



**PROMOTION OF ACCESS TO  
INFORMATION  
ACT 2 OF 2000**

**SECTION 51 MANUAL**

## **1. INTRODUCTION**

- 1.1. Stellar Capital Partners Limited is a diversified JSE listed investment holding company.
- 1.2. Section 32 of the Constitution provides that everyone has the right of access to:
  - 1.2.1. any information held by the state; and
  - 1.2.2. any information that is held by another person that is required for the exercise or protection of any rights.
- 1.3. The Act, was assented to on 3 February 2000 to give effect to this constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any right.
- 1.4. Where a request is made in terms of the Act, the private or public body to which the request is made is obliged to release the information, except where the Act expressly provides that the information must not be released. The Act sets out the requisite procedural issues attached to such request.

## **2. INTERPRETATION**

- 2.1. In so far as there is a conflict in the interpretation of or application of this Manual and the Act, the Act shall prevail.
- 2.2. In this Manual a reference to:
  - 2.2.1. a party shall include a reference to that party's successors and assigns; and
  - 2.2.2. a document includes reference to an amendment, supplement, replacement or notation of that document.
- 2.3. Where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day. If the last day of such number so calculated

falls on a day which is not a business day, the last day shall be deemed to be the next succeeding day which is a business day.

2.4. The following expressions shall bear the meaning assigned to them below and cognate expressions shall bear corresponding meanings:

2.4.1. “Act” - Promotion of Access to Information Act No. 2 of 2000, as amended from time to time including the regulations promulgated in terms of the Act.

2.4.2. “business day” – any day other than a Saturday, Sunday or official public holiday within the Republic of South Africa.

2.4.3. “Stellar Group” – any one or all the non-investee companies operating within the Stellar group of companies and include:

2.4.3.1. Stellar Management Services (Pty) Ltd.

2.4.4. “Constitution” - the Constitution of the Republic of South Africa, No. 108 of 1996.

2.4.5. “Information Officer” – the Stellar Group Chief Executive Officer and such individual as may be designated as such by the Chief Executive Officer from time to time.

2.4.6. “Manual” – this document together with all annexure, as amended from time to time.

2.4.7. “requester” – the party requesting information or records from the Stellar Group.

### **3. PURPOSE OF THE MANUAL**

3.1. This Manual is intended to foster a culture of transparency and accountability within the Stellar Group as a whole, by giving effect to the right to information that is required for the exercise or protection of any right and to actively promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect their rights.

3.2. In order to promote effective governance of private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights in terms of the Act in order for them to exercise their rights in relation to public and private bodies.

3.3. Section 9 of the Act however 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:

3.3.1. privacy of a party;

3.3.2. commercial confidentiality; and

3.3.3. effective, efficient and good governance.

in a manner that balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

3.4. This Manual further provides for a uniform procedure to request information from any one of the companies forming part of the Stellar Group.

#### **4. WHO MAY REQUEST INFORMATION IN TERMS OF THE ACT**

4.1. Any person, who requires information for the exercise or protection of any rights, may request information from a private body. Section 50 of the Act states that a requester must be given access to any record of a private body if:

4.1.1. that record is required for the exercise or protection of any rights;

4.1.2. that person complies with the procedural requirements in the Act relating to a request for access to that record; and

4.1.3. access to that record is not refused in terms of any ground for refusal contemplated in the Act.

4.2. A requester is any person making a request for access to a record of the Stellar Group. There are two types of requesters, being:

- 4.2.1. A personal requester who is a requester who is seeking access to a record containing personal information about the requester. The Stellar Group will voluntarily provide the requested information, or give access to any record with regard to the requester's personal information.
- 4.2.2. Other requester is a requester (other than a personal requester) who is entitled to request access to information on third parties. However, the Stellar Group is not obliged to voluntarily 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.

## **5. PROCEDURE FOR REQUESTING INFORMATION**

- 5.1. In accordance with the terms of section 53 of the Act, a request for access to a record of the Stellar Group must be made in the prescribed form (attached hereto as "Form A") addressed to the Stellar Group at the address, telephone number or electronic mail address given below. The form requires the requester to provide the following information:
  - 5.1.1. sufficient information to enable the Information Officer to identify the requester;
  - 5.1.2. sufficient information to enable the Information Officer to identify the record(s) requested;
  - 5.1.3. the form of access required;
  - 5.1.4. the requester's postal address, fax number or email address;
  - 5.1.5. identification of the right sought to be exercised or protected;
  - 5.1.6. an explanation on why the record is required to exercise or protect that right;
  - 5.1.7. the manner in which the requester wishes to be informed of the decision on the request, if in a manner in addition to written notification; and

5.1.8. if the request is made on behalf of a person, the submission of proof of the capacity in which the requester makes the request, to the satisfaction of the Information Officer.

5.2. Form A must be addressed to the Information Officer at any one of the following:

Email Address - info@stellarcapital.co.za

Postal Address - Suite 229, Private Bag X1005, Claremont, 7735

5.3. If an individual is unable to complete Form A for any reason, such a person may make the request orally or in person to:

Telephone number - +27 21 657 8760

Physical Address - 3<sup>rd</sup> Floor, The Terraces, 25 Protea Road, Claremont, 7708

The request will be properly recorded and be kept in record.

5.4. The Stellar Group 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.

5.5. Note that all of the information as listed above should be provided in the request, failing which the process will be delayed while the Information Officer requests such additional information. The prescribed periods will not commence until all pertinent information has been furnished to the Information Officer by the requester.

5.6. The requester shall be informed whether access has been granted or denied in writing. If the requester requires the reasons for the decision in any other manner, he must state the manner and the particulars so required.

## **6. PRESCRIBED FEES PAYABLE**

6.1. Payment of fees is regulated in terms of Section 54 of the Act. The Regulations to the Act provide for two types of fees –

- 6.1.1. A request fee: This is a R50 (fifty Rand) non-refundable administration fee paid by all requesters with the exclusion of personal requesters. It must be paid before the request is considered.
- 6.1.2. An access fee: This fee is paid by all requesters only when access is granted. This fee is intended to reimburse the Stellar Group for the costs involved in searching for a record and preparing it for delivery to the requester as set out below.
- 6.2. The Information Officer shall give written notice to a requester, other than a personal requester, of the request fee and amount to be paid before the request may be further processed.
- 6.3. If in the Information Officer's opinion, the search for a record or preparation of the record for disclosure will require more than six hours, the Stellar Group may require the requester to pay a deposit, not being more than one third of the access fee that would be payable if the request is granted. If the request is declined, the deposit must be repaid to the requester
- 6.4. The requester has a right to apply to court against the payment of the request fee or deposit, and the Information Officer shall advise of the procedure of the application if required.
- 6.5. The Stellar Group shall withhold a record until the requester has paid the fees.
- 6.6. If a deposit has been paid in respect of a request for access, which is refused, then the Stellar Group shall repay the deposit to the requester.
- 6.7. The access fees payable by a requester are as follows:
  - 6.7.1. For every photocopy of an A4-size page or part thereof: R1,10
  - 6.7.2. For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form: R0,75
  - 6.7.3. For a copy in a computer-readable form on compact disc: R70,00
  - 6.7.4. For a transcription of visual images, for an A4-size page or part thereof: R40,00

- 6.7.5. For a copy of visual images: R60,00
- 6.7.6. For a transcription of an audio record, for an A4-size page or part thereof: R20,00
- 6.7.7. For a copy of an audio record: R30,00
- 6.7.8. To search for and prepare the record for disclosure, R30,00 for each hour or part of an hour reasonably required for such search and preparation.
- 6.7.9. The actual cost incurred for postage if the record must be posted.

## **7. THIRD PARTY RECORDS**

- 7.1. In the event of information being requested that relates to third parties that is in the Stellar Group's possession, such requests will be dealt with in accordance with the provisions of sections 71 to 74 of the Act.
- 7.2. The attention of the requester is drawn to the provisions of Chapter 5, Part 3 of the Act in terms of which the Stellar Group is obliged to advise third parties of requests lodged in respect of information applicable to or concerning such third parties.
- 7.3. The manner in which this is done must be in the fastest means reasonably possible but in any event within 21 (twenty one) days, and if orally, the Stellar Group must thereafter give the third party a written confirmation of the notification.
- 7.4. The third party may within 21 (twenty one) days thereafter either make representation to the Stellar Group as to why the request should be refused; alternatively grant written consent to the disclosure of the record.
- 7.5. The third party must be advised of the decision taken by Stellar Group on whether to grant or decline the request, and must also be advised of his/ her/ its right to appeal against the decision by way of application to court within 30 days after the notice.

7.6. In addition, the provisions of Chapter 2 of Part 4 of the Act entitle third parties to dispute the decisions of the head or the request liaison officer by referring the matter to the High Court.

## **8. DECISIONS ON ACCESS**

8.1. In accordance with Section 55 of the Act, the Stellar Group will take all reasonable steps to find a record that has been requested. If the record cannot be found or does not exist, the Stellar Group must notify the requester by way of affidavit or affirmation that it is not possible to give access to the record. This is deemed a refusal of the request. If, however, the record is later found, the requester must be given access if the request would otherwise have been granted.

8.2. Section 56 of the Act provides that the Stellar Group must, within 30 (thirty) days of receipt of a correctly completed request, notify the requester of its decision as to whether the request has been granted or not.

8.3. If the request is:

8.3.1. Granted: the notification must state the applicable access fee required to be paid, together with the procedure to be followed should the requester wish to apply to court against such fee, and the form in which access will be given.

8.3.2. Declined: the notification must include adequate reasons for the decision, together with the relevant provisions of the Act relied upon, and provide the procedure to be followed should the requester wish to apply to court against the decision.

8.4. The Stellar Group may extend the period of 30 (thirty) days by a further period not exceeding 30 (thirty) days, if:

8.4.1. the request is for a large number of records or requires a search through a large number of records;

8.4.2. the request requires a search for records located in a different office of the Stellar Group not situated in the same city;

- 8.4.3. consultation between divisions of the Stellar Group, or with another private body, is required; or
- 8.4.4. the requester consents to the extension.
- 8.5. The requester must be notified within the initial 30 (thirty) day period, in writing, of the extension, together with reasons therefor, and the procedure involved should the requester wish to apply to court against the extension.
- 8.6. Any failure of the Stellar Group to respond to the requester within the 30 (thirty) day period, barring an extension, constitutes a deemed refusal of the request.

## **9. GROUNDS FOR REFUSAL**

- 9.1. Notwithstanding compliance with section 50 of the Act, a request may be declined in accordance with one of the prescribed grounds in terms of the Act, namely:
  - 9.1.1. Section 63 of the Act prohibits the unreasonable disclosure of the personal information of a natural person third parties to requesters. This includes the personal information of deceased persons.
  - 9.1.2. Section 64 states that a request must be refused if it relates to records containing third party information pertaining to:
    - 9.1.2.1. trade secrets;
    - 9.1.2.2. financial, commercial, scientific or technical information where disclosure would be likely to cause harm to the commercial or financial interests of that third party;
    - 9.1.2.3. information supplied in confidence by the third party, the disclosure of which would reasonably be expected to put the third party at a disadvantage in contractual or other negotiations, or prejudice the third party in commercial competition.

The information must, however, be released if it pertains to the results of product or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.

- 9.1.3. Section 53 prohibits disclosure of information if such disclosure would constitute a breach of any duty of confidentiality owed to a third party in terms of an agreement.
- 9.1.4. In terms of section 66, the Stellar Group must refuse a request for access to a record of the body if disclosure could reasonably be expected to:
  - 9.1.4.1. endanger the life or physical safety of an individual;
  - 9.1.4.2. prejudice or impair the security of a building, structure or system, including but not limited to a computer or communication system, means of transport or any other property; or
  - 9.1.4.3. prejudice methods, systems, plans or procedures for the protection of an individual in accordance with a witness protection scheme or safety of the public.
- 9.1.5. Section 67 mandates the refusal of a request if the record is privileged from production in legal proceedings, unless the person entitled to the privilege has waived the privilege.
- 9.1.6. Section 68 pertains to records containing information about the Stellar Group itself and unlike the other provisions pertaining to decline of a request, is not mandatory, but rather discretionary. The Stellar Group may refuse access to a record if the record:
  - 9.1.6.1. contains trade secrets of the Stellar Group;
  - 9.1.6.2. contains financial, commercial, scientific or technical information, the disclosure of which would be likely to cause harm to the commercial or financial interests of the Stellar Group;
  - 9.1.6.3. contains information which, if disclosed, could reasonably be expected to put the Stellar Group at a disadvantage in contractual or other negotiations, or prejudice the Stellar Group in commercial competition; or

- 9.1.6.4. consists of a computer program owned by the Stellar Group. Notwithstanding the above, the information must be released if it pertains to the results of product or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.
- 9.1.7. Section 69 prohibits the disclosure of information about research where disclosure is likely to expose a third party, the person conducting the research on behalf of the third party, or the subject matter of the research to serious disadvantage. Disclosure is discretionary if such research pertains to the Stellar Group itself.
- 9.2. Notwithstanding any of the above-mentioned provisions, Section 70 provides that a record must be disclosed if its disclosure would:
- 9.2.1. reveal evidence of a substantial contravention of or failure to comply with the law, imminent and serious public safety or environmental risk; and
- 9.2.2. the public interest in the disclosure clearly outweighs the harm.

## **10. TYPES OF RECORDS AVAILABLE**

- 10.1. In accordance with section 52 of the Act, the following records are available to the public without a request in terms of this Manual:
- 10.1.1. Stellar Group staff office contact particulars.
- 10.2. Records that are available in accordance with the current South African legislation, to the extent that the relevant Act is applicable to the Stellar Group and makes disclosure of records compulsory, are not automatically available without a request in terms of this Manual. The Information Officer will take into considerations the provisions of the specific act and the provisions of this manual to decide on whether or not access to any of the information should be given to the requester.

## **11. REMEDIES AVAILABLE ON REFUSAL**

- 11.1. The Stellar Group does not have internal appeal procedures. As such, the decision made by the Information Officer is final, and requestors 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.

- 11.2. A requester that is dissatisfied with the Information Officer's refusal to grant access to any information may, within 30 (thirty) days of notification of the decision apply to court for relief.
- 11.3. A third party dissatisfied with the Information Officer's decision to grant a request may, within 30 (thirty) days of notification of the decision, apply to court for relief.
- 11.4. It should be noted that notwithstanding any provision in the Act, the court may examine the record(s) in question. No record may be withheld from the court on any grounds. However, the court may not disclose the contents of the record(s).
- 11.5. The court is empowered to grant any order that is just and equitable, including:
  - 11.5.1. confirming, amending or setting aside the Information Officer's decision;
  - 11.5.2. requiring the Information Officer to take any action, or refrain from taking any action as identified by the court within a specified period; or
  - 11.5.3. granting an interdict, interim or special relief, declaratory order or compensation or costs.

## **12. DISCLOSURE**

- 12.1. This Manual does not purport to be exhaustive of or to comprehensively deal with every procedure provided for in the Act. A requester is advised to familiarise him/ her/ itself with the provisions of the Act before lodging any request with the Stellar Group.
- 12.2. A copy of the Manual is available:
  - 12.2.1. on the website of the Stellar Group at: [www.stellarcapitalpartners.co.za](http://www.stellarcapitalpartners.co.za);  
and

12.2.2. from the Human Rights Commission of South Africa.

12.3. In terms of Section 10 of the Act, the Human Rights Commission compiled a guide to assist users in the interpretation of the Act. The contact details of the South African Human Rights Commission are:

Private Bag X2700, Houghton, 2041

Telephone number: (011) 877 3600

Website: [www.sahrc.org.za](http://www.sahrc.org.za)

SIGNED AND DATED ON THIS 11<sup>th</sup> DAY OF APRIL 2017



---

Sean Graham

Information Officer