Guest houses are an important contributor to the local economy of any region, as they attract both local and international tourists with the aim of providing them with a taste of local food and hospitality. This creates much-needed job opportunities and revenue for local regions.

As the successful managing and running of a guest house has its own set of challenges, the intention of this book is to provide a practical guide to assist both guest house owners and managers in effectively managing their establishments. In order to provide a comprehensive view of guest house management the book is divided into seven themes:

- Theme 1: Your guest house and the law.
- Theme 2: Basic management principles.
- Theme 3: Basic financial management.
- Theme 4: Marketing your guest house.
- Theme 5: Accommodation and front office management.
- Theme 6: Planning your breakfast menu.
- Theme 7: Understanding intercultural differences.

About the editor

Deseré Kokt is Research Professor in Leisure Management at the Central University of Technology, Free State (CUT). She holds a doctorate in Human Resources Management and has published more than 24 papers in both peer-reviewed and other journals. She has also delivered 23 papers at national and international conferences and is a Master Human Resources Practitioner (MHRP) with the South African Board for Personnel Practice (SABPP). She is a member of the editorial committee of the Journal of New Generation Sciences (JNGS) and the chairperson of the Research Committee for the Faculty of Management Sciences at the CUT.
<table>
<thead>
<tr>
<th>Theme</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preface</td>
<td>i</td>
</tr>
<tr>
<td>THEME 1</td>
<td>1</td>
</tr>
<tr>
<td>Your guest house and the Law</td>
<td></td>
</tr>
<tr>
<td>Ella Dalton-Brits</td>
<td></td>
</tr>
<tr>
<td>THEME 2</td>
<td>19</td>
</tr>
<tr>
<td>Basic management principles</td>
<td></td>
</tr>
<tr>
<td>Deseré Kokt, Jacques Ras &amp; Christine van der Berg</td>
<td></td>
</tr>
<tr>
<td>THEME 3</td>
<td>35</td>
</tr>
<tr>
<td>Basic financial management</td>
<td></td>
</tr>
<tr>
<td>Dalene Crowther</td>
<td></td>
</tr>
<tr>
<td>THEME 4</td>
<td>61</td>
</tr>
<tr>
<td>Marketing your guest house</td>
<td></td>
</tr>
<tr>
<td>Albert Strydom</td>
<td></td>
</tr>
<tr>
<td>THEME 5</td>
<td>93</td>
</tr>
<tr>
<td>Accommodation and front office management</td>
<td></td>
</tr>
<tr>
<td>Renee Minnaar</td>
<td></td>
</tr>
<tr>
<td>THEME 6</td>
<td>109</td>
</tr>
<tr>
<td>Planning your breakfast menu</td>
<td></td>
</tr>
<tr>
<td>Liza Jacobs</td>
<td></td>
</tr>
<tr>
<td>THEME 7</td>
<td>141</td>
</tr>
<tr>
<td>Understanding inter-cultural differences</td>
<td></td>
</tr>
<tr>
<td>Jeanine Nothnagel</td>
<td></td>
</tr>
<tr>
<td>Bibliographic notes</td>
<td>151</td>
</tr>
</tbody>
</table>
Guest houses are an important contributor to the local economy of any region, as they attract both local and international tourists with the aim of providing them with a taste of local food and hospitality. This creates much-needed job opportunities and revenue for local regions. As the successful managing and running of a guest house has its own set of challenges, the intention of this book is to provide a practical guide to assist both guest house owners and managers in effectively managing their establishments.

The editor acknowledges the 2006 edition of Guest House Management in South Africa (by D van Lill) and presents an updated version of the latest issues and challenges in the guest house industry. The contributors to this book are mostly staff of the Central University of Technology, Free State (CUT), that boasts an impressive array for both theoretical knowledge and industry exposure. In order to provide a comprehensive view of guest house management the book is divided into seven themes:

**Theme 1:**
Your guest house and the law: This theme provides details on the business structures and regulatory aspects that guest house owners/managers should consider in establishing and managing a guest house.

**Theme 2:**
Basic management principles: This theme deals with the basic managerial principals and skills guest house owners/managers need to manage a guest house. It also alludes to the importance of service delivery and customer orientation.

**Theme 3:**
Basic financial management: This theme deals with the basic financial management principles that should be considered in managing the finances of a guest house.

**Theme 4:**
Marketing your guest house: This theme deals with the basic marketing principles that should be considered in the successful marketing of a guest house.

**Theme 5:**
Accommodation and front office management: This theme deals with accommodation and front office management as an important component of managing a guest house.
Theme 6:
Planning your breakfast menu: This theme deals with the planning and preparation of breakfast menus for a guest house.

Theme 7:
Understanding inter-cultural differences: This theme deals with the importance of comprehending inter-cultural differences in dealing with a variety of stakeholders from diverse cultural backgrounds.

We trust that you will find this book both insightful and practical!

Deseré Kokt
Editor
December 2012
Bloemfontein
1. Introduction

Starting your own guest house can be a complicated and difficult process. This theme will briefly outline the main legal, safety and logistical aspects required for the successful establishment and management of a guest house. Rules, guidelines and forms that must be completed by applicants may differ from province to province, but the basic procedure remains the same. The reader is urged to approach the local municipality to obtain the correct forms applicable to the province in which the guest house is to be established.

This theme aims to address the following issues:

- Choosing the correct business structure.
- Land use zoning.
- Licensing and registration.
- Legal aspects regarding signage.
- The payment of VAT.
- Matters related to the Receiver of Revenue.
- Labour law.
- Insurance.
- Health and safety regulations.

This theme is aimed at giving the reader a basic knowledge of the laws that are applicable to guest houses in South Africa. This is a guide for the prospective or current guest house owner, which provides the basic information required to operate a guest house within the legal parameters of the law. Any person requiring further legal advice regarding any of the matters is advised to contact a lawyer or legal consultant for a full consultation regarding rights and duties of the parties involved. The purpose of this theme is to assist you to know when further action is required by a professional person or professional body.
2. **Choosing the most appropriate business structure**

A business is a legally recognised organisation used to conduct business/commercial activities. It may be a sole proprietorship, a partnership, a private company or a business trust, for example. Whatever the structure you decide upon, you need to be aware that the government will require you to register for income tax, value added tax (VAT), Unemployment Insurance Fund (UIF), Compensation for Occupational Injuries and Diseases (COID) and pay-as-you-earn (PAYE).

The structure that you choose must reflect the need it intends to satisfy. By answering the following questions you can narrow down your options and find the business structure most suitable to your needs:

- Are you planning to be the sole owner of the guest house?
- Do you want to retain all profits for yourself?
- Will you finance your own guest house without taking out a loan?
- Do you have enough capital to pay for all the legal fees involved, e.g. liquor license fees?
- Are there assets that need to be kept apart from the guest house, e.g. another property?
- Would you like to offset the tax losses of the guest house against your income from another source, e.g. full-time employment?
- If you are married or intend to get married, which matrimonial system is applicable?

Once you have considered these questions carefully, it will be easier to select the most appropriate business structure for your guest house. The table on the opposite page sets out the basic features of each business structure and highlights the advantages and disadvantages associated with each.

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**Legal tip:** When choosing a business structure that requires official registration procedures, consult a qualified lawyer or bookkeeper/accountant for assistance.

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**Note:** The Companies Act, Act 71 of 2008 (which came into effect in June 2011), has effectively taken close corporations out of the picture. According to this Act no new close corporations may be formed; however, all existing close corporations will continue to exist indefinitely and will not be phased out.
<table>
<thead>
<tr>
<th></th>
<th>Sole Proprietor</th>
<th>Partnership</th>
<th>Private Company</th>
<th>Trading Trust</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Number of members</strong></td>
<td>One – the owner</td>
<td>Two – twenty partners</td>
<td>1- no maximum</td>
<td>Membership is determined by the trust deed.</td>
</tr>
<tr>
<td><strong>Capital contribution</strong></td>
<td>Limited to the contribution of the owner</td>
<td>Limited to the contribution of the separate partners</td>
<td>Limited to the contribution of the share holders</td>
<td>Limited to the contribution of the founder.</td>
</tr>
<tr>
<td><strong>Formation</strong></td>
<td>Simple. No formalities required</td>
<td>Simple. A written partnership agreement is required.</td>
<td>A Notice of Incorporation and a Memorandum of Incorporation must be filed with CIPC. A registration certificate is needed to commence business.</td>
<td>A written Trust Deed must be registered at the Master of the High Court.</td>
</tr>
<tr>
<td><strong>Legal Personality</strong></td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>No, but is seen as a legal entity.</td>
</tr>
<tr>
<td><strong>Liability</strong></td>
<td>Unlimited</td>
<td>Unlimited</td>
<td>Yes</td>
<td>Limited</td>
</tr>
<tr>
<td><strong>Distribution of profits</strong></td>
<td>Profits belong to the owner.</td>
<td>Partnership agreement will stipulate distribution of profits.</td>
<td>Shareholders are only entitled to profit sharing when dividends are declared.</td>
<td>The trust deed will deal with profit sharing.</td>
</tr>
<tr>
<td><strong>Taxpayer</strong></td>
<td>Owner is liable for tax- guest house profit is seen as direct income- it is included in gross income of owner.</td>
<td>Partners include profit in their own gross income.</td>
<td>Guest house is liable for own tax.</td>
<td>Guest house is liable for own tax.</td>
</tr>
<tr>
<td><strong>Tax losses</strong></td>
<td>Losses of the guest house can be offset against other income.</td>
<td>Losses of the guest house can be offset against other income.</td>
<td>Company is liable for own losses.</td>
<td>Trust retains losses and carries it over to the following year.</td>
</tr>
<tr>
<td><strong>Audit</strong></td>
<td>Not required by law.</td>
<td>Not required by law.</td>
<td>Required to be performed by an independent auditor.</td>
<td>Not required by law.</td>
</tr>
<tr>
<td><strong>Advantages</strong></td>
<td>The business is simple to organise.</td>
<td>It is easy to organise.</td>
<td>The life of the business is perpetual.</td>
<td>Easy to establish.</td>
</tr>
<tr>
<td></td>
<td>The owner is free to make decisions.</td>
<td>It has greater financial strength.</td>
<td>The shareholders have limited liability.</td>
<td>The trustees have an over arching responsibility towards the beneficiaries.</td>
</tr>
<tr>
<td></td>
<td>Minimal legal requirements apply.</td>
<td>The managerial skills of partners are combined.</td>
<td>The transfer of ownership is easy.</td>
<td>Limited liability for both trustee and beneficiaries.</td>
</tr>
<tr>
<td></td>
<td>The owner receives all the profits.</td>
<td>It has a definite legal status.</td>
<td>It’s easier to raise capital and to expand.</td>
<td>The income of the trust is the income of the recipients.</td>
</tr>
<tr>
<td></td>
<td>The business is easy to discontinue.</td>
<td>Each partner has a personal interest in the business.</td>
<td>Managerial efficiency is maintained.</td>
<td>Company legislation is not applicable to trusts.</td>
</tr>
<tr>
<td></td>
<td>It is adaptable to both large and small businesses.</td>
<td>It is adaptable to both large and small businesses.</td>
<td>Secrecy about business interests and operations is possible.</td>
<td></td>
</tr>
<tr>
<td><strong>Disadvantages</strong></td>
<td>The individual owner is legally liable for all the debt of the business. Investments, personal and real property can be attached by creditors.</td>
<td>Unlimited liability of the partners. Each member may be held liable for all the debt of the business. The poor judgment of one partner can affect the others.</td>
<td>Subject to special taxation rates.</td>
<td>Costs involved in setting up the trust.</td>
</tr>
<tr>
<td></td>
<td>Limited ability to raise capital and subject to what the owner can secure.</td>
<td>The authority of decisions is divided.</td>
<td>Is more difficult and expensive to organize than other forms of ownership.</td>
<td>Trustees can take one sided decisions without beneficiaries consent.</td>
</tr>
<tr>
<td></td>
<td>Limited expansion due to a lack of capital.</td>
<td>The partnership comes to an end if a partner enters or leaves the partnership.</td>
<td>Subject to many legal requirements.</td>
<td>Assets in a trust belong to the trust and not to beneficiaries.</td>
</tr>
</tbody>
</table>
2.1 Matrimonial system

The system according to which a person is married or intends to get married has a huge effect on the choice of business structure. The following must be kept in mind:

- When married in community of property, both spouses are equally entitled to the profits of a guest house because they share the same estate; they also share any losses of the guest house for the same reason.
- If you decide to start a guest house or intend to get married in community of property, it is recommended that you establish a business that has limited liability to protect the combined assets of the spouses in the marriage against the possibility of sequestration.
- When married out of community of property, spouses do not share profit or losses as they have separate estates.

**Legal tip:** It is always advisable to enter into a business structure that offers maximum protection against the loss of private estate.

3. Land use zoning

Starting a guest house might seem simple, but local town planning regulations might prohibit you from realising your dream. After deciding on the most appropriate business structure for your guest house, you need to approach your local municipality to find out if there are any by-laws or regulations that will prohibit you from converting your residence into a guest house. If you intend to buy property for the purpose of opening a guest house, familiarise yourself with the zoning regulations and land permits needed in your municipal area.

As the application procedures for registration of a guest house differ from one municipality to another, it is wise to contact your local municipality to ensure that you are following the correct procedure. The title deed of the property in question should also be inspected to see if there are any restrictive conditions pertaining to the property. These restrictions may include a proviso that land may be used for residential purposes only. An application for the establishment of a guest house can thus follow one of the following options:

**Application option 1**

Special consent is required from the local municipality to use an existing residence as a guest house. All municipalities require special consent and the subsequent granting of a business license from the town council to operate a guest house. The consent and license may be granted after the submission of detailed documentation setting out the scale, size and suitability of the premises in question. The steps below need to be followed:
A motivational letter together with a cheque for the correct amount (to be ascertained from the relevant council) must be handed in to the Senior Property Managing Officer.

A time period is given for objections to this application.

If there are no objections, the application is sent to the Town Planning Department.

The Guest House Policy of the region is used to process the application.

The Town Planning Committee makes positive recommendations to the Housing and Land Standing Committee.

The Housing and Land Standing Committee conditionally approves the application and recommends it to the Mayoral Committee.

The Senior Property Managing Officer implements the conditional approval.

The conditional approval entails the submitting of all relevant information about your guest house to satisfy the requirements of the council.

It must be noted that all approvals are conditional, and the council may withdraw its consent if problems do arise.

The local council may suspend, cancel or amend the given consent after written notice has been sent out to the guest house owner.

**Application option 2**

This application procedure applies where the property/premises needs to undergo rezoning because in its current status does not allow guest house operations on the property. The following thus apply:

- Application for change in use of land must be submitted to the local municipal council.
- After rezoning has been approved the same steps must be followed as for Application option 1.

For the guest house owner to obtain a business license the following reports must be submitted to the council:

- A health inspector’s report.
- Fire department inspector’s report.
- Town Council’s report.

If the Town Council is satisfied with the relevant documentation, a license to do business will be issued to the applicant.

The following documents are needed to facilitate the registration process:

- The title deed to the property.
- Prints of the locality plan and a plan indicating the proposed rezoning.
4. Licensing and registration

4.1 Television licence (TV)
A guest house owner must take out a television (TV) licence for each TV point in the establishment. Proof of payment of TV licences must be kept on the premises at all times. If the guest house wants to install DSTV, the service providers must be contacted directly for installation. DSTV service providers have specialised packages available for guest houses and bed-and-breakfast establishments.

4.2 Certificate of compliance for food preparation
If the guest house intends serving any form of meal, a compliance certificate is needed. This is of the utmost importance as a guest who contracts food poisoning from your establishment can claim compensation from you. This certificate is available from the local Department of Health in your municipal area. As a business serving food and drink to the public, you will need to comply with laws that ensure that your food is safe and your premises are clean. Department of Health regulation number 2002:15 states that you must implement a Hazard Analysis and Critical Control Point (HACCP) system to ensure that all food is handled and served without risk to customers’ health. You will then need a certificate (valid for one year) from a certifying body before you can start trading. You can search for these regulations on the Department of Health’s website (www.doh.gov.za) or get in touch with your local municipality (NYDA, 2008:6).

4.3 Liquor licence
Applying for a liquor licence can be a long and daunting process, but worthwhile if you intend to serve any kind of liquor on the premises. If the guest house owner is uncertain about this procedure, an attorney should be consulted to assist. It is important to note that liquor licence application forms differ from one municipality to another. It is therefore important to contact the local municipality to find out about the relevant forms. Currently there are 15 different types of liquor licences available in South Africa. It is crucial to apply for the one that suits your needs. Applications take between three and eight months to process and can cost anything from R3 000 to R20 000. The following people are excluded or prohibited from applying for a liquor licence: a minor, an un-rehabilitated insolvent, a
person in a mental care institution and a person convicted for an offence in terms of the Liquor Act in the three years prior to the current application (Free State Liquor Act, Act 6 of 2010).

The following is a basic outline of the steps to be taken when applying for a liquor licence:

**Step 1:** Apply for registration of a liquor licence. A Commissioner of Oaths (e.g. an officer at a police station) must complete and sign the last page of the form.

**Step 2:** Submit Form 2 to a ward counsellor for completion. The ward number and municipal area in which the guest house is situated must be mentioned. The type of liquor licence applied for and the type of liquor that will be sold must also be indicated. The address and guest house name must also be entered.

**Step 3:** Complete the form labelled “Description of the premises”. On this form the applicant must give a full description of the walls, floor, roof, ceilings, windows and doors of the guest house.

**Step 4:** Write a motivational letter to the Liquor Board. The applicant must write a motivational letter to the Liquor Board indicating why he or she wants a liquor licence, what the applicant intends to do with the income, any matters relating to community development and crime prevention. This letter must contain particulars of the applicant including: all applicable addresses, current employment status, marital status and distance from nearest school and church. Reference must be made to why a liquor licence is needed and that there is no intention of selling liquor to minors. The applicant must sign this letter.

**Step 5:** Draw a sketch of the premises and location of guest house. Included in these sketches: the dimensions of each room, doors, windows, sitting areas, at least two toilets, shelving, counters and liquor store room. The streets that border the guest house must be included on the sketch.

**Step 6:** Attach a certified copy of your identity document and proof of residential address (e.g. municipal account).

**Step 7:** Payments that are due must now be made. This amount will depend on the type of licence you have applied for.

**Step 8:** The liquor licences must be renewed each year otherwise your guest house will be fined.

If any objectionable liquor-related incident occurs on the premises, the guest house will be forced to close down completely for one month. This is the penalty imposed if the authorities find that the owners/managers have not sufficiently managed the liquor licence.
4.4  **Radio/music broadcasting licence**

If the owner/manager of a guest house intends playing background music or make use of radio broadcasts he or she will need to apply for a licence from the South African Music Rights Organisation (SAMRO). This is an inexpensive licence that will keep your guest house on the legal side of broadcasting music.

5.  **Legal aspects regarding signage**

If your guest house is correctly zoned, it is usually unnecessary to get approval from the local municipality if you want to erect signs on the property. If you intend to erect signs to advertise your guest house near the side of the road or to direct clients to your establishment, the following bodies must be contacted for approval:

- on national roads: the National Department of Transport, see www.transport.gov.za/ for current procedure;
- on secondary roads: the Provincial Department of Transport, see www.transport.gov.za/ for current procedure;
- on local roads within the municipal area: the local municipal engineer.

5.1  **Disclaimer board**

It is advisable to have a comprehensive disclaimer board on the property in clear view of all clientele. This disclaimer board informs the client that there are certain instances when the guest house will not take responsibility for the occurrence of specified events. These boards must also contain the words “enter at own risk”. The disclaimer board assists in protecting the guest house in the event of *bona fide* injury, damage or theft. This includes:

- non-liability in the event of an accident or incident that causes the guest bodily injury or harm;
- the damage or theft of the guest’s property in the event of it being left unattended;
- non-liability for damage or theft of the guest’s motor vehicle or other mode of transport;
- non-liability for bodily injury or harm caused by food or drink consumption that leads to an allergic reaction due to lack of knowledge thereof on the part of the guest house (NAA, 2011).

6.  **The payment of value added tax (VAT)**

In general, if you are not registered for the payment of value added tax (VAT), the guest house cannot add VAT to its prices. If the guest house’s turnover is more than R1 million a year, the law makes it compulsory for the guest house to register for VAT. The guest house
must charge its clientele VAT on products and services and must pay the VAT over to the South African Revenue Service (SARS) on a regular basis. It is advisable to contact SARS and to register as a VAT vendor.

If you have successfully registered as a vendor, SARS will issue the guest house a VAT number. This number must appear on all official guest house documentation. The current VAT rate is 14% and is charged in full on all products and services sold at the guest house. Make sure that prices quoted to guests are always tax inclusive and that it is clearly stated on all the quotes. All quotes must mention that VAT is included. The guest house owner must keep proper records of the VAT charged, in order to comply with the law. Invoices, credit notes, bank statements, deposit slips and paid cheques must be maintained and stored for 5 years in a place of safe keeping. Tax evasion is a serious crime: if a person is found guilty of this, a large fine or imprisonment may be sanctioned. Contact SARS or access the SARS website www.sars.gov.za for more information in this regard.

Legal tip: Registering for VAT can have a positive effect on the clientele you wish to attract, since many businesses prefer making use of VAT-registered guest houses.

7. Matters relating to the Receiver of Revenue (SARS)

The following matters pertaining to SARS are important:

- As a taxpayer you will have to submit financial statements every year and pay the required tax on taxable income.
- Your business structure impacts tax payment procedures.
- As an employer the collection and payment of employees’ tax must be carried out.

7.1 As a taxpayer you will have to submit financial statements every year and pay the required tax on taxable income

Every individual, sole proprietor, partnership, company or close corporation in South Africa that derives a taxable income is liable to pay tax to SARS. The owner of the guest house will have to register his or her guest house for provisional tax if the guest house has an income of more than R20 000 per annum. Provisional tax is payable for an individual or guest house that earns income that is not subject to standard income tax on employees (SITE) or pay-as-you-earn tax (PAYE). These taxes are not payable on taxable interest, rental and business income.

Provisional tax is paid every six months and the rationale behind this is to assist tax payers in meeting their tax liabilities on an ongoing basis, as opposed to paying one lump sum annually. Provisional tax is an estimated amount that is worked out from the total amount of tax paid for the previous financial year. Interest is levied on late payments and when
under-payment is made, SARS makes a full tax payment demand. Guidelines with regard to the payment of provisional tax are available from the SARS website.

The current rate of tax for small businesses is summarised as follows:

<table>
<thead>
<tr>
<th>Taxable Income (R)</th>
<th>Rate of Tax (R)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 63 556</td>
<td>0%</td>
</tr>
<tr>
<td>63 557 – 350 000</td>
<td>7% of the amount above 63 556</td>
</tr>
<tr>
<td>350 001 and above</td>
<td>20 051 + 28% of the amount above 350 000</td>
</tr>
</tbody>
</table>

(PGH, 2012)

**Legal tip:** Familiarise yourself with all the relevant tax-related aspects, and where needed get a professional auditor or bookkeeper who is knowledgeable to assist you. Penalties, fines and even imprisonment can follow if a person neglects to adhere to the requirements of the income tax laws in South Africa.

### 7.2 Tax and the various business structures

If the owner of the guest house already pays employment tax on another form of income, this income is excluded from provisional tax.

#### 7.2.1 Sole proprietors and partnerships

If you have chosen any one of these two types of business entity for your guest house, you and your business are seen as one taxpayer for the purpose of tax returns. You must therefore declare both guest house income and other income (e.g. permanent employment) on one tax return form.

#### 7.2.2 A close corporation and company

The law that governs these entities requires that you make use of an auditor (in the case of a company) or a registered bookkeeper (in the case of a close corporation). Legislation requires a tax return from you personally and one from the business entity.

### 7.3 As an employer, the collection and payment of employee’s tax must be carried out

If you own a business you must register as an employer with SARS. Accordingly you as owner-employer of the guest house will have to deduct employee tax from your workers’ remuneration each month if they earn more than R60 000 per annum. At the end of each
Guest houses are an important contributor to the local economy of any region, as they attract both local and international tourists with the aim of providing them with a taste of local food and hospitality. This creates much-needed job opportunities and revenue for local regions.

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About the editor

Deseré Kokt is Research Professor in Leisure Management at the Central University of Technology, Free State (CUT). She holds a doctorate in Human Resources Management and has published more than 24 papers in both peer-reviewed and other journals. She has also delivered 23 papers at national and international conferences and is a Master Human Resources Practitioner (MHRP) with the South African Board for Personnel Practice (SABPP). She is a member of the editorial committee of the Journal of New Generation Sciences (JNGS) and the chairperson of the Research Committee for the Faculty of Management Sciences at the CUT.