

## **HAS POPIA FINALLY BEEN GIVEN A SET OF TEETH?**

### ***Introduction***

Many critics have noticed a trend in court decisions not to invoke POPIA, or the Protection of Personal Information Act 4 of 2013, as amended, in its reasoning toward judgments. For example, even the recent order to publish Matric results in the media lacked judgment and could have been an opportunity to apply POPIA. Instead, the courts have relied on the constitutional right to privacy, weighing them against other rights as the context requires.

### ***What Does This Mean For Us?***

Individuals and companies, as either data subjects or responsible parties, have yet to see how the Act will be interpreted in South Africa. It appears that judgments making use of POPIA are likely to follow from complaints brought to the Information Regulator using the Act's own complaints procedure. The Information Regulator published a set of rules a complainant ought to follow in October 2021. This makes it possible to lodge complaints with the official data protection government body, and this year will likely see a POPIA driven judgment.

### ***The Law***

Section 74 of POPIA under Chapter 10 Enforcement, allows for two circumstances under which a complaint may be brought;

- a) Any party may allege interference with the protection of a data subject's personal information, or
- b) Either a data subject or responsible party may report their grievance with an adjudicator's decision.

Whilst the Act seems to invite all complaints, the Regulator's rules detail who may complain, how they should do so, and where to submit their complaint.

### ***Conclusion***

If you or someone you care about has had their personal information dealt with carelessly, you may have grounds to lodge a complaint with the Information Regulator. Similarly, if you are a data subject or a responsible party processing personal information and you disagree with the decision made by an adjudicator, you have the right to contact the Information Regulator.

Contact an attorney at SchoemanLaw Inc for your POPIA needs!