



ACCESS AND PRIVACY CODE

1. Overview:

- 1.1 The Travel Industry Council of Ontario (TICO) is the organization mandated by the Ontario Government to administer the *Travel Industry Act, 2002*, which governs travel retailers and travel wholesalers registered in Ontario. TICO's mission is to regulate consumer protection by promoting awareness, education, and compliance as part of the efficient and effective regulation of Ontario's travel industry.
- 1.2 The Administrative Agreement between the Minister of Public and Business Service Delivery and TICO contains the terms of the delegation to TICO of the administration of the *Travel Industry Act, 2002*. Subsection 11(3) of the Administrative Agreement requires that TICO have an Access and Privacy Code addressing issues of access to its records, protection of personal information, and effective procedural rights and remedies. Schedule "H" of the Administrative Agreement contains TICO's Access and Privacy Code. The Administrative Agreement, including Schedule "H", is posted on TICO's website or available upon request.
- 1.3 TICO recognizes the importance of privacy and the sensitivity of personal information. Section 35 of the *Travel Industry Act, 2002* requires that those involved in the administration of the Act keep confidential the information obtained in the course of their duties.
- 1.4 TICO is committed to collecting, using, and disclosing personal information responsibly and only to the extent necessary to carry out its regulatory activities and to meet its consumer protection mandate.
- 1.5 Although the *Freedom of Information and Protection of Privacy Act* does not apply to TICO, TICO is committed to the principles of promoting transparency of, and accountability for, its regulatory activities, while also ensuring the privacy of personal information.
- 1.6 This Access and Privacy Code outlines how we manage personal information in the custody and control of TICO and safeguard privacy.

1.7 The access to information procedures in this Code do not apply to TICO's sharing of information with the Minister or the Ministry of Public and Business Service Delivery (MPBSD).

2. Purpose

2.1 The purposes of this Code are:

- (a) to provide a right of access to information under the custody and control of TICO in accordance with the principles that,
 - (i) information should be available to the public, and
 - (ii) exemptions from the right of access should be limited and specific.
- (b) to protect the privacy of individuals with respect to personal information about themselves held by TICO and to provide those individuals with a right of access to that information.

3. Application

3.1 This Code applies to the records and personal information collected, used, or disclosed by TICO in the course of its statutory mandate.

4. Definitions

In this Code, the following definitions apply:

<u>Term</u>	<u>Definition</u>
<i>access</i>	means access by an individual or an organization to a record of information in the custody and control of TICO.
<i>Act</i>	means the <i>Travel Industry Act, 2002</i> , S.O. 2002, Chapter 30, Schedule D, and the regulations under that Act, as amended from time to time.
<i>bulk data</i>	means records requested in bulk or selective form (not an individual record) that may have commercial value.

<u>Term</u>	<u>Definition</u>
<i>control</i>	means the power or authority to decide about the use or disclosure of a record.
<i>custody</i>	means the keeping, care, watch, preservation, or security of a record for a legitimate business purpose.
<i>data breach</i>	means the loss of, unauthorized disclosure of, or unauthorized access to information resulting from a breach of TICO's technological, organizational, or physical security safeguards, or from a failure to establish such safeguards.
<i>enforcement</i>	<p>means:</p> <p>(a) policing</p> <p>(b) complaints from the public, inspections, or investigations by TICO or other provincial or federal enforcement bodies that lead or could lead to proceedings in a court or tribunal</p> <p>(c) compliance with regulatory requirements, or</p> <p>(d) any conduct or proceedings referred to in (b).</p>
<i>frivolous and vexatious request</i>	<p>means any request for access to information that is:</p> <ul style="list-style-type: none"> • made without any reasonable ground; • whose purpose is not legitimate but is designed to harass or to accomplish some other objective unrelated to the process being used; • is a repeat request for the purpose of revisiting a previously addressed issue; • is made in bad faith; • is a speculative and/or indiscriminate demand for information without any reasonable grounds to identify an expected outcome.

<u>Term</u>	<u>Definition</u>
<i>MPBSD</i>	means the Ministry of Public and Business Service Delivery.
<i>Minister</i>	means the Minister of Public and Business Service Delivery or any other member of the Executive Council to whom the responsibility for the administration of the Act is assigned.
<i>personal information</i>	means any information about an identifiable individual that is recorded in any form. Personal information can relate to one's personal characteristics, for example, gender, age, income, home address or telephone number, ethnic background, family status; their health or their activities and views. Personal information is to be contrasted with business information, for example, an individual's business address and telephone number, which is not protected by privacy legislation.
<i>public information</i>	means information that is publicly available, including information that TICO has published on its website or that TICO has otherwise determined is necessary to make available to the public in accordance with its administration of the Act.
<i>record</i>	means any record or information, however recorded, in the custody and control of TICO pursuant to TICO's administration of the Act.
<i>TICO</i>	means the Travel Industry Council of Ontario

5. Accountability

- 5.1 TICO is responsible for all records and personal information under its custody and control.
- 5.2 The CEO is accountable for administration of this Code and for all decisions to release or not release records.
- 5.3 The CEO may delegate some or all of the powers and responsibilities to a Privacy Officer or other designate.

- 5.4 The CEO has appointed Tracey McKiernan as TICO's Privacy Officer to have accountability for the administration of this Code.
- 5.5 In the temporary absence of the Privacy Officer, the CEO may delegate the role to another designate.
- 5.6 The contact information of the Privacy Officer is as follows:

Travel Industry Council of Ontario
55 Standish Court
Suite 460
Mississauga, Ontario
L5R 4B2
Telephone: (905) 624-6241 Ext. 223
Toll Free: 1-888-451-TICO
E-mail: tmckiernan@tico.ca

- 5.7 The ongoing collection, use, and management of information may be the responsibility of individuals within TICO other than the Privacy Officer.
- 5.8 TICO will keep information accurate and up to date based on the information provided to it. Registrants will be reminded periodically in the TICO Talk newsletter of their statutory obligation to keep information current and up to date.
- 5.9 Although TICO takes reasonable steps to ensure the accuracy of the information provided under this Code, it does not warrant or otherwise guarantee that the information is complete, accurate, or up to date.

6. Statutory Duty of Confidentiality

- 6.1 TICO is committed to openness and transparency about its regulatory activities.
- 6.2 TICO also has a statutory duty under Section 35(1) of the Act to maintain confidentiality over information that is obtained in the course of exercising a power or carrying out a duty related to the administration of the Act subject to exceptions.
- 6.3 Section 35(1) of the *Travel Industry Act, 2002* states:
 - 35. (1) A person who obtains information in the course of exercising a power or carrying out a duty related to the administration of this Act or the regulations shall preserve secrecy with respect to the information and shall not communicate the information to any person except,

- (a) as may be required in connection with a proceeding under this Act or in connection with the administration of this Act or the regulations;
- (b) to a ministry, department or agency of a government engaged in the administration of legislation similar to this Act or legislation that protects consumers or to any other entity to which the administration of legislation similar to this Act or legislation that protects consumers has been assigned;
- (b.1) as authorized under the *Regulatory Modernization Act, 2007*;
- (c) to a prescribed entity or organization, if the purpose of the communication is consumer protection;
- (d) to a law enforcement agency;
- (e) to his, her or its counsel; or
- (f) with the consent of the person to whom the information relates.

6.4 Where permitted under the Act, the *Safety and Consumer Statutes Administration Act, 1996*, and the Administrative Agreement with the Minister of Public and Business Service Delivery, TICO will provide access to information in accordance with this Code.

6.5 Before disclosing information to third parties TICO will take reasonable steps in accordance with this Code to ensure that the third party has measures in place to protect the personal information.

7. Access to Records:

7.1 Subject to the Act and the exemptions under the Code, every person has a right of access to a record or a part of a record in the custody and under the control of TICO containing the following information:

- (a) their own personal information;
- (b) information relating to the person's registration, renewal of registration, application for registration, or Compensation Fund claim;
- (c) the registration status of an individual or entity registered by TICO; and
- (d) public information.

8. Access to Records Procedure:

8.1 Step 1 – Informal Request:

TICO encourages individuals to informally request information as a first step. TICO routinely provides information to registrants on the status of their registration. TICO will need to confirm the requester's identity before providing access to information. As well, TICO routinely provides information to the public without recourse to the formal access procedure set out below. TICO makes public information available on its website and in other ways determined by the Registrar in accordance with the Act. Information that is routinely available includes annual reports, audited financial statements, consultation reports, etc.

8.2 Step 2 – Formal Request:

When information cannot be obtained through the informal route, a formal request may be made to TICO's Privacy Officer. The request must be in writing, addressed to the Privacy Officer and must describe the records requested. The written request shall include sufficient information to allow TICO to identify and authenticate the identity of the requester. TICO will make every effort to respond within 30 days of receipt of the request. If for some reason the Privacy Officer is not able to respond within 30 days, the Privacy Officer shall advise the person making the request and advise the individual the anticipated date a response can be expected.

When access to a record is not provided by TICO, reasons will be provided in accordance with the exemptions in the Code. TICO will also provide information on the process to request a review of the decision, if desired.

Where a person requests access to records that pertain to individuals or organizations other than the requester, this is considered a third-party request for information. Where a third-party requests access to information that includes personal information, TICO will seek the affected person's consent prior to providing access to the third party. TICO will only provide access to information that includes personal information to a third party where the affected individual consents or where access is otherwise permitted by the Act.

Before disclosing a record, TICO shall make reasonable efforts to give notice to any person to whom the information in the record relates, if it is practicable to do so.

8.3 Step 3 – Review of the Privacy Officer’s Decision:

When the individual who requested the information is not satisfied with the response to the formal request, the requester may ask TICO’s Governance and Human Resources Committee to review the decision. The request for review must be in writing, addressed to TICO’s Governance and Human Resources Committee and must describe what the requester wants reviewed. A final decision on the formal request will be provided within 30 days of receipt of the review request if possible.

If for some reason the Governance and Human Resources Committee is not able to respond within 30 days, the Committee shall advise the person making the request and advise the individual the anticipated date a response can be expected.

9. Exemptions to Access or Disclosure of Records

9.1 Mandatory Exemptions: TICO shall refuse to disclose records that constitute:

- (a) personal information, disclosure of which violates another individual’s right to privacy, unless the affected individual consents to the disclosure; and/or
- (b) records containing commercial, proprietary, technical, or financial information about TICO or of any person or business that has supplied records to TICO with a reasonable expectation of confidence, unless access is required by law, the information is already public information, access is appropriate in litigation or regulatory proceedings, or with the consent of the individual or entity to which the information relates.

9.2 Discretionary Exemptions: TICO may refuse to disclose records and personal information where the disclosure:

- (a) may involve information that may reveal the substance of deliberations by TICO’s Board of Directors (including its committees), TICO committees, TICO’s Leadership Team or managers, including but not limited to, agendas, minutes, briefing materials, policy options and analyses, advice or recommendations to or from employees or an external consultant, proprietary information, and advice from government;
- (b) may violate a legal recognized privilege such as solicitor-client privilege, litigation privilege, or settlement privilege, or may have been prepared by or for counsel in giving or seeking legal advice or in contemplation of litigation;

- (c) may derive from or compromise an enforcement activity, including where access may be refused under the exceptions described in subsection 14(1) of the *Freedom of Information and Protection of Privacy Act* if it applied to TICO;
- (d) could reasonably be expected to adversely impact compliance with regulatory requirements;
- (e) violates a provision of the Act;
- (f) may involve bulk data and/or other aggregate data that identifies a specific person;
- (g) may not be in the public interest and could reasonably be expected to threaten the life, health, or security of an individual;
- (h) may have been generated in the course of a dispute resolution process including, for example, mediation or the handling of a complaint;
- (i) may be unreasonably costly to provide, considering the nature of the request and the volume of records requested;
- (j) may be a frivolous and vexatious request;
- (k) may reveal procurement information, including information submitted to TICO in response to a procurement process;
- (l) is an audio recording of a telephone call made for quality assurance purposes;
- (m) may impair the ability of TICO to provide a fair, safe, and informed marketplace that supports a competitive economy;
- (n) may be information compiled by TICO or supplied to TICO for the purposes of risk management or risk-informed decision making;
- (o) may be a report or other information supplied by a government, regulatory or enforcement body to TICO in confidence, whether explicitly or implicitly; or
- (p) may reveal proposed plans, policies, or projects of TICO where disclosure could reasonably be expected to result in premature disclosure of a pending policy decision or would cause undue financial loss or benefit to a person.

- 9.3 TICO shall disclose as much of the record as can be reasonably severed without disclosing information captured in sections 9.1 or 9.2.
- 9.4 TICO may refuse to confirm or deny the existence of a record to which section 9.1 or 9.2 applies.

10. Collection of Personal Information

- 10.1. TICO has the authority to collect, use, and disclose personal information for the purpose of carrying out its objects.
- 10.2 TICO shall not collect, use, or disclose more personal information than is reasonably necessary to carry out its regulatory activities and fulfill its consumer protection mandate.
- 10.3 Primary Purposes for Collecting Information: TICO collects information about registrants, about members of the general public, and about contract staff as follows:

(a) *About Applicants/Registrants:*

Personal information will be collected by lawful means directly from the applicant or registrant to whom it relates whenever possible and will be compiled only where there is a demonstrable need for the information in order for TICO to administer the Act. Individuals will be informed of the purposes for which personal information is collected, unless the information is collected as part of an inspection, investigation, or a complaint. TICO staff involved in the collection of personal information will communicate the reasons personal information is required at the request of the individual to whom the information pertains. The primary purposes of collecting the information are to determine if one is qualified for registration under the statute and to ensure that the legislation is being complied with.

An individual's written consent will be obtained before personal information is collected from third parties except for the conduct of an inspection, investigation, or complaint. The TICO Registration and Renewal Forms contain a consent provision with respect to the collection of relevant personal information from third parties to determine if the applicant is eligible for or remains entitled to the registration applied for under the Act.

(b) *About Members of the General Public:*

Personal information is collected from members of the general public (consumers) so that TICO may assist them with complaint matters or in making a claim against the Compensation Fund. The primary purpose of collecting this information is to assess whether the individual has a valid claim against the Compensation Fund or a complaint that TICO can assist them with, to advise them regarding their rights and responsibilities, and to investigate and mediate any dispute the consumer may have with a registrant.

(c) *About Contract Staff:*

Personal information is collected from people who are contracted to do work for TICO (temporary workers), to ensure that they can be contacted in the future for new assignments or for other necessary work-related communications such as sending out payments or year-end tax receipts. Examples of the type of personal information we collect for those purposes include home addresses and telephone numbers. It is rare for TICO to collect such information without prior consent, but it might happen in the case of a health emergency (e.g., the outbreak of a contagious disease) or to investigate a possible breach of law (e.g., if a theft were to occur in the office).

(d) *About Job Applicants:*

Personal information is collected from individuals applying for a job at TICO as part of our review process. TICO normally retains information from candidates after a decision has been made, unless asked not to retain such information. If an individual is offered a job and they accept, the information will be retained in accordance with our privacy procedures for employee records.

10.4 Secondary Purposes for Collecting Personal Information: Like most organizations, TICO also collects, uses, and discloses information for purposes related to or secondary to our primary purposes. The most common examples of our related and secondary purposes are as follows:

- TICO is delegated to administer the Act. The MPBSD is responsible for overseeing that TICO performs that role properly. The MPBSD may conduct performance, governance, accountability, or financial reviews of the Administrative Authority.

- External consultants (e.g., auditors, lawyers, information technology) may do audits or continuing quality improvement reviews of our organization, including reviewing TICO's database, files, and interviewing staff.
- Professional staff in our organization may be subject to review by their regulatory bodies, which may inspect our records and interview our staff as a part of their regulatory activities in the public interest. For example, our lawyers are regulated by the Law Society of Ontario. Also, like all organizations, various government agencies (e.g., Canada Customs and Revenue Agency, Information and Privacy Commissioner, Human Rights Commission, etc.) have the authority to review our files and interview our staff as part of their mandates.

10.5 By providing TICO with personal information, a person consents to its use and disclosure for the purpose for which it was obtained or compiled or for a consistent purpose in accordance with this Code.

10.6 Subject to the exception set out in section 10.3 of this Code, where TICO collects personal information, it shall,

- (a) only collect information directly from the person to whom the information relates, unless the person authorizes another manner of collection; and
- (b) explain to the person the purpose for collecting the information and, at or before the time of collection, obtain his or her consent (express or implied) for its collection, use and disclosure by TICO for that purpose.

11. Security and Retention of Personal Information

11.1 TICO will take reasonable steps, including implementing policy and security mechanisms, to ensure that the personal information in its custody or under its control is protected against unauthorized access, use or disclosure, and to ensure that the records containing the information are protected against unauthorized copying, modification, or destruction. What constitutes reasonable steps shall be determined taking into consideration the volume of information, its sensitivity, and the format in which it is stored.

11.2 Some steps that TICO takes to safeguard information include:

- All staff will be provided with a copy of TICO's Access and Privacy Code upon its approval. All new staff will be provided with such information when they are hired or retained.

- Staff will be trained to collect, use, and disclose personal information only as necessary to fulfill their duties and in accordance with the Access and Privacy Code. The importance of confidentiality and methods of maintaining security of personal information will be emphasized. Access to information by staff is on a need-to-know basis.
 - A refresher training session will be held for all staff annually.
 - Staff members are required to sign confidentiality agreements.
 - TICO uses a number of consultants and agencies that may, in the course of their duties, have limited access to personal information. These include computer consultants, office security and maintenance, a file storage company, temporary workers, website managers, cleaners, our landlord, lawyers, and auditors. We limit their access to personal information as much as reasonably possible. TICO's Access and Privacy Code will be shared with external consultants, and agencies with access to personal information and assurances will be sought that appropriate privacy principles will be adhered to.
 - Access to the premises of TICO is controlled by security cards.
 - Paper information is either under supervision or kept in a locked or secure area that is protected from unauthorized access.
 - Paper information is transmitted through sealed, addressed envelopes or boxes by reputable companies.
 - Electronic hardware is either under supervision or secured in a locked or restricted area at all times.
 - Password protection, firewalls, virus protection, and other recognized security measures are used for electronic information.
- 11.3 E-mail is not a 100% secure medium. Individuals should be aware of this when contacting TICO to send personal information.
- 11.4 Personal information will be retained after use for one year or as long as is necessary to fulfill the purposes for which the information was collected. A record of personal information will not be retained after the purpose for which it was collected has been fulfilled unless:
- another law requires or authorizes the retention;
 - the record is reasonably required for purposes related to TICO's regulatory activities including future regulation of members; or

- the record is transferred to storage for the purposes of permanent preservation or historical research.
- 11.5 Where TICO has used a record of personal information about an individual to make a decision, it shall retain the record long enough after making the decision to allow the individual a reasonable opportunity to request access to the information. This requirement does not apply if the individual has already been given access to the information prior to the making of the decision.
- 11.6 Personal information in paper form is required to be placed in a locked shredder box so that it can be shredded or otherwise destroyed before it is disposed of.
- 11.7 Electronic data is destroyed before the hardware holding the data is discarded.

12. Use and Disclosure of Personal Information

- 12.1 Subject to the exceptions set out under section 12.2 of the Code, TICO shall use personal information only for the purposes for which it was collected and shall disclose personal information only with the consent of the person to whom the information relates.
- 12.2 TICO may use or disclose personal information without the consent of the person, or for purposes other than those for which it was collected, if:
- (a) the information is subject to an agreement that TICO has entered into with a third-party consultant or service provider to manage or use TICO's records on its behalf, if such agreement requires the third-party to comply with this Code and have in place security safeguards comparable to those used by TICO;
 - (b) the information is used or disclosed for purposes related to ongoing registration, inspection, investigation, or enforcement activity of TICO pursuant to the Act;
 - (c) the information is required in connection with a proceeding under the Act or in connection with the administration of the Act;
 - (d) the information is shared with the Minister or a prescribed entity in accordance with the Act;
 - (e) the information is requested by a law enforcement agency;

- (f) it is required by law or pursuant to a court order;
- (g) the information is requested by a ministry, department or agency of a government engaged in the administration of legislation similar to the Act or legislation that protects consumers or to any other entity to which the administration of legislation similar to this Act or legislation that protects consumers has been assigned;
- (h) it is authorized under the Regulatory Modernization Act, 2007;
- (i) the information is disclosed for the purpose for which it was obtained or for a consistent purpose;
- (j) the information is requested by or disclosed to the person's counsel;
- (k) the information is disclosed to TICO's counsel;
- (l) the information is publicly available;
- (m) the information is disclosed to a prescribed entity or organization if the purpose of the disclosure is consumer protection; or
- (n) it is required for the purpose of establishing or collecting a debt owed to TICO.

13. Correction of Personal Information

- 13.1 Where an individual disagrees with the accuracy of their personal information received from a formal request, the individual is entitled to request a correction.
- 13.2 A request for correction must be in writing and addressed to the Privacy Officer. The request must include sufficient information to allow the Privacy Officer to authenticate the identity of the person making the request. The request should identify the applicable personal information and identify the correction or amendment being sought.
- 13.3 TICO shall respond in writing to a request for a correction or amendment to personal information within 30 days. If it is not possible to respond within 30 days, the person will be advised when a response can be expected.
- 13.4 If an individual can establish that the information in TICO's records is not accurate and complete, TICO will take reasonable steps to correct the information, subject to the limitations that may be necessary or appropriate to enable it to carry out its

regulatory activities. The following list contains examples of the types of situations where TICO may decline to correct personal information because correcting the personal information could reasonably be expected to interfere with its regulatory activities:

- where the person requesting the correction does not provide sufficient information to enable TICO to assess the request to make the correction;
- where the fact that the statement was made, whether it is correct or not, is relevant to the regulatory activities of the organization;
- where correction may reasonably interfere with a regulatory process including an inquiry, investigation, or hearing;
- where the correction may reasonably interfere with the regulatory or enforcement activities of another statutory regulatory body or a law enforcement agency;
- where the correction may alter an original document that belongs to someone else and will eventually be returned to that person; or
- where correction is prohibited by another Act.

13.5 Where TICO agrees to correct a record of personal information, the correction may be made so as not to obliterate the original entry.

13.6 Where TICO agrees to correct a record of personal information, TICO shall provide written notice to every person to whom the original record was provided within the previous twelve months unless to do so is impractical or would reasonably interfere with its regulatory activities.

13.7 Where TICO refuses a request for correction, the Privacy Officer will provide written reasons for the refusal.

13.8 If the correction is refused by the Privacy Officer, the individual may require TICO to attach a Statement of Disagreement to the file. The Statement of Disagreement shall not exceed 500 words.

14. Complaints and Remedies Process

14.1 If you wish to make a formal complaint about TICO's privacy practices, you may make it in writing to TICO's Privacy Officer. The Privacy Officer will acknowledge

receipt of your complaint, ensure that it is investigated promptly, and that you are provided with a formal decision and reasons in writing.

- 14.2 The following complaints or concerns should be reported in writing to the Privacy Officer:
- (a) Report of a data breach or suspected data breach involving information in TICO's custody or control
 - (b) Concerns regarding TICO's handling of personal information
 - (c) Complaints regarding the release of records and personal information or the refusal to release records
 - (d) Requests for correction of personal information
- 14.3 The Privacy Officer shall respond to a complaint or concern within thirty days of receipt of the report. If the Privacy Officer is unable to respond within 30 days, they will advise the person who made the report when a response can be expected.
- 14.4 Complaints with respect to how a matter was handled by the Privacy Officer can be made, in writing, addressed to TICO's Governance and Human Resources Committee. The Governance and Human Resources Committee is a committee of the board of directors that has been assigned responsibility for reviewing complaints against TICO.
- 14.5 Where a complaint or concern is found to be justified, TICO shall take appropriate measures to rectify the problem, including where necessary, amending its procedures and practices.

15. Fees:

- 15.1 Personal information shall be made available to the person to whom the information relates at a reasonable or no cost.
- 15.2 Records, other than bulk data, shall be made available to a requester at a cost that reflects the total cost of providing the information or no cost. The cost of providing bulk data will be determined on a case-by-case basis. In determining fees, TICO shall make efforts to be consistent and base costs on publicly available criteria.
- 15.3 Individuals will be informed of any fees and given an opportunity to withdraw their request, if desired, prior to the request being processed.
- 15.4 Fees for access requests are not subject to the Fee Setting Process and Criteria set out in Schedule "F" of the TICO Administrative Agreement with the Minister.

16. Administration

- 16.1 TICO's Access and Privacy Code is reviewed annually by TICO's Regulatory and Business Strategy Committee.
- 16.2 TICO shall make information about the Code and related processes available to the public.

Effective Date – April 1, 2023