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# Privacy legislation and innovative teaching practices

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# Today, we're going to:



- Briefly unpack the legislative background behind privacy legislation;
- Highlight when we should consider the impact of privacy legislation within teaching and learning; and
- Introduce the practice of privacy impact assessments to help build and demonstrate compliance with privacy legislation.

## Rules for our first streamed Auxin:

- Mute your microphones while others are speaking;
- Use the chat function to raise questions or comments;
- Turn off your cameras; and
- Be aware that we are recording the session.



# First, let's make it personal

';--have i been pwned?

Check if you have an account that has been compromised in a data breach

<https://haveibeenpwned.com>

*“Pwn is a leetspeak slang term derived from the verb own, meaning to appropriate or to conquer to gain ownership. The term implies domination or humiliation of a rival, used primarily in the Internet-based video game culture to taunt an opponent who has just been soundly defeated (e.g., "You just got pwned!").”*

—<https://en.wikipedia.org/wiki/Pwn> (Accessed: 25 June 2019)



# Privacy, the basics



## THE UNIVERSAL DECLARATION OF Human Rights

**Article 1** Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

**Article 2** Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

**Article 3** In the exercise of this right and freedom, no one shall be subjected to arbitrary arrest, detention or exile.

**Article 4** No one shall be held in slavery or servitude; slavery or the trade in slaves shall be prohibited in all its forms.

**Article 5** No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

**Article 6** Everyone has the right to recognition as a person before the law.

**Article 7** All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal treatment before the law.

**Article 8** Everyone has the right to an effective remedy by the competent national or international authorities.

**Article 9** No one shall be subjected to arbitrary arrest, detention or exile.

**Article 10** Everyone is entitled to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charge against him.

**Article 11** 1. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law. 2. Everyone has the right to a fair and public hearing by an independent and impartial tribunal in the determination of any criminal charge against him.

**Article 12** No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

**Article 13** 1. Everyone has the right to freedom of movement and residence within the borders of each state. 2. Everyone has the right to leave any country, including his own, and to return to his country.

**Article 14** 1. Everyone has the right to seek and to enjoy in other countries asylum from persecution. 2. No one shall be subjected to persecution.

**Article 15** 1. Everyone has the right to a nationality. 2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

**Article 16** 1. Everyone has the right to marry and to found a family, which is the basis of the peace and stability of society. 2. Men and women of full age, without any limitation of race, nationality and religion, shall be equal in the rights and obligations of marriage. 3. Marriage shall be entered into only with the free and full consent of the intending spouses. 4. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

**Article 17** 1. Everyone has the right to own property alone as well as in association with others. 2. No one shall be arbitrarily deprived of his property.

**Article 18** Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, as well as freedom, either alone or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

**Article 19** Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without restriction and to seek and to receive information and ideas through any media and regardless of frontiers.

**Article 20** 1. Everyone has the right to peaceful assembly and to associate with others in the formation and participation in unions, clubs and other associations. 2. No restrictions may be placed upon the exercise of these rights other than those imposed by law.

**Article 21** 1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. 2. Everyone has the right of equal access to public service in his country. 3. The will of the people shall be the basis of the authority of government; this will shall be expressed through periodic and genuine elections which shall be held by secret ballot and shall ensure the free expression of the will of the voters.

**Article 22** Everyone has the right to social security.

**Article 23** 1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. 2. Everyone has the right to equal pay for equal work. 3. Everyone has the right to a fair and favourable remuneration which shall include wages, benefits and social security. 4. Everyone has the right to an adequate standard of living, which includes food, clothing, housing, medical care and social services, and to the right to security of employment.

**Article 24** Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

**Article 25** Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care and social services, and to the right to security in the event of unemployment, old age, sickness or incapacity, and in other adverse circumstances.

**Article 26** 1. Everyone has the right to education. 2. Education shall be free, at least in the elementary and fundamental stages. 3. Elementary education shall be compulsory. 4. Technical and vocational education shall be made generally accessible and shall advance as far as possible the level of instruction of its recipients. 5. Higher education shall be equally accessible to all on the basis of ability. 6. The free choice of education shall be respected within the limits set by law.

**Article 27** 1. Everyone has the right to take part in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. 2. Everyone has the right to the protection of the moral and material interests which are attached to his scientific, literary or artistic productions.

**Article 28** Everyone has the right to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

**Article 29** 1. Everyone has duties to the community in which alone the free and full development of his personality is possible. 2. In the exercise of his rights and freedoms, everyone shall be subject to limitations and restrictions determined by law. 3. These limitations and restrictions shall be such as to ensure that the rights and freedoms of other individuals are not thereby affected by the exercise of his rights and freedoms.

**Article 30** Nothing in this Declaration may be interpreted as authorizing any state, group or individual to engage in any activity aimed at the destruction of any of the rights and freedoms set forth herein.

UNITED NATIONS



INSTITUTE OF DIRECTORS SOUTHERN AFRICA



KING IV REPORT ON CORPORATE GOVERNANCE FOR SOUTH AFRICA 2016

Privacy is about human rights and good governance. Privacy shouldn't be difficult.



# Basics continued: the status of legislation



1. International legislation;
2. POPIA;
3. Sector requirements; and
4. Institutional requirements.



# Basics continued: when can you process personal information?

All processing must have a legal basis. Section 11 of POPIA positions that you may only process personal information under, with, or for:

1. Legislation;
2. Contract;
3. Consent; or
4. Legitimate interest (with a right to object).



# Responding to our privacy responsibilities

A privacy impact assessment (PIA) may help. A PIA:

- describes the processing of personal information;
- assesses the necessity and proportionality of processing personal information;
- helps manage the risks to the rights and freedoms of natural persons resulting from the processing of personal information; and
- helps organisations build and demonstrate compliance with privacy legislation.

Drawn from the Article 29 Data Protection Working Party (2017) Guidelines on Data Protection Impact Assessment (DPIA) and determining whether processing is “likely to result in a high risk” for the purposes of Regulation 2016/679.



# When should you execute a PIA?

- Evaluation, scoring, profiling, and predicting;
- Automated-decision making with legal or similar significant effect;
- Sensitive information or information of a highly personal nature;
- Systematic monitoring;
- Data processed on a large scale;
- Matching or combining datasets;
- Data concerning vulnerable data subjects;
- Innovative use or applying new technological or organisational solutions; and
- When the processing itself prevents data subjects from exercising a right or using a service or contract.





# Let's run step 1 of a PIA

1. Think of a process, any process, that involves personal information;
2. Try to identify the individual fields (for structured personal information) or content or themes (for unstructured personal information);
3. Then ask yourself if the personal information used in the process is anonymous, potentially identifiable in a given context, or explicitly identifiable; and
4. Finally, ask yourself if the personal information is classified as special under legislation (information about children, health, religion, race, trade union membership, criminal behaviour).



# Let's score step 1 of the PIA

Nature of personal information	Value/Risk
Anonymous or thoroughly de-identified	Negligible
Potentially identifiable	Low
Identifiable	Medium
Includes special personal information	
Identifiable and includes special personal information	High

For many processes, the above provides the necessary context to begin evaluating the appropriateness of controls. Don't forget value of information is not the only reason to consider a full privacy impact assessment.





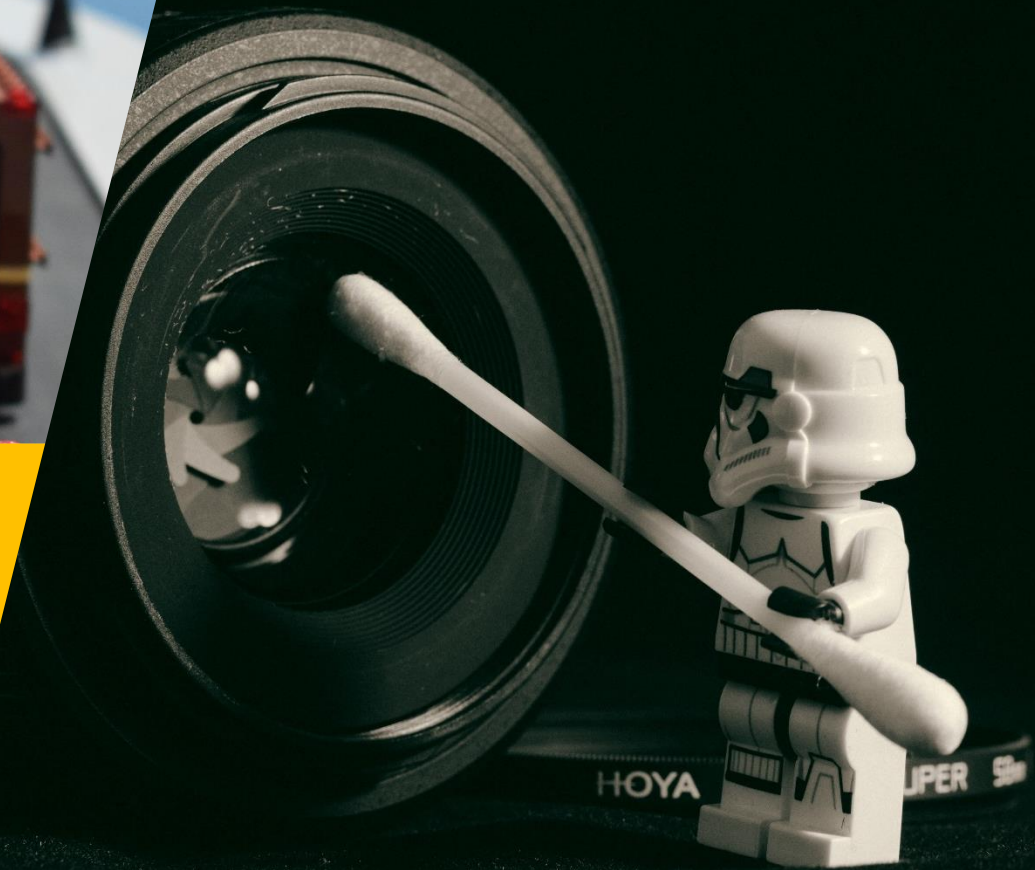
## Help from Information Governance available on request

Facilitated privacy impact assessments (60-minute workshop)

Facilitated privacy notice development (60-minute workshop)

## Resources in development

Privacy impact self-assessment





## Resources

[Stellenbosch University Data Privacy Policy](#)

[USAf EU GDPR Guidelines for South African Universities](#)

[Article 29 Data Protection Working Party \(2017\) Guidelines on Data Protection Impact Assessment \(DPIA\) and determining whether processing is “likely to result in a high risk” for the purposes of Regulation 2016/679](#)



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**Any last questions?**

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