

SOUL CITY INSTITUTE NPC

POLICIES RELATING TO:

PROTECTION OF PERSONAL INFORMATION ACT, 2013 (“PoPIA”)

And

PROMOTION OF ACCESS TO INFORMATION ACT, 2000 (“PAIA”)

PROTECTION OF PERSONAL INFORMATION ACT, 2013 (“PoPIA”)

1. PURPOSE

The purpose of this Policy is aimed at establishing a framework and guidelines to giving effect to the constitutional right to privacy, by safeguarding and preserving the integrity of personal information collected from natural and juristic persons, in the course and scope of carrying out the objectives of the Soul City Institute for Social Justice NPC (“SCI”).

2. SCOPE AND GUIDELINES

2.1 This Policy shall apply to all employees of the SCI Group.

2.2 An appointed Information Officer shall be appointed by the SCI and responsible for ensuring compliance with the PoPIA and PAIA.

3. LINKAGES

The PoPIA is to be read and complied with in conjunction with the PoPIA Regulations Relating to the Protection of Personal Information, 2018 (“the Regulations”) as well as relevant sections of the PAIA.

https://www.gov.za/sites/default/files/gcis_document/201409/3706726-11act4of2013protectionofpersonalinforcorrect.pdf

<https://www.justice.gov.za/inforeg/docs/20181214-gg42110-rg10897-gon1383-POPRegister.pdf>

https://www.gov.za/sites/default/files/gcis_document/201409/a2-000.pdf

4. OBJECTIVES

- 4.1 To ensure compliance with the PoPIA in respect of obtaining, processing, updating, retention, and destruction of personal information of all data subjects (individuals and juristic persons);
- 4.2 To establish the duties and responsibilities of an Information Officer;
- 4.3 To ensure that the obligations of the SCI and the conditions to ensure compliance with the obligations are established;
- 4.4 To discourage non-compliance by reinforcing the penalties and consequences of non-compliance.

5. GENERAL

- 5.1 PoPIA applies to any public or private body, like SCI, or any other person which, alone or in conjunction with others, determines the purpose of and means for processing personal information (“Responsible Party”/”RP”); and to any person who processes personal information for a Responsible Party in terms of a contract or mandate, without coming under the direct authority of the Responsible Party e.g. a service provider or consultant.

6. OBLIGATIONS OF SCI

The obligations of SCI are as follows:

- 6.1 To only collect information that it needs for a specific purpose;
- 6.2 To apply reasonable security measures to protect the information;
- 6.3 To ensure that the information is relevant and up to date;
- 6.4 To only retain as much information as is needed and only for as long as it is needed;
- 6.5 To allow the data subject of the information to access it upon request.

7. CONDITIONS FOR LAWFUL PROCESSING OF PERSONAL INFORMATION

7.1 Accountability

The Responsible Party (SCI) must ensure that the eight information-processing principles are complied with.

7.2 Processing Limitation

Processing of personal information must be lawful and personal information may only be processed if it is adequate, relevant, and not excessive given the purpose for which it is being processed.

7.3 Purpose Specification

Personal information must be collected for a specific, explicitly defined, and lawful purpose related to a function or activity of the Responsible Party. The Responsible Party must take steps to ensure that the data subject is aware of the purpose for which his/her personal information is being collected.

7.4 Further Processing Limitation

Further processing must be compatible with the purpose for which it was initially collected.

7.5 Information Quality

The Responsible Party must take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary, considering the purposes for which it was collected.

7.6 Openness

Further certain prescribed information must be provided to the data subject by the Responsible Party including what information is being collected, the name and address of the Responsible Party, the purpose for which the information is collected and whether or not the supply of the information by that data subject is voluntary or mandatory.

7.7 Security Safeguards

The Responsible Party must secure the integrity of personal information in its possession or under its control by taking prescribed measures to prevent loss of, damage to or unauthorised destruction of personal information and unlawful access to or processing of personal information.

7.8 Data Subject Participation

A data subject has the right to request a Responsible Party to confirm, free of charge, whether or not the Responsible Party holds personal information about the data subject and request from a Responsible Party the record or a description of the personal information held, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information.

7.8.1 A data subject may request a Responsible Party to -

7.8.1.1 correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, misleading, or obtained unlawfully; or

7.8.1.2 destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain. Please refer to the SCI Document Retention Policy.

8. PROCESSING OF SPECIAL PERSONAL INFORMATION

8.1 Section 26 of POPIA contains a general prohibition on the processing of special personal information such as the religious or philosophical beliefs, race or ethnic origin, trade, union membership, political persuasion, health or sex life or biometric information of a data subject; or the criminal behaviour of a data subject to the extent that such information relates to— the alleged commission by a data subject of any offence; or any proceedings in respect of any offence allegedly committed by a data subject or the disposal of such proceedings.

8.2 The prohibition referred to in 8.1 above does not apply if processing is carried out with the consent of a data subject referred, processing is necessary for the establishment, exercise or defence of a right or obligation in law; processing is necessary to comply with an obligation of international public law; processing is for historical, statistical or research purposes.

9. PROCESSING OF PERSONAL INFORMATION OF CHILDREN

9.1 Section 34 of POPIA contains a general prohibition on processing the personal information of children.

9.2 The prohibition on processing personal information of children, as referred to in section 34, does not apply if the processing is carried out with the prior consent of a competent person; necessary for the establishment, exercise or defense of a right or obligation in law; necessary to comply with an obligation of international public law; for historical, statistical or research purposes.

10. PERSONAL INFORMATION COLLECTED

10.1 Section 10 of POPIA states that “Personal Information may only be processed if, given the purpose for which it is processed, it is adequate, relevant and not excessive. SCI collects and processes personal information pertaining to the type of initiative it is running at the time. The type of information will depend on the need for which it is collected and will be processed for that purpose only. Whenever possible, SCI will inform the data subjects as to the information required and the information deemed optional.

10.2 Examples of personal information SCI collects include, but is not limited to:

The data subject’s name, surname, age, language, gender, LGBTQI status, disability and race and any other information required by the SCI or its affiliates/ suppliers in order to improve the lives and wellbeing of young women and girls in the communities in which they live.

SCI also collects and processes the data subject's personal information to further its goal of achieving substantive gender equality, including in areas of Sexual and Reproductive Health and Rights and the eradication of Gender Based Violence and patriarchy within a culture of human rights.

- 10.3 SCI aims to have SLA agreements in place with all service providers to ensure a mutual understanding with regard to the protection of the personal information in its possession. SCI service providers, suppliers and consultants will be subject to the same regulations as applicable to SCI.

11. USAGE OF PERSONAL INFORMATION

The personal information collected will only be used for the purpose for which it was collected, and may include:

- 11.1 Running programmes/clubs;
- 11.2 Providing aid;
- 11.3 Tracking progress and documenting outcomes and impact of initiatives;
- 11.4 Tracking social development goals;
- 11.5 Reporting to stakeholders and donors;
- 11.6 Conducting research
- 11.7 Collecting and reporting statistics;

12. DISCLOSURE OF PERSONAL INFORMATION

- 12.1 SCI may disclose a data subject's personal information to any of its subsidiaries, joint venture companies and or approved supplier or third-party service providers. SCI has agreements in place to ensure compliance with confidentiality and privacy conditions.
- 12.2 SCI may also share a data subject's personal information with and obtain information about data subjects from third parties for the reasons already noted above.
- 12.3 SCI may also disclose a data subject's information where it has a duty or a right to disclose in terms of applicable legislation, the law, or where it may be deemed necessary in order to protect its rights.

13. SAFEGUARDING PERSONAL INFORMATION

It is a requirement in terms of the PoPIA to adequately protect information collected and the SCI currently has adequate controls and storage facilities to house the information safely. SCI will continuously review its security controls and processes to ensure that personal information is adequately protected.

- 13.1 The Information Officer for SCI is Govindamma Padayachee whose details are available below and who is responsible for the compliance with the conditions of the lawful processing of personal information and other provisions of the PoPIA.
- 13.2 This policy has been put in place throughout SCI and training on this policy and the PoPI Act will be conducted during 2020.
- 13.3 Each new employee will be required to sign an employment contract containing relevant consent clauses for the use and storage of employee information, or any other action so required, in terms of the PoPIA.
- 13.4 Every employee currently employed within SCI will be required to sign an addendum to their employment contracts containing relevant consent clauses for the use and storage of employee information, or any other action so required, in terms of the PoPIA;
- 13.5 SCI archived donor and company information is stored at Bongani Rainmaker Logistics and SCI Head office in Johannesburg which is also governed by the PoPIA, access to retrieve information is limited to authorized personal.
- 13.6 SCI product suppliers and other third-party service providers will be required to sign a service level agreement guaranteeing their commitment to the Protection of Personal Information; this is however an ongoing process that will be evaluated as needed.
- 13.7 All electronic files or data are backed up by Olee Telecoms which is also responsible for system security that protects third party access and physical threats. The IT Division is responsible for Electronic Information Security.

14. INFORMATION OFFICER

14.1 In terms of Section 56 of the PoPIA, read with Section 17 of PAIA, public and private bodies are required to appoint Information Officers. An Information Officer is responsible for ensuring compliance with POPI and PAIA. In addition to encouraging compliance with POPI and PAIA, Information Officers are required to:

- 14.1.1 develop, implement, monitor and maintain a compliance framework;
- 14.1.2 undertake a personal information impact assessment to ensure that adequate measures and standards exist;
- 14.1.3 develop, monitor and maintaining an access to information manual (i.e. a PAIA manual);
- 14.1.4 develop internal measures and systems to process requests for information or access;
- 14.1.5 conduct internal awareness sessions.

15. ACCESS AND CORRECTION OF PERSONAL INFORMATION

- 15.1 Data subjects have the right to access the personal information the SCI holds about them. They also have the right to ask the SCI to update, correct or delete their personal information on reasonable grounds.
- 15.2 Once a data subject or institution objects to the processing of their personal information, the SCI may no longer process said personal information.
- 15.3 The SCI will take all reasonable steps to confirm a data subject's identity before providing details of their personal information or making changes to their personal information.
- 15.4 The details of the SCI's Information Officer and Head Office are as follows:

15.4.1 Information Officer: Phinah Kodisang (CEO)
Telephone Number: (011) 341 0360
E-Mail Address: phinah@soulcity.org.za

15.4.2 Deputy Information Officer: Daisy Padayachee
Telephone: (011) 341 0360
Email address: daisy@soulcity.org.za
Postal: P O Box 1290, Houghton, 2041
Physical: Third Floor, 1 Newtown Avenue, Killarney, 2193

16. PENALTIES AND CONSEQUENCES OF NON-COMPLIANCE

16.1 Punitive measures for non-compliance with the PoPIA could include:

- 16.1.1 A fine between R1 – 10 million; or
- 16.1.2 Imprisonment between 1 – 10 years; or
- 16.1.3 Both a fine and imprisonment

16.2 SCI may also impose internal disciplinary sanctions in accordance with its Disciplinary Policy and/or other policies, which could include dismissal.

17. AMENDMENTS TO THIS POLICY

Amendments to, or a review of this Policy, will take place on an ad hoc basis or at least once a year. Where material changes take place, data subjects will be notified directly, or changes will be stipulated on the SCI website.

PROMOTION OF ACCESS TO INFORMATION ACT, 2000 (“PAIA”)

1. PURPOSE

Pursuant to the provisions of Section 32 of the Constitution of the Republic of South Africa the Promotion of Access to Information Act, of 2000 ("PAIA") was promulgated in order to foster a culture of transparency and accountability in public and private bodies, like the Soul City Institute for Social Justice (“SCI”), by giving effect to the right of access to information, and actively promote a society in which the people of South Africa have effective access to enable them to fully exercise and protect all of their rights as enshrined in the Constitution.

SCOPE AND GUIDELINES

1.1 This Policy shall apply to all employees of the SCI Group.

1.2 An appointed Information Officer shall be appointed by the SCI and responsible for ensuring compliance with the PoPIA and PAIA.

1.3 The requisite manual is to be drafted or reviewed in terms of this policy to give effect hereto.

2. LINKAGES

The PAIA is to be read and complied with in conjunction with the Protection of Personal Information Act, 2018 (“PoPIA”) and Regulations Relating to the Protection of Personal Information, 2018 (“the Regulations”).

3. OBJECTIVES

3.1 To ensure compliance with PAIA in respect of procedure to be followed in allowing or refusing access to information of requesters, as applicable;

3.2 To establish the duties and responsibilities of an Information Officer;

3.3 To discourage non-compliance by reinforcing the penalties and consequences of non-compliance.

4. GENERAL

4.1 PAIA applies to a record of a private body regardless of when the record came into existence.

4.2 A requester must be given access to any record held by the SCI if the following requirements are met:

- 4.2.1 The record is required for the exercise or protection of any right;
- 4.2.2 The requester meets the procedural requirements of the act relating to the request for information;
- 4.2.3 Access to that record is not refused on any ground contemplated in Chapter 4 of Part 3 of PAIA;

4.3 When a public body (e.g. the State) requests access to a record of a private body for the exercise or protection of any rights other than its rights, it must be acting in the public interest.

5. PUBLICATION AND AVAILABILITY OF CERTAIN RECORDS

5.1 Manual

- 5.1.1 Section 51 of PAIA renders mandatory the compiling of a manual by the head of SCI containing detailed information such as:
 - 5.1.1.1 the postal and street address, phone, and fax number and, if available;
 - 5.1.1.2 electronic mail address of the head of the body;
 - 5.1.1.3 a description of the guide referred to in section 10, if available, and how to obtain access to it;
 - 5.1.1.4 the latest notice in terms of section 52(2), if any, regarding the categories of record of the body which are available without a person having to request access in terms of this Act;
 - 5.1.1.5 a description of the records of the body which are available in accordance with any other legislation;
 - 5.1.1.6 sufficient detail to facilitate a request for access to a record of the body, a description of the subjects on which the body holds records and the categories of records held on each subject; and
 - 5.1.1.7 such other information as maybe prescribed.
- 5.1.2 The manual must be regularly updated by the head of the SCI and must be available as prescribed.

5.2 Voluntary disclosure and automatic availability of certain records

- 5.2.1 The head of the SCI may on a voluntary and periodic basis submit to the Minister the categories of records of the private body that are automatically available without a person having to request access in terms of this Act, including such categories available:
 - 5.2.1.1 for inspection in terms of legislation other than PAIA;
 - 5.2.1.2 for purchase or copying from the private body;
 - 5.2.1.3 from the private body free of charge; and

- 5.2.2 how to obtain access to such records.
- 5.2.3 The only fee payable (if any) for access to a record described in a list so published is a prescribed fee for reproduction.
- 5.2.4 The head of the SCI may delete any part of a record contemplated in 5.2.1 which, on a request for access, may or must be refused in terms of Chapter 4 of Part 3 of PAIA.

6. MANNER OF ACCESS

- 6.1 The request for access to a record of the SCI must be made in the prescribed form and addressed to the SCI at its elected address, fax number or via email.
- 6.2 The form for a request for access prescribed must at least require the requester -
 - 6.2.1 to provide sufficient particulars to enable the head of the SCI to identify:
 - 6.2.1.1 the record or records requested; and
 - 6.2.1.2 identify the requester
 - 6.3 to indicate which form of access is required;
 - 6.4 to specify a postal address or fax number of the requester in the republic;
 - 6.5 to identify the right the requester is seeking to exercise or protect and provide an explanation as to why the requested record is required for the exercise or protection of that right;
 - 6.6 if, in addition to a written reply, the requester wishes to be informed of the decision on the request in any other manner, to state that manner and the necessary particulars to be so informed; and
 - 6.7 if the request is made on behalf of a person, to submit proof of the capacity in which the requester is making the request, to the reasonable satisfaction of the head of the SCI.

7. FEES

- 7.1 The head of the SCI must give notice of the prescribed request fee to be paid to a requester of a record, other than a personal requester (a person who is requesting their personal record), before the request can be attended to.
- 7.2 The content of the notice and the procedure around the payment of fees as per section 54 of PAIA may be detailed in the manual of the SCI.

8. LOST RECORDS OR RECORDS THAT DO NOT EXIST

- 8.1 If all reasonable steps have been taken to find a record and there are reasonable grounds to believe that record cannot be found or does not exist, then the head of the SCI must by affidavit or affirmation, notify the requester that access to that record cannot be granted.

8.2 The affidavit or affirmation must give a full account of all steps taken to find the record or determine whether it in fact exists and must include all communication with every person who conducted the search on behalf of the head.

8.3 In terms of PAIA, this constitutes a decision to refuse a request for access to the record.

8.4 Should the record be found after the notice has been sent, the requester must be given access to the record, unless such access is refused on a ground of refusal in terms of Chapter 4 of Part 3 of PAIA.

9. DECISION ON REQUEST

9.1 The head of the SCI is to decide as to whether to grant a request for access to a record and notify the requester thereof as soon as reasonably possible but within 30 days after the request has been received.

9.2 If the request for access to a record is granted, notice must be given to the requester in the prescribed manner.

9.3 If the request for access to a record is refused, notice must be given to the requester in the prescribed manner and:

9.3.1 state adequate reasons for the refusal, including the provisions of this Act relied on;

9.3.2 exclude, from any such reasons, any reference to the content of the record; and

9.3.3 state that the requester may lodge an application with a court against the refusal of the request, and the procedure (including the period) for lodging the application.

10. GROUNDS FOR REFUSAL OF ACCESS TO RECORDS

10.1 Chapter 4 of Part 3 of PAIA stipulates the various ground for refusal and limitations on each ground which include:

10.1.1 protection of privacy of third party who is natural person

10.1.2 protection of commercial information of third party

10.1.3 protection of certain confidential information of third party

10.1.4 protection of safety of individuals, and protection of property

10.1.5 protection of records privileged from production in legal proceedings

10.1.6 Commercial information of private body

10.1.7 protection of research information of third party, and protection of research information of private body

10.2 Mandatory disclosure in public interest – despite any other provision of Chapter 4, the head of a private body must grant a request for access to a record of the body contemplated in section 63(1), 64(1), 65, 50, 66(a) or (b), 67, 68(1) or 69(1) or (2) if—

10.2.1 the disclosure of the record would reveal evidence of—

10.2.1.1 a substantial contravention of, or failure to comply with, the law; or

10.2.1.2 imminent and serious public safety or environmental risk; and

10.2.2 the public interest in the disclosure of the record clearly outweighs the harm contemplated in the provision in question.

11. INFORMATION OFFICER

In terms of Section 56 of the PoPIA, read with Section 17 of PAIA, public and private bodies are required to appoint Information Officers. An Information Officer is responsible for ensuring compliance with PoPIA and PAIA. In addition to encouraging compliance with PoPIA and PAIA, Information Officers are required to:

- 11.1.1 develop, implement, monitor, and maintain a compliance framework;
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- 11.1.3 develop, monitor and maintaining an access to information manual (i.e. a PAIA manual);
- 11.1.4 develop internal measures and systems to process requests for information or access;
- 11.1.5 conduct internal awareness sessions.

12. OFFENCES

- 12.1 A person who with intent to deny a right of access in terms of this Act—
- 12.1.1 destroys, damages, or alters a record;
 - 12.1.2 conceals a record; or
 - 12.1.3 falsifies a record or makes a false record;
- commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding two years.
- 12.2 In addition, the SCI may also impose internal disciplinary sanctions in accordance with its Disciplinary Policy and/or other policies, which could include dismissal and/or criminal charges.

Policy approval:



Nomfuneko Xolo
Chairperson: Audit, Finance & Risk Committee