

## **Update on the draft Code of Conduct for Research and introduction of the ASSAf POPIA Compliance Framework – 29 February 2024**

Dear Stakeholders,

ASSAf would like to thank all stakeholders for their valuable responses and comments in the development of the Code of Conduct for Research, as outlined in Chapter 7 of POPIA.

ASSAf submitted the draft Code to the Information Regulator (the Regulator) in April 2023 for review. The version of the draft Code published in the Government Gazette was declined with feedback. The substantive feedback related more to process and representation, than to the interpretation of the Act in the context of research. The Regulator indicated that the Code should apply exclusively to ASSAf members, and requested further clarification on how ASSAf would enforce the Code. The Regulator did not raise any concerns about the substance of the draft Code. Researchers and research institutions can continue to use the draft Code to guide their compliance with POPIA.

After careful consideration of the Regulator's feedback and extensive discussions with our legal counsel, ASSAf has decided to convert the Code into a voluntary POPIA Compliance Framework<sup>1</sup>. This framework will serve as industry best practice and, if endorsed, would be taken into account by the Regulator when assessing the reasonableness of a responsible party's compliance with POPIA in the context of research.

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<sup>1</sup> A Compliance Framework is a comprehensive guide designed to help organisations meet regulatory requirements, industry standards, and ethical norms. It encompasses policies, procedures, controls, and resources, such as templates or manuals, facilitating legal and operational compliance. These frameworks are crucial for risk management, protecting an organisation's reputation, and avoiding legal penalties and financial losses. They enable systematic management of compliance efforts, making it easier to identify gaps, address vulnerabilities, and ensure continuous adherence to evolving regulations and standards.

### What does this mean?

ASSAf will no longer be bound by the restrictions on what a Code must look like. The Framework will be drafted in a much more user-friendly structure. Key aspects of the Framework include:

- Voluntary commitment: Researchers and research institutions will voluntarily agree to be bound by the Framework.
- Community engagement: The Framework will encourage ongoing dialogue and engagement within the research community.
- Practical content: The Framework can include checklists and template clauses.
- Contractual obligation: Researchers and research institutions who voluntarily sign up will be contractually bound by the Framework.

It is important to note that the Framework is currently under consideration and has not yet been shared with the Regulator. ASSAf intends to present the proposal to the Regulator for discussion. We believe that this engagement will solidify ASSAf's relationship with the Regulator and further establish the Framework as an industry best practice that can be enforced.

To facilitate further discussion and engagement, we will be organising webinars (details to follow) to discuss the Framework with stakeholders and the broader research community.

### Questions and comments

Should you have any questions or comments, please contact Mrs Susan Veldsman at [susan@assaf.org.za](mailto:susan@assaf.org.za) and Mrs Mmaphuthi Rametse at [mmaphuthi@assaf.org.za](mailto:mmaphuthi@assaf.org.za).

Thank you once again for your continued support and collaboration.

Kind Regards

ASSAf POPIA Committee