



FINANCIAL AND FISCAL COMMISSION

PROMOTION OF ACCESS TO INFORMATION (PAIA) MANUAL

(Section 14 of the Promotion of Access to Information Act 2 of 2000 (as amended)
And the Protection of Personal Information Act No. 4 of 2013)

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Foreshore, Cape Town
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For an Equitable Sharing of National Revenue

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INTRODUCTION

This manual is compiled in terms of the Promotion of Access to Information Act, No 2 of 2000 (“the Act”) and the Protection of Personal Information Act No 4 of 2013 (“POPIA”). 1.2. The Act gives effect to the constitutional right of access to information contained in section 32 of the Constitution of the Republic of South Africa. In terms of the Act, public bodies are required to compile a manual as a guide to requesters of information. This manual further serves to indicate the kind of records held by the Financial and Fiscal Commission (FFC) and the availability of such records from the FFC.

The Financial and Fiscal Commission (FFC) is an independent juristic entity subject only to the Constitution, 1996 (as amended) (Constitution), Financial and Fiscal Commission Act, 1997 (Act No 99 of 1997) (as amended) (FFC Act) and relevant legislative prescripts. The Commission acts as a consultative body, makes recommendations and gives advice to Parliament, provincial legislatures, organised local government and other organs of State on the equitable division of revenue among the three spheres of government and on any other financial and fiscal matters in terms of the Constitution and as provided for in national legislation.

This manual will assist requesters to identify records held by the FFC and the manner of accessing them. It is also intended to give guidance on how PAIA can be used to gain access to these records.

1 MANDATE AND FUNCTIONS OF THE FFC (SECTION 14)

1.1 Mandate of the FFC

Acts as a consultative body, makes recommendations and gives advice to Parliament, provincial legislatures, organised local government and other organs of State on the equitable division of revenue among the three spheres of government and on any other financial and fiscal matters in terms of the Constitution and as provided for in national legislation.

1.2 Functions of the FFC

The Functions of the FFC are stated in section 3 of the FFC Act-

“(1) The Commission makes recommendations to organs of state on financial and fiscal matters in accordance with section 220 of the Constitution.

(2) The Commission-

(a) must perform the functions mentioned in subsection (1) to the extent that its performance of those functions are envisaged in the Constitution or required by national legislation; and

(b) may perform those functions-

(i) on its own initiative; or

(ii) on request of an organ of state.

(2A) (a) An organ of state in one sphere of government which seeks to assign a power or function to an organ of state in another sphere of government in terms of a law must first, before assigning the power or function-

(i) notify the Commission of the fiscal and financial implications of such an assignment on-

(aa) the future division of revenue raised nationally between the spheres of government as required by section 214 of the Constitution;

(bb) in the case of an assignment to a provincial or local organ of state, the fiscal power, fiscal capacity and efficiency of the relevant province or municipality; and

(cc) request the recommendation of the commission regarding such assignment.

(b) The Commission must, not later than 180 days from the date of its receipt of the notification and request contemplated in paragraph (a) or such other period agreed with the relevant organ of state, make such recommendation [or give such advice] on the intended assignment as may be appropriate.

(c) An assignment contemplated in paragraph (a) has no legal force unless the organ of state making such assignment has requested and given consideration to the Commission's recommendation contemplated in paragraph (b).

(d) The organ of state assigning any power or function to another organ of state must in an accompanying memorandum explain to the Commission, the organ of state to which a power or function is being assigned, the National Treasury and any other functionary responsible for authorising such assignment, the extent to which it has considered and taken into account the Commission's recommendation contemplated in paragraph (b).

(e) Despite paragraph (c), if the Commission does not make a recommendation within the period contemplated in paragraph (b), the relevant organ of state may, after consultation

(2B) An organ of State must notify the Commission or request the Commission to perform a function in the form prescribed by the Commission.

(2C) If the Commission fails to comply with subsection (2A) (b), the Commission must submit written reasons for such failure to Parliament, and if appropriate, also to the relevant provincial legislature.

(2D) Before requesting the recommendation of the Commission, the organ of state seeking to assign the power of function must, in the case –

(a) of a national organ of state, obtain the written approval of the National Treasury; or

(b) of a provincial organ of state, obtain the written approval of the provincial treasury.

(3) The Commission must be impartial.

(4) No person or organ of state may interfere with the functioning of the Commission.

(5) All organs of state must assist the Commission to perform its functions effectively.

(6) The Commission must submit for tabling copies of all its recommendations made in terms of a provision of the Constitution to both Houses of Parliament and to the provincial legislatures.

2 STRUCTURE OF THE FFC

2.1 Commission

The Commission consists of women and men appointed by the President, as head of the national executive. A Chairperson and Deputy Chairperson; three persons selected, after consulting the Premiers, from a list compiled in accordance with a process prescribed by national legislation; two persons selected, after consulting organised Local Government, from a list compiled in accordance with a process prescribed by national legislation; and two other persons.

2.2 Secretariat

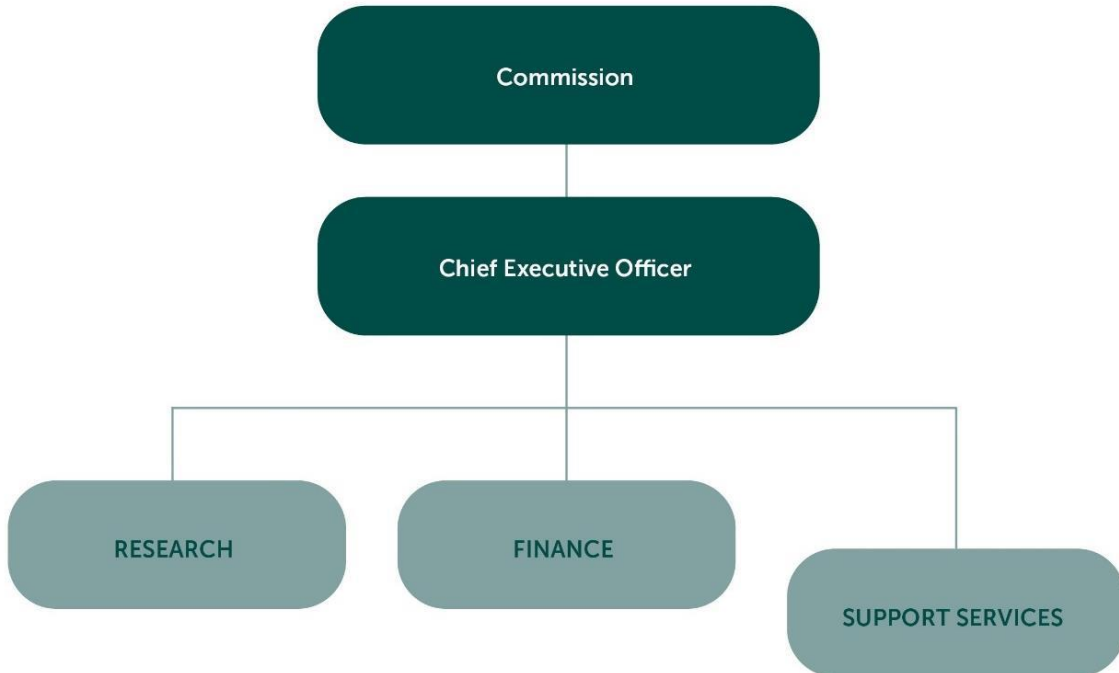
2.2.1 The Chief Executive Officer is responsible for-

(a) the formation and development of an efficient administration;

- (b) the organisation, control and management of the staff;
- (c) the maintenance of discipline; and
- (d) the carrying out of the decisions of the Commission.

2.2.2 The Secretariat comprises of the core Research Division and Support staff.

The management structure of the FFC is as follows-



3 INFORMATION OFFICERS OF THE FFC - S14(1)(A)(II) OF THE ACT

3.1 The CEO of the FFC, Mr Thulani Duncan Ntuli, is the designated Information Officer. The contact details of the Information Officer are as follows-

Name	Contact number	Email address
Mr Thulani Duncan Ntuli	021 137 6085	ceo@ffc.co.za

3.2 The Information Officer has, in terms of section 17 of the Act, delegated his powers under PAIA to the following Deputy Information Officer-

Name	Contact number	Email address
Ms Ansuyah Maharaj Dowra	021 137 6085	ansuyah@ffc.co.za

- 3.3 The Information Officer has, in terms of section 56 of POPIA, delegated his powers under POPIA to the following Deputy Information Officer-

Name	Contact number	Email address
Ms Ansuyah Maharaj Dowra	021 137 6085	ansuyah@ffc.co.za

- 3.4 The FFC Information Officer and Deputy Information Officers share the same physical and postal address as below-

11th floor, 33 Heerengracht Street, Foreshore, Cape Town

- 3.5 The FFC website is www.ffc.co.za

- 3.6 Requests for information and access to records not readily available, may be made by contacting the Deputy Information Officer.

4 GUIDE ON HOW TO USE PAIA - S14(1)(B) OF THE ACT

- 4.1 The Information Regulator is responsible for, and has developed a guide in each of the country's eleven languages, with information on how to use PAIA. This guide is available on the Information Regulator's website.

- 4.2 Any information or queries related to the guide should be directed to-
The Information Regulator (South Africa) P O Box 31533 Braamfontein Johannesburg
2017 Website: www.justice.gov.za/inforeg
Email: enquiries@inforegulator.org.za

5 CATEGORIES OF RECORDS HELD BY THE FFC (S14(1)(b)(ii) of PAIA) AND ACCESS TO RECORDS (S14(1)(b)(iv) read with S15(1)(a) & (b) of PAIA)

- 5.1 Records held by the FFC are generated through the administration of its core functions and processes as regulated by the laws that it administers. These records include strategic records and those of various support functions within the FFC.

- 5.2 The most recent documents and records of the FFC are available on the website at <http://www.ffc.co.za>. Older documents may have been archived or be out of print. Interested parties may request a free hard copy or a photocopy of the original as indicated in the Act **[S.15(3)]**. Alternatively, other document categories are available upon formal request under the Act. Records of new publications are listed in accordance with Section 15(2) of the Act, and will be posted on the FFC website after formal publication.

5.3 **AUTOMATIC ACCESS AND DISCLOSURES-SECTION 15 (1) (A) REGULATION 5A**

All information available on the FFC website (www.ffc.co.za) is voluntarily disclosed including-

- Annual Reports
- Annual Financial Statements
- Relevant Legislation pertaining to the FFC
- Strategic Plan
- Annual Performance Plan
- Marketing and Corporate Communication
- Media Briefings
- FFC Research based publications
- Submission on the Division on Revenue

5.4 **THE FOLLOWING DOCUMENTS ARE NOT AUTOMATICALLY AVAILABLE-SECTION 33**

According to PAIA these documents should be made available on request from members of the public following certain procedures required by the PAIA and at certain times disclosure may be refused-

5.4.1 Operational information and Agreements relating to the following categories-

- Internal investigation Reports
- Memorandum of Understanding
- Lease Agreements

5.4.2 Finances and Accounting

- Bank account records
- Books of account and financial statements
- VAT and PAYE records

5.4.3 Human Resources records

- Personnel files
- Statutory employment records
- Employment contract
- Pension/ Provident Fund records
- Medical Scheme records
- Banking details
- Employee benefits and payments

- Accounting records
- Asset registers
- Tender and bid documents
- Contracts with service providers
- Minutes of Meetings

6 HOW TO REQUEST ACCESS TO A RECORD: PROCEDURES [S. 14.1(F)]

6.1 Disclosure of records

A requester must be given access to a record of a public body if a requester complies with the following-

- (i) The requester complies with all the procedural requirements in the PAIA relating to the request for access to that record; and
- (ii) Access to that record is not refused on any ground of refusal provided for in the PAIA.

6.2 Nature of the request

A requester must use the prescribed form, Form A, published in Government Notice R187 of 15 February 2002. The requester must indicate whether the request is to obtain a copy of the record or whether inspection of the record at the offices of FFC is requested alternatively where the record can be viewed in the event that it is not a document.

7 REMEDIES AVAILABLE IF THE PROVISIONS OF THE ACT ARE NOT COMPLIED WITH (SECTION 14(1) (H))

- 7.1 Any person who is dissatisfied with a decision by the Deputy Information Officer, may escalate the matter to the level of the Information Officer.
- 7.2 The ultimate authority to approve disclosure is vested with the CEO.
- 7.3 The FFC does not have an internal appeal procedure in place to facilitate appeals against decisions of the Information Officer.
- 7.4 An aggrieved party may by way of application apply to Court for appropriate relief.

8 AVAILABILITY OF MANUAL [S.14 (3)]

- 8.1 This manual has been drafted in an effort to show the FFC commitment to leading by example in compliance with, our Constitution, laws and regulations of the Republic of South Africa. The availability of this manual is not only in compliance with the requirements of PAIA, but also is an effort to illustrate the FFC commitment to being a transparent institution which is compliant and promotes the constitutional right of access

to information.

- 8.2 The manual is available in electronic and hard copies in **english, isiXhosa and afrikaans.**

The hard copies are also made available at the FFC for public inspection during business hours. The manual is also available on the website of the FFC and can be made available to any person upon request.

9 UPDATING OF THE MANUAL

This manual will be updated as and when necessary.

10 PROCESSING OF PERSONAL INFORMATION IN TERMS OF THE PROTECTION OF PERSONAL INFORMATION ACT NO 4 OF 2013

- 10.1 The FFC must collect and use information, including personal information as defined in the Protection of Personal Information Act, to the extent that it is necessary to properly perform the functions, obligations and duties.
- 10.2 The FFC processes personal information of the following data subject categories-
- FFC employees, interns and job applicants
 - Third party suppliers
 - Other public bodies.
- 10.3 The following categories of personal information are processed to fulfil the functions
- Identifying number (employee number; company registration numbers, ID number)
 - Email addresses, physical address, telephone number
 - Names, surname, marital status, nationality, sexual orientation, age, physical health status, mental health status, well-being, disability status, language, birthplace, date of birth. Some of the information may be more prevalent in our employment processes than in the core business divisions.
 - Biometric information such as fingerprinting, particularly in our employment processes
 - Information on race, ethnic or social origin, criminal recordings/proceedings of persons
 - Education, medical, financial, employment information of persons
- 10.4 Personal information is only disclosed if it is necessary to fulfil the FFC legislative mandate

as provided for in the FFC Act, for business purposes, where there is a legal obligation, or there is a public duty to disclose the information, or the legitimate interests of the data subject require disclosure or consent was provided by data subject to disclose the information. The disclosure of information, including personal information by the FFC is subject to the provisions of the FFC Act.

10.5 The recipients of information include FFC service providers, other regulators (including foreign regulators), law enforcement agencies, and verification agents.

10.6 Personal information may be processed in other jurisdictions outside of South Africa for business purposes, sharing with foreign regulators for fulfilling a legislative mandate or law enforcement agencies for investigation purposes.

10.6 Where appropriate, we request the third parties with whom we share information with, to take adequate measures and comply with applicable data protection laws and protect the information we are disclosing to them. We do this through contractual arrangements with these third parties. We also take internal measures to ensure that the third parties we appoint have appropriate measures to protect the information we provide to them.

10.7 FFC employs security controls, electronic and physical that are designed to maintain confidentiality, prevent loss of, unauthorized access and damage to information by unauthorised parties. The cyber security strategy of the FFC is aligned to industry standard frameworks to ensure effective cyber security risk management for the organisation. We conduct continuous security vulnerability assessments to improve our security posture and provide assurance to all our stakeholders.

10.8 Data subjects have the following remedies where interference has occurred with the protection of their personal information by the FFC

10.8.1 Lodge a complaint with the FFC Information Officer, and where unsatisfied, lodge the complaint with the Information Regulator in the prescribed manner and form.

10.8.2 Institute civil action for damages in a court having jurisdiction.

11 FFC FORMS FOR LODGING A REQUEST UNDER PAIA

- Form A: Request for access to record of a public body
- Form B: Notice of internal appeal
- Schedule of prescribed fees