

Hospitality Pro Recruitment (Pty) Ltd

(herein after referred to as the “company”

CODE OF CONDUCT:

Lawful Processing of Personal Information in terms of the PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO. 4 OF 2013)

INTRODUCTION

Approach to compliance: the company formalised their POPI Act compliance project, identified their relevant stakeholders and appointed an information Officer. (Mr. Darryl Breytenbach)

The company ensured the alignment between their Promotion of Access to Information Act (PAIA) and the POPI Information Officer (IO).

BACKGROUND

The company is duly registered in terms of Companies Act 71 of 2008.

At the time of the submission of this Code of Conduct to the Information Regulator for consideration and issue of the Code of Conduct the company only has one responsible representative. The Information Officer process all the company consumer information in a manner that promotes confidentiality, accuracy and relevancy in accordance with international best practice and relevant legislation.

The purpose of this code is to establish a voluntarily accountability tool and to promote transparency for relevant bodies on how the company attend to personal information processed. This code does not replace the relevant provisions in POPIA but operates in support of the requirements in POPIA. The code does limit a data subject's right to privacy, which can only be done as provided for in POPIA.

CODE OF CONDUCT in terms of Section 65 of the Protection of

Personal Information Act, 2013 (No.4 of 2013)

It has as its primary purpose the advancement of the social and economic welfare of the company stakeholders and promotes a fair, transparent, competitive, sustainable, responsible, efficient, effective and accessible market

and industry; read with the Information Regulator's practise notes and amendments thereof, requires the reporting of consumer information in a manner that protects the confidentiality and integrity of the information.

The Protection of Personal Information Act, 4 of 2013 ("PoPIA") stipulates as among its primary purposes; giving effect to the constitutional right of privacy, the establishment of the manner in which personal information may be processed by prescribing minimum threshold requirements for the lawful processing of personal information and providing remedies to persons whose personal information is not lawfully processed in accordance with PoPIA.

The company recognises that the provisions of the PoPIA governing the processing of information, and in particular confidential information (as defined in the Regulations), which falls within the remit of the Information Regulator, the Code of Conduct having been expressly compiled in terms of PoPIA to address this stipulation. These provisions are subject to the compliance procedures governing:

1. "Enforcement" in Chapter 10 and "Offences, Penalties and Administrative Fines" in Chapter 11 of PoPIA.
2. In addition to the conditions governing the lawful processing of personal information stipulated in PoPIA, the company is also subject to the restrictions contained in in terms of Companies Act 71 of 2008, read with PoPIA Regulations, governing the processing of consumer information.
3. The company will, in the drafting of and applying to the Regulator for the issue of this Code of Conduct, consult with the Information Regulator, with a view to promoting compliance with PoPIA and a consistency in the approach of its members in this regard.

PURPOSE

The purpose of this Code of Conduct is to:

1. promote appropriate practices by company employees in governing the processing of personal information;
2. encourage the establishment of appropriate agreements between the company, its employees and third parties, regulating the processing of personal information as required in PoPIA and dictated by good business practice.

3. A further purpose of this Code of Conduct is to establish procedures for employees to be guided in their interpretation of principally PoPIA, but also other law or practices governing the processing of personal information

SCOPE

This Code of Conduct governs:

1. the processing of personal information (including consumer and stakeholder information) in compliance with PoPIA;
2. where appropriate, agreements that may need to be concluded between company and third parties promoting, and to the extent possible ensuring, that personal information (including consumer and stakeholders information) is processed in compliance with PoPIA;
3. the enforcement by the PoPIA of the provisions of this Code of Conduct.

CONDITIONS FOR LAWFUL PROCESSING OF PERSONAL INFORMATION

1. PoPIA takes precedence over any other legislation that regulates the processing of personal information where that legislation is materially inconsistent with an object, or a specific provision of PoPIA, unless the other legislation regulates the processing more extensively than the conditions for lawful processing of personal information, in which event the more extensive provisions will prevail.
2. Chapter 3 of PoPIA stipulates the conditions for lawful processing of personal information. This Code of Conduct incorporates these conditions or set out obligations that provide a functional equivalent to the obligations established in the conditions.
Personal information” means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to–
 - (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic, or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language, and birth of the person;
 - (b) information relating to the education or the medical, financial, criminal or employment history of the person;

- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier, or other assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views, or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;

3. In considering the conditions for the lawful processing of personal information the separate conditions are not considered in isolation. They are regarded as a constellation of conditions that interact with and may influence the interpretation of the other conditions as circumstances may dictate.

For example: The purpose of collecting and processing personal information will impact on whether personal information is adequate, relevant and not excessive and whether the processing of the personal information is justified. It may also impact on whether the personal information must be collected directly from a data subject and, depending on the scope of the initial purpose, whether further processing is compatible and permissible in terms of PoPIA. The Purpose specification may also influence the period for which personal information may lawfully be retained.

4. It must be noted that while the general principles of processing of personal information stipulated in PoPIA apply to all personal information, the company shall retain its authority to deal with and the secure filing of consumer and stakeholders information, inferences that may be drawn when no consumer information is available and the reporting of information.
5. The company will retain records for an industry required period of maximum 24 months: personal information will be destroyed, deleted or 'de-identified' as soon as the purpose for collecting the information has been achieved. However, a record of the information will be retained if an organisation has used it to make a decision about the data subject.

6. The provisions governing the processing of information in the company, while not as extensive as PoPIA, are not inconsistent with PoPIA and this regard will comply with the conditions for the lawful processing of personal information contained in PoPIA.
7. The company will, from time-to-time, audit the processes used to collect, record, store, disseminate and destroy personal information: in particular, to ensure the integrity and safekeeping of personal information in the company possession or under control. The company has taken steps to prevent the information being lost or damaged, or unlawfully accessed.
8. The company shall maintain steps to notify the 'data subject': i.e. the individual whose information is being processed, that he / she has the right to know this is being done and why. The data subject will be told the name and address of the company processing their information. In addition, he / she will be informed as to whether the provision of the information is voluntary or mandatory.
9. The company will accommodate data subject requests: data subjects are allowed and invited to make certain requests, free of charge, to the company in respect of personal information. For instance, the data subject has the right to know the identity of all third parties that have had access to their information. A data subject can also ask for a record of the information concerned.

PROCESSING LIMITATION

Aside from lawfulness, which would include the sharing of personal information for the purposes of assessing applications and in the furtherance of the purposes of the company, the person processing the information (this is not restricted to the responsible party) must ensure that it is processed in a reasonable manner so as not to infringe the privacy of the data subject.

Reasonableness assumes that all of the conditions for lawful processing are adhered to.

Further, that the data subject has knowledge of:

- a) who is processing his or her personal information;
- b) the intended use of the personal information; and
- c) can establish the manner in which the personal information will be handled and secured.

A data subject may reasonably expect that personal information will not be processed where the processing is unjustified or where it may have an unsubstantiated negative effect on the data subject.

If the company process personal information in compliance with PoPIA, the processing will be lawful, reasonable and will not infringe the privacy of the data subject.

ACCOUNTABILITY

In processing personal information the company will establish in what circumstances they act as responsible parties and in what circumstances they act as operators.

By definition a “responsible party” is the person who alone or in conjunction with others, determines the purpose of and means of processing personal information.

By definition an “operator” is a 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.

In processing personal information, whether as a responsible party or an operator, the company will comply with the conditions for the lawful processing of personal information. The distinction lies in the fact that the responsible party is liable to the data subject and must ensure that all of the conditions of lawful processing of personal information and measures that give effect to these conditions are complied with.

Specifically with regard to Security Safeguards in Condition 7, which requires that the responsible party must conclude a written contract with the operator and ensure that the operator establishes and maintains the security measures necessary to safeguard the integrity and confidentiality of personal information.

The company will ensure that those persons responsible for complying of the obligations in terms of PoPIA (including the Information Officer) are appropriately trained.

COMPLAINTS HANDLING

The purpose of this complaints handling procedure is to:

1. ensure that the prescribed standard procedure is complied with;
2. ensure that complainants are aware of the procedure that will be utilised in handling complaints;

3. ensure that the procedure is fair, transparent, impartial and responsive;
4. enable the expedient resolution of complaints;
5. promote effective decision making

The complaints process is issued under Section 60 of POPIA and serves as practical guide to employees as well:

1. Listen to the complaint. Accept ownership of the problem. Apologise. Thank the aggrieved party for bringing the problem to your attention.
2. Be understanding. Remember, the person is complaining about your business, not about you personally. Where possible, let the aggrieved party know that you will take responsibility for resolving the PoPIA problem.
3. Record the complaint. Detail the complaint so that you and other employee/s know exactly what the problem is. Have one place to record complaints and the actions taken to resolve them. This lets you see any patterns emerge over time. Complaints about PoPIA process might indicate that changes need to be made. IO can also see what was done to resolve complaints in the past.
4. Make sure you have all the facts. Check that you understand the details while the person is making the complaint and ask questions if necessary. This will also let them know that you are taking their complaint seriously.
5. Discuss options for fixing the problem. At the very least, a sincere apology costs nothing. But think about what this complaint could cost you in lost business or a complaint without limiting or restricting the provisions of Chapter 10 of POPIA.
6. Follow up. Record the aggrieved party's contact details and follow up to see if they were happy with how their complaint was handled. Let them know what you are doing to avoid the problem in the future.
7. If the complaint remains unsolved the code provides for the appointment of an independent adjudicator by the company. All the required information and details in terms of the complaint will be provided to the independent adjudicator.
8. If the responsible party or data subject is aggrieved by the determination, including any declaration, order or direction that is included in the

determination, made by the adjudicator after having investigated a complaint relating to the protection of personal information under this code of conduct, he / she may then submit a complaint in terms of section 74(2) with the Regulator, against the determination upon payment of a prescribed fee.

REVIEWING, VARYING AND REVOCATION OF THE APPROVED CODE OF CONDUCT

The company and IO accept that:

1. The Regulator may on its own initiative review the operation of the approved code within a five (5) year period or as and when deemed necessary.
2. In deciding whether to consult regarding a variation, the Regulator may consider the extent to which the company and / or IO was bound by this code and affected persons have been afforded the opportunity to comment on the variation.
3. The Regulator may revoke the approved code or any amendments thereof and thereafter remove same from the register. Provided that in deciding whether to revoke the approved code, the Regulator will consider the following:
 - 3.1 a change in industry practices, technology or expectations of affected persons,
 - 3.2 that may impact the effective operation of a code; or
 - 3.3 the lack of compliance with the approved code.

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