

## Promotion of Access to Information Manual

Prepared in accordance with Section 51 of the Promotion of Access to Information Act, No 2 of 2000 (PAIA).

This Manual applies to Roadcom Toptrans (Pty) Ltd (hereafter referred to as “Toptrans”).

### List of Acronyms and Abbreviations

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| • “DIO”          | Deputy Information Officer  |
| • “Data Subject” | Person to whom the personal information relates   |
| • “IO”           | Information Officer   |
| • “MD”           | Managing Director   |
| • “Minister”     | Minister of Justice and Correctional Services   |
| • “PAIA”         | Promotion of Access to Information Act No. 2 of 2000 (as Amended)   |
| • “POPIA”        | Protection of Personal Information Act No.4 of 2013   |
| • “Private Body” | A natural person, partnership or any former or existing juristic person who carries or has carried on any trade, business or profession |
| • “Regulator”    | Information Regulator of South Africa   |
| • “Republic”     | Republic of South Africa  |

### Purpose of the PAIA manual

This guide to accessing records held by Toptrans is intended to provide guidelines to members of the public who wish to exercise their constitutional right to access to information.

Below is information on how to lodge a request, a description of the types of records that will be made available, grounds for refusal, what procedure will be followed in considering a request, the applicable fee structure, and information on the appeals procedure should applicants not be satisfied with the outcome of the request.

### Introduction

Toptrans conducts business as an underwriting manager. We are a registered financial services provider with the Financial Sector Conduct Authority (FSCA). Our FSCA licence number is: 37014.

The Promotion of Access to Information Act, No. 2 of 2000 (“*the Act*”) (PAIA) gives effect to the constitutional right of access to any information in records held by public or private bodies that is required for the exercise or protection of any rights. Where a party wishes to request information which they do not have a direct right to, but which information is needed in order to protect a right of their own, they will use the procedure set out in the PAIA manual to request such information and the Protection of Personal Information Act 4 of 2013 (POPIA) recognise that the right of access to information cannot be unlimited and should be subject to justifiable limitations. The Act grants a requester access to records of a

private body, if the record is required for the exercise or protection of any rights. If a public body lodges a request, the public body must be acting in the public interest. The Act sets out the requisite procedural issues attached to a request for access to information, the requirements which such request must meet as well as the grounds for refusal or partial refusal of such request.

This manual informs requesters of procedural and other requirements which requests must meet as prescribed by the Act. In addition, it explains how to access PI held by Toptrans in terms of Sections 23 and 25 of the Protection of Personal Information Act 4 of 2013 (POPIA).

The Act recognises that the right to access to information cannot be unlimited and should be subject to justifiable limitations, including, but not limited to limitations aimed at the reasonable protection of privacy, commercial confidentiality, and effective, efficient and good governance in a manner which balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

### Contact Details and Information

All requests for access to records in terms of the Act must be in writing and must be addressed to the Information Officer or Deputy Information Officer at the below contact details:

#### **Information Officer:**

Tammy Gonsalves  
Postal Address: PO Box 15683, Lambton, Germiston, 1414  
Tel: +27 11 622 0142  
Email: [tammy@toptrans-uma.co.za](mailto:tammy@toptrans-uma.co.za)  
Website: [www.toptrans-uma.co.za](http://www.toptrans-uma.co.za)

#### **Deputy Information Officer:**

Chris Smit  
Postal Address: PO Box 15683, Lambton, Germiston, 1414  
Tel: +27 11 615 3640  
Email: [chris@captive.co.za](mailto:chris@captive.co.za)  
Website: [www.toptrans-uma.co.za](http://www.toptrans-uma.co.za)

#### **Access to Information general contacts**

Email: [tammy@toptrans-uma.co.za](mailto:tammy@toptrans-uma.co.za)

### Purpose of Processing Personal Information

Toptrans processes PI for a variety of purposes, where legally justified to do so.

We collect personal information to be able to provide financial services for the marketing and assisting individuals with their insurance requirements. We also process personal information for employment of staff and outsourcing of specialised services.

### Records of Applicable Legislation which are available in accordance with any other legislation:

A table of legislation setting out a description of the records of Toptrans which are available in accordance with other legislation:

	Category of records	Applicable legislation
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<b>No</b>	<b>Ref</b>	<b>Act</b>
1	<b>No 71 of 2008</b>	Companies Act
2	<b>No 95 of 1967</b>	Income Tax Act
3	<b>No 66 of 1995</b>	Labour Relations Act
4	<b>No 89 of 1991</b>	Value Added Tax Act
5	No 75 of 1997	Basic Conditions of Employment Act
6	No 25 of 2002	Electronic Communications and Transactions Act
7	No 2 of 2000	Promotion of Access of Information Act
8	No 54 of 2002	Promotion of Access of Information Amendment Act
9	No 30 of 1996	Unemployment Insurance Act
10	No 78 of 1998	National Payment System Act
11	No 38 of 2001	Financial Intelligence Centre Act
12	No 85 of 1993	Occupational Health and Safety Act
13	No 9 of 1999	Skills Development Levies Act
14	No 4 of 2013	Protection of Personal Information Act
15	No 26 of 2000	Protected Disclosures Act
16	No 130 of 1993	Compensation for Occupational Injuries and Diseases Act
17	No 12 of 2004	Prevention and Combating of Corrupt Activities Act
18	No 53 of 2003	Broad Based Black Economic Empowerment Act
19	No 36 of 2005	Electronic Communications Act
20	No 37 of 2002	Financial Advisory and Intermediary Services Act
21	No 68 of 2008	Consumer Protection Act
22	No 55 of 1998	Employment Equity Act
23	No 18 of 2017	Insurance Act
24	No 68 of 1969	Prescription Act

### Category of Records of Toptrans available without requiring access request

Toptrans has under its control or in its possession the following categories of records under the subjects described below. The categories of records are not exhaustive and are subject to amendment from time to time. A request made for access to these records will not automatically be granted but will be evaluated in accordance with the provisions of the Act, any other legal requirements, and Toptrans' policies.

<b>Category of record</b>	<b>Type of record</b>	<b>Available on website</b>	<b>Available on request</b>
Governance & FAIS Disclosures	Complaints Management Framework. Conflict of Interest Policy Treating Customers Fairly Policy	X	X
Forms	Proposal Forms Claim Forms	X	X
Marketing	Product offerings External newsletters and circulars Internal newsletters and circulars Information on the company published by third parties Posters Campaigns	X	X

## Subjects on which Toptrans holds Records

Subjects on which Toptrans holds records	Categories of records
Company Secretarial Records	Company incorporation documents Names of directors Salaries of directors
Financial	Financial statements Management accounts Financial and Tax records (Company & Employee) Asset Register Statutory returns Financial agreements Banking details Shareholder personal information
Human Resources	HR policies, procedures and records Statutory Employee records Performance records Key Individual & Representative register Payroll records Recruitment and Termination List of employees Personal information of employees Employee contracts of employment Pension funds & Provident Fund Leave records
Insurance of Company	Insurance policies held by the company Asset's register
Marketing	Customer database Marketing strategy
Client Records	Key Individual & Representative Registers Accounts Monitoring Reports Financial Statements Documented policies and procedures Profile changes CIPC documents Licence certificates Qualifications Complaints Contact details of individuals within customers Communications with customers Databases
Company Policies and Directives	Internal policies relating to employees and the company External relating to clients and other third parties
Agreements or Contracts	Standard agreements Contracts concluded with customers

	NDA's Letters of Intent, MOUs Third party contracts such as JV agreements, other agreements etc.) Office management contracts Supplier contracts
Regulatory	Licenses or Authorities Supervisory body-related records Statutory records
Operational records	Product records Internal and external correspondence Information technology

### Categories of Data Subjects and Information

Categories of Data Subjects	Types of Personal Information Processed
Customers / Clients	Name, surname, address, registration numbers, identity numbers, identity documents, bank details, cellphone numbers, email addresses, financial statements, application forms, VAT numbers, Telephone numbers, website address, Physical access records
Service Providers	Names, registration number, VAT numbers, Address, email address, cellphone number, Telephone number and bank details, Physical access records
Employees	Address, qualifications, gender, race, identity numbers, passport numbers, bank account details, leave records, contracts of employment, tax and financial information, beneficiary information, Vehicle registration, Performance records, Physical access records, electronic access records

### The recipients or categories of recipients to whom the personal information may be supplied

Category of personal information	Recipients or Categories of Recipients to whom the personal information may be supplied
ID and / or passport numbers	Regulatory Authorities in South Africa – Financial Services Conduct Authority (FSCA), Financial Intelligence Centre (FIC), South Africa Revenue Services (SARS) Financial Services Providers (FSPs), Department of Labour (DL), Accounting service provider, Verification agencies
Email address	Marketing service provider, FSCA
VAT numbers	SARS, Accounting service provider

Payroll	Payroll service provider, Banks
Representative Registers	FSCA, FSPs
Company Registration numbers	FSCA, CIPC, Accounting service providers
Telephone and Cellphone Numbers	FSCA, FIC, FSPs, CIPC, Accounting service providers
Addresses	FSCA, SARS, Accounting service providers
Bank Account details for payment details and FAIS Registration	Clients, FSCA, Accounting service providers
FSP service providers (accounting officers and auditors)	FSCA

### **Planned transborder flows of personal information**

Toptrans stores records in data centres in South Africa and Ireland.

Toptrans will only transfer PI across South African borders if the relevant transactions or situation requires cross-border processing. It will only do so in accordance with South African legislative requirements, or if the data subject consents to the transfer of their PI to third parties in foreign countries.

Toptrans will take steps to ensure that operators (suppliers and third parties) in foreign countries are bound by laws, binding corporate rules or binding agreements that provide an adequate level of protection of PI and uphold principles for reasonable and lawful processing of personal information, in terms of POPIA.

Toptrans will take steps to ensure that operators (suppliers and third parties) that process PI in jurisdictions outside of South Africa, apply adequate safeguards.

### **General description of Information Security Measures to be implemented by the responsible party to ensure the confidentiality, integrity and availability of the information**

To safeguard personal information Toptrans will continuously implement and monitor technical and organisational security measures to protect the PI it holds, against unauthorised access, as well as accidental or wilful manipulation, loss, damage, or destruction.

Toptrans will take steps to ensure that operators (suppliers and third parties) that process PI on its behalf apply adequate safeguards as outlined above.

### **Before submitting a formal request for access the following need to be considered:**

#### **Is the submission of the request for the exercise or protection of any of the requester's legitimate rights?**

The exercise of rights is subject to justifiable limitations, including the reasonable protection of privacy, commercial confidentiality, and effective, efficient and good governance. This legislation may not be used for access to a record for criminal or civil proceedings or requested after the commencement of such proceedings.

#### **Is the information required in record form, under the control of Toptrans?**

The Act only applies to records that have already been created, at the date of the request, and that are under the control of Toptrans. Toptrans is not obliged to retrieve any records on behalf of a requester that are no longer under its control, even where Toptrans created the record.

### **Does the requester have a legitimate right to access the record?**

A request may only be made to exercise the right of a requester. Where the request is made on behalf of another person, the requester must submit proof of their capacity to act on behalf of the person in whose name the request is made. For example, a power of attorney must be submitted with the request where a legal representative makes the request on behalf of their client.

### **Grounds for Refusal of Access to Records**

The main grounds for Toptrans to refuse a request for information relates to the:

- mandatory protection of the privacy of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person,
- mandatory protection of the commercial information of a third party, if the record contains:
  - trade secrets of that third party,
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party,
  - information disclosed in confidence by a third party to Toptrans, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition,
- mandatory protection of confidential information of third parties if it is protected in terms of any agreement,
- mandatory protection of the safety of individuals and the protection of property,
- mandatory protection of records which would be regarded as privileged in legal proceedings,
- the commercial activities of Toptrans, which may include:
  - trade secrets of Toptrans,
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of Toptrans,
  - information which, if disclosed could put Toptrans at a disadvantage in negotiations or commercial competition, and
  - a computer program which is owned by Toptrans, and which is protected by copyright.

Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused.

### **Internal Remedies**

Toptrans does not have internal appeal procedures. As such, the decision made by the Information Officer is final, and requesters will have to exercise such external remedies at their disposal if the request for information is refused, and the requester is not satisfied with the answer supplied by the Information Officer.

### **External Remedies**

Subject to the provisions of the Act, a requester that is dissatisfied with an Information Officer's refusal to disclose information, may within 180 days of notification of the decision, apply to a Court for relief. Likewise, a third party dissatisfied with an Information Officer's decision to grant a request for information, may within 180 days of notification of the decision, apply to a Court with appropriate jurisdiction for relief.

## Request Procedure

The following procedural requirements serve as guidelines for requesters:

- The requester must also comply with all the procedural requirements contained in the Act relating to the request for access to a record,
- The requester must complete the prescribed form and submit same as well as payment of a request fee and a deposit, if applicable to the Information Officer at the postal or physical address, fax number or electronic mail address as stated above,
- The prescribed form must be filled in with enough particularity to at least enable the Information Officer to identify:
  - The record or records requested,
  - The identity of the requester,
  - Which form of access is required, if the request is granted,
  - The requester (and if an agent is lodging the request, proof of capacity),
  - The postal address or fax number of the requester,
- The requester must state the nature of the right for which access to the requested records is required. The courts have indicated that access to the records must be “necessary” for the exercise or protection of the right so stated,
- Subject to the provisions in the Act in respect of extensions, Toptrans will process the request within 30 days, unless the requester has stated special reasons which would satisfy the Information Officer that circumstances dictate that the above time periods not be complied with,
- The requester shall be informed in writing whether access has been granted or denied. If, in addition, the requester requires the reasons for the decision in any other manner, he must state the manner and the particulars so required,
- If a request is made on behalf of another person, then the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of the Information Officer,
- If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.

A fee for a copy of the Manual, as contemplated in annexure B of the Regulations, shall be payable per each A4-size photocopy made.

**The requester must pay the prescribed fee before any further processing can take place.**

Description	Cost per A4-size page or part thereof/item	Number of pages/items	Total
The request fee payable by every requester	N/A	N/A	R140.00
Photocopy / printed black & white copy of A4-size page	R2.00		
Printed copy of A4-size page	R2.00		
For a copy in a computer-readable form on: a) Flash drive – to be provided by requester b) Compact disc – (i) if provided by requester	R40.00 (i) R40.00		



(ii) if provided to the requester	<b>(ii) R60.00</b>		
For a transcription of visual images per A4-size page	<b>Service to be outsourced. Will depend on quotation from Service provider.</b>		
Copy of visual images.			
Transcription of an audio record, per A4-size page	<b>R24.00</b>		
Copy of an audio record. (i) Flash Drive – to be provided by requester (ii) Compact disc – (i) if provided by requester (ii) If provided to the requester	<b>R40.00</b> <b>R40.00</b> <b>R60.00</b>		
To search for and prepare the record for disclosure for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation. To not exceed a total cost of	<b>R145.00</b> <b>R435.00</b>		
A deposit if payable if search exceeds 6 hours	Amount of deposit (calculated on one third of total amount per request).	<b>Hours of search</b>	
Postage, email or any other electronic transfer	<b>Actual costs if any</b>		

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

### Access to Records held by Toptrans

- Records held by Toptrans may be accessed by requests only once the prerequisite requirements for access have been met.
- A requester is any person making a request for access to a record of Toptrans. There are two types of requesters:

#### Personal Requester

- A personal requester is a requester who is seeking access to a record containing personal information about the requester.
- Subject to the provisions of the Act and applicable law, Toptrans will provide the requested information, or give access to any record about the requester's personal information. The prescribed fee for reproduction of the information requested will be charged.

### **Other Requester**

- This requester (other than a personal requester) is entitled to request access to information on third parties. However, Toptrans is not obliged to grant access. The requester must fulfil the prerequisite requirements for access in terms of the Act, including the payment of a request and access fee.

### **Decision**

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

### **Availability of the Manual**

This manual is made available in terms of Regulation Number R. 187 of 15 February 2002.

A copy of the Manual is available:

- on [www.toptrans-uma.co.za](http://www.toptrans-uma.co.za),
- from the head office of Toptrans for public inspection during normal business hours,
- to any person upon request and upon the payment of a reasonable prescribed fee, and
- to the Information Regulator upon request.

### **Updating of the Manual**

The Information Officer of Toptrans will on a regular basis update this manual.