



Agile Ortho

PAIA & POPIA Manual

In accordance with Section 51 of the Promotion of Access to Information Act, 2000 (“PAIA”) and to address the requirements of the Protection of Personal Information Act, 2013 (“POPIA”).

This manual is applicable to:

AGILE ORTHO (Practice Number: 1101900 and HPCSA Number:
MP0763012)

(Hereinafter referred to as “AGILE ORTHO”)

TABLE OF CONTENTS

1. INTRODUCTION	3
2. DEFINITIONS AND INTERPRETATION	3
3. INFORMATION OFFICER AND DEPUTY INFORMATION OFFICER	4
4. GUIDE ON USING PAIA	4
5. RECORDS HELD BY AGILE ORTHO	5
6. ACCESS TO RECORDS AND PROCEDURE FOR REQUESTING ACCESS TO INFORMATION	6
7. RECORDS NOT FOUND	7
8. GROUNDS FOR REFUSAL	7
9. REMEDIES AVAILABLE IF REQUEST FOR INFORMATION IF REFUSED	8
10. PRESCRIBED FEES	8
11. DECISION TO GRANT ACCESS	8
12. AVAILABILITY OF THE MANUAL	8
13. PROTECTION OF PERSONAL INFORMATION PROCESSED BY AGILE ORTHO	9
14. ANNEXURES	12
ANNEXURE A: REQUEST FOR ACCESS FORM	12
ANNEXURE B: PRESCRIBED FEES	13
ANNEXURE C: REQUEST FOR CORRECTION OR DELETION OF PERSONAL INFORMATION OR DESTROYING OR DELETION OF RECORD OF PERSONAL INFORMATION IN TERMS OF SECTION 24(1) OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013	16
ANNEXURE D: OBJECTION TO THE PROCESSING OF PERSONAL INFORMATION IN TERMS OF SECTION 11(3) OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013	19

1. Introduction

- 1.1 Dr Matthew Foster trading as AGILE ORTHO (hereinafter referred to as “AGILE ORTHO”) operates as Foster Orthopaedics INC with Practice Number: 1101900 and HPCSA Number: MP0763012. AGILE ORTHO provides private healthcare services to the public as a General Medical Practitioner.
- 1.2 As part of its operations and services, AGILE ORTHO collects and holds certain records, including personal information. PAIA and POPIA provide for certain records and/or information to be accessed where certain circumstances are met and in accordance with certain procedures and at prescribed fees, giving effect to the right of access to information in terms of the Constitution of the Republic of South Africa, 1996.
- 1.3 AGILE ORTHO may amend this manual from time to time. It is available and accessible at www.agileortho.co.za or on request to AGILE ORTHO’s duly authorised Information Officer.

2. Definitions and Interpretation

- 2.1 “AGILE ORTHO” means (MP0763012; Practice number: 1101900), an INC which provides private healthcare services to clients.
- 2.2 “Constitution” means the Constitution of the Republic of South Africa, 1996 ;
- 2.3 “Client” refers to any natural person that received or receives services from AGILE ORTHO;
- 2.4 “Data Subject” has the meaning ascribed thereto in section 1 of POPIA;
- 2.5 “Information Officer” means the Firm’s designated information officer as referred to in clause 5;
- 2.6 “Manual” means this manual prepared in accordance with section 51 of PAIA and regulation 4(1) (d) of the POPIA Regulations;
- 2.7 “Personal Information” has the meaning ascribed thereto in section 1 of POPIA;
- 2.8 “Record” has the meaning ascribed thereto in section 1 of PAIA and includes Personal Information;
- 2.9 “Requester” has the meaning ascribed thereto in section 1 of PAIA; and
- 2.10 “Request for Access” has the meaning ascribed thereto in section 1 of PAIA.

3. Information Officer and Deputy Information Officer

3.1 AGILE ORTHO has appointed an Information Officer in accordance with POPIA. In addition to its obligations prescribed under POPIA the designated information officer is also responsible for accessing any requests to AGILE ORTHO for access to information in terms of PAIA as well to oversee any other obligations which AGILE ORTHO may have under PAIA. The Information Officer may appoint Deputy Information Officers to assist in its fulfillment of its obligations.

3.2 Information Officer:

Name:	Matthew Foster
Physical address:	Netcare St Augustine's Hospital, Room 204 Caritas Wing, Durban 4001
Postal address:	Netcare St Augustine's Hospital, Room 204 Caritas Wing, Durban 4001
Telephone number:	031 2013363
Email address:	matthew@agileortho.co.za

3.3 Deputy Information Officer:

Name:	Jill Muthusamy
Physical address:	Netcare St Augustines Hospital, Room 204 Caritas Wing, Durban 4001
Telephone number:	031 2013363
Email address:	info@agileortho.co.za

4. Guide on Using PAIA

The South African Human Rights Commission has prepared a guide on how to use the Act (under section 10 of PAIA) and is available on the SAHRC website. This manual complies with the requirements as set out by the guide. The guide contains such information as may reasonably be required by a person who wishes to exercise any right contemplated in the Act.

Enquiries:

7th Floor, ABSA Building,
132 Adderley Street,

Cape Town City Centre,
Cape Town, 8001

PO Box 3563
Cape Town, 8000

Telephone Number: 021 426 2277
Website: www.sahrc.org.za
General enquiries: info@sahrc.org.za
Complaints: complaints@sahrc.org.za

5. Records Held by AGILE ORTHO

5.1 Records Available Without a Request:

No Notice has been given in terms of section 52(2) of records available without a request (s 51 (1)(c)).

5.2 Records held by AGILE ORTHO in terms of 51(1)(e) of PAIA:

These records held by AGILE ORTHO include but are not limited to:

5.2.1 General operations of AGILE ORTHO:

- a) Employee information and lists, including personal information, employment history and health records that AGILE ORTHO keeps from time to time,
- b) Employment contracts,
- c) Disciplinary records,
- d) AGILE ORTHO rules and ethical guides,
- e) Training and development information,
- f) Tax records,
- g) Accounting records,
- h) Audited financial statements,
- i) Creditors and Debtors,
- j) Salary information,
- k) Banking records,
- l) Fixed assets registry
- m) Stock sheets,
- n) Payroll,
- o) Contracts,
- p) Training records,
- q) Meeting minutes,
- r) Internal policies and Standard Operating Procedures

5.2.2 Secretarial Records:

- a) Personal information of patients,
- b) Appointment scheduling,

- c) Registers of all patients of AGILE ORTHO,
- d) Prescribed forms such as:
- e) Patient information forms,
- f) Patient consent forms,
- g) Patient and AGILE ORTHO engagement agreement,
- h) Patient Billing Policy.
- i) Invoices,
- j) AGILE ORTHO social media releases,
- k) Correspondence.

5.2.3 Patient Clinical Records:

The following information is collected, stored, and retrieved through ALCHEMED medical practice management software by AGILE ORTHO and/or contracted Medical Doctor/s. It includes but is not limited to the following:

- a) General Medical records
- b) Special investigation reports
- c) Health professional referrals
- d) Sick notes
- e) Insurance reports and applications

6. Access to Records and Procedure for Requesting Access to Information

6.1 In order to facilitate a request, a Requester must comply with the procedural requirements of section 53 of PAIA relating to a Request for Access to a Record.

6.2 A Requester must complete the prescribed "Request for Access Form" enclosed herewith to this manual in Annexure A and submit the form as well as the prescribed fee (if applicable) to the Information Officer at the address stipulated above in Clause 3.

6.3 The Form must be completed with sufficient particulars to enable the Information Officer to identify:

- a) the Record/s requested;
- b) the identity of the Requester;
- c) the form of access that is required, if the request is granted;
- d) the postal address or fax number of the Requester; and
- e) the right that the Requester is seeking to protect and an explanation as to why the Record is necessary to exercise or protect such a right.

6.4 A request made on behalf of another party will require proof of the capacity which the Requester is making the request.

6.5 The Requester may make the request orally where they are unable to complete the prescribed form due to illiteracy or disability.

7 Records Not Found

In the event that AGILE ORTHO cannot find the records that the Requester is looking for despite a reasonable and diligent search and where it believes either that:

- (1) the records are lost; or
- (2) that the records are in its possession but unattainable,

the Requester will receive a notice from the Information Officer in the form of an Affidavit stating the measures taken to attempt to locate the document and accordingly the inability to locate the document.

8 Grounds for Refusal

AGILE ORTHO may, subject to the exceptions contained in Chapter 4 of PAIA, refuse a Request for Access in accordance with Chapter 4 of PAIA on the following grounds:

- 8.1 mandatory protection of the privacy of a third party who is a natural person, including a deceased person, where such disclosure of Personal Information would be unreasonable;
- 8.2 mandatory protection of the commercial information of a third party or AGILE ORTHO, if the Records contain:
 - 8.2.1 trade secrets of that third party;
 - 8.2.2 financial, commercial, scientific or technical information of the third party, the disclosure of which could likely cause harm to the financial or commercial interests of that third party; and/or
 - 8.2.3 information disclosed in confidence by a third party to the Firm, the disclosure of which could put that third party at a disadvantage in contractual or other negotiations or prejudice the third party in commercial competition;
- 8.3 mandatory protection of confidential information of third parties if it is protected in terms of an agreement;
- 8.4 mandatory protection of the safety of individuals and the protection of property;
- 8.5 mandatory protection of Records that would be regarded as privileged in legal proceedings;
- 8.6 mandatory protection of research information of AGILE ORTHO or a third party, if such disclosure would place the research or the researcher at a serious

disadvantage; and

- 8.7 Requests for records that are clearly arbitrary or vexatious, or which involve an unreasonable diversion of resources.

9 Remedies Available if Request for Information if Refused

- 9.1 AGILE ORTHO does not have internal appeal procedures. Therefore, the decision made by the Information Officer is final, and Requesters are entitled to exercise external remedies at their disposal if the Request for Access is refused.
- 9.2 In accordance with sections 56(3) (c) and 78 of PAIA, a Requester may apply to a court for relief within 30 (thirty) days of notification of the decision for appropriate relief.

10 Prescribed Fees

- 11.1 Should you request access of your personal information, no request fee will be charged.
- 11.2 Prescribed request fees are set out in a breakdown on Annexure B.
- 11.3 Once a Request for Access is received, the Information Officer shall, by notice, require the Requester, other than a personal requester, to pay the prescribed fee before processing the request.

11 Decision to Grant Access

- 11.1 AGILE ORTHO will make a decision whether to grant or decline the Request for Access within 30 (thirty) days of receipt thereof for the Request for Access and must give notice to the Requester with reasons (if required).
- 11.2 If the request is for a large number of records or requires a search for records held at another premises and the records cannot reasonably be obtained within the time period, then the period of 30 (thirty) days may be extended for a further period of not more than 30 (thirty) days.
- 11.3 AGILE ORTHO shall notify the Requester in writing should an extension of the time period be required.
- 11.4 If the Requester, in addition to a written reply from the Information Officer, wishes to be informed of the decision on the Request for Access in any other manner, the Requester must state the manner and particulars so required.

12 Availability of the Manual

In terms of section 51(3) of PAIA and section 4 of the Regulations to POPIA:

- 12.1 This manual is available for inspection at the offices of AGILE ORTHO at no cost and at the office of the South African Human Rights Commission;
- 12.2 This manual is further available on AGILE ORTHO's website at www.agileortho.co.za
- 12.3 A copy of the manual can be obtained from the Information Officer. Please note that a fee will be levied for copies of the manual in accordance with Annexure B.

13 Protection of Personal Information Processed by AGILE ORTHO

13.1 Conditions of Processing:

Chapter 3 of POPIA provides the minimum conditions for the lawful processing of Personal Information by a Responsible Party.

AGILE ORTHO as a Responsible Party, may not depart from these conditions unless specifically excluded in POPIA. The conditions for lawful processing of Personal Information are as follows:

- 13.1.1 the Responsible Party is obliged to ensure compliance with POPIA in respect of the Processing of Personal Information;
 - 13.1.2 Personal Information must be collected directly from a Data Subject to the extent applicable where it is only processed with the consent of the Data Subject and may only be used for the purposes for which it was obtained, subject the qualification when the processing of a contract to which the data subject is a party;
 - 13.1.3 Personal Information may only be processed for the specific purpose for which it was obtained and must not be retained for any longer than it is necessary;
 - 13.1.4 further processing of Personal Information must be compatible with the primary purpose for which the information was collected;
 - 13.1.5 the Responsible Party must ensure the integrity of the Personal Information and that it is accurate and updated regularly and that it has implemented appropriate security measures;
 - 13.1.6 the Responsible Party must be transparent with the Data Subject;
 - 13.1.7 a Responsible Party must take reasonable steps to ensure adequate protective measures are in place to ensure that Personal Information is being processed responsibly and lawfully accessed;
 - 13.1.8 the Data Subject must be made aware that their information is being processed and must provide their informed consent to such processing thereof.
- 13.2 Purpose of the Processing of Personal Information by AGILE ORTHO

As stated above, Personal Information may only be processed for a specific purpose. The purposes for which AGILE ORTHO processes or will Process Personal Information, as follows:

- 13.2.1 Verifying and updating information of prospective clients/employees;
- 13.2.2 Providing healthcare services to clients and performing duties as agreed upon;
- 13.2.3 Invoicing for healthcare services rendered and recovering any debts owed;
- 13.2.4 Office and business administration;
- 13.2.5 General matters pertaining to employees such as payroll and disciplinary action;
- 13.2.6 Storing of records of clients in compliance with statutory obligations.

13.3 Categories of Data Subjects and their Personal Information

There are various categories of Data Subjects (natural or juristic persons) with regard to which AGILE ORTHO processes Personal Information and the types of Personal Information which AGILE ORTHO processes in relation thereto. This is specified in more detail as set out below:

13.3.1 Clients or Prospective Clients:

Names, contact details, postal address, date of birth, ID number, proof of residence, tax related information, nationality, gender, confidential correspondence, Names of contact persons, Name of Legal Entity, Physical and Postal address and contact details, Registration Number, Founding documents, tax related information, authorised representatives, ultimate beneficial owners

13.3.2 Vendors or Service Providers:

Names of contact persons; Name of Legal Entity, Physical and Postal address and Contact details, Registration Number, Tax information, authorised representatives

13.3.3 Employees:

Names, Age, Gender, Pregnancy, Marital Status, Ethnicity, Language, Education information, Financial Information, Employment History, ID number, Physical and Postal address, Contact details

13.4 General Description of Information Security Measures

AGILE ORTHO takes precaution by using technology and other security measures to ensure that necessary safeguards protect the confidentiality and integrity of the Personal Information in AGILE ORTHO's possession.

These measures include the following:

- 13.4.1 Anti-virus protection;
- 13.4.2 Anti-spam software;
- 13.4.3 Firewalls;
- 13.4.4 Appropriate staff training to ensure adequate knowledge of protection of confidential personal information and disciplinary consequences for breach of POPIA compliance;
- 13.4.5 Staff access to personal information only insofar as necessary to fulfil AGILE ORTHO's mandate;
- 13.4.6 Physical security system and alarm system where personal information is held in physical form.

13.5 Cross-Border Transfers of Personal Information

Personal Information may only be transferred out of the Republic of South Africa in terms of Section 72 of POPIA. It is outlined as below:

- 13.5.1 If the recipient country can offer adequate protection of the data; or
- 13.5.2 If the Data Subject consents to the transfer; or
- 13.5.3 If the transfer is necessary in terms of a contractual obligation between the Data Subject and the Responsible Party; or
- 13.5.4 If the transfer is necessary in terms of a contractual obligation between the Responsible Party and a third party, in the interests of the Data Subject; or
- 13.5.5 If the transfer is for the benefit of the Data Subject, and where consent is not reasonably practicable to obtain, however, the Data Subject would likely provide such consent.

Cross-Border transfers of any Personal Information are not performed by AGILE ORTHO, however, if required to do so, it shall obtain the necessary consent of the Data Subject.

13.6 Request for Correction / Deletion of Personal Information

Section 24 of POPIA and regulation 3 of the POPIA Regulations provides that a Data Subject may request for their Personal Information to be corrected/deleted in the prescribed form attached as Annexure C to this manual.

13.7 Objection to Processing of Personal Information by the Data Subject

Section 11 (3) of POPIA and regulation 2 of the POPI Regulations provides that a Data Subject may, at any time object to the Processing of their Personal Information in the prescribed form attached to this manual as Annexure D subject to exceptions contained in POPIA.

14 Annexures

Annexure A: Request for Access Form

Request for Access to Record of Private Body (Section 53(1) of the Promotion of Access to Information Act, 2000 (ActN2of2000) (Regulation10).



J752

REPUBLIC OF SOUTH AFRICA

FORM C
REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY
(Section 53(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))
[Regulation 10]

A. Particulars of private body

The Head:

--

B. Particulars of person requesting access to the record

(a) The particulars of the person who requests access to the record must be given below. (b) The address and/or fax number in the Republic to which the information is to be sent must be given. (c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname:

Identity number:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Postal address:

Telephone number: (.....) Fax number: (.....)

E-mail address:

Capacity in which request is made, when made on behalf of another person:

C. Particulars of person on whose behalf request is made

This section must be completed ONLY if a request for information is made on behalf of another person.

Full names and surname:

Identity number:

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FORM C: REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

D. Particulars of record

- (a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.
- (b) If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

1. Description of record or relevant part of the record:

.....
.....
.....
.....

2. Reference number, if available:

.....
.....
.....
.....

3. Any further particulars of record:

.....
.....
.....
.....

E. Fees

- (a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.
- (b) You will be notified of the amount required to be paid as the request fee.
- (c) The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.
- (d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:

.....
.....
.....
.....
.....

FORM C: REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 below, state your disability and indicate in which form the record is required.

Disability:	Form in which record is required:
Mark the appropriate box with an X .	
NOTES: (a) Compliance with your request for access in the specified form may depend on the form in which the record is available. (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form. (c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.	

1. If the record is in written or printed form:					
	copy of record*		inspection of record		
2. If record consists of visual images - (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):					
	view the images		copy of the images*		transcription of the images*
3. If record consists of recorded words or information which can be reproduced in sound:					
	listen to the soundtrack (audio cassette)		transcription of soundtrack* (written or printed document)		
4. If record is held on computer or in an electronic or machine-readable form:					
	printed copy of record*		printed copy of information derived from the record*		copy in computer readable form* (stiffy or compact disc)

*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.	YES	NO
--	-----	----

G. Particulars of right to be exercised or protected

If the provided space is inadequate, please continue on a separate folio and attach it to this form.
The requester must sign all the additional folios.

1. Indicate which right is to be exercised or protected:

.....

.....

.....

2. Explain why the record requested is required for the exercise or protection of the aforementioned right:

.....

.....

.....

H. Notice of decision regarding request for access

You will be notified in writing whether your request has been approved / denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

.....

Signed at this day..... ofyear

.....
SIGNATURE OF REQUESTER /
PERSON ON WHOSE BEHALF REQUEST IS MADE

Annexure B: Prescribed Fees

Reproduction and Access to Information Fees as below:

1.	For every photocopy of an A4-size page or part thereof.	R 1.10
2	For every printed copy of an A4-size page or part thereof held on a computer or in an electronic or machine-readable form	R 0.75
3.	For a copy in a computer-readable form on compact disc.	R 70.00
4.1	For a transcription of visual images, for an A4-size page or part thereof	R 40.00
4.2	For a copy of visual images	R 60.00
5.1	For a transcription of an audio record, for an A4-size page or part thereof	R 20.00
5.2	For a copy of an audio record	R 30.00
6	To search for and prepare the record for disclosure or part thereof	R 30.00 for each hour or part thereof reasonably required for such search and preparation
7	One third of the access fee is payable as a deposit by the requester	
8	The actual postage fee is payable when a copy of a record must be posted to a requester	
9	Where a requester submits a request for access to information held by an institution on a person other than front before the the requester himself/herself, a request fee is payable	R 50.00 is payable upfront before the institution will further process the request received.

Annexure C: Request for Correction or Deletion of Personal Information or Destroying or Deletion of Record of Personal Information in Terms of Section 24(1) of the Protection of Personal Information Act, 2013

Please note:

4. Affidavits or other documentary evidence as applicable in support of the objection may be attached.
5. If the space provided for in this Form is insufficient, submit information as an Annexure to this Form and sign each page.
6. Complete as is applicable

Mark the appropriate box with an "X" – Request for:

- Correction or deletion of the personal information about the data subject which is in possession or under the control of the responsible party.
- Destroying or deletion of a record of personal information about the data subject which is in possession or under the control of the responsible party and who is no longer authorised to retain the record of information.

A	DETAILS OF DATA SUBJECT
Name(s) and surname/ registered name of data subject:	
Identity Number	
Residential, postal or business address:	
Contact number(s):	
Fax number / E-mail address:	
B	DETAILS OF RESPONSIBLE PARTY
Name(s) and surname/ registered name of data subject:	
Residential, postal or business address:	
Contact number(s):	
Fax number / E-mail address:	
C	REASONS FOR OBJECTION IN TERMS OF SECTION 11(1)(d) to (f) (Please provide detailed reasons for the objection)

D	Reasons for *Correction or Deletion of the Personal Information about the Data Subject in Terms of Section 24(1)(a) which is in Possession or Under the Control of the Responsible Party; and or Reasons for *Destruction or Deletion of a Record of Personal Information about the Data Subject in Terms of Section 24(1)(b) which the Responsible Party is no longer Authorised to Retain. (Please Provide Detailed Reasons for the Request)

Signed at this day of year

.....

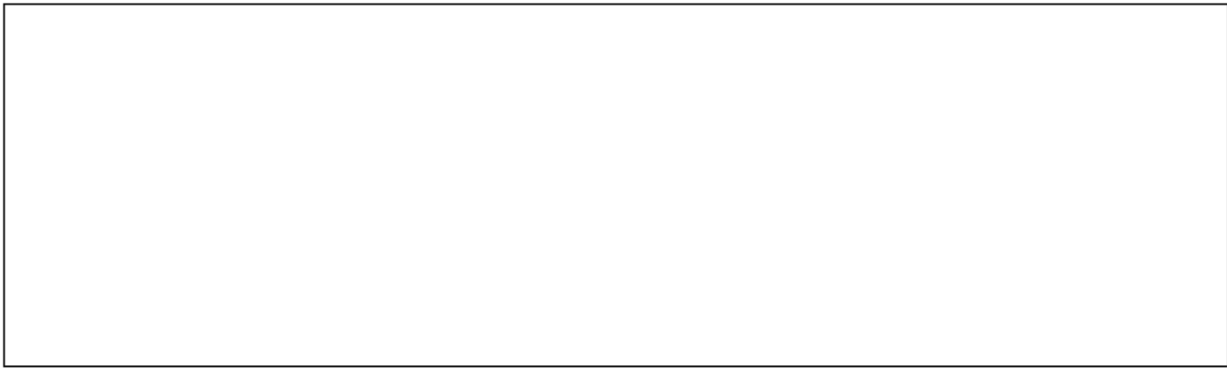
Signature of data subject/designated person

Annexure D: Objection to the Processing of Personal Information in terms of Section 11(3) of the Protection of Personal Information Act, 2013

Please note:

7. Affidavits or other documentary evidence as applicable in support of the objection may be attached.
8. If the space provided for in this Form is insufficient, submit information as an Annexure to this Form and sign each page.
9. Complete as is applicable

A	DETAILS OF DATA SUBJECT
Name(s) and surname/ registered name of data subject:	
Identity Number	
Residential, postal or business address:	
Contact number(s):	
Fax number / E-mail address:	
B	DETAILS OF RESPONSIBLE PARTY
Name(s) and surname/ registered name of data subject:	
Residential, postal or business address:	
Contact number(s):	
Fax number / E-mail address:	
C	REASONS FOR OBJECTION IN TERMS OF SECTION 11(1)(d) to (f) (Please provide detailed reasons for the objection)



Signed at this day of year

.....

Signature of data subject/designated person