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# **BLAIRGOWRIE COMMUNITY ASSOCIATION (BCA) POPIA MANUAL (29 June 2021)**

## **Protection of Personal Information Act 2013**

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## **1. INTRODUCTION**

- 1.1 The Constitution of the Republic of South Africa provides that everyone has the right to privacy, which right includes a right to protection against the unlawful collection, retention, dissemination and use of personal information.
- 1.2 This manual gives effect to the Constitution and the provisions of the Protection of Personal Information Act 2013 (POPIA).
- 1.3 This Manual is to be read and interpreted in conjunction with the POPIA and its Regulations, as amended from time to time.
- 1.4 This manual applies to the processing and protection of BCA residents, businesses, relevant or interested parties and its employee's and BCA Committee Members personal information (herein after referred to as "BCA community members").

## **2. DEFINITIONS**

- 2.1 The definitions used in POPIA to describe certain terms are deemed to accord with the use of the same words in the manual.
- 2.2 The Community Association referred to herein is BLAIRGOWRIE COMMUNITY ASSOCIATION (BCA) with physical address at 49 Hillcrest Ave, Blairgowrie.

## **3. INFORMATION OFFICER**

- 3.1 The appointed Information Officer of the BCA is Margaret Roper.
- 3.2 The BCA Information Officer can be contacted via e-mail: [chairperson@myblairgowrie.co.za](mailto:chairperson@myblairgowrie.co.za).
- 3.3 The Information Officer is responsible to ensure the BCA's compliance with the conditions for the lawful processing of personal information and to deal with requests made to the BCA by a data subject or the Information Regulator.

## **4. INFORMATION REGULATOR**

- 4.1 POPIA makes provision for the establishment of a juristic person to be known as the Information Regulator.
- 4.2 The Information Regulator has the powers and duties set out in POPIA.

## **5. CONDITIONS FOR THE LAWFUL PROCESSING OF PERSONAL INFORMATION**

### **Condition 1: Accountability**

- 5.1 The BCA shall ensure that the conditions below and in Chapter 3 of POPIA are complied with and that the BCA is accountable for the processing of personal information

## **Condition 2: Processing limitation**

- 5.2 The BCA shall ensure Personal information is processed lawfully and in a reasonable manner that does not infringe the privacy of the data subject.
- 5.3 The BCA will only process Personal information if, given the purpose for which it is processed, it is adequate, relevant and not excessive.

### Consent

- 5.4 The BCA will only process Personal Information if—
- (a) the data subject consents (or consent is given by a competent person where the data subject is a child);
  - (b) processing is necessary to carry out actions for the conclusion or performance of a contract to which the data subject is party;
  - (c) processing complies with an obligation imposed by law on the responsible party;
  - (d) processing protects a legitimate interest of the data subject;
  - (e) processing is necessary for the proper performance of a public law duty by a public body; or
  - (f) processing is necessary for pursuing the legitimate interests of the BCA or of a third party to whom the information is supplied.

### Objection

- 5.5 A data subject may object, at any time, to the processing of personal information by the BCA—
- (a) on reasonable grounds unless legislation provides for such processing; or
  - (b) for purposes of direct marketing other than direct marketing by means of unsolicited electronic communications as allowed in the Act;
  - (c) if a data subject has objected to the processing of personal information the BCA will no longer process the personal information.

### Collection directly from data subject

- 5.6 The BCA shall collect Personal information directly from the data subject, except if the following apply:
- (a) the information is from a public record; or
  - (b) the information has deliberately been made public by the data subject;
  - (b) the data subject has consented to the collection of the information from another source;
  - (a) collection of the information from another source would not prejudice a legitimate interest of the data subject;
  - (d) collection of the information from another source is necessary— government bodies, courts, SARS etc.

- (b) compliance would prejudice a lawful purpose of the collection; or
- (f) compliance is not reasonably practicable in the circumstances of the particular case.

### **Condition 3: Purpose specification**

- 5.7 The BCA shall collect Personal information only for a specific, explicitly defined and lawful purpose related to a function or activity.
- 5.8 The BCA shall take steps to ensure that the data subject is aware of the purpose of the collection of the information unless certain exceptions apply.

#### Retention and restriction of records

- 5.9 The BCA shall not retain records longer than is necessary for achieving the purpose for which the information was collected or subsequently processed, unless—
  - (a) retention of the record is required or authorised by law;
  - (b) The BCA reasonably requires the record for lawful purposes related to its functions or activities;
  - (c) retention of the record is required by a contract between the parties;
  - (d) the data subject has consented.
- 5.10 The BCA may retain records of personal information in excess of those contemplated above for historical, statistical or research purposes if the BCA has established appropriate safeguards against the records being used for any other purposes.
- 5.11 The BCA may retain the record of personal information for such period as may be required or prescribed by law or a code of conduct.
- 5.12 The BCA will destroy or delete a record of personal information or de-identify it as soon as reasonably practicable after the BCA is no longer authorised to retain the record.
- 5.13 The BCA will restrict processing of personal information if—
  - (a) its accuracy is contested by the data subject, for a period enabling the BCA to verify the accuracy of the information;
  - (b) The BCA no longer needs the personal information for achieving the purpose for which the information was collected or subsequently processed, but it has to be maintained for purposes of proof;
  - (c) the processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead.

### **Condition 4 Further processing limitation**

#### Further processing to be compatible with purpose of collection

- 5.14 The BCA will only further process personal information if same is in accordance with or is compatible with the purpose for which it was collected.
- 5.15 In order to assess the above, The BCA will take account of—

- (a) the relationship between the purpose of the intended further processing and the purpose for which the information has been collected;
- (b) the nature of the information concerned;
- (c) the consequences of the intended further processing for the data subject;
- (d) the manner in which the information has been collected; and
- (d) any contractual rights and obligations between the parties.

**Condition 5: Information quality**

- 5.16 The BCA will take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.
- 5.17 In doing so, the BCA will have regard to the purpose for which personal information is collected or further processed.

**Condition 6: Openness**

Notification to data subject when collecting personal information

- 5.18 In collecting personal information, the BCA will take reasonably practicable steps to ensure that the data subject is aware of—
- (a) the information being collected and where the information is not collected from the data subject, the source from which it is collected;
  - (b) the BCA name and address;
  - (c) the purpose for which the information is being collected;
  - (d) whether or not the supply of the information by that data subject is voluntary or mandatory;
  - (e) the consequences of failure to provide the information;
  - (f) any particular law authorising or requiring the collection of the information;
  - (g) whether the responsible party intends to transfer the information to a third country or international organisation and the level of protection afforded to the information by that third country or international organisation;
  - (h) any further information such as the—
    - (i) recipient or category of recipients of the information;
    - (ii) nature or category of the information;
    - (iii) existence of the right of access to and the right to rectify the information collected;
    - (iv) existence of the right to object to the processing of personal information; and

- (v) right to lodge a complaint to the Information Regulator and the contact details of the Information Regulator, which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.

5.19 The above steps will be taken—

- (a) before the information is collected; or
- (b) as soon as reasonably practicable after it has been collected.

## **Condition 7: Security Safeguards**

### Security measures on integrity and confidentiality of Personal Information

5.20 The BCA will secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent—

- (a) loss of, damage to or unauthorised destruction of personal information; and
- (b) unlawful access to or processing of personal information.

5.21 The BCA will take reasonable measures to—

- (a) identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
- (b) establish and maintain appropriate safeguards against the risks identified;
- (c) regularly verify that the safeguards are effectively implemented; and
- (d) ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

5.22 The BCA will have due regard to generally accepted information security practices and procedures which may apply to it generally or be required in terms of specific industry or professional rules and regulations.

### Information processed by operator or person acting under authority

5.23 The BCA will only permit an operator or anyone processing personal information on Agencies behalf—

- (a) with the BCA's knowledge or authorisation; and
- (b) if the operator treats the personal information which comes to their knowledge as confidential and does not disclose same, unless required by law or in the course of the proper performance of their duties.

### Security measures regarding information processed by operator

5.24 The BCA will, in terms of a written contract with the operator, ensure that the operator which processes personal information establishes and maintains the security measures required.

- 5.25 The operator must notify the BCA immediately where there are reasonable grounds to believe that the personal information of a data subject has been accessed or acquired by any unauthorised person.

#### Notification of security compromises

- 5.26 The BCA will, where there are reasonable grounds to believe that the personal information of a data subject has been accessed or acquired by any unauthorised person, notify—
- (a) the Regulator; and
  - (b) the data subject, unless the identity of such data subject cannot be established.
- 5.27 The notification referred above will be made as soon as reasonably possible after the discovery of the compromise, taking into account the legitimate needs of law enforcement or any measures reasonably necessary to determine the scope of the compromise and to restore the integrity of the BCA information system.
- 5.28 The notification referred above will be in writing and communicated to the data subject in specific ways set out in POPIA and will provide sufficient information to allow the data subject to take protective measures against the potential consequences of the compromise.

### **Condition 8: Data subject participation**

#### Access to personal information

- 5.29 A data subject has the right to — (after providing proof of identity):
- (a) request the BCA to confirm, free of charge, whether or not personal information about the data subject is held; and
  - (b) request from the BCA the record or a description of the personal information about the data subject held.

#### Correction of personal information

- 5.30 A data subject may, using the prescribed form, request the BCA to —
- (a) correct or delete personal information that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
  - (b) destroy or delete a record of personal information that the BCA is no longer authorised to retain.
- 5.31 On receipt of a request above, the BCA will, as soon as reasonably practicable—
- (a) correct the information;
  - (b) destroy or delete the information;
  - (c) provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or
  - (d) where agreement cannot be reached and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be

read with the information, an indication that a correction of the information has been requested but has not been made.

## **6. PROCESSING OF SPECIAL PERSONAL INFORMATION**

6.1 The BCA recognizes that the processing of Special Personal Information is generally prohibited by POPIA unless consent is obtained or otherwise authorized in the limited circumstances prescribed in POPIA.

6.2 Special personal information includes:

- the religious or philosophical beliefs,
- race
- ethnic origin
- trade union membership
- political persuasion
- health
- sex life
- biometric information of a data subject
- criminal behavior

## **7. PROCESSING OF PERSONAL INFORMATION OF CHILDREN**

7.1 The BCA recognizes that, subject to the provisions of POPIA, the processing of personal information concerning a child is not permitted.

## **8. DIRECT MARKETING – Unsolicited Electronic Communications, Directories, Automated Decision Making.**

8.1 The BCA will not process personal information for the purpose of direct marketing by means of any form of electronic communication, including automatic calling machines, facsimile machines, SMSs or e-mail unless the data subject—

- (a) has given consent

8.2 The BCA may approach a data subject, using the prescribed form—

- (a) whose consent is needed; or
- (b) who has not previously withheld consent.

only once in order to request the consent of that data subject.

8.3 The BCA may process the personal information of a Community Member;

- (a) for the purpose of direct marketing of the BCA's own similar products or services; and
- (b) if the Community Member has been given a reasonable opportunity to object, free of charge and in a manner free of unnecessary formality, to such use of his, her or its electronic details—

- (i) at the time when the information was collected; and
- (ii) on the occasion of each communication with the data subject for the purpose of marketing if the data subject has not initially refused such use.

8.4 Any communication for the purpose of direct marketing sent by the BCA will contain—

- (a) details of the identity of the sender or the person on whose behalf the communication has been sent; and
- (b) an address or other contact details to which the recipient may send a request that such communications cease.

## **9. TRANSBORDER INFORMATION FLOW**

9.1 The BCA may not transfer a data subject's personal information to a third party in a foreign country save in the circumstances permitted in Chapter 9 of POPIA.

## **10. PRESCRIBED FORMS**

10.1 The following are forms prescribed in POPIA and are annexed to this manual:

- (a) Objection to the Processing of Personal Information (Form 1 – Regulations)
- (b) Request for correction or deletion of Personal Information (Form 2 – Regulations)
- (c) Application for consent to Direct Marketing (Form 4 – Regulations)

**FORM 1**  
**OBJECTION TO THE PROCESSING OF PERSONAL INFORMATION IN TERMS OF**  
**SECTION 11(3) OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO.**  
**4 OF 2013)**

**REGULATIONS RELATING TO THE PROTECTION OF PERSONAL INFORMATION, 2018**  
**[Regulation 2]**

*Note:*

1. *Affidavits or other documentary evidence as applicable in support of the objection may be attached.*
2. *If the space provided for in this Form is inadequate, submit information as an Annexure to this Form and sign each page.*
3. *Complete as is applicable.*

<b>A</b>	<b>DETAILS OF DATA SUBJECT</b>
Name(s) and surname/ registered name of data subject:	
Unique Identifier/ Identity Number	
Residential, postal or business address:	
	Code (    )
Contact number(s):	
Fax number / E-mail address:	
<b>B</b>	<b>DETAILS OF RESPONSIBLE PARTY</b>
Name(s) and surname/ Registered name of responsible party:	
Residential, postal or business address:	
	Code (    )
Contact number(s):	
Fax number/ E-mail address:	
<b>C</b>	<b>REASONS FOR OBJECTION IN TERMS OF SECTION 11(1)(d) to (f) (Please provide detailed reasons for the objection)</b>

**FORM 2**

**REQUEST FOR CORRECTION OR DELETION OF PERSONAL INFORMATION OR  
DESTROYING OR DELETION OF RECORD OF PERSONAL INFORMATION IN TERMS OF  
SECTION 24(1) OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO.  
4 OF 2013)**

**REGULATIONS RELATING TO THE PROTECTION OF PERSONAL INFORMATION, 2018  
[Regulation 3]**

*Note:*

1. *Affidavits or other documentary evidence as applicable in support of the request may be attached.*
2. *If the space provided for in this Form is inadequate, submit information as an Annexure to this Form and sign each page.*
3. *Complete as is applicable.*

Mark the appropriate box with an "x".

**Request for:**

Correction or deletion of the personal information about the data subject which is in possession or under the control of the responsible party.

Destroying or deletion of a record of personal information about the data subject which is in possession or under the control of the responsible party and who is no longer authorised to retain the record of information.

<b>A</b>	<b>DETAILS OF THE DATA SUBJECT</b>
Name(s) and surname / registered name of data subject:	
Unique identifier/ Identity Number:	
Residential, postal or business address:	
	Code (    )
Contact number(s):	
Fax number/E-mail address:	
<b>B</b>	<b>DETAILS OF RESPONSIBLE PARTY</b>
Name(s) and surname / registered name of responsible party:	
Residential, postal or business address:	
	Code (    )
Contact number(s):	

Fax number/ E-mail address:	
<b>C</b>	<b>INFORMATION TO BE CORRECTED/DELETED/ DESTROYED/ DESTROYED</b>
<b>D</b>	<b>REASONS FOR *CORRECTION OR DELETION OF THE PERSONAL INFORMATION ABOUT THE DATA SUBJECT IN TERMS OF SECTION 24(1)(a) WHICH IS IN POSSESSION OR UNDER THE CONTROL OF THE RESPONSIBLE PARTY ; and or</b> <b>REASONS FOR *DESTRUCTION OR DELETION OF A RECORD OF PERSONAL INFORMATION ABOUT THE DATA SUBJECT IN TERMS OF SECTION 24(1)(b) WHICH THE RESPONSIBLE PARTY IS NO LONGER AUTHORISED TO RETAIN.</b> <i>(Please provide detailed reasons for the request)</i>

Signed at ..... this ..... day of .....20.....

.....  
*Signature of data subject/ designated person*

**FORM 4 APPLICATION FOR THE CONSENT OF A DATA SUBJECT FOR THE PROCESSING OF PERSONAL INFORMATION FOR THE PURPOSE OF DIRECT MARKETING IN TERMS OF SECTION 69(2) OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO. 4 OF 2013) REGULATIONS RELATING TO THE PROTECTION OF PERSONAL INFORMATION, 2018 [Regulation 6]**

**PART A:**

TO:

**BLAIRGOWRIE COMMUNITY ASSOCIATION, 49 Hillcrest Avenue, Blairgowrie**

FROM:

**Name and Surname:** \_\_\_\_\_

**Street Name and Number:** \_\_\_\_\_

**Contact number(s):** \_\_\_\_\_

**E-mail address:** \_\_\_\_\_

**Designation (Homeowner, family member, other persons residing with the family or on the property, Tenant, Business owner / employee or other entity):**

**I hereby confirm that I am over the age of 18 years: (please tick the box)**

Optional information: \_\_\_\_\_

Full names and designation of person signing on behalf of responsible party:

.....

\_\_\_\_\_  
Signature of designated person

Date: \_\_\_\_\_

**PART B**

I, \_\_\_\_\_ (name and surname) hereby, give my consent to receive direct marketing of goods or services to be marketed by means of electronic communication.

Signed at ..... this ..... day of .....20.....

\_\_\_\_\_  
Signature of designated person