
CRL RIGHTS COMMISSION

COMPLAINTS HANDLING PROCEDURE MANUAL

PREAMBLE

RECOGNISING THAT -

The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities ('the CRL Rights Commission' or 'the Commission') is an institution established in terms of section 181(1)(c) of the Constitution of the Republic of South Africa. The Commission is established generally to support constitutional democracy, and in particular to promote and protect the rights of cultural, religious and linguistic communities.

AND BEARING IN MIND THAT –

The Commission is concerned with the cultural, religious and linguistic rights of communities. The cultural, religious and linguistic rights are protected against any form of transgression, violation or denial. The Commission has to ensure equality of cultural, religious and linguistic rights between and among diverse communities, as well as to resolve conflict between and among communities and organs of state or private institutions. This is with an object to foster peace, tolerance, co-existence and harmony between and among diverse communities and the state.

WHEREAS –

The Commission protects the rights of communities to enjoy and practice their culture and religion and use their languages; and to freely form, join and maintain cultural, religious and linguistic associations and other organs of civil society on the basis of non-discrimination.

THEREFORE –

The following need to be known by communities should their cultural, religious or linguistic rights violated:

PURPOSE OF PROCEDURES

The purpose of these procedures is to determine:

- (a) Procedure to be followed regarding lodging complaints;
- (b) Procedure to be followed regarding investigation of complains
- (c) Procedure to be followed regarding resolution of complaints
- (d) Procedure to be followed regarding appeals

DEFINITIONS

“Appellant” means a person who is dissatisfied with the outcome of the investigation

“Commission” means the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities

“Complainant” means a person who lodges a complaint with the Commission

“Constitution” means the Constitution of the Republic of South Africa, 1996

“Day” means working days excluding weekend day and public holidays

“Handling” means the process of acknowledging and investigating requests/complaint in line with the complaints handling procedure manual

“Investigation” means the process of inquiring into the alleged violation of or threat to a cultural or religious or linguistic right(s) of a community

“Mediation” means a dispute settlement process involving the concerned or affected parties and a third party as a mediator

“Mediator” means a person who facilitates dispute settlement and reconciliation between disputants

“Organ of state” means organ of state as defined in section 239 of the Constitution

“Respondent” means a person is alleged to have violated a cultural or religious or linguistic right(s) of a community

“Screening” means the initial assessment of the complaint to ascertain if it fall within the jurisdiction of the Commission, and to decide to the action.

“the Act” means Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act 19 of 2002

1. LODGING OF COMPLAINTS

1.1 Who can approach the Commission for help?

Any individual and cultural, religious or linguistic communities can approach the Commission for assistance.

1.2 When can a community lodge a complaint with the Commission?

A person belonging to a cultural, religious or linguistic community may lodge a complaint with the Commission when that person/community believes that rights are threatened or that they are denied the right to enjoy and practice their culture and religion and use their language; as well as when that community is denied the right to freely form, join and maintain cultural, religious and linguistic associations.

1.3 How should complaints be lodged?

A complaint should be made in writing, in prescribed forms (Annexure A), and in various ways including walk-in, fax, email, postal address, referrals, telephone, and any other mode of communication. A complainant/requester must complete a complaint form in order to capture his/ her personal details. Forms can also be accessed on the website of the Commission: www.crlcommission.org.za or by requesting the Commission to send such to the requester. The Commission will assist those who cannot write and the disabled to complete the complaint form.

2. PROCESSING OF COMPLAINT

2.1 Screening of complaint

Upon receipt of a complaint the Commission will assess/screen the complaint to ascertain whether it falls within its mandate

3 INVESTIGATION OF COMPLAINTS

3.1 Complaints handling

If the complaint falls within its mandate, the Commission shall within three (3) days of receipt acknowledge such receipt in writing An allegation letter or a letter outlining the

complaint to, and requesting, the alleged perpetrator to respond to the complaint shall be sent to the alleged perpetrator within five working (5) days after acknowledgement. The alleged perpetrator shall be given seven (7) days within which to respond to the allegations. Following the response, the complainant shall be notified of the response, in writing, within three (3) days of receipt of such response. The alleged perpetrator response shall be attached to the notice.

Should the alleged perpetrator fail to respond to the allegation within seven (7) days, a notice of reminder shall be sent within three (3) days after the expiry of seven (7) days notifying the alleged perpetrator to respond within five (5) days of receipt of that notice.

In the event the alleged perpetrator fails to respond to the reminder within five (5) days, the Commission shall send a second reminder within three (3) days after the lapse of the five (5) days period. The second reminder will be the last reminder which will contain, inter alia, a notice that should the alleged perpetrator default to respond to the last reminder the Commission will invoke section 7(2) of the CRL Rights Commission Act 19 of 2002, to summon the defaulter to appear before the Commission.

3.2 Invoking section 7(2) of the CRL Rights Commission Act 19 of 2002

Failure by the respondent to respond positively as required in paragraph 4.2, the Commission will invoke its powers in terms of section 7(2) and issue out a summons after a notice has been issued as provided in paragraph 4.2. Upon invoking section 7(2), a person will be notified in writing to appear before the Commission or the investigating committee to give evidence, and/or produce a document available to that person and any other document specified in the summons. Failure to abide by section 7(2) is an offence as outlined under section 41 of the CRL Rights Commission Act, and is punishable upon conviction.

3.3 Complaints outside the mandate of the Commission

If a complaint does not fall within the mandate of the Commission, a rejection letter advising the complainant that the Commission's functions and powers do not allow it to deal with the complaint will be sent to the complainant within five (5) days after acknowledgement. The same rejection letter will advise the complainant on the best possible step that the complainant can take.

4. RESOLUTION OF COMPLAINTS

The Commission would investigate the matter and ascertain what the issues are regarding the violation of the rights of a community. Depending on the outcome of the investigation, the Commission will facilitate resolution of the conflict.

Depending on the nature of the complaint, the Commission may decide to mediate on the matter between the complainant and the alleged transgressor(s).

The mediation will be intended to resolve the conflict and reconcile the concerned parties to live harmoniously together.

4.1 How long does the Commission take to resolve a problem?

During the investigation days provided under paragraph 4.2 above, the Commission may decide to conduct an inspection in loco, or may decide to call parties for mediation on the matter during an investigation phase depending on the responses from the involved parties. Should the parties agree to the outcome of the mediation, a settlement agreement will be signed by both the parties. This should be done at least within six weeks after such investigation and mediation.

Where mediation does not take place during the investigation phase, the Commission shall within 10 weeks depending on the complexity of the matter mediate on the complaint and make recommendations.

4.1.1 Legislative advocacy/intervention

Should the subject matter require legislative or policy intervention, the Commission will prepare recommendations, for amendment, to a department that administers a legislation or policy under investigation. In most cases, matters that impact on policy or legislation take long to complete. The Commission would investigate the matter by firstly engaging the relevant department. In other instances the Commission may have to consult with the public, through hearings or seminars, or even consult with other departments and institutions. Following seminars or hearings, the Commission would make recommendations to the administering department to consider implementing those recommendations.

When handing over or submitting the recommendations to the relevant department, the Commission will give such a department at least three months within which to respond on its assessment of the recommendations and how and when it intends implementing them. In event the department does not respond within three months, the Commission will send a reminder.

Should a department deliberately ignore the Commission, even after reminder was sent, or unreasonably defy the Commission, the Commission would invoke section 7 of the

CRL Right Commission Act. The provisions of paragraph 4.3 above apply mutatis mutandis.

4.1.2 Joint investigations

Section 6 of the CRL Rights Commission Act enjoins the Commission to develop cooperation by making arrangements with any organ of state in so far as that institution has power to assist the Commission; and in instances where the functions of the Commission overlap with those of such other organ of state.

Should there be a need for joint investigation with any other institution, the Commission shall notify the parties involved of its intention to have a joint investigation, the reasons for the joint investigation, the particulars of the institution which will be involved in the joint investigation complainant.

4.2 What if no settlement is reached between the parties?

The Commission may advise the parties on the next possible steps of either engaging another institution which will better deal with the complaint. The Commission may directly or indirectly lodge a complaint at the Equality Court

4.3 How will the affected communities know that 10 weeks will be exceeded?

The Commission has to inform the complainant(s) on the developments about such a case and notify the complainant(s) about the possibility of extension of time to deal with the matter.

5. APPEALS

5.1 What if a community/party is not happy with the decision of the investigation?

Any party (appellant) can appeal against that decision by sending a written appeal to the Chairperson of the Commission. This has to be done within 30 days after the decision or outcome has been made known to the parties.

5.2 How long should a complainant(s) wait for the decision of the Chairperson?

The Chairperson will make the decision within 30 days, of receipt of the appeal. The Chairperson may appoint a committee made up of commissioners to hear the appeal. The decision of the Chairperson will be final.

6. REQUEST FOR ADVICE FROM THE COMMISSION

6.1 Can a community request advice from the Commission?

Yes, provided the subject matter is incidental to cultural, religious and linguistic rights of communities.

7. AMENDMENT OR REPEAL OF THE PROCEDURE

These procedures remain in force until amended or repealed by the Commission

8. SHORT TITLE

This manual is called the Complaints handling and Procedure Manual



The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities.

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COMPLAINT FORM

Use your own language of choice. If there is not enough space on this form for your response, please use a separate piece of paper and send it to us together with this form. Send the Form to the address above

1. Your Details

First Name(s) _____

Surname _____

From which community? _____

Province _____

2. Your address and contact details

Physical address _____

Postal address or address
where letters can sent you _____

Tel or cell _____

Fax number _____

E-mail _____

Preferred means of
Communication _____

3. Is this complaint from a community?

Which community _____

4. Cultural, Religious or Linguistic Right violated

Tell us what happened (include the place, province and the month when it happened, and the name and contact details who violated the right)

5. Is this problem still happening? (mark appropriate box)

Yes

No

6. Do you have witnesses? If so, please provide their names & contact details

7. Have you reported this case to anyone else?

Yes

No

If yes, where was it reported? (For example, - Police, Lawyers, Public Protector, Human Rights Commission, South African Heritage Resources Agency, Provincial Heritage Resources, etc)

8. How did you hear about the CRL Rights Commission (from a friend, from an ngo or cbo, radio advert, newspaper or poster)

9. Any disability/Impairment *(IF YES, please specify)*

10. Literacy level *(please specify)*

FOR OFFICIAL USE

Complaint Number : _____

Date received : _____