



Responses to the Questionnaire from the Parliamentary Ad Hoc Committee on the Review of Chapter 9 and Associated Institutions

A. ROLE AND FUNCTION OF THE INSTITUTION

1. The constitutional legal mandate of the Financial and Fiscal Commission (FFC) is set out in Sections 220, 221, 222 of the Constitution (as amended) and related Sections 214(2) , 219(5), 228(2)(b), 229(5), 230(2), 230A(2) (as amended). Furthermore, several other acts give effect and regulate the way in which the Commission fulfils its mandate. These include:
 - i. The Financial and Fiscal Commission Act, 1997 and the Financial and Fiscal Commission Amendment Act, 2003.
 - ii. The Intergovernmental Fiscal Relations Act, 1997.
 - iii. The Provincial Tax Regulation Process Act, 2001 No. 53.
 - iv. The Municipal Systems Act.
 - v. The Municipal Finance Management Act.

The FFC Acts of 1997 and 2003 very clearly stipulate that the “Commission acts as a consultative body for, and makes recommendations and gives advice to, organs of state in the national, provincial and local spheres of government on financial and fiscal matters”, and that these functions must be performed as “envisaged in the Constitution or required by national legislation”. The functions may be performed on the Commission’s own initiative or at the request of an organ of state. The Commission is required to be impartial. The FFC Amendment Act, 2003, prescribes the manner in which the Commission must comply with requests from organs of state.

The above constitutional mandate gives us the leverage to raise the FFC to a world class **impartial** advisor on sustainable public and fiscal systems. In this respect, our interpretation of the mandate is:

- Become the leaders in promoting/influencing optimal development of intergovernmental financial and fiscal relations in the Republic of South Africa and the African continent.
- We view our organisational slant (centre of gravity) as one that requires the organisation to be
 - a stakeholder-centric think tank
 - knowledge- and policy-centric



- calculated risk-taking
- model-building
- output- and outcomes-driven
- In short, we are neither reactive nor are we a research house, but rather a think tank that is proactive, provides intellectual capital and is policy driven.

It is important that we inculcate one common, shared understanding of the future strategic direction of the FFC. In essence, the FFC exists in order to shape the strategic evolution of Intergovernmental Fiscal Relations (IGFR) in SA and Africa. This is important because we need to maintain a balance between fiscal decentralisation and the Unitary State. We also believe that the FFC must not only influence fiscal systems but facilitate long-term fiscal sustainability. This is imperative in enabling the FFC to deliver on its mandate. We understand that in order to take a quantum leap from being a leading institution to that of a world class one, we must develop people, skills and our technology base. These must be aligned in order for the FFC to become a world class institution.

In terms of our mandate, we also understand that we are free to form collaborative partnerships in advisory services in SA and abroad.

Impartiality is the key value proposition that the FFC provides to its stakeholders and which is and should always be protected by our Constitution. This impartiality, independence and objectivity is the key reason for its existence and should never be compromised.

2. The Financial and Fiscal Commission is one of the innovations of the Multi-party Constitutional Negotiations which took place in South Africa during 1992, 1993 and 1994. Having taken into consideration factors such as South Africa's socio-political history, the form and manner in which economic development has occurred, world-wide experience of countries with similar constitutional structures and a vision of how such an institution could promote the key founding ideals of the new South Africa, the negotiating parties created the Financial and Fiscal Commission (FFC or Commission). Sections 198 to 206 of the Interim Constitution established the Financial and Fiscal Commission, set out its objectives, functions, and its general operation.

On 27 April 1994 the Interim Constitution came into operation and the FFC was born and In September 1995 the Commission released its first recommendations regarding the allocation of financial resources between national and provincial governments and amongst the provinces

The Commission's "power" is vested in:

- being a product of an all-inclusive negotiations process
- its prominence and specific responsibilities designated in the Constitution
- its neutrality with regard to any sectional interest, be it any public sector entity, labour, business or any other component of the private sector or civil society
- Commissioners not being office bearers of any political party or organisation
- the Commission's constitutional requirement, and its commitment, to perform its responsibilities in a transparent and accountable manner
- its "expert" technical nature
- its ability to draw on the experience of similar institutions and systems of intergovernmental fiscal relations in other countries

Being an advisory institution and independent of government, the Commission does not supersede any existing government department or function. It is, by design, separate from general government. This implies that there is a degree of functional duplication between government (departments) and the Commission. In this context the Commission plays the role of a "mediator" between and amongst governments. It could also be regarded as a "check and balance" on the public sector's collection, allocation and use of fiscal resources.

The normal or traditional responsibilities of the national and provincial departments concerned with financial and fiscal matters do not cease, in part or as a whole, due to the establishment of the Financial and Fiscal Commission.

The Interim Constitution establishes a unitary state with three levels of government; local, provincial and national. Each of these spheres of government is assigned certain powers, functions and financial resources; each of which may be exclusive, concurrent or shared.

The three spheres of government are superimposed on an existing tax (and public expenditure) regime, which is characterised by severe vertical and horizontal fiscal imbalances. In other words, while national government raises the vast bulk of aggregate revenues, its expenditure responsibilities are much lower. There is thus a mismatch between revenues raised and expenditure responsibilities.

The converse mismatch exists at the provincial level. Provinces only raise a small proportion of the revenues which are required by them to meet their expenditure responsibilities. This vertical mismatch is known as vertical fiscal imbalance.

Horizontal fiscal imbalance exists amongst provinces, and also amongst localities within provinces. There are massive relative differences amongst provinces' expenditure responsibilities and existing (also potential) revenue sources.

A country characterised by the abovementioned features and with a sensitive political history is dependent on a fiscal system which provides for intergovernmental fiscal transfers. It is essential that the relative sizes of fiscal resources which have to flow between and amongst governments and spheres are determined equitably and in a transparent manner.

A system of intergovernmental fiscal relations (with an emphasis on fiscal flows) has the potential for political manipulation unless it is based on equity, which in turn is based on sensible, reasonable, objective and quantifiable criteria. In addition, it is highly desirable to have an impartial and independent institution to ensure that the system which is developed and implemented contains the abovementioned characteristics.

The role and function of the Commission is constitutionally mandated and legally prescribed with particular reference to acting as a consultative body, making recommendations and providing advice to organs of state on financial and fiscal matters as stipulated in Sections 214(2)a-j, 219(5), 228(2)(b), 229(5), 230(2), 230A(2) and as required by national legislation. No other institution in government or civil society possesses this role or function. The fact that the Commission plays an impartial role and function in mediating equitable and fair allocations of public finance in a system of Intergovernmental Fiscal Relations (IGFR) is indispensable. It is this impartial role that has led to high degrees of stability in the IGFR systems. It should be noted that where the FFC's recommendations were not solicited, such as in the recent cases of redemarcation of municipal and provincial boundaries, instability has arisen.

3. The role of the Commission does not overlap with Chapter 9 institutions.
4. The Commission always strives to ensure that its advice, comments and recommendations are accepted and implemented by government and Parliament, always taking into cognisance Section 14 (a-j) of the Constitution. Government and Parliament are not legally bound to accept or implement the Commission's recommendations or advice. However, the IGFR Act requires that in all cases, Government, through the Minister of Finance, responds to the Commission's annual submission of recommendations and provides reasons for deviations from these guidelines. Therefore, unlike other Chapter 9 institutions, the FFC's

recommendations are a prerequisite (recommendations to be made ten (10) months prior to the tabling of the Division of Revenue Bill in Parliament) for the National budget process and documentation.

5. The current empowering legislation provides a workable framework but is, in practice, insufficient (this is elaborated further under 14 below).
6. Some of the mechanisms used to measure the impact of the FFC's annual submission of the Commission include the response of the Minister of Finance to the Commission's recommendations in 'Annexure E' of the Annual Budget Review and reactions and comments from Parliamentary committees. We believe that these have proven insufficient and have therefore put in place other methods of evaluating the impact of our recommendations, especially of government functions. One such method is expenditure tracking, which will enable us to determine where expenditure leakages occur, which may potentially result in service delivery failures. We are hopeful that as a result of this expenditure tracking we will be better informed about progress on the achievement towards the Millennium Development Goals (MDGs).
7. A ten-year review of the Commission's work was undertaken in August 2004 and presented at a Conference. During this review, the Minister of Finance acknowledged the role of the Commission in shaping intergovernmental fiscal relations in South Africa. Taking this and our own review into account, we have concluded that our constitutional mandate, when properly interpreted, requires our strategy to focus on the following:
 - Adopt an Independent *Ex Ante* research agenda (Proactive 80%) – by constantly scanning the environment and proactively responding to challenges that are financial and fiscal related:
 - Strengthen our financial focus on:
 - investigating the financial impact of meeting Presidential Targets (MDGs) at current service delivery rates.
 - Conduct institutional analysis (pre and post facto) between the spheres of government where there are inadequate mechanisms for dealing with functions shifts, e.g. municipalities are formed without due cognisance given to whether they meet suitable criteria to become municipalities.
 - Develop funding formulae for higher education e.g. social sciences.
 - Investigate the impact of the 2010 Soccer World Cup on capacity, skills shortage, and the impact on sustainability of municipal infrastructure, post-2010.
 - Extend FFC's core research capability to offer advisory services to organisations that may request such research on a cost recovery basis. This would include African countries that may request

advisory services for purposes of the New Partnership for Africa's Development (NEPAD) African Peer Review Mechanism (APRM).

- Conduct collaborative research with other world class research institutes whilst maintaining the FFC's independence and objectivity.
- Address infrastructure backlogs and maintenance.
- Monitor the three spheres of government's adherence to the revenue allocation.

For your information, we have included as 'Annexure 1', a high level summary of the main recommendations that the Commission has made in the past, which were subsequently accepted.

8. The major constraints facing the Commission, which have negatively impacted on its work include:
 - i. The manner in which Commissioners are appointed
 - ii. Accountability
 - iii. Duplication of roles between Chairperson/Chief Executive and the Deputy Chairperson/Chief Executive
 - iv. The setting of remuneration for the Chairperson/Chief Executive Officer and the Deputy Chairperson/Chief Executive, in line with the market equivalent for similar skills
 - v. Skills/talent attraction, selection and retention
 - vi. Financial resources
 - vii. Knowledge-sharing and institutional memory
 - viii. Availability of data and information

B. Relationship with Other Bodies

9.
 - a) No mechanisms or protocols are in place to ensure and strengthen the Commission's impartiality except those clauses stipulated in the FFC Acts (1997 and 2003).
 - b) There are no formal mechanisms other than ad hoc invitations to present the Commission reports. We are currently reviewing these processes for recommendations to Parliament.
 - c) There are no formal protocols governing interactions with the Executive except those stipulated in the IGFR Act, which require consultation with the Minister of Finance before the presentation of the Division of Revenue (DOR) Bill.
10. The FFC reports annually to Parliament and the Provincial legislatures and submits the following documents:
 - Annual recommendations on the DOR

- Submissions on the DOR Bill
- Annual report

We believe, however, that the oversight role over the Commission can be improved if there is clarity on the Commission's accountability to Parliament. Suggestions for improvement are elaborated under 14 below.

11. None. Our independence is enshrined in the Constitution.
12. Currently there are no formal or informal relationships with Chapter 9 institutions.
13. The only activity undertaken in this regard was participation in conferences and workshops with the Human Rights Commission on matters related to socio-economic rights.

C. Institutional Governance

14. Institutional governance arrangements developed by the Commission exist but can be improved upon *inter alia* by making provision for the following in either the Constitution, the FFC Act, or in some other form of regulation:

Objects of the Commission

- 14.1 The objects clause of the Financial and Fiscal Commission Act, 1997 (Act No. 99 of 1997)
 - 14.1.1 must make provision for an oversight mechanism established in terms of sub-paragraph 14.8 below; and
 - 14.1.2 refer to the need for all organs of state to assist and protect the Commission in order to ensure its independence, impartiality, dignity and effectiveness.

Constitutional and Legal Status of the Commission

- 14.2 The constitutional and legal status accorded to the Commission should be that of supreme authority in the Republic of South Africa on financial and fiscal matters.
- 14.3 The provisions of the Financial and Fiscal Commission Act must prevail in the event of a conflict between the constitutional functions accorded to the Commission by the Financial and Fiscal Commission Act and any other legislation.

Other Functions

- 14.4 The Financial and Fiscal Commission may



- 14.4.1 at a cost recovery basis and without compromising its independence, provide intergovernmental financial and fiscal related advisory and support services to organs of state in the Republic of South Africa and to foreign entities;
- 14.4.2 co-operate with persons, institutions and associations, nationally and internationally; and
- 14.4.3 appoint advisory and other structures outside the administration of the Commission to provide specialised services to the Commission provided that there is full disclosure of such services to the oversight mechanism on an annual basis.

Ancillary Powers

- 14.5 Ancillary to the powers necessary for the Financial and Fiscal Commission to achieve its primary objects, the Commission has the power to research, monitor, investigate, educate, advise and report on any and all issues concerning intergovernmental financial and fiscal matters in South Africa and abroad.
"... without fear, favour or prejudice ..."
- 14.6 The Financial and Fiscal Commission must, apart from being independent, impartial and subject only to the Constitution and the law, be enjoined to exercise its powers and perform its functions without fear, favour or prejudice
"...assist and protect ..."
- 14.7 Other organs of State, through legislative and other measures, must assist and protect the Financial and Fiscal Commission to ensure its independence, impartiality, dignity and effectiveness

Accountability

- 14.8 The Financial and Fiscal Commission is accountable to the National Assembly, and must report on its activities and the performance of its functions to the Assembly at least once a year.
- 14.9 The Chairperson/Chief Executive of the Commission must annually submit a report to the National Assembly on his or her activities and the performance of his or her functions, including on
 - 14.9.1 the recommendations that the Commission has made in terms of Section 220 of the Constitution and any and all other applicable legislation;
 - 14.9.2 the reports that it has published during the accounting period;
 - 14.9.3 the research that it has undertaken or is undertaking, be it short-term (less than a year), medium-term (between one (1) and three (3) years), or long-term (between three (3) and ten (10) years);
 - 14.9.4 the co-operation received or not received from organs of state;

- 14.9.5 the availability of information and data for its purposes;
 - 14.9.6 the standards applied in terms of sub-paragraph 14.32;
 - 14.9.7 the categories of services that it has provided in terms of sub-paragraph 14.4;
 - 14.9.8 the institutions and other entities to which services have been provided;
 - 14.9.9 instances of co-operation in terms of sub-paragraph 14.4.
- 14.10 In addition, the Chairperson/Chief Executive of the Commission must annually submit to the National Assembly
- 14.10.1 a report on his or her overall control of the Commission's administration in terms of sub-paragraph 14.31; and
 - 14.10.2 the annual report, the financial statements and the audit report on those statements.
- 14.11 The National Assembly must provide a mechanism to maintain oversight over the Commission in terms of Section 55 (2) (b) (ii) of the Constitution.

Information and Data

The Commission often operates with insufficient and unreliable information.

- 14.12 Each year the Financial and Fiscal Commission must request relevant organs of state to provide the Commission with information and data on
- 14.12.1 matters pertaining to the equitable division of revenue and, in particular, the issues dealt with in Section 214, sub-section (2), paragraphs (a) to (j) of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996) as amended;
 - 14.12.2 the measures, where applicable, that they have taken towards the realisation of *inter alia* the ideals dealt with in said Section 214, sub-section (2), paragraphs (a) to (j) of the Constitution; and
 - 14.12.3 such other matters as the Commission may from time to time prescribe.

Objections

- 14.13 Each year the Financial and Fiscal Commission must request the relevant organs of state to specify their objections (if any) supported by reasons and other relevant comment to
- 14.13.1 any and all of the recommendations that the Commission may make from time to time;

- 14.13.2 any and all reports that the Commission may publish from time to time; and
- 14.13.3 any and all other related matters that the Commission may from time to time require them to comment on.

Action Plans

- 14.14 Each year the Financial and Fiscal Commission must require relevant organs of state to provide the Commission with
 - 14.14.1 a plan of action with outputs, outcomes, appropriate indicators, and timeframes for the implementation of the recommendations of the Commission accepted by such organ of state and endorsed by Parliament; and
 - 14.14.2 particulars about the extent to which recommendations of the Commission accepted by such organ of state and endorsed by Parliament have or have not been actioned, as well as the reasons, if any, for non-actioning or for failure to meet predetermined targets; and
 - 14.14.3 particulars regarding such other related matters as the Commission may from time to time determine.

Appointment of Chairperson/Chief Executive and Commissioners

- 14.15 The Speaker of the National Assembly must initiate the process for the appointment of Commissioners in the Assembly. Such persons should then be recommended to the President for appointment as Commissioners as set out in Section 221(1) (a) of the Constitution.
- 14.16 The Speaker of the National Assembly must initiate the process for the appointment of a Chairperson/Chief Executive of the Commission in the Assembly. Such person should then be recommended to the President for appointment as Chairperson/Chief Executive of the Commission as set out in Section 221(1)(a) of the Constitution.

Terms and Conditions of Employment of Chairperson/Chief Executive

- 14.17 The oversight mechanism must consult the person recommended in terms of Section 221(1) (a) of the Constitution for appointment as Chairperson/Chief Executive of the Commission and make recommendations to the President for the determination of the conditions of employment of that person, including an appropriate salary, allowances, incentives and other benefits
- 14.18 The salary, allowances, incentives and other benefits of the person appointed as Chairperson/Chief Executive of the Commission must
 - 14.18.1 take into account the knowledge and experience of the prospective incumbent; and

- 14.18.2 be paid from the funds of the Commission.
- 14.19 The conditions of employment determined in terms of sub-paragraph 14.14 may not be altered by the President during the incumbent's term of office without the incumbent's written consent or to the incumbent's detriment.
- 14.20 A person appointed as Chairperson/Chief Executive of the Commission must
- 14.20.1 perform the functions of the office full-time; and
 - 14.20.2 not perform any other remunerative work.

Deputy Chairperson/Chief Executive of the Commission

- 14.21 Because of the size of the organisation, present and projected, there is no need for a Deputy Chairperson. The position of Deputy Chairperson of the Commission should therefore be abolished.

Acting Chairperson/Chief Executive

- 14.22 If the Chairperson/Chief Executive
- 14.22.1 is unable to perform the functions of the office; or
 - 14.22.2 is absent; or
 - 14.22.3 the appointment of a person as Chairperson/Chief Executive is pending
- the President shall, on advice of the oversight structure and in consultation with the remaining Commissioners, designate one of the latter as Acting Chairperson/Chief Executive of the Commission, and the General Manager of the Commission shall be its Acting Chairperson/Chief Executive.
- 14.23 When acting in terms of sub-paragraph 14.19, the Acting Chairperson/Chief Executive of the Commission has all the powers and duties of the Chairperson/Chief Executive of the Commission and the General Manager of the Commission has all the powers and duties of the Chairperson/Chief Executive.

Powers and Functions of the Chairperson/Chief Executive of the Commission

- 14.24 The Chairperson/Chief Executive must give strategic direction to the Commission.
- 14.25 The Chairperson/Chief Executive is the primary representative and spokesperson of the Commission.

Powers and Functions of the Chairperson/Chief Executive at Commission Meetings

- 14.26 The Chairperson/Chief Executive or other person appointed as Chairperson/Chief Executive, must amongst other things

- 14.26.1 convene or cause a meeting of the Commission to be convened as required in Section 14 of the Financial and Fiscal Commission Act;
- 14.26.2 ensure that the convened meeting is properly constituted, including the requisite quorum;
- 14.26.3 preside at the convened meeting;
- 14.26.4 follow the prepared agenda;
- 14.26.5 apply his or her judgment to the proceedings in a fair, impartial and equitable manner;
- 14.26.6 determine the order of proceedings;
- 14.26.7 preserve and maintain order and control;
- 14.26.8 allow for free and full discussion and debate of issues on the agenda;
- 14.26.9 prevent irrelevant discussion or tedious repetition;
- 14.26.10 determine the desirability, introduction of debate of issues not on the agenda
- 14.26.11 give and maintain his or her ruling on any points of order and procedure;
- 14.26.12 call any member of the Commission to order;
- 14.26.13 call upon and request, for good reason, a member to recuse himself or herself from further participation;
- 14.26.14 exercise the Chairperson's/Chief Executive's casting vote in a proper manner;
- 14.26.15 recuse himself or herself from proceedings should he or she have or disclose an interest in the matter or business under debate;
- 14.26.16 determine if necessary the order of precedence of speakers;
- 14.26.17 sign the minutes of a meeting after their adoption; and
- 14.26.18 adjourn the convened meeting with the consent of or, if so directed by the majority of the Commission present at the meeting.

Core Duties of the Chairperson/Chief Executive

- 14.27 The Chairperson/Chief Executive Officer must, amongst other things
 - 14.27.1 operationalise the strategic direction of the Commission;
 - 14.27.2 ensure that the business plan and policy statement of the Commission are properly implemented by Management;
 - 14.27.3 ensure that the business plan and policy to be implemented meet with the business requirements, activities, operations and corporate philosophy of the Financial and Fiscal Commission;
 - 14.27.4 ensure the adequacy, efficiency and effectiveness of the complete Management;

- 14.27.5 determine and implement an efficient and effective structure for the administration of the Financial and Fiscal Commission;
- 14.27.6 ensure the integrity and competence of Management;
- 14.27.7 ensure that proper accounting standards and control structures are implemented and maintained for purposes of the activities and business operations of the Financial and Fiscal Commission;
- 14.27.8 ensure the integrity, sufficiency, transparency and adequacy of all financial reporting and other information and communication to the Commission and the oversight mechanism;
- 14.27.9 ensure the adequacy, independence, transparency, efficiency and effectiveness of internal controls governing the management activities and business operations of the Financial and Fiscal Commission;
- 14.27.10 ensure the proper safeguarding of Financial and Fiscal Commission assets;
- 14.27.11 ensure that he or she and Management properly act within the limits of powers and functions devolving on the Financial and Fiscal Commission in terms of the Constitution and other applicable legislation;
- 14.27.12 ensure that he or she discharges his or her functions and powers with due care, honesty, diligence and without any conflict of interest;
- 14.27.13 ensure proper empowerment of Management and employees of the Financial and Fiscal Commission; and
- 14.27.14 ensure proper and adequate channels of information and communication between the Commission and Management; and Management and employees of the Financial and Fiscal Commission.

Criteria for the Appointment of Commissioners

- 14.28 The Chairperson/Chief Executive of the Commission must, in consultation with the oversight structure and on advice of the Commission, determine the minimum qualifications, experience, competence and other attributes necessary for appointment as Commissioner.

Code of Conduct for Commissioners

- 14.29 The Chairperson/Chief Executive of the Commission, after consulting the oversight mechanism, must issue a Code of Conduct for Commissioners prescribing

- 14.29.1 the standards of professional conduct for the performance of their functions taking into account the requirements of the Commission and the public interest in this regard;
- 14.29.2 any disciplinary steps for misconduct; and
- 14.29.3 any other relevant matter.
- 14.30 The Chairperson/Chief Executive of the Commission shall, after advising the oversight mechanism, determine the manner in which
 - 14.30.1 the duties of Commissioners are to be performed; and
 - 14.30.2 the powers conferred on Commissioners in terms of the Financial and Fiscal Commission Act may be exercised, and the limitations on the exercise of any of those powers.
- 14.31 Commissioners exercise their functions and powers
 - 14.31.1 in accordance with the Code of Conduct referred to in sub-paragraph 14.29; and
 - 14.31.2 subject to any directives issued by the Chairperson/Chief Executive.

Standards

- 14.32 The Chairperson/Chief Executive must, after advising the oversight mechanism, determine
 - 14.32.1 the standards to be adhered by Commissioners in performing their duties; and
 - 14.32.2 the nature and scope of the duties of Commissioners.
- 14.33 In setting standards, the Chairperson/Chief Executive must take into account all relevant factors including
 - 14.33.1 best practice, locally and internationally; and
 - 14.33.2 the capacity of the Commission to comply with those standards.
- 14.34 The Chairperson/Chief Executive may
 - 14.34.1 make different determinations on the matters referred to in sub-paragraph 14.25 for different categories of duties based on recognised best practice; and
 - 14.34.2 issue specific directives on those matters in any specific case.

Administration

- 14.35 The Chairperson/Chief Executive of the Commission has an administration consisting of
 - 14.35.1 a General Manager;
 - 14.35.2 a Chief Financial Officer and
 - 14.35.3 a staff establishment necessary for the work of the Commission.
- 14.36 The Chairperson/Chief Executive of the Commission is in overall control of and accountable for his or her administration.

General Manager

- 14.37 The Chairperson/Chief Executive, after advising the oversight mechanism, must appoint a person with appropriate qualifications and experience as General Manager of the Commission.
- 14.38 The person appointed as General Manager of the Commission holds office
- 14.38.1 for an agreed term not exceeding five (5) years, but which is renewable for one further period of no longer than five (5) years; and
 - 14.38.2 on terms and conditions determined by the Chairperson/Chief Executive which must include performance standards.
- 14.39 The General Manager of the Commission is the head of the administration who must perform the functions of the office in accordance with the directions of the Chairperson/Chief Executive
- 14.40 As administration head, the General Manager of the Commission
- 14.40.1 is responsible for the management of the administration of the Commission, including
 - 14.40.1.1 the formation and development of an efficient staff;
 - 14.40.1.2 the organisation, control and management of all staff; and
 - 14.40.1.3 the maintenance of discipline.
 - 14.40.2 must comply with sub-paragraph 14.34 above;
 - 14.40.3 must carry out the decisions of the Chairperson/Chief Executive;
 - 14.40.4 must perform such duties and may exercise such powers as the Chairperson/Chief Executive may from time to time delegate to him or her;
 - 14.40.5 must report to the Chairperson/Chief Executive on aspects of management and the exercise of responsibilities, duties and powers, at such frequency and in such a manner as the Chairperson/Chief Executive may require.

Accounting Officer in the Administration of the Commission

- 14.41 The Chairperson/Chief Executive must appoint a person with appropriate qualifications and experience as Chief Financial Officer of the Commission.
- 14.42 The Chief Financial Officer of the Commission is the accounting officer in the administration of the Commission.
- 14.43 As accounting officer, the Chief Financial Officer is responsible for
- 14.43.1 managing the financial administration of the Commission;
 - 14.43.2 all income and expenditure of the Commission; and

- 14.43.3 all the assets and the discharge of all the liabilities of the Commission.
- 14.44 The Chief Financial Officer of the Commission has such additional responsibilities as accounting officer as the Chairperson/Chief Executive Officer may determine from time to time.

Acting General Manager

- 14.45 Whenever the General Manager is for any reason absent or unable to exercise the responsibilities, duties and powers of office, or whenever there is a vacancy in the office of General Manager, the Chairperson/Chief Executive must appoint another staff member as Acting General Manager for a period not exceeding six (6) months.
- 14.46 While acting as General Manager, such staff member
 - 14.46.1 has the responsibilities, duties and powers of the General Manager; and
 - 14.46.2 is employed subject to such terms and conditions as the Chairperson/Chief Executive may determine.

Staff Establishment

- 14.47 The General Manager
 - 14.47.1 within the financial and other administrative limits set by the Chairperson/Chief Executive, must determine the staff establishment necessary for the work of the Commission; and
 - 14.47.2 may appoint persons to posts in the staff establishment.
- 14.48 All appointments to senior and other posts identified by the Chairperson/Chief Executive may only be made with approval of the Chairperson/Chief Executive.
- 14.49 Persons appointed as employees are employed subject to the terms and conditions determined by the Chairperson/Chief Executive.
- 14.50 Persons seconded to the administration or appointed on contract to perform specific tasks, must carry out their duties under the control and direction of the General Manager in accordance with the secondment or contract.

Delegations

- 14.51 The Chairperson/Chief Executive may delegate any power or duty assigned to him or her in terms of the Financial and Fiscal Commission Act or any other legislation
 - 14.51.1 to a Commissioner; or
 - 14.51.2 to the General Manager; or

- 14.51.3 any other member of staff of the Financial and Fiscal Commission.
- 14.52 The General Manager may delegate to another member of staff
 - 14.52.1 any power or duty assigned to the General Manager in terms of the Financial and Fiscal Commission Act; or
 - 14.52.2 any power or duty reasonably necessary to assist the General Manager in complying with a duty assigned in terms of the Financial and Fiscal Commission Act as accounting officer to take reasonable steps to ensure the achievement of a specific result;
 - 14.52.3 a delegation in terms of sub-paragraphs 14.42 and 14.43 above
 - 14.52.3.1 must be in writing;
 - 14.52.3.2 is subject to any limitations, conditions and directions the Chairperson/Chief Executive, or the General Manager may impose;
 - 14.52.3.3 may include the power to sub-delegate;
 - 14.52.3.4 does not divest the Chairperson/Chief Executive Officer or the General Manager of the responsibility concerning the exercise of the delegated power or the delegated duty;
 - 14.52.3.5 does not prevent the exercise of the delegated power or the delegated duty by the Chairperson/Chief Executive, or the General Manager; and
 - 14.52.3.6 may be withdrawn at any time.
 - 14.52.4 The Chairperson/Chief Executive may confirm, vary or revoke any decision taken in consequence of a delegation or sub-delegation in terms of this sub-paragraph, subject to any rights that may have accrued to a person as a result of the decision.

Limitation of Liability

- 14.53 The Chairperson/Chief Executive of the Commission, Commissioners, the General Manager and CFO, any other member of staff of the Commission or any authorised person exercising a power or carrying out a duty in terms of the Financial and Fiscal Commission Act, is not liable in respect of any loss or damage resulting from the exercise of that power or the carrying out of that duty in good faith.

Audit Committee

- 14.54 The General Manager must establish a system of internal audit under the control and direction of an audit committee and appoint the members of such audit committee in consultation with the Chairperson/Chief Executive of the Commission.
- 14.55 The audit committee must consist of at least three (3) persons of whom the majority may not be in the employ of the Financial and Fiscal Commission.
- 14.56 The Chairperson of the audit committee
 - 14.56.1 may not be in the employ of the Commission; and
 - 14.56.2 must be independent, knowledgeable of the status of the position, have the requisite business, financial and leadership skills and may not be a political office bearer.
- 14.57 The membership of the audit committee must be disclosed in the annual report of the Financial and Fiscal Commission.
- 14.58 The audit committee must meet at least three (3) times a year.
- 14.59 The audit committee must in the annual report referred to in Section 26 of the Financial and Fiscal Commission Act comment on
 - 14.59.1 the effectiveness of internal control; and
 - 14.59.1.1 its evaluation of the Financial and Fiscal Commission's annual financial statements.
 - 14.59.2 the audit committee communicate any matters of concern to the
 - 14.59.2.1 Auditor-General; and
 - 14.59.2.2 the oversight mechanism.

Financial Administration

Budget and Business Plan

- 14.60 The affairs of the Commission must be conducted in accordance with a budget and business plan prepared by the Chairperson/Chief Executive of the Commission for each financial year which must include
 - 14.60.1 estimates of revenue and expenditure for the year to which it relates; and
 - 14.60.2 projected revenue and expenditure for the two (2) financial years following the year to which the budget and business plan relates; and
- 14.61 The Chairperson/Chief Executive of the Commission must, at least six (6) months before the start of the financial year, submit the budget and business plan referred to in sub-paragraph 14.55 above to
 - 14.61.1 the oversight mechanism; and

- 14.61.2 the National Treasury, for planning of and preparing the national annual budget.
- 14.62 The oversight mechanism must consider the budget and business plan and, within two (2) months of receipt thereof submit its recommendations to
- 14.62.1 the Speaker for tabling in the National Assembly; and
- 14.62.2 the National Treasury.
- 14.63 The Commission may, after consultation with National Treasury and by agreement with the oversight mechanism, at the end of the financial year retain for working capital and general reserve requirements, any surplus as reflected in the financial statements or a portion thereof. The portion of a surplus not retained must be repaid into the National Revenue Fund.

Funds

- 14.64 The funds of the Financial and Fiscal Commission consist of money
- 14.64.1 appropriated by Parliament for the purpose of the Commission;
- 14.64.2 earned on investments;
- 14.64.3 obtained by the alienation or letting of movable or immovable property;
- 14.64.4 accruing to the Commission from any other source; and
- 14.64.5 otherwise becoming available to the Commission.
- 14.65 The Commission may accept a donation or bequest provided that it will not result in a conflict of interest.
- 14.66 All donations and bequests must be disclosed in the Annual Report of the Commission, and all material donations or bequests must be itemised.

Conflict Resolution

15. The Commission does not have any formal mechanisms in place to deal with conflict between and among Commissioners but a draft is attached as Annexure 2.

Disclosure of Interest

16. If a member of the Commission, or his or her spouse, immediate family member, life partner or business associate, has any direct or indirect financial interest in any matter to be dealt with at any meeting of the Commission, that member –
- must immediately, after that interest has come to his or her attention, disclose that interest and the extent thereof in writing to the Chairperson, who must table that statement at the beginning of the next meeting of the Commission;

- may not attend any portion of a meeting of the Commission during the consideration of that matter by the Commission;
- may not in any manner take part as a member of the Commission in the consideration of that matter by the Commission; and
- may not in any manner endeavour to influence the opinion or vote of any other member of the Commission in connection with that matter.

In addition to the procedures outlined above, members of the Commission are required to file a complete record of their business interests with the Chairperson of the Commission on an annual basis, or whenever individual circumstances change, which should detail –

- membership of other Commissions or Boards;
- any business activities or involvements;
- involvement with any trusts or any other organisation;
- the total remuneration received as a result of these activities; and
- the involvement of any members of the Commission's immediate family in such activities.

D. INTERACTIONS WITH THE PUBLIC

- 17.1 **To provide South Africans, in particular its stakeholders, with timely, accurate, clear, objective and complete information about its views, recommendations, policies, programmes, services, and initiatives.** In the South African system of parliamentary democracy, the Financial and Fiscal Commission has a duty to explain its recommendations, policies and decisions, and to inform the public of its priorities for the country. Information is necessary for South Africans to participate actively and meaningfully in the democratic process. It is required for access to government programmes and services. South Africans have a right to such information.
- 17.2 **Communicate in all official languages.** The Constitution of South Africa establishes the equal status of English, Afrikaans, Zulu, Xhosa, South Sotho, Tswana, North Sotho, I-Siswati, Ndebele, Venda, and Tsonga as the eleven (11) official languages of South Africa. It enshrines the right of the public to communicate with the

Government of South Africa in any one of the official languages. Communication with the public and services to the public must be provided in all official languages.

- 17.3 **Ensure that the Financial and Fiscal Commission is visible, accessible and accountable to the public it serves.** To be accessible and accountable, the Financial and Fiscal Commission and its business units must be visible and recognisable wherever they are present. Clear identification allows the public to see the Commission at work, to access its recommendations, programmes and services, and to assess its activities. Communicating through many channels – from service centres, the telephone, and mail to print and broadcast media, the Internet and World Wide Web – the Commission must identify itself in a distinct and consistent way that its stakeholders can recognise in all circumstances.
- 17.4 **Employ a variety of ways and means to communicate, and provide information in multiple formats to accommodate diverse needs.** Information regarding the activities of the Commission must be accessible. The needs of all South Africans, whose perceptual or physical abilities and language skills are diverse, must be recognised and accommodated. Information must be accessible so that stakeholders, as responsible members of a democratic community, may be aware of, understand, respond to and influence the development of recommendations, and the implementation of policies, programmes, services and initiatives. Information must be available in multiple formats to ensure equal access. All means of communication – from traditional methods to new technologies – must be used to reach and communicate with South Africans. Modern organisations require the capacity to respond effectively over multiple channels in a 24-hour, global communication environment.
- 17.5 **Identify and address communication needs and issues routinely in the making of recommendations, and in the development, implementation and evaluation of policies, programmes, services and initiatives.** Communication enables the exchange of information that South Africans and the Financial and Fiscal Commission rely upon for an effective partnership. In gathering and providing information that is of importance to its stakeholders, the Financial and Fiscal Commission and the democratic process require professional tools and resources, as also effective and accountable management. Internal and external communication requirements must therefore be identified and met when developing recommendations, and when planning, managing or reviewing policies, programmes, services or initiatives.

- 17.6 **Consult the public, listen and take account of stakeholder interests and concerns when establishing priorities, making recommendations, developing policies, and planning programmes and services.** The Financial and Fiscal Commission's obligation to reach out and communicate with citizens is concomitant with the right of citizens to address and be heard. In a democracy, listening to the public, researching, evaluating and addressing the needs of the citizens is critical to the work of the Financial and Fiscal Commission. The Financial and Fiscal Commission must learn as much as possible about stakeholder needs and expectations to respond to them effectively. The dialogue between stakeholders and the Financial and Fiscal Commission must be continuous, open, inclusive, relevant, clear, secure and reliable. Communication is a two-way process.
- 17.7 **Deliver prompt, courteous and responsive service that is sensitive to the needs and concerns of the public and respectful to individual rights.** Information services must be managed in a stakeholder-centred and client-focused manner that achieves results for them. Stakeholders must have timely and convenient access to information in the custody and under the control of the Financial and Fiscal Commission. Access to information and privacy rights, as well as language rights, must be honoured at all times.
- 17.8 **Encourage managers and employees to communicate openly with stakeholders about recommendations, policies, programmes, services and initiatives that they are familiar with and in respect whereof they have responsibility.** Openness within the Commission promotes accessibility and accountability. It enables informed stakeholder participation in the process of developing recommendations, the formulation of policy, ensures fairness in decision-making, and enables the public to assess performance. Openness implies that all employees have a role in communicating with stakeholders while respecting the Constitution and other laws of South Africa. Managers and employees of the Financial and Fiscal Commission must respect privacy rights, matters before courts, national security, Cabinet confidences and ministerial responsibility. They best serve the public interest by communicating openly and responsively about recommendations, policies, programmes, services and initiatives that they help administer, while treating sensitive information with the discretion it requires.
- 17.9 **Safeguard stakeholder trust and confidence in the integrity and impartiality of the Financial and Fiscal Commission.** Stakeholders value an independent and professional Financial and Fiscal Commission that treats individuals with respect, fairness, and integrity. The value and reputation of the Financial and Fiscal

Commission must be honoured. Managers and employees are expected to provide information in a non-partisan fashion.

- 17.10 **Work collaboratively with other public institutions to achieve coherent and effective communications with the public as a core activity and shared responsibility, touching all aspects of policy and programme administration, the communication function involves employees throughout the public sector working collaboratively.** Co-ordination between and among institutions is imperative to ensure coherent and consistent communications. Delivering information services in the best interests of stakeholders and the Financial and Fiscal Commission, meeting internal and external communication needs efficiently and effectively, is a co-operative endeavour.
18. To assure a quality service that meets the information needs of all stakeholders:
- 18.1 The Constitution of South Africa, including all other laws, regulations and policies flowing from it are to be respected at all times by the Commission.
 - 18.2 Trained and knowledgeable staff must provide information to stakeholders.
 - 18.3 Service must be timely, courteous, fair, efficient and offered with all due regard for privacy, safety, convenience, comfort and needs of stakeholders.
 - 18.4 All means of communication (traditional to new technologies) – service centres, the telephone, mail, print and broadcast media, the Internet and World Wide Web – must be employed to accommodate the diverse needs of stakeholders.
 - 18.5 Published information must be available on request in multiple formats to accommodate persons with disabilities.
 - 18.6 Information in all formats must be well-identified as being from the Financial and Fiscal Commission.
 - 18.7 Information requests or enquiries from stakeholders must be responded to promptly without undue recourse to the *Access to Information Act*.
 - 18.8 Prompt and clear explanations must be provided when the information requested by stakeholders is unavailable.
 - 18.9 The timeline for responding to enquiries must not –

18.9.1 In the case of enquiries received via the telephone, the Internet and the World Wide Web, be in excess of a period of twenty-four (24) hours; and

18.9.2 In the case of enquiries received by mail, be in excess of a period of seven (7) days.

18.10 The timeline for responding to complaints shall not exceed a period of twenty-four (24) hours.

18.11 Stakeholders must be given the opportunity to provide feedback on all major recommendations, policies, programmes, services and initiatives through a service centre, the telephone, mail, the Internet and World Wide Web. Such feedback shall be acknowledged, recorded, carefully considered in reviews or evaluations.

18.12 Information about the vision, mission, mandate, value proposition, structure, programmes, recommendations and services of the Financial and Fiscal Commission shall be provided to through the portal of the oversight mechanism and through the portal of the Financial and Fiscal Commission.

19. The Commission deals with complaints on an ad hoc basis.

E. Financial and Other Resource Matters

20. Details available in Annexure 3.

21. There are no clear guidelines for the remuneration packages for office-bearers and Commissioners consistent with either the private or the public sector. Packages that do exist do not include indications of benchmarks and benefits applicable in the public sector or private sector. Please also refer to Annexure 3.

22. Budget is submitted to Chairperson/Chief Executive of the Commission for approval and then referred to National Treasury as part of the Medium-Term Expenditure Committee (MTEC) process. The Commission does not allocate funds. Please also refer to Sections 14.58 and 14.59 above.

23. The current budgetary and administrative arrangements are located within the budget vote of National Treasury with no clear indication of the programme where it is located. This arrangement seriously compromises the autonomy of the Commission. Furthermore, this arrangement cannot include a requirement for the Commission to be accountable to National Treasury as this would be in conflict with the Commission's impartiality. On

the other hand the Commission is required to report to Parliament. Please also refer to Sections 14.58 and 14.59 above

24. This information is available in Annexure 3.
25. This information is available in Annexure 4.



A handwritten signature in black ink, appearing to read 'B Setai', written over a horizontal line.

*Dr BETHUEL SETAI,
Chairperson/Chief Executive Officer
Financial and Fiscal Commission
10 January 2007
Midrand*

Attachments

- Annexure 1 – High Level Summary of Past FFC Recommendations*
- Annexure 2 – Conflict Resolution Proposal*
- Annexure 3 – Financial Information*
- Annexure 4 – Human Resource Information*

Annexure 1: High Level Summary of Past FFC Recommendations

ANNUAL RECOMMENDATIONS	
FFC's Recommendation	Government's Response
<p>1) 1995/96: Proposed a Framework for Intergovernmental Fiscal Relations.</p>	<p>Government accepted the framework and adhered to the broad principles proposed by the FFC.</p>
<p>2) 1996/97: Recommended that total provincial allocations be divided by means of a transparent and equitable provincial grant formula:</p> $P = S + B + T + I + m$ <p>Proposed a surcharge on the Personal Income Tax (PIT) as a viable revenue source for provinces.</p>	<p>Government accepted the principle elements of the formula suggested by the FFC and these were taken into account in making final allocations for 1997. Government further indicated that the final provincial equitable allocations were derived from a formula similar in design to that proposed by the FFC. The difference was that the formula was proportional (based on past expenditure trends) rather than cost-based.</p> <p>Government disagreed with the FFC on the use of a surcharge on the PIT as a revenue source citing administrative difficulties at South African Revenue Service (SARS) and generally rudimentary budgeting processes in the provinces (priority to improve expenditure management) as reasons. The Katz Commission Report also raised certain technical problems with issues of definition of the revenue source.</p>

ANNUAL RECOMMENDATIONS

FFC's Recommendation	Government's Response
<p>3) 2000/01: Proposed that capital grants be allocated to the provinces from the national sphere to address social infrastructure backlogs as an interim solution. Proposed the application of a costed norms approach to the allocation of the provincial equitable share. FFC further proposed that the backlogs component of the formula should be abolished.</p>	<p>The approach to capital grants was adopted for the following Medium-Term Expenditure Framework (MTEF). Government further agreed with the FFC on the need to develop a framework around capital grants. As there was no analytical model for allocating the grant, the FFC began developing a capital grants model for the education, health and welfare sectors. With respect to the use of a costed norms approach to the allocation of provincial equitable shares, government disagreed with the FFC citing the potential for perverse incentives in the use of such an approach. Government however agreed on the usefulness of the costed norms approach as an analytical tool for tracking expenditure consistency with government priorities. The PES formula was thus not changed.</p>
<p>4) 2000/01: Proposed that the following taxes should constitute provincial own revenue sources – a surcharge on personal income tax, a fuel levy and betting and gambling taxes.</p>	<p>Consistent with Government's approach but according to the Provincial Tax Regulations Act, the identification of specific taxes and rates was an outcome of a technical and political consultative process. There were also other technical factors such as additional administrative burdens and exacerbation of inter-provincial inequalities which rendered a personal income tax surcharge undesirable.</p>

ANNUAL RECOMMENDATIONS

FFC's Recommendation	Government's Response
<p>5) 2000/01: Proposed that Government create the conditions necessary for the emergence of a local government borrowing market through enhancing Local Government (LG) debt management capacity and implementation of a rule-based approach in the borrowing market. The FFC also recommended that borrowing be strictly for infrastructure provision.</p>	<p>Government broadly supported the proposal and suggested further work prior to its implementation.</p>
<p>6) 2001/02: Proposed a review of the provincial equitable share formula and suggested factors that need to be taken into account in such a review, namely the need to provide constitutionally mandated basic services and to take account of the provisions of Section 228 of the Constitution.</p>	<p>Government accepted the FFC's recommendation and further indicated that the review should take place once provinces take up specific taxation powers, as their fiscal capacity was likely to change.</p>
<p>7) 2002/03: Recommended that social security grants be a national responsibility, administered through the establishment of the national social security agency.</p>	<p>Government accepted the proposal and is currently implementing it.</p>
<p>8) 2002/03: Proposed that remuneration of Councillors be channelled through the existing institutional grant of the Local Government Equitable Share (LES).</p>	<p>Government supported the proposal.</p>

ANNUAL RECOMMENDATIONS

FFC's Recommendation	Government's Response
<p>9) 2003/04: Proposed the incorporation of Early Childhood Development (ECD) into the Education Component of the PES formula.</p>	<p>Government accepted the recommendation and further indicated that the ECD grant would be phased out, and the education component in the PES formula be expanded for the 2004 Budget to cover 'grade R', by adjusting the age cohort to 5-17.</p>
<p>10) 2003/04: Proposed a comprehensive review of the local government fiscal framework. This included a proposal for a component-based approach to the LES formula and also the need to take account of fiscal capacity in accordance with Section 214 of the Constitution, as well as the need to abolish the windows approach which was complicating the formula.</p> <p>Proposed that should Regional Services Council (RSC) levies be abolished local government be not negatively affected, i.e. municipalities that were benefiting from the levies should not lose the revenue.</p>	<p>The review, which covers the equitable share and conditional grants, as well as other taxes and levies in addition to property rates, is currently under way, and these this finalised for the 2005 Budget.</p>
<p>11) 2003/04: Proposed a design of the poverty alleviation package, with the intention of aligning the social security payments with provision of free basic services.</p>	<p>Government undertook a review of the poverty alleviation programmes and decided to phase most of them into the equitable share or into the infrastructure grants.</p>

ANNUAL RECOMMENDATIONS

FFC's Recommendation	Government's Response
<p>12) 2004/05: The FFC proposed that weights be assigned to different components of the PES formula and that the latter be revised to take account of the changing priorities and composition of shares of social services in the total provincial expenditure.</p>	<p>Government accepted the proposal and the weights of different components were rescaled based on the provincial social services expenditures.</p>
<p>13) 2004/05: Proposed that, given that ECD was funded through the PES, the education component be augmented by at least the full amount of the current conditional grant.</p>	<p>Government indicated that its approach was consistent with the FFC recommendation.</p>
<p>14) 2004/05: Reiterated that the backlogs component of the PES be incorporated into the basic component and a separate conditional grant be set up for financing on-going infrastructure needs and eliminating infrastructure backlogs. This would be allocated to provinces using the FFC's proposed provincial capital grants model.</p>	<p>Government accepted the proposal that the backlog component be removed from the PES formula. Government felt the proposed formula for the allocation of capital grants needed further work to take account of the functions of provinces with respect to capital spending and also that the data used in the formula was too aggregated and needed to be sector-specific. Government further agreed to work with the FFC in improving the formula.</p>

ANNUAL RECOMMENDATIONS

FFC's Recommendation	Government's Response
<p>15) 2004/05: Recommended that the structure of the LES formula be based on constitutional requirements and proposed the following formula:</p> $LES = S + B + I + T + m$	<p>Government agreed with the broad approach proposed by the FFC on the structure of a new formula. However, Government did not believe the practicality of considering a spillover grant (m) and a component to fulfil other constitutional and legislative requirements.</p>
<p>16) 2004/05: Proposed that consideration be given to applying a revenue raising-capacity measure to the LES formula as a whole, rather than only on the I-component.</p>	<p>Government accepted the FFC proposal and implemented it, while indicating that further work on the revenue raising capacity measure would be required as the fiscal framework review was being finalised.</p>
<p>17) 2004/05: Proposed that Government ensure that comprehensive information and data on each municipal basic service and revenue source be collected.</p>	<p>Government agreed with the FFC proposal and would explore how such a database could be established, and made accessible to key stakeholders.</p>

ANNUAL RECOMMENDATIONS

FFC's Recommendation	Government's Response
<p>18) 2005/06: In relation to the National Tertiary Services Grant (NTSG) the FFC recommended that Government continue using the conditional grant mechanism to finance tertiary services.</p> <p>The FFC further recommended that government develop a national policy framework that clearly defines the required minimum level of service for all hospital services, distinguishing clearly between the requirements for secondary and tertiary health care services.</p>	<p>Government agreed that the conditional grant mechanism should be retained for national tertiary services, as these and other highly specialised services were disproportionately spread across the country, and spillovers persisted. However, Government also believed that the NTSG be reformed to accommodate the Modernisation of Tertiary Services (MTS) proposals. Ultimately, certain basic tertiary services (e.g. basic ophthalmology), once well established in all provinces, should shift to the equitable share. The recommendation that a national policy framework be developed for this purpose, was supported, albeit within a clearly defined range.</p>
<p>19) 2005/06: The FFC recommended that the Health Professions Training and Development Grant (HTPDG) be kept as a conditional grant and that its framework be tightened to ensure that it was used only to fund accredited qualifications and training.</p>	<p>Government agreed that the HTPDG should be retained as a conditional grant. Further, government recognised the need for the grant to be redesigned to improve its efficiency and ensure that it would be used only to fund accredited qualifications and training.</p>

ANNUAL RECOMMENDATIONS

FFC's Recommendation	Government's Response
<p>20) 2005/06: Anticipating the possible disjuncture between the national payment of social security grants and the provincial delivery of social welfare services, the FFC recommended that specific consideration be given to allocating funds to social welfare services in the PES.</p>	<p>Government agreed that the financing of social welfare services be augmented through the PES and has since made substantial allocations for the function over the next three (3) years.</p>
<p>21) 2005/06: The FFC recommended that Government work faster to set the norms and standards for the delivery of a defined minimum basket of social welfare services by provinces.</p> <p>In particular, Government should define the basket of social welfare services, and develop a rigorous, transparent and robust way of calculating the reasonable operating costs of efficient and effective social welfare services. To ensure uniformity and compliance, Government should set norms and standards informed by national legislation and policies, country level priorities and norms, while local needs, goals and anticipated outcomes should be reflected at the provincial level.</p>	<p>Government supported the need to have a clearly defined basket of social welfare services, and norms and standards at which these should be delivered. It subsequently decided to undertake a study to clearly define this basket. The basket would apply especially to statutory services and provide for provincial flexibility to deliver the services based on available resources, and in line with the provinces' circumstances, given that these services were often delivered by Nongovernmental Organisations (NGOs).</p>

ANNUAL RECOMMENDATIONS

FFC's Recommendation	Government's Response
<p>22) 2005/06: The FFC recommended that the Department of Provincial and Local Government's framework on the assignment of powers and functions to local government, and the instruments that give effect to the framework, be finalised as a matter of urgency.</p> <p>In addition, an intergovernmental assignment framework, applying to all three spheres of government, should be developed according to Sections 41(1), 126, and 156 of the Constitution. Further, monitoring capacity should be established in the national sphere of government, to be consistent with the intergovernmental framework. The FFC recommended that for any function assigned or delegated, Government should develop a clear definition of that function, norms and standards for that function, to define service level responsibilities and concomitant funding implications.</p>	<p>Government agreed that the framework on the assignment of powers and functions to local government and the instruments that give effect to it should be finalised as a matter of urgency. The current framework provides for the assignment of powers and functions to the local sphere only. Government supported the need to develop an intergovernmental assignment framework that would apply to all three spheres. Such a framework should clearly define a function to be assigned, the roles and responsibilities of each party in such assignment and assess its concomitant funding implications. However, not every function lended itself to tightly defined norms and standards.</p>

ANNUAL RECOMMENDATIONS

FFC's Recommendation	Government's Response
<p>23) 2005/06: FFC proposals on housing delivery were delivered. The FFC proposals on the institutional and funding framework for housing delivery discussed steps to speed up service delivery; accreditation of municipalities; management of rental schemes; and alignment of new housing subsidies, municipal infrastructure and the LES to ensure the sustained delivery of basic services.</p> <p>The FFC proposed that Government address housing delivery bottlenecks to reduce under-spending in provinces. It further proposed that where municipalities had the capacity to become accredited to administer housing programmes, Government should ensure that funds were available to administer the function; consider the funding implications of any policy changes; and funding gaps, particularly in municipalities with weak capacity.</p>	<p>Government fully supported the FFC's recommendation that all bottlenecks to reduce under-spending within provinces be addressed. Government agreed with the FFC that accreditation should be done in a manner that did not destabilise the financial viability of municipalities. However, given the process and requirements for accreditation, it was doubtful that fiscally weak municipalities would be considered for accreditation.</p>

ANNUAL RECOMMENDATIONS

FFC's Recommendation	Government's Response
<p>2005/06: Rental housing for low-income earners was becoming a permanent feature of the housing programme. In this regard, the FFC proposed that a sustainable financial framework for the demand for rental housing schemes be developed. Lastly, the FFC proposed that consideration be given to link new housing subsidies with the Municipal Infrastructure Grant (MIG) and the PES formula, to ensure that municipalities could deliver basic services to poor households.</p>	<p>Government agreed that a sustainable financial framework for ongoing demands for rental housing schemes should be developed. Government supported the principle that increases in the housing conditional grant be matched by increases in the MIG and LES. However, Government expressed certain reservations in any direct linkage, as this may not result in the objectives as purported by the FFC.</p>

ANNUAL RECOMMENDATIONS

FFC's Recommendation	Government's Response
<p>24) 2005/06: The FFC recommended that criteria and processes for classifying all roads and assigning each class of roads to the respective sphere of Government or category of local government be developed as a matter of urgency. Further, it proposed that the length and condition of all roads, and the estimated expenditure needed for their rehabilitation and maintenance, be assessed; and that Government should develop a coherent funding framework for roads. This framework should consider the role of the PES and existing provincial funding, as well as the MIG.</p> <p>The FFC also proposed that Government:</p> <p>Consider the devolution of bus and taxi subsidies to municipalities where the capacity exists to manage these services.</p> <p>2005/06: Proposed that Government implement mechanisms to improve the efficiency of inter-modal transport planning.</p>	<p>Government agreed that the process of reclassifying roads and their assignment to the various spheres of Government should be completed; a condition analysis of the road network should be undertaken; and that a funding framework for roads be developed. A technical roads co-ordinating body is currently working on this.</p> <p>Government has always held the view that the bus and taxi subsidies should be devolved to municipalities, and that the newly established transport authorities were expected to play a key role in this process.</p>

ANNUAL RECOMMENDATIONS

FFC's Recommendation	Government's Response
<p>FFC further proposed that Government address certain issues that need to be resolved for setting up transport authorities, including funding arrangements and how the authorities' governing bodies were constituted.</p>	<p>Government supported the proposal that mechanisms be put in place to improve the efficiency of inter-modal transport planning.</p>

ANNUAL RECOMMENDATIONS

FFC's Recommendation	Government's Response
<p>25) 2005/06: FFC proposal on the decentralisation of health care was delivered to Government.</p> <p>The FFC therein recommended that environmental health care be added to the list of basic services under the LES formula, and that a detailed 'environmental health care package' be developed.</p>	<p>Government agreed that environmental health care services be included in the package of basic services funded through the LES. The 2006 Budget provides for the phasing in of environmental health care services until the estimated costs of providing the service are matched. At the same time, the basic component of the LES formula would be adjusted to include environmental health care services in metropolitan and district municipalities.</p> <p>On the need to develop an environmental health care package, Government was of the view that its elements were adequately listed in the National Health Act (2003).</p>

ANNUAL RECOMMENDATIONS

FFC's Recommendation	Government's Response
<p>26) 2005/06: The FFC proposed that the development component not be incorporated in the LES formula as it would not result in an overall increase in the LES but instead in the realignment of the relative shares within the same envelope. The FFC was of the view that the developmental needs of local governments should be better accounted for by designing a formula that fully accounted for the full expenditure needs of local government.</p>	<p>Government agreed that the development component should not be included in the formula, as its inclusion would not result in an overall increase in the LES and may create unintended distortions in municipal equitable shares. Government also noted the FFC's comments that the developmental needs of local governments would be better accounted for by designing a formula that fully accounted for the full expenditure needs of local government. Government would welcome specific proposals from the FFC as to how this could be achieved.</p>

The recommendations summarised above are those made in terms of Section 214 of the Constitution, i.e. the Commission's Annual Recommendations on the Division of Revenue. Over and above this, the Commission has made a host of other submissions in terms of various pieces of legislation that govern its role and function. These submissions can be accessed on the Commission's website (www.ffc.co.za) under two headings, namely 'Supplementary Submissions' and 'Other Submissions'. These are all found in the link dealing with Submissions.

Annexure 2: Conflict Resolution

15. Any issue or business to be decided upon, or a resolution put to the vote at a Commission meeting, is determined by a majority of votes, via a show of hands of the members of the Commission present and voting, unless a poll is demanded by the Chairperson/Chief Executive or the majority of members. Each member of the Commission has one vote on matters before the Commission, and the Chairperson/Chief Executive has a deliberative and casting vote.

Any decision of the Commission must be taken by resolution of the majority of the members present at any meeting, and in the event of an equality of votes on any matter, the person presiding at the meeting in question has a casting vote in addition to his or her deliberative vote as a member of the Commission.

Unless a poll is demanded, a declaration by the Chairperson/Chief Executive that a resolution, issue or business has, on a show of hands been

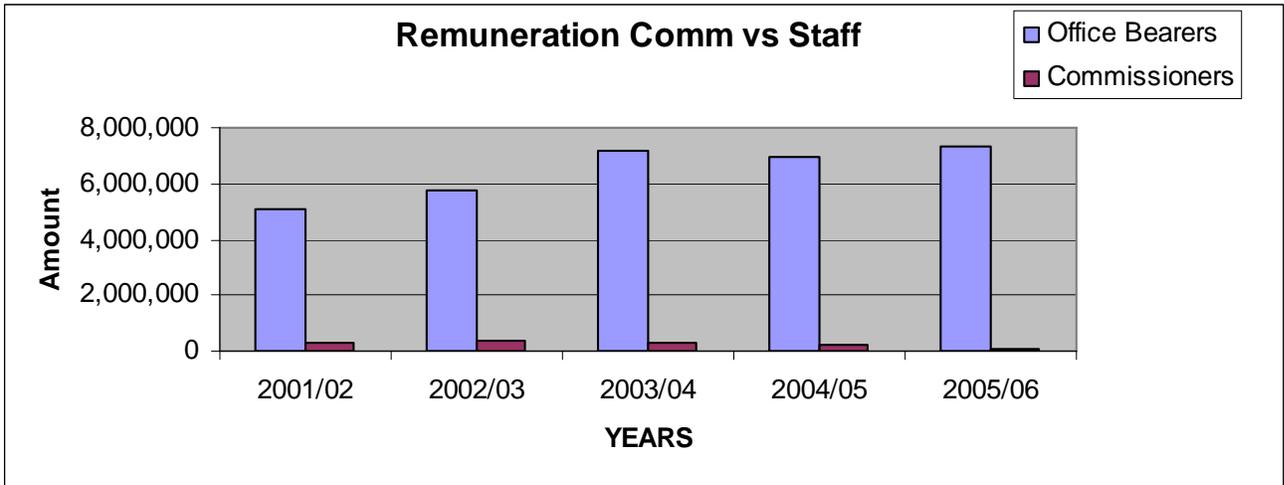
- carried unanimously; or
- carried by a particular majority;
- is conclusive evidence of the decision by the Commission, but in the case of a majority decision the points of view of each member in the minority must be minuted.

If a poll is demanded, it must be taken in such a manner as the Chairperson/Chief Executive directs, and the result of the poll is deemed to be the decision of the Commission. The demand for a poll may be withdrawn and does not prevent the continuation of the meeting for the transaction of any business or matter other than the issue for which the poll was demanded.

Annexure 3: Financial Information

Response to Question E21

YEARS	OFFICE BEARERS	COMMISSIONERS
2001/02	5,101,408	280,611
2002/03	5,731,437	384,116
2003/04	7,190,532	296,795
2004/05	6,959,321	222,689
2005/06	7,363,322	72,965



RESPONSE TO QUESTION E24

YEARS	KEY RESPONSIBILITY	TOTAL EXPENDITURE	PERCENTAGE
2001/02	5,811,611	9,480,951	61%
2002/03	7,286,144	11,397,191	64%
2003/04	9,696,976	15,310,834	63%
2004/05	9,538,165	16,882,574	56%
2005/06	10,731,890	19,046,284	56%

RESPONSE TO QUESTION E20

Income Statement for years ended
March

	2001	2002	2003	2004	2005
Operating Income					
Transfers from National Treasury	7,994,000	9,258,000	12,038,000	12,679,000	17,869,000
Foreign Donations Received	nil	447,912	nil	nil	513,317
Other Income					
Interest Received	58,936	196,102	203,765	145,881	50,710
Profit on Sale of Asset	nil	1,900	37,500	37,500	
Sundry Income			6,830		2,444
Total Income	8,052,936	9,903,914	12,286,095	12,787,381	18,435,471

Operating Expense

Staff Costs	3,927,242	5,101,408	5,731,437	7,190,532	7,935,261
Depreciation	211,816	718,877	650,153	1,094,047	878,166
Professional Services	899,840	844,822	558,626	601,239	510,644
Other Operating Expenses	2,515,636	2,811,729	4,230,682	6,069,990	7,392,388

Total Operating Expenses

7,554,534	9,476,836	11,170,898	14,955,808	16,716,459
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Surplus/Loss from Operating Activities

498,402	427,078	1,115,197	2,168,427	1,719,012
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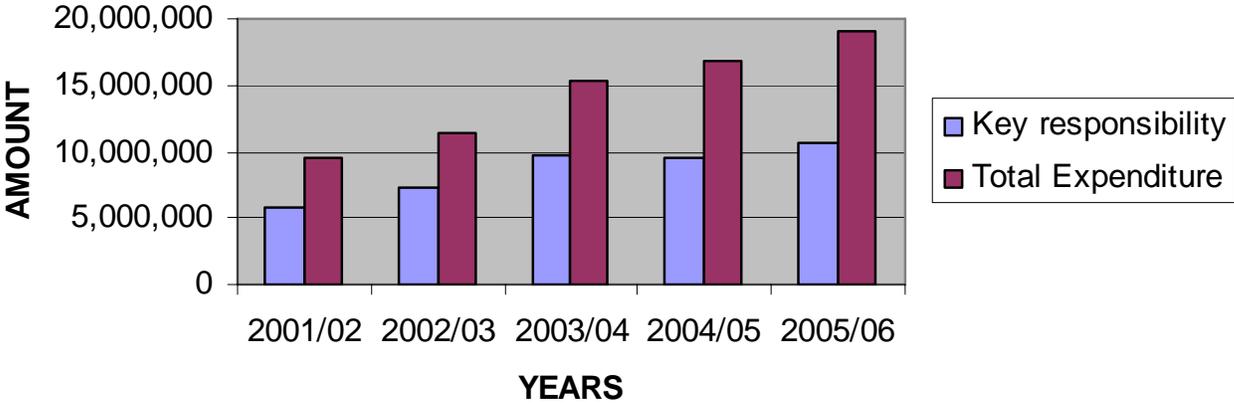
Interest Paid

1,252	4,115	226,293	317,526	166,115
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Net Surplus/Loss for the Year

497,150	422,963	888,904	2,485,953	1,552,897
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Key Responsibilities on total expenditure



Annexure 4: Human Resource Information

Staff Complement as at 10 January 2007

JOHANNESBURG STAFF	
JOB TITLE	COMMENT
Chief Executive Officer / Chairperson	Full-time Commissioner
Deputy Chief Executive Officer / Chairperson	Full-time Commissioner
RRP Director	Vacant
Executive Manager (General Manager)	
Program Manager: Fiscal Policy	
Program Manager: Macroeconomics and Public Finance	
Program Manager: Budget Analysis	
Program Manager: IGFR Performance	Vacant
Manager: Data and Information Unit.	Vacant
Chief Financial Officer	
Research Coordinator: Fiscal Policy	
Research Specialist: Social Sector	
Library and Knowledge Management Manager	
Senior Researcher: Macroeconomics and Public Finance	
Senior Researcher; Macroeconomics and Public Finance	
Senior Researcher: Fiscal Policy	
Office Manager	

JOHANNESBURG STAFF	
JOB TITLE	COMMENT
Library and Knowledge Management Coordinator	
Researcher: Fiscal Policy	
Database Researcher	
Budget Performance Researcher / Analyst	
Budget Performance Researcher / Analyst	
Assistant Researcher	
PA to Chief Executive / Chairperson	
Data Warehouse Assistant	
PA to Executive Manager (GM)	
Accounts Officer	
HR Administrator	
Administration Assistant	
RRP Secretary	Vacant
Secretary (Finance Department)	
Paper and Electronic Records Administrator	Vacant
Receptionist	
Driver/Office Assistant	
General Assistant	
Cleaner	

CAPE TOWN STAFF	
JOB TITLE	COMMENT
Parliamentary Liaison Officer	
Senior Researcher; Macroeconomics and Public Finance	
Administration Secretary	
General Assistant	