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GIVING EFFECT TO THE RIGHT TO PRIVACY

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WHO ARE WE?

(AN INTRODUCTION TO USAf TASK TEAM)



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THIS IS OUR MANDATE

What will we deliver?

- Guidelines on the application of the EU GDPR.
- An HEI Code of Conduct developed specifically for public universities.
- Templates for privacy notices for different classes of data subjects.

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WHO IS THE TASK TEAM?

- Mr Shervaan Rajie – University of the Western Cape
- Ms Nita Lawton-Misra – University of the Western Cape
- Mr Hugh Amoore – USAf
- Mr Gerhard Lipp – Stellenbosch University
- Mr Jerall Toi – Stellenbosch University
- Adv Corlia van der Walt – University of Johannesburg
- Ms Carin Booyse - Cape Peninsula University of Technology



BACK TO BASICS

(BIRD'S EYE VIEW OF THE POPIA)



WHAT IS THE POPIA?



- It is the Protection of Personal Information Act.
- The POPIA applies whenever you collect, use, or store personal information (PI). There are also rules about the destruction of PI.
- In terms of the POPIA, the Regulator may from time to time issue codes of conduct.

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NO IGNORING THE POPIA

- Before the POPIA comes into force, the President must publish an effective date.
- You will have a year from that date to become compliant.
- The Regulator has published draft regulations (there are problems).
- We think there are at least 20 months before the Act comes into effect.

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WHY A CODE OF CONDUCT?

We are motivated to:

- optimise how personal information is used
- increase the level of protection of privacy and level of compliance
- ensure uniform and sector-appropriate implementation of the POPIA
- align the Regulator and HEI's approach to information governance in the industry

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WHAT DOES THE POPIA REQUIRE OF THE CODE?



The Code of Conduct must:

- apply the principles of the POPIA to the HEI
- provide guidance to members of the HEI on how to apply the principles
- regulate the sharing and linking of information amongst the members
- regulate automated decision making (e.g. learning analytics, admissions, process)

The Code may include an ombud scheme to deal with complaints.

WHAT IS THE LEGAL STATUS OF THE CODE?



- The Code of Conduct may be binding on the HEI.
- It may have the same status as the POPIA.
- A breach of the code may lead to a fine, a civil (class) action, or prosecution.

THE TROUBLE WITH CONSENT

(TACKLING YOUR SPECIFIC QUESTIONS)



HOW DOES POPIA POSITION CONSENT?



- Consent means any “voluntary, specific, and informed expression of will.”
- Consent isn’t always necessary, desirable, or feasible.
- When and how we collect, manage, and use consent will vary between institutions, statutory reporting requirements, and academic- and learning analytics.

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THANK YOU