



PROTECTION OF PERSONAL INFORMATION MANUAL

TAWANA
LEARNERSHIP ORGANISATION

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1. INTERPRETATION

- 1.1. In this document, clause headings are for convenience and shall not be used in its interpretation unless the context clearly indicates a contrary intention.
- 1.2. An expression which denotes:
 - 1.2.1. Any gender includes the other genders;
 - 1.2.2. A natural person includes an artificial or juristic person and vice versa;
 - 1.2.3. The singular includes the plural and vice versa;
- 1.3. The following expressions shall bear the meanings assigned to them below, and cognate expressions carry corresponding meanings:
 - 1.3.1. **"Information Officer"** - the designated Information Officer/s or head of the body, as described in this manual, responsible for discharging the duties and responsibilities assigned to the Information Officer as prescribed in terms of PAIA and POPIA;
 - 1.3.2. **"This Document"** – this document together with all of its annexures, as amended from time to time;
 - 1.3.3. **"The Company"** – Tawana Learnership Organisation NPC (Reg No: 2019/429492/08);
 - 1.3.4. **"PAIA"** – Promotion of Access to Information Act No. 2 of 2000, as amended from time to time including the regulations promulgated in terms of the PAIA;
 - 1.3.5. **"POPIA"** – Protection of Personal Information Act No. 4 of 2013, as amended from time to time including the regulations promulgated in terms of the POPIA;

- 1.4. any reference to any statute, regulation or other legislation shall be a reference to that statute, regulation, laws or other legislation as at the signature date, and as amended or substituted from time to time;
- 1.5. if any provision in a definition is a substantive provision conferring a right or imposing an obligation on any Party, then notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this document;
- 1.6. where any term is defined within a particular clause other than this, that term shall bear the meaning ascribed to it in that clause wherever it is used in this document;
- 1.7. where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day. If the last day of such number so calculated falls on a day which is not a business day, the last day shall be deemed to be the next succeeding day which is a business day;
- 1.8. any reference to days (other than a reference to business days), months or years shall be a reference to calendar days, months or years, as the case may be;
- 1.9. the use of the word "including" followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it, and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific example/s;
- 1.10. insofar as there is a conflict in the interpretation of or application of this document and PAIA or POPIA, the legislation shall prevail;
- 1.11. this document does not purport to be exhaustive of or comprehensively deal with every procedure provided for in PAIA or POPIA. A requester is advised to familiarise his/her/itself with the provisions of PAIA and POPIA before lodging any request with the company.

2. BACKGROUND

- 2.1. The Promotion of Access to Information Act, No 2 of 2000 (“the Act”) was enacted on 3 February 2000, giving effect to the constitutional right in terms of section 32 of the Bill of Rights contained in the Constitution of the Republic of South Africa 109 of 1995 (“the Constitution”) of access to any information held by the state and any information that is held by another person and that is required for the exercise or protection of any rights.
- 2.2. In terms of Section 51 of the Act, all Private Bodies are required to compile and Information Manual (“PAIA Manual”).
- 2.3. Where a request is made in terms of the Act, the body to whom the request is made is obliged to release the information, subject to applicable legislative and / or regulatory requirements, except where the Act expressly provides that the information may or must not be released. The Act sets out the relevant procedure to be adopted when requesting information from a Public or a Private Body.

3. PURPOSE

- 3.1. This PAIA Manual is intended to ensure that Tawana Learnership Organisation NPC complies with the Act and to foster a culture of transparency and accountability within Tawana Learnership Organisation NPC by giving effect to the right to information that is required for the exercise or protection of any right and to actively promote a society in which the people of South Africa have effective access to information to enable them to exercise and protect their rights.
- 3.2. In order to promote effective governance of private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights in terms of the Act in order for them to exercise their rights in relation to public and private bodies.
- 3.3. Section 9 of the Act recognises that the right to access information cannot be unlimited and should be subject to justifiable limitations, including, but not limited to:

- 3.3.1. Limitations aimed at the reasonable protection of privacy;
 - 3.3.2. Commercial confidentiality; and
 - 3.3.3. Effective, efficient and good governance;
- 3.4. And in manner which balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.
- 3.5. This PAIA Manual complies with the requirements of Section 10 of the Act and recognises that upon commencement of the Protection of Personal Information Act 4 of 2013, that the appointed Information Regulator will be responsible to regulate compliance with the Act and its Regulations by Public and Private Bodies.

4. CONTACT DETAILS OF THE OPERATIONS DIRECTOR

4.1. The Operations Director

Name	Contact Details
Ms Nadia van Kaam	Telephone no: (010) 900 0736 Email: nadia@tawana.education

4.2. Tawana Learnership Organisation NPC Office

Physical Address	148 Pritchard Street Johannesburg North Randburg 2188
Postal Address	PO Box 108 Jukskei Park 2153

5. INFORMATION OFFICER

- 5.1. The Act prescribes the appointment of an Information Officer for Public Bodies where such Information Officer is responsible to, inter alia, assess requests for access to information. The Head of a Private Body fulfils such a function in terms of section 51. Tawana Learnership Organisation NPC has opted to appoint an Information Officer to assess requests for access to information as well as to oversee its required functions in terms of the Act.
- 5.2. The Information Officer appointed in terms of the Act also refers to the Information Officer as referred to in the Protection of Personal Information Act 4 of 2013. The Information Officer oversees the functions and responsibilities as required for in terms of both this Act as well as the duties and responsibilities in terms of section 55 of the Protection of Personal Information Act 4 of 2013 after registering with the Information Regulator.

6. GUIDE OF SA HUMAN RIGHTS COMMISSION

- 6.1. The South African Human Rights Commission has compiled a Guide as required in terms of Section 10 of the Act. The Guide contains such information as may reasonably be required by a person who wishes to exercise any right contemplated in the Act and accordingly it:
- 6.1.1. Contains information on understanding and how to use the Act;
 - 6.1.2. Includes: The objectives of the Act; Particulars of every Public and Private Body; The manner and form for requests; Contents of the Regulations promulgated under the Act;
 - 6.1.3. Will be updated and published every two years.
- 6.2. The Guide is available in all the official languages of the Republic of South Africa.

6.3. Any enquires regarding this Guide should be directed to:

The South African Human Rights Commission, at:

PAIA Unit (The Research and Documentation Department), Private Bag X2700, Houghton, 2041

Telephone Number: (011) 877-3803

Fax Number: (011) 403-0625 Website: www.sahrc.org.za

E-mail Address: section51.paia@sahrc.org.za

6.4. The Guide is available for inspection, inter alia, at the offices of the Human Rights Commission at 29 Princess of Wales Terrace, corner York and St. Andrews Street, Parktown and on its website at www.sahrc.org.za.

7. RECORDS AVAILABLE ON REQUEST TO ACCESS IN TERMS OF THE ACT

7.1. Records held by Tawana Learnership Organisation NPO.

7.1.1. This clause serves as a reference to the categories of information that Tawana Learnership Organisation NPC holds. The information is classified and grouped according to records relating to the following subjects and categories:

7.1.1.1. Personnel Records

7.1.1.1.1. Personal records provided by personnel.

7.1.1.1.2. Records provided by a third party relating to personnel.

7.1.1.1.3. Conditions of employment and other personnel-related contractual and quasi-legal records.

7.1.1.1.4. Internal evaluation records and other internal records.

7.1.1.1.5. Correspondence relating to personnel.

7.1.1.1.6. Training schedules and material.

7.1.1.1.7. “Personnel” refers to any person who works for, or provides services to or on behalf of Tawana Learnership Organisation NPC, and receives or is entitled to receive remuneration and any other person who assists in carrying out or conducting the business of Tawana Learnership Organisation NPC. This includes, without limitation, directors (executive and non-executive), all permanent, temporary, and part-time staff, as well as contract workers and volunteers.

7.1.1.2. Donor / Corporate Donor / Institution Related Records

7.1.1.2.1. Records provided by a donor to a third party acting for or on behalf of Tawana Learnership Organisation NPC.

7.1.1.2.2. Records provided by a third party.

7.1.1.2.3. Records generated by or within Tawana Learnership Organisation NPC relating to its donors, including transactional records.

7.1.1.2.4. A “donor, corporate donor, or institution” refers to any natural or juristic entity that provides financially to Tawana Learnership Organisation NPC.

7.1.1.3. Beneficiary Records

- 7.1.1.3.1. Beneficiary records collected by Tawana Learnership Organisation NPC.
- 7.1.1.3.2. Beneficiary records provided by a third party.
- 7.1.1.3.3. Correspondence relating to beneficiaries.
- 7.1.1.3.4. Training schedules and material.
- 7.1.1.3.5. “Beneficiary” refers to any person or institution that has received a service from Tawana Learnership Organisation NPC as relates to Tawana Learnership Organisation NPC’s programmes.

7.1.1.4. Private Body Records

- 7.1.1.4.1. Financial records.
- 7.1.1.4.2. Operational records.
- 7.1.1.4.3. Databases.
- 7.1.1.4.4. Information Technology.
- 7.1.1.4.5. Marketing records.

7.1.1.5. Internal Correspondence

- 7.1.1.5.1. Statutory records.

7.1.1.5.2. Internal Policies and Procedures.

7.1.1.5.3. Records held by officials of the institution.

7.1.1.5.4. These records include, but are not limited to, the records which pertain to Tawana Learnership Organisation NPC's own affairs.

7.1.1.6. Other Party Records

7.1.1.6.1. Personnel, donor or private body records which are held by another party, as opposed to the records held by Tawana Learnership Organisation NPC itself.

7.1.1.6.2. Records held by Tawana Learnership Organisation NPC pertaining to other parties, including without limitation, financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about the contractors/suppliers.

7.1.1.6.3. Tawana Learnership Organisation NPC may possess records pertaining to other parties, including without limitation contractors, suppliers, donors, beneficiaries, and service providers. Alternatively, such other parties may possess records that can be said to belong to Tawana Learnership Organisation NPC.

7.1.2. Note that the accessibility of the records may be subject to the grounds of refusal set out in this PAIA Manual. Amongst others, records deemed confidential on the part of a third party, will necessitate permission from the third party concerned, in

addition to normal requirements, before Tawana Learnership Organisation NPC will consider access.

8. RECORDS AVAILABLE WITHOUT A REQUEST TO ACCESS IN TERMS OF THE ACT

- 8.1. Records of a public nature, typically those disclosed on the Tawana Learnership Organisation NPC website and in its various annual reports, may be accessed without the need to submit a formal application.
- 8.2. Other non-confidential records, such as statutory records maintained at CIPC, may also be accessed without the need to submit a formal application, however, please note that an appointment to view such records will still have to be made with the Information Officer.

9. RECORDS AVAILABLE IN TERMS OF ANY OTHER LEGISLATION

- 9.1. Where applicable to its operations, Tawana Learnership Organisation NPC also retains records and documents in terms of the legislation listed below. Unless disclosure is prohibited on terms of legislation, regulations, contractual agreements or otherwise, records that are required to be made available in terms of these acts shall be made available for inspection by interested parties in terms of the requirements and conditions of the Act; the below mentioned legislation, and applicable internal policies and procedures, should such interested parties be entitled to such information. A request to access must be done in accordance with the prescriptions of the Act.

- 9.1.1. Basic Conditions of Employment Act No. 75 of 1997;

- 9.1.2. Broad-Based Black Economic Empowerment Act, 2003

- 9.1.3. Business Act No. 71 of 1991;

- 9.1.4. Children's Act No. 38 of 2005
- 9.1.5. Companies Act No. 71 of 2008;
- 9.1.6. Compensation of Occupational Injuries and Diseases Act No. 130 of 1993;
- 9.1.7. Constitution of the Republic of South Africa 2008;
- 9.1.8. Electronic Communications Act No. 36 of 2005;
- 9.1.9. Electronic Communications and Transactions Act No, 25 of 2002;
- 9.1.10. Employment Equity Act No. 55 of 1998;
- 9.1.11. Estate Duty Act 45 of 1955
- 9.1.12. Income Tax Act No. 58 of 1962;
- 9.1.13. Labour Relations Act No. 66 of 1995;
- 9.1.14. Non-profit Organisations Act 71 of 1997
- 9.1.15. Occupational Health and Safety Act NO. 85 of 1993;
- 9.1.16. Promotion of Access to Information Act No. 2 of 2000;
- 9.1.17. Protection of Personal Information Act No. 4 of 2013;
- 9.1.18. Security Transfer Act 25 of 2007
- 9.1.19. Skills Development Levies Act No. 9 of 1999;

9.1.20. Tax administrations Act 28 of 2011

9.1.21. Transfer Duty Act 40 of 1949

9.1.22. Unemployment Insurance Act No. 30 of 1966;

9.1.23. Value Added Tax Act 89 of 1991.

9.2. It is further recorded that the accessibility of documents and records may be subject to the grounds of refusal set out in this PAIA Manual.

10. REQUEST PROCEDURE

10.1. Procedural Requirements

10.1.1. The requestor must comply with all the procedural requirements contained in the Act relating to the request for access to a record.

10.1.2. The requester must complete the prescribed form enclosed herewith and submit same as well as payment of a request fee and a deposit (if applicable) to the Information Officer or the Deputy Information Officer at the postal or physical address, fax number or electronic mail address as noted in clause 3 above.

10.1.3. The prescribed form must be filled in with sufficient information to enable the Information Officer to identify:

10.1.3.1. the record or records requested; and

10.1.3.2. the identity of the requestor

- 10.1.4. The requestor should indicate which form of access is required and specify a postal address or fax number of the requestor in the Republic;
- 10.1.5. The requester must state that he / she requires the information in order to exercise or protect a right, and clearly state what the nature of the right is so to be exercised or protected. The requestor must clearly specify why the record is necessary to exercise or protect such a right (section 53(2)(d)).
- 10.1.6. Tawana Learnership Organisation NPC will process the request within 30 (thirty) days, unless the requestor has stated special reasons to the satisfaction of the Information Officer that circumstances dictate that the above time periods not be complied with.
- 10.1.7. The requestor shall be advised whether access is granted or denied in writing. If, in addition, the requestor requires the reasons for the decision on any other manner, the requestor will be obliged to state which manner and the particulars required.
- 10.1.8. If a request is made on behalf of another person, then the requester must submit proof of the capacity in which the requestor is making the request to the reasonable satisfaction of the Information Officer (section 53(2)(f)).
- 10.1.9. If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.
- 10.1.10. The requestor must pay the prescribed fee before any further processing can take place.
- 10.1.11. All information as listed in clause 9 herein should be provided and failing which the process will be delayed until the required information is provided. The prescribed time periods will not commence until the requestor has furnished all the necessary and required information. The Information Officer shall sever a record, if possible,

and grant only access to that portion requested and which is not prohibited from being disclosed.

11. REFUSAL OF ACCESS TO RECORDS

11.1. Grounds to Refuse Access

11.1.1. A Private Body such as Tawana Learnership Organisation NPC is entitled to refuse a request for information.

11.1.1.1. The main grounds for Tawana Learnership Organisation NPC to refuse a request for information relates to the:

11.1.1.1.1. mandatory protection of the privacy of a third party who is a natural person or a deceased person (section 63) or a juristic, as included in the Protection of Personal Information Act 4 of 2013, which would involve the unreasonable disclosure of personal information of that natural or juristic person;

11.1.1.1.2. mandatory protection of personal information and for disclosure of any personal information to, in addition to any other legislative, regulatory or contractual agreements, comply with the provisions of the Protection of Personal Information Act 4 of 2013;

11.1.1.1.3. mandatory protection of the commercial information of a third part (section 64).

- 11.1.1.1.4. mandatory protection of confidential information of third parties (section 65) if it is protected in terms of any agreement;
 - 11.1.1.1.5. mandatory protection of the safety of individuals and the protection of property (section 66);
 - 11.1.1.1.6. mandatory protection of records which would be regarded as privileged in legal proceedings (section 67).
- 11.1.2. Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused.
- 11.1.3. All requests for information will be assessed by their own merits and in accordance with the applicable legal principles and legislation.
- 11.1.4. If a requested record cannot be found or if the record does not exist, the Information Officer shall, by way of an affidavit or affirmation, notify the requester that it is not possible to give access to the requested record. Such a notice will be regarded as a decision to refuse a request for access to the record concerned for the purposes of the Act. If the record should later be found, the requestor shall be given access to the record in the manner stipulated by the requester in the prescribed form, unless the Information Officer refuse access to such record.

12. REMEDIES AVAILABLE WHEN TAWANA LEARNERSHIP ORGANISATION NPC REFUSES A REQUEST

12.1. Internal Remedies

- 12.1.1. Tawana Learnership Organisation NPC does not have an internal appeal procedure. The decision made by the Information Officer is final. Requestors will have to exercise such external remedies at their disposal if the request for

information is refused, and the requestor is not satisfied with the answer supplied by the Information Officer.

12.2. External Remedies

- 12.2.1. A requestor that is dissatisfied with the Information Officer's refusal to disclose information, may within 30 (thirty) days of the notification of the decision, apply to the Court for relief.
- 12.2.2. A third party dissatisfied with the Information Officer's decision to grant a request for information, may within 30 (thirty) days of the notification of the decision, apply to the Court for relief.
- 12.2.3. For purposes of the Act, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status and a Magistrate's Court designated by the Minister of Justice and Constitutional Development, and which is presided over by a designated Magistrate.

13. ACCESS TO RECORDS HELD BY TAWANA LEARNERSHIP ORGANISATION NPC

13.1. Prerequisites for Access by Personal/Other Requester

- 13.1.1. Records held by Tawana Learnership Organisation NPC may be accessed by requests only once the prerequisite requirements for access have been met.
- 13.1.2. A requestor is any person making a request for access to a record of Tawana Learnership Organisation NPC. There are two types of requestors:

13.1.2.1. Personal Requester

13.1.2.1.1. A personal requester is a requester who is seeking access to a record containing personal information about the requester.

13.1.2.1.2. Tawana Learnership Organisation NPC will voluntarily provide the requested information or give access to any record with regard to the requester's personal information. The prescribed fee for reproduction of the information requested will be charged.

13.1.2.2. Other Requester

13.1.2.2.1. This requester (other than a personal requester) is entitled to request access to information on third parties.

13.1.2.2.2. In considering such a request, Tawana Learnership Organisation NPC will adhere to the provisions of the Act. Section 71 requires the Information Officer take all reasonable steps to inform a third party to whom the requested record relates of the request, informing him / her / that he / she may make a written or oral representation to the Information Officer why the request should be refused or, where required, give written consent for the disclosure of the Information.

13.1.2.2.3. Tawana Learnership Organisation NPC is not obliged to voluntarily grant access to such records. The requestor must fulfil the prerequisite requirements, in accordance with the requirements of the Act and as stipulated in Chapter 5; Part 3, including the payment of a request and access fee.

14. FEES

14.1. Fees Provided by the Act

14.1.1. The Act provides for two types of fees, namely:

14.1.1.1. A request fee, which is a form of administration fee to be paid by all requesters except personal requestors, before the request is considered. The fee is not refundable; and

14.1.1.2. An access fee, which is paid by all requestors in the event that a request for access is granted. This fee is inclusive of costs involved by the Private Body in obtaining and preparing a record for delivery to the requester.

14.1.2. When the request is received by the Information Officer such officer shall by notice require the requestor, other than a personal requestor, to pay the prescribed request fee, before further processing of the request (section 54(1)).

14.1.3. If the search for the record has been made and the preparation of the record for disclosure, including arrangement to make it available in the requested form, required more than the hours prescribed in the regulations for this purpose, the Information Officer shall notify the requestor to pay, as a deposit, the prescribed portion of the access fee which would be payable if the request if granted.

14.1.4. The Information Officer shall withhold a record until the requester has paid the fees as indicated below.

14.1.5. A requestor whose request for access has been granted, must pay an access fee that is calculated to include, where applicable, the request fee, the process fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the request form.

14.1.6. If a deposit has been paid in respect of request for access, which is refused, then the Information Officer concerned must repay the deposit to the requester.

15. REPRODUCTION FEES

15.1. Where Tawana Learnership Organisation NPC has voluntarily provided the Minister with a list of categories of records that will automatically be made available to any person requesting access thereto, the only charge that may be levied for obtaining such records, will be a fee for reproduction of the record in question.

Reproduction of Information Fees	Fees to be Charged
Information in an A4 size page photocopy or part thereof	R1.10
A printed copy of an A4 size page or part thereof	R0.17
A copy in a computer-readable format, for example: Compact disc	R70.00
A transcript of visual images, in an A4 size page or part thereof	R40.00
A copy of visual images	R60.00
A transcription of an audio record for an A4 size page or part thereof	R20.00
A copy of an audio record	R30.00

15.2. Request Fees

15.2.1. Where a requestor submits a request for access to information held by an institution on a person other than the requestor himself/herself, a request fee in the

amount of R50.00 is payable up-front before the institution will further process the request received.

15.3. Access Fees

15.3.1. An access fee is payable in all instances where a request for access to information is granted, except those instances where payment of an access fee is specially excluded in terms of the Act, or an exclusion is determined by the Minister in terms of Section 54(8).

15.3.2. The applicable access fees which will be payable are:

Access of Information Fees	Fees to be Charged
Information in an A4 size page photocopy or part thereof	R1.10
A printed copy of an A4 size page or part thereof	R0.17
A copy in a computer-readable format, for example: Compact disc	R70.00
A transcript of visual images, in an A4 size page or part thereof	R40.00
A copy of visual images	R60.00
A search for a record that must be disclosed *Per hour or part of an hour reasonably required for such search.	R30.00*

Where a copy of a record needs to be posted the actual postal fee is payable.

15.4. Deposits

- 15.4.1. Where the organisation request for access to information held on a person other than the requester himself / herself and the Information Officer upon receipt of the request is of the opinion that the preparation of the required record of disclosure will take more than 6 (six) hours, a deposit is payable by the requestor.
- 15.4.2. The amount of the deposit is equal to 1/3 (one third) of the amount of the applicable access fee.

15.5. Collection Fees

- 15.5.1. The initial “request fee” of R50.00 should be deposited into the bank account below and a copy of the deposit slip, application form and other correspondence / documents, forwarded to the Information Officer via email.
- 15.5.2. Tawana Learnership Organisation NPC will collect the initial “request fee” of applications received directly by the Information Officer via email.
- 15.5.3. All fees must be deposited into the following bank account:

15.6. All fees are subject to change as allowed for in the Act and as a consequence such escalations may not always be immediately available at the time of the request being made. Requesters shall be informed of any such changes in the fees prior to making a payment.

16. DECISION

16.1. Time Allowed to Institution

- 16.1.1. Tawana Learnership Organisation NPC will, within 30 (thirty) days of receipt of the request decide whether to grant or decline the request and give notice with reasons (if required) to that effect.
- 16.1.2. The 30 (thirty) day period within which Tawana Learnership Organisation NPC has to decide whether to grant or refuse the request, may be extended for a further period of not more than thirty days if the request is for a large number of information, or the request requires a search for information held at another office of Tawana Learnership Organisation NPC and the information cannot reasonably be obtained within the original 30 (thirty) day period.
- 16.1.3. Tawana Learnership Organisation NPC will notify the requestor in writing should an extension be sought.

17. AVAILABILITY OF THE PAIA MANUAL

17.1. Regulation Number R.187 of 15 February 2002

- 17.1.1. This PAIA Manual is made available in terms of Regulation Number R.187 of 15 February 2002. Tawana Learnership Organisation NPC will update this PAIA Manual at such intervals as may be deemed necessary.
- 17.1.2. The PAIA Manual of Save the Children South Africa is available to view at its premises: 148 Pritchard Street, Johannesburg North, Randburg, 2188, as well as on its website: www.tawana.education.