



Access to Information Act 2018 (ATIA)

Appeal Case to the Information Commission, Seychelles

Statement of Recommendations, Findings, Orders, Decisions and Directives as per Part VII, Section 64

Public Body: Financial Services Authority
Address: Bois de Rose Avenue, Victoria

Scope of the Case

1. The requestor, Mr. Arnold Chetty, wrote to the Information Commission on July 6th 2023, to appeal the decision of the Financial Services Authority (FSA) of failure to release the information requested.
2. The Commission has considered whether the Financial Services Authority has complied with its obligations in relation to the Right of Access under Section 8, and 9 of the ATIA.
3. The Commission has also considered the case as per Section 22 (1) (b) of the Access to Information Act, 2018 where it states, “An information officer may refuse for information if it contains information about the information holder or a third party that would substantially prejudice a legitimate commercial or financial interest of the Information Holder or third party.”

Request and Response

4. On March 10th 2023, the requestor wrote to the Information Officer (IO) and requested information in the following terms:
 - 4.1 “My requests to obtain a copy of the investigative report and if available a copy of the FSA commissioned actuarial reports. These reports do not fall under the applicable exemptions under the Access to Information Act”.
5. On March 30th 2023, the Information Officer of Financial Services Authority acknowledged and denied access to information on the grounds of “the current status of the company, pursuant to Section 22(1) (b) of the ATI, the FSA is of the opinion that as it stands, the request relates to information that would substantially prejudice a legitimate commercial or financial interest of the information holder or third party”.
6. The requestor made a review to the Head of Information Holder on May 19th 2023.
7. The Head of Information Holder failed to give a decision on the review application as per Section 35 (1).

Orders

8. On July 10th 2023, the Commission requested access to the information to review before making a decision in the matter.

Directives

9. Pursuant to Section 60 of the ATIA states that: "The Information Commission shall notify the head of the information holder concerned of the intention to carry out an investigation or hearing with a copy of the appeal before commencing an investigation or hearing under this Act."

Decision and Conclusion (including any steps ordered)

10. On July 17th July 2023, the Head of Information Holder informed the Commission that the company is still under administration and the release of the information will undermine the exercise of FSA's regulatory powers under the Insurance Act and FSA Act.
11. Upon Commission further investigation, on September 12th 2023, Commission request additional information from FSA to enquire exactly:
 - 10.1 What section of the law is FSA relying on to exempt itself?
 - 10.2 If relying on 22(1)(b) of the ATIA what part of those reports which its release would substantially prejudice a legitimate commercial or financial interest of the information holder or third party?
12. On September 21st 2023, FSA informed Commission that the Information would be release to the requestor.
13. The release of Information was completed on September 27th 2023. No further steps required.
14. The case closed and resolved on September 29th 2023.

Reasons for Decision

15. Section 8 of ATIA states that: "Subject of this Act, every person has a right to access to information from a public body is the case"
16. Section 9 (1)of the ATIA States that: "A person who wishes to obtain access to information under this Act may make a request in writing to the Information Officer of the concerned public body: Provided that no such request shall be made if any other written law provides for accessing such information."
17. Section 22 (1) (b) of the ATIA States that: "an information officer may refuse for information if it contains information about the information holder or a third party that would substantially prejudice a legitimate commercial or financial interest of the Information Holder or third party."