



**POLICY IN TERMS OF THE PROTECTION OF PERSONAL INFORMATION ACT 4 OF
2013**

**KwaDukuza Municipality
Municipal offices,
14 Chief Albert Luthuli Street
P.o. Box 72
KwaDukuza
4450
Telephone: 032 437 5000
Fax: 032 437 5098
Email: municipalmanager@kwadukuza.gov.za**

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PRIVACY POLICY: KWADUKUZA LOCAL MUNICIPALITY

Owner and Data Controller : Kwadukuza Local Municipality

1. INTRODUCTION

This privacy policy explains how Kwadukuza Local Municipality (“the Municipality”) obtains, uses and discloses your personal information, in accordance with the requirements of the Protection of Personal Information Act, No 4 of 2013 (“POPIA”). The Municipality recognise the importance of privacy as recognised and protected in the Constitution of South Africa and the POPIA and we aim to ensure that your personal information is collected and used properly, lawfully and transparently.

2. DEFINITIONS

In the compilation of this manual, unless context indicates otherwise -:

Biometrics	Refers to the definition as included in the Protection of Personal Information Act and specifically “means a technique of personal identification that is based on physical, physiological or behavioural characterisation including blood typing, fingerprinting, DNA analysis, retinal scanning and voice recognition”.
Competent Person	Refers to the definition as included in the Protection of Personal Information Act and specifically “means any person who is legally competent to consent to any action or decision being taken in respect of any matter concerning a child”.
Consent	Refers to the definition as included in the Protection of Personal Information Act and specifically “any voluntary, specific and informed expression of will in terms of which permission is given for the processing of personal information”
Data subject	Refers to the definition as included in the Protection of Personal Information Act and specifically “the person to whom personal information relates”.
Deputy information officer	Refers to the person designated by the Information Officer as a delegate to perform some of the responsibilities of the

	information. As described in Section 17 of PAIA and Section 56 of POPIA. This person is called the designated, delegated or deputy information officer”
Direct Marketing	Refers to the definition as included in the Protection of Personal Information Act and specifically “means to approach a data subject, either in person or by mail or electronic communication, for the direct or indirect purpose of – (a) Promoting or offering to supply, in the ordinary course of business, any goods or services to the data subject; or (b) Requesting the data subject to make a donation of any kind for any reason.
Electronic communication	Refers to the definition as included in the Protection of Personal Information Act and specifically “means any text, voice, sound or image message sent over an electronic communication network which is stored in the network or in the recipient’s terminal equipment until it is collected by the recipient”.
Information officer	Refers to the definition as included in the Protection of Personal Information Act and specifically “of, or in relation to, a- (a) public body means an information officer or deputy information officer as contemplated in terms of Section 1 or 17; or (b) private body means the head of a private body as contemplated in section 1 of the Promotion of Access to Information Act.
Person	Refers to the definition as included in the Protection of Personal Information Act and specifically “a natural person or a juristic person”
Personal information	Refers to the definition as included in the Protection of Personal Information Act and specifically “means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to— a. information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-

	<p>being, disability, religion, conscience, belief, culture, language and birth of the person;</p> <p>b. information relating to the education or the medical, financial, criminal or employment history of the person;</p> <p>c. any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;</p> <p>d. the biometric information of the person;</p> <p>e. the personal opinions, views or preferences of the person;</p> <p>f. correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents</p> <p>g. of the original correspondence;</p> <p>h. the views or opinions of another individual about the person; and</p> <p>i. (h) 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</p>
Processing	<p>Refers to the definition as included in the Protection of Personal Information Act and specifically “any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including –</p> <p>a. the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval alteration, consultation or use;</p> <p>b. dissemination by means of transmission, distribution or making available in any other form; or</p> <p>c. (c) merging, linking, as well as restrictions, degradation, erasure or destruction of information.</p>
Promotion of Access to Information Act or “PAIA”	<p>Refers to the Promotion of Access to Information Act 2000 (Act No.2 of 2000).</p>

Protection of Personal Information Act of “POPIA”	Refers to the Protection of Personal Information Act, 2013 (Act No. 4 of 2013).
Public Body	Refers to the definition as included in the Protection of Personal Information Act and specifically “means— <ul style="list-style-type: none"> a. any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or b. any other functionary or institution when— c. exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or d. exercising a public power or performing a public function in terms of any legislation
Public record	Refers to the definition as included in the Protection of Personal Information Act and specifically “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
Record	Refers to the definition as included in the Protection of Personal Information Act and specifically “means any recorded information— <ul style="list-style-type: none"> a. regardless of form or medium, including any of the following: <ul style="list-style-type: none"> i. Writing on any material; ii. 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; iii. label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means; iv. book, map, plan, graph or drawing; v. photograph, film, negative, tape or other device in which one or more visual images are

	<p>embodied so as to be capable, with or without the aid of some other equipment, of being reproduced;</p> <p>b. in the possession or under the control of a responsible party;</p> <p>c. whether or not it was created by a responsible party; and</p> <p>d. regardless of when it came into existence</p>
Regulator	Refers to the definition as included in the Protection of Personal Information Act and specifically “means the Information Regulator established in terms of section 39 of POPIA”
Responsible Party	Refers to the definition as included in the Protection of Personal Information Act and specifically “a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing personal information”
Special information	Refers to the definition as included in the Protection of Personal Information Act and specifically “information relating to an identifiable, living, natural person and, where applicable, an identifiable, existing juristic person”
Special personal information	Refers to the definition as included in the Protection of Personal Information Act and specifically “This relates to religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health or sex life or biometric information”

3. PURPOSE OF THE POLICY

The purpose of this policy is to incorporate the requirements of the POPIA and PAIA, where applicable, into the daily operations of the KwaDukuza Municipality and to ensure that these requirements are documented and implemented. This policy also aims to:

1. give effect to the constitutional right to privacy;
2. regulate the manner in which personal information may be processed;
3. provide persons with rights and remedies to protect their personal information from processing where they’ve not consented thereto and where it is not in accordance with POPIA or required by any other legislation; and

4. establish voluntary and compulsory measures, including the establishment of an Information Officer and Deputy Information Officer, to ensure respect for and to promote, enforce and fulfil the rights protected by POPIA.

This policy also ensures that the municipality:

- (a) recognises privacy as a valuable human right.
- (b) Implements internal controls for managing the compliance risk associated with the protection and processing of personal information.
- (c) Protects the rights of data subjects.
- (d) Is open about how it stores and processes personal information of data subjects
- (e) Protects itself from the risks of security breaches in any form.
- (f) Raising awareness through training and providing guidance on who process information.

4. SCOPE OF THIS POLICY

This policy is applicable to all Councillors, Employees of the Municipality (temporary and permanent) and their respective business units and any other person or entity working for or on behalf of the Municipality. It regulates all business activities that involves the processing of personal information, including special personal information, for and/or on behalf of this municipality.

5. COMPLIANCE UNDERTAKING

This document is drafted in line with the following:

LEGISLATION
Protection of Personal Information Act, 4 of 2013
Protection of Personal Information Act Regulations
Promotion of Access to Information Act, 2 of 2000
Promotion of Access to Information Act Regulations
KDM Internal Documents / Policies
KDM ICT Security Policy

With this policy, KDM undertakes to provide the necessary training and create the necessary awareness to ensure that all Councillors, Employees and Affiliates of the Municipality are aware of the provisions of the content of this document and that of POPIA and PAIA. At KDM,

the right to privacy is viewed as extremely important and any Councillor, Employee or Affiliate that breaches this policy will be subject to disciplinary proceedings and/or legal action.

6. CONDITIONS FOR LAWFUL PROCESSING OF PERSONAL INFORMATION

6.1. ACCOUNTABILITY (SECTION 8)

KDM will ensure that the conditions 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 of the information itself.

6.2. PROCESSING OF INFORMATION (SECTION 9-12)

6.2.1 We collect personal information in the following circumstances:

- (a) When you contact us telephonically or via email;
- (b) When you make use of our website;
- (c) When you make use of our services;
- (d) When you make your personal information public.

6.2.2 We may collect the following personal information directly from you or from third parties (where applicable):

- i. Full name and surname;
- ii. identity number, contact details (business address);
- iii. telephone number and e-mail address;
- iv. company name and registration details;
- v. financial information;
- vi. demographic information;
- vii. biometric and geographic information;
- viii. Bidders information; and
- ix. Any other relevant information depending on the nature of the service being rendered by the Municipality, the nature of the relationship between the individual or entity and the municipality and the reasons why the personal information is required.

We may also collect personal information from third parties where such collection would not prejudice your legitimate interest or to maintain our third party's legitimate interest.

6.2.3 We will inform you what information you are required to provide us with and which information is optional.

6.2.4 We will never collect and process any information where we are not either required by law to do so or when we have not received the necessary consent to do so.

6.2.5 We will also always ensure that the information we process, is only processed for the specific reason we collected it.

6.3 PURPOSE FOR PROCESSING OF PERSONAL INFORMATION (SECTION 13-14)

6.3.1 We collect and process your personal information mainly to:

- (a) Provide services;
- (b) Conduct business;
- (c) Employment and human resources need;
- (d) Tenders;
- (e) Community development;
- (f) Notify you of the services we provide; and
- (g) Any other purpose which falls within the legislative functions and obligations of the Municipality as a Local Authority.

When collecting personal information from any data subject, KDM will always notify the data subject of the purpose of the collection and processing of the personal information.

Any personal information collected from any data subject will only be retained for as long necessary and to fulfil the intended purpose. KDM will only retain records longer than necessary if required to do so by law, if the information is required to be kept in terms of an agreement or when the data subject is a child and the competent person has consented thereto. In the event that your personal information has no further purpose to KDM, KDM will ensure that it is disposed of in such a manner as to prevent the information from being reconstructed.

6.4 FURTHER PROCESSING OF PERSONAL INFORMATION (SECTION 15)

We may disclose your personal information to third parties in the following circumstances:

1. If you consent to the sharing of your personal information;
2. As a result of contractual obligations;
3. In order for us to provide services to you; and
4. If we are legally required to do so.

If we make use of the services of contractors, consultants, and external service providers they are subject to a confidentiality undertaking in terms of the provisions of POPIA.

We will never disclose or process your information further if we do not have the necessary consent to do so, if there is no purpose to do so and we will also take cognisance of the nature of the information you provided, the consequences of the intended further processing, the manner in which the information has been collected and any other contractual obligations.

6.5 INFORMATION QUALITY (SECTION 16)

The Municipality will take reasonably practicable steps to ensure that the personal information we collect is complete, accurate, not misleading and updated where necessary. In taking such steps, we will always have regard to the purpose for which personal information is collected or will be processed further.

6.6 OPENNESS (SECTION 17-18)

KDM will ensure that all documentation and information under its responsibility is maintained in accordance with S14 of PAIA.

KDM will always notify data subjects when they need to collect personal information, the purpose for which it is being collected and any such further information as the KDM is required to make the data subject aware of in accordance with S18 of POPIA.

6.7 SECURITY SAFEGUARDS (SECTION 19-22)

We will take appropriate and reasonable technical and organisational steps to protect your personal information according to industry best practices. Our security measures (including physical, technological and procedural safeguards) will be appropriate and reasonable. This includes the following:

- Keeping our systems secure (like monitoring access and usage);
- Storing our records securely;

- Controlling the access to our buildings, systems and/or records;
- Safely destroying or deleting records;
- Ensure compliance with international ISO27001 security standards.

In addition to the above we have the following IT systems in place:

System	Functionality
Active Directory Services	User and workstation authentication
Sophos Antimalware	Server and desktop security
Microsoft Exchange	Email and Calendaring Service
Munsoft	Financial System
VIP	Payroll
ArcGIS	Geographic Information System
Baud	Asset Management
Town Planning System	Plan Approvals and Tracking
Mitel	Voice communication
TCS	Traffic Law Enforcement
Contour	Pre-Paid Electricity
Team Mate	Audit Software
Windeed	Deed Searches
Pragma	Electrical Support

In the event that there is a data breach, KDM will ensure that the data subject is timeously informed and will take the necessary steps to investigate the data breach and put the necessary measures in place to prevent any further breach and to preserve the confidentiality and integrity of the personal information.

6.8 PARTICIPATION OF DATA SUBJECT (SECTION 23-25)

As a data subject, you have the right to request access, correct or to delete personal information that is in our possession. If you wish to exercise your rights, you can contact us at the details provided below. We may charge a fee for accessing, correcting or deleting your personal information. If your request is unlawful, we have the right to refuse your request. If your personal information changes, we encourage you to update the personal information that you provided.

7 POPIA AND THE RIGHT TO ACCESS INFORMATION IN TERMS OF PAIA

KDM, as a public body, have a Manual in terms of S14 of the PAIA Act which sets out extensively what records and information is available to the public and how the public is able to request it. The manual also sets out the remedies available to the public should their request for access be denied.

Internally, KDM also has Standard Operating Procedures in place to regulate the flow of information internally and externally. KDM has various different departments who each has access to certain types of information pertaining to staff members, councillors and the public. KDM will always ensure that only those needing access to information in the different departments, have the necessary access. As set out above and in our ICT Policy, KDM has the necessary security control measures in place to safeguard the information of data subjects and to ensure that a breach of privacy does not easily occur.

Should you require access to our policies and procedures, kindly refer to our Manual in terms of S14 of PAIA to request such access.

8 SOCIAL MEDIA POLICY

KDM makes use of social media to alert the public to important information and to publish media of events held by the Municipality. In most instances, it is difficult for the Municipality to obtain the necessary consent from the public to publish pictures at these events.

Considering the above, KDM accepts that when a member of the public agrees to take a photo at these public events, he/she ultimately satisfied themselves with the possibility that the photo might be published on the social platforms of the Municipality. The Municipality, therefore, views this act as implied consent to distribute and publish photos taken at such events.

In the event that any individual does not want their photo published on the social media platforms of the Municipality, such individuals need to ensure that they expressly confirm with the photographer and/or the municipal official responsible for the event. If not, KDM will assume the position that they have the necessary consent to publish the photo.

Of course, in line with this policy, KDM will always ensure that any personal information is only used for its intended purpose and we will not process any personal information unless there is a legitimate purpose for the processing.

9 TRANSFER OF PERSONAL INFORMATION TO A DIFFERENT COUNTRY

We will only transfer your personal information to third parties in another country in any one or more of the following circumstances:

- i. Where your personal information will be adequately protected under the other country's laws or an agreement with the third-party recipient;
- ii. Where the transfer is necessary to enter into or perform under a contract with you, or a contract with a third-party that is in your interest;
- iii. Where you have consented to the transfer; and / or
- iv. Where it is not reasonably practical to obtain your consent, the transfer is in your interest.

This transfer will happen within the requirements and safeguards of the law. Where possible, the party processing your personal information in the other country will agree to apply the same level of protection as available by law in your country or if the other country's laws provide better protection the other country's laws would be agreed to and applied.

10 BREACH OF THIS POLICY AND COMPLAINTS PROCEDURE

Disciplinary action, in line with the Municipality's code of conduct, will be taken against any Councillor or employee who has been implicated or suspected of being implicated in any non-compliant activity outlined within this policy. In the case of ignorance or minor negligence, the Municipality will undertake to provide further awareness training to the Councillor/s or employee/s.

Any gross negligence or the wilful mismanagement of personal information, will be considered a serious form of misconduct. Disciplinary procedures will commence where there is sufficient evidence to support an allegation of gross negligence. Disciplinary action and procedures in terms of the applicable code of conduct will be taken against the alleged perpetrator.

The POPIA complaint form is attached to this policy should any data subject wish to submit any complaint regarding their right to privacy in terms of POPIA.

11 CHANGES TO THIS POLICY

If we make any material changes to this policy, we will notify you by email or by way of any other secured method of communication. Your continued use of our services following the update means that you accept the updated Privacy Policy of the Municipality.

12 HOW TO CONTACT US

Our Information Officer is	: Mr. Nhlanhla Mdakane
Our Deputy Information Officer is	: Mrs. Pamela Govender
Telephone	: 032 437 5000
Email	: PamelaG@kwadukuza@gov.za

In the unlikely event that a data subject (i.e. a contact in your email list) would like access to their data, requests must be submitted to us in writing. Requests for personal information will be handled in accordance with POPIA and PAIA and in the prescribed form as provided for in our PAIA Manual in terms of S14 of the Promotion of Access to Information Act 2 of 2000.

Please relay any concerns, complaints or questions you may have pertaining to our above-stated policies by emailing us on PamelaG@kwadukuza@gov.za. In case of serious complaints, please use the prescribed form attached hereto.

Any request for information or complaint can be made to _____

Address : 14 Chief Albert Luthuli Street, Stanger Central, KwaDukuza, 4450

13 POPIA COMPLAINT FORM

We are committed to safeguarding your privacy and the confidentiality of your personal information and are bound by the Protection of Personal Information Act.	
Please submit your complaint to the information Officer :	
Name:	
Contact number	
Email Address:	
Where we are unable to resolve your complaint, to your satisfaction you have the right to complaint to the Information Regulator. The Information Regulator: Physical Address: Email: Website:	
A. Particulars of Complainant	
Name & Surname	
Identity number:	
Postal Address:	
Contact Number:	
Email Address:	
B. Details of Complaint	
C. Desired Outcome	

D. Signature Page
<p>Signature:</p> <p>Date:</p>