
Foundation for Human Rights

FHR Section 14 Manual



FOUNDATION FOR
HUMAN RIGHTS

| A just society for all

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1 INTRODUCTION

The Promotion of Access to Information Act gives effect to the 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 rights. Specifically, section 51(1) of the Act provides that within six months after the commencement of this section (now the 31 December 2011) or within six months after coming into existence of the private body concerned, the head of a private body must compile a manual that must contain information regarding the subjects and categories of records held by such private bodies.

In this context, a “*private body*” is defined as any natural person who carries or has carried on any trade business or profession, but only in such capacity or any partnership which carries or has carried on any trade, business or profession or any former or existing juristic person (e.g. any company, close corporation or business trust).

The **FHR (Foundation for Human Rights)** falls within the definition of a “*private body*” and this Manual has been compiled in accordance with the said provisions and to fulfil the requirements of the Act.

In terms of the Act, where a request for information is made to a body, there is an obligation to provide the information, except where the Act expressly provides that the information may not be released. In this context, Section 9 of the Act recognises that access to information can be limited. The limitation relates to circumstances where such release would pose a threat to the protection of privacy, commercial confidentiality, and the exercising of efficient governance. Accordingly, this manual provides a reference to the records held by FHR and the process that needs to be adopted to access such records.

All requests for access to information (other than information that is available to the public) must be addressed to the Head of the Business named in Section 3 of this Manual.

2 ADDITIONAL INFORMATION REGARDING THE ACT

This section references information required by section 51(1) (b) of the Act.

A guide on how to use the Act will be prepared by the SAHRC (South African Human Rights Commission) in terms of section 10 of the Act. Any queries can be directed to the SAHRC as set out below:

Postal address:	PAIA Unit The Research and Documentation Department Private Bag 2700 Houghton 2041
Phone:	011 484 8300
Fax:	011 484 0582
Website:	www.sahrc.co.za
E-mail:	paia@sahrc.org.za

3 BUSINESS AND CONTACT DETAILS

Name of Business:	The Foundation for Human Rights
Acronym:	FHR
Head of Business:	Dr Zaid Kimmie
Position:	Executive Director
Physical Address:	7th Floor, Metal Box Building, 25 Owl Street, Johannesburg, 2092
Phone Number:	+27 11 484 0390
Email Address:	info@fhr.org.za
Website:	www.fhr.org.za

The FHR is a non-profit human rights organisation that works to protect and promote human rights in South Africa. The FHR was established in 1996 by the EU (European Union) and the Government of South Africa to address the historical legacy of apartheid, to promote and advance transformation, and to advance human rights based on the new Constitution. Using the Constitution as a tool, the FHR's mission is to sustain the struggle for human rights. To achieve its mission, the FHR implements independent social justice interventions, conducts research and policy analysis, and manages the disbursement of grant-funding with a focus on vulnerable groups in South Africa.

The FHR has been the implementation partner of the Department of Justice and Constitutional Development (DOJ&CD) for the Access to Justice and Promotion of Constitutional Rights (AJPCR) and the Socio-Economic Justice for All (SEJA) programmes, both of which were funded by the EU through sector budget support. The FHR focuses on the implementation of three main human rights programmes in the areas of Access to Justice, Gender-Based Violence, and the Unfinished Business of the Truth and Reconciliation Commission.

4 RECORDS THAT MAY BE REQUESTED

The records to be requested by a Requester means any recorded information regardless of its form or medium which is in the possession or under the control of the FHR, whether or not it was created by the FHR.

5 INFORMATION AVAILABLE INFORMALLY

All records or information published on the website of the FHR are considered to be in the public domain, and do not require to be accessed in terms of the Act. However, in case of such request, it shall be sufficient to refer the Requester to the FHR's website.

The following records are available for inspection without a fee and without compliance with the Act.

- Soft copies of any newsletters or statements issued;
- Proof of legal compliance and proof of registration;
- Soft copies of any reports or publications produced for public distribution.

6 RECORDS KEPT FOR WHICH FORMAL REQUESTS NEED TO BE MADE

6.1. Constitution/ Articles of Association

6.2. Minutes of Board (include Committee), Staff, or Programme meetings

6.3. Funding Proposals submitted

6.4. Grant-making criteria and procedures

6.5. FHR Policies and Procedures

6.6. Financial Records

6.6.1. Contracts with donors, grantees or any other third party

6.6.2. Journal document

6.6.3. Debit and Credit notes

6.6.4. Debit and Credit Invoices

6.6.5. Month End Statements

6.6.6. Bad Debt write-off records

6.6.7. Budgets

6.6.8. Budget Working Papers

6.6.9. Asset Register

6.6.10. Management reports

6.6.11. Audited Annual Financial statements

6.6.12. VAT returns

6.6.13. Income tax returns and assessments

6.6.14. Banking Records:

6.6.15. Financial Transactions

6.6.16. Insurance information

6.6.17. Tax certificates (company and employees)

6.7. Reports

6.7.1. Mileage or Per Diem Claims

6.7.2. Kilometres travelled monthly reports

6.7.3. Project and programme reports**6.8.** Human resources**6.8.1.** Conditions of employment/Service Agreements/ Contracts of Employment**6.8.2.** Disciplinary records**6.8.3.** Performance assessments and performance records**6.8.4.** Payroll records**6.8.5.** Leave, sick leave, maternity and special leave records**6.8.6.** Returns to UIF**6.8.7.** Training schedules and material**6.8.8.** Applications for positions at the FHR**6.8.9.** Records of selection committees and any interviews conducted by such committees**6.9.** Programme Records**6.9.1.** Any attendance records or minutes of meetings/workshops organised by the FHR, FHR grantees or partners.**6.10.** Legal/Secretarial records:**6.10.1.** Agreements**6.10.2.** Legal opinions**6.10.3.** Court cases and judgements**6.10.4.** Licences**6.10.5.** Certificates**6.11.** Correspondence**6.12.** Audio-visual and visual material**7 DENIAL OF ACCESS**

Access to any record may be refused under certain limited circumstances. These include:

7.1. The protection of personal information from unreasonable disclosure concerning any natural person;

7.2. The protection of commercial information held concerning any third party (for example trade secrets);

- 7.3. The protection of financial, commercial, scientific or technical information that may harm the commercial or financial interests of any third party;
- 7.4. Disclosures that would result in a breach of a duty of confidence owed to a third party;
- 7.5. Disclosures that would jeopardize the safety or life of an individual/employee/partner;
- 7.6. Disclosures that would prejudice or impair the security of property or means of transport;
- 7.7. Disclosures that would prejudice or impair the protection of a person in accordance with a witness protection scheme;
- 7.8. Disclosures that would prejudice or impair the protection of the safety of the public;
- 7.9. Disclosures that are privileged from production in legal proceedings unless the privilege has been waived;
- 7.10. Disclosures of details of any computer programme;
- 7.11. Disclosures that will put FHR at a disadvantage in contractual or other negotiations or prejudice it in commercial competition;
- 7.12. Disclosures of any record containing any trade secrets, financial, commercial, scientific, or technical information that would harm the commercial or financial interests of the FHR;
- 7.13. Disclosures of any record containing information about research and development being carried out or about to be carried out by the FHR.

If access to a record or any other relevant information is denied, our response will include: Adequate reasons for the refusal; and Notice that you may lodge an application with the court against the refusal and the procedure including details of the period for lodging the application.

8 REQUEST PROCEDURES

- 8.1. A Requester shall be given access to a record held by FHR if the following requirements as set out in the Act, are met, namely:
 - 8.1.1. That the Requester complies with all the procedural requirements contemplated in the Act relating to a request; and
 - 8.1.2. That access to that requested record is not refused in terms of any ground for refusal contemplated in the Act.
- 8.2. The right of a Requester to access information in terms of the Act is not affected by any reasons given by that Requester, or any belief by the Information Officer as to what the reasons for the request may be;

- 8.3. Requests for access to records held by FHR must be made on the prescribed request forms (on payment of the prescribed fees, if any).
- 8.4. Requests for access to records must be made to the Information Officer at the address/email address provided above.
- 8.5. The Requester must provide sufficient details on the request form to enable the Information Officer to identify the record requested.
- 8.6. The Requester should also indicate which form of access is required and indicate the manner in which he/she wishes to be informed of the FHR's decision regarding such request and state the necessary particulars to be so informed. The Requester must also state whether the record concerned is preferred in a particular language and also specify his or her postal address, fax number or email in the Republic of South Africa.
- 8.7. If a request is made on behalf of a person, the requester must then submit proof of the capacity in which he or she is making the request to the satisfaction of the Information Officer.
- 8.8. Access will be granted to a record only if the following criteria are fulfilled:
 - 8.8.1. The record is required for the exercise or protection of any right; and
 - 8.8.2. The requestor complies with the procedural requirements set out in the Act relating to a request; and
 - 8.8.3. Access to the record is not refused in terms of any ground for refusal as contemplated in Chapter 4 of Part 3 of the Act.
- 8.9. All requests to the FHR will be evaluated and considered in accordance with the Act. Publication of this Manual and describing the categories and subject matter of information held by the FHR does not give rise to any rights (in contract or otherwise) to access such information or records except in terms of this Act
- 8.10. Please note that the successful completion and submission of a request for access form does not automatically allow the requestor access to the requested record.

9 FEES

The applicable fees are prescribed in terms of the Regulations promulgated under the Act. There are two basic types of fees payable in terms of the Act:

9.1. Request Fee

The non-refundable request fee of R 50.00 (excluding VAT) is payable on submission of any request for access to any record. This does not apply if the request is for personal records of the requestor. No fee is payable in such circumstances.

9.2. Access Fee

The access fee is payable prior to being permitted access to the records in the required form. The applicable fees are prescribed in terms of Part III of Annexure A as identified in Government Notice Number 187, Regulation 11.

No request will be processed unless the request fee where applicable (and not waived) has been paid. All payments shall be made in the form of cash, payable at the office or by deposit into the bank account of The Foundation for Human Rights.

The banking details for the FHR are as follows.

Foundation for Human Rights

First National Bank of South Africa

Account number: 62216884967

SWIFT Code: FIRNZAJJ

Reference: Surname and Initials of Applicant

The forms by which a request can be made are included as an appendix to this manual.

10 APPLICATION FORM

FORM 2

REQUEST FOR ACCESS TO RECORD

[Regulation 7]

NOTE:

1. Proof of identity must be attached by the requester.
2. If requests made on behalf of another person, proof of such authorisation, must be attached to this form.

TO: The Information Officer

(Address)

E-mail address:

Fax number:

Mark with an "X"

Request is made in my own name

Request is made on behalf of another person.

PERSONAL INFORMATION		
Full Names		
Identity Number		
Capacity in which request is made <i>(when made on behalf of another person)</i>		
Postal Address		
Street Address		
E-mail Address		
Contact Numbers	Tel. (B):	
	Cellular:	
Full names of person on whose behalf request is made <i>(if applicable)</i> :		
Identity Number		
Postal Address		

Street Address			
E-mail Address			
Contact Numbers	Tel. (B)		Facsimile
	Cellular		
PARTICULARS OF RECORD REQUESTED			
<i>Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located. (If the provided space is inadequate, please continue on a separate page and attach it to this form. All additional pages must be signed.)</i>			
Description of record or relevant part of the record:			
Reference number, if available			
Any further particulars of record			
TYPE OF RECORD <i>(Mark the applicable box with an "X")</i>			
Record is in written or printed form			
Record comprises virtual images <i>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)</i>			
Record consists of recorded words or information which can be reproduced in sound			
Record is held on a computer or in an electronic, or machine-readable form			

FORM OF ACCESS <i>(Mark the applicable box with an "X")</i>	
Printed copy of record <i>(including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form)</i>	
Written or printed transcription of virtual images <i>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)</i>	
Transcription of soundtrack <i>(written or printed document)</i>	
Copy of record on flash drive <i>(including virtual images and soundtracks)</i>	
Copy of record on compact disc drive <i>(including virtual images and soundtracks)</i>	
Copy of record saved on cloud storage server	

MANNER OF ACCESS <i>(Mark the applicable box with an "X")</i>	
Personal inspection of record at registered address of public/private body <i>(including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form)</i>	
Postal services to postal address	
Postal services to street address	
Courier service to street address	
Facsimile of information in written or printed format <i>(including transcriptions)</i>	
E-mail of information <i>(including soundtracks if possible)</i>	
Cloud share/file transfer	
Preferred language <i>(Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available)</i>	

PARTICULARS OF RIGHT TO BE EXERCISED OR PROTECTED	
<i>If the provided space is inadequate, please continue on a separate page and attach it to this Form. The requester must sign all the additional pages.</i>	
Indicate which right is to be exercised or protected	

Explain why the record requested is required for the exercise or protection of the aforementioned right:	

FEES	
a)	<i>A request fee must be paid before the request will be considered.</i>
b)	<i>You will be notified of the amount of the access fee to be paid.</i>
c)	<i>The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.</i>
d)	<i>If you qualify for exemption of the payment of any fee, please state the reason for exemption</i>
Reason	

You will be notified in writing whether your request has been approved or denied and if approved the costs relating to your request, if any. Please indicate your preferred manner of correspondence:

Postal address	Facsimile	Electronic communication <i>(Please specify)</i>

Signed at _____ this _____ day of _____ 20 _____

Signature of Requester / person on whose behalf request is made

FOR OFFICIAL USE

Reference number:	
Request received by: <i>(State Rank, Name And Surname of Information Officer)</i>	
Date received:	
Access fees:	
Deposit (if any):	

Signature of Information Officer