



PAIA and POPIA Manual June 2021







DATA PROTECTION



	<p>PAIA AND POPIA MANUAL</p> <p>of the National Home Builders Registration Council</p> <p>This manual is prepared in accordance with section 14 of the Promotion of Access to Information Act, 2000 and to address requirements of the Protection of Personal Information Act, 2013.</p>	
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Approval:

	
<p>Mathebe Kumalo: Deputy Information Officer</p>	<p>Songezo Booi: Information Officer</p>
<p>Initials and surname (Manual Owner)</p>	<p>Initials and surname (Chief Executive Officer)</p>
<p>Date: 1 July 2021</p>	<p>Date: 1 July 2021</p>

Related documents

This Manual should be read in conjunction with:

1. The Promotion of Access to Information Act 2 of 2000;
2. The Protection of Personal Information Act 4 of 2003;
3. The South African Human Rights Commission guide;
4. The Promotion of Administrative Justice Act 3 of 2000
5. The Public Service Act 103 of 1994.

FOREWORD

As South Africa journeys into a new era in respect of information regulation, the NHBRC embraces the Constitutional rights to both, *access to information* on the one hand, and the *protection of personal information* on the other.

PAIA gives effect to the Constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights.

POPIA promotes the protection of personal information processed by public and private bodies and regulates the flow of personal information inside and across the borders of the Republic.

The NHBRC is required to process information in accordance with PAIA and POPIA.

In compliance with the statutory requirements of PAIA and POPI, NHBRC has prepared this manual as a mechanism to facilitate public access to information or record(s) under its custody and to regulate the flow of personal information at the NHBRC.

The NHBRC supports the ambitions of the legislature behind PAIA and POPIA which are the key pieces of legislation to give effect to the rights of all, to access information and to have their personal information kept private.

To this end, the NHBRC designated and registered its Deputy Information Officer with the Information Regulator.

All requests for information that are not automatically available to requestors in terms of the Manual, must be routed to the NHBRC's Deputy Information Officer.



Songezo Boo

Information Officer

Acting Chief Executive Officer

National Home Builders Registration Council

Date: 1 July 2021

PART A

PAIA MANUAL



2. DEFINITIONS

In this manual, unless the context otherwise indicates –

- 1.1. “**access fee**” means a fee payable by a requester for reproduction of the records requested;
- 1.2. “**data subject**” means the person to whom personal information relates;
- 1.3. “**Deputy Information Officer**” means a person designated, in writing, by the Information Officer for performance of the powers conferred to the Information Officer in terms of the Act as is necessary to render the NHBRC as accessible as reasonably possible for a person requesting access to our records;
- 1.4. “**Human Rights Commission**” means the South African Human Rights Commission referred to in section 181(1) (b) of the Constitution;
- 1.5. “**Information Officer**” means the Chief Executive Officer of the NHBRC or the person who is acting as such, and reference to the Information Officer shall, where appropriate, include Deputy Information Officer;
- 1.6. “**Information Regulator**” means the Information Regulator established in terms of section 39 of the Protection of Personal Information Act 4 of 2013;
- 1.7. “**HCPMA**” means the Housing Consumers Protection Measures Act 95 of 1998;
- 1.8. “**internal appeal**” means an appeal against the decision of the Information Officer, lodged with the relevant authority;
- 1.9. “**relevant authority**”, in relation to the NHBRC, means the Council, Minister of Human Settlements or the person designated in writing by the Minister;
- 1.10. “**person**” means a natural person or a juristic person;
- 1.11. “**personal information**” means information about an identifiable individual, including, but not limited to information relating to, race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the individual; information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved; any identifying number, symbol or other particular assigned to the individual; address, fingerprints or blood type of the individual; personal opinions except if they are about another individual, correspondence sent by the individual that is implicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence; the name of an individual where it appears with other personal information relating to the individual or where the disclosure of the name itself would reveal information about the individual;
- 1.12. “**personal requester**” means a requester seeking access to a record containing personal information about the him or herself;
- 1.13. “**public body**” means any Department of State or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or any other functionary or institution when performing public function in terms of any legislation;

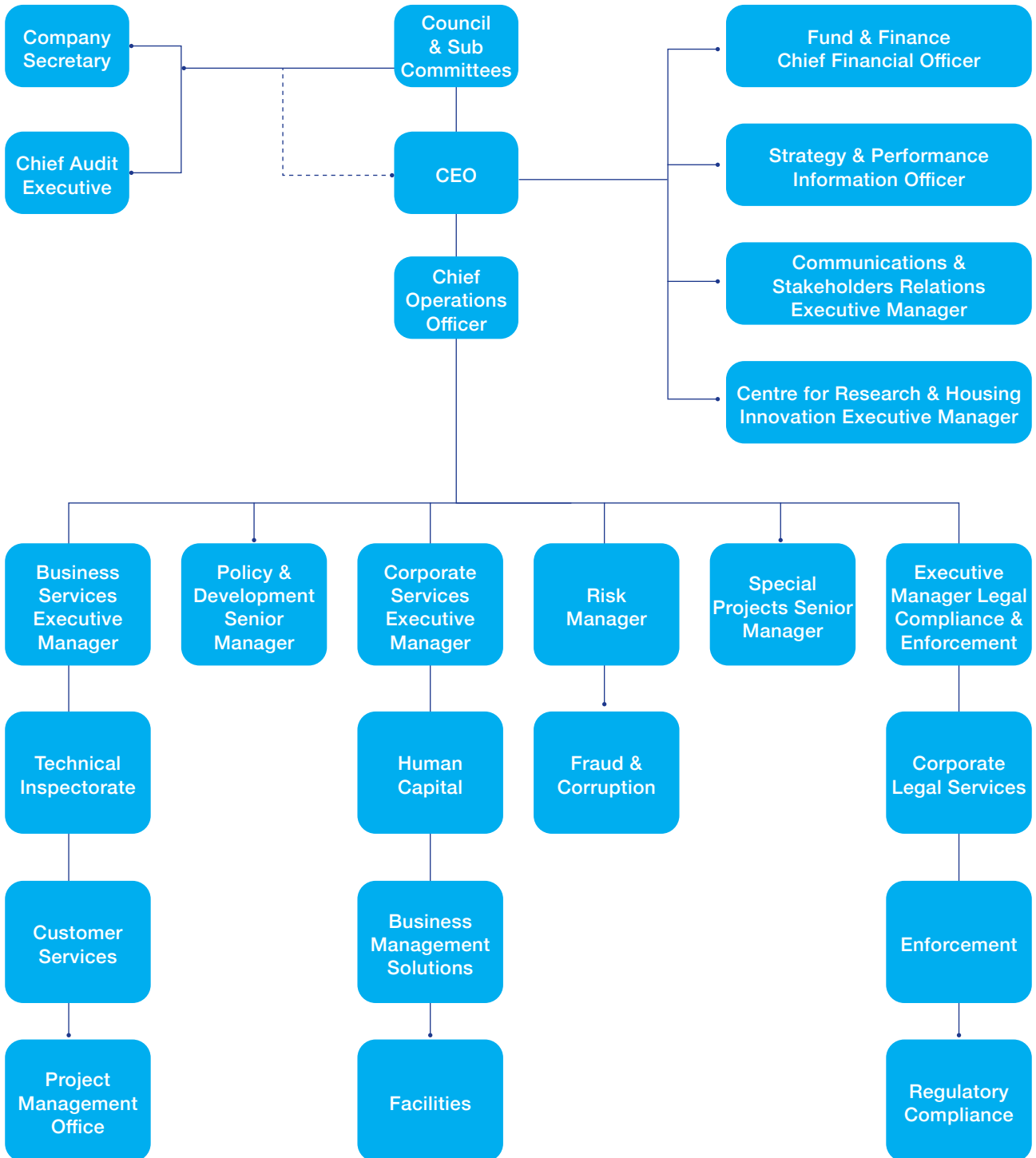
- 1.14. “**record**” means any recorded information, regardless of form and medium, in the possession or under the control of the NHBRC, and whether or not it was created by the NHBRC;
- 1.15. “**responsible party**” means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing Personal Information;
- 1.16. “**request fee**” means a fee payable by a requester, other than a personal requester, for consideration of his or her request by the NHBRC;
- 1.17. “**requester**” means any person (other than a public body) making a request for access to a record of the NHBRC; or a person acting on behalf of the person referred to herein;
- 1.18. “**request for access**” means a request for access to a record of the NHBRC in terms of section 11 of the Act;
- 1.19. “**PAIA**” means Promotion of Access to Information Act 2 of 2000;
- 1.20. “**POPIA**” means the Protection of Personal Information Act 4 of 2013.
- 1.21. “**the NHBRC**” means the National Home builders Registration Council;
- 1.22. “**third party**” in relation to a request for access to a record of the NHBRC, means any person, other than the requester concerned.



2. PARTICULARS IN TERMS OF SECTION 14 OF PAIA

2.1. The function of the NHBRC is to represent the interests of housing consumers by providing warranty protection against defects in new homes and to regulate the home building industry.

2.2. Organisational Structure of the NHBRC:



3. CONTACT DETAILS OF THE INFORMATION OFFICER AND DEPUTY INFORMATION OFFICER

Title	Name & Surname	Contact number	Email address	Physical Address	Postal Address	NHBRC Contact Numbers
Information Officer	Mr Songezo Boo	+27 11 317 0010	songezob@nhbrc.org.za	27 Leeuwkop Road Joe Slovo Building Sunninghill Johannesburg Gauteng	P.O. Box 461 Randburg, 2125	+27 11 317 0000 www.nhbrc.org.za
Deputy Information Officer	Ms Mathebe Kumalo	+27 11 317 0428/ 0634599759	mathebek@nhbrc.org.za @nhbrc.org.za			

4. SOUTH AFRICAN HUMAN RIGHTS COMMISSION GUIDE ON HOW TO USE PAIA

4.1. A guide on how to use the Act is available in all official languages from the South African Human Rights Commission.

4.2. The Human Rights Commission may be contacted at:

Contact body:	The South African Human Rights Commission
Physical Address:	PAIA Unit 29 Princess of Wales Terrace Cnr York and Andrew Streets Parktown
Postal Address:	Private Bag 2700, Houghton 2041
Telephone Number:	+27 11 877 3600
E-Mail:	PAIA@sahrc.org.za
Web Site:	www.sahrc.org.za

4.3. The Human Rights Commission must, upon request and if reasonable possible, offer assistance to any person wishing to exercise any right contemplated in the Act. The Human Rights Commission can, in this regard, be contacted through the contact details mentioned in this manual.

5. AUTOMATICALLY AVAILABLE RECORDS HELD BY NHBRC

5.1. The records listed below are available to any interested person free of charge and without the requirement of a formal request.

- 5.1.1. Enquiries relating to the NHBRC process of registration, enrolments, owner builder, inspections, training and lodging complaints.
- 5.1.2. Verification of home builder registration status and enrolment status.
- 5.1.3. Request for copies of published Annual Reports, Bills, Acts and Regulations, Gazettes.
- 5.1.4. Brochures.
- 5.1.5. List of registered home builders per township.
- 5.1.6. Media briefings and press releases.
- 5.1.7. Newsletters and Builders bulletin.
- 5.1.8. Forms in terms of the HCPMA.
- 5.1.9. Approved Strategic Corporate Plans and Annual Performance Plan.

5.2. The NHBRC shall keep up and provide access to an information database on the home builders registered, suspended and deregistered in terms of the HCPMA.

5.3. The database contemplated in section 9(1) of the HCPMA shall include –

- 5.3.1. the names and identity numbers of the directors, members, trustees or partners of such companies, close corporations, trusts, partnerships or sole traders;
- 5.3.2. the number of homes enrolled by such home builders;
- 5.3.3. the number of complaints, considered valid by the Council and requiring onsite conciliation, received from housing consumers;
- 5.3.4. the grading of those home builders; and

5.3.5. any other information deemed appropriate by the Council to assist housing consumers to assess the track record of a home builder.

5.4. The NHBRC shall provide access to the information database services referred to –

- 5.4.1. free of charge where this access is for the bona fide use of such information by a housing consumer for his or her own non-commercial use;
- 5.4.2. free of charge to mortgagees, conveyancers and MECs to assist them to meet their obligations in terms of section 18 of the HCPMA; and may prescribe fees for the provision of information services used for commercial or other purposes.
- 5.4.3. Any person may have access to the Rules, the Home Building Manual and all circulars or other documents issued by the NHBRC, at the places and times prescribed by the NHBRC and may obtain copies of any such document against the payment of the fees prescribed by the NHBRC.

6. CATEGORIES OF RECORDS ON THE NHBRC THAT CAN BE PURCHASED FROM THE NHBRC OFFICES

- 6.1. Home building Manual and Guide
- 6.2. South African National Standard (SANS) 10400
- 6.3. Database of home builders per province

7. RECORDS THAT CAN BE ACCESSED BY FOLLOWING THE PROCESSES AS STIPULATED IN PAIA. PLEASE NOTE THAT ACCESS TO THESE RECORDS MAY BE REFUSED ON THE BASIS OF SECTIONS 33 TO 45 OF THE PAIA

- 7.1. Statistical Information
- 7.2. Information relating to granted sponsorships
- 7.3. Information on national awards
- 7.4. Building inspection reports
- 7.5. Information of enrolled homes
- 7.6. Notice of non-compliances

- 7.7. Conciliation reports
- 7.8. Remedial works reports
- 7.9. Bills of quantities or any other information.

8. THE PROCEDURE TO REQUEST INFORMATION

- 8.1. A requester must be given access to a record of a public body if a requester complies with the following:
 - 8.1.1. The requester complies with all the procedural requirements in the PAIA relating to the request for access to that record, and
 - 8.1.2. Access to that record is not refused on any ground of refusal mentioned in the PAIA,

9. HOW TO REQUEST ACCESS TO A RECORD:

- 9.1. A request for access must be made in the prescribed form to the information officer of the public body concerned at his or her address or fax number or electronic mail address. A copy of Form A is attached to this Manual.
- 9.2. The form for a request of access prescribed requires the requester concerned to provide sufficient particulars to enable an official of the public body concerned to identify –
 - 9.2.1. the record or records requested; and
 - 9.2.2. the requester;
 - 9.2.3. to indicate which applicable form of access is required;
 - 9.2.4. to state whether the record concerned is preferred in a particular language;
 - 9.2.5. to specify a postal address or fax number of the requester in the Republic;
 - 9.2.6. if, in addition to a written reply, the requester wishes to be informed of the decision on the request in any other manner, to state that manner and the necessary particulars to be so informed; and

- 9.2.7. if the request is made on behalf of a person, to submit proof of the capacity in which the requester is making the request, to the reasonable satisfaction of the information officer.

- 9.3. An individual who because of illiteracy or a disability is unable to make a request for access to a record of a public body in accordance with subsection (1), may make that request orally.
- 9.4. The information officer of that body must reduce that oral request to writing in the prescribed form and provide a copy thereof, to the requester.

10. DUTY TO ASSIST REQUESTERS

- 10.1. If a requester informs the information officer of a public body that he or she wishes –
 - 10.1.1. to make a request for access to a record of that public body; or
 - 10.1.2. a public body (other than a public body referred to in paragraph (a) or (b) (i) of the definition of “public body” in section 1 of PAIA that he or she wishes to make a request for access to a record of another public body, the information officer must render such reasonable assistance, free of charge, as is necessary to enable that requester to comply with section 18 (1) of PAIA.
- 10.2. If a requester has made a request for access that does not comply with section 18 (1), the information officer concerned may not refuse the request because of that non-compliance unless the information officer has notified that requester of an intention to refuse the request and stated in the notice –
 - 10.2.1. the reasons for the contemplated refusal; and

- 10.2.2. that the information officer or another official identified by the information officer would assist that requester in order to make the request in a form that would remove the grounds for refusal;
- 10.2.3. given the requester a reasonable opportunity to seek such assistance;
- 10.2.4. as far as reasonably possible, furnished the requester with any information including information about the records, (other than information on the basis of which a request for access may or must be refused held by the body) which are relevant to the request that would assist the making of the request in that form; and
- 10.3. given the requester a reasonable opportunity to confirm the request or alter it to comply with section 18 (1).
- 10.4. When computing any period referred to in section 25 (1) of PAIA, the period commencing on the date on which notice is given in terms of subsection 18 (2) of PAIA and ending on the date on which the person confirms or alters the request for access concerned must be disregarded if it is apparent on receipt of a request for access that it should have been made to another public body,
- 10.5. the information officer of the public body concerned must –
 - 10.5.1. render such assistance as is necessary to enable the person to make the request, to the information officer of the appropriate public body; or transfer the request in accordance with section 20 to the last-mentioned information officer,
 - 10.5.3. whichever will result in the request being dealt with earlier.

11. FEES PAYABLE FOR THE REQUEST

- 11.1. There are two types of fees required to be paid in terms of the Act, being the request and access fees.
- 11.2. A requester who seeks access to a record containing personal information about that requester is not required to pay the request fee. Every other requester who is not a personal requester must pay the required fee. The process is as follows:
 - 11.2.1. The information officer of a public body to whom a request for access is made, must by notice require the requester to pay the prescribed request fee (if any), before further processing the request. The request fee payable to public bodies is R35.00.
 - 11.2.2. If the search for a record of a public body in respect of which a request for access by a requester has been made; and
 - 11.2.3. The preparation of the records for disclosure including any arrangements would, in the opinion of the information officer of the body, require more than the hours prescribed for this purpose for requesters, the information officer must by notice require the requester to pay as a deposit the prescribed portion (being not more than one third) of the access fee which would be payable if the request is granted
 - 11.2.4. The notice referred to above must state –
 - 11.2.4.1 the amount of the deposit payable, if applicable;

11.2.4.2 that the requester may lodge an internal appeal, a complaint to the Information Regulator or an application with a court, as the case may be, against the tender or payment of the request fee or the tender or payment of a deposit as the case may be; and

11.2.4.2 the procedure (including the period) for lodging the internal appeal, complaint to the Information Regulator or application, as the case may be.

11.2.5. If a deposit has been paid in respect of a request for access which is refused, the information officer must repay the deposit to the requester.

11.2.6. The information officer of a public body must withhold a record until the requester concerned has paid the applicable fees (if any).

11.2.7. A requester whose request for access to a record of a public body has been granted must pay an access fee for reproduction and for search and preparation respectively, for any time reasonably required in excess of the prescribed hours to search for and prepare (including making any arrangements the record for disclosure.

12. FEES IN RESPECT OF PUBLIC BODIES

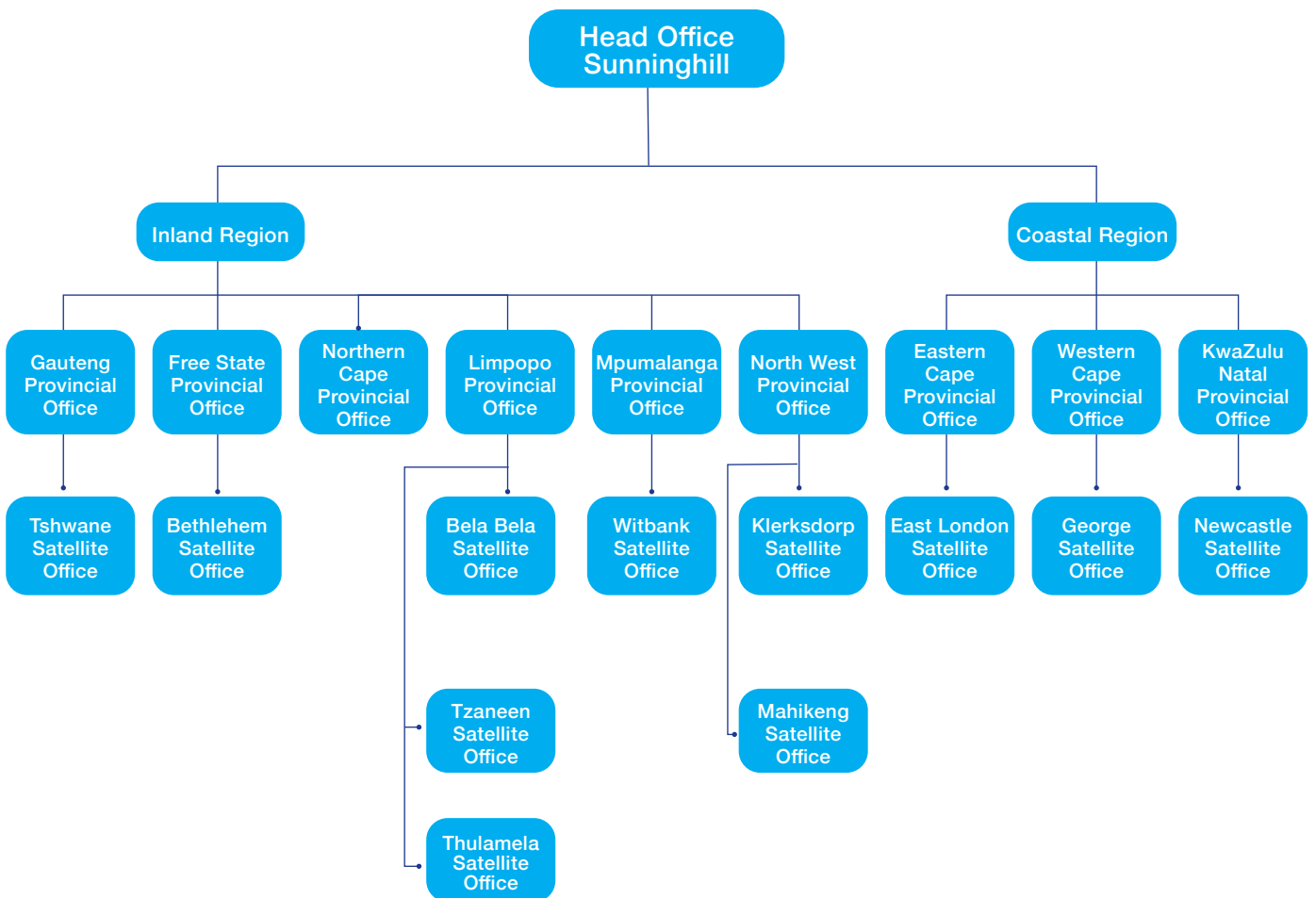
12.1. For purposes for section 22(2) of the Act, the following applies:

DESCRIPTION		AMOUNT
The request fee payable by every requester, other than a personal requester, referred to in regulation 7(2)		35.00
Copy of the manual as contemplated in regulation 5(c) (for every photocopy of an A4-size page or part thereof)		0.60
The fees for reproduction referred to in regulation 7(1) are as follows :		
1.	For every photocopy of an A4-sized page or part thereof	0.60
2.	For every printed copy of an A4-sized page or part thereof held on a computer or in electronic or machine	0.40
3.	For a copy in a computer-readable form on (a) Stiffy disc (b) Compact disc (readable form)	5.00 40.00
4.	For a transcription of visual images (a) For an A4-size page or part thereof (b) For a copy of visual images	22.00 60.00
5.	For a transcription of an audio record (a) For an A4-size page or part thereof (b) For a copy of an audio report	12.00 17.00
(c) The Access Fees payable by a requester referred to in regulation 7(3) are as follows:		
1.	(d) For every photocopy of an A4-size page or part thereof	0.60
2.	(e) For every printed copy of an A4-size page or part thereof held on a (f) Computer or in electronic or machine-readable form.	0.40
3.	For a copy in a computer-readable form on : a) Stiffy disc b) Compact disc	5.00 40.00
4.	For a transcription of visual images, for an A4=size page or part thereof	22.00
5.	For a copy of visual image	60.00
6.	For a transcription of an audio record, a) For an A4-size page or part thereof b) For a copy of an audio record	12.00 17.00
To search and prepare the record for disclosure, R15.00 for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation.		
The actual postage is payable when a copy of a record must be posted to a requester. Postage cost is dependent on the relevant tariff in terms of postage destination.		

13. AVAILABLE SERVICES

- 13.1. The services of NHBRC are rendered in all nine provinces, in the inland and coastal regions with eleven satellite offices. Details of the provincial offices can be obtained from the NHBRC website: www.nhbrc.org.za
- 13.2. The NHBRC delivers the following products and services to its stakeholders:
 - 13.2.1. Enrolment of new homes;
 - 13.2.2. Late enrolment of homes;
 - 13.2.3. Home builder registration and renewals;
 - 13.2.4. Inspections of homes;
 - 13.2.5. Training and development for different categories (homebuilders, youth, women, artisans, military veterans; people with disabilities and technical professionals).
- 13.3. Resolution of complaints;
- 13.4. Resolutions of conciliations
- 13.5. Litigation and legal advisory services.

14. NHBRC SERVICE POINTS



15. ARRANGEMENTS ALLOWING FOR PUBLIC INVOLVEMENT IN THE FORMULATION OF POLICIES, LEGISLATIVE PROCESSES AND EXERCISE OF POWERS

15.1. The NHBRC comprises of various committees of the Council with members from different institutions serving in respective committees to guide the Council and to safeguard the interests of the public, and to ensure corporate governance.

16. DECISION TO GRANT OR REFUSE ACCESS AND NOTICE TO THE REQUESTER

16.1. In compliance with PAIA and in order to give effect to the right of access to information, the Information Officer must as soon as reasonably possible, but in any event within 30 days after the request for access is received, consider the request and make a decision terms of the Act whether or not to grant access to the information requested.

16.2. In considering the request, the Information Officer must satisfy himself of the following:

16.2.1. The procedural requirements prescribed in terms of section 18 of the Act must be complied with (the prescribed form must be fully completed with sufficient particulars in order to identify the records requested and the requester must, if the request is lodged on behalf of another person, submit a power of attorney or letter of authority in respect to lodge the request); and

16.2.2. granting of access to the information requested must not be prohibited in terms of any of the grounds for refusal mentioned.

16.3. Once all of the above have been satisfied, the information officer must inform the requester whether or not access will be granted and a requester, other than a personal requester, must be requested to pay the request fee before further processing of the request.

17. MANDATORY DISCLOSURE IN PUBLIC INTEREST

17.1. A request for access to a record that could otherwise be refused in terms of the grounds for refusal must however be granted if —

17.1.1. disclosure of the record is in the public interest; and

17.1.2. public interest in the disclosure of the record clearly outweighs the harm contemplated in the ground for refusal.

18. APPLICATION OF PAIA

18.1. The Act applies to a record of the NHBRC, regardless of when the record came into existence.

18.2. The Act applies to the exclusion of other legislation which prohibits disclosure of a record if that legislation is materially inconsistent with the objects of the Act.

18.3. The Act does not prohibit the use of other law that provides for access to information.

18.4. The Act does not apply to a record of the NHBRC if the record is requested for purposes of criminal or civil proceedings after the commencement of the proceedings.

19. NOTICE TO THIRD PARTY

19.1. If the information officer receives a request for access to a record held by the NHBRC that contains —

19.1.1. personal information of a third party;

19.1.2. information that was obtained for purposes of enforcing collection of revenue;

19.1.3. trade secrets of a third party;

19.1.4. information supplied in confidence by a third party; and

19.1.5. research information of a third party, he or she must take all reasonable steps to inform the third party concerned about the request in order to afford that third party an opportunity to make representations regarding whether or not the information may be divulged.

20. NOTICE TO THE REQUESTER

20.1. Information officer must inform the requester about the decision taken on his or her request for access within 30 days of receipt of the request.

20.2. Notice to the requester if access is granted must indicate the form in which access will be granted and the fees payable.

20.3. Notice to the requester if access is refused—

- 20.3.1. must indicate reasons for refusal, including the ground(s) for refusal, in the PAIA, relied on to refuse the request; and
- 20.3.2. must inform the requester of his right to lodge an appeal against the decision.
- 20.4. The information officer may extend the 30 day period of dealing with a request for access once during period of not more than 30 day —
 - 20.4.1. if the processes involved in the search and preparation of the record may reasonably be expected to take longer than the 30 days period; and
 - 20.4.2. must notify the requester of the said extension (with adequate reasons).

21. DEEMED REFUSAL OF REQUEST

- 21.1. If the information officer fails to take a decision on the request within the applicable time limits, he or she will be regarded as having refused the request and the requester may lodge an appeal against the refusal.

22. FORMS OF ACCESS

- 22.1. Access to a record may be granted in the following forms:
 - 22.1.1. if record is in written form: printed copy or inspection of the record;
 - 22.1.2. if record is in form of visual images: arrangements to view images or copy of transcription of the record;
 - 22.1.3. if record is in form of a sound: arrangements to hear sounds or copy of transcription of the record; or
 - 22.1.4. if record is in computer, electronic or machine-readable form: a printed copy of the record.

23. REMEDIES AVAILABLE IF THE PROVISIONS OF THIS ACT ARE NOT COMPLIED WITH

- 23.1. A requester who has been aggrieved by the decision of the Information Officer may lodge an internal appeal, a complaint to the Information Regulator or an application with a court, as the case may be, against the access fee to be paid or the form of access granted, and the procedure (including the period) for lodging the internal

- appeal, complaint to the Information Regulator or application, as the case may be.
- 23.2. The internal appeal authority for purposes of this Act is the Chairperson of the NHBRC.

24. MANNER OF APPEAL AND APPEAL FEES

- 24.1. An appeal must be lodged in the prescribed **Form B** attached hereto and within 60 days after the requester is informed of the decision taken on his or her request;
- 24.2. If notice to a third party is required, within 30 days after notice is given of the decision appealed against; or
- 24.3. If notice to the appellant is not required, after the decision was taken it must be delivered or sent to the information officer of NHBRC at his/her address, fax number or electronic mail address all of which appear in this manual;
- 24.4. The appeal must identify the subject of the appeal and state the reason for the internal appeal and may include any other relevant information known to the appellant;
- 24.5. If in addition to a written reply, the appellant wishes to be informed of the decision on the appeal in any other manner, they must state that manner and provide the necessary particulars to be so informed;
- 24.6. If applicable the appeal must be accompanied by the prescribed appeal fee, and must specify the appellant's postal address or fax number.
- 24.7. If an appeal is lodged after the period referred to, the appeal authority must, upon good cause shown, allow the late filing of the appeal.
- 24.8. If the appeal authority disallows the late filing of the appeal, he must give notice of that decision to the appellant.
- 24.9. Within ten (10) working days after receipt of an appeal, or as soon as reasonably possible the information officer must submit to the relevant authority;
- 24.10. The appeal together with their reasons for the decision.
- 24.11. If the appeal is against the refusal of a request to access to information, the name, postal address, phone and fax number and electronic mail address, whichever is available, of any third party that must be notified of the request.

25. APPEAL FEES

25.1. A requester lodging an internal appeal against the refusal of request for access must pay the prescribed appeal fee before the appeal may be considered by the relevant authority.

26. APPLICATION TO COURT

26.1. A requester who has been unsuccessful in an internal appeal may, within 30 days of receipt of notice of the decision on his or her appeal, apply to court for appropriate relief.

26.2. If an internal appeal, complaint to the Information Regulator or an application to a court, as the case may be, is lodged against the granting of a request for access to a record, access to the record may be given only when the decision to grant the request is finally confirmed.

27. AVAILABILITY OF THE MANUAL

27.1. Immediately after the manual has been compiled in terms of section 14(1) of the Act or updated in terms of section 14(2), the information officer of the NHBRC must make available a copy of the manual in each of the three official languages in which the manual is compiled to the Human Rights Commission;

27.1.1. at the NHBRC's head office;

27.1.2. on the website of the NHBRC; and

27.1.3. may publish the manual in the Gazette.



PART B

POPIA MANUAL



1. THE PROTECTION OF PERSONAL INFORMATION PROCESSED BY NHBRC

- 1.1. Chapter 3 of POPIA provides for the minimum conditions for lawful processing of personal information by a responsible party. These conditions may not be derogated from unless specific exclusions apply as outlined in POPIA.
- 1.2. NHBRC needs personal information relating to both individual and juristic persons in order to carry out its organisational function and mandate. The manner in which this information is Processed and the purpose for which it is Processed is determined by NHBRC.
- 1.3. NHBRC is accordingly a Responsible Party for the purposes of POPIA and will ensure that the Personal Information of a Data Subject:
 - 1.3.1. is processed lawfully, fairly and transparently. This includes the provision of appropriate information to Data Subjects when their data is collected by NHBRC, in the form of privacy or data collection notices. Such notices are already available on NHBRC's website and in contractual agreements.
 - 1.3.2. is processed only for the purposes for which it was collected;
 - 1.3.3. will not be processed for a secondary purpose unless that processing is compatible with the original purpose.
 - 1.3.4. is adequate, relevant and not excessive for the purposes for which it was collected;
 - 1.3.5. is accurate and kept up to date;
 - 1.3.6. will not be kept for longer than necessary;
 - 1.3.7. is processed in accordance with integrity and confidentiality principles; this includes physical and organisational measures to ensure that Personal Information, in both physical and electronic form, are subject to an appropriate level of security when stored, used and communicated by NHBRC, in order to protect against access and acquisition by unauthorised persons and accidental loss, destruction or damage;
 - 1.3.7.1. is processed in accordance with the rights of Data Subjects, where applicable.
 - 1.3.8. Data subjects have the right:
 - 1.3.8.1. to be notified that their Personal Information is being collected by NHBRC.
 - 1.3.8.2. to be notified in the event of a data breach;
 - 1.3.8.3. to know whether NHBRC holds Personal Information about them, and to access that

information. Any request for information must be handled in accordance with the provisions of this Manual;

- 1.3.8.4. request the correction or deletion of inaccurate, irrelevant, excessive, out of date, incomplete, misleading or unlawfully obtained personal information;
- 1.3.8.5. object to NHBRC's use of their Personal Information and request the deletion of such Personal Information (deletion would be subject to NHBRC's record keeping requirements);
- 1.3.9. object to the processing of Personal Information for purposes of direct marketing by means of unsolicited electronic communications; and
- 1.3.10. complain to the Information Regulator regarding an alleged infringement of any of the rights protected under POPI and to institute civil proceedings regarding the alleged non-compliance with the protection of his, her or its personal information.

2. PURPOSE OF THE PROCESSING OF PERSONAL INFORMATION BY THE NHBRC

- 2.1. As outlined above, Personal Information may only be processed for a specific purpose. The purposes for which NHBRC processes or will process Personal Information is set out below.
- 2.2. **For Home Builders:**
 - 2.2.1. Attending to the registration of home builders with NHBRC and the renewal thereof including credit decisions;
 - 2.2.2. Attending to processing applications for the enrolment of homes;
 - 2.2.3. Attending to legal action against home builders;
 - 2.2.4. Attending to conciliation efforts between housing consumers and home builders;
 - 2.2.5. Carrying out market research, business and statistical analysis;
 - 2.2.6. Recovering any debt Home Builders may owe the NHBRC;
 - 2.2.7. Complying with the NHBRC regulatory obligations;
 - 2.2.8. Any other reasonably required purpose relating to the NHBRC's mandate.

2.3. For Housing Consumers:

- 2.3.1. Attending to receipt of complaints and claims against the NHBRC's warranty fund;
- 2.3.2. Attending to conciliation efforts between housing consumers and home builders;
- 2.3.3. Complying with the NHBRC regulatory obligations;
- 2.3.4. Any other reasonably required purpose relating to the NHBRC's mandate.

2.4. For Employees:

- 2.4.1. Verification of applicant employees' information during recruitment process.
- 2.4.2. General matters relating to employees including :
 - 2.4.2.1 Pension funds;
 - 2.4.2.2 Medical aid;
 - 2.4.2.3 Payroll;
 - 2.4.2.4 Disciplinary action; and
 - 2.4.2.5 Training.
- 2.4.3. Any other reasonably required purpose relating to the employment or possible employment.

2.5. For Service Providers and Third Parties:

- 2.5.1. Verifying information and performing checks including financial, tax status, past experience;
- 2.5.2. Purposes relating to the agreement or business relationship or possible agreement or business relationship between the parties including the processing of procurement bids and quotations;
- 2.5.3. Payment of invoices;
- 2.5.4. Complying with the NHBRC's regulatory obligations; and
- 2.5.5. Any other reasonably required purpose relating to the NHBRC's operations.

3. CATEGORIES OF DATA SUBJECTS AND PERSONAL INFORMATION/SPECIAL PERSONAL INFORMATION RELATING THERETO

3.1. As per section 1 of POPIA, a data subject may either be a natural or a juristic person. The various categories of data subjects that NHBRC processes personal information on and the types of personal information relating thereto are set out below.

3.2. Home Builders

- 3.2.1. postal and/or street address, business and residential;
- 3.2.2. title and name;
- 3.2.3. contact numbers and/or e-mail address;
 - 3.2.3.1 ethnic group;
 - 3.2.3.2 age;
 - 3.2.3.3 gender;
 - 3.2.3.4 nationality;
 - 3.2.3.5 language;
 - 3.2.3.6 financial information and screening;
 - 3.2.3.7 identity or passport number;
 - 3.2.3.8 references;
 - 3.2.3.9 information on court judgements;
 - 3.2.3.10 browsing habits and click patterns on NHBRC websites;
 - 3.2.3.11 building Inspection reports;
 - 3.2.3.12 other information required in order to comply with the NHBRC's regulatory obligations.

3.3. Housing consumers

- 3.3.1. postal and/or street address, business and residential;
- 3.3.2. title and name;
- 3.3.3. contact numbers and/or e-mail address;
 - 3.3.3.1 ethnic group;
 - 3.3.3.2 age;
 - 3.3.3.3 gender;
 - 3.3.3.4 nationality;
 - 3.3.3.5 language;
 - 3.3.3.6 financial information;
 - 3.3.3.7 identity or passport number;
 - 3.3.3.8 property ownerships details including title deeds, architectural plans and contracts with home builders.
 - 3.3.3.9 browsing habits and click patterns on NHBRC websites.
 - 3.3.3.10 Other information required in order to comply with the NHBRC's regulatory obligations.

3.4. Service providers and third parties:

- 3.4.1. Name and contact details;
- 3.4.2. Identity and/or company information and directors' information;
 - 3.4.2.1 Banking and financial information;
 - 3.4.2.2 References;
 - 3.4.2.3 Tax Status;
 - 3.4.2.4 Other information required in order to comply with the NHBRC's regulatory obligations.

3.5. Employees

- 3.5.1. Name and contact details;
 - 3.5.2. Identity number and identity documents including passports;
 - 3.5.3. Employment history and references;
 - 3.5.4. Banking and financial details;
 - 3.5.5. Details of payments to third parties (deductions from salary);
 - 3.5.6. Employment contracts;
 - 3.5.7. Employment equity plans;
 - 3.5.8. Medical aid records;
 - 3.5.9. Pension Fund records;
 - 3.5.10. Remuneration or salary records;
 - 3.5.11. Performance appraisals;
 - 3.5.12. Disciplinary records;
 - 3.5.13. Leave records; and
 - 3.5.14. Training records.
- 3.6. Other information not specified, reasonably required to be processed for business operations.

4. RECIPIENTS OF PERSONAL INFORMATION

- 4.1. The recipients to whom NHBRC may provide a Data Subjects Personal Information to are set out below.
 - 4.1.1. Any firm, organization or person that the NHBRC uses to collect payments and recover debts or to provide a service on its behalf;
 - 4.1.2. Any firm, organization or person that or who provides the NHBRC with products or services;
 - 4.1.3. Any payment system the NHBRC uses;
 - 4.1.4. Regulatory and governmental authorities or ombudsmen, or other authorities, including tax authorities, where NHBRC has a

duty to share information;

- 4.1.5. Third parties to whom payments are made on behalf of employees;
- 4.1.6. Financial institutions from whom payments are received on behalf of data subjects;
- 4.1.7. Any other operator not specified;
- 4.1.8. Employees, contractors and temporary staff; and
- 4.1.9. Agents.

5. CROSS-BORDER FLOWS OF PERSONAL INFORMATION

- 5.1. Section 72 of POPIA provides that personal information may only be transferred out of the Republic of South Africa if the –
 - 5.1.1. recipient country can offer such data an “adequate level” of protection. This means that its data privacy laws must be substantially similar to the conditions for lawful processing as contained in POPI; or
 - 5.1.2. data subject consents to the transfer of their personal information; or
 - 5.1.3. transfer is necessary for the performance of a contractual obligation between the data subject and the responsible party; or
 - 5.1.4. transfer is necessary for the performance of a contractual obligation between
 - 5.1.5. The responsible party and a third party, in the interests of the data subject; or the transfer is for the benefit of the data subject, and it is not reasonably practicable to obtain the consent of the data subject, and if it were, the data subject, would in all likelihood provide such consent.
- 5.2. Personal information may be transmitted transborder to NHBRC's suppliers in other countries, and personal information may be stored in data servers hosted outside South Africa, which may not have adequate data protection laws. NHBRC will endeavour to ensure that its service providers and third parties will make all reasonable efforts to secure said data and personal information via contractual clauses or notices in agreements and otherwise.

6. DESCRIPTION OF INFORMATION SECURITY MEASURES TO BE IMPLEMENTED BY NHBRC

6.1. The types of security measures implemented and to be implemented by NHBRC in order to ensure that personal information is respected and protected are set out below.

6.2. NHBRC undertakes to institute and maintain the data protection measures to accomplish the following objectives outlined below. The details given are to be interpreted as examples of how to achieve an adequate data protection level for each objective. NHBRC may use alternative measures and adapt to technological security development, as needed, provided that the objectives are achieved.

6.3. Access Control of Persons

6.3.1. NHBRC shall implement suitable measures in order to prevent unauthorized persons from gaining access to data processing equipment where data is processed.

6.4. Data Media Control

6.4.1. NHBRC undertakes to implement suitable measures to prevent the unauthorized manipulation of media, including reading, copying, alteration or removal of the data media used by NHBRC and containing personal information.

6.5. Data Memory Control

6.5.1. NHBRC undertakes to implement suitable measures to prevent unauthorized input into data memory and the unauthorised reading, alteration or deletion of stored data.

6.6. User Control

6.6.1. NHBRC shall implement suitable measures to prevent its data processing systems from being used by unauthorised persons by means of data transmission equipment.

6.7. Access Control to Data

6.7.1. NHBRC shall implement suitable measures to ensure that the persons entitled to use NHBRC's data processing system are only able to access the data within the

scope and to the extent covered by their respective access permissions or authorisation.

6.8. Transmission Control

6.8.1. NHBRC shall be obliged to enable the verification and tracing of the locations/destinationsto which the Personal Information is transferred by utilization of NHBRC's data communication equipment devices.

6.9. Transport Control

6.9.1. NHBRC shall implement suitable measures to prevent Personal Information from being read, copied, altered or deleted by unauthorized persons during the transmission thereof or duringthe transport of the data media.

6.10. Organisation Control

6.10.1. NHBRC shall maintain its internal organisation in a manner that meets the requirements ofthis Manual.

7. OBJECTION TO THE PROCESSING OF PERSONAL INFORMATION BY A DATA SUBJECT

7.1. Section 11 (3) of POPI and regulation 2 of the POPIA Regulations provides that a data subject may, at any time object to the processing of his or her or its Personal Information in the prescribed form.

7.2. Attached is the prescribed form marked as **Form 1** which must be used to record such an objection.

8. REQUEST FOR CORRECTION OR DELETION OF PERSONAL INFORMATION

8.1. Section 24 of POPI and regulation 3 of the POPI Regulations provides that a data subject may request for their Personal Information to be corrected or deleted in the prescribed form attached to this Manual as **Form 2**.

8.2. Attached is a copy of **Form 2** for this purpose.



DATA PROTECTION



NATIONAL HOME BUILDERS
NHBRC
REGISTRATION COUNCIL

www.nhbrc.org.za