



The Fairheads Legacy Trust  
Reg. No. IT888/2017

# Fairheads Legacy Trust

INFORMATION MANUAL PREPARED IN TERMS OF SECTION 51 OF THE  
PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000

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**Information Manual Prepared in terms of  
section 51 of the Promotion of Access to  
Information Act 2 of 2000**

## **1. Introduction**

The Promotion of Access to Information Act, No 2 of 2000 (“the Act”) gives effect to the constitutional right of access to any information in records held by public (government) or private (non-government) bodies that is required for the exercise of protection of any rights. Where a request is made in terms of the Act, the Fairheads Legacy Trust (“FLT”) is obliged to release the information, except where the Act expressly provides that the information may or must not be released.

This manual informs requesters of procedural and other requirements which a request must meet as prescribed by the Act. This Manual has therefore been prepared in terms of section 51 of the Promotion of Access to Information Act 2 of 2000 (“PAIA”) and updated in the light of the Protection of Personal Information Act 4 of 2013 (“POPIA”).

It is important to note that the Act recognises certain limitations to the right of access to information, including, but not limited to, limitations aimed at the reasonable protection of privacy, commercial confidentiality, and effective, efficient and good governance, and in a manner which balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution of the Republic of South Africa.

This manual is available for inspection, free of charge, at the physical address of the FLT.

## **2. Applicability to the FLT**

The FLT falls within the definition of a **private body**; therefore the sections pertaining to private bodies will be applicable.

## **3. Contact details**

Postal Address:  
PO Box 4994  
Cape Town  
8000

Physical Address:  
C/O Fairheads Benefit Services  
15<sup>th</sup> Floor, 2 Long Street,  
Cape Town  
8001

**Information Officer: DARLENE VAN DIEMAN**

E-mail Address: [darlene@fairheads.com](mailto:darlene@fairheads.com)  
Telephone Number: 086 010 2919  
Fax Number: 086 219 0778  
Website: [www.fairheads.com/legacy-trust/](http://www.fairheads.com/legacy-trust/)

## **4. Guide by South African Human Rights Commission**

The South African Human Rights Commission is required in terms of the Act to compile a guide

in every official language, in an easily comprehensible form and manner, as may be required by a person who wishes to exercise any right contemplated in the Act.

Any enquiries regarding this guide should be directed to:

**Postal Address:**

The South African Human Rights Commission PAIA Unit  
 The Research and Documentation Department Private Bag X2700  
 Houghton  
 2041

Telephone Number: +27(0) 11 484 8300  
 Fax Number: +27(0) 11 484 0582  
 Email Address: [paia@sahrc.org.za](mailto:paia@sahrc.org.za)  
 Website: <http://www.sahrc.org.za>

**5. Subjects and categories on which records are held**

<b>Products and Services</b>	
Umbrella Trust	Administration of Funds
<b>Company Records</b>	
Finance and supporting documentation	Distribution
Actuarial	Marketing
Client Care	Information Technology
Product Management	Human Resources
All records kept in terms of law related to managing FLT	
<b>Subjects on which records are held</b>	
Board Members	Financial advisers
Members/Beneficiaries/Guardians/caregivers	Independent brokers
Banking Institutions	Clients
Service providers	
<b>The following records are held in respect of the abovementioned subjects</b>	
Confidential	Scientific
Personal	Research
Commercial	Operational
Financial	Banking Institutions
Products and services	Contracts
Deed of Trust	

5.1 The accessibility of the documents listed below may be subject to the grounds of refusal set out in this manual.

**5.1.1. Client Related Records**

A "client" refers to any member of the FLT that receives services from the FLT.

Client Records may include the following:

- Records provided by a client ;
- Records provided by a third party;
- Records generated by or within the FLT relating to clients, including transactional records.

**5.1.2. Private Body Records**

- Deed of Trust
- Audited Financial Statements

**5.1.3. Finance**

- Financial records

**5.1.4. Actuarial**

- Statutory records

**5.1.5. Client care**

- Policy/contract documents
- Applications
- Amendments
- Financial transactions
- Alterations
- General information

**5.1.6. Alternate:**

- Product records
- Operational records
- Databases
- Information technology
- Marketing records
- Internal correspondence
- Records held by official of the FLT

**6. Records available in accordance with other legislation**

A requester may also request information that is available in terms of other legislation.

- Administration of Estates Act 66 of 1965
- Basic Conditions of Employment Act, 75 of 1997 Companies Act 61 of 1973
- Compensation of Occupational Injuries and Diseases Act 130 of 1993 Competition Act 89 of 1998
- Electronic Communications and Transaction Act 25 of 2002 Employment Equity Act 55 of 1998
- Financial Advisory and Intermediary Services Act 37 of 2002 Financial Intelligence Centre Act 38 of 2001

- Income Tax Act 58 of 1991
- Insolvency Act 24 of 1936
- Inspection of Financial Institutions Act 80 of 1998 Labour Relations Act 66 of 1995
- Long-term Insurance Act 52 of 1998
- Pension Funds Act 24 of 1956 Policyholder Protection Rules Pension Fund Regulations
- Prevention and Combating of Corrupt Activities Act 12 of 2004 Prevention of Organised Crime Act 121 of 1998
- Protection of Constitutional Democracy against Terrorist and Related Activities Act 33 of 2004 Securities Services Act 36 of 2004

## **7. Access to records held by the FLT**

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

### **7.1. Personal requester**

A personal requester is a requester who is seeking access to a record containing personal information about the requester.

The FLT will voluntarily provide the requested information, or give access to any record with regard to the requester's personal information. The prescribed fee for reproduction of the information requested will be charged.

### **7.2. Other requester**

This requester (other than a personal requester) is entitled to request access to information on third parties. However, the FLT 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.

## **8. Request procedure**

- 8.1. A requester requiring access to information held by the FLT must complete the prescribed Form C published on FLT's website; or an applicable website of any FLT entity.
- 8.2. Submit the completed form to the Information Officer at the postal or physical address, fax number or electronic mail address recorded in paragraph 2 of this manual and pay a request fee and a deposit, where so advised.
- 8.3. The prescribed form must be completed with enough particularity to at least enable the Information Officer to identify:
  - 8.3.1. The record or records requested;
  - 8.3.2. The identity number of the requester;
  - 8.3.3. The form of access required, if the request is granted;
  - 8.3.4. The e-mail, postal address, or fax number of the requester.
- 8.4. 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.
- 8.5. The requester must state that he/she requires the information in order to exercise or protect a

right, and clearly state what the nature of the right to be exercised or protected. In addition, the requester must clearly specify why the record is necessary to exercise or protect such a right.

- 8.6. The FLT 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 could not be complied with.
- 8.7. The requester will 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.
- 8.8. If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally to the Information Officer.
- 8.9. Where applicable, the requester must pay the prescribed fee if applicable, before any further processing can take place.

## **9. Decision**

- 9.1. The FLT 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.
- 9.2. The 30 day period within which the FLT 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 the FLT and the information cannot reasonably be obtained within the original 30 day period. The Information Officer will notify the requester in writing should an extension be sought.

## **10. Grounds for refusal of access to records**

The FLT may refuse a request for information based on the following:

- 10.1. 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;
- 10.2. Mandatory protection of the commercial information of a third party, if the record contains:
  - 10.2.1. Trade secrets of that third party;
  - 10.2.2. Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party; and
  - 10.2.3. Information disclosed in confidence by a third party to the FLT, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition.
- 10.3. Mandatory protection of confidential information of third parties if it is protected in terms of any agreement or legislation;
- 10.4. Mandatory protection of the safety of individuals and the protection of property;
- 10.5. Mandatory protection of records which would be regarded as privileged in legal

proceedings;

10.6. The commercial activities of the FLT, which may include:

10.6.1. Trade secrets of the FLT;

10.6.2. Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of the FLT;

10.6.3. Information which, if disclosed, could put the FLT at a disadvantage in negotiations or commercial competition;

10.6.4. A computer program which is owned by the FLT and which is protected by copyright.

10.7. The research information of the FLT or a third party, if its disclosure would disclose the identity of the institution, the researcher or the subject matter of the research and would place the research at a serious disadvantage;

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

## **11. Remedies available when the FLT refuses a requestor**

### **11.1. Internal Remedies**

The FLT does not have internal appeal procedures. Therefore, the decision made by the Information Officer is final. Requesters who are dissatisfied with a decision of the Information Officer will have to exercise external remedies at their disposal.

### **11.2. External Remedies**

A requester or a third party, who is dissatisfied with the Information Officer's decision may submit a complaint, in the prescribed manner, to the Information Regulator within 180 days of the decision, alleging that the decision was not in compliance with the Promotion of Access to Information Act for appropriate relief.

## **12. Fees**

12.1. The Act provides for two types of fees, namely:

- A request fee, which will be a standard fee; and
- An access fee will be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postal costs. (A schedule of reproduction fees is available from the Information Officer)

12.2. When the request is received by the Information Officer, the officer will by notice require the requester, other than a personal requester, to pay the regulated prescribed request fee (if any), before further processing of the request.

12.3. The Information Officer can withhold a record until the requester has paid the fees as indicated.

12.4. A requester whose request for access to a record has been granted, must pay an access fee for reproduction, for search, preparation and for any time reasonably required in excess of the prescribed hours to search for and prepare the record(s) for disclosure including making

arrangements to make it available in the requested format.