

REGULATORY

What now? POPI is at your front door.

2 September 2020 2 min read

by Ahmore Burger-Smidt, Director and Head of the Data Privacy Practice

Questions in relation to POPI compliance are indeed ample. Various companies wish to understand what to do immediately and how do they achieve POPI compliance. What are the easy steps and processes to undertake? All this can easily mean that companies are lulled into an assumption that POPI calls for a "set it and forget it" proposition. This is understandable: policies, terms and conditions, disclaimers, all are written and often forgotten when it comes to compliance with legislation.

With all of the eagerness to understand what the next steps are, comes various myths that are bantered around and which ought to be addressed.

The major myths when it comes to internalising POPI, can be depicted as follows:

Myth 1	This affects big business	Reality: POPI does not exempt small businesses. ALL businesses are caught by POPI in the same way! NGO's, non-profit, listed, unlisted, all legal entities, private or public must comply with POPI.
Myth 2	We have plenty of time	Reality: You have less than 12 months. Compliance will require training, planning, new processes and procedures.
Myth 3	We only need to worry about customer records	Reality: You are liable for any and all personal information including staff records and for all 3 rd party suppliers handling your personal information/data (e.g. your outsourced HR or payroll)
Myth 4	We don't have a marketing database. We don't have a problem	Reality: You must hold some data as trading records, data has lots of value for marketing. The question is, are you organised enough to hold that data legally?
Myth 5	It just covers our IT records. We don't have to worry about paper	Reality: Paper records are covered as well and your records held by 3 rd parties – outsourced operations and partners. You are responsible!
Myth 6	We don't control the data we just process it. We don't need to worry	Reality: If you pass data to a 3 rd party for storage and processing then the rules apply. In fact both parties are subject to POPI. What is more the agreement between them needs to reflect and provide for POPI obligations.
Myth 7	This is about data, the IT department can handle it.	Reality: POPI is about personal information/data, how it is obtained, how it is used, who it is passed to and how they use it. It will require a cultural change involving the whole organisation.
Myth 8	Data about children is no different	Reality: Children are given more protection. You cannot process the personal information of a child without prior consent.
Myth 9	We have a tick box on our website giving consent	Reality: Consent must be "informed and specific" which means that if your consent box was a pre-ticked opt-in box, you have problems. This applies to all existing data so if you don't have it – you need to get it!

When it comes to protecting privacy, individual customer information, data, reputation, the situation is complex. Do not be tempted by simplicity as it is indeed so seductive that one can easily forget that focus is required when considering the Protection of Personal Information Act, 2013 and its impact on your business.

Identify the myth and introduce reality when considering POPI and the way forward.

For information on the Werksmans POPI e-learning course, [click here](#).



Ahmore Burger-Smidt

Head of Regulatory

[View Profile](#)