

# **The Truth, Reconciliation and National Unity Commission**

## **Code of Conduct**

**18 July 2019**

### **Preamble**

The Commissioners of the Truth, Reconciliation and National Unity Commission (“Commission”);

Recalling that the Commissioners shall be persons of recognized good standing and high moral character, capable of performing their functions independently, impartially and in compliance with the highest ethical standards as required by section 4(4) of the Truth Reconciliation and National Unity Commission Act, 2018 (“Act”);

Noting the sworn oath required by section 4(5) of the Act;

Recognising that the independence and impartiality of the Commissioners is fundamental to ensuring public confidence in the Commission;

Recognising that the Commissioners are members of a collegial body with each Commissioner pursuing the objectives set out in section 3(7) of the Act;

Having regard to universally recognized legal principles and human rights norms and rules and standards relating to independence and impartiality of Truth Commissioners;

Considering that in the discharge of their functions Commissioners shall observe applicable and appropriate rules of natural justice, international fair trial standards and respect the dignity of suspects, perpetrators, victims and witnesses;

Considering that the principles set forward in this Code shall contribute to independence, impartiality and transparency in the Commission process and shall enhance public confidence in the Commission;

Considering that adoption of an appropriate mechanism by which violations of this Code may be addressed reflects respect for the principle of accountability and for the principles set forth in this Code and shall further enhance the public confidence in the Commission;

**Have agreed as follows:**

### **General**

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## **Article 1. Adoption of the Code**

This code is adopted by the Commissioners pursuant to Section 4(4) of the Act and shall be read subject to the Act.

## **Governing Principles**

### **Article 2: Independence**

1. In the exercise of their functions, Commissioners shall be independent of all external authority or influence.
2. Commissioners shall not engage in any activity which is likely to interfere with their functions as a Commissioner or to affect confidence in their independence.

### **Article 3: Impartiality**

1. Commissioners shall be impartial and ensure the appearance of impartiality in the discharge of their functions.
2. Commissioners shall avoid any conflict of interest as well as situations which might reasonably be perceived as giving rise to a conflict of interest.

### **Article 4: Integrity**

1. Commissioners shall conduct themselves with probity and integrity, thereby enhancing public confidence in the Commission.
2. Commissioners shall not directly or indirectly accept, offer or provide any gift, advantage, privilege or reward that can be perceived as being intended to influence the performance of their functions or the independence of the Commission.
3. Commissioners shall treat other Commissioners, staff members, suspects, perpetrators, victims and witnesses with dignity and respect, and shall not engage in any form of discrimination, harassment, including sexual harassment, and abuse of authority.

### **Article 5: Confidentiality**

1. Commissioners shall respect the confidentiality of matters classified as such pursuant to its exercise of functions.
2. Confidential information acquired by a Commissioner in the Commissioner's official capacity shall not be used or disclosed by the Commissioner for any purpose not related to the Commissioner's functions and duties.

## **Article 6: Diligence**

1. The functions and duties of the Commissioner take precedence over all other activities.
2. Commissioners shall take reasonable steps to maintain and enhance their knowledge, skills and personal qualities necessary to perform their functions.
3. Commissioners shall perform their functions and duties efficiently. These functions and duties extend to the delivery of decisions fairly and with reasonable promptness.

## **Article 7: Conduct during meetings and hearings**

1. In convening meetings and hearings, Commissioners shall maintain order, act in accordance with commonly accepted decorum, remain attentive, patient, dignified, and courteous towards all participants and members of the public present and require them to act likewise.
2. Commissioners shall exercise vigilance when questioning witnesses, complainants, suspects and perpetrators, and give special attention to the right of participants to equal protection and benefit of the law.
3. Commissioners shall avoid conduct or comments which are racist, sexist or otherwise degrading and, to the extent possible, ensure that any person participating in the proceedings refrains from such comments or conduct.

## **Article 8: Public expression and association**

1. Commissioners shall exercise their freedom of expression and association in a manner compatible with their office and that does not affect or appear to affect their independence or impartiality.
2. While Commissioners are free to participate in public debate on matters pertaining to the work of the Commission, they shall ensure that nothing in their conduct evidences disrespect for the views of another Commissioner or staff member and shall avoid expressing views which may undermine the standing and integrity of the Commission.

## **Article 9: Other Activities**

Commissioners shall not engage in any activity that is incompatible with their functions or the efficient and timely functioning of the Commission, or that may reasonably affect their independence or impartiality.

## **Article 10: Observance of the Code**

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1. Commissioners shall observe the principles embodied in this Code, which shall serve as guidelines on the essential ethical standards required of Commissioners in the performance of their functions.
2. Nothing in this Code is intended in any way to limit or restrict the independence of the Commissioners.

## **Complaints Procedure**

### **Article 11: Complaint of misconduct or incapacity**

1.(1) Allegations regarding misconduct or incapacity of a Commissioner ("complaint") may be made, in writing, directly to the Chairperson of the Commission. In order to protect the interests of the Commission, the Chairperson may also initiate the complaints procedure *proprio motu*.

(2) In the event that a complaint is directed against the Chairperson, or the Chairperson brings a complaint *proprio motu*, it shall be addressed to the Commissioner who has been designated Vice-Chairperson in accordance with Section 4(3) of the Act.

(3) If the Chairperson's *proprio motu* complaint is directed against the Vice-Chairperson, the complaint shall be referred to another Commissioner nominated by a majority of Commissioners ("receiving Commissioner").

2. For the purposes of the Complaints Procedure,

(1) misconduct means conduct that constitutes a violation of the standards set forth in this code; and

(2) incapacity includes a physical or mental condition that would prevent a Commissioner from performing his or her functions and that cannot be addressed by a reasonable accommodation of such condition or other measure.

3. Consistent with the principles of independence, decisions of the Commission are not matters of conduct and shall not be the subject of a complaint. The disqualification of a Commissioner pursuant to the Rules of Procedure and Evidence of the Commission shall not be addressed under this Complaints procedure.

4. A complaint shall not be receivable unless it is received within 14 days of the date on which the alleged misconduct or incapacity took place or came to light, or good cause is shown for the delay.

5. A complainant may be represented by another person throughout the proceedings.

6. Complaints shall contain:

(1) the name and address of the complainant;

(2) the name of the Commissioner against whom the complaint is made;

(3) a detailed description of the alleged misconduct or incapacity, including the date on which it took place and the location where it occurred;

(4) any other relevant information, including the names and contact details of witnesses, and documentary evidence; and

(5) the signature of the complainant and date of submission.

7. The complainant shall receive a written acknowledgement of receipt of the complaint from the Executive Secretary within 14 days of its submission.

#### **Article 12: Preliminary examination**

1.(1) On receipt of a complaint, the Commissioner shall examine it in order to determine what action, if any is warranted.

(2) All complaints, including complaints relating to a pending matter before the Commission, shall be dealt with promptly, unless, in the discretion of the Commissioner, a complaint relating to a pending matter before the Commission may be deferred until such time as that matter is disposed of.

(3)The Commissioner may consult with other Commissioners not subject of the complaint as appropriate, in reaching a determination to defer a complaint.

(4) Complaints that are manifestly unsubstantiated or otherwise not receivable shall be summarily dismissed. The complainant shall be informed in writing, by the Commissioner who received the complaint, of the reasons for the summary dismissal or deferral of a complaint.

2. If the Commissioner does not summarily dismiss the complaint, he or she shall provide the Commissioner against whom the complaint was made ("Commissioner concerned") with a copy of the complaint and any supporting documentation thereto and invite him or her to provide comments in writing within 14 days of receipt of the complaint, unless the Chairperson, Vice Chairperson or receiving Commissioner grants an extension of time for the Commissioner concerned to do so.

3. If, following, receipt of the comments of the Commissioner concerned, the Chairperson, Vice-Chairperson or receiving Commissioner decides that no further action in relation to a complaint

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is appropriate, he or she will so inform the complainant in writing, within 14 days of receipt of the comments of the Commissioner concerned, providing reasons for the decision and sending a copy thereof to the Commissioner concerned.

4. If, following receipt of the comments of the Commissioner the Chairperson, Vice-Chairperson or receiving Commissioner decides that there is a reasonable and sufficient basis to proceed with further action in relation to the complaint, the complainant and the Commissioner concerned will be so advised of the decision to proceed to investigation.

5. The Commissioner may seek reconsideration of the decision to proceed to investigation.

6. The Commissioner concerned may be represented by another person throughout the proceedings.

7. Following notification of the submission of a complaint, the Commissioner concerned shall not communicate or act in any fashion that might reasonably be perceived as exerting any form of inappropriate pressure or influence in relation to the complaint.

#### **Article 13: Referral to the President**

1. If the Commissioner decides, following the investigation, that there is a reasonable and sufficient basis to proceed with further action in relation to the complaint, the matter shall be referred to the President for appropriate action.

2. The complainant and the Commissioner concerned shall be informed of the referral in writing within 14 days.

#### **Article 14: Disposition of the Complaint**

1. On the referral of the complaint to the President the disposition of the complaint will fall to the discretion of the President in accordance with the authority of the President pursuant to Section 5(2) of the Act.