

Residential developments not PoPI Act compliant could be fined up to R10m

By [Marina Constas](#)

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Community housing schemes like sectional title complexes, apartment blocks, residential estates and retirement villages must comply with the Protection of Personal Information (PoPI) Act by 1 July 2021, or they could be liable for a fine of up to R10m or 12 months' imprisonment.



Marina Constas, director, BBMLaw

Trustees in sectional title schemes and directors of homeowners associations are responsible for ensuring their development's PoPI compliance and should have a well advanced PoPI plan of action by now. They should have appointed an information officer who is the PoPI oversight representative of the scheme; amended their rules, if necessary, to comply with POPI; and they should have PoPI agreements with stakeholders like auditors and managing agents who have access to the personal information of owners and tenants.

The PoPI policy should include details of whose personal information is collected and held by the complex. This includes trustees, owners and tenants, as well as visitors. The type of personal information that the complex collects and holds, as well as how the complex collects and stores personal information, must be specified. The purposes for which the complex collects, uses and discloses personal information must also be detailed, along with information on how an individual may access personal information.



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Access control and CCTV surveillance cameras

Aspects to be considered by the trustees and directors include access control at the guardhouse and CCTV surveillance cameras. They must be ready to answer questions regarding what information is requested from visitors by security guards. Does it include identity numbers and photographs? The trustees and directors must be able to explain why this information is collected; where it is stored; for how long it is stored and when it is destroyed.

Community schemes can still make use of CCTV cameras, but there are certain steps that they must take to be PoPI compliant. These include notifying owners in writing that cameras exist and where they are located. Cameras must be positioned in such a way that they do not infringe on an owners' right to privacy in their own home. The PoPI policy should clearly explain who is responsible for the control of images, what is recorded and how images are utilised. In storing footage, care must be taken that images cannot be corrupted, and there must be a process outlined for destroying footage after a certain time. Signage stating that CCTV cameras are in use for the purpose of crime prevention is recommended for sectional title complexes and residential estates to ensure PoPI compliance.



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Handling complaints

The PoPI policy document must also outline how an individual can complain to the Information Regulator and how the complex or residential estate will deal with that type of complaint.

I would strongly suggest that, with final deadline for PoPI compliance looming, all sectional title complexes and community housing schemes obtain professional advice and assistance to review and update their privacy policies and privacy statements. Having a detailed PoPI policy is the ideal way to manage the imminent onslaught of queries by owners and visitors.

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