



**MANUAL FOR ACCESS TO INFORMATION FROM
THE OFFICE OF THE OMBUD FOR FINANCIAL SERVICES
PROVIDERS (“FAIS Ombud”)**

(in compliance with section 14 of the Promotion of Access to Information Act, 2000)

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1. Introduction

1.1 Who we are

The Office of the Ombud for Financial Services Providers ('FAIS Ombud') was established by the Financial Advisory and Intermediary Services Act, 37 of 2002 ('FAIS Act').

The FAIS Ombud's role is to resolve disputes between financial services providers and their clients in a procedurally fair, informal, economical and expeditious manner. The FAIS Ombud's jurisdiction is limited to violations which occurred on or after 30 September 2004 and to claims not exceeding R800 000.00.

The FAIS Ombud is independent, impartial and performs its functions without fear, favour or prejudice. The Ombud's services are free and accessible to all consumers. The services of the FAIS Ombud are not similar to those of a professional legal advisor and are confined to the mediation, conciliation or determination of complaints in terms of the FAIS Act and the Rules on Proceedings of the Office of the Ombud for Financial Services Providers.

Since 1 April 2005, the FAIS Ombud was granted the authority to act as Statutory Ombud under the Financial Services Ombud Schemes Act, 37 of 2004 ('FSOS Act'). This means that the Ombud can deal with complaints against financial institutions, which do not fall within the jurisdiction of any other Ombud scheme or where there is uncertainty over jurisdiction.

1.2 Functions of the FAIS Ombud

A FAIS "complaint" means a specific complaint relating to a financial service rendered by a financial services provider or a representative of such provider to the complainant. The complaint will be considered if it is alleged that the provider or representative:

- Has contravened or failed to comply with a provision of the FAIS Act and that as a result thereof the complainant has suffered or is likely to suffer financial prejudice or damage;
- Has wilfully or negligently rendered a financial service to the complainant and has caused prejudice or damage to the complainant or which is likely to result in such prejudice or damage;
- or
- Has treated the complainant unfairly.

In investigating or determining a complaint, the FAIS Ombud may follow and implement any procedure which the FAIS Ombud deems appropriate, and may allow any party the right to legal representation.

Any responding party must be informed of the complaint submitted to the Office to the extent necessary to respond thereto fully. The responding party is required to act professionally and reasonably and to co-operate with a view to ensuring the efficient resolution of the complaint.

The FAIS Ombud must first explore any reasonable prospect of resolving a complaint by a conciliated settlement between the parties, endeavouring to mediate such a settlement or to make a recommendation as to how the complaint should be resolved.

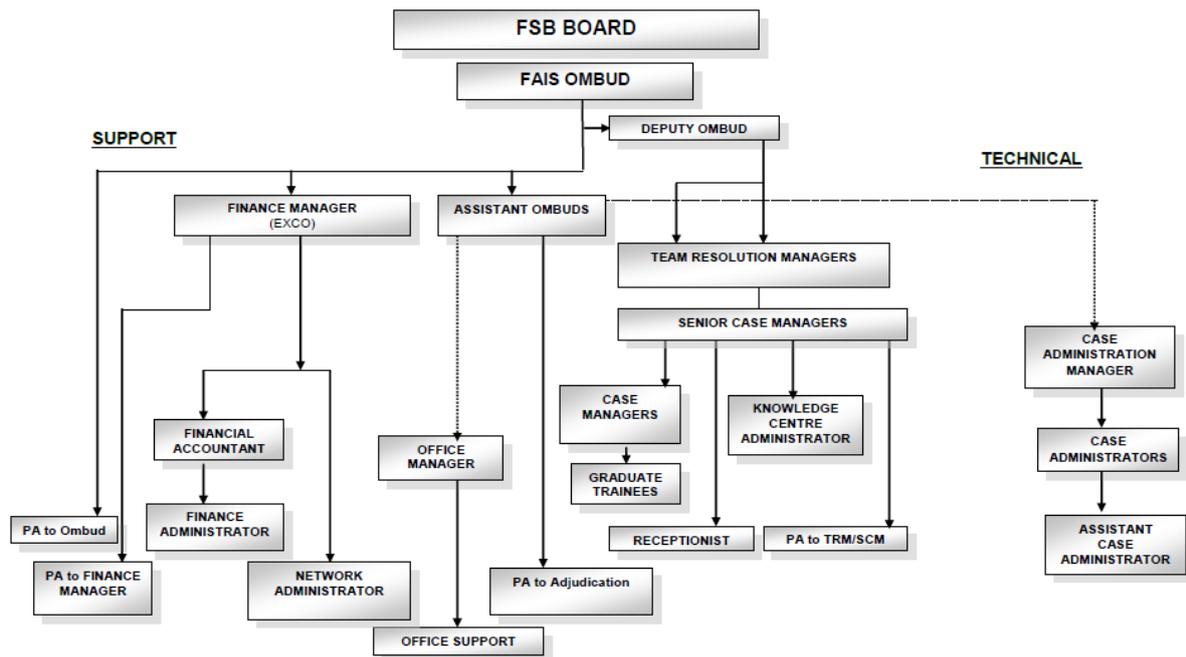
Where a matter has not been settled or the FAIS Ombud's recommendation not accepted by the parties, the FAIS Ombud will make a final determination which may include –

- the dismissal of the complaint; or

- the upholding of the complaint wholly or partially, e.g. by awarding the complainant an amount as fair compensation for the financial prejudice or damage suffered.

The FAIS Ombud’s determination has the effect of a civil judgment of a court. A determination is appealable to an appeal tribunal but only with the leave of the FAIS Ombud who will take into consideration the complexity of the matter and whether there is a reasonable likelihood that the appeal tribunal may reach a different conclusion. There is a further right of leave to appeal to the Chair of the appeal tribunal, should the FAIS Ombud refuse leave to appeal.

1.3 Organogram/structure



2. Our Information Officer/Contact details

The Ombud, Ms NN Bam is the designated information officer of the FAIS Ombud. In terms of section 17 of PAIA, Ms Bam has designated a Deputy Information Officer, who would attend requests for access to records. If you wish to make a request for access to the FAIS Ombud’s records, your request should be addressed to the appointed Deputy Information Officers.

Information officers	Phone	Fax	Email
Ms NN Bam	+27 12 470 9080	+27 12 348 3447	Hestie@faisombud.co.za
Deputy Information Officer	Phone	Fax	Email
Mr Sydwell Shangisa	+27 12 470 9080	+27 12 348 3447	info@faisombud.co.za

The FAIS Ombud’s offices are situated at:

Sussex Office Park
Ground Floor, Block B
473 Lynnwood Road Cnr Lynnwood Road & Sussex Ave,
Lynnwood,
0081

Postal Address:

PO Box 74571, Lynnwood Ridge, 0040

3. How the PAIA Act works

The right of access to information is entrenched under section 32 of the Constitution of the Republic of South Africa. Section 32 provides that everyone has the right of access to any information held by state; or held by any other person that is to be used for the protection or exercise of any right. The Promotion of Access to Information Act (PAIA) is the law that gives effect to Section 32 of the Constitution. This Act is regulated by the South African Human Rights Commission (SAHRC), and was approved by Parliament on 2 February 2000 and came into effect on 9 March 2001.

The purpose of the Act is to promote transparency, accountability and good governance by empowering and educating the public to:

- understand and exercise their rights,
- understand the functions and operations of public bodies, and
- effectively scrutinise and participate in decision-making by public bodies that affect their rights.

The South African Human Rights Commission (SAHRC) is responsible for developing a guide in each of the country's eleven languages, with information on how to use the Act. This guide is available on the SAHRC website.

Any information or queries related thereto should be directed to:

The South African Human Rights Commission

The Research and Document Department

PAIA Unit

Private Bag 2700

Houghton

2041

Telephone: +27 11 484 8300 Fax: +27 11 484 1360

Website: www.sahrc.org.za e-mail: PAIA@sahrc.org.za

4. Availability of this manual

This manual will be made available at the offices of the FAIS Ombud, on the FAIS Ombud's website www.faisombud.co.za and may be emailed on request.

5. Records held by the FAIS Ombud

The FAIS Ombud is in possession and control of the following category of records:

Personnel Information. These records include employment contracts of all FAIS Ombud employees, employment policies and remuneration details.

Information relating to complaints received in terms of the FAIS Act. These include complaint-related correspondence, determinations and applications for leave to appeal.

Business records of the FAIS Ombud. These records include:

- (a) Financial records
- (b) Minutes of meetings of the executive committee, departmental meetings and staff meetings.
- (c) Strategic Plans and other Operational policies
- (d) Annual Reports and other statutory reports
- (e) Newsletters, press releases and other publications

6. Access to records held by the FAIS Ombud

6.1 Automatic disclosure

FAIS Ombud's determinations	Determinations issued in terms of Section 28 of the FAIS Act are available on the FAIS Ombud's website www.faisombud.co.za
Reports	Annual Reports of the FAIS Ombud are available in electronic format on the FAIS Ombud's website www.faisombud.co.za
Forms	The Complaints Registration form is available in word format on the FAIS Ombud's website www.faisombud.co.za
Information leaflets	The information leaflet is available in electronic format on the FAIS Ombud's website www.faisombud.co.za
Newsletters	The FAIS Ombud's newsletter is available in electronic format on the FAIS Ombud's website www.faisombud.co.za
Current Job Adverts	All current job adverts are posted on the FAIS Ombud's website www.faisombud.co.za

6.2 Disclosures on request

Communications	Press releases
Human resources	FAIS Ombud Code of Ethics FAIS Ombud Credo Employment Equity reports HR Reports Training Reports
Financial management	Budgets Strategic plans

	Annual Performance Plans Financial statements Auditor General's reports
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6.3 Restricted disclosure in terms of the FAIS Act

In general, information provided to the Ombud is confidential and may only be disclosed by the Ombud to the Registrar or to another party to the complaint to the extent necessary to resolve the complaint, or where required under the Act or any other law. Section 29 of the FAIS Act deals with access to the Ombud's records.

"29 Record-keeping

- (1) The Ombud must keep proper files and records in respect of complaints as well as a record of any determination proceedings conducted in terms of section 28.
- (2) The registrar has, for the purposes of the performance of the registrar's functions under this or any other law, access to the Ombud's files and records and may without further proof rely on a copy of any record of proceedings signed by the Ombud.
- (3) Any interested person may, subject to the discretion of the Ombud and applicable rules of confidentiality, obtain a copy of any record on payment of a fee determined by the Ombud.

A person requesting a record must indicate to the Information Officer the complaint reference number under which the information was filed. The Information Officer will ascertain which information in that file was declared confidential and remove such information before making the file available to the person.

The person requesting the record may view the record in the FAIS Ombud's offices, during office hours on payment of a fee. Any requests for photocopies of documents will be charged at R1-00 a page.

7. How to request access to records held by the FAIS Ombud.

The request must be made to the Information Officer using the specified contact details. Any request for access to records in terms of the Act must be completed on the Request form attached as Annexure 1.

The requester must provide sufficient detail on the request form to enable the Information Officer to identify the record and the identity of the person requesting the information. The form of access should be clearly identified.

The requester must identify the right that he or she is seeking to exercise or protect and provide an explanation of why the requested record is required for the exercise or protection of that right.

If a request is made on behalf of a person, the requester must then submit proof of the capacity in which the requester is making the request to the satisfaction of the Information Officer.

If the requester is unable to read or write, or has a disability, then he or she can make the request for the record orally. The information officer or his duly authorized representative will fill in the form on behalf of the requester and give him a copy thereof.

The Information Officer must notify the requester of the obligation to pay the prescribed fee (if any) before further processing the request. The requester must pay the relevant fees.

The Information Officer will then make a decision whether to grant the request or not and notify the requestor in writing.

8. Fees Payable

A requester who seeks access to a record containing personal information about him- or herself is not required to pay the request fee. Every other requester must pay at a rate of 20 cents per page copied.

9. Remedies available if the provisions of the PAIA are not complied with

The FAIS Ombud does not have an internal appeal procedure in place to facilitate appeals against decisions of the Information Officer and Deputy Information Officer. An aggrieved party may seek appropriate relief by way of application to the Magistrate's Court. On hearing such application the court may grant any order that is just and equitable.