out in section 40 of POPIA. The Information Regulator, *inter alia*, oversees and monitors compliance with POPIA and PAIA, such as conduct self-initiative compliance assessments on public bodies or investigate data breaches. The Information Regulator also has the power to enforce compliance of both POPIA and PAIA.
- 7.10 **“Operator”** means a person who processes personal information for a responsible party in terms of a contract or mandate, without coming under the direct control of that party.
- 7.11 **“ECDoE”** means the Eastern Cape Department of Education, a provincial government department established in terms of section 7(2) of the Public Service Act, 1994 (Proclamation 103 of 1994).
- 7.12 **“Person”** means a natural person or a juristic person.
- 7.13 **“Personal information”** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to:



- 7.13.1 Information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, wellbeing, disability, religion, conscience, belief, culture, language and birth of the person.
- 7.13.2 Information relating to the education or the medical, financial, criminal or employment history of the person.
- 7.13.3 Any identifying number, symbol, email address, physical address, telephone number, location information, online identifier or other particular assignment to the person.
- 7.13.4 The biometric information of the person.
- 7.13.5 The personal opinions, views or preferences of the person.
- 7.13.6 Correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence.
- 7.13.7 The views or opinions of another individual about the person.
- 7.13.8 The name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.
- 7.14 **“PAIA”** means the Promotion of Access to Information Act (Act No. 2 of 2000) as amended or re-enacted from time to time, including all Schedules thereto and the Regulations promulgated in terms thereof from time to time.
- 7.15 **“POPIA”** means the Protection of Personal information Act (Act No. 4 of 2013) as amended or re-enacted from time to time, including all Schedules thereto and the Regulations promulgated in terms thereof from time to time.



7.16 **“Processing”** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including:

7.16.1 The collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use.

7.16.2 Dissemination by means of transmission, distribution or making available in any other form.

7.16.3 Merging, linking, as well as restriction, degradation, erasure or destruction of information.

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

7.18 **“Record”** means any recorded information

7.18.1 regardless of form or medium, including any of the following:

7.18.1.1 Writing on any material.

7.18.1.2 Information produced, recorded or stored by means of any tape recorder, computer equipment, whether hardware or software or both, or other device, and any material subsequently derived from information so produced, recorded or stored.

7.18.1.3 Label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means.

7.18.1.4 Book, map, plan, graph or drawing.



7.18.1.5 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.

7.18.2 In the possession or under the control of a responsible party and whether or not it was created by a responsible party; and regardless of when it came into existence.

7.19 **“Responsible Party”** means ECDoE when, alone or in conjunction with others, it determines the purpose of and means for processing personal information.

7.20 **“Special Personal information”** means personal information concerning:

7.20.1 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.

7.20.2 The criminal behaviour of a data subject to the extent that such information relates to the alleged commission by a data subject of any offence or any proceedings in respect of any offence allegedly committed by a data subject or the disposal of such proceedings.

DUTIES OF THE INFORMATION OFFICER AND DEPUTY INFORMATION OFFICER(S)

8. ECDoE's Information Officer (IO), who is the Head of Department of Education-Eastern Cape⁴, is duly registered with the Regulator as prescribed by section 55 (2) of POPIA.

⁴ See section 1 and 17 of PAIA, read with Schedule 1 of the Public Service Act (Proclamation 103 of 1996) and section 1 of POPIA.



10. The IO's duties and responsibilities include:
 - 10.1. The encouragement of compliance by ECDoE with the 8 (eight) conditions for the lawful processing of personal information.
 - 10.2. Dealing with requests made to ECDoE pursuant to POPIA.
 - 10.3. Working with the Regulator in relation to investigations conducted pursuant to Chapter 6 of POPIA in relation to ECDoE and other Eastern Cape provincial Departments.
 - 10.4. Ensuring that a Compliance Framework is developed, implemented, monitored and maintained.
 - 10.5. Ensuring that a Personal Information Impact assessment is done to ensure that adequate measures and standards exist in order to comply with the 8 (eight) conditions for the lawful processing of personal information.
 - 10.6. Ensuring that a manual is developed, monitored, maintained and made available as prescribed in sections 14 and 51 of PAIA.
 - 10.7. Ensuring that internal measures are developed together with adequate systems to process requests for information or access thereto.
 - 10.8. Ensuring that internal awareness sessions are conducted regarding the provisions of POPIA, regulations made in terms of POPIA, codes of conduct, or information obtained from the Regulator.
 - 10.9. Ensuring that upon request by any person, copies of the PAIA manual are provided to that person upon the payment of a fee to be determined by the Regulator from time to time.
 - 10.10. Otherwise ensuring compliance by ECDoE with the provisions of POPIA and prescripts as may be implemented in terms of any other legislation.



10.11. Provision has been made, in the manner prescribed in section 17 of PAIA for:

10.1.1 The designation of the person(s) mentioned in ECDoE's PAIA manual as Deputy Information Officer(s) (DIO(s)), to assist the IO in performing the duties and responsibilities set out in section 55 (1) of POPIA.

10.1.2 The delegation of any power or duty conferred on the IO by POPIA, to the DIO(s).

10.12 Data subjects may direct any queries regarding the processing of their personal information or compliance with POPIA to the IO or DIO(s) at the contact details provided in ECDoE's PAIA manual. The PAIA Manual is available on the website of the Eastern Cape Provincial Government: www.ecprov.gov.za.

THE RIGHTS OF DATA SUBJECTS

11 A data subject has the right to have his, her or its personal information processed in accordance with the 8 (eight) conditions for the lawful processing of personal information as referred to in Chapter 3 of POPIA. This includes the right:

11.12 To be notified that:

11.12.1 Personal information about him, her or it is being collected as provided for in terms of section 18 of POPIA.

11.12.2 His, her or its personal information has been accessed or acquired by an unauthorised person as provided for in terms of section 22 of POPIA.

11.13. To establish whether a responsible party holds personal information of that data subject and to request access to his, her or its personal information as provided for in terms of section 23 of POPIA.



- 11.14. To request, where necessary, the correction, destruction or deletion of his, her or its personal information as provided for in terms of section 24 of POPIA.
- 11.15. To object, on reasonable grounds relating to his, her or its particular situation, to the processing of his, her or its personal information as provided for in terms of section 11 (3) (a) of POPIA.
- 11.16. To object to the processing of his, her or its personal information
- 11.17. At any time for purposes of direct marketing in terms of section 11 (3) (b) of POPIA n terms of section 69 (3) (c) of POPIA.
- 11.18. Not to have his, her or its personal information processed for purposes of direct marketing by means of unsolicited electronic communications except as referred to in section 69 (1) of POPIA.
- 11.19. Not to be subject, under certain circumstances, to a decision which is based solely on the basis of the automated processing of his, her or its personal information intended to provide a profile of such person as provided for in terms of section 71 of POPIA.
- 11.20. To submit a complaint to the Regulator regarding the alleged interference with the protection of his, her or its personal information or to submit a complaint to the Regulator in respect of a determination of an adjudicator as provided for in terms of section 74 of POPIA.
- 11.21. To institute civil proceedings regarding the alleged interference with the protection of his, her or its personal information as provided for in section 99 of POPIA.



OBJECTION TO THE PROCESSING OF PERSONAL INFORMATION

12. Data subjects may object to the processing of their personal information by completing the POPIA FORM 1 which is available on the Eastern Cape Provincial Government website: www.ecprov.gov.za or on request from the DIO(s) and by submitting the duly completed FORM 1 to the DIO(s) at the address(es) set out in ECDoEs PAIA Manual, also available on the same website.
13. If a data subject objects to the processing of his / her / its personal information and provided that the processing is not necessary for the proper execution of a contract or not required by law, ECDoE must stop processing such data immediately.

COLLECTION OF PERSONAL INFORMATION FOR A SPECIFIC PURPOSE

14. ECDoE typically processes the personal information of the following categories of data subjects, which includes current, past and prospective data subjects:
 - 14.13. Employees;
 - 14.14. Job applicants;
 - 14.15. Service providers;
 - 14.16. Visitors to ECDoE premises;
 - 14.17. Individuals captured by CCTV cameras;
 - 14.18. Officials from public and private bodies and other stakeholders;
15. The type of personal information collected from a data subject will depend on the reason for his / her / its engagement with ECDoE



16. Personal information must be collected for a specific, explicitly defined and lawful purpose related to a function or activity of ECDoE.
17. ECDoE typically processes personal information for purposes related to the following functions or activities which include, but are not limited to:
 - 17.1. Internal human resource functions such as recruitment processes, payroll functions, processing of subsistence and travel allowance claims, pension fund and medical aid administration, disciplinary matters and training.
 - 17.2. Procurement processes, including the processing of tender documents.
 - 17.3. Application processes to participate in funded projects facilitated through ECDoE
 - 17.4. Petitions to the Honourable Premier of the Eastern Cape Province.
 - 17.5. Traditional leadership matters.
 - 17.6. Contracting with service providers.
 - 17.7. Collecting personal information for security purposes via CCTV cameras, biometric systems and access control registers. Any closed-circuit television monitoring footage is only processed for security purposes and not shared with any person or entity outside the ECDoE unless required by law.
 - 17.8. Legal Proceedings instituted by and against ECDoE.
 - 17.9. Personal information collected for statistical or research purposes.
 - 17.10. Personal information collected for the purpose of complying with any legislation or legal obligation.
 - 17.11. Communicating with data subjects *via* email, letter, telephone or any other electronic media.
 - 17.12. Verifying or updating any personal information in its possession.

18. ECDoE typically processes the following categories and type of personal information of data subjects:

DATA SUBJECT	PERSONAL INFORMATION PROCESSED
NATURAL PERSONS	Names, physical and postal addresses, date of birth, ID numbers, confidential correspondence, identifying numbers, email addresses, telephone numbers, medical information, criminal or employment history, biometric information, tax related information, personal opinions, information relating to race, gender, sex, marital status, nationality of person, language, ethic, colour, disability of person, information relating to education, pension fund records, performance appraisals, disciplinary records, leave records, training records, remuneration and salary records, medical aid records, deductions from salaries, banking and financial records, documents relating to legal proceedings, documents relating to applications for financial assistance.
JURISTIC PERSONS	Names, contact details, physical and postal addresses, tax related information, identifying numbers, symbols, email addresses, telephone numbers, location information, unique identifiers, confidential correspondence, financial information, directors and shareholders details, legal opinions, documents relating to legal proceedings, tender documents, bid submissions.



THE 8 CONDITIONS FOR THE LAWFUL PROCESSING OF PERSONAL INFORMATION

Condition 1: Accountability

19. ECDoE must ensure that the 8 (eight) conditions for the lawful processing of personal information as set out in Chapter 3 of POPIA, and all the measures that give effect to such conditions, are complied with at the time of the determination of the purpose and means of the processing and during the processing itself.

Condition 2: Processing Limitation

20. **Lawfulness of Processing:** ECDoE must process personal information lawfully and in a reasonable manner that does not infringe the privacy of the data subject.
21. **Principle of Minimality:** Personal information may only be processed if, given the purpose for which it is processed, it is adequate, relevant and not excessive.
22. **Consent, Justification and Objection:** Personal information may only be processed if:
- 22.1. The data subject consents to the processing ECDoE bears the burden of proof for the data subject's consent. The data subject may withdraw his, her or its consent at any time, provided that the lawfulness of any processing of personal information before such withdrawal will not be affected.
- 22.2. Processing is necessary to carry out actions for the conclusion or performance of a contract to which the data subject is party.



- 22.3. Processing complies with an obligation imposed by law on ECDoE
- 22.4. Processing protects a legitimate interest of the data subject.
- 22.5. Processing is necessary for the proper performance of a public law duty by a public body.
- 22.6. Processing is necessary for pursuing the legitimate interests of ECDoE or of a third party to whom the information is supplied.
23. **Collection directly from data subject:** Personal information must be collected directly from the data subject, except if:
- 23.1. The information is contained in or derived from a public record or has deliberately been made public by the data subject.
- 23.2. The data subject has consented to the collection of the information from another source.
- 23.3. Collection of the information from another source would not prejudice a legitimate interest of the data subject.
- 23.4. Collection of the information from another source is necessary:
- 23.4.1 To avoid prejudice to the maintenance of the law by ECDoE, including the prevention, detection, investigation, prosecution and punishment of offences.
- 23.4.2 To comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997).
- 23.4.3 For the conduct of proceedings in any court or tribunal that have commenced or are reasonably contemplated.
- 23.4.4 In the interests of national security or to maintain the legitimate interests of ECDoE or of a third party to whom the information is supplied.



23.4.6 To maintain the legitimate interests of ECDoE or of a third party to whom the information is supplied.

23.5. Compliance would prejudice a lawful purpose of the collection.

23.6. Compliance is not reasonably practicable in the circumstances of the particular case.

Condition 3: Purpose Specification

24. **Collection for specific purpose:** ECDoE must only collect personal information for a specific, explicitly defined and lawful purpose which relates to a function or activity carried out by ECDoE. A data subject must be informed of the purpose of the collection and processing of personal information when such information is received directly from him or her or it. If the information is not collected from the data subject, he or her or it must be informed of the purpose as soon as practicable or upon request.

25. **Retention and restriction of records:** Personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed, unless:

25.1. Retention of the record is required or authorised by law.

25.2. ECDoE reasonably requires the record for lawful purposes related to its functions or activities.

25.3. Retention of the record is required by a contract between the parties thereto.

25.4. The data subject has consented to the retention of the record.

25.5. Records of the personal information are being retained for historical, statistical or research purposes and ECDoE has established appropriate safeguards against the records being used for any other purposes.



25.6. ECDoEhas used a record of personal information of a data subject to make a decision about the data subject.

26. ECDoE's Personal Information Retention Policy expands on this aspect.

Condition 4: Further Processing Limitation

27. **Further processing to be compatible with purpose of collection:** The further processing of personal information must be in accordance or compatible with the purpose for which it was collected in terms of section 13 of POPIA.

28. To assess whether further processing is compatible with the purpose of collection, ECDoE must take account of:

28.1. The relationship between the purpose of the intended further processing and the purpose for which the information has been collected.

28.2. The nature of the information concerned.

28.3. The consequences of the intended further processing for the data subject.

28.4. The manner in which the information has been collected.

28.5. Any contractual rights and obligations between the parties.

29. The further processing of personal information is not incompatible with the purpose of collection if:

29.1. The data subject has consented to the further processing of the information.

29.2. The information is available in or derived from a public record or has deliberately been made public by the data subject.

29.3. Further processing is necessary:



- 29.3.1 To avoid prejudice to the maintenance of the law by any public body including the prevention, detection, investigation, prosecution and punishment of offences.
- 29.3.2 To comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997).
- 29.3.3 For the conduct of proceedings in any court or tribunal that have commenced or are reasonably contemplated.
- 29.3.4 In the interests of national security.
- 29.3.5 The further processing of the personal information is necessary to prevent or mitigate a serious and imminent threat to:
 - 29.3.5.1 Public health or public safety.
 - 29.3.5.2 The life or health of the data subject or another individual.
- 29.4. The information is used for historical, statistical or research purposes and the responsible party ensures that the further processing is carried out solely for such purposes and will not be published in an identifiable form.
- 29.5. The further processing of the information is in accordance with an exemption granted under section 37 of POPIA.

Condition 5: Information Quality

- 30. **Quality of Information:** ECDoE must take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary, having regard to the purpose for which personal information is collected or further processed.



31. Data subjects may request the correction of their personal information held by ECDoE by completing the POPIA FORM 2 which is available on the Eastern Cape Provincial Government website: www.ecprov.gov.za or on request from the DIO(s) and by submitting the duly completed form to the DIO(s) at the address(es) indicated in ECDoE's PAIA manual, also available on the same website.

Condition 6: Openness

32. **Documentation:** ECDoE must maintain the documentation of all processing operations under its control and responsibility as referred to in sections 14 or 51 of PAIA.
33. **Notification to data subject when collecting personal information:** If personal information is collected, ECDoE must take reasonably practicable steps to ensure that the data subject is aware of the details set out in section 18 of POPIA, being *inter alia* the nature of the information, the source and the purpose of the collection.

Condition 7: Security Safeguards

- 34.1. **Security measures on integrity and confidentiality of personal information:** ECDoE must secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent:
- 34.2. Loss of, damage to or unauthorised destruction of personal information.
- 34.3. Unlawful access to or processing of personal information.
35. **Information processed by an operator or person acting under authority:** An operator or anyone processing personal information on behalf of ECDoE must:

- 35.1.1 Process such information only with the knowledge or authorisation of ECDoE.



35.1.2 Treat personal information which comes to their knowledge as confidential and not disclose it, unless required by law or in the course of the proper performance of their duties and with the prior authorisation of ECDoE.

36. Security measures regarding information processed by an operator:

ECDoE must, in terms of a written contract between it and the operator, ensure that the operator which processes personal information for ECDoE establishes and maintains the security measures referred to in section 19 of POPIA. The operator must notify ECDoE immediately where there are reasonable grounds to believe that the personal information of a data subject has been accessed or acquired by any unauthorised person.

37. Notification of security compromises: Where there are reasonable grounds to believe that the personal information of a data subject has been accessed or acquired by any unauthorised person, ECDoE party must, soon as reasonably possible after the discovery of the compromise, notify the Regulator and unless his or her or its identity cannot be established, also the data subject. This is often the cause for investigation and findings by the Regulator; and strict adherence to this requirement is imperative.

38. may only delay notification of the data subject 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.

Condition 8: Data Subject Participation

39. Access to personal information: A data subject, having provided adequate proof of identity, has the right to request ECDoE to confirm, free of charge, whether or not it holds personal information about that data subject and request from ECDoE, at a prescribed fee, the record or a description of the personal information about that data subject held by ECDoE, including information about the identity of all third



parties, or categories of third parties, who have, or have had access to the information.

40. The provisions of sections 18 and 53 of PAIA shall apply to such requests for access to information. The request must be sent for the attention of the DIO (s) on the PAIA FORM 2 which is available on the Eastern Cape Provincial Government website: www.ecprov.gov.za or on request from the DIO at the address(es)

41. Correction of personal information: A data subject may, in the prescribed manner, request ECDoE to:

41.1. Correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully.

41.2. Destroy or delete a record of personal information about the data subject that ECDoE is no longer authorised to retain in terms of section 14 of POPIA.

41.3. On receipt of a request for correction, OTP must as soon as reasonably practicable:

41.3.1. Correct the information.

41.3.2. Destroy or delete the information.

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

41.3.4. Where agreement cannot be reached between ECDoE and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a



manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.

41.4. If ECDoE has taken steps that result in a change to the personal information of a data subject and the changed information has an impact on decisions that have been or will be taken in respect of the data subject in question, ECDoE must, if reasonably practicable, inform each person, body, responsible party or operator to whom the personal information has been disclosed of those steps.

41.5. ECDoE must notify a data subject who has made a request for correction of the action taken as a result of the request.

TRANSBORDER INFORMATION FLOWS

42. ECDoE may not transfer personal information about a data subject to a third party who is in a foreign country unless:

42.1. The third party who is the recipient of the information is subject to a law, binding corporate rules or binding agreement which provide an adequate level of protection that:

42.1.1. Effectively upholds principles for reasonable processing of the information that are substantially similar to the 8 (eight) conditions for the lawful processing of personal information relating to a data subject who is a natural person and, where applicable, a juristic person.

42.1.2. Includes provisions, that are substantially similar to section 72 of POPIA, relating to the further transfer of personal information from the recipient to third parties who are in a foreign country.

42.2. The data subject consents to the transfer.

42.3. The transfer is necessary for the performance of a contract between the data subject and ECDoE, or for the implementation of precontractual measures taken in response to the data subject's request.

42.4. The transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between ECDoE and a third party.

42.5. The transfer is for the benefit of the data subject, and:

42.5.1. It is not reasonably practicable to obtain the consent of the data subject
1. to that transfer; and

42.5.2. If it were reasonably practicable to obtain such consent, the data subject would be likely to give it.

INSTITUTIONAL ARRANGEMENT

43. This Privacy Policy must be communicated to all employees of ECDoE and members of the public; and be available with ease of access thereto. It is recommended that this Privacy Policy be available on the website of ECDoE.

44. There is a legislative injunction that all employees must undergo awareness training on POPIA⁵ and as such, the content of this Policy must form part of such ongoing awareness training.

45. The protection of personal information is an organisation-wide responsibility and does not rest as a responsibility with only one business unit or directorate.

POLICY REVIEW

46. The Policy is subject to review and amendment as and when a need is identified to improve or update it according to legislative and other requirements. However, the Policy must be reviewed at least every 5 (five) years.

⁵ Regulation 4(1)(e) of the 2018 POPIA Regulations (GN R1383 in GG 42110 of 14 December 2018).