

DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)



DAVIDA VAN DER MERWE
OPTOMETRIST

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(SOLE PROPRIETORSHIP)

(Hereinafter referred to as “the business”)

MANUAL IN TERMS OF THE PROTECTION OF PERSONAL INFORMATION ACT

ACT NO. 4 OF 2013

(hereinafter referred to as “The Act”)

**DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)**

PURPOSE OF THIS DOCUMENT:

The business is committed to protecting the privacy of Staff, Suppliers and Consumers and will adhere to strict compliance with the Act. This manual sets out the privacy policy of the business and provides user-friendly guidelines.

CORPORATION PARTICULARS

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**DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)**

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**DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)**

1. Interpretation

1.1 Interpretation

In this document the following rules of interpretation apply unless the contrary intention appears:

- (a) headings are for convenience only and do not affect the interpretation of this document;
- (b) the singular includes the plural and vice versa;
- (c) words that are gender-neutral or gender-specific include each gender
- (d) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings
- (e) the words “such as”, “including”, “particularly” and similar expressions are not used as, nor are intended to be interpreted as, words of limitation
- (f) a reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation, trust or other body corporate
 - (ii) a party includes its agents, successors and permitted assigns
 - (iii) a document includes all amendments or supplements to that document
 - (iv) a clause, term, party, schedule or attachment is a reference to a clause or term of, or party, schedule or attachment to this document;
 - (v) this document includes all schedules and attachments to it

**DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)**

- (vi) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity and is a reference to that law as amended, consolidated or replaced
- (vii) a statute includes any regulation, ordinance, by-law or other subordinate legislation made under it
- (viii) an agreement other than this document includes an undertaking, or legally enforceable arrangement or understanding whether or not in writing
- (g) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this document or any part of it
- (h) when the day on which something must be done is not a Business Day, that thing must be done on the following Business Day
- (i) in determining the time of day where relevant to this document, the relevant time of day is:
 - (i) for the purposes of giving or receiving notices, the time of day where a party receiving a notice is located
 - (ii) for any other purpose under this [deed/agreement], the time of day in the place where the party required to perform an obligation is located
- (j) a day is the period of time commencing at midnight and ending immediately before the next midnight is to occur;

**DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)**

- (i) if a period of time is calculated from a particular day, act or event (such as the giving of a notice), it is to be calculated exclusive of that day, or the day of that act or event

- (k) If there is any conflict between the body of this document and its schedules and/or attachments the terms of the main body of this document will prevail.

2. The Purpose of Processing Personal Information

The purpose of the Act is:

- to promote the protection of personal information processed by public and private bodies;
- to introduce certain conditions so as to establish minimum requirements for the processing of personal information;
- to provide for the establishment of an Information Regulator to exercise certain powers and to perform certain duties and functions in terms of this Act and the Promotion of Access to Information Act;
- to provide for the issuing of codes of conduct;
- to provide for the rights of persons regarding unsolicited electronic communications and automated decision making;
- to regulate the flow of personal information across the borders of the Republic;
- and to provide for matters connected therewith.

"Processing" means:

- Any operation or activity whether or not by automatic means concerning personal information including the collection, receipt, recording, organisation,

**DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)**

collation, storage, updating or modification, retrieval, alteration, consultation or use.

- Dissemination by means of transmission, distribution or making available in any other form.
- Merging, linking as well as restriction, degradation, erasure or destruction of information.

The business will utilise the Personal Information in its care in the following ways:

- To practice optometry within the scope and ambit of the business's competence and training;
- To market and sell eyewear and related products;
- To request consent from Data Subjects to process their personal information and/or distribute their personal information to third parties for specified purposes;
- To notify Data Subjects whenever their personal information is being distributed to third parties, and/or used for its own marketing purposes;
- To provide Data Subjects the opportunity to opt-out of further marketing and business-related communications (i.e.: direct marketing) and/or the processing and/or further distribution of their personal information;
- To process business-related communications to Data Subjects whose personal information has been acquired through the purchasing of eyewear or use of services related thereto;
- To protect the legitimate business interests of a Data Subject and any third party to whom such information was supplied;
- To submit relevant documents to the Medical Aid Scheme for claiming an amount therefrom upon request from the Data Subject.

**DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)**

3. Application and Interpretation of the Act

This Act applies to the processing of personal information by the business which is entered into an electronic record, such as cloud software, by making use of automated means. Hard copy files are also utilized and same are stored in cabinets.

The processing of personal information occurs whenever a representative of the business asks a client questions and writes it down, and when such information is sent to a Medical Aid Scheme and/or laboratory.

This Act applies to the exclusion of any provision of any other legislation that regulates the processing of personal information and that is materially inconsistent with an object, or a specific provision, of this Act. If any other legislation provides for conditions that are more extensive, the extensive provisions will prevail.

4. Categories of Data Subjects and their Personal Information collected by the business

A “data subject” is defined by the Act as the person to whom the personal information relates. The business may process records relating to its Staff, Clients, Shareholders, Directors and Third-Party Operators (hereinafter referred to as “Data Subjects”).

TYPE OF DATA SUBJECT	PERSONAL INFORMATION PROCESSED
Shareholders	Physical and postal addresses; contact details; financial information such as account details, credit reports, asset and liabilities statements, bank statements etc.; and tax-related information.

**DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)**

Directors	Physical and postal addresses; contact details; financial information such as account details, credit reports, asset and liabilities statements, bank statements etc; gender; age; pregnancy; marital status and tax-related information; loan accounts; equity; remuneration packages; financial details; identification number; location information; banking details; confidential correspondence; email, name; telephone contact details; mailing lists for bulk communication services.
Staff	Gender; pregnancy; marital status; age; education information; criminal record; financial information such as account details, credit reports etc.; employment history; id number; physical and postal addresses; contact details; financial details; identification number; location information; banking details; confidential correspondence; email; name; telephone contact details; mailing lists for bulk communication services.
Clients	Physical and postal addresses; contact details; financial information such as account details; correspondence, financial details; identification number; location information; confidential correspondence; email, social networks; name; telephonecontact details; mailing lists for bulk communication services; medical aid details.
Third-Party Operators	Physical and postal addresses; contact details; financial information such as account details, registration number; tax-related information, correspondence, identification

**DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)**

	number; location information; banking details; confidential correspondence; email, social networks; mailing lists for bulk communication services.
Suppliers	Physical and postal addresses; contact details; financial information such as account details, credit reports, asset and liabilities statement, references etc; registration number tax-related information, correspondence; financial details; identification number; location information; confidential correspondence; email, social networks; name; telephone contact details; mailing lists for bulk communication services.

The business collects the aforesaid information to provide health-related services and market and/or sell goods to Clients and to deliver the desired product to him/her/it. This is done by providing the business with the necessary personal information (as mentioned above) in order to provide the health-related services and to sell such goods and render associated services.

5. Lawful Processing of Personal Information

The responsibilities of the business are to adhere to the 8 (eight) conditions that the Act sets out and entails the following:

5.1. Accountability

- 5.1.1. This condition entails that the business ensures that the Act is given effect in its day-to-day business operations.
- 5.1.2. The business confirms that it will be held liable if it breaches any of the applicable sections in this Act and that Consumers have the right to notify the Information Regulator if any misconduct is evident.

**DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)**

5.2. Processing Limitation

- 5.2.1. The business acknowledges that there are limitations in place to ensure that the processing of a Data Subject's information is lawful and limited.
- 5.2.2. The processing of personal information is lawful as a Data Subject is always notified and made aware of any personal information that is being collected and that it is done in a reasonable manner that does not infringe the privacy of the Data Subject.
- 5.2.3. A Data Subject is made aware that their consent for the processing of personal information can at any time be withdrawn. Furthermore, a Data Subject is notified that they may object to the processing of such personal information unless legislation makes provision for the lawful processing thereof.

5.3. Purpose Specification

- 5.3.1. The business notifies the Data Subjects of the purpose of collecting personal information.
- 5.3.2. The personal information of a Data Subject is destroyed after the purpose for which it was collected has been completed or has ended.
- 5.3.3. The business indicates to its Data Subjects that their information will only further be kept for statistical, medical, historical and research purposes provided there are proper safeguards in place to protect the personal information.

5.4. Further Processing Limitation

- 5.4.1. The business warrants that personal information will not be processed in a manner that is incompatible with its original purpose.
- 5.4.2. The further processing of personal information is not incompatible with the purpose of its collection if the Data Subject has consented to the further processing of such information.

**DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)**

5.4.3. The business ensures that personal information will not be published in an identifiable form and that further processing is in line with the exemptions in terms of section 37.

5.5. Information Quality

5.5.1. The business takes reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

5.6. Openness

5.6.1. The business has a PAIA Manual with a request form which the Data Subjects can complete in order to determine what personal information is being held and to request access to such information;

5.6.2. This condition is adhered to in that a Data Subject is always informed of the personal information that is being collected, and the purpose for its collection.

5.7. Security Safeguards

5.7.1. The business applies appropriate, reasonable, technical, and organizational steps as is envisaged by section 19 of the Act.

5.7.2. The business has the necessary safeguards in place for the protection of personal information.

5.8. Data Subject Participation (Sections 23 and 25)

5.8.1. The Data Subject may require access to any personal information (see PAIA Manual August 2021), and/or its correction or deletion. This may occur at a prescribed fee and a copy of the information that the business has in its possession. The information must be provided in a reasonable format and in a manner that is

**DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)**

understandable. The Data Subject may contact the Information or Deputy Information Officer appointed herein for such information.

- 5.8.2. The Data Subject may request that outdated or incorrect information be updated or may request its deletion if, for instance, the business is not authorized to process it. The business must investigate and follow the Data Subject's instruction relating to its update or deletion unless there are lawful grounds indicating otherwise. The deletion or amendment and/or refusal will be provided in writing within 7 (seven) days of the written request.
- 5.8.3. The business must inform the Data Subject of its actions taken, and if a dispute arises the parties must reach an agreement, failing which either party may refer the matter to the Information Regulator.
- 5.8.4. All data subjects affected due to a change in information must be informed.
- 5.8.5. If you cancel your services with the business, it will delete your personal information, except for statistics and records which will be stored in a de-identified and aggregated manner.
- 5.8.6. After cancellation, invoices are archived for up to 7 years. Cancelled accounts will be archived and classified as such.
- 5.8.7. In the event of processing the personal information of children, the prior consent of a competent person, ordinarily a parent, must be obtained.

6. Prior to Collection of Personal Information

The business must inform the Data Subjects of the:

- 6.1. Purpose of the collection of information;
- 6.2. Information required in order to conclude a valid contract when buying eyewear and related products in store and/or conducting an online purchase;

**DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)**

- 6.3. The information which is voluntary (consent) and information which is mandatory (justification or authorization);
- 6.4. Source of data acquisition by the Data Subject or Third Party;
- 6.5. Consequences of a failure to provide the information;
- 6.6. Recipients of such information;
- 6.7. Category of information;
- 6.8. Name and address of the business;
- 6.9. Transfer of information to another country and the security provided pertaining to such information (if any);
- 6.10. Right of access to information (see PAIA Manual August 2021);
- 6.11. Right to object to the processing of certain information;
- 6.12. Right to complain to the Information Officer or Deputy Information Officer regarding any breach or malpractice in terms of the Act, or to apply to a court or the Information Regulator (see PAIA Manual August 2021);

7. Information that may not be collected by the business

- 7.1. In accordance with Sections 26 and 27 of the Act, the following information will not be processed:
 - 7.1.1. Religious or philosophical beliefs of the Data Subject;
 - 7.1.2. Race or ethnic origin of the Data Subject;
 - 7.1.3. Trade union membership;
 - 7.1.4. Political persuasion;
 - 7.1.5. Health or sex life;
 - 7.1.5.1. The section 32 exemption applies as the business engages in the processing of personal information concerning the Data Subject's health as a medical practice in which such processing is necessary for the proper treatment and care of the Data Subject.

**DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)**

7.1.5.2. Another exemption is where the business processes personal information for the administration of the business and where insurance companies, medical schemes, medical scheme administrators and healthcare management organizations process such personal information in the course of assessing the risk to be insured by the insurance corporation or covered by the medical scheme and Data Subject.

7.1.6. Biometric information;

7.1.7. Alleged criminal offences.

7.2. The abovementioned list will not apply if:

7.2.1. Consent is given by the Data Subject;

7.2.2. It is justified in terms of law or is required for the protection of a right;

7.2.3. Processing is for historical, statistical or research purposes in the public interest or consent cannot be obtained, and safeguards are provided to prevent a breach of the right to privacy;

7.2.4. Information has become public knowledge due to the intention of the Data Subject;

7.2.5. The Information Officer has authorized the process; or

7.2.6. Sections 28 and 33 have been complied with (the specific authorization provisions).

8. Trans-border flows of Personal Information

Section 72 regulates transborder transfers of Personal Information. However, the business does not provide personal information of Data Subjects to Third Parties in a foreign country.

In the event that it shall become necessary or be deemed necessary for the business to enter into transborder transfers of personal information, the business will only do so

**DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)**

by acquiring the required consent from Data Subjects and otherwise complying with the precepts of this document, as well as ensuring that the transfer is necessary for the performance of the agreement between the business and the Data Subject.

The business warrants that it will only enter into transborder transfers of personal information in a manner that is compliant with the conditions for the lawful processing of personal information, and any other applicable domestic or international legislation.

9. Security Measures

The business places emphasis on the importance of security measures when processing personal information by notifying Data Subjects that personal information may not be collected and processed without their consent. Furthermore, that such information will not be distributed to any Third Party, unless the necessary consent is given, and undertaken for a specified purpose:

The business utilizes:

- Firewalls;
- Suppliers who are POPIA and PAIA compliant;
- Operators who are POPIA and PAIA compliant;
- Virus protection software and updated protocols;
- Logical and physical access control;
- On-premises security systems;
- Regularly updating accounting software where possible;
- Password management best practice and routine password changes;

**DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)**

- All Staff members ensure that callers to the office or other unauthorized persons are unable to view personal or sensitive information, whether held on paper documents or information displayed on PC monitors, etc;
- All staff members that have access to personal information of Data Subjects ensure that their PCs are logged off or “locked” when left unattended for any period of time;
- Access privileges on a scaled “Need-to-know” basis and further limitations on outright access;
- The business shreds all discarded paper records that contain confidential information;
- Fax machines are not used for transmitting documents containing personal data.

10. Security Breach

In the event of a security breach as mentioned by section 12 of the Act, the business will report to the Information Regulator that:

- 10.1.** a data breach of personal information has occurred; or
- 10.2.** a reasonable belief exists that this has occurred, or
- 10.3.** an unauthorized person has acquired or assessed personal information regarding the Data Subject.

In the event that a security breach does occur, the business will immediately, or as soon as be reasonably possible after the breach, communicate the event to the Data Subject. The business will notify the Information Regulator immediately, or as soon as is reasonably possible after the discovery of the breach.

**DAVIDA VAN DER MERWE OPTOMETRIST
POPIA COMPLIANCE POLICY (AUGUST 2021)**

11. Remedies Available if Request for Personal Information is Refused

Should a request for access to personal information be refused:

- 11.1.** See the PAIA Manual August 2021 for a prescriptive guideline on Requests for Access to Information in terms of PAIA;
- 11.2.** Within 10 days of receipt of rejection of such notice, the Requester may apply to the Information Office to review such decision;
- 11.3.** The request should clearly state the grounds for such review;
- 11.4.** Should the Information Officer fail to provide the documents as envisioned, the Requester may report the matter to the Regulator at inforeg@justice.gov.za.