

FRANCES BAARD DISTRICT MUNICIPALITY



SECTION 14 MANUAL ACT 2 OF 2000, PROMOTION OF ACCESS TO INFORMATION

This manual is also available in Afrikaans and Setswana

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1. INTRODUCTION

The Promotion of Access to Information Act, No. 2 of 2000 (hereinafter referred to as "PAIA", or "the Act" interchangeably) is the national legislation which was enacted to give effect to the constitutional right of access to information. PAIA came into operation on 9 March 2001, with the exception of sections 10, 14, 15 and 51, which came into operation on 15 February 2002.

Section 14 of the Act obliges public bodies to compile a Manual, which would assist a person to obtain access to information held by the public body and stipulates the minimum requirements a manual has to comply with.

The purpose of this manual is therefore to inform a person on how to obtain access to a record held by the Frances Baard District Municipality (FBDM), and thereby giving effect to Section 14 of the Act.

2. HUMAN RIGHTS COMMISSION GUIDE ON THE ACT

Section 10 of PAIA provides that the South African Human Rights Commission must compile simple and easily comprehensible guidelines on how to use the Promotion of Access to Information Act.

An electronic version of the Guide will be kept on the website of the South African Human Rights Commission, www.sahrc.org.za and will be updated monthly to keep the public abreast of developments and changes regarding the contact details of information officers of public bodies and general information on PAIA.

Copies of the Guide are also available in all official languages at the following offices:

1. Office of information officers of public bodies;
2. All offices of public bodies;
3. All Magistrate's Offices;
4. All offices of the Department of Justice and Constitutional Development;
5. All post offices;
6. In the Government Gazette

3. FUNCTIONS AND STRUCTURE OF THE FBDM

3.1 Overview of the FBDM

"The Frances Baard District Municipality is committed to provide and improve the quality of services and therefore improve the lives of all its communities by:

- Promoting Social and Economic Development
- Providing and maintaining affordable and optimal quality services
- The economic, efficient and effective utilisation of all its available resources, and;
- Effective Stakeholders and Democratic Community Participation"

The functions and structure of the Frances Baard District Municipality (FBDM) are [Section 14(1)(a)]

3.2 The functions of a public body

The functions of the Frances Baard District Municipality as assigned to it in terms of Sections 156 and 229 of the Constitution of the Republic of South Africa (Act 108 of 1996) and prescribed in Chapter 5 of the Municipal Structures Act 117 of 1998 are:

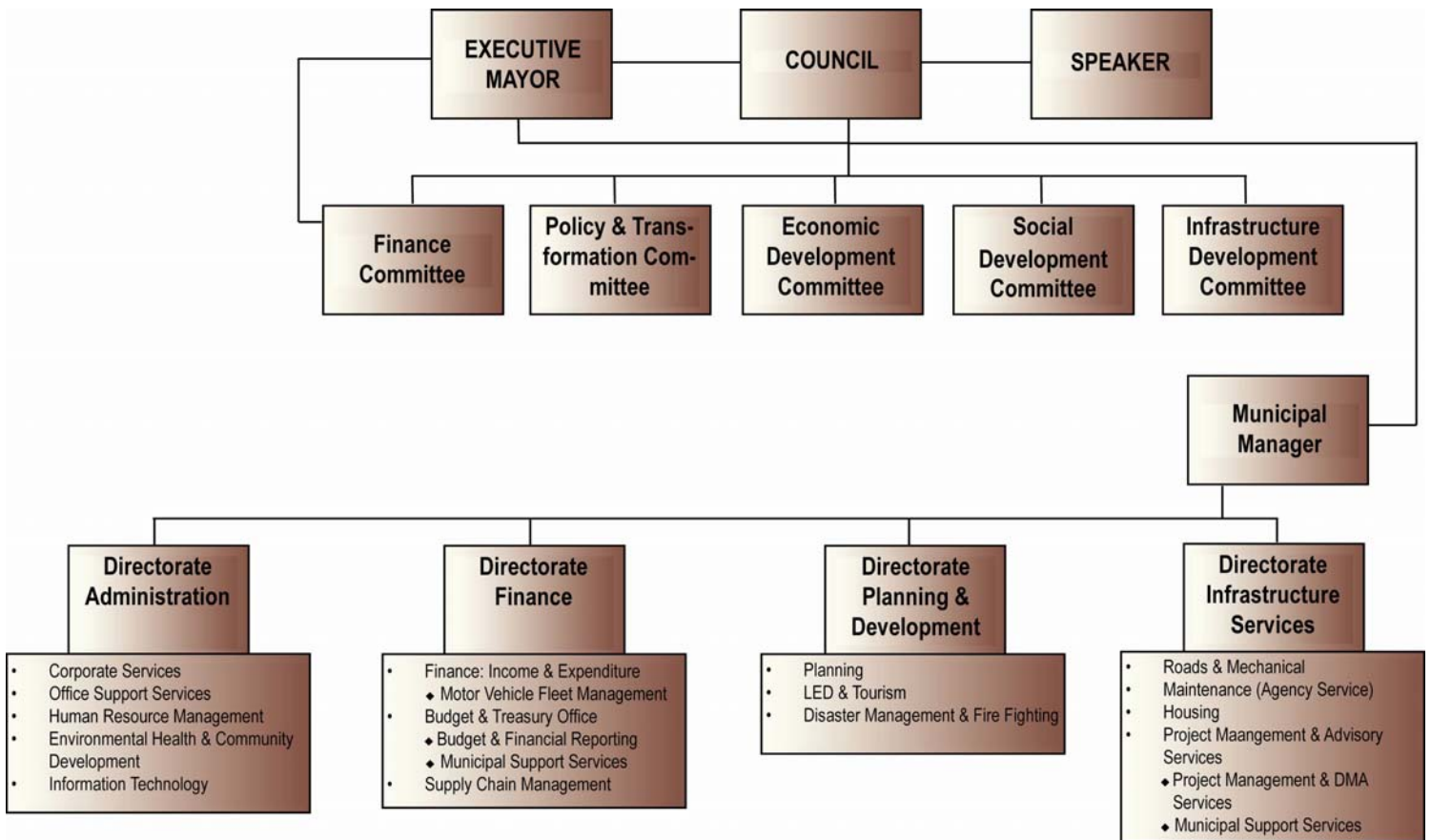
"A district municipality must seek to achieve the integrated, sustainable and equitable social and economic development of its area as a whole by –

- (a) ensuring integrated development planning for the district as a whole;
- (b) promoting bulk infrastructural development and services for the district as a whole;
- (c) building the capacity of local municipalities in its area to perform their functions and exercise their powers where such capacity is lacking; and
- (d) promoting the equitable distribution of resources between the local municipalities in its area to ensure appropriate levels of municipal services within the area."

In addition, the district municipality has functions and powers relating to;

- (i) solid waste disposal sites serving the area of the district municipality as a whole
- (ii) municipal roads which form an integral part of a road transport system for the area of the district municipality as a whole
- (iii) regulation of passenger transport services
- (iv) municipal airports serving the area of the district municipality as a whole
- (v) fire fighting services serving the area of the district municipality as a whole
- (vi) the establishment, conduct and control of fresh produce markets and abattoirs serving the area of a major proportion of municipalities in the district
- (vii) the establishment, conduct and control of cemeteries and crematoria serving the area of a major proportion of municipalities in the district
- (viii) promotion of local tourism for the area of the district municipality
- (ix) municipal public works relating to any of the above functions or any other functions assigned to the district municipality

3.3 Organisational Structure



The FBDM consists of a political structure and an administrative structure.

a) Political Structure

The Speaker (Ms Maria Chwarisang), the Executive Mayor (Mr Achmat Florence) and the 23 other Councillors who serve on the following committees:

- Mayoral Committee
- Policy and Institutional Development
- Infrastructure Development
- Social Development
- Economic Development
- Finance

Committees

The Municipal Structures Act makes provision for the establishment of a Mayoral Committee and Sub-committees. Members of the Mayoral Committee are the chairpersons of the various Sub-committees.

Composition of the Mayoral Committee

Mr. A Florence	(Executive Mayor: Chairperson)
Ms D.M Moeketsi	(Policy & Institutional Development)
Mr. P.N Jammer	(Infrastructure Development)
Ms M.M Moloji	(Social Development)
Mr. B Maribe	(Economic Development)
Mr W Johnson	(Finance)

b) The Administrative Structure

- Office of the Municipal Manager
- Directorate Administration
- Directorate Finance
- Directorate Planning & Development
- Directorate Infrastructure Services

4. CONTACT DETAILS

Physical Address: 51 Drakensberg Avenue
Carters Glen
KIMBERLEY, 8301

Postal Address: Private Bag x6088
KIMBERLEY, 8300

Telephone: +27 (0) 53 838 0911
Fax: +27 (0) 53 861 1538
E-mail: thabo.nosi@fbdm.co.za
Website: www.francesbaard.gov.za

4.1 Information Officers

The contact details of the Information Officer and the Deputy Information Officer designated in terms of Section 17 of the Act are as follows:

Information Officer: Mr. Thabo Nosi
Municipal Manager
Tel No.: +27 (0) 53 838 0998
Fax: +27 (0) 53 861 1538

Deputy Information Officer: Ms Nomama Kgantsi
Director: Administration
Tel No.: +27 (0) 53 838 0960
Fax: +27 (0) 53 861 1538

5. SUBJECTS AND CATEGORIES OF RECORDS HELD BY FBDM

a) Correspondence files

- Legislation
- Establishment, abolition and grading of Councils
- Voters rolls, Elections and Councillors
- Council and Council Committees: establishment and meetings
- Organisational and Control
- Finance
- Domestic supplies, services, sites and building
- Tenders, contracts and agreements
- Human resources
- Reports, returns and statistics
- Advertising, information, emblems and campaigns
- Feasts and social gatherings
- Establishments and meetings of bodies and other events
- Justice administration
- Registration, licenses, certificates and permits
- Planning, subdivision of land and building control
- Essential services
- Community services

b) Financial Items

c) Human Resources

d) Agendas and Minutes

e) Registers

f) Photographs

g) Catographic Material

h) Films, videos and sound recording

i) Electronic recordings

j) Terminated records

6. AUTOMATIC AVAILABLE RECORDS HELD BY FBDM {Section 14(1) (e)}

The records listed below are automatically available without a person having to request access in terms of the Act. Where there are sufficient copies available, the record may be obtained free of charge while stocks last, where after a reproduction fee is payable. Some of these records are also available for free on the FBDM website at www.francesbaard.gov.za.

6.1) Automatic Disclosures

- Reports
- Booklets
- Pamphlets
- Posters
- Newsletters

7. REQUEST FOR INFORMATION PROCEDURE

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

- The requester complies with all the procedural requirements in the Act relating to the request or access to that record; and
- Access to that record is not refused on any ground of refusal mentioned in Chapter 4 of the Act.

7.1) Nature of the request

- A requester must complete form which can be found in the Government Gazette [Govt. Notice R187- 15 February 2002, Form A] and also on the web site of the District Municipality (www.francesbaard.gov.za)

7.2) Process

- The requester must also indicate if he or she would like to copy the record or would like to inspect the record at the offices of the public body. Alternatively if the record is not a document it can then be viewed in the requested form, where possible [s 29(2)]
- If a person asks for access in a particular form then the requester should get access in the manner that has been asked for. This is unless doing so would interfere unreasonably with the running of the public body concerned, or damage the record, or infringe a copyright not owned by the state. If for practical reasons access cannot be given in the required form but in an alternate manner, then the fee must be calculated according to the way that the requester first asked for it [s 29(3) and (4)]
- If, in addition to a written reply to their request for the record, the requester wants to be told about the decision in any other way, e.g. telephone, this must be indicated [s 18(2)(e)]
- If a requester is asking for the information on behalf of somebody else, the capacity in which the request is being made should be indicated [s 18(2)(f)]
- If a requester is unable to read or write, or has a disability, then they can make the request for the record orally. The information officer must then fill in the form on behalf of such a requester and give them a copy [s 18(3)]

There are two types of fees required to be paid in terms of the Act, being the request fee and the access fee s22:

A requester who seeks access to a record containing personal information about himself or herself is not required to pay the request fee. Any other requester, who is not a personal requester, must pay the required request fee:

- The information officer must notify the requester (other than a personal requester) by notice, to pay the prescribed fee (if any) before further processing the request
- The request fee payable to public bodies is R35. The requester may lodge an internal appeal, where appropriate, or an application to the court against the tender or payment of the request fee
- After the information officer has made a decision on the request the requester must be notified of such a decision in the way in which the requester wanted to be notified in
- If the request is granted then a further access fee must be paid for the search, preparation, reproduction and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure

8. SERVICES AVAILABLE [SECTION 14(1)(F)]

8.1) Nature of services

In the case of the FBDM these will include services according to which the structure of the FBDM is defined:

Council and Committees

The sub-committees meet on a monthly basis and formulate recommendations to the mayoral Committee, which also meets on a monthly basis and in turn submit recommendations to Council. The system promotes thorough discussion of all matters.

Office of the Municipal Manager

The Municipal Manager is responsible for the formation and development of an economical, effective, efficient and accountable administration in accordance with the Municipal Systems Act No. 32, 2000 and other legislation applicable to the Municipality. The Office of the Municipal Manager includes Internal Audit, Communications and Committee Services.

Directorate Administration

The department renders a comprehensive administrative service to the Municipality in terms of the under-mentioned functions:

- Corporate Services
- Office Support Services
- Human Resource Services
- Environmental Health
- Community Development
- Information Technology

Directorate Finance and Administration (Finance)

The department renders financial services which include the following functions:

- Income & Expenditure
 - Motor Vehicle Fleet Management
- Budget & Treasury Office
 - Budget & financial reporting
 - Municipal support services
- Supply Chain Management

Directorate Planning and Development

- Planning
- Town Planning
- GIS
- Performance Management
- LED & Tourism
- Disaster Management & Fire Fighting
- Land-Use Management

Directorate Infrastructure Services

- Roads & Mechanical
- Maintenance (Agency Services)
- Housing
- Project Management & Advisory Services
- Project Management & DMA Services
- Municipal Support Services

9. HOW TO GAIN ACCESS TO THESE SERVICES

9.1) The Application Process

Step 1: The request

Where a person wishes to access information held by FBDM such a person must make a request for access to the relevant information in the prescribed form. This form is available on the FBDM website at www.francesbaard.gov.za, or may be obtained upon request from The Municipal Manager at Tel No.: 053 – 838 0996.

The completed request form may be submitted to:

The Municipal Manager
Mr. Thabo Nosi

Street address: 51 Drakensberg
Carters Glen
KIMBERLEY
8301

Postal address: Private Bag X6088
KIMBERLEY
8300

Telephone: +27 (0) 53 838 0911
Fax: +27 (0) 53 861 1538
E-mail: thabo.nosi@fbdm.co.za

Step 2: Validation and acknowledgement

The information officer receives and validates the request to see whether the required information is available within FBDM. The request is then accepted, rejected or transferred to the rightful keepers of the required information. An acknowledgement is then forwarded to the requester to confirm the status of the request.

Step 3: Information processing

If the request is accepted, FBDM will gather and prepare the information and calculate the relevant cost involved. The cost is calculated in terms of paragraph 9.2.

Step 4: Final Notification

The requester will be informed of the completion of the request as well as the outstanding fees payable to the FBDM.

Step 5: Payment and delivery

Once the payment as stipulated in Step 4 is received (following the same payment process as stipulated in Step 1), the information is released to the requester.

General Information

The prescribed form must be completed with enough particularity to at least enable the Information Officer to identify:

- The record or records requested;
- The identity of the Requester;
- Which form of access is required, if the request is granted;
- The postal address or fax number of the requester.

The FBDM will process the request within 30 days, unless the requester has stated special reasons, which would satisfy the Information Officer, which circumstances dictate that the above time periods should not be complied with. The 30-day period within which FBDM has to decide whether to grant or refuse the request may be extended for a further period of not more than thirty days if the request is for a large amount of information, or the request requires a search for information held at another office of the institution and the information cannot reasonably be obtained within the original 30 day period. The FBDM will notify the requester in writing should an extension be sought.

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. If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally. The requester must pay the prescribed fee, before any further processing can take place.

9.2) Fees

The Act provides for two types of fees:

- a) A request fee, which will be a standard fee; and
- b) An access fee, which must be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postal costs.

When the request is received by the Information Officer, such Officer shall by notice require the requester, other than a personal requester, to pay the prescribed request fee (if any), before further processing of the request. If a search for the record has been made and the preparation of the record for disclosure, including arrangements to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the Information Officer shall notify the requester to pay as a deposit the prescribed portion of the access fee, which would be payable if the request is granted.

The Information Officer shall withhold a record until the requester has paid the relevant fees as indicated below. A requester whose request for access to a record has been granted, must pay an access fee for reproduction and for search and preparation, and for any time reasonable required in excess of the prescribed hours to search for and prepare the record for disclosure, including making arrangement to make it available in the requested form.

If a deposit has been paid in respect of a request for access, which is refused, then the Information Officer concerned must repay the deposit to the requester.

The access fees payable are as follows:

	R
(1) (a) For every photocopy of an A4-size page or part thereof	0,60
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	0,40
(c) For a copy in a computer-readable form on –	
(i) stiffy disc	5,00
(ii) compact disc	40,00
(d) (i) For a transcription of visuals images, for an A4-size page or part thereof	22,00
(ii) For a copy of visual images	60,00
(e) (i) For a transcription of an audio record, for an A4-size page or part thereof	12,00
(ii) For a copy of an audio record	R17,00
(f) To search for and prepare the record for disclosure, R15,00 for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation.	
(2) The actual postage is payable when a copy of a record must be posted to a requester.	

10. REMEDIES WHERE REQUESTS FOR ACCESS TO INFORMATION ARE REFUSED

10.1) Refusal of request

The main grounds for FBDM to refuse a request for information relates to the:

- (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;
- (2) Mandatory protection of the commercial information of a third party, if the record contains:
 - trade secrets of that third party;
 - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
 - information disclosed in confidence by a third party to FBDM, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition.
- (3) Mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- (4) Mandatory protection of the safety of individuals and the protection of property;

- (5) Mandatory protection of records which would be regarded as privileged in legal proceedings;
- (6) Operations of FBDM
- (7) The commercial activities of FBDM, which may include:
 - trade secrets of FBDM;
 - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of FBDM;
 - information which, if disclosed could put FBDM at a disadvantage in negotiations or commercial competition;
 - a computer programme which is owned by FBDM, and which is protected by copyright;
- (8) The research information of FBDM or a third party, if its disclosure would disclose the identity of FBDM, the researcher or the subject matter of the research and would place the research at a serious disadvantage.

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

10.2) Appeal

The FBDM does not have internal appeal procedures. The courts will have to be approached in such instances where there is no compliance with the provisions of the Act by these bodies. This would apply to any situation in which the requester wishes to appeal a decision made by the information Officer. Although mention is made of internal appeal procedures, this is subject to such a mechanism actually being in place within a public body to facilitate such an internal appeal.

11. ARRANGEMENT ALLOWING FOR PUBLIC INVOLVEMENT IN THE FORMULATION OF POLICY AND THE EXERCISE OF POWER [SECTION 14(1)(G)]

At the FBDM, such arrangements for public involvement would include:

- Stakeholder participation (Community, public and other stakeholders)
- Council / Committee meetings
- Other public meetings

The public may attend and make representations at these meetings.

Submissions and Reports

The Integrated Development Plan (IDP), Annual Report and Budget is open to the public for commentary before its official submission.

Volunteers and Internship programmes - there is a recruitment policy in place for the recruitment of the public for such posts.

12. UPDATING OF THE MANUAL [SECTION 14(2)]

The Frances Baard District Municipality is responsible for the update of its manual at the intervals of not more than a year.

13. AVAILABILITY OF THE MANUAL [SECTION 14(3)]

This manual is available in three official languages, they are: English, Afrikaans and Tswana. The manual of the District Municipality is available on the website: www.francesbaard.gov.za, as well as at the FBDM Offices at 51 Drakensberg Avenue, Carters Glen, Kimberley, 8301.

The manual is also available in the three indigenous languages at the places of legal deposit as per Section 6 of the Legal Deposits Act, No. 54 of 1997.